

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,

January 8, 2024
9:04 a.m.

vs.

ERIC DEAN SHEPPARD,

Defendant.

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TRANSCRIPT OF TRIAL DAY 14
BEFORE THE HONORABLE BETH BLOOM
UNITED STATES DISTRICT JUDGE
And a Jury of 12

Appearances:

FOR THE GOVERNMENT: UNITED STATES ATTORNEY'S OFFICE

AIMEE C. JIMENEZ, AUSA
ANA MARIA MARTINEZ, AUSA
99 Northeast 4th Street
Miami, Florida 33132

FOR THE DEFENDANT: SALE & WEINTRAUB, PA

JAYNE C. WEINTRAUB, ESQ.
2 South Biscayne Boulevard, 21st Floor
Miami, Florida 33131

NELSON MULLINS

JONATHAN ETRA, ESQ.
CHRISTOPHER C. CAVALLO, ESQ.
2 South Biscayne Boulevard, 21st Floor
Miami, Florida 33131

COURT REPORTER:

Yvette Hernandez
U.S. District Court
400 North Miami Avenue, Room 10-2
Miami, Florida 33128
yvette_hernandez@flsd.uscourts.gov

ALSO PRESENT:

Special Agent Sarah Halleran

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ON BEHALF OF THE DEFENDANT: PAGE

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1 (Call to order of the Court, 9:04 a.m.)

2 THE COURT: Go ahead and have a seat.

3 How is everyone this morning?

4 MR. ETRA: Good, thanks.

5 THE COURT: All right. We had a flurry of motions
6 that were filed. I believe there is one more to address.

7 Do we have any issues to address this morning before
8 we continue?

9 MR. ETRA: Your Honor, we want to offer records
10 through the business records custodian Declaration --
11 Declaration of Jeanette Gonzalez.

12 We had submitted a version of this before trial
13 started, and it included at the time B-1 through B-12, which
14 are credit card statements maintained by Ms. Gonzalez with
15 checks and Xs about business expenses that Mr. Bouchner is
16 going to rely upon. And even though he's allowed to -- we
17 don't have to have it offered into evidence, we wanted to have
18 it for the jury.

19 And B-14 through B-20 are QuickBooks records she
20 maintained, which I think are probably identical to what was
21 admitted through Mr. Cupersmith. We updated it last night
22 because we also wanted to include a -- Your Honor may recall
23 there was testimony in 2019 there were no W-2s filed, and --

24 MS. JIMENEZ: That's not the testimony about W-2s.

25 MR. ETRA: And we located, and Ms. Gonzalez certified,

1 not only W-2s but communications with the government agency to
2 confirm that she had filed them. So those are the other
3 business records. And that's Y-1 --

4 THE COURT: Is she going to be testifying?

5 MR. ETRA: We don't plan on calling her, Your Honor.
6 She's been someone who is on both witness lists. The
7 Government has already immunized her. They've already had a
8 chance to speak to her, but we're not planning on calling her.

9 MS. JIMENEZ: Your Honor, the Government has an issue
10 with any declaration submitted by Ms. Jeanette Gonzalez.

11 The Defendant is providing counsel for her. She has
12 asserted the Fifth Amendment privilege as to everything after
13 her name, and she has a joint defense agreement with the
14 Defense. We don't believe -- I mean, if they want to call her
15 and she wants to talk about those records, you know, I mean,
16 that's their choice. But I think that the -- any business
17 record certification by her has serious credibility issues and
18 I don't think they should be relied upon.

19 MR. ETRA: Your Honor, they immunized her. They had a
20 full chance to speak to her. We're not aware of that
21 exception. They can call her if they want to and rebut it,
22 but we believe we've met the standard --

23 THE COURT: But she's providing no facts other than
24 she's certifying that these are business records?

25 MR. ETRA: Yes, Your Honor.

1 THE COURT: So that's the extent of the declaration,
2 correct?

3 MR. ETRA: That's the extent, yes.

4 THE COURT: So I'm not understanding -- if she's --
5 and obviously I would agree with you that if there was
6 additional testimony -- but if, in fact, the declaration is
7 that these are the true and correct copies, then how does that
8 not satisfy the exception with regard to any claim of hearsay?

9 MS. JIMENEZ: Well, yes. I mean, true and correct is
10 what she would be certifying about, and that is her
11 credibility. And so we think her credibility is at issue in
12 this case.

13 THE COURT: But you're not questioning, and certainly
14 the testimony has supported, that she, in fact, is qualified
15 and competent to testify that these are the business records.
16 So the only argument that's being made is the credibility of
17 the certification that they are true and correct.

18 MS. MARTINEZ: Your Honor --

19 THE COURT: Ms. Jimenez, let me just -- is that
20 correct?

21 MS. JIMENEZ: One moment, Your Honor.

22 (Pause in proceedings.)

23 MS. JIMENEZ: Right. So my colleague, I think,
24 correctly pointed out that Jeanette Gonzalez -- so one, they
25 have a joint defense agreement. But Jeanette Gonzalez is

1 providing the Defendant documents and the Defendant is pointing
2 the finger at her as being involved in some sort of fraud on
3 his behalf. And so I think, again, her credibility is at issue
4 and the certification is meaningless.

5 MS. MARTINEZ: Your Honor, would the Court allow me to
6 add -- for example, with respect to the first loan, the PayPal
7 loan, the first one, my recollection from the Defendant's
8 testimony is that the first time he saw those documents were
9 during discovery in this case. So he is pointing the finger
10 at, quote/unquote, his accounting department, quote/unquote,
11 Ms. Jeanette Gonzalez, who is the only person -- and he said
12 Jeanette Gonzalez -- as the person who is providing and
13 uploading false documents to the lenders.

14 In that context, he himself is saying that -- alleging
15 as part of his defense that this woman is submitting false
16 documents. And then on the other hand he wants to turn around
17 and, without her testifying, suppose that she is a normal
18 regular disinterested records custodian to certify in a routine
19 way the reliability of business records.

20 It just is completely contrary to the intent of the
21 rule of having disinterested business custodians who have no
22 interest, who created contemporaneous records to certify, and
23 then for a certification to be timely provided under the rules
24 to the other side, and to allow under the rules a reasonable
25 amount of time to object, and then to allow this.

1 So on many, many, many levels this is extremely
2 problematic, even to the level of fraud upon the court, in my
3 view.

4 THE COURT: All right. Mr. Etra?

5 MR. ETRA: Your Honor, we met the requirements. They
6 don't like Ms. Gonzalez. They don't like the fact that they
7 haven't proven exactly what happened in the accounting
8 department, which includes more than one person. He's allowed
9 to defend himself. We've met the requirements. There's no
10 exception because the Government's not happy. There's no case
11 law -- they were on notice that she was a custodian as of
12 before trial -- before trial started. We just added one
13 document last night.

14 THE COURT: This witness is no different than any
15 other witness that is competent to testify that these are the
16 true and correct records of the particular corporation. And to
17 that extent -- you're not questioning whether she's competent
18 to do so. You're questioning the extent of the records that
19 she states are true and correct. And to that extent, I believe
20 that the hearsay exception would apply and the records can come
21 in.

22 And with regard to any immunity or any assertion of
23 the Fifth Amendment privilege, if you wanted to call her in
24 rebuttal with regard to whether they are true and correct
25 copies, you can certainly do so. But I believe that the

1 certification -- as it was sufficient for the Government with
2 regard to the multitude of exhibits that have been introduced
3 into evidence, it would be sufficient for the Defense. So the
4 objection is noted. It is overruled.

5 What other issues do we have?

6 MR. ETRA: Your Honor, we just have an issue that I
7 could put on the record when we have more time. I don't want
8 to keep the jury waiting. We didn't get the documents from the
9 Vasilas phone in an opportunity that we were able to review
10 them. We got them and we printed them out -- the chronology --
11 I'll cut through the chronology. We didn't get them till
12 Thursday. We didn't get them printed out on Relativity till
13 Friday. On Relativity, you have to go document by document,
14 and didn't print it out till yesterday.

15 There's basically two boxes of documents. The text
16 messages are just text messages. I don't think it's -- I think
17 most of it's not attachments. We emailed on Friday saying:
18 "Please tell us which documents you're planning on using."
19 They never responded. So I know Your Honor has ruled. I'm not
20 rearguing. I'm just putting those points on the record. And
21 we still have a continuing objection, but I'm not rearguing --

22 MS. JIMENEZ: I would note that they received it when
23 the phone extraction was completed on Wednesday. I received it
24 from the FBI on Friday. And so, you know, that's --

25 THE COURT: Well, has the Government provided the

1 Defendant with notice of what documents within that forensic
2 examination that you're seeking to introduce?

3 MS. JIMENEZ: I have not. And it depends on the
4 Defendant's testimony, Your Honor. I don't know what he's
5 going to say.

6 THE COURT: All right. Let me ask: With regard to
7 the direct examination, how much longer do you have, Mr. Etra?

8 MR. ETRA: Probably about two hours.

9 THE COURT: All right. Then it may be appropriate --
10 at that time, we will take an appropriate break. And then
11 Ms. Jimenez, you can advise Mr. Etra.

12 So Mr. Sheppard, if you'll come forward, sir.

13 MS. MARTINEZ: Your Honor, may I just alert you to two
14 issues? I will not argue them. I just want to alert you to
15 them.

16 THE COURT: Certainly.

17 MS. MARTINEZ: The Defense filed Saturday night an
18 amended -- a fifth amended expert disclosure, with quite a
19 number of revised and additional summary charts. The United
20 States objects to the lateness of that. We still have not --
21 obviously, I'm in court. It's difficult to review that. So I
22 will argue that later, but I just wanted to alert you to that.

23 And second, on Sunday, just yesterday, they filed an
24 additional notice of a brand-new expert relating to data
25 digital forensics, and we have not been provided yet with an

1 adequate digital copy of what it is that the witness is going
2 to testify to. And also, for a variety of reasons, including
3 that there is no basis stated in the notice, it's incomplete.

4 So we can revisit that as we go, but I'm just alerting
5 you that we received these late notices, and we do object to
6 them.

7 MR. ETRA: We don't need to deal with that for today,
8 Your Honor.

9 THE COURT: All right. If Mr. Sheppard will come
10 forward.

11 We have all of our jurors?

12 And are we still on the same timetable of two more
13 days for this trial, Ms. Jimenez?

14 MS. JIMENEZ: Your Honor, I don't know who they are
15 going to be calling. I mean...

16 THE COURT: Mr. Etra?

17 MR. ETRA: Your Honor, I think so. We're calling --
18 we advised counsel last night that if we finish Mr. Sheppard
19 today, we'll have Glenn Sheppard available as well today. And
20 then the other witnesses -- we don't think Glenn Sheppard will
21 be terribly long. The other witnesses that we're planning on
22 calling are Mr. Robert Kallman, K-A-L-L-M-A-N. He's going to
23 be on for tomorrow, as well as -- hang on -- sorry. One
24 moment.

25 MS. WEINTRAUB: Judge, I don't know if we're going to

1 get past that. After Mr. Kallman, there will be potentially
2 two very quick witnesses.

3 THE COURT: All right. Then we'll have time to
4 address the expert.

5 MS. WEINTRAUB: And then Mr. Bouchner -- excuse me.

6 THE COURT: Hold on. Let me hear from Ms. Weintraub,
7 and then you can respond.

8 MS. WEINTRAUB: And this Mr. Bouchner, who will be
9 testifying, obviously, who is our forensic accountant, and the
10 expert witness that we were compelled to go find and add as a
11 result of being accused of manipulating documents.

12 THE COURT: All right. Response?

13 MS. JIMENEZ: Your Honor, so Mr. Sheppard, Mr. Glenn
14 Sheppard, and then tomorrow they've indicated Mr. Robert
15 Kallman. So that's one witness for the entire day -- and
16 Mr. Bouchner. We would simply like to know at this late stage
17 who else they intend to call tomorrow.

18 THE COURT: I think you said Glenn Sheppard, Robert
19 Kallman, Bouchner, and then your second expert would be --

20 MS. WEINTRAUB: And there might be one or other two
21 other quick ones, and John Jorgensen --

22 THE COURT: All right. As I've required the
23 Government, I will require the Defendant in its case in chief,
24 moving forward, to provide the names of the witnesses. So I
25 think that with these three witnesses, including Mr. Sheppard,

1 who is still in his direct examination -- I believe that that
2 will take us through the day, putting aside the Court's
3 concerns as to whether we're going to finish with the time that
4 the jury has for us. But certainly today at the end of the day
5 I will ask the Defendant what witnesses it intends to call
6 tomorrow.

7 All right.

8 COURT SECURITY OFFICER: All rise for the jury.

9 (Before the Jury, 9:16 a.m.)

10 THE COURT: All right. Welcome back, Ladies and
11 Gentlemen.

12 Please be seated, everyone.

13 I hope you had a lovely holiday and Happy and Healthy
14 New Year to each of you.

15 We are ready to get right back to work. Thank you for
16 being so prompt.

17 Let me remind you that we were within the direct
18 examination of Mr. Sheppard.

19 And Mr. Sheppard, let me remind you, you were
20 previously placed under oath.

21 And let us continue.

22 MR. ETRA: Thank you, Your Honor.

23 DIRECT EXAMINATION [CONTINUED]

24 BY MR. ETRA:

25 Q. Mr. Sheppard, when we finished, we were talking about the

1 cancer and treatment and the effects January to March of 2021.

2 I just want to go forward from there. Did you have any other
3 ailment that affected your work in that time period?

4 A. Well, I had COVID. I think I said it the other day or a
5 few weeks ago. I had COVID simultaneously.

6 Q. I want to focus on the forgiveness for the first PayPal
7 loan. Okay?

8 A. Okay.

9 Q. All right. From your perspective, what was the reasoning
10 in seeking forgiveness for the first PayPal -- first PayPal
11 loan?

12 A. I'm sorry. When you say "reasoning" --

13 Q. What was the rationale? What was the justification?

14 A. I received emails from the PayPal company multiple times
15 saying that you should -- you're supposed to apply for
16 forgiveness of debt or of the loan. And so, following that, I
17 forwarded it to the people that take care of it.

18 Q. And did you feel you qualified with the payments you
19 made --

20 A. Oh, yeah. I mean, it was -- it was like I think four or
21 five times as much that was paid out than actually was
22 received, so I was way over. What they provided of the
23 \$146,000 was way over what I paid the workers, or the companies
24 paid the workers, so I didn't think about it.

25 Q. What about -- let's talk about all the other loans right

1 now. Have you been paying them back?

2 A. Yes.

3 Q. I want to again focus on the time period of January to
4 March of 2021. And notwithstanding the challenges you had that
5 you testified about already, what was on your plate to focus
6 on? What were you actually focusing on workwise in that period
7 of time? Could we start with phase 3?

8 A. Sure. Well, the Burlington was opened on
9 October 31st, 2020. After that, I focused on the phase 3 and I
10 started working on the tenant leases, financing. So I was
11 working with financing, leasing, budgeting for construction for
12 the new phase.

13 Q. Let's talk about the leasing. Prior to COVID, did you have
14 a grocery-type store signed up and ready to go in phase 3?

15 A. Yes.

16 Q. Which store was that?

17 A. A company called Earth Fare. It's like a organic health
18 food out of North Carolina.

19 Q. And then, in the course of COVID, what happened to Earth
20 Fare?

21 A. I'm not sure what happened to them as a company, but they
22 had financial difficulties, from what they told me. And so
23 they were just not expanding as quickly and they wanted to wait
24 to see what was going to happen -- like everybody else, what
25 was going to happen with COVID. So they were on hold.

1 Q. So what did you do about that gap in the phase 3, that
2 hole?

3 A. During what time period?

4 Q. Well, I'm focusing from January to March of '21, but if you
5 need to go beyond that, please do so.

6 A. Well, clearly the world changed as far as how you looked at
7 things. So construction-wise, we made a decision not to go and
8 build all of it. So -- I mean the whole entire phase 3. So we
9 made a deal with Amazon Fresh, their new concept, the Amazon
10 Fresh and we -- I negotiated a lease with them through
11 November, December, January, February, March, and executed on
12 April something. And then a company called Floor & Decor. So
13 I was negotiating a lease with them. So the tenant had changed
14 and the construction became a little bit less --

15 Q. Why did the construction become less with those changes?

16 A. It became less because we self-performed construction, so I
17 didn't want to have the risk of building so much. So one was a
18 ground lease with Floor & Decor of an 80,000-square-foot
19 building. They were going to build the building and we were
20 going to do the site work. And then --

21 (Phone ringing.)

22 MR. ETRA: Hang on, Mr. Sheppard. Hand on a second,
23 please.

24 THE COURT: Thank you. All right.

25

1 BY MR. ETRA:

2 Q. Please proceed.

3 A. And then the other one was Amazon Fresh, which is their new
4 44,000-square-foot building, and we were going to construct
5 that. So we were building 44,000 square feet, and then we were
6 doing all the site work, which we started already anyways, you
7 know, during COVID, and that's it.

8 Q. So just in simple terms, why was the new tenant, the
9 replacement -- well, let me go back to Floor & Decor for a
10 minute. Did that replace also a tenant, just like Amazon did?

11 A. Yes.

12 Q. What tenant did Floor & Decor replace?

13 A. Well, they were 80,000 feet, so they replaced Marshalls,
14 HomeGoods, and a company called Crunch Fitness. It's like --
15 it's a fitness like an LA Fitness type of business.

16 Q. With Marshalls, who was going to build the vertical-up
17 construction, the building?

18 A. Our company.

19 Q. And with Floor & Decor, who was going to build the vertical
20 up construction?

21 A. The what?

22 Q. Who's going to do the vertical construction for Floor &
23 Decor, the replacement tenant?

24 A. Vertical construction. They were.

25 Q. Is that one way that it was less construction, less work?

1 A. Yeah. It mitigates the risk because of obviously the
2 environment in the world. It mitigated the risk. But the site
3 work was very complicated, so we were going to concentrate on
4 just doing the site work.

5 MR. ETRA: For the witness only, please could we put
6 up Exhibit X-46.

7 MS. MARTINEZ: Counsel can't see it.

8 THE COURT: It's not up yet.

9 BY MR. ETRA:

10 Q. I have the first page of X-46 in front of you. Do you
11 recognize X-46?

12 A. Yes.

13 Q. And what is that?

14 A. This is the front page of the lease.

15 Q. For?

16 A. Amazon.

17 Q. Amazon being what in this case?

18 A. They were the tenant, Amazon Retail, LLC, the tenant.

19 Q. And what store was that for?

20 A. The Amazon Fresh.

21 Q. The grocery store we talked about?

22 A. The 44,000-square-foot build-to-suit.

23 Q. Is this the lease you worked on and finally had executed?

24 A. A hundred and fifty-five pages, yes. I remember it.

25 MR. ETRA: Your Honor, we offer Exhibit X-46, business

1 record.

2 THE COURT: Any objection?

3 MS. JIMENEZ: No objection.

4 THE COURT: Admitted into evidence.

5 (Defendant's Exhibit X-46 received into evidence.)

6 BY MR. ETRA:

7 Q. As between you and Mr. Vasilas, who was qualified to handle
8 the intricacies of dealing with a tenant like Amazon, the
9 grocery store?

10 A. Me.

11 Q. As between you and Mr. Vasilas, who was qualified to handle
12 the dealing with Floor & Decor as well?

13 A. Myself. Me.

14 Q. So whose job was it between you and Mr. Vasilas to handle
15 the issues with replacing tenants and negotiating leases?

16 A. That's my job.

17 Q. Okay.

18 MR. ETRA: While we have the exhibit up, could we go
19 to PDF Page 94.

20 BY MR. ETRA:

21 Q. Do you see that page in front of you, sir?

22 A. Yes.

23 Q. Can you explain generally what's going on, what this page
24 shows.

25 A. This is a signature page from the landlord for this

1 development.

2 Q. And landlord, that's your companies?

3 A. That's part -- it's a new LLC. It's a new LLC, but it's my
4 company, along with some other people.

5 Q. Tell me why there's a new LLC. What changed here for the
6 landlord for Amazon?

7 A. Well, like I said, every new development or construction is
8 always set up in a brand-new LLC. It doesn't stay -- and there
9 was a buyout of my partner in that from the old company, so it
10 was a brand-new LLC.

11 Q. What kind of -- was this a joint venture of some kind?

12 A. Yes.

13 Q. Could you explain what that was.

14 A. Yes. There's a group out of North Carolina that, because
15 of what was going on in my personal life health-wise and other
16 things, I just started to do a joint venture with them. And
17 the biggest reason why is because they were what they call a
18 preferred developer for Amazon. And Amazon likes to have their
19 same, you know, developers and stuff like that. And so I was
20 going to do construction, they were going to do the
21 development, and that's why we created the joint venture.

22 MR. ETRA: We could take this down.

23 BY MR. ETRA:

24 Q. Were you also -- again, focusing on the period of
25 January 2021 to March 2021, I think you mentioned financing.

1 Were you working on any private financing during that time
2 period?

3 A. Yes.

4 Q. And for which part of this development were you focusing on
5 private financing?

6 A. We were working on -- or I was working on phase 3
7 construction loan and --

8 Q. At this point did you have any construction loan for phase
9 3 compared to the other parts of the project?

10 A. No. There was no debt.

11 Q. And did the Amazon play a role in getting -- did working
12 with Amazon play a role in trying to get financing?

13 A. Yes.

14 Q. Could you explain that.

15 A. Well, Amazon is Amazon, and they have great credit. And
16 during the pandemic there wasn't really a lot of financing
17 available for just regular retail stores at least from a
18 construction standpoint. And with Amazon, their credit and the
19 concept of having the new grocery store with a guarantee from
20 Amazon of a lease, a lot of lenders wanted to do that, only
21 with Amazon. The other part, meaning the rest of the property,
22 they were not financing. It was the Amazon and site work.
23 Excuse me.

24 Q. Were you able to get financing even with Amazon during
25 COVID?

1 A. I'm sorry. Can you repeat that?

2 Q. Even with what you said about Amazon, were you able to get
3 a construction loan -- a private financing construction loan
4 during COVID?

5 A. We had -- I had multiple term sheets and then some
6 commitments, and I was choosing between those two. Actually,
7 it was like three.

8 Q. But none ended up taking place?

9 A. No.

10 Q. I want to change topics to the applying for PPP loans in
11 2020 and 2021. Okay?

12 A. Yes.

13 Q. Leading into that time period, how was your experience
14 dealing with the portals and the SBA and these different
15 entities that would pop up on your screen?

16 A. Well, it was very -- as I stated before, two weeks ago, it
17 was a nightmare. I don't know if it was user error, but it was
18 very difficult for me to navigate the portal, the Internet, the
19 system that they have in place. So it was very difficult. It
20 was very frustrating, you know, frustrating.

21 Q. Did you enjoy doing it?

22 A. I hated it.

23 Q. Did you feel like you were particularly good at it?

24 A. At what?

25 Q. Working with these government programs through the portals

1 and the like in 2020.

2 A. I don't think I'm very good at working through government
3 portals or any portals for that matter. I'm just not -- that's
4 not my -- I'm not really well educated in that world.

5 Q. How about working with Nationwide? How did you find that
6 experience?

7 A. I thought the lady Nelly was very nice. She was a nice
8 lady. And Daniel Sheps. But I just thought that -- you know,
9 I don't know what they were doing, and it was a little bit
10 frustrating because they were calling me in the middle of the
11 day: "Can you get on a phone call?" It was just not normal.
12 I'm not used to -- I'm used to going through a lender and a
13 bank and dealing with banks and major companies. I'm not used
14 to doing it like that. Talking to people -- I like to talk to
15 people, not -- I talk too much.

16 Q. How did the idea of applying for PPP loans in 2021 -- how
17 did that come up?

18 A. How did it come up?

19 Q. Yeah.

20 A. It came up based upon -- the forgiveness is what triggered
21 the whole thing with the forgiveness of debt with the PayPal.
22 And when Jeanette and Jeff were doing -- putting together the
23 workers, whatever, the schedules or something, I had a
24 conversation with Jeff about the PPP. He suggested that: "Why
25 don't you -- there's like this second round thing going on.

1 You can get that or you can increase the PPP loan from the
2 people you paid in 2020," something like that. Just --

3 Q. Which Jeff are we talking about?

4 A. Jeff Vasilas.

5 Q. At this point in time, where is Jeff Vasilas's office?

6 A. His office is at my house because we closed the office, as
7 I told you, sometime in 2020, and I was working in my house.
8 So he was no longer in Orlando because we finished the CO. So
9 then he started migrating back to Miami and he was in my house
10 most of the time.

11 Q. So how did this conversation lead to the application for
12 PPP loans in 2021?

13 A. I don't understand the question.

14 Q. What happened next? Mr. Vasilas raises the issue with you.
15 How does it go from there to applying for loans?

16 A. He said he knows how to do it. He had some accounting guy,
17 this guy Tim, and that he knows how to do it and: "It's
18 available. Why wouldn't you do it?" I said: "Look, I'm not
19 dealing with these" -- "I'm not dealing" -- not people. The
20 computer -- "I'm not dealing with this. If you know how to do
21 it, great. You have all the data. You have all the
22 information. You and Jeanette, you figure out whatever you got
23 to figure out. If you need me, let me know."

24 Q. Tim's last name, is that Kenna?

25 A. Kenna, yes.

1 Q. And who is Tim Kenna, as you understood it?

2 A. He was his accountant for his -- he owned multiple
3 businesses before. He had troubles, as far as his King of
4 Diamonds business. And he was his accountant that did his work
5 for him with his workers and his tax returns and stuff like
6 that.

7 Q. So what happened as a result of the conversation and his
8 offering to do it? What was your response to that?

9 A. I said: "Just get whatever data that I have available" --
10 not I but the company has available. "If we get the
11 forgiveness -- and good luck. If you need me, let me know. I
12 have a million other things to do. Go do it."

13 Q. At the time did you feel like you were doing something
14 wrong in delegating that to Mr. Vasilas?

15 A. No.

16 Q. Why not?

17 A. I mean, the guy did build a 60,000-square-foot building
18 during COVID. And I mean, I was pretty -- I thought -- I mean,
19 I thought he could do it, but I really didn't know if he could
20 do it kind of in the back of my mind. So he actually did it,
21 and he was doing some other things that he was doing. Somehow
22 he was getting things done.

23 Q. Any time before COVID had Mr. Vasilas focused at all on
24 credit applications or loan applications in any way?

25 A. (No verbal response.)

1 Q. Let me ask you this: How did you learn about Nationwide?

2 A. Through Jeff Vasilas.

3 Q. At what time period?

4 A. I don't know the exact, but some time I think in January or
5 February of 2020.

6 Q. Did you think it was weird at the time that he was
7 suggesting financing for you when he was a construction guy, or
8 whatever his background was?

9 A. No.

10 Q. Why?

11 A. Well, he had his own business. He dealt with -- I mean,
12 not that he -- I don't know how much he dealt with banks, but
13 he had to deal with banks when he owned a building and stuff.
14 So he -- if you say one thing, it's like: "Can you go do it,"
15 "Yeah, I can go do it."

16 That's how his personality was. And he said: "I got
17 these people that" -- he always connected with people somehow.
18 And he was like: "Okay. Here's this guy Daniel Sheps, and he
19 can do the financing for your projects."

20 Q. As between you and Mr. Vasilas, from your perspective, who
21 was best qualified -- from what you understood and believed,
22 who was best qualified to deal with these PPP loans?

23 A. Oh. By far, him and Jeanette a hundred percent. It has to
24 do with, you know, stuff that I don't deal with. They
25 understand it. I don't understand it. That's their

1 wheelhouse.

2 Q. Why not reverse it? Why didn't you do the PPP loans and
3 let him do the dealing with Amazon, Floor & Decor, and these
4 construction loan finance companies?

5 A. That wouldn't work because he's -- my expertise is dealing
6 with site development tenants, that side of the business. I'm
7 not on the -- you put a wall. I'm on the other side. They're
8 more qualified to deal with that. They could not -- neither
9 one of them could deal with Amazon and stuff like that. I've
10 been doing it for 25 years. That's what I do.

11 Q. So what was your role in this -- what was your role, if
12 any, for these 2021 PPP loans?

13 A. My role? What do you mean my role?

14 Q. Did you just say: "Go handle it yourself," or did you have
15 any role -- were you available to help Mr. Vasilas if he needed
16 it?

17 A. Oh, no. I said: "If you have any questions about, you
18 know, anything you need that I could help, let me know.
19 Otherwise" -- he had all the data because everything's coming
20 out of Orlando from all the workers that he hired. I don't --
21 you know, he hired the people. He did everything in Orlando to
22 build the project. It's --

23 Q. Sorry. I didn't mean to cut you off.

24 A. No. That's okay.

25 Q. By the way, back to Burlington that you were talking about.

1 Before the move-in, before the -- Burlington was able to move
2 in, so we're talking the main part of 2020 or the year 2020,
3 where was your AmEx card, the physical card?

4 A. My AmEx card was in Orlando.

5 Q. With whom?

6 A. I'm not sure exactly whom, but Jeff had it. But I know
7 other people -- I found out recently that other people have had
8 that card and they used that card for dealing with the project.

9 Q. Why did you send -- why did you allow Mr. Vasilas or others
10 to use your card in Orlando?

11 A. Because during COVID supply houses, vendors, I mean,
12 everybody, the world -- everyone was a little freaked out and
13 they wouldn't take checks. There was a mess. So they needed
14 something that they had available credit limits -- not --
15 credit lines on it -- on my card, which they could afford to
16 just go whatever -- buy whatever they had to buy to get it
17 done. But people would not accept like checks, anything. You
18 couldn't go to a bank to really wire stuff because banks were
19 closed, they were open. It was a mess. So that was the reason
20 why I allowed that to happen. But listen, he would tell me if
21 he was using it. He wouldn't just randomly do things.

22 Q. But you trusted him with your card, right?

23 A. Yeah.

24 Q. I don't think I asked you. When you moved to your home
25 office -- and you said Jeanette didn't join you, and she stayed

1 at her home in Hialeah, correct?

2 A. Correct.

3 Q. Why did she not join you in the home office?

4 A. According to what she told me, and which is true, that she
5 has something -- what do you call it -- asthma and lung -- or
6 something with her lungs or asthma. And her husband has very
7 significant -- he's a diabetic and some other -- and they were
8 concerned about, you know, obviously, like everyone else,
9 contracting COVID.

10 Q. In, again, the period of January 2021 to March of 2021,
11 were you always at your house, whether it's the home office or
12 elsewhere in your house?

13 A. Was I always there?

14 Q. Were you always there?

15 A. No. I mean, I was there when I slept and when I was with
16 my family, yes. But I mean, no, I wasn't sitting in my house
17 all day.

18 Q. Was Mr. Vasilas allowed to be in your house when you were
19 not there?

20 A. Yes.

21 Q. To your knowledge from talking to him and working with him,
22 did that happen? Was he there when you weren't there?

23 A. Yeah.

24 Q. In -- on February 26th, 2021, which -- I'm not going to
25 discuss with you why I'm asking you that date. But on that

1 date, do you know where you were, February 26th, 2021?

2 A. I mean, I remember it, because that was the time we were
3 in -- my wife, myself and my daughter, we were in
4 Orlando/Lakeland -- I don't mean slash -- Lakeland, Florida.

5 Q. What were you doing there?

6 A. Well, my daughter plays -- actually, at the time -- now
7 she's in college. But at the time she played for Miami Country
8 Day girls basketball team, and we were at the state
9 championship finals in Lakeland, and we were there for the
10 finals.

11 Q. And how long were you there -- what time period were you
12 there? Do you recall?

13 A. I don't know the exact time frame, but I think it was -- I
14 want to say 24th, 25th -- 25th through the 27th. Thankfully,
15 they won the first game and they ended up winning the
16 championship. So you have to wait a few days. So I'm not sure
17 exactly the date. I know we got there on the 24th or 25th and
18 left on the 27th, or something like that.

19 MR. ETRA: For the witness only, could we please put
20 up Exhibit X-38.

21 BY MR. ETRA:

22 Q. Do you recognize Exhibit X-38?

23 A. I do.

24 Q. Without elaborating specifically what the information is,
25 because it's not in evidence, generally speaking, what is X-38?

1 A. This is a picture of the warm-up of the first game of my
2 beautiful daughter shooting something -- shooting a basketball.

3 Q. Where was this picture taken?

4 A. This was at the -- it's in Lakeland. I forget the name of
5 the place. It's where the Orlando Magic has their --

6 Q. In Orlando?

7 A. No. It's Orlando. This is in Lakeland. The Orlando Magic
8 has like a -- what do you call it -- like minor team or
9 something. It's called RP Funding -- RP Funding or something
10 like that.

11 Q. Who took the picture?

12 A. I did.

13 Q. And did you take it at the time indicated on the date stamp
14 there?

15 A. Yes.

16 MR. ETRA: Your Honor, we offer X-32 [sic].

17 THE COURT: Any objection?

18 MS. JIMENEZ: One moment, Your Honor.

19 (Pause in proceedings.)

20 MS. JIMENEZ: Yes, Your Honor. I object. Relevance.
21 It's on a different day. It's also a purported alibi not
22 disclosed previously.

23 MR. ETRA: The alibi disclosure rule does not apply
24 here, Your Honor, for reasons --

25 MS. JIMENEZ: It's on a different day, Your Honor.

1 THE COURT: All right. With regard to relevance, the
2 objection is overruled. X-32 will be admitted into evidence.

3 MR. CAVALLO: Sorry, Your Honor. I believe this is
4 X-38.

5 THE COURT: Oh. I'm sorry. I thought you labeled it
6 32. X-38 is admitted into evidence.

7 (Defendant's Exhibit X-38 received into evidence.)

8 MR. ETRA: My apologies, Your Honor. I read the wrong
9 part of my outline.

10 BY MR. ETRA:

11 Q. Basically, what does this show in terms of where you were
12 in this time period?

13 A. I was staying in Orlando but going to Lakeland for the
14 first game and the following game for the championship for the
15 period of time.

16 Q. And you were there you believe through February 26th?

17 A. Oh, yes.

18 Q. And --

19 A. 27th, I believe.

20 Q. -- where was Mr. Vasilas while you were in Lakeland --
21 instead of going to Orlando, Lakeland?

22 A. What's that?

23 Q. Where was Mr. Vasilas when you were in Lakeland?

24 A. He was at my house. He was working there, and he was
25 also -- at nighttime, he would stay there. He was also doing

1 some work on the gate. There was -- something happened with a
2 truck with one of the gates at the house, and he was working on
3 that. And he was also working on other -- I don't know what he
4 was doing. I can't tell you exactly what he was doing because
5 I wasn't there.

6 MR. ETRA: We could take this down.

7 For the witness only, now X-32. I had the wrong
8 number before.

9 BY MR. ETRA:

10 Q. I'm going to go through the first few pages for you, sir,
11 and then let's go to the third page. And then I'm going to ask
12 you if you can tell me generally, without getting -- because
13 it's not in evidence what this is.

14 A. It says -- well, it's a proposal from a company made out to
15 Mr. Vasilas. And it has a picture of my house on it -- you
16 know, the exterior of my house on it.

17 Q. Let me take a step back away from this. Did Mr. Vasilas
18 have authority to stay overnight at your house?

19 A. Yes. He's a big animal lover. He loved my dogs.

20 Q. All right. Going back to X-32, just what are the general
21 circumstances of this document? Could you explain the
22 circumstances without discussing the specifics of this
23 document, please.

24 A. I don't understand. Say that again.

25 Q. How is it that -- did you task Mr. Vasilas with anything

1 with respect to the gate at your house?

2 A. Yes. A truck or something ran into it -- a working truck
3 ran into the gate or something. So it was broken, so he was
4 going to -- as usual, I told him, and he said: "Okay. I'll
5 take care of it. Okay. Okay. Okay. I'll take care of it."

6 So he was working with some company, I guess. And he
7 said he was going to work with him, and he was going to take
8 care of it. That's what he does.

9 Q. And that's the place where you have your home office?

10 A. Home office, yes.

11 Q. And is this an email where Mr. Vasilas is providing you
12 information about the task -- the business task you gave him to
13 fix the gate in front of your home -- your house and your home
14 office?

15 A. Yes.

16 Q. Okay. Is this -- in your -- is this a -- was Mr. Vasilas
17 acting in the course of his business duties with respect to
18 your companies in doing this work?

19 A. Yes.

20 MR. ETRA: Your Honor, we offer X-32 as a business
21 record.

22 MS. JIMENEZ: Your Honor, I object. I've never seen
23 this before. Were we provided this before?

24 MR. ETRA: It was provided long ago.

25 THE COURT: Has that been listed on the Defendant's

1 exhibit list?

2 MS. JIMENEZ: No. No. I mean, we got an exhibit list
3 at, what, eight p.m. last night.

4 THE COURT: Is this the first time that it was
5 provided?

6 MR. CAVALLO: No, Your Honor. X-32 was provided
7 before the break, before Mr. Sheppard began testifying.

8 MS. JIMENEZ: We got an exhibit list last night at
9 eight p.m.

10 THE COURT: You want to provide the Court with some
11 justification with regard to that? Ms. Jimenez is stating that
12 she did not receive it.

13 MR. CAVALLO: I'll verify the upload to USAfx, their
14 system. It may take me a second to log in.

15 THE COURT: Ms. Jimenez, is that correct? Did you
16 just receive this last night?

17 MS. JIMENEZ: Well, it's the first time I've seen it,
18 Your Honor.

19 THE COURT: Well, I'm not asking whether it's the
20 first time you've seen it. You may not have looked at it, but
21 when was the first time you received it?

22 MR. CAVALLO: I will confirm hopefully in two
23 minutes --

24 MS. JIMENEZ: If I haven't seen it before, I can't
25 confirm when it was provided, Your Honor.

1 THE COURT: When was the Government provided with
2 X-32?

3 MS. JIMENEZ: We were provided an exhibit list last
4 night for the first time --

5 MS. WEINTRAUB: Judge, I object.

6 THE COURT: When was the Government provided with
7 X-32, Ms. Jimenez? I'm asking the question, and Mr. Cavallo
8 will justify that with giving the Court some indication by way
9 of the upload.

10 MS. JIMENEZ: I don't know, Your Honor.

11 MR. CAVALLO: Your Honor, the document was uploaded to
12 USAfx on December 20th.

13 THE COURT: Ms. Jimenez, did you want to look at what
14 Mr. Cavallo is looking at?

15 MS. JIMENEZ: Certainly.

16 (Pause in proceedings.)

17 THE COURT: Ms. Jimenez, is that, in fact, when the
18 Government received it?

19 MS. JIMENEZ: It appears to be, Your Honor.

20 THE COURT: All right. The objection is overruled.
21 X-32 will be admitted into evidence. I believe -- is it --
22 yes. X-32.

23 (Defendant's Exhibit X-32 received into evidence.)

24 THE COURT: All right. Let's continue.

25

1 MR. ETRA: Okay. Could we just focus on the second
2 page -- sorry -- the one on the right-hand side.

3 BY MR. ETRA:

4 Q. Could you indicate what this gate is and the vantage point,
5 what you're seeing here?

6 A. That is the gate that you would face the front of the
7 house, and like the -- like I'm sitting at the front of the
8 house and looking forward, that's the gate.

9 Q. So the person taking this picture is on your property?

10 A. Yeah. Is on the -- I don't know where on the property, but
11 yes, he's near the front of the entranceway where the house is.

12 Q. And do you see at the bottom right -- who does it say this
13 proposal was prepared for?

14 A. Jeff Vasilas.

15 Q. At your house?

16 A. Yes.

17 MR. ETRA: If we could turn to the very last page.

18 If we could blow up the top part.

19 BY MR. ETRA:

20 Q. Who does it indicate signed -- DocuSigned this proposal?

21 A. Jeffvasilas@solutionz100@yahoo.com.

22 Q. What date is there?

23 A. February 19th, 2021.

24 Q. Could you please read the IP address.

25 MR. ETRA: And blow that up, please.

1 THE WITNESS: How do I do that?

2 BY MR. ETRA:

3 Q. Could you see it now?

4 MR. ETRA: Take out the highlight, please.

5 THE WITNESS: No, I can see it. I can't see far. I
6 can see close. It says: "72.28.217.129," which is the IP
7 address -- or it says: "IP." I think that says: "IP."

8 MR. ETRA: Could we take that down, please.

9 BY MR. ETRA:

10 Q. We talked a little about the -- earlier you talked about if
11 you didn't complete Burlington, in addition to financial
12 penalties, they could terminate the lease. Do you recall that
13 topic?

14 A. Yes.

15 Q. I don't know that I asked you specifically: What would
16 have been the consequences of Burlington terminating the lease
17 for late delivery or failure to deliver as they wanted on time?

18 A. It would have been pretty catastrophic, as far as --

19 Q. Be specific, please. What would have happened?

20 A. Oh. The lender would have just foreclosed on the property
21 because they're half of the property and they would have
22 foreclosed on it through a default.

23 Q. The lender being?

24 A. Basis Capital.

25 Q. And what effect would that have on the project as a whole?

1 A. It would be a big problem because there's a lot of things
2 that happen when that happens, with the other tenants, with the
3 future leasing, with everything. It's just -- it's a disaster.

4 Q. Staying on Basis for a moment, approximately how much were
5 your companies paying a month? I know there's some
6 variability, but approximately how much?

7 A. For which --

8 Q. The Basis loan.

9 A. Okay. Basis, around \$91,000 per month --

10 Q. And how large was the loan as a whole?

11 A. 20,950,000.

12 Q. Approximately 20.1?

13 A. Twenty million -- 21. Okay. It was 20,950,000.

14 Q. And how long had your companies been paying that mortgage
15 on a monthly basis?

16 A. Prior to Basis, it was a different lender. And so I would
17 say approximately 2012, around 2012, summer of 2012.

18 Q. Okay. I want to talk about the idea of applying for PPP
19 loans in 2021 both for HM-UP and HM Management in the same time
20 period. You got that?

21 A. Yes.

22 Q. Okay. Whose idea was that? Whose idea was that?

23 A. When you say "idea," what do you mean by "idea"? I don't
24 understand --

25 Q. To your recollection, where did the idea come from to apply

1 for both at the same time?

2 A. Oh. That came from Jeff, based upon his -- his analysis of
3 what was -- occurred.

4 Q. From your perspective, was there any logic or rationale for
5 applying for both in the same time period?

6 A. Yes.

7 Q. What was that justification in your mind?

8 A. Well, HM-UP was -- did the construction for the Burlington,
9 and -- which, it did make sense. What he said is that there
10 was a huge punch list and there was other items that had to get
11 completed throughout 2021. And HM Management and Development,
12 they don't own the property. They are managing. So they have
13 obligations to do other construction -- not obligations. They
14 have to do other construction outside of the Burlington
15 physical structure. Everything outside the building is a
16 different company. Everything inside is HM Management and
17 Development, if that explains it.

18 Q. And with respect to what was going to get done in 2021 for
19 HM-UP, you mentioned the punch list. What about Mattress1One
20 transitioning to FedEx? Would that be something that HM-UP had
21 to spend time and money on?

22 MS. JIMENEZ: Objection. Leading.

23 THE COURT: Sustained.

24 BY MR. ETRA:

25 Q. What role, if any, did FedEx have in your justification --

1 in your mind for applying for loans for both companies?

2 A. Well, it wasn't in my mind. It was what he presented to
3 me. The construction activity for 2021 for HM-UP -- and he
4 presented it as the FedEx construction to convert from
5 Mattress1One, the 55-page punch list for Burlington --
6 that's -- yeah.

7 Q. And what about the -- in terms of -- what role, if any, in
8 your thinking did the road -- I forgot the name of the road
9 that you had to build. Could you remind me, please.

10 A. Indianhead Trail.

11 Q. The obligation to construct the Indian Trail Road, did that
12 play any role in your mind in justifying applying for both?

13 MS. JIMENEZ: Objection. Leading.

14 THE COURT: Sustained. Rephrase.

15 BY MR. ETRA:

16 Q. What role, if any, did the Indian Trail Road play in your
17 thinking with respect to PPP loans in 2021?

18 A. It wouldn't be loans. It would be one loan. It would be
19 on the HM Management side because that's what they call the
20 common area. So to build the road, that would be on the HM
21 Management side. HM-UP I already described. So it wouldn't be
22 the loans. It would be one loan. That's why you separate it.
23 He actually made sense that it should be separated.

24 Q. And what about the construction to put Chase in the
25 outparcel? Did that play -- it have any impact in your

1 thinking with respect to the PPP loans --

2 MS. JIMENEZ: Objection. Leading.

3 THE COURT: Sustained.

4 BY MR. ETRA:

5 Q. What -- could you please indicate which construction
6 projects related to HM Management at that time.

7 A. You had the Indianhead Road, which was a requirement by the
8 Orange County. It was the -- they came later and said: "You
9 have to build it in order to get a CO on the Chase Bank." So
10 therefore, Chase Bank, all the parking lots, the lights, the
11 infrastructure underneath, the FPL transformers, and also the
12 other common area, we had to make adjustments on the phase 3
13 side. There was work being done with the phase 3 common
14 area -- not in phase 3 but common area for that. Anything you
15 do outside.

16 There was three different projects at that
17 particular -- four different projects. And the Starbucks pad
18 that -- we had to bring all the infrastructure there. And only
19 HM Management -- or HM Four would have to hire HM Management to
20 do all of the work because the other owners, HM-UP, are not
21 allowed to go in that common area and do work. So that's why
22 it was separated like that.

23 Q. Did you use the term "CO" in your answer?

24 A. Yeah.

25 Q. What is CO?

1 A. Means a certificate of occupancy, when the building
2 department signs off -- all the departments in a certain county
3 signs off on a building project.

4 Q. I want to talk about the email -- some of the email chains
5 that were introduced in evidence in the Government's case for
6 the 2021 PPP loans. Okay? I'm focusing on that. Okay?

7 A. Okay.

8 Q. All right. I want to talk about the email with respect to
9 that, the email eric.sheppard10@gmail.com. Whose email is
10 that?

11 A. That's my email.

12 Q. So generally speaking, do you recall whether you sent and
13 received the emails that went to and from the ericsheppard10
14 with respect to these PPP loans? Do you have any recollection
15 of sending or receiving those emails?

16 A. I don't have a -- what time frame? What year? What --

17 Q. Talking in the January to March 2021, the emails that were
18 shown in court from PayPal and -- I don't remember exactly
19 which ones, but I think Cross River and Northeast, but I could
20 have some of that wrong.

21 A. Well, in that time frame, what I saw on the screen at the
22 time, I don't recall receiving those emails or reviewing -- I
23 should say reviewing those emails.

24 Q. Okay. Does anyone else -- from January '21 to March '21,
25 did anyone else have access to your email

1 eric.sheppard10@gmail.com?

2 A. Yes.

3 Q. Who had access -- who besides you had access to the email?

4 A. A, my computer is not locked. It's -- there's a computer
5 in the office that has my email, plus a lot of other people's
6 emails. My kids, Jeff, obviously myself, whoever was in my
7 office at the conference room table, they can access --

8 MR. ETRA: Your Honor, for the record, X-9 in evidence
9 is now on the screen.

10 BY MR. ETRA:

11 Q. Go ahead. I wanted to do that for the record.

12 A. I'm just trying to think who else. But also remotely --
13 Jeanette has access remotely. I guess they can -- a lot of
14 times I don't know how to do things. So they like -- there's
15 some way they can get on the computer, and the mouse, the
16 little pointer, it starts moving around the screen and they do
17 stuff because I can't do it. They help me with that. So that
18 guy -- there's an IT guy that did that.

19 Q. Focusing on X-9 on the screen, which computer that you're
20 referring to had your email, the eric.sheppard10 email?

21 A. It's where the oval desk is there. There's --

22 Q. Is that where the green arrow is?

23 A. That computer that was there, that's the main computer that
24 people use.

25 Q. And in January to March 2021, whose spot was that?

1 A. That was -- this was Jeff's spot.

2 Q. What about other people like Jeanette Gonzalez? Did she
3 have access to your eric.sheppard10 Gmail account?

4 A. Yes.

5 Q. At this time period, she's in Hialeah. How did she have
6 access to your email?

7 A. Because she has access to almost everything. She has
8 access to everything.

9 Q. Could you be more specific how she can get access to your
10 email when she's in Hialeah.

11 A. I don't know how that actually works technically. But like
12 I said, like you can just go on a computer and you log in, or
13 they -- sometimes if I can't figure it out, they -- they -- I
14 can watch them actually physically do stuff on my computer
15 remotely.

16 Q. Did she have login access to your --

17 A. Yes. Yes. Of course.

18 Q. Now, I think there's some emails -- in all the emails that
19 were shown to the jury, that says: "Sent from iPhone."

20 Without necessarily remembering --

21 MS. JIMENEZ: Objection. Leading.

22 THE COURT: Sustained.

23 MS. JIMENEZ: Counsel is testifying.

24 BY MR. ETRA:

25 Q. Okay. Generally speaking, did those individuals have

1 access to your phone to respond to -- to send a "Sent by
2 iPhone" email?

3 A. I mean, yes, technically, they could have access to my
4 phone. I mean, I -- but I had my phone too. I mean, I use my
5 phone. I'm usually using my phone for -- I'm a phone call kind
6 of guy or maybe a text guy or something.

7 Q. Now, if you had seen some of the emails at the time that
8 said, for example, 940s, 941s, and things like that, at that
9 time period, how would you have handled --

10 MS. JIMENEZ: Objection. Leading.

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

12 THE WITNESS: I'm sorry. I got confused.

13 BY MR. ETRA:

14 Q. Sure. Some of the emails talk about 940s, 941s, things
15 like that. I'm not going to go through all of them with you
16 now. If you had seen that at the time, if that actually was
17 you reading or sending email, what would you have -- how would
18 you have responded to that? How would you have known how to
19 deal with --

20 A. I would -- depending on what it was about, what you just
21 described, I would just -- whoever handles that kind of stuff,
22 I would call them and say: "Hey, can you take care of this?"

23 Q. What if Mr. Vasilas was sitting next to you? What would
24 you have done?

25 A. I would have turned to him and said: "Do you know what

1 this is? Yes or no." And if he said: "Yes" --

2 MS. JIMENEZ: Objection. Calls for hearsay.

3 THE COURT: Overruled.

4 BY MR. ETRA:

5 Q. Now, at the time, if -- did you understand that 940 and
6 941s were only for W-2 and that your people didn't have W-2 or
7 didn't have a lot of W-2? Did you understand that at the time?

8 A. I did not.

9 Q. I want to talk about the DocuSigning of the loans. The
10 actual loans come in and there's DocuSigning in March. Do you
11 know where I am, Mr. Sheppard?

12 A. Yes.

13 Q. Okay. Who actually DocuSigned the loan applications in
14 March?

15 A. Like what day in March? Which day?

16 MR. ETRA: Well, why don't we put up Exhibit 20-23 in
17 evidence. Let me go to the first page, so we can see what this
18 is.

19 Is it only the last page we have?

20 Oh. It is the first page.

21 Why don't we go to the next page so everyone knows
22 which loan this is.

23 Could we keep going until we find something? I don't
24 have a copy with me.

25 (Pause in proceedings.)

1 BY MR. ETRA:

2 Q. All right. It says: "The loan source," which would be
3 Northeast -- which would be -- I believe the evidence is
4 Northeast second round --

5 MS. JIMENEZ: Objection. Testifying.

6 THE COURT: Sustained. Let's get to the document.

7 MR. ETRA: Let's go back to the DocuSign page.

8 BY MR. ETRA:

9 Q. Who did this DocuSigning?

10 A. Who did it?

11 Q. Yeah.

12 A. I don't understand. Who did it, like...

13 Q. Did you -- the email comes into wherever it came in.
14 Someone had to click the "Eric Sheppard." Was that you?

15 A. Oh. I did.

16 Q. Okay. And it indicates here on the right-hand side that --
17 well, let me ask you: Why were you comfortable DocuSigning
18 this when you had delegated what you delegated -- or were you
19 comfortable DocuSigning this when you had delegated what you
20 had delegated to Mr. Vasilas?

21 A. Because it was the second round of the original PPP loan,
22 so I was comfortable with that. And he also discussed it with
23 me prior to it. He told me what he was doing, so I was fine
24 with it.

25 Q. Did you have any reason to believe he was doing something

1 improper or submitting fraudulent documents?

2 A. No.

3 Q. And if you go to the time stamp on the right-hand side, it
4 indicates sent on March 17th, 2021, but not viewed until eight
5 days later, on March 25th. Do you see that?

6 A. I do.

7 Q. How is it that you would receive this email with the
8 DocuSigning on March 17th but waited eight days to open it up?

9 A. I really don't look at my emails that often. I have a lot
10 of unopened emails, and I don't really look at my emails. So I
11 don't typically look at my emails.

12 Q. What about the -- there's another one that day. We can
13 load it up, I guess, if we need to. Do you recall whether you
14 did the DocuSigning as we discussed here for this loan -- did
15 you also do it for the other loan?

16 A. For the HM Management, yes. I executed that as well.

17 Q. And again, were you comfortable in doing so at the time?

18 A. Yes.

19 Q. Why were you comfortable in doing so?

20 A. Why? Because he told me what he was doing, and he did it,
21 so I was comfortable. The second one was a little different
22 than the first one, I think, because, I mean, I think I -- I
23 think I looked at it longer or something because -- just to see
24 what it was, I think. Because the first one I knew because it
25 said HM-UP, and the second one said HM Management. And I knew

1 he divided it, so I just maybe took I think a little longer to
2 look at that one.

3 Q. At the time when you were DocuSigning it, did you feel you
4 did anything wrong in relying on Mr. Vasilas?

5 A. No.

6 MR. ETRA: Why don't we take this down.

7 BY MR. ETRA:

8 Q. By the way, how many unopened emails do you have in your
9 ericsheppard10?

10 A. I think around 200-and-something thousand -- 202,000 or
11 something.

12 Q. All right. What construction -- now that we've talked
13 about these loans, what construction actually got done, say,
14 with HM-UP broadly in this time period and going forward?

15 A. Well, the parking lot. We were required to redo all of the
16 parking lots as far as the leases were concerned. So that work
17 got done.

18 Q. Could I divide this between HM-UP and the HM Management?
19 Could we start with HM-UP?

20 A. Sure. HM-UP, we finally got the mattress guy out. He
21 finally left in I think March, April, something like that. So
22 then we were able to start construction on the FedEx. So we
23 built the FedEx. And we built -- we finished the punch list
24 for Burlington. There was something else -- I don't remember,
25 but there was something else we had to do. Anyhow, those two

1 projects --

2 Q. And then HM Management, what work got done in that time
3 period?

4 A. In the common area for HM Management's jurisdiction was --
5 we finished Indianhead Road Trail. We had to finish it in
6 order to open the -- the county put a requirement that you had
7 to finish the Indianhead Trail Road prior to getting the CO of
8 Chase. So we finished the road, and Chase -- we built the
9 Chase Bank building and all the common area, all the new
10 lighting. Then we had to repave all the 600-and-some-odd
11 parking spaces. Had to redo those. Then we had to do some
12 work in between the Burlington and the Chase common area. We
13 had to redo that.

14 MR. ETRA: If I could put up for the witness only
15 X-25.

16 BY MR. ETRA:

17 Q. I'm just going to go through each picture with you alone,
18 Mr. Sheppard.

19 That's all of them.

20 Generally speaking, because it's not in evidence, what
21 is this Exhibit X-25? What are these pictures of?

22 A. This is the parcel of land where we were doing the Chase
23 Bank -- in the common area for Chase Bank.

24 Q. Done during this time period?

25 A. It was around -- I believe it's March or April of 2021.

1 MR. ETRA: Your Honor, we offer X-25.

2 THE COURT: Any objection?

3 MS. JIMENEZ: No objection.

4 THE COURT: Admitted into evidence.

5 (Defendant's Exhibit X-25 received into evidence.)

6 MR. ETRA: Could we just put the first one up on the
7 screen.

8 BY MR. ETRA:

9 Q. And just describe what we're seeing and all the work that
10 goes into it that we're not -- it's hard to -- maybe you can't
11 see on these pictures.

12 A. Well, this is just the beginning part. This is just where
13 you -- you're put in -- so the heavy machinery and trucks can
14 get through, you put a certain type of rock down in order for
15 it to be stable. And then you also have to put the silt fence
16 in to make sure there's no drainage from the environmental
17 concerns.

18 Q. All right.

19 MR. ETRA: Let's take that down. And could we put up
20 Exhibit -- on one side X-27, on the other side M, as in Mary --
21 sorry. I apologize. Only for the witness. I apologize.

22 Only for the witness, X-27 on one side and M-61 on the
23 other. If we can just go through X-27 briefly for the witness
24 only.

25 And then M-61 I think there's a few pictures.

1 BY MR. ETRA:

2 Q. Generally, without the details, what does X-27 and M-61
3 show?

4 A. This is the finishing the road in between -- it's the
5 construction part of the end part of the road and the other
6 side -- the Indianhead Trail Road.

7 Q. Done after the loans?

8 A. Done sometime in 2021 -- again, middle or the end of '21,
9 '22, something like that.

10 MR. ETRA: Your Honor, we had offered this before, but
11 we're laying more of a predicate now. So we now offer again
12 Exhibit -- I don't know if we offered both. I know we offered
13 at least one. So for disclosure, we're offering X-27 and
14 M-61 --

15 THE COURT: Any objection?

16 MS. JIMENEZ: Objection. Relevance.

17 THE COURT: If that is the basis, the objection is
18 overruled. It will be admitted into evidence.

19 (Defendant's Exhibits X-27 and M-61 received into
20 evidence.)

21 MR. ETRA: Could we just publish the front page of --

22 BY MR. ETRA:

23 Q. So X-27, could you describe generally what we're seeing
24 here.

25 A. This is the last part of the road. If you can look at the

1 picture, this is where the road starts, where the yellow lines
2 are at the top of the screen. And where the sidewalks stop --
3 we had to put in a brand-new road from where the sidewalks
4 stopped, and we had to go all the way to connect our property
5 because we have the traffic light and it was required by Orange
6 County. They required us to do this. And that's what it is.
7 It's just -- it's not finished yet in this picture, but that's
8 what the work is.

9 MR. ETRA: Could we go to M exhibit.

10 BY MR. ETRA:

11 Q. Could we go through each page, and as we're going describe
12 generally -- not each picture, but just describe generally what
13 we're seeing, and we could flip through these pages for the
14 jury.

15 A. This is just some underground work. Because when you have
16 a road, you have to have drainage and you have to put a
17 concrete casing around pipes in order to make sure that the
18 cars go over it, they don't crush the drain underneath. So
19 that's the workers doing that. And on that -- and then
20 there's -- there's some curbing or something like that. Looks
21 like they are doing the curbing. So when you drive in, you
22 have curbs and sidewalks.

23 MR. ETRA: Let's take that down.

24 THE WITNESS: And that's in the common area of the
25 shopping center.

1 BY MR. ETRA:

2 Q. Do you recall any individuals who worked on the road
3 project? Do you have any recollection?

4 A. Yes.

5 Q. How do you know who would have done the road project?

6 A. Well, I -- my brother worked on it.

7 Q. How do you know?

8 A. I was there. I physically was there. I had a moment where
9 I wanted to go play in the mud, I guess, but I felt like I
10 wanted to do that, so I was actually physically there. So I
11 know exactly who was working there.

12 Q. Who was working?

13 A. Myself, Kleef, my brother, a guy named Mo Wimbley was doing
14 the electric, and seven or eight other guys -- I didn't know
15 who they were -- that were brought in to do some of the other
16 work, but -- so yeah, I was definitely there.

17 Q. Did you say Kleef?

18 A. Kerby Kleef. Sorry.

19 Q. Who is Kerby Kleef?

20 A. Kerby Kleef is this nice gentleman who was working at the
21 Burlington, and he still works for the property. And he's a
22 great guy and he works for the property today -- still works at
23 the property.

24 Q. All right. Let's go back to -- let's talk about
25 Mr. Vasilas. What ultimately happened to Mr. Jeff Vasilas?

1 A. He's deceased.

2 Q. What did he die of?

3 A. COVID.

4 Q. Approximately when did he pass?

5 A. I don't know the exact date, but some time in August 2021.

6 Q. What was your last communication with him before he passed?

7 A. What kind of communication?

8 Q. Were you --

9 A. Physically or like on -- I mean...

10 Q. Well, what was your last time you saw him in person before
11 he passed?

12 A. Sometime in July. He -- it was very hot. We all know it's
13 hot. It was like a hundred degrees outside, and he came into
14 the -- he came in -- he was at the -- he wanted to come into my
15 house in the back -- this back way he gets into the office of
16 the house. And he was wearing like a thing -- a hoodie and
17 sweatpants, and he was like sweating. And I was -- he was
18 like: "I need to go over some stuff with you" --

19 MS. JIMENEZ: Objection. Hearsay.

20 THE COURT: Sustained.

21 BY MR. ETRA:

22 Q. Just -- you recall the last time you saw him, right? Yes?

23 A. Yes.

24 Q. Was there any connection between that and his illness?

25 A. Yes. He didn't look so well. I told him he needs to go to

1 the hospital because he looks like --

2 MS. JIMENEZ: Objection. Hearsay.

3 THE WITNESS: -- bad.

4 THE COURT: Overruled with regard to that statement.

5 BY MR. ETRA:

6 Q. At some point did you learn of additional expenses at the
7 project that you were not informed of by Mr. Vasilas?

8 A. Yes.

9 Q. Just very generally, could you describe that.

10 A. The project was CO'd, and I started getting calls from
11 people. And then -- that said that there was like liens or
12 something. And I was like: "Liens?" That's it. They said
13 there was some liens on the property from some vendors that he
14 hired, I guess. So I was a little shocked.

15 Q. So let's -- who were the -- were there any equipment
16 vendors, people where -- companies that were -- that you
17 approved to rent equipment for construction?

18 A. Yes.

19 Q. Who were they?

20 A. Two companies, Sunbelt Rentals and Ahern.

21 Q. Did you later learn that another equipment company was
22 used?

23 A. Yes.

24 MR. ETRA: For the witness only, Exhibit X-47.

25

1 BY MR. ETRA:

2 Q. Very generally, could you describe what X-47 is.

3 MR. ETRA: For the record, Your Honor, we have a
4 certified -- it's a certified copy, in case you're wondering.
5 The full certification is the last page, so just for the
6 record.

7 Would you like me to go there first?

8 THE COURT: Yes. Thank you.

9 MR. ETRA: Okay. So let's go to Page 6 of the
10 document -- well, it's -- the full certification is on Page 6.

11 (Pause in proceedings.)

12 MR. ETRA: May I proceed?

13 THE COURT: Yes, you may.

14 BY MR. ETRA:

15 Q. Generally speaking, what is X-47?

16 A. This was a complaint filed in some court against the
17 company, and actually against me personally.

18 Q. And the vendor that sued, did you -- had you -- was this a
19 vendor you knew about during the course of the work?

20 A. No.

21 MR. ETRA: And Your Honor, we offer X-47.

22 MS. JIMENEZ: Objection. Relevance.

23 THE COURT: The objection is sustained.

24 MR. ETRA: Could we go to -- still with the witness
25 only. Go to PDF 8.

1 BY MR. ETRA:

2 Q. Do you see your apparent signature there?

3 A. Yes.

4 Q. Did you sign that document?

5 A. No.

6 Q. And do you see the name at the bottom there?

7 A. Which name at the bottom?

8 Q. The very bottom of the person filling it out.

9 A. Yes.

10 MR. ETRA: Your Honor, we re-offer the exhibit. I can
11 go further. I'm just -- I'm not sure how far to go --

12 THE COURT: On that one page? Are you seeking to
13 introduce --

14 MR. ETRA: Well, it's the page -- there are other
15 pages too. And I want to be careful how much I get into on the
16 record, and I don't want to violate the rule about talking
17 about a document not in evidence yet.

18 THE COURT: So at this point you're just seeking to
19 introduce the page that's on the screen, correct?

20 MR. ETRA: Okay.

21 THE COURT: What's the identification number?

22 MR. ETRA: Well, I guess we'll make it X-47-1.

23 THE COURT: Is there any objection?

24 MS. JIMENEZ: No. No objection.

25 THE COURT: Admitted into evidence.

1 (Defendant's Exhibit X-47-1 received into evidence.)

2 THE COURT: And if this might be a good time to give
3 the jurors a short recess.

4 MR. ETRA: Sure. Sure.

5 THE COURT: Ladies and Gentlemen, let's take a
6 10-minute recess, please.

7 COURT SECURITY OFFICER: All rise.

8 (Jury not present, 10:26 a.m.)

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

10 (Recess from 10:26 a.m. to 10:41 a.m.)

11 THE COURT: All right. Welcome back.

12 Could we see if they're ready to go.

13 (Pause in proceedings.)

14 (Before the Jury, 10:41 a.m.)

15 THE COURT: All right. Welcome back, Ladies and
16 Gentlemen.

17 And please be seated, everyone.

18 And we'll continue with the direct examination.

19 BY MR. ETRA:

20 Q. So on the screen is X-47-1 in evidence. When is the first
21 time you saw this document?

22 A. Sometime --

23 Q. Approximately -- sorry.

24 A. Sometime around late '22 -- 2022, 2023.

25 Q. How did you come to see this document? How did it get to

1 you?

2 A. Because I was sued personally on this guaranty.

3 Q. And the name -- you see the name Eric Sheppard there?

4 A. Yes.

5 Q. And the apparent signature?

6 A. Yes.

7 Q. Did you -- did you sign that?

8 A. No.

9 Q. Did you know about this vendor, Herc?

10 A. No.

11 Q. Was Herc one of the equipment rental companies you
12 discussed with Mr. Vasilas and approved?

13 A. No.

14 Q. And we see at the bottom it's got an apparent signature --
15 signature or apparent signature of Mr. Vasilas of whatever --
16 maybe 8/ -- or maybe not -- 26/20. Do you see that?

17 A. Yes.

18 Q. Did you give him authority to sign personal guaranties?

19 Did you give Mr. Vasilas authority to sign personal guaranties?

20 A. Nobody -- a personal guaranty, no. No.

21 MR. ETRA: Why don't we take this down, and now for
22 the witness only, please, go to PDF 15. For the witness only
23 because it's not in evidence.

24 BY MR. ETRA:

25 Q. Again, it's not in evidence, so I want to ask just

1 generally: Do you recognize this page as well?

2 A. Yes.

3 Q. And how did you come to see this page as well --

4 MR. ETRA: Which we should identify this, Your Honor,
5 as Exhibit X-47-2.

6 THE WITNESS: Should I answer?

7 BY MR. ETRA:

8 Q. How did you come -- I'm sorry. How did you come to see
9 this page? Maybe you answered it. I may have missed it.

10 A. It was attached with the other documents that I received
11 regarding the company HM-UP Development and me personally.

12 Q. Who is listed as the owner of the company here?

13 A. Jeff Vasilas.

14 Q. Did you give authority for Mr. Vasilas to identify himself
15 as the owner of any of your companies?

16 A. No.

17 MR. ETRA: Your Honor, we offer Exhibit X-47-2, just
18 this page.

19 THE COURT: Any objection?

20 MS. JIMENEZ: No objection.

21 THE COURT: Admitted into evidence.

22 (Defendant's Exhibit X-47-2 received into evidence.)

23 MR. ETRA: Middle of the screen.

24 BY MR. ETRA:

25 Q. Okay. I want to go through this page somewhat carefully.

1 I want to start with the text in the middle where it describes
2 the equipment, which is -- I guess it's quantities, one, five,
3 and four. And could you describe generally -- and if you could
4 use plain terms for those of us who don't know construction --
5 the kind of equipment that was apparently rented.

6 A. It was a -- it's a pump. It's typically used for a
7 dewatering method of earth, you know, on ground. So basically
8 to suck out water.

9 Q. Was this something that needed to -- this kind of
10 equipment -- is this equipment that you believed, before you
11 received this, needed to be done on your properties -- on these
12 properties?

13 A. Not that I was aware of.

14 Q. Is there anything you learned about later where this
15 equipment could be useful for?

16 A. Yes.

17 Q. What would that be?

18 A. Well, when Jeff took the machinery from Sunbelt and he put
19 it into the muck, and it was stuck in the muck sometime in
20 2020, July 2020.

21 Q. And at the time did Mr. Vasilas tell you he was renting
22 more -- spending more money to fix that problem?

23 A. No.

24 MR. ETRA: And if we can go to the very top --
25 actually, why don't we go back to where we were before, the

1 same blowup we had before.

2 BY MR. ETRA:

3 Q. Do you see the estimated start date and return date on the
4 very top?

5 A. Yes.

6 Q. What dates are those?

7 A. June 29th through August 6th.

8 Q. And do you see below that the "ordered by"? Do you see the
9 name there?

10 A. Ordered by Jeff.

11 Q. Okay.

12 MR. ETRA: Now, let's go to the very top portion of
13 the document and blow that up, please.

14 BY MR. ETRA:

15 Q. You've got Herc on the left-hand side and you have HM-UP
16 Development -- well, it's got a typo there. Do you see that,
17 HM-UP Development?

18 A. I see HM-UP -- Development is spelled incorrectly, but --

19 Q. What address is listed here for HM-UP Development in the
20 middle section?

21 A. 1200 Biscayne Boulevard, Suite 508.

22 Q. Did your companies ever have an office at 1200 Biscayne
23 Boulevard?

24 A. No.

25 Q. Where was the office on Biscayne Boulevard?

1 A. It was 12000 Biscayne Boulevard. It was 12000.

2 MR. ETRA: And go further to the right.

3 BY MR. ETRA:

4 Q. And the address indicated for the shipping? What address
5 is listed there?

6 A. 1100 North Alafaya Trail.

7 Q. And is that typically the address you would use for that
8 development?

9 A. No.

10 Q. What address would you typically use for the development?

11 A. 1250 North Alafaya Trail.

12 MR. ETRA: And if we could open up the document and go
13 to the right-hand side. It says: "PO 1250 Alafaya Trail"
14 there, right?

15 A. Yes.

16 Q. Indicating that's actually where it was delivered, correct?

17 A. Correct.

18 MR. ETRA: We can take that down.

19 I want to put up exhibits that are already in evidence
20 from the Government, 30 -- I think 30-6 and 30-7.

21 BY MR. ETRA:

22 Q. By the way -- I could put it back up -- do you know how
23 much the cost was for that Herc equipment?

24 A. I don't recall.

25 MR. ETRA: Could we just put that --

1 THE WITNESS: I believe it was around 16 or 17,000 for
2 that portion.

3 (Pause in proceedings.)

4 MR. ETRA: If I could just put up X-47-2 for one more
5 second. I apparently missed some points.

6 BY MR. ETRA:

7 Q. Okay. Does this indicate --

8 MR. ETRA: No. No. This is not -- this page is
9 not -- okay.

10 You can't do that -- you can't go through pages. Only
11 some of them are in evidence.

12 BY MR. ETRA:

13 Q. Mr. -- focusing on the bottom here, what's indicated here
14 at the bottom of the page?

15 A. Customer name is -- signature Jeff Vasilas as the owner, on
16 -- I can't -- I don't understand the date.

17 Q. Okay.

18 A. It's 2020. I don't know what -- is it 7 or --

19 Q. And again, did you give authority to Mr. Vasilas to
20 identify -- sign himself as an owner of one of your companies
21 with respect to a vendor or otherwise?

22 A. No.

23 Q. Okay.

24 MR. ETRA: Put it down.

25 Put up Exhibits 30-6 and 30-7 in evidence.

1 BY MR. ETRA:

2 Q. We have 30-6 and 30-7. They're Government exhibits in
3 evidence. And do you recall this being shown I think to
4 Mr. Cupersmith when he testified some time ago?

5 A. I do.

6 Q. And does this show -- well, let me ask you something. Let
7 me just ask you -- we talked about how it says this is accrual.
8 Do you recall that?

9 A. Yes.

10 Q. Even from an accrual basis, did you do better in 2020 than
11 2019?

12 A. No.

13 Q. Why not, from an accrual basis?

14 A. From an accrual basis, it's because of COVID and tenants
15 did not pay rent -- like, DICK'S Sporting Goods did not pay
16 rent for two years -- I mean -- I'm sorry. Not two years --
17 for two months. And some of the other tenants didn't pay rent.
18 And there was significant additional cost within 2020, and --

19 Q. What are you referring to when you say: "Significant
20 additional costs" --

21 A. Well, the impact of COVID -- there was the liquidated
22 damages for 1.166 because of the delays that COVID caused that,
23 unfortunately, we had to burden that cost.

24 Q. What about the cost of the workers in doing Burlington?
25 Was that reflected in here?

1 A. No. There's no cost for the workers.

2 Q. Well, from a cash basis -- forget accrual. Let's not get
3 stuck into the accrual world. Just from your world, your cash
4 basis world, what are the reasons why you didn't do better in
5 2020 than 2019 -- the reasons you didn't do better in 2020 than
6 2019?

7 A. Well, there's a big difference between accrual and cash,
8 right? So if someone doesn't pay rent, it will still show in
9 accrual like you made money, but you really didn't from a cash
10 perspective. Just -- that's how it works.

11 Q. And how about the actual cost of the constructions?

12 A. The cost of the construction was millions of dollars, and
13 it doesn't show that there. It doesn't show the liquidated
14 damages that's there. That doesn't show on the screen in '20.
15 It's not included here. So there's a lot of -- there's things
16 that are not on here.

17 Q. Okay.

18 MR. ETRA: Take that down, please.

19 BY MR. ETRA:

20 Q. I want to refer back to a long time ago in this case when
21 Mr. Joe Beirne testified. Did you give him a PPP loan -- a
22 package of documents to apply for a PPP loan?

23 A. No.

24 Q. Did you -- did you do anything with him with respect to any
25 kind of attempted loan?

1 A. Attempted loan, you mean...

2 Q. Did you ask him for any help for any kind of a loan?

3 A. I never asked him to help. He volunteered -- in about
4 November 2019, he volunteered that he has a buddy that does --
5 a banker -- he's a CEO of a bank or something. So that was --
6 he volunteered to me prior to COVID.

7 Q. And what happened with that? Did the loan go anywhere?

8 A. No. He wanted to do -- he wanted to know if I wanted a
9 credit line. When I signed the lease with Burlington, and we
10 had to self-perform construct it, he goes: "My friend owns a
11 bank in Orlando. Do you want to meet with him and have lunch?
12 And you got to open up a credit line for a credit facility for
13 this construction." I just -- I talked to to the guy maybe
14 once or twice, but I didn't really follow up with the credit
15 line.

16 Q. I want to talk about the letter to the lawyer for HM
17 Management on the issue of the visa application. You got me?

18 A. Yes. Uh-huh.

19 Q. Who was involved in drafting that letter?

20 A. Drafting it, myself and Jeff Graff.

21 Q. And what was Jeff Graff's role in drafting that letter?

22 A. He was the -- let's say the ghostwriter. He was explaining
23 what I should detail in the letter from his perspective, and so
24 some of the portions was directed at him. I actually
25 physically typed the letter, from my recollection. And he

1 was -- sat there and just told me: "I want this there. I want
2 that there." I said: "It's not a problem." So I just said
3 what he wanted.

4 MR. ETRA: Just for the witness only, putting up
5 Exhibit M, as in Mary, 55.

6 BY MR. ETRA:

7 Q. Just before I go further, because it's been a while, what
8 was the general subject matter of that letter?

9 A. (No verbal response.)

10 Q. Sorry. I'm not putting that up right now. Just ignore
11 what's in front of you or I'll take it down if you can't. The
12 letter you just testified about, what was the general -- what
13 was Mr. Graff -- why was he involved in the letter? What did
14 it have to do with him?

15 A. That's when he called me and told me about the whole thing
16 with this application, and that -- and he wanted to -- he told
17 me about it. I didn't know about it and then he told me about
18 it. And he wanted me to immediately address the situation with
19 this law firm that's been representing my company since 2007.

20 So I -- that's how I got involved, and said: "Okay, I
21 will take care of it immediately. Let's get this thing fixed
22 immediately because I don't want any misunderstandings," and
23 that was it. And we sat there. He told me what he wanted to
24 write. I was writing this paragraph and it got expanded. And
25 that was the gist of it, and then it was never discussed again.

1 Q. Did you sign Mr. Graff's name on any of those documents?

2 A. No. I wouldn't sign anybody's name on a document.

3 Q. Did you direct anyone to sign his name without his
4 permission on any document?

5 A. No.

6 MR. ETRA: Let's go back to -- for the witness only,
7 Exhibit M-55, and I just want to do this briefly.

8 BY MR. ETRA:

9 Q. Could you just briefly identify what this is.

10 A. This is a biography Mr. Graff sent to me on March 22, 2017.

11 Q. Was this done as part of your business responsibilities in
12 communicating with Mr. Graff?

13 A. Yes.

14 MR. ETRA: Your Honor, we offer M-55. We thought this
15 was in earlier, but we couldn't find that it was actually
16 offered and accepted into evidence, M-55.

17 THE COURT: Is there any objection?

18 MS. JIMENEZ: Objection. Relevance.

19 THE COURT: The objection is overruled. I'll allow
20 it.

21 (Defendant's Exhibit M-55 received into evidence.)

22 MR. ETRA: Just put it on the screen for the jury.

23 BY MR. ETRA:

24 Q. And generally speaking, what was going on where Mr. Graff
25 would send you his biography in this time period of

1 March 22, 2017?

2 A. I can't go back to 2017 and remember what was -- like, what
3 this was for. But I mean, I can say that from time to time in
4 our business everyone updates their biography every few years
5 because it's important. That's --

6 Q. Does information like this get shared with lenders and
7 potential investors?

8 A. Yes. It's shared with lenders, with a lot of different
9 people we do business with.

10 MR. ETRA: Let's highlight the last three sentences
11 starting with: "In April of 2000," or pop them up.

12 THE WITNESS: Yeah.

13 BY MR. ETRA:

14 Q. While we're waiting for that, it indicates -- it indicates
15 that he joined WSG as a CFO in April of 2000. Do you believe
16 that's correct?

17 A. Yes.

18 Q. And then, at some point after that, I think he testified he
19 started to do development work, right?

20 A. Correct.

21 Q. But then, as of this time period at least, which we saw the
22 date, it says his "duties currently include management of and
23 accounting for the company's existing commercial properties."
24 Do you see that?

25 A. Just give me a second.

1 Yes.

2 Q. Was that accurate at the time in March of 2017?

3 A. Yes.

4 Q. Even though he was still -- he was on the development side
5 as well?

6 A. Correct.

7 Q. And then the next sentence: "Mr. Graff is also responsible
8 for coordinating and accounting for the projects and
9 acquisition, development, and construction phases." Was that a
10 true statement as well?

11 A. Yes.

12 MR. ETRA: We can take down that.

13 Could we put up -- it's in evidence and admitted this
14 morning, Your Honor, Exhibit Y-1.

15 (Pause in proceedings.)

16 MR. ETRA: Why don't we move on to something else and
17 we'll get back to that.

18 BY MR. ETRA:

19 Q. Mr. Sheppard, do you know someone named Scott Bouchner?

20 A. Yes.

21 Q. What is his involvement in this matter, to your knowledge?

22 A. He is an expert in forensic accounting, and he is -- did a
23 complete analysis of all the --

24 Q. Just generally. I want you to do generally and not
25 describe the specifics of what he did, but just generally.

1 A. I don't understand what you mean by "generally." He's an
2 expert accountant.

3 Q. What was he retained for in this case, generally speaking?

4 A. He was retained to go through all the books and records,
5 every detail of every part of an audit that they do to make
6 sure he -- I guess I don't know what they actually do. I don't
7 know what he does like technically. But he basically puts all
8 of the numbers together to see where the money went, sources
9 and uses, for lack of a better word.

10 Q. Did you personally assist him in his work?

11 A. I don't think I'm qualified to personally assist him.

12 Q. As a fact person, did you personally assist him?

13 A. Yes. I mean, he would ask me questions about certain
14 things in his analysis -- not his analysis, but certain things
15 about -- you know, questions about -- I don't know -- who this
16 person may be or something like that.

17 Q. Go through expenses and payments to workers?

18 MS. JIMENEZ: Objection. Leading.

19 THE COURT: Sustained.

20 BY MR. ETRA:

21 Q. What type of topics did you cover with him?

22 A. Construction costs, separation of individual workers from
23 third-party companies, the progression of the project as far as
24 in 2020 and 2021, personal expenses versus business expenses,
25 who prepared the business expenses versus personal expenses.

1 And he wanted to detail the invoices of verification for -- for
2 backup for the business expenses, meaning for construction
3 materials, supply houses, stuff like that.

4 Q. Okay.

5 MR. ETRA: I want now do Exhibit Y-1, which, as I
6 indicated, was admitted this morning into evidence, for
7 everyone, please.

8 I want to go to the second page -- third page.

9 BY MR. ETRA:

10 Q. Mr. Sheppard --

11 MR. ETRA: And let's look at the other pages as well.
12 The page after this.

13 Keep going.

14 Okay. Now let's go back to the third page.

15 BY MR. ETRA:

16 Q. How did -- are you familiar with these documents in any
17 way?

18 A. Yes.

19 Q. How did you come to be familiar with these documents?

20 A. After I heard testimony from the IRS guy that was there for
21 the Government that certain forms that the IRS was supposedly
22 certifying that they didn't get -- that it was never filed with
23 the Government, I thought that was strange. So I called
24 immediately Jeanette Gonzalez and said: "How is that
25 possible?" And she says --

1 MS. JIMENEZ: Objection.

2 THE COURT: Sustained.

3 THE WITNESS: Sorry.

4 BY MR. ETRA:

5 Q. How did you get to -- well, where did you find these
6 records?

7 A. I found them in storage.

8 Q. And who directed you -- direction -- who directed you to
9 these records?

10 A. I asked --

11 Q. Just who directed?

12 A. Jeanette Gonzalez directed me to go look in storage.

13 Q. Thank you. Okay. And reading it now, what does this page
14 indicate?

15 A. It's a communication regarding W-2s -- the W-2s.

16 Q. That they were filed?

17 A. They were filed with the IRS.

18 MR. ETRA: We can take this down.

19 BY MR. ETRA:

20 Q. You testified that -- earlier -- early in the Burlington
21 project you had calculated 80 to 180 workers or jobs. Do you
22 recall that?

23 A. Yes.

24 Q. In the end of the day, when it all got done, did you have
25 that many workers working on Burlington?

1 A. I can't tell you exactly how many, but not as many -- it
2 turned out it wasn't as many as 80 to a hundred. It was less.

3 Q. How do you account for the discrepancy?

4 A. Well, because during COVID there was mandates where --
5 first of all, you're only allowed to have so many workers in
6 the building. And then there's -- there was 80 -- it was about
7 a little over 80 jobs prior to COVID. And then we were trying
8 to get people back because they got fired from another company.
9 So we were hiring them -- not we, but Jeff was hiring directly
10 these people. And not everyone would come, and it would be
11 shut down one day. Someone would get COVID, and we'd have to
12 do the sequestering -- what's it called -- where you have to
13 go -- quarantine, I think. So it was off and on. But people
14 had to actually do -- certain workers had to actually do
15 multiple jobs. So a guy was hired for one job, he may be doing
16 three jobs now because we just had to do what we had to do to
17 build the building.

18 Q. Can you think of any examples of people who did multiple
19 jobs?

20 A. Yeah. I mean, you heard from the guy. Joe Beirne. Joe
21 Beirne, he was opening the gate in the morning. Usually you
22 have a gate guy. There's all functions within a job. There's
23 800 jobs. So he did the gate. He was doing some drywall. He
24 was doing some painting. And people he mentioned -- everyone
25 was kind of chipping in and really they were doing three jobs

1 that normally would be by somebody else. But we had no choice,
2 because you --

3 Q. What does social distancing have to do with how many people
4 were hired?

5 A. Because normally in construction you have trades, and -- I
6 don't know how to -- one person -- one trade is doing this --
7 you try to have the trades follow each other. And you can't do
8 it because Orange County says you have to be at least I think
9 15 or 20 feet apart. So a guy doing a ceiling, and some guy
10 down here, you weren't able to do that. That's like strange.
11 So you'd have to buy all these lifts, put a person up there,
12 and the lift had to go on this side. It was just -- it was
13 crazy. Like, you -- that's why you say -- that's why it
14 took -- instead of finishing in May, it finished in
15 October 31st. That's the reason, unfortunately.

16 Q. Let's talk about the use of the funds. What did you use
17 the government money for?

18 A. I used the government money for workers.

19 Q. Anything else?

20 A. For -- I can't give you the whole list, but there was a lot
21 of -- for materials, for workers, for health insurance for
22 workers, for -- used it for a hotel, for Holiday Inn. We had
23 to quarantine. People couldn't go home to their families. So
24 it's hard to delineate because there was a lot more money that
25 was put in other than what -- the government money was there.

1 There was millions of dollars over that I put in to pay
2 everyone. So I can't delineate how it all -- each category.

3 Q. There was testimony from the FBI agent about a purchase of
4 jewelry for \$4,800 or so. Do you recall that?

5 A. The FBI agent?

6 Q. Do you recall that from Mr. -- from the FBI agent?

7 A. Oh. The financial guy?

8 Q. Yes.

9 A. Yeah, I do.

10 Q. Okay. Where did that -- logistically, what's -- how did
11 that get purchased? Was it from a bank account or credit card
12 or what?

13 A. It was just a credit card payment -- a credit card
14 purchase.

15 Q. Whose credit card was it?

16 A. It was on AmEx under -- I believe it was under my wife's
17 AmEx.

18 Q. Would you just explain when you say your wife's AmEx, so we
19 understand what you're talking about.

20 A. On my American Express card, I have my wife and my
21 daughter. They are under my account. Right? And so they have
22 a different card number, but they do what they do with their
23 card, and I have my card, but it all goes to me. At the end of
24 the day, it goes to my account.

25 Q. What was the purchase for?

1 A. As they said, it was for a bracelet for my daughter.

2 Q. For what? Why?

3 A. It was her --

4 MS. JIMENEZ: Relevance.

5 THE COURT: Sustained.

6 BY MR. ETRA:

7 Q. How could you say the government money didn't pay that?

8 A. I'm sorry. What?

9 Q. How can you say that the government money wasn't used for
10 the jewelry for your daughter?

11 A. Government money wasn't used for that. It was cash flow
12 that comes in on a monthly basis, has nothing to do with --
13 it's non-government funds. I mean, it has nothing to do with
14 the government money. It's non-government funds.

15 Q. How much money did you put into these accounts outside of
16 the government -- or the PPP or the EIDL?

17 A. I think non-government funds is approximately \$4.3 million.

18 Q. Let me go through this more carefully. How much was the
19 entire -- let's even go pre-COVID. How much the entire
20 project?

21 A. Thirty -- around \$30 million.

22 Q. And the -- you talk about how large the Basis loan was,
23 20 -- almost --

24 MS. JIMENEZ: Objection. Testifying.

25 THE COURT: Sustained.

1 BY MR. ETRA:

2 Q. How much of that was the Basis loan?

3 A. 20,950,000.

4 Q. Where did the rest of that money come from?

5 A. From myself and my partner.

6 Q. Who put up most of it?

7 A. Me -- well, sorry. My wife and I, as tenancy by the
8 entireties, we both put up money.

9 Q. Focusing on the -- you were shown a chart of the flow of
10 funds with HM Four, why it didn't need a bank account. Do you
11 recall that?

12 A. Yes.

13 Q. There's one chart about what happens when there's no inflow
14 of money and it has to come from the owners, right?

15 MS. JIMENEZ: Objection.

16 MR. ETRA: Just setting up the --

17 THE COURT: The objection is sustained. Rephrase,
18 please.

19 MR. ETRA: Sure.

20 BY MR. ETRA:

21 Q. When there was no rent pay coming in from -- even
22 pre-COVID, from Toys "R" Us, and then through COVID, until
23 Burlington moved in, where was the money coming for the CAM?

24 A. From Eric and Jennifer Sheppard, tenancy by the entireties.
25 We were funding a hundred percent of that money.

1 Q. Are you familiar with the bank called One Florida Bank?

2 A. Yes.

3 Q. Did you -- did that play a role in funding the project
4 during COVID?

5 A. Excuse me? Did it play a role?

6 Q. Yeah.

7 A. Yeah. I mean --

8 Q. Okay. The answer is yes?

9 A. Indirectly, yes.

10 Q. How so?

11 A. One Florida Bank is -- the banker there and I have a
12 long-term relationship, and it was a personal credit line. It
13 had nothing to do with the company or the project. It was a
14 personal line of credit.

15 Q. Meaning what?

16 A. Meaning that based upon assets of myself and my partner,
17 Mr. Kallman, it was a personal line of credit where you can --
18 there's no restriction on what you do with the funds at all. I
19 chose to take the money and put it into the project. That's
20 why I say indirectly. I took the money from a personal line of
21 credit, then I loaned it to HM Development Alafaya Trails, LLC,
22 which then paid the workers and paid for supplies during COVID.

23 Q. How much money from the personal line of credit did you put
24 into the companies during COVID?

25 A. I think \$593,000, approximately.

1 Q. And did the companies pay you back any of that at any time?

2 A. The companies? I believe the companies -- didn't pay me.

3 It paid me to pay the line I think around a hundred thousand
4 dollars maybe, a hundred and change.

5 Q. And did anyone pay the difference to make -- pay back the
6 line of credit to make One Florida Bank whole?

7 A. Yes. I paid back a hundred percent of the loan of the --
8 the 539 minus the hundred and something. So I paid the balance
9 off in 2022.

10 Q. Okay. I want to go back to the loan. I think you
11 testified that Mr. Vasilas owed you money before all this
12 happened with the project, correct?

13 A. Yep.

14 Q. Did that play a role in funding the project?

15 A. Can you repeat that question?

16 Q. Did the loan that Mr. -- the money that Mr. Vasilas owed
17 you before COVID, was that utilized in any way to fund --
18 contribute money during COVID?

19 A. I think a portion of it he would -- he advanced some money,
20 and then I paid him back, and there was back-and-forth. And --
21 but some of it went in, and I -- you know, I -- how do you call
22 it -- I -- a portion, I wrote down some of his -- what he owed.
23 But it was back and forth. Like, he would advance money. I
24 would give him money to pay people. It was very confusing.
25 But some of it did go to the project -- a write-off of his

1 debt. Not all of it, obviously.

2 Q. So of that money, did he -- the paying down the loan, did
3 he pay you or did he pay someone else?

4 A. No. No. He didn't pay me. He paid directly the workers.
5 Because he was in Orlando. So to go back and forth -- and he
6 did it a lot, but sometimes he would just, on a Friday, on
7 payday, he would pay workers or other things and just pay it
8 because he didn't want to drive back and forth. So he would
9 just pay people. He didn't pay me anything back personally at
10 all.

11 Q. Using your accounts to pay personal expenses, like your
12 home mortgage or Florida Prepaid, was that done only during
13 COVID?

14 A. No.

15 Q. How was that treated generally, those payments for personal
16 purposes from the company accounts?

17 A. That's -- would be treated as either distribution or
18 equity. That's been since like 2010. That was set up by
19 Mr. Cupersmith and the accountants based upon the equity that I
20 had into the project. All the companies -- that's been going
21 on since 2010. So it's always been like that, because I don't
22 take a salary.

23 MR. ETRA: Could we put up Exhibit 19-13.

24 COURTROOM DEPUTY: Counsel, is that in evidence?

25 MR. ETRA: It is, Your Honor [sic]. I apologize.

1 BY MR. ETRA:

2 Q. Do you see this document 19-13?

3 A. I do.

4 Q. So you see the apparent -- well, does this purport to be a
5 2020 tax return for HM-UP?

6 A. It does.

7 Q. Do you see the place for the taxpayer to sign?

8 A. Yes.

9 Q. Did you sign a name there?

10 A. No.

11 Q. You see a place for the preparer to sign?

12 A. Yes.

13 Q. Did you sign Mr. Cupersmith's name?

14 A. No.

15 Q. Or initials?

16 A. No.

17 Q. And you see the spelling of Mr. Cupersmith at the bottom
18 there "KH"?

19 A. Yes.

20 Q. Do you know how to spell Neal Cupersmith's name?

21 A. Yes. After 25 years, I do.

22 Q. And when is the first time you saw this document -- when is
23 the first time you saw this document?

24 A. After I was arrested, and they did -- they gave us -- the
25 month after that, they gave us like discovery of the documents,

1 and that's the first time I saw that, amongst other things, and
2 the first time I ever saw that in my life.

3 Q. Did that apply to the other forged Cupersmith returns?

4 A. Yes. It's...

5 Q. Did you have anything to do with the preparation of these
6 fake returns?

7 A. No. First time I saw these, again, was like in 2022,
8 August or September, something like that, '22.

9 Q. Did you direct anyone to do these?

10 A. No, and I never would.

11 Q. Did you know they were being done?

12 A. No.

13 Q. In February of 2021, to your knowledge, what year tax
14 returns had been filed?

15 A. I'm sorry. I didn't hear you.

16 Q. As of February of 2021, right, did you -- which years' tax
17 returns would have already been done and filed?

18 A. 2019 were filed sometime in I think September, October,
19 around there, 2000 -- 2020. The 2019 taxes would have been
20 filed in September or October of 2020. So only '19 would be
21 filed.

22 Q. And generally, what time of year would the tax returns get
23 done in the course -- in your businesses?

24 A. Generally -- for the last 20 years, pretty much, they get
25 filed sometime in August, September, October for corporate

1 filings. That's when they're usually filed.

2 Q. Who had access to company -- to legitimate company returns?
3 Who in your business had access during this time period of the
4 first few months of 2021?

5 A. Multiple people and businesses.

6 Q. Could you identify anyone?

7 A. Yes. Jeanette Gonzalez, Jeff Vasilas, Nationwide Lending
8 had the tax returns, obviously, the accountants. Anyone
9 really -- anyone that has access to my storage and any other
10 lenders. Because remember, we were doing a lot of financing
11 there. So in financing there's mortgage brokers out there, and
12 so they collect the information. So there was probably -- I
13 don't know -- seven, eight different people.

14 Q. How would Mr. Vasilas have access to your returns?

15 A. How?

16 Q. Yeah. The legitimate returns, yeah. In what way?

17 A. I mean, he has access to all my -- he has access -- he has
18 access to the old office, but he had access to the storage.
19 And he had access through -- I know Jeanette sent him -- when
20 they did -- what do you call it -- for vendors, when you have
21 to get credit facilities for the construction, you have to go
22 to the vendor. The concrete guy, not only do you have to send
23 him an application, but you have to send him tax returns for
24 the company. So he handled that -- him and Jeanette. So he
25 had it in multiple ways.

1 Q. How did you feel about these kind of documents -- false
2 documents being submitted on behalf of your companies?

3 A. I felt disgusted. I felt like -- starting with nothing, I
4 feel disgusted that that's in the universe. I mean, that's
5 something that -- to start with nothing in your life and build
6 something, and see this situation, it's sickening to me. And
7 to sit here and listen to this is sickening to me, to be honest
8 with you. It's just -- it's beyond. And that's how I felt,
9 and it's disturbing and surreal.

10 Q. Looking back, Mr. Sheppard, do you fault any of the way you
11 handled dealing with these loans or dealing with Mr. Vasilas
12 with these loans?

13 A. As a person, as the owner of the company, yes. You --
14 it's -- I feel -- mistakes, you know, you just -- trust is
15 fragile. I'm a little bit naive sometimes. But ultimately,
16 I'm the one that put him in and said: "Go do" -- you know, "Go
17 do this," or "build a building," "go do that," "build a
18 building." And I trusted him -- and not just him, but there's
19 some other people I trust with everything, and that's my fault.
20 And it's a horrible lesson to learn, but that's real.

21 And I can't go back, but I can acknowledge that I
22 should have -- like, I -- on my side of the business, when I do
23 development or construction, I know it. I know it. I'm not an
24 accountant. I never wanted to be on that side, and I rely on
25 it. But I should have, with these applications -- they are

1 brand new, never been done before. I regret that I didn't
2 aggressively understand it, review it, and be on top of people,
3 because that's what I should have done, but I -- I didn't take
4 a cavalier attitude. I just took an attitude of that he knows
5 what he's doing or she knows what she's doing. Okay. That's
6 not acceptable now that I look at it. That's a different
7 fundamental flaw that I think I had in this situation. It's a
8 horrible lesson to learn, where I'm at. So...

9 Q. What was your intention with respect to these loans?

10 A. My intention. The first loan that I was involved with, the
11 first PayPal loan, my intention was: It's an opportunity. The
12 government's doing a great thing. The government was doing a
13 great thing, I thought, and it was a great plan. And if you
14 took the money, you gave it to the workers. I know there's all
15 these other categories. But when you go down the list, every
16 worker got paid a hundred percent of that money that came in.

17 And so, you know, my intent was to keep people
18 working, help my business that was struggling because the world
19 came to an end. We were all there. We can sit here three,
20 four years later, but that's what I -- that's my intent. And
21 my intent wasn't to just go to the government and get a PPP
22 loan, and then spend \$1.1 million in payroll with my own money
23 and insurance for people to -- it doesn't make logical sense.

24 My intent was to just build a building, pay people,
25 keep people employed, and have a future to build phase 3 and

1 all that other stuff. And that was the main intent and that's
2 what the -- the bank statements show that. It's like I just --
3 I can tell you one thing. My intent in no shape or form -- not
4 just during COVID, ever -- was to sit here in a criminal trial.
5 That was never my intent. My intent was to do the right thing.
6 And I still believe in my heart that I did the right thing,
7 with regards to where money is concerned.

8 Managing people? Managing people, I failed. And I
9 regret that. I should have been more active, and that's how I
10 feel about it. I mean, it's a tough thing to answer, but
11 that's how I feel about it.

12 MR. ETRA: Could we put up Exhibit 50-7 in evidence.

13 BY MR. ETRA:

14 Q. You see Exhibit 50-7 in front of you?

15 A. Yeah. I see it.

16 Q. Who is Mr. Steve Wasserstein?

17 A. He is a attorney. He's a tax lawyer, and I've known him my
18 whole life, along with Jeff Graff -- known each other. But
19 he's an attorney in South Florida.

20 Q. Okay. And did you receive this -- this email from
21 Mr. Wasserstein on March 30th, 2020?

22 A. Yes.

23 MR. ETRA: Could we go to the attachments.

24 BY MR. ETRA:

25 Q. You see that there are some attached documents there?

1 A. I do.

2 Q. Do you see that?

3 A. I do, yeah.

4 Q. Now let's go to the very first page, where you're
5 forwarding this. I think this was shown to another witness.

6 Let me ask you: Why are you forwarding this to
7 Mr. Graff? Looks like --

8 MR. ETRA: Let's go back a second. Let's see the time
9 difference.

10 BY MR. ETRA:

11 Q. Soon after you received the email from Mr. Wasserstein,
12 looks like within 10 minutes or so, why are you forwarding this
13 to Mr. Graff?

14 A. Because it has to do with this government programs and I
15 don't know anything about it. I don't know -- so I'm saying:
16 "Jeff, here's all the information. I want to clearly make sure
17 that -- review it. Tell me if there's anything we need to
18 change, anything we need to do. I want to make sure it's done
19 properly, that there's no issue," because I had never done a
20 government loan. I didn't know what it is. And this program
21 was so -- it was like three days old. And I'm like: "Please
22 look at all this," basically is what I'm saying. Because he
23 has already submitted some application or something like that.
24 So I just want to make sure it's done right or if we have to
25 make any changes.

1 Q. And did Mr. Graff ever get back to you and say: "No" --
2 the loan application that he testified about that we saw --
3 heard about in this case, did he ever get back to you and say:
4 "We can't do this"?

5 MS. JIMENEZ: Objection. He's testifying.

6 THE COURT: Sustained.

7 BY MR. ETRA:

8 Q. Okay. Did you hear anything -- did you have any reason to
9 believe after you sent this email to Mr. Graff that the loan
10 application he was working on could not be -- there was a
11 problem with it?

12 A. No.

13 MR. ETRA: Your Honor, I think I should be allowed to
14 ask these questions about people warning him and his reactions
15 to them. I think that's part of what I should be able to do.

16 THE COURT: Mr. Etra, I've ruled on the objection.
17 Let's continue.

18 BY MR. ETRA:

19 Q. Had Mr. -- if Mr. Graff had told you you couldn't do this,
20 what would you have done?

21 MS. JIMENEZ: Objection.

22 THE COURT: Sustained.

23 BY MR. ETRA:

24 Q. If anyone told you you couldn't do this, what would you
25 have done?

1 MS. JIMENEZ: Objection.

2 THE COURT: Sustained.

3 BY MR. ETRA:

4 Q. Did anyone tell you that you couldn't do -- you were
5 ineligible for the loan that Mr. Graff was working on?

6 MS. JIMENEZ: Objection.

7 THE COURT: I'll allow that. Overruled.

8 THE WITNESS: No.

9 MR. ETRA: Could we put up on two sides of the
10 screen --

11 (Pause in proceedings.)

12 MR. ETRA: Putting up exhibits, already in evidence,
13 Q-25 and Q-31.

14 BY MR. ETRA:

15 Q. Mr. Sheppard, I think you testified that you reached out to
16 the Cupersmith firm at this time period in April about the
17 government programs, correct?

18 A. Correct.

19 Q. If the Cupersmith firm had told you you were not eligible,
20 what would you have done?

21 A. I would --

22 MS. JIMENEZ: Objection.

23 THE COURT: Sustained.

24 BY MR. ETRA:

25 Q. Did Mr. Cupersmith's firm tell you you were not eligible?

1 MS. JIMENEZ: Objection.

2 THE COURT: Sustained.

3 BY MR. ETRA:

4 Q. Did anyone tell you following this email that you were not
5 eligible for the loans?

6 A. No.

7 MR. ETRA: We could put this down.

8 BY MR. ETRA:

9 Q. Mr. Sheppard, you talked about -- earlier about reaching
10 out to PayPal through their system and corrected application,
11 and all that, correct?

12 A. Yes.

13 Q. Did PayPal ever get back to you and tell you you were not
14 eligible for these loans?

15 MS. JIMENEZ: Objection.

16 THE COURT: Sustained.

17 BY MR. ETRA:

18 Q. Did anyone get back -- contact you at that time period to
19 say you were not eligible for these loans?

20 MS. JIMENEZ: Objection.

21 THE COURT: Overruled.

22 THE WITNESS: No. Not that I'm aware of, no.

23 BY MR. ETRA:

24 Q. Had they told you you were not eligible, what would you
25 have done?

1 A. If they told me I was not eligible?

2 Q. Yeah.

3 A. I wouldn't have applied for a loan if I wasn't eligible.

4 Q. Did any of the people that you reached out to tell you that
5 you have to have W-2s and that you don't have W-2s for the
6 loan?

7 MS. JIMENEZ: Objection.

8 THE COURT: Sustained.

9 BY MR. ETRA:

10 Q. If you had been told that you had to have W-2s, and you
11 don't have them, would you have applied for the -- what would
12 you have done?

13 MS. JIMENEZ: Objection.

14 THE COURT: Sustained.

15 MR. ETRA: Your Honor, this is the mirror image of the
16 questions they asked the loan officers --

17 THE COURT: You may continue, Mr. Etra.

18 BY MR. ETRA:

19 Q. You testified about being in contact with North -- sorry --
20 Nationwide, correct?

21 A. Yes.

22 Q. Did they ever tell you you were not eligible for these
23 loans?

24 MS. JIMENEZ: Objection.

25 THE COURT: Sustained.

1 BY MR. ETRA:

2 Q. Well, at the time frame that you were reaching out to
3 Nationwide, did anyone tell you you were not eligible for those
4 loans?

5 A. No, they did not.

6 Q. Had they told you that, what would you have done?

7 MS. JIMENEZ: Objection.

8 THE COURT: Sustained.

9 BY MR. ETRA:

10 Q. You were in contact with the SBA on the HM Four loan, the
11 EIDL, right?

12 A. Yes.

13 Q. Did the SBA indicate anything to you to suggest that you
14 were not eligible for these loans?

15 MS. JIMENEZ: Objection.

16 THE COURT: Sustained.

17 BY MR. ETRA:

18 Q. Did anyone indicate to you during that time frame you were
19 not eligible for that loan?

20 A. I mean, when you say anyone, what does that mean, like the
21 world?

22 Q. Anyone that you were in contact with during that time
23 period tell you you were not eligible for the loan?

24 A. Not that I'm aware of.

25 Q. And then you communicated, as you said today, with

1 Mr. Vasilas about PPP loans, correct?

2 MS. JIMENEZ: Objection. Leading.

3 THE WITNESS: Correct.

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

5 BY MR. ETRA:

6 Q. Did he tell you you were not eligible for those loans?

7 MS. JIMENEZ: Objection.

8 THE COURT: Overruled.

9 THE WITNESS: He did not.

10 BY MR. ETRA:

11 Q. Had he told you you were ineligible for those loans, what
12 would you have done?

13 A. I clearly wouldn't have applied for them.

14 Q. Mr. Sheppard, did you ever intend to defraud anyone out of
15 money?

16 A. No.

17 MR. ETRA: No further questions, Your Honor.

18 THE COURT: All right. Cross-examination.

19 MS. JIMENEZ: Yes, Your Honor.

20 (Pause in proceedings.)

21 CROSS-EXAMINATION

22 BY MS. JIMENEZ:

23 Q. Good morning, Mr. Sheppard.

24 A. Good morning.

25 Q. Mr. Sheppard, do you drive?

1 A. Do I drive?

2 Q. Yes.

3 A. Yes.

4 Q. Do you drive?

5 A. Yes.

6 Q. So you have a driver's license that you keep in your
7 wallet, sir?

8 A. Yes.

9 Q. In 2020 and 2021, you were working from your home, right,
10 out of 180 Bal Cross Drive in Bal Harbour, Florida?

11 A. A portion of '20 -- the beginning of 2020 I was at the
12 office -- at the 12000 Biscayne Boulevard, and then later at
13 the home, yes.

14 Q. So starting in late March of 2020 and 2021, you were
15 working out of your home, correct?

16 A. I'm not sure of that exactly. But around that time frame,
17 yes.

18 Q. And you're still working from your home, correct?

19 A. I am.

20 Q. Your email address, obviously, eric.sheppard10@gmail.com,
21 right?

22 A. Correct.

23 Q. You also have hmfourmanager@gmail.com, which you opened in
24 2020?

25 A. Correct.

1 Q. Your phone number, (305) 582-5529?

2 A. Correct.

3 Q. You've got a landline with AT&T out of your home that
4 you've had for many years, which is (305) 861-0088?

5 A. Yes.

6 Q. Right? That was used on some of your applications as well,
7 correct?

8 A. I don't recall. I've seen the number -- obviously, the
9 phone number on some papers. If you say it's on the
10 application, then --

11 Q. But that's your landline?

12 A. That's a landline, correct.

13 Q. And you've had Internet service with Breezeline for a
14 number of years, right, going back to 2008?

15 A. I don't know the answer to that question. I don't know
16 what the name of the carrier is. I don't know if it's
17 Breezeline or AT&T U-Verse. There's been a few different
18 Internet -- I don't know the names of each company.

19 Q. Right. So -- but the company that came here and testified
20 that they provided Internet service out of your home, and
21 supplied a modem to your house that provides Internet service
22 in your home, that's the provider of your Internet service at
23 your home, correct?

24 A. That's correct. Breezeline is the Internet service for my
25 home. I don't know about the modem thing, but Breezeline is

1 the Internet company that provides service to the house.

2 Q. Right. And the modem thing is a thing in your house that
3 allows your computers to connect to their Internet, correct?

4 A. If that's what it does. I'm not an expert at that. I
5 don't know.

6 Q. All right. Mr. Sheppard, you've testified about your
7 projects. It's fair to say you're a real estate developer,
8 right, sir?

9 A. I'm a businessman that does real estate. I do development
10 and the other components that go within the development
11 business.

12 Q. You buy pieces of land?

13 A. Do I buy it? No. But a company may acquire land, yes. I
14 mean, the company itself, not me personally. That's all I'm
15 saying.

16 Q. Right. But these are companies that you own or you own
17 with partners, right?

18 A. Yes. LLCs I own -- there's a portion of my business that
19 does land acquisition.

20 Q. And then, with respect to that land acquisition, you line
21 up commercial tenants to occupy -- ultimately occupy the space
22 on that land, right?

23 A. Which land are you talking about?

24 Q. Let's talk about the land in Orlando.

25 A. Okay.

1 Q. Right? HM-UP Development Alafaya Trails.

2 A. Yes.

3 Q. You lined up tenants for the structures that ended up on
4 that land, correct?

5 A. At what time frame, because it was formed a long time ago.
6 So I'm just -- which time frame are you talking about?

7 Q. Well, in 2020 you had HM-UP Development Alafaya Trails,
8 right?

9 A. Yes.

10 Q. And it had buildings on that land already, right?

11 A. Buildings, correct.

12 Q. And you had tenants that occupied those buildings, right?

13 A. Not all the buildings. The building which is the former
14 Toys "R" Us, Babies "R" Us, that building wasn't occupied. It
15 was under construction. But the other buildings had tenants in
16 it.

17 Q. Okay. And those tenants pay you rent -- pay HM-UP rent?

18 A. Correct.

19 Q. Right. And so, when you are developing that land, let's
20 say the HM-UP property, you had tenants -- tenants' leases to
21 finance the build-out of that property, right?

22 A. I'm sorry. I don't -- can you -- I don't understand the
23 question regarding the lease build-out. I'm not sure what
24 the -- can you just -- ask that again, please. Let me --

25 Q. Sure. The commercial space that's at HM-UP Development

1 Alafaya Trails -- which is the Alafaya shopping center, right,
2 the Shoppes at Alafaya?

3 A. Yes.

4 Q. You had -- you had buildings put on that location, financed
5 through the leases that you had lined up for that location,
6 right? I mean, you talked about lining up the leases so that
7 you can get your loans so you can build the space. Generally
8 speaking, yes?

9 A. I mean, from a general perspective you're correct, but it's
10 not what happened here. It's a little different than that
11 because it was acquired a long time ago and built prior to
12 these leases. So it's a little bit different, but it's -- the
13 general concept, it's...

14 Q. All right. And tenants like Burlington, right, that you've
15 talked about, you previously had Toys "R" Us at that location,
16 right?

17 A. Correct.

18 Q. And then you needed to reconfigure that space for the
19 Burlington Coat Factory; is that right?

20 A. I didn't reconfigure it. We demoed -- in November 2019 we
21 demoed the entire space except for the walls and the ceiling.
22 So it wasn't reconfigured. It was demoed.

23 Q. It was completely demolished?

24 A. When I say demo, I mean demo like all the interior of the
25 building and all the glass exterior was removed, the flooring

1 was removed, everything inside the building. All you had was
2 concrete block walls and a steel structure roof, is what was
3 remaining at that particular time.

4 Q. Right. And Burlington provided you the specifications to
5 put the walls back up or put the floors back up in a certain
6 way, right?

7 A. Yes.

8 Q. All right. And then when that was completed, your tenant
9 moved in and continued to pay HM Development Alafaya Trails
10 rent, or did they start to pay rent after they moved in?

11 A. They started to pay rent once they received their CO and
12 opened for business in November -- sometime late November 2020.

13 Q. All right. So they moved in and they started paying you
14 rent?

15 A. Correct.

16 Q. Right? Started paying HM-UP Development Alafaya Trails
17 rent?

18 A. Correct.

19 Q. And that company gained rental income from Burlington,
20 right?

21 A. I'm sorry. You say they gained -- what did you say? They
22 received. They received? Yeah, they received income. Sorry.

23 Q. And DICK'S Sporting Goods pays rent to HM-UP Development
24 Alafaya Trails, right?

25 A. Correct.

1 Q. And all of the other tenants at that shopping center pay
2 rent -- rental income to HM-UP Development Alafaya Trails,
3 right?

4 A. No. That's not true.

5 Q. You just have -- you just have companies located at these
6 locations that don't pay rent?

7 A. I'm just trying to answer your question. They don't --
8 they pay rent to whoever they're contractually obligated to pay
9 to, and some of them are different than HM-UP Development
10 Alafaya Trails, LLC.

11 Q. All right. When we were here last, three weeks ago, you
12 testified that you had the money available for the Burlington
13 build-out and you could have just continued to fund that
14 project without government funds; is that right?

15 A. (No verbal response.)

16 Q. I mean, that's what you testified to.

17 A. I testified that if -- I don't remember -- I can't tell you
18 what I testified. I'd have to look at what actually was said.
19 But are you asking me do I have the money available? Is that
20 what you said?

21 Q. Well, you testified that you had the money available and
22 you didn't need the government funds to build out the
23 Burlington project, right?

24 A. I don't believe I said I didn't need the government funds.
25 What I think I probably said was that in the event I couldn't

1 qualify for the government funds I would find other sources to
2 get the money to construct it, and we did have money available
3 at the time. In April, May of 2020, we had money available.

4 Q. You had money available from other sources, right?

5 A. Yeah. Yeah.

6 Q. And was one of those sources the One Florida Bank
7 personally guaranteed loan that you obtained in May of 2020?

8 A. That was -- that was a source. That was one of the
9 sources.

10 Q. Right. That was \$600,000 that you got in May of 2020,
11 right?

12 A. Well, I didn't get the money. It was progression, as -- as
13 the company needed money. And therefore, I would release money
14 from the personal line of credit to HM-UP, and they would give
15 it to whoever they were paying.

16 Q. All right. And you've gotten other commercial loans from
17 private banks, it's fair to say?

18 A. From private banks, yes. Not me personally but company
19 loans.

20 Q. You mentioned when we were here last that -- you talked
21 about the Lehman Brothers bankruptcy, and you said it didn't
22 affect your ability to fund your project; is that right?

23 A. I don't -- I don't remember saying that, that it didn't
24 affect -- the Lehman bankruptcy affected my whole business. I
25 mean, I don't understand what you mean by the projects. What

1 projects specifically because --

2 Q. Well, I think you were talking about the Burlington
3 project. It didn't affect your project.

4 A. The Lehman bankruptcy was in 2009, '11, '12. This project
5 was in 2020. So if I said that, it's because it was not part
6 of -- it was over with. I mean, it wasn't part of the 2020 --

7 Q. But it did affect you financially, correct?

8 A. The Lehman Brothers bankruptcy? Yes. For sure.

9 Q. You defaulted on more than \$200 million in Lehman Brothers
10 loans?

11 A. I defaulted on it?

12 Q. Yes.

13 A. No.

14 Q. No?

15 A. You said I defaulted on --

16 Q. Yes. From Lehman Brothers?

17 A. That's not true.

18 Q. Okay. In applying for loans with financial institutions,
19 you've provided them financial records, right?

20 A. Correct.

21 Q. You've never provided them audited financial statements of
22 your company; is that right?

23 A. In what time frame? What period of the world?

24 Q. Ever.

25 A. Ever?

1 Q. Right.

2 A. I can't -- I don't recall. I think -- I don't want to
3 guess. I don't know.

4 Q. Your accountants for 25 years never once audited the books
5 of your business; isn't that right?

6 A. I could not tell you over 25 years what they've done. I
7 don't get involved with what they do.

8 Q. You would have no awareness -- if your accountants came in
9 and inspected invoices and bank statements, you would have no
10 awareness that that was going on with your business?

11 A. Well, I assume when they prepare tax returns that they're
12 actually looking at bank statements and stuff of that nature to
13 verify tax returns with whoever is giving the information in
14 accounting.

15 Q. And Mr. Cupersmith testified that his company, which has
16 been your accountant for 25 years, never once audited your
17 books.

18 A. I can't tell you -- I don't recall his testimony about
19 that. But he's been involved with my company for 25 years, so
20 I don't know how he prepares or does things. I can't -- I'm
21 not an expert or -- I rely on him to prepare everything
22 properly and accurately.

23 Q. Tax returns. Just tax returns, correct?

24 A. Uh-huh.

25 Q. So you never once presented to a lender your companies'

1 books and records that had been audited by your accountants,
2 correct?

3 A. Again, I can't tell you. There's been times where Neal
4 Cupersmith and his companies have provided financial
5 statements. So I don't know -- I can't answer your question as
6 far as how he would have prepared it or if he did or did not
7 prepare something for somebody. I can't --

8 Q. So you have no awareness whether your accountants would
9 have checked your books, your lenders, your QuickBooks, your
10 entries? You have no awareness of that, right?

11 A. Oh. That's -- I wouldn't -- are you asking me do the
12 accountants not look at my general ledgers and books?

13 Q. No. I'm asking whether you're aware that your accountants
14 have never once audited your financial statements.

15 A. I can't tell you what they -- when you say: "Audit," if
16 you're telling me that they have never gone through my -- they
17 don't go through every single thing, like the general ledgers
18 and the bank statements, and all that, I just would find that
19 hard to believe that they would be involved with the financial
20 of my business with not going through all that. That would be
21 like negligence if they didn't.

22 Q. All right. Now, you were working from home in -- starting
23 at the end of March of 2020, right?

24 A. I don't know the exact month of that particular time frame.
25 March, April, May. I'm not sure exactly what date -- or month,

1 I should say.

2 Q. And you have -- you showed a picture of your office.

3 You've got a computer in your office at your home, right, that
4 accesses the Internet through your Breezeline account, correct?

5 A. I can't tell you the computer. I have a computer at my
6 house in that picture. That's all I can tell you. I don't
7 know about accessing -- how that does -- how it accesses it,
8 but I get on the Internet. I push -- the thing goes on the
9 Internet.

10 Q. So you access the Internet from your computer that's in
11 your office in your home, right?

12 A. Correct.

13 Q. And it's through the Internet service that's provided at
14 your home by the company that was here, Breezeline?

15 A. Again, Breezeline is a provider. I'm not sure about the
16 technical how it works -- how the computer works with the
17 Internet --

18 Q. Well, sir, I'm not asking you how it works. I mean, is it
19 the case that you access the Internet at your home from your
20 computer, and that's the Internet service that Breezeline
21 provides?

22 A. Breezeline provides the Internet service at my house, yes.

23 Q. And you access the Internet at your home through your
24 computer, correct?

25 A. I access -- I go on my computer and I can go onto the

1 Internet at my home, yes. I mean...

2 Q. Now, when you went home, the office that you had, HM
3 Management, was permanently closed; is that right?

4 A. Yes.

5 Q. Okay. So the documents you had in your office at HM
6 Management were transferred -- some to your home, right, to
7 your home office?

8 A. My personal stuff was brought to my home, and the -- and
9 all the filing cabinets and all that stuff were put into a
10 storage facility initially.

11 Q. All right. But some office records made it to your home,
12 right?

13 A. I can't tell you -- what time -- are you talking about when
14 the office closed? Is that what you're asking me?

15 Q. After the office closed, yes.

16 A. Yes. When the office closed, again, whatever was in my
17 office -- my office, meaning my personal office in the office
18 thing -- those records were put into my house, and everything
19 outside of that was gone to storage. That's the way it was
20 done in 2020.

21 Q. And then, as you needed things from storage, Mary -- Maria
22 Ataca would retrieve them from the storage facility and bring
23 them to your home, correct?

24 A. If I needed -- if I asked her to do that, yes.

25 Q. And if you needed something retrieved from Jeanette

1 Gonzalez, that she could not email to you, you would have Maria
2 Ataca go to Jeanette Gonzalez and bring that to you as well,
3 right?

4 A. I lost -- you lost me. I apologize. Say that again.

5 Q. Yes. Jeanette Gonzalez was working out of her home at that
6 time. Yes?

7 A. Yeah.

8 Q. And if you needed to retrieve something from Jeanette
9 Gonzalez that she could not email to you, Ms. Mary Ataca would
10 pick it up from her; is that right?

11 A. If I asked her for something, I don't know exactly who
12 would get it. Most -- Mary did get a lot of things. I don't
13 know who else I've asked to get things. But Mary would be one
14 of the persons I would ask, yes.

15 Q. Okay. And at your home, talking about 2020 -- you had --
16 in addition to yourself, and your wife, and your immediate
17 family, Mary Ataca would come to your house in the afternoons?
18 Yes?

19 A. Yeah.

20 Q. And you had Elva Baluarte who worked out of your house?

21 A. Correct.

22 Q. Now, Elva Baluarte, she was your -- was she your cleaning
23 lady? Was she your cook? What did she do at the house?

24 A. What time period?

25 Q. 2020.

1 A. 2020, when we moved the office, she was more -- she was
2 both. She worked -- the phones rang a lot, and she was
3 working, you know, part of like a business portion. And then,
4 in addition to that, she was also doing things at the house
5 that would -- cleaning stuff and stuff of that nature.

6 Q. And 2019, Ms. Elva Baluarte worked out of your house before
7 COVID, right?

8 A. Yes.

9 Q. What was she doing at the house in 2019?

10 A. In 2019?

11 Q. Yeah.

12 A. She was doing -- she was cleaning and doing the same stuff.
13 And if I ever -- again, I worked between my house and the
14 office at 12000 Biscayne Boulevard. So she would clean up my
15 office sometimes, but she would just be doing that kind of
16 stuff.

17 Q. Okay. So in 2020 were those the people who were in your
18 home on a regular basis?

19 A. In 2020?

20 Q. Yes. Outside of your immediate family?

21 A. They were some of the people, yes.

22 Q. They were some of the people?

23 A. You asked me: "Were they people in your home?"

24 Q. Yeah. So in 2020, and during COVID, was it the case that
25 your wife and yourself were careful about who came over because

1 of COVID?

2 A. That's correct.

3 Q. All right. You have that picture that you showed the jury
4 of you at that big empty space at Burlington. You said you
5 took that picture to show your wife you were social distancing,
6 correct?

7 A. That's correct.

8 Q. So you didn't have people coming through your house, it's
9 fair to say, in 2020; is that right?

10 A. Well, that picture was taken on March 30th, 2020. And so,
11 from the beginning of March -- I mean, March through a certain
12 point. And then it changed towards the latter part of 2020.

13 People started coming -- they came to the house, but
14 they would -- they would be -- they had to sit -- in 2020 they
15 came to the house. That's not true. They came to the house in
16 2020, but I wouldn't -- they wouldn't go physically inside of
17 the house. We had to sit outside, and my wife made -- there
18 was a chair over there and a chair over there in front, and
19 then we had to sit like a certain amount, and she'd look
20 through the window and make sure we weren't like talking close
21 to each other. So they came to my house, not inside the house
22 for a while, in 2020.

23 Q. Right. So people met you outside of your house -- outside
24 of the physical structure that was your house?

25 A. The patio.

1 Q. On your property?

2 A. On the property, on the patio, they would have -- we would
3 have meetings. We'd have to have social distancing meetings
4 with my mask and all that. And she would sit there and
5 watch -- in a loving way, she would sit there watching and
6 making sure that I wasn't too close to somebody.

7 Q. And your wife was not involved in the operation of your
8 businesses, correct?

9 A. No.

10 Q. Mr. Sheppard, you've hired a lot of contractors for
11 different projects over the years; is that right?

12 A. My companies have, yes.

13 Q. And your company, HM Management and Development, is a
14 company that manages the properties that are owned by other
15 entities, yes?

16 A. Other entities that I'm the managing member of.

17 Q. All right. And for HM Management, your office
18 manager/bookkeeper has been Jeanette Gonzalez for a number of
19 years; is that right?

20 A. When you say: "A number of years," I'm just -- how many
21 years are you talking about?

22 Q. Well, how many years are we talking about?

23 A. Since probably 2016 maybe. 2016.

24 Q. And she -- Ms. Gonzalez still works for you today, correct?

25 A. Yes.

1 Q. So 2016. And before that, she was working for your
2 projects, right? I mean, you've worked with her for a number
3 of years and before 2016, correct?

4 A. Correct.

5 MR. ETRA: Objection. Multiple compound questions.

6 THE COURT: Sustained. Let's rephrase, please.

7 BY MS. JIMENEZ:

8 Q. Jeanette Gonzalez has worked for you since before 2016,
9 correct?

10 A. For my companies, yes.

11 Q. And Ms. Gonzalez has been, over the years, very loyal to
12 you, correct?

13 A. What do you mean by loyal? I don't understand.

14 Q. You don't know the word loyal? Trustworthy. Somebody
15 you've trusted for many, many years, correct?

16 A. Yes.

17 Q. And Ms. Gonzalez does your bookkeeping, but she does not
18 have an accounting degree?

19 A. What time period is this?

20 Q. The time period of ever. She does not have an accounting
21 degree?

22 A. She does not have an accounting degree. But you said she
23 does the bookkeeping, so I'm just trying to split apart the
24 questions. Yes -- she does not have an accounting degree, no.

25 Q. She does not have an accounting background by way of

1 training before she started working for you?

2 A. I don't remember. I mean, she started working for me back
3 in 2006 in a different area. So I don't -- I'm trying to
4 answer your question, but...

5 Q. Well, I think you've testified that she learned on the job,
6 right? She learned the bookkeeping on the job?

7 A. Correct. Over the period of time when she originally
8 started at a completely different building of our offices to
9 today, she's progressed and learned from others accounting --
10 whatever she does.

11 Q. And I think you testified that Jeff Graff sometimes would
12 help her out and answer her questions, right?

13 A. Correct.

14 Q. And for the people who were laborers, Jeanette Gonzalez
15 would -- she would cut the checks to pay the laborers when you
16 were still working at the office?

17 MR. ETRA: Objection. "Office" meaning not home
18 office.

19 BY MS. JIMENEZ:

20 Q. Your HM Management office.

21 THE COURT: All right.

22 THE WITNESS: So you're talking about prior to COVID,
23 in the physical setting of an office, would she pay people?

24 BY MS. JIMENEZ:

25 Q. Yes.

1 A. Yes. She was -- again, you got to give me a time frame.
2 Because, again, there's other people that did that. So I don't
3 know --

4 Q. Sure. 2017, 2018, 2019.

5 A. Correct. In 2017, '18 --

6 Q. 2020, up until COVID, right?

7 A. In 2016 through -- until -- and going forward, she's the
8 one that would handle the processing and -- of -- put into the
9 computer and printing out checks and stuff like that.

10 Q. And these were checks that you would authorize her to pay
11 people with, correct?

12 A. Technically, that's partially correct, partially not,
13 because it depends what the checks were for.

14 Q. What checks did Ms. Gonzalez write to laborers that you did
15 not authorize her to write?

16 A. Again, if it's construction, and we are building something,
17 it's different because you have a project executive that goes
18 ahead and actually has a budget, and they pay based upon -- if
19 it's a third-party company, it's part of a budget, it's
20 authorized because it's part of your construction budget.

21 So workers, same thing. If an individual worker --
22 she would have authority based upon a budget. So I don't see
23 that going to every worker: "Hey, you got to pay this person,
24 that person." So this is a little bit different than that when
25 you're doing construction or even property management. When

1 you self-perform property management as well. So it's a little
2 different as well.

3 Q. Okay. So are you aware of her ever cutting checks to
4 people that she wasn't authorized to pay?

5 A. I'm not -- I mean, I'm not aware of that.

6 Q. And is it -- well, Ms. Gonzalez understands that you're the
7 boss of HM Management, correct?

8 A. I'm the owner of HM Management. I'm not the boss of HM
9 Management. I'm the owner of -- the 99 percent owner of HM
10 Management.

11 Q. You're her boss, correct?

12 A. She reports to me.

13 Q. Is that yes, you're her boss?

14 A. With regards to HM Management and Development, she reports
15 to me, yes. That's correct.

16 Q. Okay. So you are her boss, correct?

17 A. Yes. I'm her boss with regards to HM Management and
18 Development. Each project -- everything -- each project is
19 different. That's why. I'm not trying to be difficult. I'm
20 just saying when there's separate LLCs there's different
21 functions of each LLC at different times.

22 Q. She works for you?

23 A. She works for the company. Actually, technically, she
24 works for the company. She works for me. She works for the
25 company.

1 Q. She works for the company, which is the entity that you
2 control. And so you're her boss, correct?

3 A. Correct. I'm the managing member of the entity.

4 Q. Fair to say Ms. Gonzalez doesn't decide what contractors
5 you hire for projects, right?

6 A. Correct.

7 Q. She doesn't make decisions about what leases you negotiate
8 with tenants, right?

9 A. That's correct. She does not.

10 Q. She doesn't decide who the laborers are, the -- either you
11 or the contractors decide who those laborers are going to be on
12 various projects, right?

13 A. That's correct. When it comes to construction or whatever
14 city the parties and the workers that do the day-to-day
15 working, the common area working, she doesn't get in that
16 decision-making process.

17 Q. She doesn't decide for HM Management who is going to be a
18 W-2 employee or a 1099 contractor, right?

19 A. That's not true. She does.

20 Q. She does decide?

21 A. For HM Management?

22 Q. Yes. For HM Management.

23 A. Yeah. She's on that -- she or whoever is hiring the person
24 is the one that determines how they identify the employee.

25 Q. So at HM Management, which is your company, that you

1 manage --

2 A. Uh-huh.

3 Q. -- where you're the boss, Jeanette Gonzalez does not decide
4 who is a W-2 employee or a 1099 contractor, correct?

5 A. That's not true.

6 Q. That's not true. She decides?

7 A. She or somebody. I'm not involved with that
8 decision-making process. I can't say whether she -- or she
9 talks to the accountants or she talks to the project executive.
10 I don't know who she speaks to or who they speak to. I'm not
11 involved with that process myself, so I can't tell you how it
12 actually the -- the process works.

13 Q. Somebody whom you cannot identify decides for your company
14 who is a W-2 or a 1099 contractor; is that right?

15 A. Somebody who HM Management has a contract with to do the
16 work -- whoever is overseeing the work is the one who
17 determines whether someone -- what they are.

18 If it's an independent contractor, that's hiring a
19 third-party company -- the -- if you're hiring Carrier
20 air-conditioning, and it's part of a budget, if it's an
21 individual person and what they do, that would be whoever --
22 whoever hires them, they do a package and they hire them.
23 That's how it normally works, from my understanding.

24 Q. So at HM Management, Jeanette Gonzalez did not decide if
25 she was a W-2 or a 1099?

1 MR. ETRA: Objection, Your Honor. It's the third
2 time -- asked and answered and argumentative.

3 MS. JIMENEZ: It's a different question.

4 THE COURT: Overruled.

5 THE WITNESS: Can you repeat that question, please?

6 BY MS. JIMENEZ:

7 Q. Sure. At HM Management, Jeanette Gonzalez did not decide
8 if she was a W-2 or a 1099 worker?

9 A. She did not.

10 Q. She did not decide that?

11 A. No. At that time, no.

12 Q. And you decided that?

13 A. No, I did not.

14 Q. Somebody else whom you cannot identify decided that?

15 A. Well, you just said when she started at HM Management. So
16 at HM Management --

17 Q. I'm sorry. I'm sorry to interrupt you, Mr. Sheppard. I
18 didn't say when she started. I said: "At the company."

19 MR. ETRA: Objection, Your Honor. I think she did say
20 that.

21 BY MS. JIMENEZ:

22 Q. At the company, who decides?

23 THE COURT: Overruled.

24 THE WITNESS: Okay. What specific time period are you
25 speaking about?

1 BY MS. JIMENEZ:

2 Q. I'm speaking about let's say 2017, 2018, 2019, 2020, 2021.
3 Did Ms. Jeanette Gonzalez decide if she was going to be a W-2
4 or a 1099 for herself?

5 A. I don't know what she decided she was going to be. Again,
6 when someone -- I don't deal with this, so I'm going to try to
7 answer the question to the best of my ability. But like, when
8 she started for HM Management, whatever day she started,
9 whoever filled out the paperwork, they decided whatever she was
10 going to be. I wasn't involved with that process. However she
11 started with the company, she -- someone -- whether it was --
12 it was probably either Steve Faloso, or Denise, or Addy. Those
13 are the only three people that could have made those decisions
14 when she started.

15 Q. All right. So let me go back to 2016. Because you just
16 testified that she came to join your specific company -- she
17 was previously working -- well, she was previously working with
18 another affiliated company of yours, right, before 2016?

19 A. Yes.

20 Q. All right. 2016, she started working directly for HM
21 Management, correct?

22 A. Let's just go through -- I don't want to --

23 Q. In 2016 she started working directly for HM Management --

24 MR. ETRA: Your Honor, objection. She's cutting him
25 off. He said he --

1 THE COURT: All right. Let the witness answer the
2 question.

3 Mr. Sheppard, have you answered the question?

4 THE WITNESS: I have not.

5 THE COURT: All right. Go ahead and answer it, sir.

6 THE WITNESS: I want to try to be clear so we can go
7 through this. When I said she started with the company, she
8 was -- back in 2003 or '04, okay, so somewhere in that general
9 area. That was a different company.

10 You asked me when did she start doing the accounting
11 stuff, and I said 2016, right? But prior to doing the
12 accounting stuff in 2016, she still worked for HM Management in
13 2009 in a different capacity. So when she started in 2009,
14 '10, that is whoever -- either Denise or Steve Faloso, or
15 whoever took care of that kind of stuff, that's when she
16 actually determined who -- someone determined that's what it
17 was.

18 What I thought you asked me was when she started doing
19 accounting -- is when Addy left the company, she was trained by
20 Addy and she started taking over Addy's role in 2016. That's
21 what I was trying to explain to you, and that's what I thought
22 you asked me. So...

23 BY MS. JIMENEZ:

24 Q. So -- and before 2016, or before 2012, you had WSG
25 Development. That was also your company, right?

1 A. It still is my company. But yes, it was until 2008 or
2 '09 -- around 2008 or '09 is when WSG was still existing. But
3 HM Management and Development I think it was -- 2009 I believe
4 is when it started.

5 Q. So at WSG Development, Jeanette Gonzalez joined WSG
6 Development. Is that what you're saying? She joined that
7 company.

8 A. Frankly, I don't know how it was structured because she was
9 working offsite at a specific project, on that project. How it
10 happened, I can't sit here and recollect how that all
11 transpired. She was at the Canyon Ranch project prior to that.
12 So she was -- like at every big project, they get paid at that
13 project, so I don't know how that paperwork worked. So I can't
14 remember back 2009.

15 Q. So somebody made the decision, you don't know who?

16 A. Whoever deals with administration and payroll, that's who
17 made the decision. I assume that's how it works. I mean, I
18 don't know how they make these decisions. But that's
19 what they -- whoever was doing it at the time.

20 Q. All right. Now, in 2020 Ms. Gonzalez was working from her
21 home after COVID started, right, late March of 2020?

22 A. Around that time frame.

23 Q. And in 2020 Ms. Gonzalez did not go to your house, correct?

24 A. I think she was at my house a few times, but she did not go
25 there on a -- like a -- on a regular basis.

1 Q. In 2020 -- I'm just saying in 2020 Ms. Gonzalez did not go
2 inside of your house, correct?

3 A. I don't know about that. I think she did come a few times,
4 but I was sensitive to -- she's had lung issues. And so I
5 didn't want to -- I didn't force her to come to my house, but I
6 think she did come a couple times. Don't know exact -- what
7 dates, but she did. But beyond that, she was at her home and
8 it was acceptable to me. I had no problem with that.

9 Q. In 2021 Ms. Gonzalez was working out of her home?

10 A. Correct.

11 Q. She's still working out of her home, correct?

12 A. Correct.

13 Q. In 2021 Ms. Gonzalez did not come inside of your house,
14 correct?

15 A. That's not true. She was in my house. I can't tell you
16 when. But she was -- after -- in '21 she was more frequently.
17 '20 it was like maybe twice because '20 was very strange. But
18 '21 she started to slowly come by. Not often. She's still
19 working out of her house, but she started coming by.

20 Q. And that was in the latter part of 2021?

21 A. I can't tell you exactly specifically when. I don't
22 remember when, but in 2021 she was definitely coming to the
23 house more frequently.

24 Q. And Ms. Gonzalez, working from her home, would send you
25 things by email, correct?

1 A. Yes.

2 Q. And when you asked Ms. Gonzalez for information or for
3 records, she would send them to you by email, correct?

4 A. What kind -- she sends me emails, yes. I don't know what
5 specific -- I don't know what she sends or doesn't send, but
6 she sends some things on email.

7 Q. And you asked her to email you things like QuickBooks
8 ledgers, correct?

9 A. QuickBooks ledgers?

10 Q. Yes.

11 A. Yes. I mean, sometimes it was required for something.
12 Yeah, I would ask for it if it was required for me to forward
13 to someone or something like that. Yes.

14 Q. You would have her email you bank statements. Yes?

15 A. Bank statements?

16 Q. Yes.

17 A. I mean, I would imagine, yeah. I mean -- because I didn't
18 have bank statements, so she would have to email me bank
19 statements because I don't keep the bank statements. She keeps
20 them in her files.

21 Q. And she would email you records showing payments to
22 laborers, to contractors, right?

23 A. Yes. Well, hold on. Say that again.

24 Q. Payments to laborers, contractors.

25 MR. ETRA: Objection to the question.

1 THE COURT: All right. Sustained. Let's rephrase.

2 BY MS. JIMENEZ:

3 Q. She would email you records showing payments to laborers?

4 A. Which project, which time --

5 Q. In 2020?

6 A. I'm just asking.

7 Q. Yes. In 2020, after you were home.

8 A. In 2020?

9 Q. Yes.

10 A. I don't recollect if she sent me labor contracts. I mean,
11 I don't know what she would -- I don't --

12 Q. Well, she had payments to laborers, for instance, on
13 QuickBooks ledgers, right?

14 A. Yeah. But you said 2020, right? I don't know about 2020,
15 because she wasn't really controlling that. That was really
16 out of Orlando. So I don't know -- in 2020, that was the
17 Orlando job. So I don't -- I mean, she may have. I don't
18 know. But I don't recollect that, because in 2020 that was
19 controlled by Jeff. He's the one that does all of the -- he
20 was the project executive in Orlando. From January 1st, 2020,
21 he's the guy who was in charge of all that. So I don't -- I
22 don't believe she would be sending me labor reports for that.
23 Q. QuickBooks ledgers, though. She did send you ledgers?
24 A. I don't know. Sitting here, I can't tell what year or date
25 she sent me. I can't tell you.

1 Q. Leases?

2 A. Leases?

3 Q. Yes. She sent you leases by email, right?

4 MR. ETRA: Objection. 2020?

5 MS. JIMENEZ: In 2020.

6 THE COURT: All right.

7 THE WITNESS: I just can't sit here telling you what
8 she sent by email. I can't -- I don't really look at my email
9 that much. But I can't tell you exactly what she sent me. But
10 she emails me. But I don't know specifically what she emailed
11 me.

12 BY MS. JIMENEZ:

13 Q. Tax documents. She emailed you tax documents?

14 A. Again, I can't tell you what she sent. I don't know what
15 she sent me. She emails me. I can't tell you specifically
16 what she sent to me.

17 Q. I mean, you would request, for instance, tax documents and
18 she would email them to you. Yes?

19 A. You're asking me to guess what she emailed me in 2020.

20 Q. No. I'm not asking you to guess, sir.

21 A. I don't know.

22 Q. You would ask her to email you -- you would ask her for tax
23 documents and she would email them to you?

24 MR. ETRA: Objection. Asked and answered.

25 Argumentative.

1 MS. JIMENEZ: He hasn't answered the question.

2 THE COURT: The objection is overruled.

3 THE WITNESS: What type of tax documents are you
4 talking about? I don't understand. Like, what sort of tax
5 documents? What does that mean?

6 BY MS. JIMENEZ:

7 Q. You don't know what tax documents are?

8 A. Well, there's multiple type of tax -- what do you mean when
9 you say: "Tax documents"?

10 Q. Well, generally speaking, you requested tax documents and
11 she provided you tax documents by email.

12 A. I can't tell you what -- listen, I cannot tell you sitting
13 here today. If I could, I would because I don't see a big
14 deal. But I don't know, and I'm not going to say something
15 that I don't know the answer to. That's like -- she emails me
16 things. People ask me for stuff. I have to ask her for stuff
17 because she has it. I don't have it. So if I asked her for
18 something in 2020, okay -- or for '21, or 2015, or '12,
19 whatever it is, if she -- it's in her department, in her world,
20 I'm going to ask her for it. That, I do, if I need it.

21 Q. And she would provide them to you. Yes?

22 A. Depending on what it is. A lot of people provide me
23 information. I get stuff from accountants. I get stuff from
24 all kinds of people. It's too general of a blanket of a
25 statement to say: "She sends you" -- she sends you -- if I ask

1 her for something, and she has it, and -- she will provide it
2 to me, like any -- that's it.

3 Q. Now, you testified that when you were in the office
4 Jeanette Gonzalez would bring you stacks of papers to sign. Do
5 you remember that?

6 A. Yes.

7 Q. And you signed them because you trusted her, correct?

8 A. Yes.

9 Q. And you never knew her when she brought you stacks of paper
10 to sign in the office -- HM Management office -- you never knew
11 her to like slip a false document in a stack of papers for you
12 to sign, correct?

13 MR. ETRA: Objection. How would he know?

14 THE COURT: Overruled. If the witness knows.

15 THE WITNESS: Have I ever seen her -- have I ever
16 signed something, then I saw her slip it in? Is that what
17 you're asking -- slipping a piece of paper in?

18 BY MS. JIMENEZ:

19 Q. No. That's not what I'm asking.

20 A. I'm sorry.

21 Q. I'm asking: Did you ever -- let me ask it this way: Did
22 you ever learn that among the stacks of paper that Ms. Jeanette
23 Gonzalez would bring you to sign -- did you ever learn that she
24 had slipped in a false document for you to sign?

25 A. I don't recollect that happening.

1 Q. It's something you would recollect happening, right? It's
2 kind of a big deal.

3 A. If one -- I'm sorry -- if Jeanette Gonzalez did that, I
4 would definitely know about it. And if I knew that -- if I saw
5 that's what happened, yeah, of course I would know about it. I
6 would definitely say something about it, if someone --

7 Q. Right. So it's fair to say that during all those times she
8 brought you stacks of papers to sign that you never learned
9 later that she had slipped in a false document for you to sign,
10 correct?

11 A. To this date I don't know if she's given me a false
12 document to sign or not. I can't tell you if she slipped
13 anything in or not. I don't know. To this date I haven't seen
14 it, but --

15 Q. You have never been made aware, correct, that she slipped
16 in a false document for you to sign when she brought you stacks
17 of paper to sign, correct?

18 A. To the best of my knowledge, sitting here without looking
19 at anything, I don't -- off the top of my head, I don't recall
20 some slipped paper in a document. I don't recall it. No.

21 Q. Well, you would recall it, correct, because it's kind of a
22 major event if your staff person brings you a false document to
23 sign. You would remember if you had been made aware of that,
24 correct?

25 A. I think sitting here is a major event. So my mind's really

1 focused on this, not -- I can't go back every single time. I
2 mean, not just her, but many people bring me stuff all the
3 time. A lot of people brought me stuff to sign. So I can't --
4 sitting here, like, concentrating to answer your questions
5 about this particular moment in time in my life, I can't recall
6 her -- not to say it never happened. I don't know. But to the
7 best of my knowledge, I don't recall it sitting here right now.

8 Q. When you were working from home after COVID, it's fair to
9 say that Ms. Jeanette Gonzalez did not personally bring you a
10 stack of papers for you to sign, correct, in 2020?

11 A. In 2020? I don't know what she's brought me or not brought
12 me. Again, I said 2020 she was only there a few times. So I
13 don't know what we -- what we even discussed. I don't even
14 remember what it was about. But she's been there a few times
15 only in 2020. So I don't know anything about when she was
16 there. I don't recall that. Except that she was there. I
17 don't remember what she brought or didn't bring, or whether I
18 signed something or didn't sign it.

19 Q. All right. Then the first part of 2021 Ms. Gonzalez did
20 not come to your house with a big stack of papers for you to
21 sign, correct?

22 A. In '21?

23 Q. In the first -- the first quarter of 2021.

24 A. Okay. What about it?

25

1 Q. She did not bring a big stack of papers for you to sign,
2 correct?

3 A. I have no idea what she's brought me to sign or -- she
4 gives me stuff to sign. She may physically not have brought me
5 something, but she may have sent it to me to sign. That might
6 be. But I don't recall -- I can't recall like when I signed
7 something or didn't sign something in 2021.

8 Q. All right.

9 THE COURT: Ms. Jimenez, just let me know when it
10 might be a good time for us to take a lunch recess.

11 MS. JIMENEZ: Sure, Your Honor. I'm not going to
12 stand in the way of lunch.

13 THE COURT: Is this a good time?

14 MS. JIMENEZ: Yes, Your Honor. That's fine.

15 THE COURT: All right. Then Ladies and Gentlemen,
16 it's 12:30. We will take a one-hour recess for lunch. I'll
17 see you back here at 1:30.

18 Have a pleasant lunch.

19 COURT SECURITY OFFICER: All rise.

20 (Jury not present, 12:31 p.m.)

21 THE COURT: We're on a one-hour recess for lunch.

22 Have a pleasant lunch.

23 MS. WEINTRAUB: Judge, just for scheduling, I'm kind
24 of curious if I should have a witness here or it's not
25 necessary.

1 THE COURT: Ms. Jimenez?

2 MS. JIMENEZ: Your Honor, I do have a ways to go, I
3 think. But I mean, that's not to say that -- I mean...

4 THE COURT: Do you believe that you will take the rest
5 of the afternoon?

6 MS. JIMENEZ: I will take at least a couple of hours
7 of the afternoon.

8 THE COURT: All right. Then I would have a witness
9 ready to go.

10 MS. WEINTRAUB: Yes, Your Honor.
11 Thank you.

12 (Recess from 12:32 p.m. to 1:33 p.m.)

13 THE COURT: Right. Welcome back.

14 MR. ETRA: Your Honor, let me get them.

15 THE COURT: Yeah. Thank you.

16 (Pause in proceedings.)

17 THE COURT: All right. Let me acknowledge the
18 presence of the Defendant.

19 Are both sides ready to continue?

20 MS. WEINTRAUB: Yes, Your Honor.

21 MR. ETRA: Your Honor, we never got the impeachment
22 material -- remember we discussed this morning -- from the
23 Vasilas phone.

24 THE COURT: Oh, yes. The documents that you're
25 seeking to introduce.

1 MS. JIMENEZ: Your Honor, I don't know why I would
2 have to show them impeachment material when we were never
3 provided any impeachment material until it was on the screen.
4 And they have the Cellebrite report, which they have used in
5 asking questions to the witness.

6 THE COURT: Well, the -- as I understand it, by way of
7 the briefing, is the Cellebrite report was produced as a
8 report. Are there individual pages that the Government is
9 seeking to introduce or are you seeking to introduce the entire
10 report?

11 And why don't we have a seat.

12 MS. JIMENEZ: At this point, I'm not seeking to
13 introduce the entire report. But I don't see why they need to
14 be provided anything additional ahead of time.

15 MS. WEINTRAUB: Judge, just to be clear, the report is
16 not really a report as we know it, or --

17 THE COURT: What is it? What was provided?

18 MS. WEINTRAUB: The report is 7,000 pages. And it is
19 not -- it is in a PDF, so you have to go one by one through the
20 text message and the email and then the attachment. So there
21 could be like nine pages -- I'm not counting the separate for
22 the attachment. It is thousands and thousands of pages. And I
23 spoke with the FBI agent myself on Saturday. She was kind
24 enough to talk to me, and I said: "I thought there was a
25 report," and she said: "Well, no, when we say report, we mean

1 the extraction." So I just wanted to clarify for the Court.

2 THE COURT: All right. Thank you. I appreciate that.

3 But with regard to these extractions, let me just ask,
4 Ms. Jimenez, are they identified by way of any kind of Bates
5 stamp?

6 MS. WEINTRAUB: They are not identified in any way at
7 all.

8 MS. JIMENEZ: So the extraction report -- when you go
9 into the extraction, it is only communications between the
10 Defendant and Mr. Vasilas, and Mr. Vasilas and Jeanette
11 Gonzalez. You go in and you can click on chats. And you've
12 got like -- like, you know, just a history of chats. You click
13 on IMs. You got a history of IMs. You click on emails. It's
14 not -- again, I received it after they received it on Friday.
15 I looked at it, and they have the same chats, the same
16 emails --

17 THE COURT: I understand. But you're seeking to
18 introduce portions of those extractions. So my question is:
19 How are you intending to identify those particular exhibits?

20 MS. JIMENEZ: At this point, I haven't had a chance to
21 even assign them a number. But we would assign them the next
22 exhibit number, if they get -- you know, if they are shown to
23 the witness and they are moved in.

24 THE COURT: But is it correct that it consists of
25 thousands of pages?

1 MS. JIMENEZ: I'm not aware of any thousands of pages.

2 THE COURT: Well, am I looking -- and I just want the
3 record to reflect -- three full binders. Does that consist of
4 the extractions that were provided by the Government?

5 MS. JIMENEZ: Your Honor, I did not -- I reviewed a
6 Cellebrite report on my computer. I didn't print thousands of
7 pages, nor did I have time to review any thousands of pages.

8 THE COURT: But you have pages in front of you that
9 you're seeking to introduce of those thousands of pages. So my
10 question is: How are they going to be identified to this jury
11 and shown to the witness if they are just pieces of a very
12 voluminous --

13 MS. JIMENEZ: It would be a specific communication on
14 a specific date.

15 THE COURT: That's part of an exhibit. So...

16 MS. JIMENEZ: That would be its own exhibit.

17 THE COURT: Right. But as I understand the
18 extractions -- or maybe I shouldn't say that. I would expect
19 that the extractions would be done chronologically, correct?

20 MS. JIMENEZ: The extraction -- the chats do appear
21 chronologically, yes.

22 THE COURT: All right. So to that extent, if you're
23 seeking to take some of the conversations out of sync, so to
24 speak, how is the jury going to understand, unless they are
25 specifically dated?

1 MS. JIMENEZ: Each communication has its own date and
2 time.

3 THE COURT: All right.

4 MS. JIMENEZ: So it would appear like a WhatsApp chat,
5 I suppose, or --

6 THE COURT: Okay. And I haven't seen it. So if it
7 has its own date and time --

8 MS. JIMENEZ: Yes, it does.

9 THE COURT: -- then for purpose of identifying and
10 introducing it into evidence, what is the exhibit number that
11 the Government is assigning these extractions?

12 MS. JIMENEZ: Eighty. Exhibit Number 80.

13 THE COURT: All right. So then each particular page
14 that you can identify consistent with the exhibit of the date
15 and time will be 80-1, 80-2.

16 So to that extent, if the Defense has all of the
17 extractions, then just give the Defense an opportunity to move
18 to the particular date at the time that you're seeking to
19 introduce it. All right? So everybody, in fairness, has the
20 opportunity to review the particular page.

21 MR. ETRA: Your Honor, that's only part of the
22 printout. And we did give them, I mean, 80 percent of our
23 impeachment in advance. Sometimes we came up with things on
24 the spot. But I thought we were supposed to do that, and Your
25 Honor wanted us -- we took breaks so they would have a chance

1 to review them, so that we wouldn't have time to -- so they
2 would have time to review the documents. We're just asking
3 them to give us the ones they have already identified.

4 MS. JIMENEZ: I have -- I mean, each -- you know, the
5 communications are very small because it's a particular
6 conversation on a particular day. They provided -- at the
7 time -- and Your Honor may recall, at the time that witnesses
8 were testifying and were purportedly impeached, we were being
9 supplied binders of documents.

10 THE COURT: That's why I'm not requiring that we go
11 through a laundry list if, in fairness, the Defense was given
12 all of the extractions.

13 So to that extent, just give Mr. Etra, or
14 Ms. Weintraub, whoever may be reviewing the particular
15 document, an opportunity to either scroll through --
16 Mr. Cavallo, do you have Government's Exhibit 80 that you can
17 easily scroll through with the time -- the date and time?

18 MR. CAVALLO: Your Honor, yeah, we have it printed
19 out. Unfortunately, it's not -- it may take me a few extra
20 seconds because it's not all chronological, the way it was
21 printed. I'm not blaming the Government for that, but we'll do
22 what we can.

23 THE COURT: But on your screen, if the Government
24 provided that electronically, are you able to do that so that
25 you can review it ahead of time as Ms. Jimenez is using that

1 exhibit?

2 MR. CAVALLO: If I had words, I could maybe search it.
3 But I don't know sitting here right now, because I don't know
4 how they are going to use it. We have the data. It's true.

5 THE COURT: But you have the data. But it's also
6 delineated by way of the date, correct?

7 MS. WEINTRAUB: We had to put it in Relativity, Judge.
8 In other words, the way the Government produced it, we could
9 not just print it out. It had to then -- we had to call our
10 computer company. They had to then load it into a specific
11 product -- software product called Relativity, and we could
12 search it there.

13 We still could not put it all in Relativity and press
14 control P. That wasn't happening. That's why it took them an
15 entire day to load and print what's in front of you, which, for
16 the record, are five-inch binders filled to the brim. There
17 are three of them, and that is not the complete set.

18 MR. ETRA: Your Honor, if I may, I think Mr. Cavallo
19 can answer your question about the date because I did ask him,
20 and I think he can clarify why he was having a hard time
21 answering the question.

22 MR. CAVALLO: So obviously there's -- sometimes
23 there's multiple communications on the same date and even
24 seconds apart. So for example, if a communication is
25 October 14th, I can even do down to the minute. But I'm

1 looking at my screen, there's nine communications on
2 October 14th at 6:14 p.m. -- I'm going to -- it's just going to
3 take me a second to go through and find --

4 THE COURT: Understood.

5 MS. JIMENEZ: I can provide them a copy of the
6 specific --

7 THE COURT: Well, let's do that. But before we
8 question the witness, let's give -- as the Government was
9 provided an opportunity to review the exhibit, let's give the
10 Defendant an opportunity to review it before we proceed.

11 MS. JIMENEZ: Well, I don't know which items I'm going
12 to be showing --

13 THE COURT: I know. But before it's presented to the
14 witness, let's just let counsel know.

15 MS. JIMENEZ: Yes. Of course.

16 THE COURT: Okay. All right. Let's bring in the
17 jury.

18 COURT SECURITY OFFICER: All rise for the jury.

19 (Before the Jury, 1:43)

20 THE COURT: All right. Welcome back, Ladies and
21 Gentlemen.

22 Please be seated, everyone.

23 I trust that you had a pleasant lunch and ready to get
24 back to work.

25 And we'll continue with the cross-examination.

1 MS. JIMENEZ: Thank you, Your Honor.

2 BY MS. JIMENEZ:

3 Q. Mr. Sheppard, I was asking you about the stacks of
4 documents that Ms. Gonzalez would bring you to sign when you
5 were at the -- physically located at the office of HM
6 Management.

7 Let me ask you about Jeff Graff, because you testified
8 on direct that he also is someone who would bring you stacks of
9 documents for you to sign that you would maybe review, maybe
10 not review before you signed. Do you remember testifying about
11 that?

12 MR. ETRA: Objection. Improper impeachment. Improper
13 predicate for impeachment.

14 THE COURT: The objection is overruled at this point.
15 If the witness recalls.

16 THE WITNESS: I recall me speaking about loan
17 documents for final execution that Mr. Graff brought me, if
18 that's what you're asking me.

19 BY MS. JIMENEZ:

20 Q. I'm asking you about your comment that Mr. Graff, in
21 addition to Jeanette Gonzalez, would bring you stacks of paper
22 for you to sign when you were in the office -- the HM
23 Management office.

24 A. And what's the question?

25 Q. The question is, sir: Did you ever become aware of an

1 instance in which Mr. Graff provided you a stack of documents
2 where he had slipped in a false document?

3 A. I have no recollection of that occurring.

4 Q. Presumably, you would have presented that to this jury if
5 it had occurred?

6 A. Well, Mr. Graff wasn't in the office in 2020 and '21.

7 Q. Right.

8 A. So I don't think it -- I don't think we'd present anything
9 to the jury --

10 Q. Right. And with respect to Ms. Gonzalez, you would have
11 presented to the jury, had you become aware at any point, that
12 she had slipped in a false document for you to sign?

13 A. That I would present it to a jury?

14 Q. Yeah. Through your attorneys.

15 A. I can't answer that question. I can't answer the question,
16 what would be presented to a jury.

17 Q. So going back to Mr. Graff, you never became aware that he
18 had put a false document among the stacks of papers that he
19 would bring you to sign, correct?

20 A. As I sit here right now, going back 15 years, I don't
21 recall that happening.

22 Q. You testified on direct examination when we were here last
23 that Jeanette Gonzalez might have been someone who provided you
24 Forms 941, and the Forms 940, and the Florida Department of
25 Revenue RT-6 forms that were -- that appeared in the loan

1 documents in this case. Do you recall that?

2 A. I don't recall that being my testimony.

3 MR. ETRA: Objection. Improper impeachment, asking
4 that way about prior testimony.

5 THE COURT: Overruled. If he recalls his testimony.

6 THE WITNESS: I don't recall --

7 MS. WEINTRAUB: Mischaracterizing the testimony in the
8 question.

9 THE COURT: Overruled. You'll have an opportunity to
10 redirect.

11 THE WITNESS: I don't recall me saying that. I said I
12 don't recall ever seeing these documents before in my -- that's
13 what I think I said. I just never seen them before. So that's
14 what I remember. It was three weeks ago, though. So...

15 BY MS. JIMENEZ:

16 Q. You remember that your attorney admitted to this jury that
17 those documents were false, right?

18 A. Which documents are you talking about?

19 Q. The 941s, the 940, the Florida Department of Revenue forms
20 that were in the loan documents.

21 A. I don't -- I don't recollect exactly what they specifically
22 said. That, I don't recollect.

23 MS. JIMENEZ: If I may just have a moment, Your Honor.

24 THE COURT: All right.

25 All right. Let me just -- if you're conferring,

1 Ms. Weintraub and Mr. Etra, if you'll turn off the microphone
2 because we're getting that noise and it's interfering. Thank
3 you.

4 (Pause in proceedings.)

5 BY MS. JIMENEZ:

6 Q. Mr. Graff [sic], just to refresh your recollection, when we
7 were here last, the morning session of the last day of trial,
8 Page 39, you were asked: "Let's jump ahead and focus on the
9 941s in this case, the 941, 940s, and RT-6s that we've seen in
10 this case. Can we focus on that for a second?"

11 Answer: "Sure."

12 "Do you have a memory of ever signing any of those
13 documents?"

14 "I do not."

15 "If they were given to you by Jeanette Gonzalez or
16 Jeff Vasilas, would you have signed them?"

17 "Yes."

18 So my --

19 MR. ETRA: Objection, Your Honor. First, you referred
20 to him as Mr. Graff, which is an accident. Second, if she's
21 reading prior testimony, the proper method is to say page and
22 line, page and line, so we could follow it and potentially
23 object.

24 THE COURT: All right. It was Page 39. It was three
25 weeks ago, so it's appropriate. If you want to remind the

1 witness with regard to testimony of Mr. Sheppard, you may do
2 so.

3 Page 39.

4 BY MS. JIMENEZ:

5 Q. I'm sorry. Page 39, Line 14, and then going to Line 18,
6 you were asked: "Do you have a memory of ever signing any of
7 those documents?" And you did not.

8 And then: "If they were given to you by Jeanette
9 Gonzalez or Jeff Vasilas, would you have signed them?"

10 "Yes."

11 So my question to you is: Did Jeanette Gonzalez --
12 are you testifying that Jeanette Gonzalez emailed you false
13 941s, or false 940s, or false Florida Department of Revenue
14 forms which are RT-6?

15 A. I can't testify about that because I never saw these
16 documents until after I was arrested, so I never would have
17 seen it before. So I can't even talk about even where they
18 came from, if that makes any sense.

19 Q. All right. So when you said that you thought they might
20 have come from Jeanette Gonzalez or Jeff Vasilas, you're
21 speculating because you have no idea where they came from; is
22 that right?

23 A. I don't think that was my intention of what I said. I said
24 my recollection is that it would come from somebody who handled
25 that type of work, meaning who would do that kind of -- who --

1 that's their expertise department. That's who I would get --
2 those are the only people I would probably get them from, would
3 be either him or his assistant on site, or our -- or Jeanette.
4 That's who takes care of it. I don't take -- I never take care
5 of that kind of processing.

6 Q. Jeanette Gonzalez never emailed you a false 941, or a false
7 940, or a false Florida Department of Revenue form?

8 A. I have no idea if she has or not. I've never checked.

9 MR. ETRA: Objection. She's not letting him answer
10 the question.

11 MS. JIMENEZ: I'm sorry. Go ahead.

12 THE COURT: If you'll let the witness answer the
13 question.

14 BY MS. JIMENEZ:

15 Q. Well, let me ask you this --

16 MR. ETRA: Your Honor, I think you are allowing the
17 witness to answer the question.

18 THE COURT: Yes. If the witness will answer the
19 question, please.

20 THE WITNESS: I'm sorry. Can you just repeat that,
21 because everyone is talking at once.

22 BY MS. JIMENEZ:

23 Q. Ms. Jeanette Gonzalez never emailed you false 941s, or
24 false 940s, or false RT-6s that you can remember, correct?

25 A. I have no idea because I've never researched or looked for

1 that. So I have no idea if she has or hasn't.

2 Q. Did she, in 2020 or the first three months of 2021, email
3 you 941s, or 940s, or RT-6s?

4 A. Again, I have no recollection or no idea because I've never
5 like looked for it. I mean...

6 Q. If she would have emailed you those documents, it would
7 have been because you requested them, correct?

8 A. No. When you say: "These documents," what documents are
9 you talking about, just general documents?

10 Q. The three that I'm referring to, the 941s, 940s, RT-6s.

11 A. I would never request someone to email me fraudulent
12 documents or prepare fraudulent -- that would never happen. I
13 didn't even know what the documents are, first of all, until
14 after I got -- after this whole thing happened. So the answer
15 is absolutely not. I would never do that in a million years.

16 Q. Or real ones? She never emailed you -- during COVID, she
17 never emailed you real ones that had been prepared from the
18 past?

19 A. I have no idea what she has or hasn't. I just don't know
20 because I've never like actually gone through my email. I have
21 two-hundred-and-something-odd unopened emails. I can't tell
22 what someone's -- her or anybody, what they've sent or not sent
23 to me.

24 Q. When you were still working at the office, Jeanette
25 Gonzalez was the person who -- back when you were still

1 claiming wages, she was the person who prepared the Forms 941s,
2 correct?

3 A. You have to -- I don't mean to be difficult. I just want
4 to make sure we're clear on time frame. Are you talking about
5 like from 2000, 2015, '17? What years specifically because
6 she's --

7 Q. For 2018.

8 A. 2018, she was preparing -- well, I don't know if she
9 prepares them, but she was the one who was responsible for
10 doing that.

11 Q. Also, with respect to the Forms 940 and the Florida
12 Department of Revenue RT-6s, up until 2018, she was the person
13 who handled that, correct?

14 A. From 2018 through as she works today, she handles all
15 accounting matters regarding payroll, forms. Anything to do
16 with the -- what she is experienced to do, that's what she
17 does.

18 Q. Mr. Sheppard, I'm asking you specifically as to those types
19 of tax documents. Ms. Gonzalez, in 2018, would handle those
20 tax documents and -- correct?

21 A. I can't sit here and tell you what she handles.
22 Whatever -- if those are in her job function, absolutely she
23 would do that because that's in her job function. I don't
24 know if -- how she -- I don't know enough about those
25 documents.

1 Again, I'm not -- that's not -- I don't understand.
2 If you ask me a development question, I can tell you. This, I
3 don't know how it even happens or processes. I don't know if
4 it's through -- the computer does it itself or -- I don't know
5 how that works. You're asking me a question I can't -- I want
6 to be able to give you the proper answer that I understand, but
7 it's hard to do that because I don't understand the documents
8 themselves in the first place. So --

9 Q. You were never made aware -- during the time she's worked
10 for you, you were never made aware that -- either through some
11 IRS notice or some other way, you were never made aware that
12 Ms. Gonzalez had filed, for instance -- had filed false Forms
13 941, or false Forms 940, or false Florida Department of Revenue
14 forms, correct?

15 A. I have not -- I'm not aware of anything that's been false
16 that I'm aware of. I don't get that -- I don't open the
17 mail -- I get the mail. But that's got to me? I'm not aware
18 of anything that I've been notified by the government that I
19 actually opened myself and looked at.

20 Q. You don't open IRS emails either? Is that what you're
21 saying?

22 A. IRS emails?

23 Q. Yes.

24 A. Emails, you say?

25 Q. Notifications.

1 A. Well, notifications goes -- it goes to accounting,
2 administration. They go through it and then they go file it.
3 I don't get involved at all with that. The only thing I deal
4 with, my stuff, development, tenants, construction, financing.
5 I don't deal with anything with accounting, unless it somehow
6 comes to my attention, which I can't recollect. But from time
7 to time it does. And I won't even call Jeanette. I'll call
8 Neal Cupersmith.

9 Q. All right. So it's never come to your attention that
10 Jeanette Gonzalez has prepared and filed a false Form 941, or a
11 false Form 940, or a false Florida Department of Revenue form.
12 It has never been brought to your attention, correct?

13 A. When I say never, I can't always say never. To the best of
14 my knowledge as I sit here, I am not aware of it until now that
15 I have -- in 2022, when you guys forwarded me -- not forwarded
16 me, forwarded the attorneys the documents and they showed it to
17 me. That's the first time I've ever seen something that's
18 completely like -- looks nuts.

19 Q. I just want to clarify for this jury, Mr. Sheppard. Are
20 you telling this jury that Jeanette Gonzalez prepared --
21 provided to you in some way the false Forms 941, the false
22 Forms 940, the false Florida Department of Revenue forms that
23 you found and that you reviewed later and that appeared in the
24 loan documents that relate to this case?

25 A. I think you said three different things there, but I'm

1 going to try to answer you. I'm not aware of anything -- I'm
2 not saying that she did anything yes or no. What I
3 specifically said was: I've never dealt with these kind of
4 things, okay, through my whole career, my whole life.

5 However, when I -- after I was arrested, then I was
6 put -- then they gave discovery. It was the first time I've
7 ever seen those documents. So when you said some of the loan
8 documents or something like that -- that, you know, what
9 you're -- what people have said is that that was attached to
10 the loan stuff.

11 So no, I'm not saying yes/no. I don't know who, what,
12 or where did that. I know who's responsible to do these
13 documents, and that's what I know.

14 Q. So I mean, you mentioned Jeanette Gonzalez, or you were
15 asked about Jeanette Gonzalez's involvement with the false
16 documents that were submitted to the lenders and the SBA in
17 this case. So my question to you is: Sir, did you ever
18 confront Jeanette Gonzalez about this, since she still works
19 for you?

20 A. Did I confront her?

21 Q. Correct. Did you ask her about it?

22 A. Well, I've asked her about it, and I said: "What the heck
23 is this?" That, I did.

24 Q. What did she tell you?

25 A. She said in 2020 she was not involved. That came from

1 Orlando, and she wasn't involved with that in 2020. And that
2 was the conversation. And I asked her: "Are you sure?" She
3 says: "With Mr. Vasilas" --

4 MR. ETRA: I think we're in the hearsay realm, Your
5 Honor.

6 THE COURT: Are you objecting, Mr. Etra?

7 MR. ETRA: Yes -- I'll withdraw the objection.

8 THE COURT: All right, then.

9 BY MS. JIMENEZ:

10 Q. And then, in 2021, did she say anything about 2021 either?

11 A. What about 2021? About what?

12 Q. Did you ask her about 2021? Did she provide you any false
13 Forms 941, Forms 940, Department of Revenue forms?

14 A. No. I've never talked to -- I don't talk to her about how
15 she does her job in '21. I haven't talked to her about that,
16 no.

17 Q. Right. But you learned at some point that there were false
18 tax documents in your loans, correct?

19 A. I learned what I just said before. I received the stuff in
20 August, September of 2022, and I looked at it. And I -- first
21 I saw what was there. I said: "What is it?" That's when I
22 learned.

23 Q. So you mentioned her name in your direct testimony, but you
24 don't think that she was involved in preparing any false
25 documents in your -- that made it to your loans, correct?

1 A. What I'm saying is: I do not know exactly who would have
2 prepared something of that nature. I know I didn't prepare it.
3 And I know the only people that were involved with that was
4 Orlando and Miami in those departments, either Jeff Vasilas or
5 her. That's all I'm telling you. I'm not trying to be
6 difficult. I don't know because I don't understand this stuff.
7 I never did it. I don't know.

8 Q. But you think she could have done this behind your back and
9 not let you know about it, and ultimately this money went to
10 you, correct?

11 A. It did not go to me. No.

12 Q. The money went to your companies, correct?

13 A. It went to the companies, yes.

14 Q. They are not Jeanette Gonzalez's companies, correct?

15 A. They are not.

16 Q. But if she had done this, she never told you she did this,
17 right? She never told you she did anything like this, correct?

18 A. She never -- she never told me she did anything. She said
19 that Jeff is the one who was working on the loans, and Jeff's
20 the one who handles all that because he handled payroll, and
21 she was frustrated with him that he would not give her all the
22 information, Social Security numbers, and all the stuff for
23 something she had to put in her system. And that's what she
24 told me, that: "I can't answer you. Jeff Vasilas is the guy
25 who handles all the employees. He hired everybody. He was the

1 front contact in Orlando on the jobsite. He hired every worker
2 from the people that actually fired people during COVID because
3 they couldn't pay them, which we did." That's what she told
4 me.

5 Q. All right. Thank you.

6 Now, you hired a lawyer to represent Jeanette Gonzalez
7 in this matter, correct?

8 A. I did not.

9 Q. Your companies did?

10 A. A company did.

11 Q. Your company?

12 A. A company that I'm the managing member of, correct.

13 Q. And Ms. Maria Ataca, she works for you, right?

14 A. She works for the company.

15 Q. She works for your company.

16 A. You keep saying me. I mean, the company. I'm not trying
17 to be hard. I'm just trying to be technical. It's -- she
18 worked for the company that I own, correct.

19 Q. And it's your company?

20 A. Which company?

21 Q. HM Management is your company.

22 A. HM Management is my company, correct.

23 Q. She works for HM Management, which is your company?

24 A. She does -- she worked for HM Management, but she also did
25 allocation for other companies as well because she does -- she

1 works for other -- she does work for other companies that I
2 own. So she technically -- her allocation of time goes to
3 other companies as well.

4 Q. You are Maria Ataca's boss; is that right?

5 A. No.

6 Q. You're not her boss?

7 A. I am not.

8 Q. Who's her boss?

9 A. Jeanette Gonzalez.

10 Q. So you have nothing to do with whatever Maria Ataca does or
11 doesn't do in relation to your company?

12 A. I'm sorry. Repeat that again. Can you say that again?

13 Q. You don't -- I mean, whose money pays her salary?

14 A. Money that's either put in by me or my wife -- my wife and
15 as owners of a company. If it's a company different than HM
16 Management, or whatever revenues the companies bring in, she
17 gets paid.

18 Q. So Ms. Maria Ataca is paid by HM Management, correct?

19 A. I believe, again, some of her funds come from HM
20 Management. Others come from other companies as well. Again,
21 there's allocation. When you have multiple properties, and
22 they do stuff for that, you have to allocate their time, and
23 you pay -- and you're supposed to distribute it throughout the
24 companies.

25 Q. These are your companies, correct?

1 A. They're not all my companies. I'm the managing member, but
2 sometimes I have partners in other companies. So to be fair to
3 a partner, you can't charge a partner a hundred percent of
4 someone's salary if they're only doing 30 percent of the work
5 for that particular company.

6 So this company has a partner, and it's 30 percent, if
7 that's what the time is, and it gets allocated, and that's all.
8 A lot of people get allocated. That's why you have -- that's
9 how you have to do it.

10 Q. Mr. Sheppard, do you not have authority to fire Ms. Ataca?

11 A. Authority?

12 Q. Yes.

13 A. Yes. I own the company.

14 Q. So during COVID, and to this day, she's been working from
15 your home, correct, Ms. Ataca?

16 A. You said from COVID?

17 Q. From COVID, yes. March, April of 2020.

18 A. Well, I think she stayed on -- she was involved with the
19 office actually until I think June of 2020, but she has been
20 working at my home. Again, she's had the same schedule many,
21 many years. She comes in at three, or two, or something like
22 that, and she leaves like at six. And she does filing, and she
23 does other things, she does the bank deposits. So she's worked
24 for the company for a long time pretty much the same hours, two
25 to six or something like that.

1 Q. All right. So since about June of 2020, her jobsite is
2 your house, correct?

3 A. Yes, where I moved my office to. My office became my
4 house.

5 Q. And Ms. Ataca still works for you?

6 A. I'm sorry? Yes. She works for the company, yeah.

7 Q. She helped set up Excel spreadsheets on your computer at
8 home, correct?

9 A. Spreadsheets, no.

10 Q. Yes. During COVID. Excel?

11 A. Not during COVID. In 2022 she set up a template once.
12 Once this whole thing happened, in '22, she set up a template
13 because I don't know how to work the computer. I said: "Do
14 you know how to work the green thing here," and she set the
15 thing up, and said: "Here's a template," and I said: "Okay.
16 Thank you."

17 Q. Well, during COVID, in 2020, Ms. Ataca helped set up Excel
18 spreadsheets for you, correct?

19 A. Absolutely not. Never ever in '20, '21, or any time prior
20 to that. It was just in '22 after I was arrested and I wanted
21 to understand what was going on.

22 Q. You know that's what she told the FBI when they interviewed
23 her, correct?

24 MR. ETRA: Objection. That's not -- impeaching him an
25 out-of-court statement she made, that's not appropriate.

1 MS. JIMENEZ: Does he know?

2 BY MS. JIMENEZ:

3 Q. Do you know that's --

4 THE COURT: All right. Whether he knows what was
5 stated is the predicate. The objection is sustained. Let's
6 rephrase, please.

7 MS. JIMENEZ: The objection is sustained as to: "Do
8 you know?" The question is does he know that that's what
9 she -- that that's what she told the FBI.

10 MR. ETRA: Your Honor, there's no basis --

11 THE COURT: Yeah. The objection is sustained.

12 BY MS. JIMENEZ:

13 Q. You hired an attorney for Ms. Ataca --

14 MR. ETRA: Objection, Your Honor.

15 BY MS. JIMENEZ:

16 Q. -- after the FBI went to speak with her, correct?

17 MR. ETRA: Objection. Relevance.

18 MS. JIMENEZ: What's --

19 THE COURT: Overruled.

20 THE WITNESS: When the FBI started their investigation
21 talking to people, a year after this whole thing happened --
22 after I got indicted, a year later, they first started talking
23 to people all of a sudden, that's when the corporation said
24 anybody who needs an attorney -- because they don't have money
25 to protect themselves, as far as when the FBI comes walking in.

1 They're hardworking people. I said: "The company will provide
2 you with an attorney -- even though it's a year later, we'll
3 provide you with an attorney so you can protect yourself," and
4 that's it.

5 BY MS. JIMENEZ:

6 Q. So the answer is yes, after the FBI spoke with Ms. Ataca,
7 you paid for a lawyer for her, correct?

8 A. Not me. The company --

9 Q. Your company did?

10 A. -- paid for a lawyer for anyone who wanted it. It was
11 their option to either have a lawyer or not.

12 Q. And after you got a lawyer for Ms. Ataca, you know that she
13 refused to speak to the FBI thereafter, correct?

14 A. I have never spoken to her about this. She's -- I never
15 asked. I know I'm not allowed to ask. I never did ask. I saw
16 her testify. I saw her testify that day, and I heard what she
17 said that day. So...

18 Q. And that day she didn't know who was paying her lawyer's
19 fees. Did you hide that from her?

20 MR. ETRA: Objection, Your Honor.

21 THE COURT: Rephrase.

22 MR. ETRA: Argumentative and --

23 THE COURT: Rephrase. Sustained.

24 BY MS. JIMENEZ:

25 Q. Did you let her know that you were paying for a lawyer for

1 her?

2 A. I told her that the company -- actually, I didn't even tell
3 her. I'm not sure who told her. Because I didn't really -- I
4 didn't talk to her about this. But what -- someone told her
5 that all workers are allowed to have a lawyer so they can
6 protect themselves because lawyers are expensive. So we're
7 trying to just protect people, that's all. And that's what
8 happened.

9 Q. And you were also protecting Jeanette Gonzalez, correct?

10 A. I'm not protecting them. Okay? I'm giving them an
11 opportunity to have legal representation in the United States
12 of America, because the FBI, a year later, started knocking on
13 people's doors asking what they do for the company, I guess, or
14 something. And I said: "You got to hire a lawyer," and that's
15 where a lawyer came from.

16 Q. And Jeanette Gonzalez also refused to speak to the FBI
17 voluntarily after she had an attorney hired for her, correct?

18 MR. ETRA: Objection, Your Honor.

19 THE COURT: If the witness knows. Overruled.

20 THE WITNESS: I don't know what Jeanette Gonzalez did.
21 I know that she testified for the Government. She testified
22 for the Government in some grand jury or something like that.
23 But after that, I don't know what happened. But I know she had
24 a lawyer.

25

1 BY MS. JIMENEZ:

2 Q. All right. In 2019 and 2020, the companies that you
3 managed that were -- where you were the managing member that
4 earned -- or that generated income, were HM-UP Development
5 Alafaya Trails, correct?

6 A. Yes.

7 Q. CJUF III Flagler?

8 A. Yes.

9 Q. And that's the company that owns the -- or owned the
10 Fontainebleau shopping center in Miami, correct?

11 A. Yes.

12 Q. HM Management and Development, your management company,
13 correct?

14 A. Yes.

15 Q. The active project you had going in 2020, it was the
16 Burlington refitting of the Toys "R" Us, correct?

17 A. In 2020 -- or it started in 2019. But yes, that was one of
18 them in 2019 on the -- not the site. There was the other
19 project I mentioned earlier.

20 Q. The project you mentioned that in 2021 -- about April 2021
21 or so, you got a lease agreement with Amazon, correct? Is that
22 what you're talking about?

23 A. What I'm talking about is that the lease agreement was done
24 prior. But 2019, maybe the beginning, January, February 2020
25 the lease agreement was done, but we had to go through the

1 approval process. We didn't start construction till 2021
2 because there was delays with Orange County because they didn't
3 have hearings for the approval of the plans.

4 Q. All right. So in 2020 -- if I can ask you about 2020 --

5 A. Uh-huh.

6 Q. -- the project you had, the active project you had was the
7 refitting of the Toys "R" Us into the Burlington Coat Factory,
8 correct?

9 A. That was one of them, yes. And there's other -- again,
10 like I said, there was other activity as well. But yes, that
11 was the main project to -- not refitting, to completely gut the
12 building, a 60,000-square-foot building, which is a pretty big
13 project.

14 Q. And after COVID started, you were writing the checks to
15 those laborers in Orlando that were working on that Burlington
16 project, correct?

17 A. I was writing checks. Jeff Vasilas was writing checks. I
18 think Jeanette was writing some of the checks, not many. And
19 those were basically the three people that were paying people.

20 Q. You were writing checks that you would provide to Mr. Jeff
21 Vasilas, who would take back to Orlando to pay the laborers,
22 correct?

23 A. Correct.

24 Q. And all those laborers were 1099ed contractors, correct?

25 A. I don't know what they were. They're workers. That's up

1 to Jeff. I just went off payroll reports, the payroll report.
2 I don't know what they were. I never said what they were when
3 I wrote a check. It says: "Payroll." It says: "Payroll,
4 payroll, payroll." So payroll check, that's what I wrote. I
5 mean, I didn't write -- I got a payroll report. I just didn't
6 write a check. I had a report, I looked at it, and I write
7 checks to the individuals.

8 Q. Right. And you are a savvy, experienced businessman,
9 Mr. Sheppard. You agree with me?

10 A. I wouldn't call me savvy. I work very hard. I do the best
11 I can on what I know. I wouldn't say savvy. I would say I'm
12 just a normal simple person that works hard and does what I
13 can, but I'm no expert in a lot of areas.

14 Q. You do know what withholdings are, right?

15 A. Withholding? Yes. I know what withholdings are.

16 Q. And you know that withholdings is money that is taken out
17 of wage employees' paychecks, right?

18 A. Okay.

19 Q. Yes?

20 A. No. I know what withholdings are. It's when you pay an
21 employee, there's -- when someone goes and does it, and where
22 there's withhold -- that's what I know. I mean, I used to get
23 a paycheck back in the day.

24 Q. Right. And the withholdings are -- it's money that the
25 employer keeps for Medicare, taxes, for Social Security taxes,

1 for income taxes, right?

2 A. (No verbal response.)

3 Q. Yes? Those are withholdings?

4 A. I know what withholdings are. I'm not sure how the
5 distribution -- I don't process that, so I don't really exactly
6 how -- I know what the term -- what you're saying are the
7 terms, but I don't process it myself personally, so I don't
8 exactly how that specifically works. I know what they mean
9 because --

10 Q. And you also know that for wage employees the employer has
11 his or her own tax responsibilities to contribute Social
12 Security and Medicare taxes as well when they have a wage
13 employee, that that's part of the withholdings mix-up, if you
14 will?

15 A. I mean, I know you pay someone a gross wage and how it's --
16 whether the worker sends it to them or the employer -- I know
17 there's a gross wage and then certain things are taken out,
18 whatever they are. I mean, I know I've heard the terminology.
19 Again, I don't process it, but I understand what you're
20 saying -- what it means.

21 Q. Right. But there's an employer portion to that, right,
22 that the employer also has to contribute Social Security and
23 Medicare taxes? I mean, that's what you have to pay, right,
24 when you have wage employees from whom you withhold part of
25 their wages?

1 A. If it's -- I can't really comment. I know there's
2 something you have to withhold. I don't know what that is.
3 But there's a gross pay and someone calculates what you
4 withhold. That's -- if that's what you're asking me. I know
5 there's withholdings. Yes. I understand there's withholdings.

6 Q. Right. And you know that with withholdings there is an
7 employer contribution to the IRS as well, Medicare and Social
8 Security taxes?

9 A. I don't understand the employee contribution. I don't deal
10 with that. But I mean, if you're holding somebody's -- if
11 someone gives -- if you pay a person, they get X. And you're
12 supposed to hold it and forward a portion of it to them,
13 whatever you're holding back from the person. You don't give
14 them the full check of the gross.

15 If you pay gross check and a net, and then the other
16 part of the net you're supposed to send or something like that.
17 But I never do the process, so I don't really understand how
18 that would actually work, but I understand the concept.

19 Q. Right. Well, you've been an employer, Mr. Sheppard, right?

20 A. I have.

21 Q. And as an employer, you withhold part of the employee's
22 wages and you also -- which comes out of your business's
23 pocket -- pay the employer contribution for that. I mean, you
24 heard the testimony. That must have refreshed your
25 recollection as to those kinds of payments, correct?

1 A. I heard the testimony a lot. Again, my involvement with
2 any type of payroll is there's a gross amount. It goes into a
3 payroll account. And then whoever is dealing with that, they
4 do -- however they do -- they cut people's checks on Friday
5 and: "Here's a payroll check on Friday."

6 I only know for me personally it's a gross amount. On
7 a monthly basis or a weekly basis, it's a gross amount.
8 Somebody takes it and they do whatever they're going to do.
9 It's been -- I haven't had a paycheck in 12 years.

10 Q. I'm trying to understand from you -- I'm just trying to get
11 an answer to my question, Mr. Sheppard, which is that there is
12 an employer portion that goes to the IRS for Social Security
13 and Medicare taxes for your employees.

14 A. Again, I said I know there's an employment tax that goes to
15 the government in some shape or form. I can't tell you how
16 that's delineated because I just don't know. You're asking me
17 specific questions about how that gets delineated. I know
18 there's an employment tax for an employee, an employee tax,
19 whatever it is, that goes -- the employment tax goes to the
20 government. That's what I know.

21 Q. Is that, yes, you know that the employer has a contribution
22 as well?

23 A. When you say: "Contribution," I don't -- that's a --

24 Q. Payments.

25 A. My world a contribution is like equity. Like, I don't deal

1 with that kind of contribution word. So I don't want to say
2 the wrong word. I'm telling you I know there's withholdings
3 and it goes to the government. And how it's determined and how
4 it's allocated, that's not in my -- my educational background
5 or experience because I don't do that part of my business.
6 Someone does that, Jeanette Gonzalez or whoever.

7 Q. So if you don't understand the term "contribution," let me
8 try to rephrase my question, Mr. Sheppard, which is: You
9 withhold a certain portion of the employee's pay. That's their
10 withholdings for Medicare, Social Security, income tax. And
11 then, in addition, the employer has to pay out of the
12 employer's account, or the employer's pocket, money to the IRS
13 for an additional amount for Social Security and Medicare.
14 You're aware of that. Yes?

15 A. I'm aware what you just described to me. Am I aware how
16 that goes? Again, it's a little confusing to me that you give
17 someone a check and you take money out of the check as you
18 explained. You're just forwarding. You're not -- I don't know
19 about contribute. You're just forwarding is -- what you sound
20 like you're saying, you just forward -- you hold back and you
21 forward -- one person forwards -- the employer forwards it and
22 the employee forwards their portion. That's what I think
23 you're saying. That's what I'm getting out of it at least.

24 Q. So when you were writing checks during COVID to the
25 laborers in Orlando, it was just a flat check -- I mean a flat

1 amount. You, your company, HM-UP or HM Management, was not
2 keeping any portion of the amount that was owed to that
3 laborer. That's my question?

4 A. I have no idea. I got a report. I wrote a check to an
5 individual based upon -- because we usually use a computer. It
6 was always done by computers. Because of COVID, there was no
7 computer. Either I wrote it or Jeff Vasilas wrote it. And
8 whatever the payroll report says, I just wrote a check.

9 Q. Whatever the amount was to the payroll report is the amount
10 that you wrote, right? And that payroll report did not have
11 any withholdings for people who were not your employees,
12 correct?

13 A. I'm sorry. People that are what, not my employees? I got
14 confused with the last part.

15 Q. The payroll report that you saw on the computer that had
16 payments to laborers, it did not have withholdings for laborers
17 who were not your employees, correct?

18 A. I have no idea what the payroll report says. I -- four
19 years ago, I don't know what the payroll report says. It was
20 not --

21 Q. That was not the only time you ever saw a report, a payroll
22 report in 2020. You've seen those reports, right?

23 A. I've seen the reports, but I don't -- this is different
24 than our normal business. Our normal business is very
25 organized. It's all like computers and everything's in

1 spreadsheets, and this is just like a -- you know, a
2 chaos-created report by Mr. Vasilas, who just hired all these
3 people. And I just -- I remember the people's names, what they
4 did. I looked at the pictures to see if they did the work.
5 And they sent me the pictures, and that's it.

6 Most of the checks -- some of the times the checks
7 were prepared before I even walked into the room. So it
8 doesn't -- I don't know like how it was actually -- I can
9 visualize it, but I don't know how it was actually processed by
10 him. I have no idea.

11 Q. You don't recall seeing any withholdings on those reports
12 that told you how much to pay those laborers because you were
13 writing the checks?

14 A. Well, I don't recall -- just sitting here, I don't recall
15 exactly how they were -- they were just checked, so they were a
16 dollar amount. So I don't know what was held, what was not
17 held. I don't know -- I don't know anything. I just: "Here's
18 a person. Here's the name. Here's what they did," and if a
19 check was made out already, or if it wasn't. If I wrote the
20 check, then I signed it. But that's how it worked during the
21 COVID world.

22 Q. All right. At HM Management, you paid wages to people for
23 a time, right?

24 A. For a time?

25 Q. Yeah. Up through 2018. Yes?

1 A. Nope. Through 2019.

2 Q. Okay. And none of your other companies paid wages to W-2
3 employees?

4 A. None of my other companies paid --

5 Q. HM Management HM-UP Development Alafaya Trails --

6 A. Right.

7 Q. -- never paid any wages to any W-2 employee, correct?

8 A. I don't know what they've done. I mean, I know how it's
9 set up where HM Management doesn't own any of these -- they
10 don't own it. So again, it's allocation. I mean, what I was
11 instructed by -- not I -- what I was told was the right way to
12 do it was allocation for each specific project, if someone
13 works 20 hours a week here -- and everyone gets a separate
14 allocation.

15 Q. Mr. Sheppard, I need you to try to focus on my question.
16 HM-UP Development Alafaya Trails never paid wages to any W-2
17 employee?

18 A. I have no idea how that's processed.

19 Q. You --

20 A. I know they paid people. I don't know how it's processed.
21 I've never looked at that.

22 Q. You signed a tax return each and every year for HM-UP
23 Development Alafaya Trails, correct?

24 A. Correct.

25 Q. You signed those tax returns under penalty of perjury,

1 correct?

2 A. Correct.

3 Q. And the tax returns for HM-UP Development Alafaya Trails
4 never reported any wages, correct?

5 A. I have zero idea how to answer that question because I'm
6 not an accountant. I didn't prepare the tax returns, and
7 there's 30 tax returns. I don't go through the tax returns. I
8 just -- Neal Cupersmith is there 25 years. I don't know how he
9 allocates where he puts people's wages. I don't even know
10 where to look. So I can't answer that question. I can say I
11 signed the tax return, but I can't tell you what's in it.

12 Q. So you never noticed? You never noticed that it did not
13 report any wages?

14 A. I never looked through a tax return because I didn't even
15 think about looking at the tax return. I relied on an
16 accountant for 25 years to prepare a tax return however he sees
17 fit. I don't know. That's not my -- I didn't get involved
18 with that.

19 Q. Same for CJUF III Flagler, the company that owned the
20 Fontainebleau shopping center in Miami, never reported any
21 wages, correct?

22 A. I have no idea how they reported -- well, when you say:
23 "Wages," I don't know what they reported, how they paid people.
24 I'm not sure how they classified people, but I know there was
25 workers. There was workers there. There was workers -- I

1 don't know how they prepare a tax return. I'm not qualified
2 for that. I rely on others to do that.

3 Q. All right. So you have paid a lot of laborers over the
4 years, right, contractors, engineers, electricians, painters,
5 right?

6 A. I've paid people over the years, yes.

7 Q. They invoice you, right? So you could pay them, they send
8 you an invoice?

9 A. Well, you got to -- that's a very blanket statement. Do
10 you mean individual workers that are employees of ours that are
11 working directly for us or you're talking about -- the people
12 that invoice are third-party contractors that actually have
13 their own workers. Those people, they invoice us. They give
14 us a contract. But workers that are working directly for us at
15 our direction, they don't invoice us from my recollection.

16 Q. Right. Right. So the ones who were not your employees,
17 they invoice you, and you pay them, right? Whenever you can, I
18 suppose, you pay them. Yes?

19 A. I don't understand your question. Whenever you can --

20 Q. Well, the contractors who are not your employees, they
21 invoice you and you pay them. You pay that invoice, right?

22 A. The third-party contractors that provide invoices, we pay,
23 correct. Assuming that they've done what they're supposed to
24 do. I mean, if they've done their job properly and upon
25 progression.

1 Q. The employees, as you just mentioned, when they are
2 employees, they don't invoice you. It's you, the employer's
3 responsibility to pay them periodically, however it's set up,
4 every week, every other week, right?

5 A. However it is they get paid, yes.

6 Q. And you withhold their taxes every week or every other
7 week?

8 A. I have no idea how they -- again, I do not -- I'm not going
9 to guess at how Jeanette or anyone prior to her -- how they --
10 how they do their job. I just don't do that job --

11 Q. You don't do that job, and you know that there's a
12 withholding and that that has to go to the IRS every month,
13 every so often, correct?

14 A. I do not -- I do not -- I know -- I explained what I know.
15 That's what I know. I mean, I don't -- I'm not -- I don't --
16 I'm not ever involved with that. I'm not --

17 Q. And are you saying, Mr. Sheppard, that you -- before this
18 case came along, and before you were arrested, you had never
19 heard of or seen Forms 941 and the Forms 940? That's something
20 you had never seen before?

21 A. I have never looked at a 940 or 941 with regards to like --
22 sat there and looked at it or understood it, because I never
23 was involved with the accounting side of the business or the
24 administration side of the business. I am a -- I'm on the
25 development side. That side. That's what I do. They do their

1 side. I do mine. There's a wall.

2 So to answer your question, no, I do not get involved
3 or never looked at these 940 or 41s to analyze it prior to the
4 day when I received the information after I got arrested.

5 Q. And is that the case for the Florida Department of Revenue
6 RT-6s? You never heard of it or you've never seen it before --

7 A. I never heard what an RT-6 is. I don't know what that is.
8 I know there's some kind of reporting. Every government agency
9 has some kind of reporting, whether it's called RT-6. I
10 wouldn't know what that would mean.

11 I know -- an AIA contract, I know what that means.
12 But RT-6s, that I've learned now, and these other things, 941,
13 actual numbers and terminologies, what they actually do and
14 are, I would in no way before that -- I never dealt with that.

15 MS. JIMENEZ: Can we just show Exhibit 16-1, please.

16 Could we go to the next page. Is there a next page?

17 No?

18 For the jury.

19 Can we just go down to 20-18, please -- 20-17, or
20 20-18.

21 Okay. 20-17.

22 Okay. Go to the next screen.

23 BY MS. JIMENEZ:

24 Q. So did you know that your company -- did you know before
25 this case -- did you know before you were arrested that your

1 company HM Management, say, in 2017, in 2018, had three
2 employees? Did you know this?

3 A. For which company, HM Management?

4 Q. HM Management. Yes.

5 A. I don't know. We had more than three employees. But
6 that's what I'm looking at, three employees.

7 Q. So you're saying before this case you did not know that
8 your company HM Management had three employees in 2017 and
9 2018?

10 A. I never thought about what they had or didn't have in 2017,
11 prior to this case -- or even during this case I didn't even
12 know about 2017. Never looked that far back.

13 Q. You never saw any report that Jeanette Gonzalez submitted
14 to the State of Florida?

15 A. I have never looked at a report from -- I don't want to say
16 never. I've never -- never. I have not looked at reports that
17 she's filed or -- even if I looked at it, I wouldn't even
18 understand what it is anyways. But I don't recall ever just
19 like saying -- or looking at whatever the report is.

20 Q. Okay.

21 MS. JIMENEZ: Can we go to 2018.

22 BY MS. JIMENEZ:

23 Q. Same 2018 -- 2018, you had three employees at HM
24 Management. Did you know that before this case?

25 A. Three employees?

1 Q. Yeah.

2 A. I mean, that's what it says. I know there's more. So I
3 don't know why there's only three here. But I know there's
4 more employees than that, that's for sure. So I'm not sure
5 what this is.

6 Q. So Jeanette Gonzalez is someone -- you're her boss, right?
7 I think you've told us you're her boss, right?

8 A. She -- she reports to me, yes. Correct.

9 Q. And Vanessa Gonzalez, you are her boss, right?

10 A. No.

11 Q. Well, no longer because she's no longer working for you.
12 But in 2018, 2019, 2020, you were her boss, right?

13 A. No.

14 Q. You didn't have the authority to fire her?

15 A. You asked me if I was her boss. Jeff -- she worked -- on
16 the development side, she was with Jeff Graff, and she worked
17 with him. And then, on the other side of the business, she was
18 with Jeanette Gonzalez, which is her mother. So she had dual
19 roles.

20 Q. My question, Mr. Sheppard, is not who was her direct
21 supervisor. My question to you is: Who was her ultimate boss?
22 You were her ultimate boss, correct? You hired her?

23 A. If you want to classify it as a boss. I mean, I'm a
24 managing member of a company. I mean, I'm not her boss. To be
25 able to -- when I think about a boss, someone who I talk to on

1 a daily basis and I report to.

2 Q. You paid her salary, correct?

3 A. The company pays her salary.

4 Q. Your company pays her salary?

5 A. Multiple companies pay her salary. There's a -- there's
6 money that comes from -- again, the same thing. Whatever
7 projects are in that particular year, whatever they are working
8 on, it gets allocated.

9 Q. From your companies?

10 A. From my companies that I manage, correct. Exactly.
11 Allocation. So when you say --

12 Q. And Ms. Elva Baluarte, who was at your home, was also paid
13 by you through your companies?

14 A. She's paid through -- that, she's paid through HM
15 Management, Elva.

16 MS. JIMENEZ: Can we show 12-2 and 12-3.

17 BY MS. JIMENEZ:

18 Q. 2018, Mr. Sheppard, as you know, the last year your company
19 submitted Forms 941 and Forms 940 to the IRS, on the 941, which
20 is on Exhibit 12, the right side -- 12-1 -- 12-2 -- 12-3. I'm
21 sorry. 12-3 -- it reports that -- three wage employees for
22 your company, HM Management and Development. But your
23 testimony is that you would have never seen this kind of
24 document. Is that your testimony?

25 A. When you say I would have never seen it, I've never put my

1 eyes on the document to look at it, ever looked at a document
2 like this. I don't get involved with these type of documents'
3 preparation, no.

4 Q. All right. Then they have a signature?

5 MS. JIMENEZ: Can we go to the signature page for both
6 of them, please.

7 BY MS. JIMENEZ:

8 Q. So the signature page --

9 MS. JIMENEZ: Go to -- the left one also has the
10 signature. That is -- stop. Stop. Just at the signature page
11 for both documents.

12 I'm sorry. 12-2 as well.

13 I can't see.

14 BY MS. JIMENEZ:

15 Q. So it's got a signature which purports to be your
16 signature, and that is -- is that Jeanette Gonzalez signing on
17 your behalf?

18 A. I don't know who signed it. I'm not sure. I mean, I'm not
19 sure who actually signed it. Doesn't really look like my
20 signature, but --

21 Q. Is that Jeanette Gonzalez signing on your behalf?

22 A. I can't tell whose signature -- or there's a stamp in
23 the -- a stamp, a signature, or -- I mean, I don't know. I
24 can't tell who would sign it. But yeah, it's a --

25 Q. And on the right side of the signature, Mr. Sheppard, it

1 has your name as a managing member, correct?

2 A. It does.

3 Q. So did you authorize Jeanette Gonzalez to file these tax
4 documents with the IRS?

5 A. If they were filed, then she would have authority. I
6 wouldn't have -- if she prepared it, I wouldn't have a problem.
7 I rely on her to prepare it properly -- or whoever prepared it,
8 I relied on it. And if she signed it, then it's in the course
9 of ordinary business. Then I wouldn't have a problem with it.

10 Q. You don't have a problem with it because you authorized her
11 to do it, correct?

12 A. Respectfully, I didn't say -- respectfully, I didn't say
13 that. You asked me a question. I'm trying to answer.

14 Q. Okay.

15 A. Okay. So when you say: "Authorize" -- again, I don't
16 review these forms or look at these forms to the best of my
17 knowledge. Now, if someone put a stack of 20 things in front
18 of me, could I sign something? Yes. But I'm not going to look
19 at something in accounting. Like, I've been doing this for 20
20 years --

21 Q. I just want you to answer my question, and then you can
22 explain as you wish. My question to you is: These are
23 documents that get filed with the IRS for wage employees,
24 correct -- or you're aware of that now, correct?

25 A. I'm aware that this is the employer's federal tax return --

1 employer's federal tax return to the federal government.

2 That's what I know.

3 Q. So Mr. Sheppard, I just -- so my next question is -- and
4 I'd like you to answer, and then you can explain if you think
5 you need to explain. My question is: You authorized Jeanette
6 Gonzalez -- every quarter of every year that these documents
7 were submitted to the IRS, you authorized her to submit them to
8 the IRS on your behalf, on your companies' behalf?

9 MR. ETRA: Time frame, years, Your Honor.

10 MS. JIMENEZ: 2018.

11 THE COURT: All right.

12 THE WITNESS: I guess when you say the word
13 "authorize," the answer is: She's authorized to do her duties,
14 whatever those duties are. And if that includes that, yes,
15 that would be authorized to do it.

16 Did I know this particular -- what you're showing me
17 on 2/4/19? She didn't call me and ask me for authorization.
18 She just does her job, like she's supposed to do. Do I know
19 that she's signing that? I didn't know she was signing it.
20 But if she's signing I'm not going to be mad if it was correct,
21 obviously. But I didn't authorize like: "Hey, you're allowed
22 to sign this" --

23 BY MS. JIMENEZ:

24 Q. All right. And you know that filing these forms --
25 withholding employee wages and filing these forms implicates

1 tax liabilities for HM Management. HM Management owes the IRS
2 money when you have wage employees that you file taxes for.

3 A. Again, I don't know what these forms actually -- you know,
4 the details of them.

5 Q. I'm sorry. So you don't know. You don't know that HM
6 Management has tax responsibilities that relate to filing these
7 forms?

8 A. These particular forms, I don't understand -- I know that
9 HM Management has tax responsibilities. Everyone has tax
10 responsibilities. But for this particular form, how they work
11 and how that operates as far as tax, that I'm not -- don't
12 understand that process. I know HM Management and everyone
13 else in America has tax responsibilities. That, I do know.
14 But I don't know how it works, like --

15 Q. And HM Management has tax responsibilities as it relates to
16 wage employees?

17 A. Again, I think I've already said this. Employees --

18 Q. My question --

19 A. There's tax responsibilities. Yes, there's tax
20 responsibilities for employees. How that's, you know --

21 Q. Mr. Sheppard, please answer my question. And then if you
22 need to explain, you can explain. My question is: You know
23 that HM Management has tax responsibilities to the IRS relating
24 to wage employees?

25 MR. ETRA: Asked and answered, Your Honor.

1 MS. JIMENEZ: He didn't answer.

2 BY MS. JIMENEZ:

3 Q. Yes or no, do you know?

4 THE COURT: Overruled.

5 THE WITNESS: Again, are you saying --

6 BY MS. JIMENEZ:

7 Q. No. Sorry --

8 A. No. Hold on a second. Are you saying today or like back
9 in 2019? Because I'm more educated now because of sitting
10 here. But are you talking about this particular juncture when
11 you're showing me the document or today?

12 Q. In 2018, in 2019, in 2020, did you know that HM Management
13 had tax responsibilities to the IRS relating to wage employees?

14 A. That's correct. I know that they have responsibility to
15 the IRS in some shape or form -- whatever that may be, to the
16 IRS. That's what I do know. What that is, I don't know, but I
17 know there's always responsibility.

18 MS. JIMENEZ: Could we show 12-2 and 12-3, please.

19 No. That's what we have.

20 12-5 and 12-6.

21 BY MS. JIMENEZ:

22 Q. Do you know, Mr. Sheppard, that in 2019 HM Management and
23 Development no longer paid the IRS any taxes for its three wage
24 employees? In 2019, HM Management no longer paid the IRS taxes
25 for its three wage employees. You know that, correct?

1 A. I don't know that. That's according to who? Like, why --
2 I don't believe that's an accurate statement, so I'm not --
3 when you say that, how is that -- according to who?

4 Q. Mr. Sheppard, is that no, you're not aware?

5 A. I'm aware that in 2019 -- to be clear, in 2019, that it's
6 my understanding that W-2 workers were paid and reported and
7 paid to the IRS in 2019. That's what I understand. You're
8 saying not, but I do understand it was done.

9 Q. Let me ask you, sir, if you could just listen to my
10 question. There were withholdings of your three wage employees
11 in 2019, correct? Your company withheld part of their pay,
12 correct?

13 A. I have no idea what the company did. I didn't do it.

14 Q. So you don't know. And then my question, though,
15 specifically is: The payment from HM Management to the IRS for
16 the wage employee taxes, that stopped in 2019. In other words,
17 you no longer paid that in 2019, correct? If you know, yes or
18 no?

19 A. I do not know the answer to that question.

20 Q. So you're saying that it was not -- are you saying it was
21 not your decision in 2019 to not pay the IRS taxes for the wage
22 withholdings that were taking place of your three HM Management
23 employees?

24 MR. ETRA: Objection. He said he doesn't know
25 anything about the topic.

1 THE COURT: Sustained.

2 BY MS. JIMENEZ:

3 Q. Someone else at your company made the decision to not pay
4 payroll taxes to the IRS in 2019?

5 MR. ETRA: Same objection. Personal knowledge.

6 THE COURT: The objection is sustained.

7 BY MS. JIMENEZ:

8 Q. Mr. Sheppard, you don't know why it is -- you don't know
9 why it is that in 2019 your company did not pay employee
10 taxes -- payroll taxes to the IRS?

11 A. I don't know if they did or did not, but I was told that
12 they did pay the 2019 taxes as you just set forth. It's my
13 understanding that was paid, filed, and confirmed with the IRS.
14 That's what I know.

15 Q. You were told that they did. Who told you this?

16 A. Jeanette Gonzalez told me and sent me to the storage. Like
17 I talked about earlier, I went to the storage to go look and
18 see exactly what she was talking about. After I heard some
19 testimony -- the IRS guy was here saying it wasn't paid. I
20 said: "What do you mean it wasn't paid?" So I said:
21 "Jeanette, what do you mean," and she said: "I paid it. It's
22 in storage."

23 MS. JIMENEZ: Okay. Objection. This is hearsay.

24 MS. WEINTRAUB: Objection, Judge. She's cutting him
25 off and not letting him finish.

1 THE COURT: Has the witness completed his answer?

2 THE WITNESS: No, Your Honor.

3 THE COURT: All right. You may continue.

4 THE WITNESS: So when I heard it in court, like
5 everyone else heard it, I was puzzled. I said: "So you're
6 telling me that the company didn't pay any payroll taxes," and
7 she said: "Of course we did. Go to the file. I can't find
8 the file, but it's in storage."

9 I went to the storage, and I sat there for hours going
10 through boxes after boxes, and I found it because I was just
11 like stunned. I went there, and I found it, and I said:
12 "Here. What does this mean?" Okay, to my -- "What does this
13 mean," to my legal counsel, and he said: "You paid it. You
14 did it, and it's confirmed by the IRS."

15 And that's when I say -- when you tell me I didn't,
16 no, I don't take care of it. I don't even know how it gets
17 paid or what gets paid. But I was shocked that it wasn't paid.
18 That's why I looked into it when we were all sitting here
19 together. That's what I did.

20 And there was some like email confirming from the IRS
21 saying yes, it was paid. So this says -- this document here,
22 Exhibit 12-5, says it wasn't paid and another IRS agent says it
23 was paid. I don't know. But of course I'm going to pay the
24 taxes. That's --

25

1 BY MS. JIMENEZ:

2 Q. What you showed this jury was W-2s, correct?

3 A. I don't know what I showed them. I showed them what was
4 given by the IRS that shows a specific conversation on the
5 computer -- on the chat thing, that Jeanette Gonzalez herself
6 showed that it was paid and they confirmed it was paid. In
7 January 2020 it said: "Your 2019's paid. We received it.
8 Everything's" -- I'm paraphrasing, but everything is completed
9 for 2019 for your company, and I was like relieved. I was
10 like: "Oh, thank God. I thought it wasn't paid." That's all.

11 Q. So all those penalties that the IRS imposed on your company
12 in 2019, those went by the wayside because nobody realized that
13 they -- what, that they weren't actually paying what they
14 thought they were paying?

15 A. I don't even know what you're talking -- I'm sorry. I'm
16 not being -- what you're saying -- all I'm telling you is -- I
17 don't know what you're talking about, penalties. I don't know.
18 I don't understand what you mean by penalties. All I know is I
19 saw something that was paid from the IRS agent directly. And
20 this IRS agent, this other guy, says: "Oh. It wasn't
21 certified for this case. It wasn't paid." But an IRS person
22 in 2020, in January, said it was. I don't know. It's very
23 confusing to me.

24 Q. So your testimony is that -- do you decide whether Maria
25 Ataca is a W-2 employee or a contractor, an independent

1 contractor?

2 A. I don't decide how someone's classified. Whoever they're
3 hired by or work for directly, that's who decides how they're
4 doing it. I don't -- I don't decide.

5 Q. Elva Baluarte, who works in your home, has always worked in
6 your home, you don't decide if she's a W-2 or a 1099?

7 A. I don't know how she was designated, you know, years and
8 years and years ago. She gets a gross pay. How it's done, I
9 don't know. I typically just pay the account, the payroll
10 account, whether it's ADP or to the company. That's how it
11 usually works. I don't know how she's classified.

12 Q. You didn't have any involvement when she was hired, and you
13 have no idea whether she's paid as a W-2 or a 1099? You have
14 no idea?

15 A. (No verbal response.)

16 Q. Right? You have no idea?

17 A. Can I just think for a second, please. Thank you so much.

18 MR. ETRA: Could we have a time frame whether he knew
19 then or knows after the evidence?

20 THE COURT: Is the question do you have any idea --

21 MS. JIMENEZ: Before he was arrested.

22 THE COURT: All right, then.

23 THE WITNESS: She's been working with me for 25 years.
24 I can't tell you how originally she started through different
25 companies. But she's been working for me for over 25 years. I

1 don't know how she was started, what she started with.

2 Clearly, 25 years ago is a lot different from today. So I
3 don't recall exactly how she was paid as far as a designation
4 for an employee.

5 BY MS. JIMENEZ:

6 Q. Same as Jeff Graff. You had no involvement whether he was
7 a W-2 and then became a 1099? You have no idea about that
8 either?

9 A. Well, I heard him testify. So -- and I've known him for 40
10 years, and --

11 Q. Before you were arrested, Mr. Sheppard, you had no idea if
12 he was a W-2 or a 1099?

13 A. Before now?

14 Q. Yes. Before you were arrested.

15 A. I never -- I never thought about it. But then when he
16 testified, then I refreshed my recollection because he
17 changed -- he was always a W-2 employee. Then he wanted to be
18 a 1099 employee. And as I testified three weeks ago, he's a
19 CPA, an accountant. So if that's what you want to do -- that's
20 in like 2009, when the financial crisis with Lehman happened,
21 and I said: "Sure. Whatever you want to do." And I testified
22 against -- for that, and that's what happened.

23 Q. Okay.

24 MS. JIMENEZ: Can you put that down.

25 Can we show 50-5, please.

1 Can you highlight the first -- can you bring out the
2 first paragraph, since I can't see very well.

3 BY MS. JIMENEZ:

4 Q. So this was --

5 MS. JIMENEZ: I'm sorry. Can we just go back and show
6 the date of this letter.

7 BY MS. JIMENEZ:

8 Q. This is the letter after the -- the visa application
9 involving Mr. Graff, March 8th, 2019.

10 MS. JIMENEZ: Now can you show the first paragraph.

11 BY MS. JIMENEZ:

12 Q. March 8th, 2019, Mr. Sheppard, was before this case, right?

13 A. In 2018, yeah.

14 Q. March 8th, 2019, was before this case?

15 A. I'm sorry. I'm sorry. Yes, ma'am.

16 Q. And with respect to HM Management, you indicated -- you
17 said: "From the first conversation, it was always represented
18 a hundred percent the fact that Eric Sheppard is a 99 percent
19 owner-member of HM Management. Eric Sheppard has complete and
20 unwavering authority to make all decisions and bind the
21 company," right? You wrote that, Mr. Sheppard?

22 A. I see that, yes. I see that, yes.

23 Q. Okay.

24 MS. JIMENEZ: Can we go to the next paragraph.

25 Let's go to the next paragraph.

1 BY MS. JIMENEZ:

2 Q. All right. Paragraph 3, 2019, before this case, it was
3 clear to you that Jeff Graff was a paid consultant, right? And
4 you said Mr. Graff individually was not and is not an employee
5 of the company?

6 MR. ETRA: Compound question, Your Honor.

7 THE COURT: The objection is sustained. Let's break
8 it down, please.

9 BY MS. JIMENEZ:

10 Q. March 8th, 2019, before this case, it was clear to you that
11 Mr. Graff was not an employee of your company, HM Management,
12 correct?

13 A. That's what this says. If you want me to explain, I'll be
14 more than happy to explain to you.

15 Q. I don't want you to explain right now.

16 A. Okay.

17 Q. I just want you to answer my question, and then you can
18 explain. You understood Mr. Graff was not an employee of your
19 company. Yes?

20 A. This is what this document is suggesting to the law firm --
21 my law firm that I used. This is what was suggested, but was
22 also provided and told to me that this needs -- it has to say
23 this. According to Mr. Graff, it has to say that. He was
24 standing next to me helping me with this version because I
25 would never write -- quote Jeff -- I don't know. Quote Jeff.

1 He was upset, and he was my dear friend my whole life,
2 so I was accommodating what he wanted. He was my dear friend
3 and he was upset. I was upset, too, actually. And I said:
4 "Whatever you need me to write, I will write to make sure that
5 you're comfortable in what you feel that should be," and --
6 okay. And that's where this paragraph came from. And if I
7 hadn't known him for 40 years, I wouldn't have done it.

8 MS. JIMENEZ: Can we take this down for a moment.
9 Can you pull up 50-5 please.

10 THE COURT: And Ms. Jimenez, just let me know when it
11 might be a good time for the jurors to take a 10-minute recess.

12 MS. JIMENEZ: Let me just show this one email, Your
13 Honor.

14 THE COURT: Certainly.

15 MS. JIMENEZ: I'm sorry. 50-4.

16 BY MS. JIMENEZ:

17 Q. So you're saying that Mr. Graff had you put those words on
18 the page and those were not your words, right?

19 A. You want me to look at the email or -- I'm sorry.

20 Q. Well, the letter I was just showing you, you said that
21 those were Jeff Graff's words, not your words?

22 A. I said portions of that particular letter were -- he was
23 adamant, which I had no problem because of our relationship. I
24 had no problem in making sure that -- I wanted him to write
25 what he did for his company Graffco.

1 Q. And the portion that you're talking about is his statement
2 that he was a consultant and was not an employee. That's the
3 portion that he provided to you because you were unaware?

4 A. No. Word for word, that's what he told me. Because, to
5 me, he's an employee of multiple companies because he's working
6 on multiple projects, and he has an office there, and all the
7 stuff that an employee does. And he said: "Graffco has to be
8 called a consultant, and that's the way it works, and I need
9 you to write that for me." And I said: "I didn't even think
10 about it, but okay."

11 But he has an office there, he has a car, insurance,
12 everything a normal employee has. But that's the way he wanted
13 me to write it. And in hindsight, maybe I shouldn't have
14 written it. But I was so freaked out about the whole thing
15 that I was like: "Okay," and I wrote it. And he asked me to
16 do it and I did it. And whether it's right or wrong, I don't
17 know. But that's what I did because of our relationship for
18 that many years.

19 MS. JIMENEZ: We can take a break, Your Honor.

20 THE COURT: All right. Ladies and Gentlemen, let's
21 take a 10-minute recess.

22 COURT SECURITY OFFICER: All rise.

23 (Jury not present, 3:02 p.m.)

24 THE COURT: All right. Please sit down for just a
25 moment.

1 In fairness to this jury, and certainly with regard to
2 our schedule, this jury believes that tomorrow is the last day
3 of this trial. So I do need to give the jury a clear
4 understanding as to what their commitment will be, and then we
5 obviously need to see whether they're even available.

6 So on behalf of the Government?

7 MS. JIMENEZ: Well, Your Honor, I mean, I just get
8 these filibuster-type answers to my questions. So I --

9 THE COURT: And with regard to the time that you
10 believe that this jury is going to be in this courtroom for
11 this trial?

12 MS. JIMENEZ: I don't know how many other witnesses
13 the Defense has to call. I believe Mr. Sheppard's testimony
14 surely will last the rest of today.

15 THE COURT: You believe your cross-examination will
16 take an additional two hours?

17 MS. JIMENEZ: I do.

18 THE COURT: All right. With regard to your redirect,
19 how long are we going to need with regard to the Defendant?

20 MR. ETRA: At this point, Your Honor, my redirect is
21 fairly short. But I don't know how much more --

22 THE COURT: All right. With regard to Kallman, the
23 other witnesses, if you can give me an idea.

24 MR. ETRA: Your Honor, Kallman's direct is 30, 40
25 minutes. We have two workers whose direct should be --

1 MS. WEINTRAUB: Short. Less than 15 minutes.

2 MR. ETRA: -- 15 minutes or so, say, for direct.

3 And we have Glenn Sheppard.

4 MS. WEINTRAUB: His brother is 20 minutes, and we have
5 Bouchner.

6 MR. ETRA: Mr. Bouchner is a few hours. Mr. Bouchner
7 is probably about two hours, and then the other expert is a
8 five-minute --

9 THE COURT: So realistically, how much more time do we
10 need from this jury?

11 MR. ETRA: I don't know that we would -- if we start
12 with new witnesses tomorrow, I don't know that we'll finish
13 tomorrow. We might. It's possible, but I don't want to
14 over -- I don't want to promise.

15 MS. WEINTRAUB: I think we finish tomorrow. If we
16 start new tomorrow, I think we finish tomorrow. And then, you
17 know, I think that we need a full day for closings and
18 instructions. But my fear is then, you know, excusing the
19 jury -- especially with these breaks, excusing the jury at that
20 point, you know, after closings and instructions, and they're
21 not going to be able to deliberate, you know, is problematic.

22 MS. JIMENEZ: Do we know what their availability is
23 Thursday and Friday?

24 THE COURT: We do not.

25 MS. MARTINEZ: I understood one had a doctor's

1 appointment.

2 THE COURT: Do you know for Thursday and Friday?

3 COURTROOM DEPUTY: Thursday.

4 THE COURT: Okay. Can you let us know. Liz, can you
5 get to a microphone because I'm not -- I wasn't aware of the
6 Thursday and Friday. So yeah, let me know.

7 COURTROOM DEPUTY: I can confirm again. But
8 Mr. Dunlop, I believe, says he has Thursday and Friday doctors'
9 appointments that he cannot change.

10 MS. JIMENEZ: Are these all-day appointments?

11 COURTROOM DEPUTY: I don't know. I didn't ask if it
12 was all day.

13 MS. WEINTRAUB: Judge, can I make a suggestion?

14 Sorry, Liz. I didn't mean to cut you off. Sorry.

15 COURTROOM DEPUTY: It was both days, and he said that
16 he cannot change them, but I can confirm again.

17 THE COURT: Yeah. Let's confirm the precise time
18 that's needed. We can always have the jury deliberate when
19 he's not at the doctor.

20 MS. WEINTRAUB: Can I ask the Court a question? No
21 offense, and with all due respect to Liz, I'd like to have this
22 on the record. You know, we have one discharged juror who did
23 not want to be excused, was over our objection. This is -- you
24 know, this is extremely problematic. And I think maybe if
25 he -- no offense, but I think if he hears the Court questioning

1 him, I think he might be a little more forthright and we could
2 narrow this down. Whereas if Liz goes in and asks, he's just
3 going to say: "Listen, you know, I need the afternoon for this
4 or the morning for that," and it's not really productive to get
5 where we want.

6 I mean, if he tells the Court he has a two o'clock
7 appointment, I know the Court is going to say: "Then we can
8 work in the morning, right?" So I just think that we'll get
9 something more done with the Court that way and we won't
10 lose --

11 THE COURT: Well, before I even -- whether it's
12 through Liz, or I can bring him into the courtroom, I need to
13 have a true understanding from these attorneys as to how much
14 more time is needed.

15 MS. WEINTRAUB: I think at the worst you have a day
16 and a quarter of testimony, and you have a full day then
17 because you have arguments on the Rule 29, which, you know,
18 we're asking for serious time on, which we believe in very
19 strongly. We're obviously not going to have time to do another
20 memorandum, and things have changed at this point. And we need
21 to do a charge conference.

22 I don't know if the Court wants to do those things
23 out -- you know, I mean, we're fine to do it at night or in the
24 morning, whenever the Court is willing to do this. But these
25 things take up time. And I think those two things is two

1 hours, you know, between a charge conference and the Rule 29.
2 And then we have closing arguments and instruction. And if
3 they're not going to be here Thursday and Friday, I don't want
4 to do closings and instructions.

5 THE COURT: I'm going to ask Liz if you can ask the
6 juror -- if it's only the one juror that we have an issue with
7 on Thursday and Friday -- how much time he needs to get to the
8 doctor and to get to the courthouse, so we know how much time
9 to work with. And if necessary, I'll bring him in or bring
10 them into the courtroom with regard to their schedule.

11 All right. So let's let them know we may need them
12 Wednesday, Thursday, and Friday.

13 COURTROOM DEPUTY: Okay.

14 MS. WEINTRAUB: Just note my objection to the deputy
15 clerk again speaking with the jurors, and I would ask that the
16 Court do it and it be on the record, please.

17 THE COURT: When I give the jury the schedule, then
18 obviously it's going to be on the record. But at this point, I
19 don't think it's necessary to bring all the jurors out just to
20 find out one juror's schedule with regard to the doctor.

21 MS. WEINTRAUB: Bring Mr. Dunlop out.

22 THE COURT: But I don't need for Mr. Dunlop to feel --
23 in front of the entire group of attorneys and members of the
24 public as to what his schedule is. So let Liz know and let's
25 see what it is. And then we'll see you on the other side of

1 the ten minutes.

2 (Recess from 3:09 p.m. to 3:28 p.m.)

3 THE COURT: All right. Back on the record.

4 Let me acknowledge the Defendant.

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

6 Liz did speak with the jurors. They do not need to
7 come into the courtroom because they are accommodating their
8 schedules and will be able to be here Wednesday, Thursday, and
9 Friday.

10 MR. ETRA: Thank you, Your Honor.

11 THE COURT: Okay.

12 MS. MARTINEZ: Thank you.

13 THE COURT: All right. Can we see --

14 MS. JIMENEZ: My cross can be longer.

15 THE COURT: I'm sorry?

16 MS. WEINTRAUB: You can keep putting them to sleep.
17 Wake me up when you're done.

18 THE COURT: Well, the parties have represented that
19 you anticipate that you will be done on Wednesday. So I am
20 advising you that we have a full day on Thursday and Friday
21 that we are not going to be rescheduling. So you have tomorrow
22 and Wednesday. You've already told the Court you have two days
23 for the presentation. I'll accommodate either in the morning
24 or in the evening with regard to any additional motions. We'll
25 have our charge conference, obviously.

1 I've already advised that I've ruled on the proposed
2 instructions. I don't believe that -- given the evidence so
3 far, that there are additional instructions for the parties to
4 submit, but you certainly can. But I don't believe that we're
5 going to need an extended charge conference. Your objections
6 will be preserved if the Court does not include them in terms
7 of the instructions to the jury.

8 MS. WEINTRAUB: Judge, we will be submitting two
9 additional charges.

10 THE COURT: All right. Then I would request that
11 those additions be given to the Court no later than tomorrow
12 evening, so that I can incorporate those in the instructions.

13 All right. Are we ready to proceed?

14 MS. WEINTRAUB: Judge, I don't understand when you say
15 you have a full day Thursday and Friday.

16 THE COURT: We have a full day Thursday and Friday of
17 other cases.

18 I've asked the jury because the jury is going to need
19 some time for deliberation. But I've asked you in terms of
20 Tuesday and Wednesday. You've told me you need two more days
21 to try this case, but I anticipate that the jury can be
22 deliberating while the Court's working on other cases.

23 MS. WEINTRAUB: Is there any rebuttal by the
24 Government?

25 MS. JIMENEZ: There might be a brief 15-minute

1 rebuttal witness.

2 THE COURT: Okay. All right. Both sides ready to
3 continue?

4 We have our jurors.

5 COURT SECURITY OFFICER: All rise for the jury.

6 MS. WEINTRAUB: Judge, the prosecutor said that we
7 could excuse the witness that we have waiting here. So if
8 that's okay with the Court --

9 MS. JIMENEZ: Yes. I mean...

10 THE COURT: Do you believe you're going to take us
11 through the end of the day?

12 MS. JIMENEZ: I do.

13 MS. MARTINEZ: For his direct and redirect.

14 THE COURT: All right, then. Then of course. To that
15 extent, yes.

16 (Before the Jury, 3:31 p.m.)

17 THE COURT: All right. Welcome back, Ladies and
18 Gentlemen.

19 Please be seated, everyone.

20 And I do appreciate your patience. And we are ready
21 to continue.

22 BY MS. JIMENEZ:

23 Q. Mr. Sheppard, you have a bachelor's degree in economics and
24 finance, correct?

25 A. I have a bachelor's degree in economics with a minor in

1 finance.

2 MS. JIMENEZ: Can we show Government's Exhibit 12-3,
3 please, the second-to-last page.

4 BY MS. JIMENEZ:

5 Q. So this is a 941 for 2018 for HM Management, the last one
6 filed --

7 MS. JIMENEZ: Can we go to this page.

8 BY MS. JIMENEZ:

9 Q. So if you look at the top, it says: "Form Number 941
10 December 31, 2018, for tax period." Do you see that?

11 A. Yes.

12 Q. So at the bottom of the page it says: "Tax return filed."
13 So that's December of 2018. It was filed April of 2019, and
14 there was a penalty of \$10,407. Do you see that at the very
15 bottom of the page?

16 A. No, I don't see -- yes. I see the bottom of the page.
17 "Code 150." Is that what you're talking about?

18 Q. Right. So the tax return was filed April 8th, 2019. It
19 was filed late and there was a penalty of \$10,407. Do you see
20 that?

21 A. I don't know what the penalty is. It says: "10,407.40."
22 I don't see where it says: "Penalty," but...

23 Q. Oh. I'm sorry. That's what you owed at the end of the
24 year. And then -- I'm sorry -- the tax penalty --

25 MS. JIMENEZ: If we can remove that.

1 BY MS. JIMENEZ:

2 Q. The tax penalty is in the middle of the page, as you --
3 your company failed to pay the 10,000 that was owed. Do you
4 see that?

5 A. It says: "Accrued penalty," yes.

6 Q. A thousand three hundred dollars in January of 2019.

7 A. I see that, yes.

8 MR. ETRA: Your Honor, objection on 404(b) grounds.

9 THE COURT: The objection is noted. It's overruled.

10 BY MS. JIMENEZ:

11 Q. And then the account balance, 14,000. Do you see that?

12 A. I see that, yes.

13 Q. And the --

14 MR. ETRA: Your Honor, may I have a continuing
15 objection?

16 THE COURT: Yes. I'll certainly grant that.

17 MR. ETRA: Thank you.

18 BY MS. JIMENEZ:

19 Q. The accrued interest as of 2023 was an additional \$2,000
20 because it remained unpaid. Do you see that, Mr. Sheppard?

21 A. I see that.

22 Q. So you're unaware of any of this, correct?

23 A. I'm completely unaware of it.

24 Q. And none of your other companies during this time period,
25 2018, 2019, 2020, filed any Forms 941 or Forms 940 with the IRS

1 because they had no wage employees, right?

2 A. I don't know what we filed. I don't know what they filed,
3 except what I talked about earlier.

4 Q. Right.

5 MS. JIMENEZ: And just so that I can clarify, if we
6 can pull out --

7 BY MS. JIMENEZ:

8 Q. The 10,407 was what you owed for the fourth quarter for
9 that 941. So those were the employee withholdings that need to
10 be turned over -- in to the IRS?

11 A. I don't know if they -- I don't know what this means. I'm
12 just telling you I see the 10,407. I don't know anything about
13 this or -- I don't know anything about it.

14 Q. You don't know anything about it. So Jeanette Gonzalez
15 would have not brought this to your attention?

16 A. I don't know if she would or wouldn't. But she hasn't,
17 according to what she's told me that -- everything was done
18 through 2019 is what she explained to me.

19 Q. All right. Now, you paid laborers, right? Martin Joe
20 Beirne was a worker, a laborer for you, right?

21 A. In what time period? Because he had multiple capacities of
22 work for me.

23 Q. 2019, 2020. He was a laborer? He was a contractor?

24 A. He's not a contractor. He was -- he's an employee for the
25 company. In 2020 he was doing construction work -- he was in

1 management and labor. Like I said earlier, people had to do
2 multiple jobs because of COVID. So he was doing about three or
3 four jobs actually.

4 Q. He was your contractor. He was not your employee, right?
5 Yes or no, if you know.

6 A. He was not a contractor. No. He was not my contractor.
7 No.

8 Q. All right. Your -- your attorneys on your behalf put in
9 this exhibit, Exhibit Q-36.

10 MS. JIMENEZ: Can we turn to the ELMO, please.

11 Here it is.

12 (Pause in proceedings.)

13 BY MS. JIMENEZ:

14 Q. HM-UP Development Alafaya Trails for 2020, Martin Joe
15 Beirne, a 1099 -- a 1099 non-employee compensation. Do you see
16 that?

17 A. I do.

18 Q. You have never seen that before or had any understanding of
19 any of this?

20 MR. ETRA: Objection. Compound.

21 THE COURT: Sustained. Rephrase.

22 BY MS. JIMENEZ:

23 Q. You never saw this before?

24 A. Prior to seeing it the other day -- I mean, the other week,
25 that was the first time I've seen this particular form or this

1 specific form here.

2 Q. But this is your exhibit. So you gave this to your
3 attorneys, Exhibit Q-36. You gave this to your lawyers to
4 present to this jury.

5 MR. ETRA: Objection, Your Honor.

6 THE COURT: Hold on.

7 THE WITNESS: Sorry.

8 THE COURT: The objection is sustained.

9 BY MS. JIMENEZ:

10 Q. You gave this document to your attorneys?

11 MR. ETRA: Objection. Same.

12 THE COURT: Are you asking in the way of a question?

13 MS. JIMENEZ: Let me rephrase, Your Honor.

14 THE COURT: All right, then.

15 BY MS. JIMENEZ:

16 Q. This is a document that your company had that you had, that
17 you provided in this case, correct?

18 MR. ETRA: Multiple -- compound question, Your Honor.

19 THE COURT: Let's break it down. Sustained.

20 BY MS. JIMENEZ:

21 Q. This is a document that you provided in this case?

22 MR. ETRA: Objection, Your Honor. Same.

23 THE COURT: Overruled.

24 THE WITNESS: When you say: "You," if you're talking
25 about me, Eric Sheppard, as an individual, I did not provide

1 this document. I didn't see it until the other day. If it's
2 about did the company provide it through their -- with a filing
3 system or something of that nature, then that's -- I guess
4 that's how they received it. Again, I never saw it before
5 until that day when it was on the screens. I personally did
6 not give it to them. But if the company did, and that's where
7 they got it from, then that's where it came from.

8 BY MS. JIMENEZ:

9 Q. Your company representative, whoever that might be on your
10 behalf, provided this document for this case?

11 A. Sitting here, I can't tell you who actually provided it.
12 It's a company document.

13 Q. And also the same for HM Management and Development,
14 Mr. Joe Beirne received non-employee compensation in 2020. Do
15 you see that?

16 A. I'm sorry. He received what?

17 Q. Non-employee compensation in 2020, a 1099.

18 A. I see that this form is from a different company.

19 Q. And your other company, HM Management and Development,
20 somebody provided that for this case.

21 A. Okay.

22 Q. On your behalf, for your defense, correct?

23 A. Well, someone provided this document and that's all I can
24 tell you. I didn't provide it, because I've never seen the
25 document. But someone in the company records in some shape or

1 form had this document.

2 Q. For you, for your defense, correct?

3 MR. ETRA: Objection, Your Honor.

4 THE COURT: The basis?

5 MR. ETRA: She's asking him to opine on why the
6 company provided documents.

7 THE COURT: What's the legal basis, Mr. Etra?

8 MR. ETRA: Personal knowledge.

9 THE COURT: If the witness knows. Overruled.

10 THE WITNESS: I have no idea why the company actually
11 provided this particular document, what the purpose was.

12 BY MS. JIMENEZ:

13 Q. Carl Diaz is also a contractor for you, not an employee,
14 correct?

15 A. That's incorrect.

16 Q. He's an employee?

17 A. For many, many years.

18 Q. Is an employee?

19 A. Yeah.

20 MR. ETRA: Argumentative, Your Honor.

21 MS. JIMENEZ: I was just trying to --

22 THE COURT: Sustained.

23 BY MS. JIMENEZ:

24 Q. You've had your deposition taken before, Mr. Sheppard,
25 correct?

1 A. I have.

2 Q. In 2019, you had your deposition taken in relation to a
3 lawsuit brought against you by your former partner, Leon
4 Wildstein, correct, co-owner of CJUF and HM Six?

5 A. 2000 -- what year was this?

6 Q. Well, the lawsuit was brought in 2018 against you, correct?

7 A. Against the company and against me, yes, as the manager.

8 MS. WEINTRAUB: Could we have page and line, counsel?

9 BY MS. JIMENEZ:

10 Q. And you had your deposition taken over multiple days,
11 correct?

12 A. I don't recall how long the deposition was.

13 Q. The deposition was -- the deposition was on February 25th,
14 2019 and February 26th, 2019. Do you recall?

15 A. I remember a deposition. I don't know the dates or time or
16 anything of that nature.

17 Q. Your deposition was taken before you were arrested in this
18 case, right?

19 A. Correct.

20 Q. And when you were deposed in that case, you gave testimony
21 under oath, correct?

22 A. Correct.

23 Q. And that was before you had this PPP problem, correct?

24 A. That was before the allegations were made against me.

25 MS. JIMENEZ: If we can go to Exhibit 79-1, please.

1 First page of the deposition, February 25th, 2019.

2 MR. ETRA: Could I just ask counsel a question, Your
3 Honor?

4 THE COURT: Certainly.

5 MR. ETRA: May I, Your Honor?

6 THE COURT: Yes.

7 MR. ETRA: Thank you, Your Honor.

8 BY MS. JIMENEZ:

9 Q. So the next page here, it's Page 179 of the --

10 MR. ETRA: Your Honor, I don't think this should be on
11 the -- it's not in evidence, Your Honor. It should not be on
12 the screen for the jury.

13 THE COURT: Yes. It should not be on the screen.

14 MS. JIMENEZ: So I should say these are statements of
15 the Defendant, and I would like to move it in, Exhibit 79-1.
16 It's the statement of a party opponent.

17 MR. ETRA: Objection --

18 (Court reporter interruption.)

19 THE COURT: Yeah. If you'll -- the microphone may not
20 be working.

21 MR. ETRA: I apologize. She has to lay a predicate
22 for relevance and why.

23 THE COURT: That is correct. Sustained.

24 BY MS. JIMENEZ:

25 Q. All right. So at that deposition were you asked whether

1 Jeff Graff was employed by you -- or I should say you were
2 asked at that deposition whether Jeff Graff was employed by
3 you, correct?

4 A. I don't know what I was asked. That was a lot of years
5 ago.

6 Q. All right. So Page 179 of the deposition, Line 7, you were
7 asked: "Who is Jeff Graff employed by, if you know?"

8 And you gave the answer: "HM Management, you know,
9 from a consultant basis, not from a -- you know, he's not an
10 employee. He is on a consultant basis."

11 You gave that answer to that question, correct?

12 A. Correct -- well, I mean, I'm not saying correct. If you're
13 telling me that's what it says, I'm relying on what you're
14 telling me. I don't see it. So if that's what it says, that's
15 what the answer was.

16 MS. JIMENEZ: I would like to move it in, Your Honor.
17 I can show it to him and I can show it to the jury too.

18 MR. ETRA: Well, Your Honor, she can show it to him
19 without -- I apologize, Your Honor. You can show it to him and
20 develop before it go goes to the jury.

21 THE COURT: Yes. And he has testified with regard to
22 the exhibit. Let's show the exhibit. Mr. Sheppard has asked
23 to see it.

24 MS. JIMENEZ: Well, we could show it and not display
25 it to the jury.

1 THE COURT: Yes, that is correct.

2 Can we put that on the screen.

3 Thank you.

4 MS. JIMENEZ: Go to the next page.

5 BY MS. JIMENEZ:

6 Q. So on Page 179, Line 7, do you see you're asked: "Who is
7 Jeff Graff employed by, if you know?" Do you see that?

8 A. I see that.

9 Q. And you gave the answer: "HM Management, you know, from a
10 consultant basis, not from a -- you know, he's not an employee.
11 He's on a consultant basis." Do you see that?

12 A. Give me a second to read it.

13 MS. MARTINEZ: Excuse me, Your Honor. I think counsel
14 has the microphone on. Can you turn off your microphone?
15 She's just -- I hear her.

16 THE COURT: If we could turn off the microphone,
17 unless you're speaking directly to the Court.

18 THE WITNESS: You want me to just read the first --
19 you want me to read the first paragraph of the answer or both
20 paragraphs of the answer?

21 BY MS. JIMENEZ:

22 Q. No. I just want you to answer, Mr. Sheppard. Did you say
23 that in response to the question who was Jeff Graff employed
24 by?

25 A. It looks like I answered. This is a document that was

1 taken and that was the answer that I gave at that time, yes.

2 Q. All right. And then you were asked about the workers at
3 CJUF Flagler, the tile workers at CJUF Flagler. And you were
4 asked --

5 MS. JIMENEZ: If we can go to Page 229.

6 Actually, if we can back up. I'd like to show Exhibit
7 79-1, Page 179, to the jury.

8 MR. ETRA: Your Honor --

9 MS. WEINTRAUB: Judge, we need a sidebar.

10 MR. ETRA: Can we have a sidebar? It's not related to
11 anything that is evident from the questioning. It's an issue
12 we raised in the motion in limine that I thought I had resolved
13 with Ms. Jimenez, but now --

14 THE COURT: All right. Come on forward.

15 (At sidebar on the record.)

16 MR. ETRA: I'd asked counsel about Ms. Ahumada, who is
17 an issue we raised in a motion in limine with respect to
18 personal infidelities. And I was told -- we were told it
19 wouldn't come up unless we opened the door.

20 MS. WEINTRAUB: And we just asked her --

21 MR. ETRA: That's why I asked for a break because I
22 saw the name there.

23 MS. JIMENEZ: I am not asking about --

24 THE COURT: But I think it's on the screen. That's
25 the problem.

1 MS. WEINTRAUB: That's why he asked you.

2 MR. ETRA: Look. Question --

3 MS. JIMENEZ: Okay. I can -- we can redact that. I
4 mean, I don't need to ask --

5 THE COURT: Okay. Isn't that why Mr. Etra came up to
6 talk to you?

7 MR. ETRA: Yeah. I asked if she was going to --

8 MS. JIMENEZ: And I said I'm not going to get into it.

9 THE COURT: All right. Let's make sure it's not on
10 the screen. Is that the only issue?

11 MS. JIMENEZ: So let me -- I can pull down the page so
12 that it's cut off. I didn't even realize that was on the page.

13 MS. WEINTRAUB: As long as we're here, a deposition
14 doesn't get to go into evidence, and -- excuse me -- and it's
15 totally improper impeachment, what she's been doing all along.
16 The Court is well aware of what proper impeachment is.

17 THE COURT: A prior inconsistent statement -- the
18 statement itself is certainly admissible, but the deposition
19 going into evidence, I agree with Ms. Weintraub.

20 MS. WEINTRAUB: And the other thing -- excuse me.
21 Excuse me. Let me finish.

22 MS. JIMENEZ: Let's just finish this ruling. If I can
23 respond.

24 MS. WEINTRAUB: The other thing is, is that these
25 questions -- to impeach him, it should be: "Did you" -- or ask

1 the question first. Not: "You testified before that da, da,
2 da, da, da, da." That's not the way you impeach a witness, and
3 that's what they're doing.

4 THE COURT: All right. Ms. Jimenez?

5 MS. JIMENEZ: Your Honor -- Your Honor, the prior
6 inconsistent statement rule has to do with witnesses, not with
7 a party opponent. The party opponent -- this comes in as
8 substantive evidence. It is an exception to the prior -- I
9 mean, for a witness I have to set it up: "Did you say this?
10 Did you" -- you know, and then based on the response, I can
11 bring that in or discuss it.

12 With respect to a party opponent, specifically, it is
13 an admission or a statement of the Defendant, of the party
14 opponent. It comes in as substantive evidence. I don't even
15 have to set it up as a prior inconsistent statement. It's Rule
16 801(b) (2).

17 THE COURT: Okay. With regard to that one statement
18 that you want to admit into evidence, all of the other items
19 need to be redacted. So you're just seeking to introduce that
20 portion of the deposition.

21 MS. WEINTRAUB: Judge, it hasn't properly been set up.
22 She's right. It has to have been set up. What she is doing is
23 saving -- excuse me.

24 MS. JIMENEZ: Go ahead. Finish.

25 MS. WEINTRAUB: What she has done is say: "You said

1 X, Y, and Z, and that's not true," and now wants to introduce
2 it as substantive evidence he was impeached? Are you kidding
3 me?

4 THE COURT: Well, it's a statement of a party
5 opponent, which would be different than an inconsistent
6 statement by a witness.

7 MS. WEINTRAUB: Then introduce the whole thing. It's
8 out of context.

9 MS. JIMENEZ: Well, we can introduce the whole
10 deposition, if you want.

11 MS. WEINTRAUB: It's out of context.

12 THE COURT: Okay. Hold on. Hold on. If it's out of
13 context, then the rule allows you to read something into
14 evidence that would give it context. But that's not what
15 you're asking. You're asking the Court --

16 MS. WEINTRAUB: It's not an inconsistent statement.
17 That's my point.

18 THE COURT: It's a statement. It's a statement made
19 by the Defendant, and that's --

20 MS. WEINTRAUB: It's not inconsistent.

21 THE COURT: But it doesn't have to be one, and I
22 agree --

23 MS. WEINTRAUB: Unless it's recently fabricated, it
24 doesn't get to go into evidence. Only a consistent statement
25 that is recently fabricated gets into evidence.

1 MS. JIMENEZ: Of a witness. Of a witness.

2 THE COURT: It's a statement of a party opponent,
3 which makes it distinguishable from a -- okay. This is a
4 statement from the Defendant. You can certainly introduce the
5 actual statement, but my concern is that it includes other
6 statements that I understood the parties had agreed should not
7 go into evidence. So let's clean that up, and we'll clean that
8 up outside the presence of the jury.

9 With regard to showing something on the screen, you
10 just need to cover up those items. All right?

11 MS. WEINTRAUB: Judge, the other thing is, is with
12 regard to this way this impeachment is -- these questions are
13 going, it's totally improper. And I'd like the prosecutor to
14 be instructed not to continue or ask another impeachment
15 question that way. Let her ask the question. Let him give an
16 answer. And then if it's inconsistent, then she can do
17 something about it and read it. "On such and such a date you
18 were asked the following question and gave the following
19 answer." Do I have to go through this?

20 MS. JIMENEZ: Your Honor, I don't want to have to keep
21 saying this, but she's arguing about a different rule. This is
22 a party opponent. I don't even have to set it up as an
23 inconsistent statement. I do not. I could have admitted this
24 statement in my case in chief. This is a statement of a party
25 opponent.

1 THE COURT: Okay. I agree with the Government that
2 this is different than an inconsistent statement of a witness.
3 This is the Defendant. And as the Defendant, the statement can
4 come in.

5 All right. Let's continue.

6 (End of discussion at sidebar.)

7 MS. JIMENEZ: All right. I think that page -- are you
8 able to scroll?

9 Can we show Page 179 not to the jury momentarily,
10 please, Exhibit 79-1.

11 Can you bring out the portion?

12 MS. MARTINEZ: The jury is not seeing this.

13 MS. JIMENEZ: Go to Page 179. If you can bring out
14 Line 7 through Line 11, please.

15 All right. So that could be displayed to the jury.
16 If we can show the jury this, please.

17 BY MS. JIMENEZ:

18 Q. All right. Now, let me ask you about --

19 MS. JIMENEZ: If we could take that down, and then the
20 next page, 229, for the witness only -- oh, the jury hadn't
21 seen it?

22 They did. Okay.

23 BY MS. JIMENEZ:

24 Q. All right. You were asked in that same deposition,
25 Mr. Sheppard, about the tile work at CJUF Flagler. And you

1 were asked whether those individuals performing that work --
2 whether they were 1099s or not. And do you recall that
3 testimony?

4 A. I do not.

5 Q. All right.

6 MS. JIMENEZ: If we can show the witness Page 229 of
7 Exhibit 79-1.

8 BY MS. JIMENEZ:

9 Q. So in that deposition, in Line 7, you're asked: "Where are
10 the 1099s for all these people?" Your answer was: "I don't
11 know."

12 And then, down to Line 17, you were asked -- or
13 rather, Line 14 you were asked: "So where are the 1099s?" And
14 Line 17 you're asked: "Why haven't they been produced?" Do
15 you see that? Do you see those questions?

16 A. I do.

17 Q. And then you gave the answer: "Why haven't they been
18 produced? I will ask Jeanette. When I get to the office, I
19 will find out where the 1099s are. I don't know why they
20 haven't been produced, but everyone gets a 1099." Do you see
21 that, sir?

22 A. I do.

23 Q. All right. And that is with respect to all of these
24 individuals who were doing tile work for CJUF, correct?

25 A. I have to read it now again, because that's a totally

1 different question. We were just talking about 1099s, not
2 anything else. So let me read this again, if you don't mind.

3 (Pause in proceedings.)

4 THE WITNESS: Okay. I read it. Ask your question
5 again.

6 BY MS. JIMENEZ:

7 Q. I'm sorry?

8 A. If you can please ask your question again after I read it.
9 Go ahead.

10 Q. All right. You're referring to the 1099s were the people
11 who were doing tile work for CJUF, correct?

12 A. Well, for the company, the person doing -- the company
13 doing the tile work's owner is Mr. Zimmerman. The actual --
14 his -- employees of them is what I believe this is referring
15 to. It's a third-party company. It's not part of my company,
16 CJUF, or of HM Management, or any other company. So it's about
17 the 1099 for the third party -- so the tile company that the
18 guy owns. Correct.

19 MS. JIMENEZ: Can we show the jury, please, Page 229
20 of this deposition.

21 BY MS. JIMENEZ:

22 Q. Mr. Sheppard, these were your 1099s because you said: "Why
23 haven't they been" -- Line 18: "Why haven't they been
24 produced? I will ask Jeanette. I will get to the office. I
25 will find out where the 1099s are. I don't know why they

1 haven't been produced, but everyone gets a 1099." That's what
2 you said, not some other company's 1099s, they need to produce
3 it to you. It's: "My office. Jeanette should have them in
4 the office," correct?

5 A. Whoever received the 1099 from all aspects of the world, in
6 that particular project, yes, you're supposed to provide a 1099
7 to somebody to -- so you have it for your files. So that's
8 just normal.

9 Q. All right. The next day, your deposition continued,
10 February 26th, 2019.

11 MS. JIMENEZ: Can we show for the witness only Exhibit
12 79-2, please.

13 BY MS. JIMENEZ:

14 Q. I think you said that Carlos Diaz was your employee, right?

15 A. He's an employee for --

16 Q. CJUF?

17 A. -- for multiple -- again, whatever project someone's doing
18 work on, they get allocated and they get multiple checks for
19 their allocation of time.

20 Q. All right.

21 MS. JIMENEZ: And then, if we can go to Page 32, which
22 is this page of the exhibit.

23 BY MS. JIMENEZ:

24 Q. Line 17 you're asked: "So Jeanette maintains personnel
25 files on all these street people who you mentioned yesterday?"

1 Answer: "I don't know what she maintains or how she
2 maintains."

3 And then on the next -- the question starts at the
4 bottom of the page, Line 25: "You mentioned several people you
5 called street people, Carlito, Carlitos Diaz -- you made
6 reference to any number of people like that."

7 A. That's not what I said.

8 MR. ETRA: Your Honor --

9 THE COURT: I'm sorry?

10 MR. ETRA: The objection is I don't think this is in
11 evidence and she's reading from the transcript.

12 THE COURT: Is that the basis of the objection?

13 MR. ETRA: Yes.

14 THE COURT: Overruled.

15 THE WITNESS: That's not what I said.

16 BY MS. JIMENEZ:

17 Q. And then -- so you were asked, Page 33, Line 4: "So who
18 completed the Forms I-9 for these people?" And your answer
19 was: "First of all, they're laborers. They're workers. I
20 don't know about street people. Maybe I misspoke, if that's
21 what I said. Jeanette Gonzalez would have it."

22 And then you went on, starting on Line 14: "They're
23 not employees of the company. They get paid to do tasks.
24 Everyone's got a task that they do pursuant to a budget, and
25 that's what happened." That was your testimony, correct?

1 A. Well, you're reading -- that's not what my testimony says.
2 What you just read, that's an incorrect statement. But I did
3 say some of that. But the way you characterize it was
4 really -- when you're talking about street people, if you'll
5 scroll down, I can tell you what you just said, that's not what
6 I said.

7 The guy, the lawyer, in his own way he said they were
8 street people. And I just repeated: "Well, this is what you
9 called them, street people." I don't call people street
10 people. He called them street people. So that's an incorrect
11 statement.

12 Q. Right. Okay. So let me ask you this: So the question
13 then on Line 10, Page 33: "So there's personnel files for each
14 of those people?"

15 A. Can you scroll down, please. Which number are you talking
16 about?

17 Q. Line 10 on this page: "So there's personnel files for each
18 of these people?"

19 Answer: "Personnel files?"

20 Question: "Well, what would you call them?"

21 Answer: "They're not employees of the company. They
22 get paid to do tasks. Everyone's got a task that they do
23 pursuant to a budget, and that's what happens."

24 That was your answer, Mr. Sheppard.

25 MS. WEINTRAUB: Can she read the next question and

1 answer, please, to keep it in context.

2 MS. JIMENEZ: If that was an objection.

3 THE COURT: The Rule of Completeness would require --
4 so why don't we read that.

5 BY MS. JIMENEZ:

6 Q. Then the next question: "Let me ask you differently. Who
7 was responsible for obtaining the Forms I-9 from these people?"

8 And your answer was: "Whatever employment that these
9 people have, it goes through Jeanette Gonzalez," right?

10 A. I see that's what it says, yes.

11 Q. So the I-9s -- what are the I-9s, by the way?

12 A. I have no idea.

13 Q. You seem to know when you answered these questions because
14 you didn't ask him: "What was the I-9," correct?

15 A. That's not what I answered. I said: "Whatever employment
16 that these people have, it goes through Jeanette." I said
17 nothing of knowing or not knowing. I don't -- I wouldn't know
18 what a -- I mean, I still don't even know what an I-9 is. But
19 I just said: "Whatever employment these people have, I don't
20 know how it's" -- same thing I've been saying -- "how it's
21 classified." That's what I said. I didn't say what I knew or
22 do know. I just -- I mean, I know I don't know what an I-9 is.
23 Q. You didn't ask the attorney who asked you the question
24 about the I-9s what was the I-9, correct?

25 A. Did I ask the attorney that was deposing me what an I-9

1 was?

2 Q. Right.

3 A. No, I did not ask the attorney that.

4 Q. Right.

5 MS. JIMENEZ: If we could publish Page 33 to the jury.

6 Now, on Page 101 -- and this is for the witness. Page
7 101, same exhibit, 79-2 --

8 MR. ETRA: Your Honor -- I don't know that this has
9 been put into evidence, Your Honor, is the objection.

10 THE COURT: Are you seeking to publish the one page?

11 MR. ETRA: I request it to be put down immediately
12 based on the sidebar we had, Your Honor.

13 MS. JIMENEZ: If you can pull out what's highlighted
14 for the jury, please.

15 THE COURT: Are you seeking to introduce this at this
16 time, Ms. Jimenez?

17 MS. JIMENEZ: Yes, Your Honor.

18 THE COURT: All right. Then advise the Court so the
19 Court can rule on it and then the jury can look at this page.

20 MS. JIMENEZ: Okay. I'm sorry. Yes, I'd like to
21 publish this -- I'd like to move it into evidence and publish
22 it to the jury.

23 MR. ETRA: Your Honor, we have the same objection
24 overall, but also the specific issue we discussed --

25 THE COURT: Okay. The specific issue that we

1 discussed, I want to make sure that we adhere to that ruling.
2 But with regard to the objection, the objection is overruled
3 and it will be admitted into evidence.

4 What's the exhibit number, please?

5 MS. JIMENEZ: It's 79-2, Page 33.

6 (Government's Exhibit 79-2, Page 33 received into
7 evidence.)

8 THE COURT: All right. You may publish it to the
9 jury.

10 BY MS. JIMENEZ:

11 Q. All right. Now, Mr. Sheppard, going on to Page 101, which
12 is not in evidence, you were asked about those laborers. It
13 goes on, and you were asked about Carlos Diaz. And you're
14 asked the question: "What do you mean by he was doing stuff
15 for other people," referring to Carlos Diaz. You gave the
16 answer at Line 5 --

17 MS. JIMENEZ: If we could show him Page 101, the next
18 page. Just for the witness, yes.

19 BY MS. JIMENEZ:

20 Q. You gave the answer: "Carlos Diaz gets paid as a
21 consultant. He's not a salaried employee. He gets paid a fee
22 for what he does. And what he does" -- and you went on to
23 describe what he does. Do you see that?

24 A. I see that, yes.

25 Q. So at the time, in 2019, you were -- your understanding as

1 to Mr. Carlos Diaz was that he was a consultant and he was not
2 a salaried employee, right?

3 A. That's not my understanding. This is talking about a
4 job -- this is talking -- again, I keep trying to say this.
5 There's different jobs and allocations. So if HM Management or
6 some management company that we own provides workers to a --
7 this particular company, or to the company in Orlando, or in
8 Colorado, or wherever it is, they are almost like lending a
9 person to work, so they're not working for that -- they're a
10 consultant to that particular job, but they still work -- the
11 main thing -- HM Management Development is the one who directs
12 and tells them what to do, where to go.

13 So therefore they would be a consultant for CJUF or
14 HM-UP. That's how it works if there's an epicenter of where
15 they are being directed, an office, and they just go do
16 multiple jobs. And in this case he was doing -- 90 percent of
17 his time was spent on security and stuff of that nature, at
18 this job, required by law, that we had to have a security
19 company there. So he did that. So he's not a salaried
20 employee for that. He's a consultant for that company but for
21 the other company. He's been working for them for years. He
22 gets assigned for projects all the time. Everyone does.

23 MS. JIMENEZ: Your Honor, I'd like to move in Exhibit
24 79-2, Page 101, and publish it to the jury, please.

25 MR. ETRA: Same objection as before, but --

1 THE COURT: All right. The objection is noted. It's
2 overruled. It will be admitted into evidence. You may
3 publish.

4 (Government's Exhibit 79-2, Page 101 received into
5 evidence.)

6 BY MS. JIMENEZ:

7 Q. So Mr. Carlos Diaz is being lent out to other companies.
8 But for HM Management, the only people you listed as wage
9 employees were the three people who were shown on the screen
10 before, Jeanette Gonzalez, Vanessa Gonzalez, Elva Baluarte.
11 Mr. Carlos Diaz was your contractor. He was paid --

12 A. He's not a contractor. He's been working for 20 years --
13 20 years. He's not a contractor.

14 Q. Twenty years as a contractor.

15 A. No, he's not. I'm not sure where you come up with that,
16 but respectfully I don't think that's a correct statement.

17 Q. All right. Now, same deposition, which is Exhibit 79-3,
18 you were asked about independent contractors and payroll taxes.

19 MS. JIMENEZ: If we could show the first page of 79-3,
20 please, same deposition.

21 To the witness only, yes.

22 BY MS. JIMENEZ:

23 Q. All right. This is Page 64. You were asked a question at
24 Line 8: "Does HMMD," which is HM Management, "withdraw
25 employment taxes from the employee paychecks?"

1 And then you gave the answer: "If they're employees,
2 they do. If they're not, they don't. They pay payroll taxes
3 too."

4 Do you see that you gave that answer, Mr. Sheppard?

5 A. I see that.

6 Q. In 2019 you were not confused whether people at HM
7 Management -- if they were employees, they would pay payroll
8 taxes. It seemed like you were aware at that time. Yes?

9 A. I don't look at it the way -- it's a very strange --
10 whoever wrote that, or articulated from what they thought I
11 said, it's kind of a strange sentence. But, to me, employees
12 are the people that work directly for my company. I don't know
13 how to classify it. That's not my expertise. But, to me, an
14 employee that takes direction from my company or people at my
15 company that work for the company directly as individuals, they
16 are employees. How they are classified -- I can't tell you
17 whether they are 1099s, W-2s, or what they are --

18 MS. JIMENEZ: Your Honor, I'd like to move Exhibit
19 79-3, Page 64, into evidence.

20 MR. ETRA: Same objection but not the sidebar
21 objection.

22 THE COURT: All right. And with the understanding as
23 to the secondary objection, the first objection is overruled.

24 79-3 admitted into evidence. You may publish.

25 (Government's Exhibit 79-3, Page 64 received into

1 evidence.)

2 BY MS. JIMENEZ:

3 Q. So you said it was a weird statement, but this is your
4 statement. If they are employees, they do, if they are not,
5 they don't, with respect to whether or not HM Management
6 withdraws or I guess withholds employment taxes. Do you see
7 that?

8 A. I see what it says, yes.

9 Q. All right. And you were aware in 2019 that for employees
10 the company, HM Management, pays payroll taxes?

11 A. I'm not aware what they were doing as far as -- again, I'm
12 not involved with that process. I've been saying it since 2019
13 or any time before or after. I don't know what they did in
14 2019.

15 Q. Well, you answered that HM Management pays payroll taxes
16 for employees.

17 A. Okay. That's what the answer says, according to what, in a
18 deposition, that someone wrote. I mean, again, I'm not saying
19 they did or didn't. I'm not trying to argue it or say
20 something different. I'm just saying I do not know. Sitting
21 here today, I can't tell you exactly what that intention was,
22 what I said, or what the facts were.

23 This was -- I don't know. This was -- I think the
24 deposition was at the beginning of 2019. So I don't know -- if
25 it was February of 2019, how would I know -- from February all

1 the way through December 30th, 2019, how would I even know what
2 happened? I can't -- that's forward thinking. I don't know
3 how they treated everyone in 2019.

4 Q. But this was your answer, correct?

5 A. At the time, on February 26th, this was the answer that --
6 to the best of my knowledge, that's what I -- that's what I
7 said.

8 Q. That's what you said under oath? Yes?

9 A. That's what's written here that I said under oath.

10 MS. JIMENEZ: Can we show the witness Page 88, which
11 is next -- 88.

12 MS. MARTINEZ: The witness only?

13 MS. JIMENEZ: The witness.

14 BY MS. JIMENEZ:

15 Q. So the questions start at the bottom of the page, Line 21:
16 "Okay. So for 2016, were the only employees of HM Management
17 Glenn Sheppard and Jeanette Gonzalez?"

18 And you started to give an answer -- answer: "That
19 worked on the CJUF project or in general?"

20 And then you said -- next page, Page 89: "We had
21 other people. We have some laborers that aren't on this list."

22 And then you're asked the question on Line 7: "Were
23 they employees or were they independent contractors?"

24 And you answered: "I think they were independent
25 contractors. They were just paid. They weren't employees."

1 And the question was: "So there's going to be Forms
2 1099 for each of those people?"

3 Answer: "Yes".

4 And then you're asked the question, at the bottom of
5 the page: "So because those people were independent
6 contractors, then no payroll taxes would have been paid for
7 them, right, because you don't pay payroll taxes for
8 independent contractors?"

9 Answer: "Correct".

10 That's at the top of Page 90. Do you see that?

11 A. I see what it says.

12 Q. So in 2019 it was clear to you that these laborers that you
13 had were not employees, were 1099, independent contractors,
14 because that's what you explained to them. That's what you
15 explained in the deposition.

16 A. That's not -- that's not what that says. And that's not
17 what I've already testified in this case for as well. To me,
18 in my world, in the construction world -- maybe in --

19 Q. I'm sorry. I just need to focus you on the deposition. In
20 2019 before this case, before you had this PPP issue,
21 Mr. Sheppard, you were explaining in that deposition under
22 oath, at Page 89, that you had laborers, that they were
23 independent contractors, that they were getting 1099s, and that
24 you were not paying payroll taxes to those -- payroll taxes for
25 those people.

1 MR. ETRA: Compound.

2 BY MS. JIMENEZ:

3 Q. You said that?

4 A. That's not what I said. But let me read this, because
5 you're talking very fast. So let me just take the moment. If
6 you don't mind, let me -- which part? Which part are you
7 seeing that at?

8 MS. JIMENEZ: Let me -- if I can move 79-3, Pages 88,
9 89, and 90 into evidence for the jury to follow, please.

10 THE COURT: Any objection?

11 MR. ETRA: One second, Your Honor, please.

12 Your Honor, same objections as before.

13 THE COURT: All right. I'll give you a standing
14 objection. The objection is overruled. 79-3, 88, 89, Page 90,
15 will be admitted into evidence. You may publish.

16 (Government's Exhibit 79-3, Page 88, 89, and 90
17 received into evidence.)

18 BY MS. JIMENEZ:

19 Q. So my question is --

20 MS. JIMENEZ: If we can show Page 89 which has most of
21 the testimony --

22 BY MS. JIMENEZ:

23 Q. -- is that in 2019, February 2019, you understood that your
24 laborers were not employees, that they were independent
25 contractors, that you provided 1099s for them, and that they --

1 that payroll taxes would not be paid for them. That's what you
2 testified to.

3 A. Well, let me explain what you just said. That's not what I
4 testified to. What I testified to is in 2019 they asked me
5 about 2016. 2016, we were under construction. We were doing
6 construction at CJUF for a contractor that went bankrupt. So
7 when we were doing construction for them, what this is saying,
8 the independent contractor is a third-party company that has
9 nothing to do with us. Independent contractor and that
10 company, and their laborers that were getting paid in 2016, not
11 '19, during construction, they were -- they are not part of our
12 company because they -- you talk to the company -- the
13 independent contractor who is the -- who owns this company, has
14 his own workers. So yes, they would not be part of our
15 company. That's a correct statement. That's what that's
16 saying.

17 Q. Let me just show you --

18 MS. JIMENEZ: Can we go to the bottom of Page 88,
19 please.

20 BY MS. JIMENEZ:

21 Q. So the question began: "For 2016, the only employees of HM
22 Management were Glenn Sheppard and Jeanette Gonzalez that
23 worked on the CJUF project?"

24 And your answer, at Line 2 of Page 89 was: "No.

25 No" -- right? You corrected him -- "We had other people. We

1 have some laborers that aren't on this list." You did not say
2 there's some third-party contractor who hires people and it's
3 their contractors. You said: "We have some laborers that
4 aren't on this list, and they're independent contractors and
5 they are getting 1099s, and we don't pay payroll taxes for
6 1099s," as you say later on this page, Page 89.

7 A. Do you want me to -- I will answer that question.

8 Q. Right. And you said --

9 A. Let's break it down, like you said --

10 Q. Well, sir, this is my question -- you said --

11 MR. ETRA: Your Honor, hang on.

12 BY MS. JIMENEZ:

13 Q. You said: "We have some laborers," correct?

14 THE COURT: Okay.

15 MR. ETRA: Your Honor, she started a new question and
16 I'm not going to object to the last question.

17 THE COURT: All right. Then let's continue.

18 BY MS. JIMENEZ:

19 Q. You said: "We have some laborers that aren't on this
20 list"?

21 A. Correct.

22 Q. And then you were asked: "Were they employees or were they
23 independent contractors?" You see that question on Line 7?

24 A. I see that.

25 Q. All right. And that refers to your laborers that you

1 offered in response to the prior question saying you had some
2 laborers, and you said: "We have independent contractors."

3 MR. ETRA: Objection. Compound.

4 THE COURT: Sustained. Rephrase.

5 BY MS. JIMENEZ:

6 Q. You said you had independent contractors, right?

7 A. This is what it says. But in the way you're presenting,
8 that's not what that means.

9 MS. JIMENEZ: And then let's go down to the bottom of
10 the page.

11 BY MS. JIMENEZ:

12 Q. It was clear, Mr. Sheppard, that because they were
13 independent contractors, that no payroll taxes would have been
14 paid for them because you don't pay payroll taxes for
15 independent contractors. And your answer was: "Correct."
16 Isn't that true?

17 A. It is true that that answer is correct based upon the
18 form -- answering that particular question that was in that
19 particular deposition. For 2016, we were doing construction.
20 And the -- that project was already built. So there's two
21 budgets. There's a budget for -- every month there is a
22 budget. Okay? That is a totally different amount of people
23 that do this on a monthly basis.

24 Then there's independent contractors. When you're
25 under construction, you're building a part of a building,

1 they're independent contractors. So this is an annual budget
2 and this is a budget in a short period of time, whatever the
3 construction project is. This is what this -- hello? This is
4 what this refers to. This refers specifically to the laborers
5 that were working on the construction site for a -- for the
6 contractors. So that's what this is referring to because this
7 was 2016. I mean, that's what was going on. So you have to
8 look at it the right way.

9 It's one, as the manager -- a property manager of a
10 property. That's HM Management. CJUF is constructing a
11 project. And HM Management is supplying people, but they're
12 constructing something. And that's what that means,
13 independent contractors, third-party people. They're not going
14 to be on my pay -- they pay their own people. We pay them a
15 check and they pay their own people.

16 The people over here for CJUF, or on other projects at
17 that time, they are working with HM Management or directly for
18 the project on an annual basis. That's the difference. And
19 you have to understand the context of this particular -- what
20 they're talking about here. Now that you have showed it to me,
21 now I have a clear understanding of what this was about.

22 Q. These were your laborers. You said --

23 MS. JIMENEZ: Can we show Page 89, top of Page 89.

24 BY MS. JIMENEZ:

25 Q. -- "We have some laborers." Those were your laborers.

1 A. Everything I just said -- again, there's two -- you're
2 trying to -- you're trying to -- you're trying to mesh
3 something that has two distinct differences. There's inside of
4 a building and outside of a building. And common area people
5 are not -- that's not even what we're discussing here. We were
6 self-performing for a bankrupt entity. We had to step in to
7 take over a GC that went under.

8 So when there's laborers -- I took his
9 subcontractors -- not like -- subcontractors, we pay them
10 directly, and he had laborers. That's what I'm talking about.
11 That's it. You cannot combine it. You're combining, and
12 that's just not what -- that particular part of this
13 deposition, that's exactly what that meant.

14 Q. All right. Let me --

15 MS. JIMENEZ: You can take that off the screen.

16 BY MS. JIMENEZ:

17 Q. Let me ask you about this HM Four loan application that
18 Jeff Graff assisted you with before he left March -- the end of
19 March of 2020. Do you recall you testified about that in your
20 direct examination?

21 A. I do.

22 Q. And you said that Jeff Graff told you which company should
23 apply. Do you remember you said that?

24 A. He recommended to me which company that should apply for
25 the -- for whatever government programs that were there, and

1 sometime in March 2020.

2 Q. All right. So let's show the jury the emails about that.

3 MS. JIMENEZ: Government Exhibit 50-7, please.

4 MS. WEINTRAUB: Judge, I object, and I'd like the
5 opportunity to see these first if this is from the package --

6 MS. MARTINEZ: It's in evidence.

7 THE COURT: This is already in evidence. 50-7,
8 correct?

9 All right. Let's continue.

10 BY MS. JIMENEZ:

11 Q. So on --

12 MS. JIMENEZ: Can we go to Page 4 of the exhibit.

13 BY MS. JIMENEZ:

14 Q. So March 25th, 2020, Mr. Graff writes to you. He says:
15 "Eric, I have not submitted the application you asked me to
16 complete on behalf of HM Four, LLC." He's telling you that he
17 hasn't submitted the application you asked him to complete on
18 behalf of HM Four. Do you see that?

19 A. I do.

20 Q. And he's asking that you need to provide a signed copy of
21 the 2018 tax return for HM Four. Do you see that?

22 A. No. I'm sorry. Where is that?

23 Yeah. I'm sorry. I see it. Okay. Number 2, yeah.

24 Q. So he's telling you that you asked him to complete this
25 application on behalf of HM Four, correct?

1 A. That's what -- on March 25th, 2020, that's what he said
2 after the prior emails in earlier March.

3 Q. Right.

4 MS. JIMENEZ: And then can we go to -- can you go back
5 out. Can we go to the next email.

6 No. No. Hold on. Hold on.

7 Can you go back up to March 25th.

8 Oh. Right.

9 BY MS. JIMENEZ:

10 Q. So when he says: "You will need to mail a signed copy of
11 the 2018 tax return for HM Four using the instructions
12 attached. The copy I have is not signed" -- is what Jeff Graff
13 says. Do you see that?

14 A. I see that.

15 MS. JIMENEZ: And then let's go down -- now we go down
16 to March 26th, the next day.

17 BY MS. JIMENEZ:

18 Q. And you see below that Jeanette Gonzalez sends an email to
19 Jeff Graff with -- it says: "Jeff, 2018 tax return, HM Four
20 and then HM Eight, Manager," right?

21 A. Yes. I see that.

22 Q. So that's March 23rd. So Jeff Graff is telling you his
23 copy is not signed on March 25th, right?

24 A. I'm sorry. I lost the time and date. So the 23rd, she
25 sends it --

1 Q. To Jeff Graff.

2 A. Okay.

3 Q. Right? And then the earlier email we just saw is Jeff
4 Graff asking you for a signed copy of the 2018 HM Four tax
5 return because his copy is unsigned. That's the copy Jeanette
6 Gonzalez provided to him. It's your office copy unsigned.

7 A. Hold on a second.

8 MR. ETRA: Objection, Your Honor.

9 THE WITNESS: He said earlier one. So March 25th --

10 THE COURT: The objection is sustained. Rephrase.

11 MS. JIMENEZ: Let's go to March 25th, please.

12 BY MS. JIMENEZ:

13 Q. Jeff Graff writes you March 25th, right?

14 A. That's what it says.

15 Q. He has not yet submitted the application you asked him to
16 complete on behalf of HM Four, correct?

17 A. Correct.

18 Q. And he says: "Item Number 2, you will also need to mail a
19 signed copy of the 2018 tax return for HM Four. The copy I
20 have is not signed." Do you see that?

21 A. Yes. I see that.

22 Q. All right.

23 MS. JIMENEZ: So let's go to the next email.

24 BY MS. JIMENEZ:

25 Q. Here, March 26th is your response. But March 23rd,

1 Jeanette Gonzalez to Jeff Graff provides that 2018 tax return.

2 A. I know. But I'm not copied on that email, so I don't --

3 it's just between Jeanette and Jeff Graff on March 23rd. And

4 the other one was March 25th, I believe. So when you said

5 earlier, I guess you meant the email earlier. I thought you

6 meant the date earlier. The first one, I guess, if you start

7 from the bottom, is March 23rd.

8 Q. Right. So here Jeanette Gonzalez provides Jeff Graff a

9 2018 tax return on March 23rd, right?

10 A. I think that's what it says. I'm not copied. So that's

11 what it says, though.

12 Q. Right. So your email to Jeff --

13 MS. JIMENEZ: No. Now go up -- take that down,

14 please.

15 Right.

16 BY MS. JIMENEZ:

17 Q. The top portion of this is your email to Jeff, right,

18 March 26th?

19 A. That's correct.

20 Q. So attached is the HM Four executed tax return, and you

21 provide him a signed tax return for HM Four that you signed,

22 right?

23 A. I mean, I assume it's attached. If it says it, I assume

24 it's attached. I don't know, but I assume it's attached.

25 Q. Right. We can show that. You provided him a signed tax

1 return for HM Four, right?

2 A. Correct. After I gave him HM-UP Development Alafaya
3 Trails, and the owner is HM Four, then he wanted HM Four. So
4 first I gave him the HM-UP Development Alafaya Trails, and then
5 the 99 percent owner, HM Four, and the one percent owner, HM
6 Eight. So I don't see it in the email batch here, but like
7 somewhere earlier in March I gave him the HM-UP Development
8 Alafaya Trails, LLC. And now he wanted the partners, HM Four,
9 I guess -- or HM Eight is what he wanted.

10 Q. So you say: "Please let this email serve as full authority
11 via myself as managing member that you can download this
12 attachment and upload and send to the government for a grant or
13 a loan for HM Four. WAPD Holdings" -- which is your partner
14 Robert Kallman, right?

15 A. Correct.

16 Q. -- "along with myself as the owner of HM Four. I have
17 discussed and approved the submittal package."

18 A. Correct.

19 Q. "And I'm asking you to send the return and a package as a
20 non-party with zero liability for any reason whatsoever as an
21 individual."

22 A. Correct.

23 Q. So you're letting him know that he doesn't have any
24 liability in connection with this thing he's doing for you?

25 A. Yes. Because he was the managing member of HM Four. And

1 based upon what happened in 2019, I just wanted to make sure
2 and clear that there was no misunderstanding that: "Look,
3 whatever you're submitting, I don't want you to have any -- be
4 very transparent, there's no problem. You're not the manager
5 anymore. I'm the manager and I'm asking you as the guy who
6 deals with all the financial matters. You go ahead, but you're
7 not going to have any liability because you're leaving in four
8 more days," and I don't want to put him in that position,
9 because he was already working at the temple and I didn't want
10 to have him in any type of position -- what occurred
11 inadvertently.

12 Q. If he's telling you what company you should be applying
13 for, shouldn't you be asking him to absolve you of any
14 liability? If he's telling you: "Listen, apply on behalf of
15 HM Four," and you have any issues with that, shouldn't you be
16 asking him to provide you some -- "Listen, I'm doing this based
17 on your advice and so anything goes wrong, it's on you"? No?

18 MR. ETRA: Compound. Misstates the testimony.

19 THE COURT: Overruled.

20 THE WITNESS: You're showing me just some parts of the
21 conversation, not giving the whole complete conversation. But
22 initially it was HM-UP Development Alafaya Trails, LLC, as I
23 told you. And I provided the tax returns for that, plus the
24 54 -- or 4506-Ts, or whatever, where you can give the
25 government access to your returns. That was initially.

1 Then he said: "Well, it really should be HM Four."
2 And that was way -- that was not way. That was X amount of
3 days before this. So then he said HM Four because of the
4 managing member and the operating business, they can get an
5 EIDL -- not a EIDL, or -- some kind of government loan or
6 something. Again, I have zero clue -- no clue, with what's
7 going on with the world --

8 BY MS. JIMENEZ:

9 Q. Zero.

10 A. So that's what happened. Now, HM Four, after this whole
11 thing -- I already gave him the HM-UP Development Alafaya
12 Trails, LLC tax return, 2018. Then he wanted the partnership
13 stuff, and that's when he told me they're the operating manager
14 so they're the active -- I don't remember exactly what he said.

15 So that's how it came to HM Four. I said: "Okay." I
16 mean, I love the guy, and I trusted him, and he's a CPA. What
17 am I going to say, tell him no? I wouldn't ask him that. This
18 last sentence was specifically, specifically because of what
19 happened with that whole thing in 2019, that there was a
20 miscommunication where he actually wasn't even the manager of
21 the company. Publicly, he was record-wise, but he wasn't the
22 manager.

23 I wanted to make sure it was clear that HM Four,
24 LLC -- that he would never have any liability as a manager
25 because he was not the manager since 2016. Even though the

1 public record said 2019, he wasn't the manager since 2016. So
2 I wanted to be very transparent to make sure he understood,
3 because he was leaving the company.

4 MS. JIMENEZ: Can we show 50-9. Is the 2018 tax
5 return in that exhibit? I don't know -- does this have
6 multiple pages? I don't see it on our list.

7 (Pause in proceedings.)

8 MS. JIMENEZ: All right. I'm not going to waste time.
9 BY MS. JIMENEZ:

10 Q. So you -- so it's your testimony that you -- he decided the
11 company, and he listed a hundred employees, and he provided all
12 those figures on that application on his own without your
13 input, right?

14 A. I don't know if -- I don't know if I would characterize it
15 that way. From my recollection, I don't remember even talking
16 about all that with him, because I didn't even know what the
17 program was. He asked me questions sometimes, and I gave him
18 what he wanted. Whatever I gave him, I gave him. The whole
19 thing with the employees, I don't even know what that was all
20 about. But yeah, was there 80 to a hundred employees that are
21 building HM-UP Development Alafaya as a contractor in Orlando?
22 Yes. That was prior to COVID. But --

23 Q. Right. But all of the -- these emails are about his
24 application on behalf of HM Four, and the application lists a
25 hundred employees, lost rents due to COVID of hundreds of

1 thousands of dollars. And your testimony, sir, to this jury is
2 that you did not give him any input, even though he's the one
3 asking you to absolve him of any liability?

4 MR. ETRA: Objection. Misstates the testimony and
5 compound.

6 THE COURT: Overruled.

7 THE WITNESS: I'll be clear. I -- he mentioned in his
8 testimony that we had a conversation about something like that,
9 and I never saw that application until actually he was sitting
10 here testifying and you put it on your screen. And I looked
11 through my emails to find the application, and I couldn't find
12 the application. All I found is a financial statement.

13 And -- and so I never saw the physical application
14 that you showed. And I'm saying I never saw that
15 application -- never, ever saw the application. And when I
16 left here I looked at my emails. I'm like: "Did I miss
17 something?" Never saw the application and didn't discuss -- I
18 didn't even know what the program was about. It wasn't -- it
19 was a government program. It didn't get -- there was nothing
20 there. So I don't know what it was. He was the one who told
21 me about the program. I didn't even know what it was.

22 MS. JIMENEZ: Your Honor, if he could -- if the
23 witness could end his answer.

24 THE WITNESS: Sorry.

25 THE COURT: I think he has.

1 BY MS. JIMENEZ:

2 Q. Okay. Mr. Sheppard, I want to ask you some questions about
3 what advice the accountants gave you in or around April of 2020
4 regarding applying for PPP loans.

5 MS. JIMENEZ: Can we turn to the ELMO for a moment.

6 BY MS. JIMENEZ:

7 Q. This was an exhibit, Q-30, put in by your attorneys that
8 was a letter from Cupersmith's office to the IRS, which had a
9 notice that came to you. Tax year 2018, notice date
10 March 23rd, 2020. Do you see that?

11 A. I do.

12 Q. And that was addressed to Eric Sheppard at your home,
13 right?

14 A. Yes.

15 Q. And the notice March 23rd, 2020, was that you had not yet
16 filed your 2018 1040 tax return, right?

17 A. Correct.

18 Q. Then you have email communication with your accountants,
19 which --

20 (Fire alarm sounding.)

21 THE COURT: Oh, no. All right.

22 Our fire marshal can see. Liz is our fire marshal.

23 Just give us a moment. Let's see if we need to
24 evacuate.

25 (Pause in proceedings.)

1 COURT SECURITY OFFICER: We've got to evacuate.

2 THE COURT: All right. Ladies and Gentlemen, since it
3 is 20 to five, we are going to adjourn for the evening, so you
4 can quickly gather your items.

5 Please remember that as you leave you're not to
6 discuss this case with anyone, nor permit anyone to speak with
7 you. Everything learned about this case is learned within the
8 courtroom. If you'll place your juror notebooks in the jury
9 room. The court security officer will escort you outside, and
10 I will see you tomorrow morning at nine a.m.

11 All right. We'll discuss the schedule for the week
12 tomorrow.

13 Have a pleasant evening.

14 If you wouldn't mind just escorting them, since
15 they're not going to be able to use the elevator. They're
16 going to need to use the stairs.

17 All right. Ladies and Gentlemen, before we leave the
18 courtroom, because I'm not certain how long this is going to
19 be -- we are going to need to evacuate. You're not going to be
20 able to use the elevators, unfortunately. I will have the
21 courtroom open. You can come back afterwards, but at this
22 point we will adjourn for the evening, and I'll see the parties
23 back here at nine a.m. tomorrow morning.

24 All right. Have a pleasant evening.

25 (Proceedings adjourned at 4:44 p.m.)

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 8th
9 day of January, 2024, 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 - 249.

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
18 Yvette Hernandez, CSR, RPR, CLR, CRR, RMR
19 400 North Miami Avenue, 10-2
20 Miami, Florida 33128
21 (305) 523-5698
22 yvette_hernandez@flsd.uscourts.gov
23
24
25