

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	22cr20(FB)
Plaintiff,	:	
-against-	:	United States Courthouse
ANULI OKEKE,	:	Brooklyn, New York
Defendant.	:	Wednesday, June 12, 2024
	:	10:00 a.m.
	:	
	:	

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TRANSCRIPT OF CRIMINAL CAUSE FOR A JURY TRIAL
BEFORE THE HONORABLE FREDERIC BLOCK
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

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*Proceedings recorded by mechanical stenography, transcript
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Proceedings

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1 (In open court.)

2 (The Hon. Frederic Block, presiding.)

3 (Defendant present.)

4 THE COURTROOM DEPUTY: Criminal cause on trial,
5 United States of America versus Anuli Okeke.

6 All counsel and Ms. Okeke are present.

7 THE COURT: The jurors are all here. Terrific.

8 I think we're ready to bring them into court unless
9 you have something to speak to me about quickly and, if not,
10 let's bring them in.

11 Who do we have next, Mr. Edwards-Balfour?

12 MR. EDWARDS-BALFOUR: Israel Viloría, Your Honor.

13 (Jury enters.)

14 THE COURT: Good morning, everybody. Compliments on
15 you being so timely. You're a good group of jurors. Now we
16 have another witness.

17 Mr. Edwards-Balfour, who do we have?

18 MR. EDWARDS-BALFOUR: Mr. Israel Viloría.

19 (Witness takes the stand.)

20 THE COURTROOM DEPUTY: Please raise your right hand.
21 Do you solemnly swear or affirm that the testimony you will
22 give in the trial today will be the truth, the whole truth and
23 nothing but the truth?

24 THE WITNESS: Yes, sir.

25 THE COURTROOM DEPUTY: Have a seat.

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1 THE COURT: Good morning.

2 THE WITNESS: Good morning. Your last name is
3 V-I-L-O-R-I-A; correct?

4 THE WITNESS: Yes.

5 THE COURT: And your first name is Israel like the
6 country?

7 THE WITNESS: Yes.

8 (Continued on the following page.)
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Viloria - direct - Edwards-Balfour

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1 ISRAEL VILORIA,

2 called by the Defense, having been

3 first duly sworn, was examined and testified

4 as follows:

5 Q Good morning, Mr. Viloria.

6 A Good morning.

7 Q In 2020 did you participate in a scheme to get Payment
8 Protection Program, or what is commonly known as PPP, money
9 that you are not entitled to receive?

10 A Yes, sir.

11 Q And as part of that fraud did you get any PPP loan money?

12 A Yes, sir.

13 Q Did you participate in that scheme with anyone else?

14 A Yes.

15 Q Who did you commit the fraud with?

16 A Anthony and Anuli Okeke.

17 THE COURT: Who did you participate with?

18 THE WITNESS: Anthony and Anuli Okeke.

19 BY MR. EDWARDS-BALFOUR:

20 Q I know it's been a while and the way people look changes
21 over time and people were wearing masks during the pandemic,
22 but do you believe you would be able to identify any of the
23 individuals you committed the crime with if you saw them
24 today?

25 A Yes, sir.

Viloria - direct - Edwards-Balfour

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1 Q Please look around the room. Do you see any of the
2 individuals you committed the crime with today?

3 A Yes.

4 Q Who do you see?

5 A Ms. Okeke.

6 Q Would you please identify her by what she is wearing and
7 where she is sitting?

8 A A black suit and glasses.

9 MR. EDWARDS-BALFOUR: Your Honor, let the record
10 reflect that the --

11 THE COURT: She's sitting at the table and she is at
12 only female there; correct?

13 THE WITNESS: Yes, sir.

14 THE COURT: That is the person?

15 THE WITNESS: Yes.

16 THE COURT: Next question.

17 BY MR. EDWARDS-BALFOUR:

18 Q On January 27, 2021, did you plead guilty to a crime here
19 in federal court?

20 A Yes.

21 Q Generally what did you do to commit that crime?

22 A Create fraudulent paperwork.

23 Q And was that for the PPP loan money?

24 A Yes.

25 Q And why are you testifying here today?

Viloria - direct - Edwards-Balfour

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1 A To bring the truth for the wrong that I did.

2 Q And are you also obligated to testify?

3 A No.

4 Q As part of your agreement are you obligated to testify?

5 A Yes.

6 Q So we'll get back to that. I want to change topics and
7 talk a little bit about your background.

8 How old are you?

9 A Forty-four.

10 Q And where were you born?

11 A Dominican Republic.

12 Q When did you come to the United States?

13 A 2002.

14 Q Are you a citizen of the United States?

15 A Yes, sir.

16 Q Are you married?

17 A Yes, sir.

18 Q Do you have any kids?

19 A Yes, I have two.

20 Q Could you tell us a little bit about your educational
21 background?

22 A I have a master's degree in business administration and a
23 bachelor of marketing.

24 Q Did you own any businesses?

25 A Yes, I did.

Viloria - direct - Edwards-Balfour

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1 Q How many?

2 A Three.

3 Q What were the names of these three businesses?

4 A AutoNext, Global Auto Sales and Car Expert d/b/a Advanced
5 Auto Mall.

6 Q I want to talk about them one at a time.

7 Can you please describe Car Expert Auto Group? What
8 kind of a business is that? Can you describe it?

9 A Car Expert is a used car lot located on Boston Road in
10 the Bronx. We do retail there for customers and financing
11 also as well.

12 Q Now, AutoNext, I believe that was one of the businesses.
13 Can you describe what AutoNext is?

14 A AutoNext used to do supporting and wholesale to other
15 dealers.

16 Q And the third one was Global Auto Sales. Can you
17 describe that business?

18 A It was a wholesale business located in New Jersey.

19 Q I want to switch topics again here.

20 When we first started you described at a high level
21 your participation in the scheme in 2020 with the defendant.
22 Do you remember that?

23 A Yes.

24 Q Was that the first time you participated in an illegal
25 scheme to get money?

Viloria - direct - Edwards-Balfour

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1 A No.

2 Q When was the first time?

3 A I don't recall the time, but it was through Global Auto
4 Sales.

5 Q And what happened?

6 A Well, I was managing the dealer, so I was buying cars at
7 the price that I knew it could be sold. I was the owner of
8 the company and I was working also at the dealership.

9 Q So you were essentially on both sides?

10 A Double dipping you could say.

11 Q Did you make money from that scheme?

12 A Yes, sir.

13 Q Were you arrested in connection with that fraudulent
14 scheme?

15 A Yes, sir.

16 Q And did you plead guilty for your actions related to that
17 scheme?

18 A Yes.

19 Q Fast forwarding a bit, during the pandemic in 2020 were
20 you working?

21 A Yes.

22 Q And where were you working?

23 A Car Expert.

24 Q At some point did you come to learn about the PPP loans?

25 A Yes.

Viloria - direct - Edwards-Balfour

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1 Q And how did you first learn about the PPP loans?

2 A At that time everybody was talking about the loans, so I
3 heard about them.

4 Q And did you try to apply for a PPP loan on your own?

5 A I did.

6 Q Through which bank?

7 A Capital One.

8 Q Did you get the PPP loan from Capital One Bank?

9 A I did not.

10 Q After you did not receive that loan from Capital One
11 Bank, did you learn of any other opportunities to potentially
12 get a PPP loan?

13 A It was presented to me, yes.

14 Q By who?

15 A My barber.

16 Q And when you say it was presented to you by your barber,
17 what did your barber say?

18 A That he knew a person that works in the bank, that he can
19 help me get the loan.

20 Q And after he told you that, did he tell you who the
21 person was that was from the bank?

22 A Yes.

23 Q Who did he tell you the person was that could help you
24 get the loan?

25 A Anthony.

Viloria - direct - Edwards-Balfour

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1 Q And after you had this conversation, what did you do
2 next?

3 A We met him at the bank.

4 Q Who is him?

5 A Anthony, sorry.

6 Q And when you say "the bank," which bank are you talking
7 about?

8 A Banco Popular.

9 Q And do you remember the location?

10 A Yes.

11 Q Where was the location of this bank?

12 A It was in Harlem. I don't remember the street right now,
13 but it's in Harlem.

14 Q And the first time you went to the bank, did you go with
15 anyone?

16 A Yes.

17 Q Who did you go with?

18 A With my barber.

19 Q What town were you living in at this time?

20 A Westchester County.

21 Q Approximately how long did it take you to get from
22 Westchester County to the location of this bank?

23 A I would say around an hour and ten minutes.

24 Q At some point did you arrive at the bank?

25 A Yes.

Viloria - direct - Edwards-Balfour

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1 Q And that first time you went, can you please describe
2 what you observed at the bank?

3 A Yes. When you come into the bank, you have the area
4 where they receive the customers. At that time it was COVID
5 so there was a security there that asked you what you're going
6 to do in the bank and then you go into that part, they take
7 your name. To the left is the offices for the bankers and to
8 the right is the waiting area. Next to the waiting area is
9 the teller from what I remember, yes.

10 Q And on that first time that you went to the bank, what
11 happened when you first arrived at the bank?

12 A I told them that I was looking for Anthony. He took my
13 name. Anthony was busy at that time, so he relayed the
14 message and then he put me in the waiting area.

15 Q When you say "he," who are you talking about?

16 A The security guard.

17 Q And after you were in the waiting area after you told
18 security that you were waiting for Anthony, what happened
19 next?

20 A So after waiting a few minutes he came to me and
21 present himself because I never met him before and he said
22 it's going to take a couple of minutes because he had a
23 customer.

24 Q And when you say he presented himself to you who is he?

25 A Anthony.

Viloria - direct - Edwards-Balfour

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1 Q And after Anthony first came over to talk to you, what
2 happened next?

3 A I waited a few minutes and then I went to his cubicle.
4 He has the first one on the left.

5 Q And when you were in his cubicle, could you see outside
6 of it?

7 A It's like half material and half glass, yes.

8 Q So the part that's half glass, is that the area where you
9 were able to see outside of it when you were sitting in it?

10 A That's correct.

11 Q And when you were meeting with Anthony on that first
12 time, what was discussed?

13 A So, he asked me about the company. Then it became that I
14 have two companies. So he was asking me for paperwork from
15 the company to see if I qualify.

16 Q Do you remember what Anthony looked like?

17 A Yes.

18 Q And what did he look like?

19 A Hispanic, short hair or bald head. He was wearing a
20 white shirt all the time. Short, like, 5'5" or 5'6".

21 Q And going back to that conversation where Anthony asked
22 you about paperwork, did you have all of that paperwork that
23 he needed?

24 A No.

25 Q And at some point after this did you obtain his card or

Viloria - direct - Edwards-Balfour

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1 any other contact information from him?

2 A Yes, I did.

3 Q What contact information did you obtain from him?

4 A His business card.

5 Q So, can you describe what you did for this scheme from
6 the beginning from his first meeting to the end; an overview
7 of what you did and what happened?

8 A Well, I went to the bank and I got to get the paperwork
9 done to get 20 employees so I can qualify for the PPP loan. I
10 went in with the accounting and got all the paperwork ready
11 and then after that, the money was disbursed into my account.

12 Q Now you mentioned 20 employees. Did you actually have 20
13 employees?

14 A No.

15 Q So at some time after your first visit to the bank, did
16 you return to the bank?

17 A A couple of times, yes.

18 Q Now, earlier you said that Ms. Okeke was part of the
19 scheme. Do you remember that?

20 A Yes.

21 Q Would you please explain the context of how you first met
22 her?

23 A She was presented as the manager of the bank when I was
24 speaking to Anthony one time at the beginning of the
25 conversation.

Viloria - direct - Edwards-Balfour

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1 Q And do you recall what she said to you upon meeting her?

2 A She said her name, you know, welcome to Banco Popular.

3 Ms. Okeke. I don't remember -- Anuli Okeke, and presented
4 herself at a manager.

5 Q And after that initial meeting did you meet with her more
6 than once?

7 A Yes.

8 Q Did you form an understanding of Ms. Okeke's role in the
9 scheme based on your observations and conversations with her?

10 A She was the manager, yes.

11 Q And she was the manager of the bank; right?

12 A Yes.

13 Q And you also said before that she's part of the scheme;
14 is that right?

15 A Yes.

16 Q So based on your interaction with her, did you understand
17 where she fit as part of the scheme or are you saying she was
18 the manager of the scheme; is that your answer?

19 MR. TALKIN: Objection.

20 THE COURT: Sustained.

21 It's a little bit too leading.

22 MR. EDWARDS-BALFOUR: Fine, Your Honor.

23 BY MR. EDWARDS-BALFOUR:

24 Q Do you have an understanding of her role in the scheme?

25 A Yes.

Viloria - direct - Edwards-Balfour

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1 Q What was her role?

2 A The manager, the boss.

3 Q Got it. And did you speak with her at some point about
4 the loan?

5 A Yes.

6 Q And what do you recall, if anything, that she said when
7 you spoke with her?

8 A Well, that she will help me to do the best that we can to
9 get the loan, yes.

10 Q Did you communicate with Mr. Castro outside of when you
11 were at the bank?

12 A Yes.

13 Q And how did you communicate with him?

14 A Well, text message, e-mail, and through WhatsApp also.

15 Q And generally what do you talk to him about in these text
16 messages?

17 A He was collecting information about the companies to try
18 to put everything together.

19 Q And do you ever recall seeing Ms. Okeke or Mr. Castro
20 outside of when you saw them at the bank?

21 A Yes.

22 Q Where did you see them?

23 A They came to visit the business.

24 Q And when they came them to visit the business, what did
25 you observe them doing?

Viloria - direct - Edwards-Balfour

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1 A Looking at the business, making notes. I think they took
2 pictures as well, if I remember. It's been a long time.

3 Q And what would have been there that they observed?

4 A Well, the operation and all the plea agreements that I
5 have at the time.

6 Q And how many employees was that?

7 A About four.

8 Q About four employees?

9 A Yes.

10 Q And as part of this investigation, did you provide law
11 enforcement with your phone?

12 A Yes.

13 Q So I'm going to show you what's been premarked as
14 Government Exhibit 200?

15 (Counsel approaches.)

16 BY MR. EDWARDS-BALFOUR:

17 Q That's inclusive of Exhibits 200-A three E and 207.

18 Do you recognize this?

19 A Yes.

20 Q What is this?

21 A External drive.

22 Q And what's on it?

23 A A picture of my phone conversation.

24 Q How do you recognize that?

25 A My initials are on it.

Viloria - direct - Edwards-Balfour

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1 Q Does this drive contain true and accurate copies of
2 information from your phone in 2020?

3 A Yes.

4 MR. EDWARDS-BALFOUR: At this time the Government
5 moves 200-A through E and 207.

6 THE COURT: Any objection?

7 MR. TALKIN: No, Your Honor.

8 THE COURT: All right, in evidence.

9 (Government Exhibits 200-A through E, and 207
10 received in evidence.)

11 MR. EDWARDS-BALFOUR: Can we please publish what is
12 already in evidence as Government Exhibit 200-C.

13 (Exhibit published.)

14 Q Mr. Viloria, do you see what's on the screen there?

15 A Yes, I do.

16 Q "SBA PPP documentation required - please execute." Did I
17 read that correctly?

18 A Yes.

19 Q Who is this e-mail from?

20 A Anuli Okeke.

21 Q And who is it top?

22 A To myself.

23 Q And is this on August 5th?

24 A That is correct.

25 Q Do you see the time there, 14:18:22?

Viloria - direct - Edwards-Balfour

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1 A Yes.

2 Q Did you receive this e-mail?

3 A Yes.

4 Q Okay. Now, I would like to go to what's already in
5 evidence as Government Exhibit 200-D?

6 (Exhibit published.)

7 Q Do you see what's on the screen there?

8 A Yes.

9 Q And do you see it has the same subject as the last e-mail
10 that we just saw?

11 A That's correct, yes.

12 Q Do you see it's also from Ms. Okeke to you a August 5th?

13 A Yes.

14 Q Do you see the time of this message is a few seconds
15 later than the last e-mail we just saw?

16 A Yes.

17 MR. EDWARDS-BALFOUR: We can take that down.

18 Can we please go to Government Exhibit 200 E?

19 (Exhibit published.)

20 Q Do you see what's the screen there Mr. Viloria?

21 A Yes.

22 Q Again, this time it says "Completed SBA PPP documentation
23 required - please execute." Do you see that?

24 A Yes.

25 Q Did I read that correctly?

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1 A Yes.

2 Q And that's the subject. And do you see that it's from
3 Ms. Okeke to you on August 5th, 2020?

4 A Yes.

5 Q And this time it's about 40 minutes later than the last
6 e-mails; is that correct?

7 A Yes.

8 Q And what did you do in response to receiving it?

9 Did you receive this e-mail?

10 A Yes, sir.

11 Q And what did you do in response to receiving them?

12 A I have to execute signatures.

13 Q And were you able to DocuSign some of these signatures?

14 A Yes, sir.

15 MR. EDWARDS-BALFOUR: I would like to now go to
16 what's already in evidence as Government Exhibit 747.

17 (Exhibit published.)

18 Q Do you see what's on the screen there?

19 A Yes, I do.

20 Q On the top right do you see it says "Ultimate Beneficial
21 Owner, UPO, Certification"?

22 A Yes.

23 Q Now I would like to scroll down to the third page. Do
24 you see where it says "Signature of representative of legal
25 entity"?

Viloria - direct - Edwards-Balfour

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1 A Yes.

2 Q Is that your signature?

3 A That's my Docusign signature, yes.

4 Q And do you see the date to the right of that?

5 A Yes, I do.

6 Q Is that August 5, 2020?

7 A Yes.

8 Q Okay. Can we go back to the top of that document, 747,
9 please.

10 Now, this document that you see here, is this one of
11 those documents you were asked to Docusign in the e-mails we
12 previously saw in Government Exhibits 200-C through 200-E?

13 A Yes, I believe so.

14 Q Do you know what the certification is?

15 A No.

16 Q So let's look at Section A. It says, "Name of legal
17 entity." Do you see that?

18 A Yes.

19 Q "Car Expert Auto Group LLC." Is that your came?

20 A That's correct.

21 Q And there's an address on the right. Do you see that
22 address?

23 A Yes, sir.

24 Q Is that the address where the -- that company is located?

25 A Yes.

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1 Q And below where it says "Representative of legal entity,"
2 it says a name. Is that your name?

3 A That's correct.

4 Q And across from that where it says, "Title and/or
5 position," that's you as the owner; right?

6 A Yes.

7 Q Did you fill this document out yourself or did you just
8 electronically sign it?

9 A It was already filled. I was just DocuSigning it.

10 Q And before you said you didn't -- you didn't know what
11 this document was. Why did you sign this document if you
12 didn't understand this document?

13 A It was -- a lot of times it was a rush because at the
14 time it was almost done so they would always send me the
15 e-mails to sign, sign to get everything done quickly.

16 Q When you say they would send you e-mails --

17 A Anthony and Anuli Okeke.

18 MR. EDWARDS-BALFOUR: Can we please now publish what
19 is already in evidence as Government Exhibit 207.

20 (Exhibit published.)

21 Q Mr. Viloria, do you see what's on the screen now?

22 A It looks like it's my phone.

23 Q Can we go down a few pages. And then all the way back to
24 the top, please. So this looks like your phone.

25 And on the screen here, what application is this

Viloria - direct - Edwards-Balfour

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1 that's being used through your phone?

2 A WhatsApp.

3 Q And who are you texting here?

4 A Anthony from Banco Popular.

5 Q At the top of the message there it says, "Weds, August
6 5th." Do you see that?

7 A Yes.

8 Q Is that the date of the messages until you get to another
9 date?

10 A I believe so.

11 Q And are these messages from 2020? Would this be August
12 5th of 2020?

13 A Yes.

14 Q Are you the person on the right with the greenish color
15 around the writing or the person on the left with the
16 white-ish color?

17 A I think I'm the one on the right, the green one.

18 Q So, therefore, Anthony's messages are the one on the
19 left, the white?

20 A Yes.

21 Q And in the bubbles there's a time at the end there. Does
22 that correspond in time to when you sent and received these
23 messages?

24 A Yes.

25 Q So, previously the jury heard a stipulation that's

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1 already in evidence as Government Exhibit 300 and in that
2 stipulation it says that Government Exhibit 101 is an accurate
3 Spanish to English translation of the underlying Spanish
4 language messages on your phone.

5 Did you review Government Exhibit 101?

6 A Yes, we did.

7 Q And was it accurate in your view?

8 A Yes.

9 MR. EDWARDS-BALFOUR: Your Honor, the Government
10 moves to admit Government Exhibit 101 into evidence.

11 MR. TALKIN: No objection.

12 THE COURT: There's no objection. It's in evidence
13 at this time.

14 (Government Exhibit 101 received in evidence.)

15 BY MR. EDWARDS-BALFOUR:

16 Q I would like to show you --

17 MR. EDWARDS-BALFOUR: For the witness's eyes only,
18 what has been premarked as Government Exhibit 100.

19 (Exhibit published to witness, counsel and Court only.)

20 MR. EDWARDS-BALFOUR: Can we please scroll down a
21 few pages? And then back to the top, please.

22 Q Do you see the document on the screen?

23 A Yes.

24 Q Have you seen this before?

25 A Yes, it looks like my phone.

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1 Q And it looks like your phone, yes. And is this -- are
2 these images from your phone?

3 A Yes.

4 Q Was this created to assist the jury in reading your text
5 messages with Anthony Castro?

6 A Yes.

7 Q Were the Spanish language portions translated to English
8 using Government Exhibit 101?

9 A Yes.

10 Q Does Government Exhibit 100 which is on the screen now,
11 is it -- does it reflect a true and accurate copy of content
12 from messages in your phone from 2020?

13 A Yes.

14 MR. EDWARDS-BALFOUR: Your Honor, at this time the
15 Government moves to admit and publish Government Exhibit 100.

16 THE COURT: Any objection?

17 MR. TALKIN: No objection.

18 THE COURT: It's entered.

19 (Government Exhibit 100 received in evidence.)

20 (Exhibit published.)

21 BY MR. EDWARDS-BALFOUR:

22 Q Mr. Viloria, do you see what's on the screen now?

23 A Yes.

24 Q On this screen what is this that we're looking at?

25 A The contact information of my phone from Anthony Banco

Viloria - direct - Edwards-Balfour

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1 Popular.

2 Q And why did you name him Anthony Banco Popular?

3 A Too many Anthonys that I have on my phone. That way I
4 can know which one it is.

5 Q Is it your understanding that that's a picture of the
6 Anthony we're talking about here?

7 A Yes.

8 MR. EDWARDS-BALFOUR: Okay. We can take this down.

9 BY MR. EDWARDS-BALFOUR:

10 Q Earlier you mentioned going to the bank numerous times.
11 Do you recall -- or do you recall going to the bank on August
12 5, 2020?

13 A Yes.

14 MR. BUFORD: Can we please pull up what is already
15 in evidence as Government Exhibit 737 and go to page 23,
16 please.

17 (Exhibit published.)

18 Q Mr. Viloria do you see what's on the screen there?

19 A Yes.

20 Q This document is entitled "Payment Protection Program
21 Borrower Application form revised June 24, 2020." Did I read
22 that correctly?

23 A Yes.

24 Q I want to scroll down to the bottom of the next page. Do
25 you see where it says "print name"?

Viloria - direct - Edwards-Balfour

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1 A Yes.

2 Q Is that your name?

3 A That's correct.

4 Q And above that, is that your signature?

5 A Yes.

6 Q And to the right there does it say "August 5, 2020"?

7 A Yes.

8 MR. EDWARDS-BALFOUR: Now, could we please scroll up
9 to the top of the prior page.

10 Q Do you see in the middle there where it says "Applicant
11 Ownership" towards the bottom? It says "Applicant Ownership"?

12 A Yes.

13 Q Above that is any of that your handwriting?

14 A No.

15 Q Now, it says under "Business Legal Name" "Car Expert Auto
16 Group." That's your company, right?

17 A That's correct.

18 Q And the address of your business is below that?

19 A Yes, sir.

20 Q And to the right of that it says "Primary contact e-mail
21 address." That's your information; is that right?

22 A Yes.

23 Q Now please look to where it says "Average Monthly
24 Payroll." Do you see that?

25 A Yes.

Viloria - direct - Edwards-Balfour

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1 Q And to the immediate right of that after the dollar sign,
2 do you see an amount?

3 A Yes.

4 Q What amount is there?

5 A 100,000.

6 Q And was that the actual average monthly payroll for Car
7 Expert?

8 A No.

9 Q Is that number fake?

10 A Yes.

11 Q And to the right of that it says, among other things,
12 "Equals loan request," and it has a money sign to the right of
13 that and then some numbers. Do you see those numbers?

14 A Yes.

15 Q What number is that.

16 A 250,000.

17 Q And what do you understand that that number represents?

18 A That would be the loan number.

19 Q Now, going to the right of that again, it says "Number of
20 Employees" and then it says "20." Do you see that?

21 A Yes.

22 Q Did you have 20 employees for Car Expert?

23 A No.

24 Q And where did that number come from?

25 A Anthony when he filled out the application he would put

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1 the number on there.

2 Q Below that, do you see where it says "Purpose of the
3 loan, select more than one." Do you see that line?

4 A Yes.

5 Q And then a couple of things are selected there, there's
6 "payroll, lease and mortgage interests and utilities." Did I
7 get that right?

8 A Yes.

9 Q Was there a substantial amount of this going to payroll,
10 was that accurate?

11 A No, sir.

12 Q Let's go a little further down on this document. Do you
13 see along the left there's numbers one through eight?

14 A Yes.

15 Q And there's questions corresponding with each of them,
16 right?

17 A Yes.

18 Q And on the right side there's yes or no and then there's
19 checkmarks for the answers. Do you see that?

20 A Yes.

21 Q Did you check those yeses and nos corresponding with
22 these answers?

23 A No, sir.

24 Q We're not going to go over all of them, but first look at
25 numbers five and six. Do you see initials there?

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1 A Yes.

2 Q Are those your initials?

3 A Yes.

4 Q Did you initial there?

5 A Yes, I did.

6 Q Okay. So looking at number five, it says, "If the
7 applicant is an individual or any individual owning 20 percent
8 or more of the equity of the applicant presently incarcerated
9 or for any felony presently subject to an indictment, criminal
10 information, arraignment or other means by which formal
11 criminal charges are brought in any jurisdiction."

12 Did I read that correctly?

13 A Yes.

14 Q At this time we saw that you signed it on August 5th.
15 Were you subject to indictment and criminal charges?

16 A That's correct, yes.

17 Q So was that an accurate statement?

18 A No.

19 Q And to the right of that it says, "No." So it wasn't;
20 right?

21 A That's correct.

22 MR. EDWARDS-BALFOUR: So can we please scroll down
23 to the next page now?

24 Q Do you see where it says "I certify that" under
25 "certifications and authorizations" there?

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1 A Yes.

2 Q Did you review all of these conversations listed there
3 before you signed this document?

4 A I did not.

5 Q Was any of this information on the prior page or in
6 these certifications here explained to you by anyone at the
7 bank?

8 A No.

9 Q So let's look at the fifth bullet from the top. It says,
10 "All SBA loan proceeds will be used only for business-related
11 purposes as specified in the loan application and consistent
12 with the Payment Protection Program rules."

13 Do you see that?

14 A Yes.

15 Q Was that accurate?

16 A No.

17 Q And below that if we go further down, it says --

18 (Pause in proceedings.)

19 THE COURT: I apologize for that.

20 Q Let me find where we were.

21 So, we're under "Certifications." Do you see
22 "Certifications" there in capital letters?

23 A Yes, I do.

24 Q Underneath that, there are a series of initials. Do you
25 see those initials?

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1 A Yes.

2 Q Are those your initials?

3 A Yes.

4 Q Did you write those initials?

5 A I wrote my initials, yeah.

6 Q Did you read all of this before you initialed those
7 areas?

8 A No.

9 Q Was it explained to you by anyone at the bank before you
10 initialed those areas?

11 A No.

12 Q So why did you initial in all of those places that you're
13 certifying if it wasn't explained to you and you didn't read
14 it?

15 A Sometimes it was rushed because there were customers
16 there and they wanted it done so it was just sign, sign,
17 initials.

18 Q So looking at the certification that's the second from
19 the bottom, and it starts with, "I further certify that the
20 information provided in this application and the information
21 provided in all the supporting documents and forms is true and
22 accurate in all material respects."

23 Did I read that correctly?

24 A Yes.

25 Q Was that accurate?

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1 A No.

2 MR. EDWARDS-BALFOUR: Okay, can we please take this
3 down.

4 Q So after you signed what we just reviewed as Government
5 Exhibit 737 on August 5, 2020, did you speak with Anthony
6 Castro by text message through WhatsApp?

7 A I believe that's true.

8 MR. EDWARDS-BALFOUR: Can we go to Government
9 Exhibit 100 and go to the second page?

10 (Exhibit published.)

11 Q Do you see what's on the screen here?

12 A Yes.

13 Q And do you see where it says "Wednesday, August 5th" at
14 the top there?

15 A Yes, I do.

16 Q It's a little blown up; right?

17 A Yes.

18 Q And you see there are messages that are on the right and
19 messages on the left of the actual image of your phone?

20 A Yes.

21 Q And are those messages the translations of the messages
22 from your phone?

23 A Yes.

24 Q So August 5th -- we're looking at now August 5th. This
25 is the same day that you just signed -- that we saw that

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1 you had signed that document. Here you said you're talking
2 with Anthony and in your first message you say, "Do you want
3 me to send it through here?" Anthony says, "Okay" and then
4 you send an image. What image did you send there?

5 A The driver's license of my wife.

6 Q And why did you send Anthony the driver's license of your
7 wife?

8 A I was sending all the information that Anthony asked me
9 to start the process.

10 Q Okay. And then on Friday August 7th is the next time
11 that we see here a message that you guys have and Anthony
12 says, "Good morning, brother. When you get a chance give me a
13 call," and he sends you an e-mail address. Do you see that?

14 A Yes.

15 Q Why do you understand that he was sending you an e-mail
16 address?

17 A That way I could send the paperwork to his e-mail. It
18 would be easier.

19 MR. EDWARDS-BALFOUR. Can we scroll to the next
20 page?

21 Q Now, you sent Anthony an image at 9:52 a.m. Do you see
22 that image that you sent?

23 A Yes.

24 Q And what did you send him in that image?

25 A Tax ID, Certificate of Authority.

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1 Q Sorry, can you say it?

2 A Tax ID.

3 Q Tax ID for what?

4 A For one of the companies. I believe this is for
5 AutoNext.

6 Q And at 9:53 a.m. you say, "That is the license for
7 AutoNext."

8 Please remind the jury, AutoNext is one of your
9 companies; correct?

10 A Yes.

11 Q Now, we saw the application that you signed on August 5th
12 Car Expert. Why are you sending him this license for
13 AutoNext?

14 A Anthony asked me for all the paperwork for both
15 companies; tax ID, bank statements, lease, and so forth.

16 Q Now at 9:53 a.m. you also said, "I sent you the
17 statements by e-mail." Did I read that correctly?

18 A Yes.

19 Q What statements are you saying that you sent? What are
20 you referring to when you say --

21 A The bank statements.

22 Q And when you said "by e-mail" is that to his e-mail
23 address that you sent them?

24 A Yes, the one that he showed before.

25 Q Can you scroll down to the next page. We're now on page

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1 four of Government Exhibit 400.

2 What are these documents that you sent -- we saw a
3 document on the prior page and now these are two more
4 documents that you had sent and you said "These are from Car
5 Expert."

6 What are these documents from Car Expert?

7 A That's a whole year of bank statements.

8 Q And why did you send these messages to Anthony or these
9 bank statements?

10 A That was one of the requirements that he asked me to send
11 paperwork.

12 MR. EDWARDS-BALFOUR: Now, please scroll to the next
13 page, please.

14 Q You again sent two more documents at 9:59 a.m. Were
15 those more documents that you were sending?

16 A Yes, sir.

17 Q Now looking at the message sent at 11:39 by Anthony, he
18 says, "Don't forget the lease and the license from the other
19 business." Did I read that correctly?

20 A Yes.

21 Q What other business is he talking about?

22 A Car Expert.

23 Q And when he says, "Don't forget the lease and the license
24 from that business," why did you understand that he was asking
25 for that?

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1 A Because I only sent the one for the first business so he
2 needs the one from the second one also to proceed.

3 Q Now, looking a little further down at 11:56 you respond
4 and you send some image. Do you see the image you sent at
5 11:56?

6 A Yes.

7 Q And what did you send at 11:56?

8 A Tax ID and dealer license.

9 Q And is that for the other business?

10 A Car Expert, yes.

11 Q Next, at 12:16 p.m. Anthony responds and says, "Brother
12 they gave me till today for the W-2 because we're already past
13 the deadline." Did I read that correctly?

14 A Yes.

15 Q What did you understand him to mean when he said "They
16 gave him until today for the W-2"?

17 A Well, it was always a rush, like I said before, so the
18 time also was ticking because the loan -- I think the loan
19 expired pretty soon to submit the loans.

20 MR. EDWARDS-BALFOUR: Can we please go to the next
21 page?

22 Q Do you see at the top it's the same message the 12:16
23 message that we just reviewed on the last page?

24 A Yes.

25 Q In response you said "ufff," what did that response mean?

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1 A I didn't have any other paperworks. I didn't have any
2 other paperworks he asked to be completed.

3 Q When you say you didn't have the paperwork he asked you
4 to complete, is it because it didn't exist?

5 A I only have four employees at that company so I didn't
6 know how to get the other ones.

7 Q Now, at 12:34 p.m., you sent another image to Anthony.
8 Do you see this?

9 A Yes.

10 Q And what do you understand you sent to Anthony at that
11 time?

12 A I believe the lease agreement for the cars.

13 Q And in response at 12:45 Anthony sends you two messages.
14 First he says "Bring everything if you can. Let's give it a
15 try. Right now it's all we can do."

16 Did I read that correctly?

17 A Yes.

18 Q What did you understand him to be talking about when he
19 said "Bring everything you can. Let's give it a try."

20 A It was not being secured, that he was going to try his
21 best.

22 Q What was not secured?

23 A The loan, the loan application. I would need more
24 paperwork and I don't have it or I didn't have it at that
25 time.

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1 Q In response you say, "Okay" at 1 p.m.

2 MR. EDWARDS-BALFOUR: Can we please scroll to the
3 next page?

4 Q At 2:04 and 2:05, are those two more statements you sent
5 to Anthony there?

6 A Yes.

7 Q And approximately an hour and 40 minutes later or so at
8 3:48 p.m., Anthony sends you a message and says "Let me know
9 what you get on your side." Did I read that correctly?

10 A Yes.

11 Q And you replied "Okay and you are working on yours" at
12 3:51. What did those messages mean when he says "let me know
13 when you get on your side" and you say "okay, let me know what
14 you're getting on yours." What does that mean?

15 A I only have four and I asked my accountant and he didn't
16 have time to finish. So he was recommending me another
17 accountant to do it on the side.

18 Q And at 3:51 Anthony writes and says, "I'm calling the
19 African to see if he can do it tonight. I'll let you know."
20 You response at 3:52 and say, "Okay, perfect." Did I read
21 those correctly?

22 A Yes.

23 Q When he said "the African" who did you understand the
24 African to be?

25 A That was the accountant that he was recommending.

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1 Q And why did you understand he was calling the African?

2 A I don't know. That's a good question though.

3 Q Had you ever seen the African before?

4 A A glance, yes.

5 Q When you say "a glance" can you please describe what you
6 saw when you saw the African?

7 A I was in the office and he was helping two more people in
8 the waiting area.

9 Q And how did you know that that was the African?

10 A He pointed out.

11 Q Who pointed it out?

12 A Anthony pointed it out. He's the one that came out to
13 help with the --

14 Q So earlier during your testimony when we were going over
15 this document which is Government Exhibit 100 at 9:48 a.m. on
16 August 7th we saw Anthony send you his e-mail address. Do you
17 remember that?

18 A Yes.

19 Q Do you recall e-mailing him at some point after that?

20 A Yeah.

21 MR. EDWARDS-BALFOUR: Can we please pull up what's
22 already in evidence as Government Exhibit 1148.

23 (Exhibit published.)

24 Q Do you see what's on the screen there?

25 A Yes.

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1 Q And who is this e-mail from?

2 A From myself to Anthony.

3 Q And what is the date of the e-mail there?

4 A 8/7.

5 Q That's August 7, 2020?

6 A Yes.

7 Q And the subject of the e-mail says "June"?

8 A Yes. I believe that was a bank statement.

9 Q And you believe it's a bank statement. Do you believe
10 the statement -- because you named an attachment called June
11 2020.

12 When you say you believe it's a bank statement, is
13 that the attachment you're talking about?

14 A That's correct.

15 MR. EDWARDS-BALFOUR: Can you please scroll down to
16 the next page?

17 Q Is this the attachment to the bank statement that you
18 were talking about?

19 A Yes.

20 Q And why did you send this to Anthony over e-mail?

21 A It's part of the requirements that he asked me for.

22 Q So, looking at this document and it says "Account summary
23 for the period of June 1, 2020 to June 30, 2020." Did I read
24 that correctly?

25 A Yes.

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1 Q And do you see below that where it says "Previous
2 balance, May 31, 2020, \$4.57." Did I read that correctly?

3 A Yes.

4 Q Now, this document that's here, right, is this recording
5 the bank activity from AutoNext from June 1st to June 30,
6 2020?

7 A That's correct.

8 Q And when you submitted this document were you submitting
9 it as part of your application process for the PPP loan?

10 A Yes.

11 MR. EDWARDS-BALFOUR: Can we go down to the first
12 page of this document?

13 Q At the bottom do you see where it says "Total," there's
14 the word "total" at the bottom on the left?

15 A Yes.

16 Q And then underneath the column with deposits and credits
17 there's \$30,938?

18 A Yes.

19 Q And a little bit more on the right of that?

20 A Yes.

21 Q We talked about the monthly average payroll being
22 100,000. Is this about 70,000 less than that?

23 A 60 and change, yes.

24 Q I'll let you do the math. I'm a lawyer. We don't do
25 math as well, but that sounds fine.

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1 And this reflects a month of AutoNext expenses and
2 things; is that right?

3 A Yes.

4 Q So we're not going to go over all of your statements that
5 you sent to Anthony, but you sent e-mails to about Car Expert
6 in addition to AutoNext when you sent statements?

7 A Yes, from both companies, yes.

8 MR. EDWARDS-BALFOUR: Can we go back to Exhibit 100
9 and to page eight where we left off?

10 (Exhibit published.)

11 Q Do you see what's on the page now?

12 A Yes.

13 Q Is it on your screen?

14 A Yes.

15 Q At the top of the page it reflects another date. Do
16 you see it's Saturday, August 8th. Did I read that
17 correctly?

18 A Yes.

19 Q And below that at 9:06 a.m. you sent an image to Anthony.
20 Do you see that you sent an image?

21 A Yes.

22 Q Saying "Jimmy 2019 W-2 Fatim's." Do you see that?

23 A Yes.

24 Q What did you send to Anthony in that image?

25 A That was the W-2 of one of my employees.

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1 Q Is that one of the four employees that you said you had?

2 A Yes.

3 Q And at 9:06 a.m. you say, "Good morning. They're okay
4 like that, like that one." What are you saying in those
5 messages?

6 A They're coming with a couple of papers so I just sent the
7 information of the W-2s. I was asking if that was okay like
8 that one.

9 Q You said -- were you asking or were you telling him?

10 A I was asking.

11 Q And Anthony responded to you at 9:25 a.m. saying, "It
12 looks good." Do you see that?

13 A Yes.

14 Q What did you understand him to mean when he said, "It
15 looks good"?

16 A That it looks okay, those ones.

17 Q You say "Okay" at 9:28 and then at 9:38, Anthony says,
18 "We only need 39 more like this."

19 Did I read that correctly?

20 A Yes.

21 Q When he says, "We only need 39 more like that," what did
22 you understand he was talking about?

23 A W-2s for both companies.

24 Q You say then at 9:21 a.m., "I'm going to have the 20 from
25 Car Expert. And then you only need the ones for AutoNext,

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1 that's it."

2 What are you talking about there?

3 A The W-2s, the one that I was missing.

4 Q So between his message when he says, "We only need 39
5 more like this," and you saying "I'm going to have 20 for Car
6 Expert," are you talking about employees?

7 What are you talking about in these messages? What
8 do these correspond with?

9 A One of the companies, I think, only has, like, three
10 employees. So it's missing the rest to make 40, 20 and 20.

11 MR. EDWARDS-BALFOUR: Can we please go to the next
12 page?

13 Q The top left at 9:43 a.m. Anthony sent a message to you
14 saying, "Perfect. Send it without the first page. I suggest
15 we do it on Monday so I can print them, take a look, and then
16 scan them." Did I read that correctly?

17 A Yes.

18 Q What did you understand him to be talking about when he
19 said he wants to take a look -- print and scan them?

20 A To see that they look legit and okay.

21 Q When you said "they" what are we talking about?

22 A The W-2s.

23 Q And when you say said to see if though look legit and
24 okay, why are you saying to see if they look legit?

25 A Because I only had four employees. The other ones were

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1 made up.

2 Q And then you say, "Okay. However you think is best.
3 Quick question." Anthony says at 3:40, "I'm listening." And
4 then at 4:09 you say, "I already have the ones from one
5 company."

6 And in between your messages Anthony responds at
7 4:12 saying, "Perfect. We're all set for Monday then. We'll
8 send AutoNext first because that was the one with the least
9 chance and we can do the other one on Tuesday." It also says
10 at the same time, "I'll ask the manager how she wants to do it
11 on Monday."

12 So starting with the first of the 4:12 messages,
13 when he says, "We'll do AutoNext first because that's the
14 one with the least chance" -- what did you understand it
15 to mean when he said "that was the one with the least
16 chance"?

17 A AutoNext was just an office to take orders and sell cars.
18 It was not actual place to store cars and stuff like that. I
19 guess he said that that's the one that has the least
20 possibility to get approved.

21 Q When you say it's just an office with a couple of people
22 answering phone calls and things like that, was this one of
23 the locations that you saw Anthony and Ms. Okeke visit?

24 A Yes.

25 Q So next in your message you say, "We do the other one on

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1 Tuesday." Are you referring to Car Expert when you say "the
2 other one"?

3 A That's correct, yes.

4 Q And your second message at 4:12 p.m., Anthony said, "I'll
5 ask the manager how she wants to do it on Monday."

6 Who did you understand Anthony was talking about
7 when he said "the manager"?

8 A His manager, Anuli Okeke, it was presented to me at that
9 time.

10 Q And going back to your messages kind of reading them in
11 order, at 4:12 you said "I have" and at 4:12 as well you said
12 "Car Expert." At 4:13 you say, "I'll try to have AutoNext by
13 Monday or Tuesday." Did I read that correctly?

14 A Yes.

15 Q And we've been talking about W2s. Is that what you're
16 talking about in this sentence?

17 A Yes.

18 Q And then you say "One more thing" at 4:13 p.m.

19 MR. EDWARDS-BALFOUR: Scroll to the next page,
20 please.

21 Q So on the left side there where it says, at 4:13 p.m.,
22 "go ahead," there seems to be -- if you look at the phone
23 message, there seems to be some text in there that seem to be
24 messages that you wrote and Anthony says, "Okay, go ahead."

25 Do you see those?

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1 A Yes.

2 Q What is happening there? What's happening there? Why
3 does it look like that compared to the other messages?

4 A He replying of the message that I sent before.

5 Q Okay. And looking a little further down in the next
6 messages you sent a number of messages at 4:14 p.m. Do you
7 see that?

8 A Yes.

9 Q And in your messages you said, "Do you know all the
10 numbers from SS are not exact. That is fine."

11 Did I read that correctly?

12 A Yes.

13 Q What does SS refers to?

14 A Social Security numbers.

15 Q And what are you talking about when you say "they're not
16 exact"?

17 A That they didn't exist. They're not real.

18 Q And when you say, "That is fine," is that a statement or
19 are you asking a question?

20 A I'm asking a few because I sent it to my accountant to do
21 it and the numbers are not real.

22 Q In response to your message at 4:14 p.m. on the left
23 there, Anthony says, "Yes, no prob. That's while I'll give a
24 review on Monday, but she said that wasn't a problem."

25 Did I read that correctly?

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1 A Yes.

2 Q Who do you understand Anthony to be talking about when he
3 said "she said that wasn't a problem"?

4 A The manager.

5 Q And who did you understand was the manager?

6 A Ms. Okeke.

7 Q And what did you understand him to mean when he said, "It
8 wasn't a problem. What wasn't a problem?"

9 A I guess it was okay, everything the way that it was.

10 MR. TALKIN: Objection to what he guesses, Your
11 Honor.

12 THE COURT: Sustained.

13 A It was okay.

14 THE COURT: Rephrase the question.

15 Q What did you understand Anthony to mean in his message
16 when he said it wasn't a problem?

17 A That he was okay with the numbers that I sent.

18 Q So at the bottom of the page there do you see another
19 date, August 10th, Monday August 10th?

20 A Yes.

21 Q And below that you send a message saying, "Good morning,
22 brother. How are you," at 9:10 a.m. Do you see that?

23 A Yes.

24 Q Can we go to the medication page, please? Do you see
25 your same message at 9:10 a.m. where you say, "Good morning,

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1 brother. How are you?"

2 Now, above that there comes to be some kind of
3 notification that says "Ring. There's motion at your front
4 door."

5 A Yes.

6 Q What is that?

7 A That's the Ring doorbell that I have on one of my
8 businesses.

9 Q Does that detect something when someone is at your front
10 door?

11 A Yes, it alerts you. Yes.

12 Q And at the time when you said that Anthony and Ms. Okeke
13 listed your companies were you at both locations?

14 A No.

15 Q Did you receive any notification when they visited your
16 front door?

17 A Yes.

18 Q And are you also able to see who is at your front door
19 when you get this notification?

20 A Yeah.

21 Q And that's how you saw them?

22 A Yes.

23 Q At 9:45 a.m. -- withdrawn.

24 Before we get there, after your message saying,
25 "Good morning, brother," it says "missed call" 9:41 a.m.

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1 Do you see that?

2 A Yes.

3 Q What does that mean?

4 A Anthony called me and I missed the phone call.

5 Q And below that at 9:45 A.m. Anthony sent you two
6 messages. He says, "I forgot to tell you to make sure that
7 the W2s should not be identical for both businesses and the
8 total amount is 1.2 in total." Did I read that correctly?

9 A Yes.

10 Q What did you understand him to mean when he said to
11 handshake sure the W-2s should not be identical for both
12 businesses?

13 A Not to be the same form.

14 Q When he said the total amount is 1.2 in total, what do
15 you understand that to mean?

16 A The number at the end of the line should be 1.2 million.

17 Q Now, in response to his messages, you sent a series of
18 messages on the right there, 156 -- between 1:56 and 1:57 p.m.
19 you said, "Brother, check your e-mail and tell me from that
20 list what you need." Did I read that correctly?

21 A Yes.

22 Q Why did you tell him to check his e-mail?

23 A Because I sent an example of the W-2s.

24 Q And what did you want him to tell you?

25 A That it was okay.

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1 Q Now, do you see an image there at the bottom of the
2 screen?

3 A Yes.

4 Q Okay. So now I want to switch a little bit.

5 MR. EDWARDS-BALFOUR: And can you please pull up
6 what's already in evidence Government Exhibit 895?

7 (Exhibit published.)

8 Q And looking the top, who is this from?

9 A From my e-mail.

10 Q This is from your e-mail. And who sent this e-mail?

11 A I sent it to Anthony Castro.

12 Q And the date is Monday, August 10, 2020. Do you see
13 that?

14 A Yes.

15 Q And that's the same date as the text messages that we
16 were just looking at; right?

17 A Yes.

18 Q The subject line says "Four W-2s." Did I get that
19 right?

20 A Yes.

21 Q Now, the time there, it says 5:56 p.m., but it's GMP
22 time. So in Eastern Standard Time that's 1:56 p.m.

23 MR. EDWARDS-BALFOUR: Can we scroll down a little
24 bit?

25 Q There's a name, Manuel Salcedo. Do you see that name,

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1 Manuel Salcedo?

2 A Yes.

3 Q Who is that?

4 A He's one of my partners.

5 Q One of your partners in what?

6 A Advanced Auto Mall.

7 Q Where did he live at that time?

8 A 2 Massitoa, M-A-S-S-I-T-O-A.

9 Q So do you see where it says "Forwarded message"?

10 A Yes.

11 Q Okay. And that e-mail is from Friday, August 7th. It's
12 from you to Advanced Auto Mall. Whose e-mail address is that?

13 A Up top it's my e-mail to Advanced Auto Mall to Car
14 Expert -- Advanced Auto Mall and Car Expert are the same.

15 Q And the subject is W-2, am I right?

16 A Yes.

17 Q So this e-mail chain you sent to Anthony on August 10th;
18 is that correct?

19 A Yes.

20 Q Okay. So below that information there that we just saw
21 -- can we go back. Do you see what's the page there?

22 A Yes.

23 MR. EDWARDS-BALFOUR: Can we go back up to the top
24 page?

25 Q And then you see where it says "Car Expert Auto Group"

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1 there?

2 A Yes.

3 Q Is that information about -- is that -- that information
4 about Car Expert, is that accurate information about Car
5 Expert; just where it says the address and the tax ID and the
6 name of the company?

7 A Yes.

8 Q Now, below that information starting with Cesar Guzman
9 going by what we saw on the other page --

10 MR. EDWARDS-BALFOUR: Can we show him what's on the
11 other page?

12 Q Do you see that information now?

13 A Yes.

14 Q What is that information there?

15 A The name of the employees and the chosen amount that they
16 should be making.

17 Q And when you say "the names of the employees and
18 addresses and amount they should be making," employees for
19 what?

20 A I was talking about Car Expert at that time.

21 Q Do you know all of these individuals listed here?

22 A Not all of those, no.

23 Q Were all of these people employed by Car Expert?

24 A No, sir.

25 Q Do you know some of them?

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1 A Four to be exact.

2 Q There's one -- one seems to be named Israel Viloria, do
3 you know that one?

4 A I believe so.

5 Q So, next to the names there seem to be some numbers right
6 immediately to the right of the names. Do you see those
7 numbers?

8 A Yes.

9 Q What are those numbers?

10 A Right next to the name?

11 Q Yes. If you look right next to the name. Let's
12 talk about Yinette Cepedao. There's a number 066-80-9444. Do
13 you see that?

14 A Yes.

15 Q For each of those names on the list there are numbers in
16 that place. What are those numbers supposed to be?

17 A Social Security.

18 Q And you mentioned that you don't know some of these
19 individuals. For the individuals that you don't know, do you
20 know whether or not these numbers are their real Social
21 Security numbers?

22 A They're not.

23 Q Now, going further down to the right there's a money sign
24 next to each of the names -- corresponding with each of these
25 individuals.

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1 Do you see the money sign?

2 A Yes.

3 Q And what is that money sign there supposed to be
4 representing?

5 A Their payments.

6 Q Their payments for what?

7 A For work on the W-2's payroll.

8 Q And based on what you said before, these individuals were
9 not paid by your company as employees; is that right?

10 A Yes.

11 Q Where did you get these monetary amounts for each of
12 those individuals?

13 A Anthony provided me a sample.

14 Q Is this information which is on Government Exhibit 895,
15 is this what you were talking about in a text message we were
16 looking at in Government Exhibit 100 when you instructed
17 Anthony to check his e-mail? Was this what you wanted him to
18 check?

19 A Yes.

20 MR. EDWARDS-BALFOUR: Can we put back Government
21 Exhibit 100 to page eleven?

22 (Exhibit published.)

23 MR. EDWARDS-BALFOUR: Can we please go to the next
24 page?

25 Q Do you see the two images that are on the screen there?

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1 A Yes.

2 Q And the top one that's the same image that was just the
3 bottom one on the prior page; is that right?

4 A It looks like it, yes.

5 Q And at 2:59 p.m. and 3:17 p.m. these are messages that
6 Anthony sent you; is that right?

7 A Yes.

8 Q Because they're outlined in white -- so that's not you
9 sending, that's him; correct?

10 A Yes.

11 MR. EDWARDS-BALFOUR: Can we please pull up what's
12 already in evidence as Government Exhibit 200 A.

13 (Exhibit published.)

14 Q Do you see that there's handwriting on this document? Do
15 you see handwriting?

16 A Yes.

17 Q Is that your handwriting on this document?

18 A No, even my name is spelled wrong.

19 Q Your name seems to be spelled wrong.

20 In the top left, what did you understand that
21 handwriting meant?

22 A It's supposed to be the number on the left.

23 Q And when you say "on the left," looking at the column in
24 the middle, the right column, what did you understand was
25 being said in that handwriting there?

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1 A It was the missing the sentence on that line.

2 Q And on the right what do you understand that to be
3 saying?

4 A That it's missing the sentence.

5 Q What missing the sentence?

6 A The column that I sent him was missing the sentence?

7 Q When you say "the column" what column are you talking
8 about, in your e-mail?

9 A The W-2s, yes.

10 Q When you said the column you sent, are we talking about
11 the e-mail you sent or what are we talking about here?

12 A The e-mail I sent.

13 Q The e-mail you sent is missing some of the sentences, is
14 that what you're saying he's saying here?

15 A That's right.

16 MR. EDWARDS-BALFOUR: Can we please pull up
17 Government Exhibit 895 alongside 200-A.

18 (Exhibit published.)

19 MR. EDWARDS-BALFOUR: And scroll to the bottom of
20 895, please. Scroll up one page, please.

21 BY MR. EDWARDS-BALFOUR:

22 Q Do you see Cesar Guzman at the bottom here?

23 A Yes.

24 Q How much money is next to the name -- is corresponding
25 with Cesar Guzman?

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1 A 40,800.

2 Q So, looking to Government Exhibit 200-A which is on the
3 left side there, do you see the same number anywhere on that
4 page?

5 A Yes, sir, on the top.

6 Q In the top middle column; is that right?

7 A The right column, yes.

8 MR. EDWARDS-BALFOUR: Can we go to the next name on
9 Government Exhibit 895 and go down a little bit?

10 Q Jaime Dominguez, how much money is next to his name?

11 A 33,600.

12 Q Is that number reflected on Government Exhibit 200-A
13 below where Guzman's amount was?

14 A Yes.

15 Q Let's do the next one as well for DaSilva.

16 Do you see that amount there?

17 A Yes.

18 Q And does that same amount correspond to the third person
19 down on the column that's on the right in Government Exhibit
20 200-A?

21 A Yes, it's the same.

22 Q Are the other numbers on the right of column 200-A
23 generally similar to the numbers that had you sent in your
24 e-mail?

25 A Yes, I believe the number is the same on the right.

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1 Q And then -- so, the difference between the number --

2 So, just looking at 200-A again, the difference
3 between the number on the right and the column on the right --
4 the numbers in that column, and the numbers in the column on
5 the left, what is the difference? What did you understand he
6 was trying to get you to do?

7 A To make sure that it's not an even number and I had a
8 sentence at the end.

9 MR. EDWARDS-BALFOUR: Okay. We can take these down,
10 please.

11 Can we pull up Government Exhibit 200-B which is
12 already in evidence?

13 (Exhibit published.)

14 BY MR. EDWARDS-BALFOUR:

15 Q Do you see this document?

16 A Yes.

17 Q Do you see some handwriting at the bottom there?

18 A Yes.

19 Q Is that your handwriting?

20 A No, sir.

21 Q What did you understand that number to be referring to?

22 A The amount after all the numbers are counted.

23 Q Do you recall whether employee information was submitted
24 as part of the application?

25 A Yes.

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1 Q Was the information in those submissions about the
2 employees? Was a lot of it made up?

3 A Yes.

4 Q Were W-2s submitted as parts of your application?

5 A That's correct.

6 Q Before August 7, 2020, did you send anyone who was part
7 of the scheme any information about Car Expert revenues for
8 2019?

9 A I'm sorry before what?

10 Q Before August 7, 2020 did you send anyone that was part
11 of the scheme that you said you were in, did you send them any
12 information about Car Expert's revenue for 2019?

13 A No.

14 Q Before August 7, 2020 did you send anyone who was part of
15 the scheme, any information about Car Expert's employee wages
16 or payments for the year 2019?

17 A No.

18 MR. EDWARDS-BALFOUR: Can we please put back up
19 Government Exhibit 100 and go to page 13?

20 (Exhibit published.)

21 Q Do you see what's on the screen there?

22 A Yes.

23 Q Do you see there's a date there at the bottom that says
24 "August 11th"?

25 A Yes.

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1 Q Above that, still in August 10th -- we were looking at
2 the August 10th messages before. Do you remember that?

3 A Yes.

4 Q The message on August 10th at 4:44 p.m. you sent
5 something and then at 4:45 p.m. you sent something else.

6 What is it that you sent?

7 A The information that needs to be collected to make the
8 loans.

9 Q What are those documents?

10 A W-2s.

11 Q And on the next day, August 11th at 9:29 a.m. you said,
12 "Good morning, brother. Hope everything is good." In
13 response, Anthony says, "Good morning, brother. Go ahead and
14 send me that yesterday afternoon. We are waiting for a
15 response."

16 What did you understand him to be talking about in
17 that message?

18 A He's waiting for an answer to see if the loan was
19 approved or not -- if it was going to be approved or not.

20 Q And what did you understand he wanted you to send him?

21 A Different sort of paperwork that I was missing.

22 MR. EDWARDS-BALFOUR: Can we please go to the next
23 page?

24 Q Now, at the top do you see the message we just read on
25 the prior page from August 11th where you said, "Good

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1 morning." It's 9:29 and Anthony's response to you. Those are
2 the same messages?

3 A Yes, I believe so.

4 Q Okay. And we're on August 11th. Anthony says, "Work on
5 AutoNext to send it over tomorrow." You say, "Okay, cool."

6 What did you understand him to be talking about when
7 he said to you to work on AutoNext to be sent over to him
8 tomorrow?

9 A The W-2s.

10 Q And at 11:45 a.m. Anthony says, "Send me the ones from
11 AutoNext to start analyzing."

12 When says that he's going to start analyzing, what
13 did you understand him to be saying that he was going to
14 analyze?

15 A To see if they look correct.

16 Q At 1:34 p.m. you sent something and said, "This one."
17 What did you sent at 1:34 p.m.?

18 A That's one of the copies of the W-2s.

19 Q That's one of the copies of the W-2s?

20 A Yes.

21 Q And next at 1:35, he sends two messages, the first saying
22 "Is this the format you're going to use? Send me a complete
23 one." In response you said, "Yes. What do you think?"

24 What did you understand him to be wanting from you
25 that you said yes to?

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1 A To see if it's okay, that that was the form that he wants
2 me to use.

3 MR. EDWARDS-BALFOUR: Can you go to the next page,
4 please?

5 Q After you say, "What do you think" at 1:45, the next
6 message Anthony sends to respond to you says, "It looks good,
7 but send me a complete one to take a look."

8 What did you understand him to mean when he says,
9 "Looks good, but send me a complete one to take a look"?

10 A That he believed that it looks good and legit.

11 Q When you say that it looks good and legit, what is the
12 "it" that you're talking about?

13 A The W-2s.

14 Q And you respond by saying, "Yes, they'll do it," at 1:49,
15 "Now. And how is the other thing going," you say at 1:50.

16 What other thing are you talking about?

17 A I was asking about the loan.

18 Q And Anthony replies saying, "Waiting," and then at
19 1:54 -- between 1:54 and 1:55, you say, "Okay, but they said
20 that everything is fine."

21 What are you -- are you asking him something or are
22 you saying something. What are you asking there?

23 A I was asking about the other loan to see how it was
24 going, if everything was working good.

25 Q In response at 2:36 p.m., Anthony said, "They haven't

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1 told me anything yet." Did I read that correctly?

2 A Yes.

3 Q What did you understand him to mean when he said, "They
4 haven't told me anything"?

5 A His manager.

6 Q And who is his manager?

7 A Ms. Okeke.

8 Q There's another date there at the bottom on -- it says
9 August 12th. Do you see that?

10 A Yes.

11 Q And at 8:47 a.m. you seem to send Anthony something else.
12 What are you sending Anthony in that message?

13 A Right below the date?

14 Q Yes. Below August 12th you seem to send something. What
15 are you sending?

16 A W-2s.

17 Q And in response Anthony says at 8:51 a.m., "I'll check
18 how it looks once I print it." Did I read that correctly?

19 A Yes.

20 Q What did you understand that he meant when he said, "I
21 will check how it looks"?

22 A To see if everything is okay on the W-2s.

23 Q When Anthony says, "I'll check how it looks when I print
24 it," are those the things you sent the day before?

25 A Yes.

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1 Q At 8:51 a.m. you say, "Okay, let me know," and then
2 Anthony replies at 11:54 a.m., "Send me all of them. We'll
3 send it today if we can."

4 Did I read that correctly?

5 A Yes.

6 Q What did you understand Anthony to be talking about when
7 he said, "We'll send it today," what did you understand him to
8 be sending?

9 A To be finalizing all of the paperwork that I was getting.

10 Q And he says "we'll" in that message, who did you
11 understand the "we" was in his message?

12 A He got to always communicate by his superior.

13 Q And then 11:58 p.m. you respond, "Okay. Won't cause any
14 problems because of the other ones." What are you conveying
15 in that message?

16 A I'm asking because it's two companies, that one is not
17 going to compromise the other one.

18 Q At 12:06 p.m. Anthony response, "Nothing so far, but
19 she's telling us to send it."

20 Did I read that correctly?

21 A Yes.

22 Q Who did you understand Anthony to be talking about when
23 he's saying, "She's telling us to send it"?

24 A His superior.

25 Q Who is his superior?

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1 A Ms. Okeke.

2 Q And what did you understand he was talking about that was
3 being sent when it said he said to send it?

4 A All the paperwork for the company.

5 Q Okay. And then at 12:09 you respond saying "Okay" and
6 then 4:26 Anthony writes, "I'm still here at the bank. Let me
7 know if they'll have it ready before 5 to go ahead and do it
8 today." Did I read that correctly?

9 A Yes.

10 Q What did you understand him to be saying in that message?

11 A To send everything that I have to see if everything is
12 okay so he can finalize it.

13 Q In response to that at 4:43 -- at 4:43 you say, "Okay,
14 cool. I have seventeen already." Anthony says, "Okay," at
15 4:44 and then at 4:47 you said, "We're almost done."

16 Do you see that?

17 A Yes.

18

19 (Continued on the following page.)

20

21

22

23

24

25

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1 DIRECT EXAMINATION (Continued)

2 BY MR. EDWARDS-BALFOUR:

3 Q What did you have 17 already of?

4 A I was referring about the W-2s.

5 Q And when you said, we're almost down, who's we?

6 A The accountant. He was going to send it to me, the rest.

7 MR. EDWARDS-BALFOUR: Can we please go to the next
8 page.

9 Q Do you see the same message saying, we're almost done, at
10 4:47 that we saw on the prior page at the bottom?

11 A Yes.

12 Q It's on the top right there. So it's a continuation of
13 that message.

14 Anthony says at 4:47 in response to your message,
15 okay, just send them over to my personal, and then he provides
16 an e-mail address.

17 What did you understand him to be saying there?

18 A He wants me to forward the W-2s to his e-mail first,
19 personal e-mail.

20 Q And did you understand that was his personal e-mail that
21 he sent to you?

22 A Yes, I believe so.

23 Q You say, okay, at 4:49. And you provide a thumbs up.

24 And at 5:34, Anthony says, tell me how we doing.

25 And then at 5:44 p.m., you say, only one to go.

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1 And Anthony replies, okay.

2 Did I read that correctly?

3 A Yes.

4 Q What had only one to go?

5 A One more W-2.

6 Q Did you eventually provide Anthony with the W-2 tax
7 documents that he was requesting in these e-mails -- in these
8 text messages?

9 A Yes.

10 MR. EDWARDS-BALFOUR: Can we please pull up what is
11 already in evidence as Government Exhibit 738.

12 Q Do you see what's on the screen?

13 A Yes.

14 MR. EDWARDS-BALFOUR: Can we scroll down to a few of
15 them, slowly. And then back up to the top.

16 Q Are these the W-2s that were submitted on behalf of Car
17 Expert?

18 A I believe so, yes.

19 Q We're not going to go over all of them. I believe you
20 said there are 20. We're not going to do that. But let's
21 look at the first page there.

22 Which employee's listed here? What's the name of
23 this employee?

24 A Cesar Guzman.

25 Q Okay. And now looking towards box number one,

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1 corresponding with wages, tips, and other compensation.

2 Do you see the number there?

3 A Yes.

4 Q And what's the number there?

5 A 40,800.27.

6 Q Okay.

7 MR. EDWARDS-BALFOUR: So can we now please pull up
8 what's in evidence as Government Exhibit 200A, alongside
9 Government Exhibit 738. I want to look first at the column on
10 the left -- yes, right there.

11 And the top number.

12 Q Can you see everything on the screen in front of you
13 Mr. Viloría?

14 A Yes.

15 Q So looking at that top number, remember this document,
16 this is from the message you got from Anthony, right? Do you
17 remember that?

18 Government Exhibit 200A is the message you got from
19 Anthony? Do you remember that?

20 A Yes.

21 Q Now, that number that's on the top of the left column, do
22 you see that number reflected on Government Exhibit 738?

23 A Yes.

24 Q Same number?

25 A It looks like, yes.

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1 Q It looks like or it is?

2 A It is.

3 Q Okay.

4 MR. EDWARDS-BALFOUR: Can we now look at the second
5 page of Government Exhibit 738.

6 Q Do you see the next employee name?

7 A Yes.

8 Q What employee's name is there?

9 A Jaime Dominguez.

10 Q Okay. And do you see the amount in box number one
11 corresponding with wages, tips, and other compensation?

12 A Yes.

13 Q Is that the same number that's the second from the top in
14 the column on the left in Government Exhibit 200A?

15 A Yes, it is.

16 Q Okay.

17 MR. EDWARDS-BALFOUR: Can we look at the third page
18 of Government Exhibit 738.

19 Q Again, let's look at the wages, tips, and other
20 compensation line.

21 Do you see that number?

22 A Yes.

23 Q Is that the same number that's reflected in the column on
24 the left in Government 200A?

25 A Yes. In number one, yes.

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1 Q Okay. The rest of the numbers are generally the same?

2 A Yes, I believe so.

3 Q Okay.

4 MR. EDWARDS-BALFOUR: We could take those down.

5 Q Were quarterly tax documents also submitted as part of
6 the PPP application process for Car Expert?

7 A Yes.

8 MR. EDWARDS-BALFOUR: Can we please show what has
9 been entered into evidence as Government Exhibit 980, at
10 Page 4.

11 And then go down to Page 6, please. And then
12 Page 8. And then Page 10. Okay. And then back to Page 4,
13 please.

14 Q Do you see what was on the screen that flashed before
15 you?

16 A Yes.

17 Q Were they -- were those that you just saw which were on
18 Page 4, 6, 8, and 10, of Government Exhibit 980, were those
19 the quarterly documents given to Popular Bank for Car Expert
20 for 2019?

21 A Yes.

22 Q So, again, we're not going to go over all of these, even
23 though there's only four. But I want to start this one that's
24 on the page here.

25 So the name there, that's Car Expert, right?

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1 A Yes.

2 Q And that's the information from Car Expert on that page,
3 and the top right there where it says, report for this
4 quarter, is this the first quarter that this report is from?

5 A Yes.

6 Q That's January, February, and March, right?

7 A That's correct.

8 Q And then it says, number of employees, and it has number
9 one, and the number is 20; is that right?

10 A That's correct.

11 Q And then where it says under number two, wages, tips and
12 other compensation, it's 300,000?

13 A That's correct.

14 Q And where it says, number three, the federal income tax
15 withheld et cetera, 24,000.

16 Do you see that?

17 A Yes, sir.

18 Q So the numbers corresponding with one, two, and three,
19 there, was any of that accurate?

20 A No.

21 Q Was all that just made up?

22 A Yes.

23 MR. EDWARDS-BALFOUR: Can we please go to the next
24 page.

25 Q Do you see your signature there?

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1 A Yes.

2 Q Is that your signature?

3 A Yes.

4 Q And do you see the date?

5 A Yes.

6 Q It says March 31st, 2019. Did I get that right?

7 A Yes.

8 Q Did you sign this on March 31st, 2019?

9 A No.

10 Q Did you sign this in the summer of 2020 some time?

11 A Yes.

12 MR. EDWARDS-BALFOUR: Can we now go to Page 6.

13 Q This is a third quarter document -- third quarter 941 tax
14 document for Car Expert; is that right?

15 A Yes.

16 Q Do you see the numbers, one, two, and three corresponding
17 below that in part one?

18 A Yes.

19 Q Those the same exact numbers as the last quarter we went
20 over?

21 A Yes.

22 Q Let's go to the next page.

23 Is that your signature, as well?

24 A Yes.

25 Q Do you see the date, it was for the same, September 30th,

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1 2019?

2 A Yes.

3 Q Did you sign on that day?

4 A No.

5 Q Did you sign it some time in 2020?

6 A Yes.

7 Q Now, I neglected to ask --

8 MR. EDWARDS-BALFOUR: Can we go back up to the prior
9 page. Thank you. This one.

10 Q Where I asked you if the numbers were the same under part
11 one for one, two, and three, were those numbers accurate?

12 A They're not.

13 Q They're all made up, right?

14 A Yes.

15 Q So for the other two quarters that we're not going to go
16 over now, did they contain similarly inaccurate numbers?

17 A Yes.

18 Q And did you sign them some time in 2020 even though
19 they're dated in 2019?

20 A Yes.

21 Q Okay.

22 MR. EDWARDS-BALFOUR: Can we now go back to your
23 text messages in Government Exhibit 100. Let's go to Page 12.
24 Page 17, sorry.

25 Q So we just finished the messages before August 13th,

VILORIA - DIRECT - MR. EDWARDS-BALFOUR

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1 right? Do you see that?

2 A Yes.

3 Q So now we're on August 13th. That's the next date.

4 You're following?

5 A Yes.

6 Q You send a message at 12:03 saying, I sent it to you,
7 then you say, done, let me know what you think.

8 Accurate?

9 A Yes.

10 Q And then the next date that's there, is August 14th, and
11 at 10:19 you say, good morning, then you say, let me know if I
12 should start heading over there.

13 What are you talking about heading over to?

14 A Because I have to go and open an account.

15 Q Go where?

16 A To the bank, to the Banco Popular.

17 Q Which bank?

18 A Banco Popular out in Harding.

19 Q That bank location that was, I think you said an hour and
20 change away from where you live?

21 A Yeah. Depends on the traffic, yes.

22 THE COURT: Keep your voice up.

23 A Depends on the traffic.

24 Q And Anthony replies and says, I'll be there around 11:00.

25 Did you understand that's when he said he'll be

VILORIA - DIRECT - MR. EDWARDS-BALFOUR

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1 there?

2 A Yes.

3 MR. EDWARDS-BALFOUR: Can we please scroll down to
4 the next page.

5 Q Do you see your message at the top. You say, I'm leaving
6 house now at 10:33, I should be going now, at 1:12, and then
7 you say, right, at 1:12.

8 Did I read those correctly?

9 A Yes.

10 Q Okay. And the next date there is August 17th.

11 Do you see that date?

12 A Yes.

13 Q Then you send a series of numbers at 1:31 and you say,
14 That's the social, at 1:31, as well.

15 Did I read that correctly?

16 A Yes.

17 Q What are you talking about there?

18 A That's my wife's Social Security number.

19 Q And then below that, Anthony responds saying, okay, at
20 1:42, and then in response, you send a series of messages at
21 1:48 saying, Let me know if you need any more help, and then
22 you send a number.

23 Did I get all that right?

24 A Yes.

25 Q So switching topics a little bit. Earlier, you testified

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1 about signing multiple topics and we have seen some of them
2 already, so I want to talk to you about a few more of them?

3 MR. EDWARDS-BALFOUR: Can we please pull up what is
4 in evidence as Government Exhibit 969, and please go to
5 Page 10.

6 Q Do you see the document on the screen in front of you
7 titled, loan agreement for payment protection program?

8 A Yes.

9 Q And this is a loan agreement between Car Expert and the
10 lender, Popular Bank?

11 A That's correct.

12 MR. EDWARDS-BALFOUR: Can we go to the next page.
13 And go down. Down again.

14 Q Do you see at the bottom there?

15 A Yes.

16 Q Do you see where it says, borrower's Car Expert?

17 A Yes.

18 Q And below there there's a signature?

19 A Yes.

20 Q Is that your signature?

21 A That's correct.

22 Q And is this the date, August 17th, 2020, where the
23 signature is?

24 A Yes.

25 Q Same date as where we were in the text messages; is that

VILORIA - DIRECT - MR. EDWARDS-BALFOUR

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1 right?

2 A Yes.

3 Q Okay.

4 MR. EDWARDS-BALFOUR: Can we scroll up to -- can we
5 please scroll up to the Page 10. So this is the first page of
6 the loan agreement here.

7 Q Was this document ever explained to you that you signed?

8 A No, sir.

9 Q Did you read it in its entirety before you signed it?

10 A No.

11 Q Can we please scroll down to paragraph four.

12 Do you see paragraph four?

13 A Yes.

14 Q It says, Borrower further represents and certifies to
15 lender as follows.

16 Do you see that?

17 A Yes.

18 Q Now looking at subparagraph 4C, it says, the loan
19 proceeds will be used to retain employees and maintain payroll
20 and at least 60 percent of the proceeds must be used for
21 payroll costs.

22 Did I read that correctly?

23 A Yes.

24 Q Was that statement accurate?

25 A No.

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1 Q Now, can we go to subparagraph I. And it says, the
2 information provided in this agreement and borrower's loan
3 application submitted to lender, and the information provided
4 in all supporting documents and forms is true and accurate in
5 all material respects.

6 Did I read that correctly?

7 A Yes.

8 Q Was that statement accurate?

9 A No.

10 MR. EDWARDS-BALFOUR: Now, can we please go down to
11 paragraph five.

12 Q Now, paragraph five starts with, Borrower attests that it
13 is not retained any third-party agent assisting borrower with
14 its loan application, closing of the loan, or otherwise
15 serving as an intermediary, agent, or broker in any manner
16 between borrower and lender in connection with the loan and on
17 borrower's behalf.

18 Did I read that correctly?

19 A Yes.

20 Q Was that accurate?

21 A No.

22 Q So you mentioned you didn't review this document before
23 you signed it. You also mentioned that it wasn't explained to
24 you.

25 A That's right.

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1 Q Why did you sign this document?

2 A It was the last documents that needed to be signed and
3 everything was in a rush.

4 MR. EDWARDS-BALFOUR: Now, can we please scroll down
5 on Government Exhibit 969, to Page 15.

6 Q Do you see this document titled SBA Form 1050 Settlement
7 Sheet?

8 A Yes.

9 MR. EDWARDS-BALFOUR: Now can we please scroll to
10 the bottom of the next page.

11 Q Do you see your signature there?

12 A Yes.

13 Q August 17th, 2020; is that right?

14 A Yes, sir.

15 MR. EDWARDS-BALFOUR: Xing out of that. Let's go
16 back to the prior page.

17 Q Did you read this document before you signed it?

18 A No.

19 Q Was this document explained to you by anyone at the bank?

20 A No.

21 Q Why did you sign this document?

22 A That was part of the signatures that I have to do.

23 Q Now, were there also documents that you didn't sign, but
24 someone else signed your signature?

25 A Yes.

VILORIA - DIRECT - MR. EDWARDS-BALFOUR

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1 MR. EDWARDS-BALFOUR: Can we please pull up
2 Government Exhibit 849.

3 Q Do you see this says, Signature Card, at the top?

4 A Yes.

5 Q And the account opening date is on the left there. It
6 says 8/ -- August 18, 2020.

7 Did you get that right?

8 A Yes.

9 Q And what is your understanding of what opening date means
10 here?

11 A That was the day that the account was opened.

12 Q And is this Car Expert's account?

13 A Yes.

14 MR. EDWARDS-BALFOUR: So let's scroll down a little
15 bit to the middle there where it says LLC manager.

16 Q Do you see a signature there?

17 A A signature, yes.

18 Q Is that your signature?

19 A No.

20 MR. EDWARDS-BALFOUR: And can you please scroll down
21 a little bit more.

22 Q Do you see another signature there?

23 A Yes.

24 Q Is that your signature?

25 A No, it is not.

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1 Q And do you see the date is August 18th, 2020?

2 A Yes.

3 Q Do you see the employee that opened it is Anthony Castro?

4 A Yes.

5 Q On the same date, August 18, 2020?

6 A Yes.

7 Q Was this document ever explained to you?

8 A No.

9 MR. EDWARDS-BALFOUR: All right. We can take that
10 down. Can we please pull up what's already in evidence as
11 Government Exhibit 851.

12 Q Do you see what's on the screen there?

13 A Yes.

14 MR. EDWARDS-BALFOUR: Can we please scroll to the
15 next page.

16 Q Do you see the date there at the bottom left, it says,
17 August 18th, 2020?

18 A That's correct.

19 Q Do you see a signature there on the bottom right?

20 A A signature, yes.

21 Q Is that your signature?

22 A No, sir.

23 MR. EDWARDS-BALFOUR: Please go back to the prior
24 page. Thank you.

25 Q So this is a resolution, and among other things, it says,

VILORIA - DIRECT - MR. EDWARDS-BALFOUR

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1 that there was a meeting of managers on August 18th, 2020, for
2 Car Expert.

3 Is that accurate?

4 A No, sir.

5 Q Was this document explained to you?

6 A No.

7 Q At some point after this, did you receive your PPP loan?

8 A Yes.

9 Q How did you find out your loan was in the account?

10 A A phone call and text message.

11 Q From who?

12 A From Anthony.

13 MR. EDWARDS-BALFOUR: Your Honor, at this time, it
14 might make sense to take a break?

15 THE COURT: Okay. So let's go until 12:00.

16 What I'm going to do -- I know I kept everybody here
17 a little longer than usual, but I'm going to take a lunch
18 break at 12:00. So if you could go for another 10 minutes,
19 that would be a good idea, and then we'll come back at about
20 1:30 .

21 Is that possible? Are you finished with his
22 questions?

23 MR. EDWARDS-BALFOUR: No, I'm not finished with his
24 questions.

25 THE COURT: How much more do you have?

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1 MR. EDWARDS-BALFOUR: A while. That's why I was
2 going to say, do we want to take a break.

3 THE COURT: Give me an estimate. I go through a lot
4 of details, so I know that. Another half hour, another hour?

5 MR. EDWARDS-BALFOUR: A little over halfway through,
6 I would say.

7 THE COURT: Okay. All right. So we're going to
8 take an early lunch break now. Come back at 1:30. Don't talk
9 about the case.

10 THE COURTROOM DEPUTY: All rise.

11 (Jury exits the courtroom.)

12 THE COURTROOM DEPUTY: You could all be seated.

13 THE COURT: All right. You may step down. All
14 right. So Mr. Edwards-Balfour, give me I sense of things
15 here. I'm not telling you how to try your case. You're going
16 into a lot of detail. I suspect the jury is not going to be,
17 you know, on top of all this detail, but you have your reasons
18 for doing it.

19 But what do you have after this?

20 MR. EDWARDS-BALFOUR: We have two more witnesses
21 that we expect after this for today.

22 THE COURT: Two more witnesses to complete your
23 direct examination?

24 MR. EDWARDS-BALFOUR: No, for today.

25 THE COURT: For today?

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1 MR. EDWARDS-BALFOUR: Yes.

2 THE COURT: And tomorrow, what do you anticipate?

3 MR. EDWARDS-BALFOUR: An additional amount of
4 witnesses, depending on timing. But we expect two or three
5 witnesses tomorrow.

6 THE COURT: Do you think you will be completing your
7 direct case tomorrow?

8 MR. EDWARDS-BALFOUR: I do not think so, Your Honor.

9 THE COURT: So we'll be wrapping over into --
10 tomorrow is Thursday, and then we'll be going over into
11 Monday?

12 MR. EDWARDS-BALFOUR: That is correct.

13 THE COURT: When did you anticipate you'll be
14 finished?

15 MR. EDWARDS-BALFOUR: I believe we will probably
16 finish on Monday. That's my hope that we will finish on
17 Monday, Your Honor.

18 THE COURT: All right. I'll leave it to you. If
19 there's a way of moving this forward a little bit, because I
20 think it's getting a little bit -- it may be too much of a
21 good thing, but it's your call.

22 See you at 1:30.

23 MR. EDWARDS-BALFOUR: Thanks, Your Honor.

24 (A recess was taken.)

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Proceedings

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1 A F T E R N O O N S E S S I O N

2 (In open court; jury not present.)

3 THE COURT: Before the jury comes in, is everyone
4 here?

5 THE COURTROOM DEPUTY: Yes.

6 THE COURT: Mr. Edwards-Balfour is here. I'll never
7 get it straight.

8 MR. EDWARDS-BALFOUR: You got it straight that time.

9 THE COURT: You're a very good lawyer, you do a
10 great job, but I'm thinking, maybe it's my problem, I don't
11 pay as much attention as the jurors, but it seems like an
12 awful lot of this paperwork does not have anything to do with
13 the defendant. You have some stuff, yes. And, certainly,
14 it's relevant and I can understand if you want to introduce
15 any paperwork that caused the defendant to, that's fine, but
16 unless I'm missing something, it seems that a lot of this
17 paperwork has nothing to do with the defendant and I think you
18 made your point already. I don't know why you want to
19 continue to do it.

20 MR. GREENSPAN: Your Honor, the witness is on the
21 stand.

22 THE COURT: The witness is on the stand?

23 MR. GREENSPAN: Yes.

24 THE COURT: Well, you know what, so -- it may be,
25 okay, but we can still talk about this, you can stay seated.

Proceedings

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1 Now, I will leave it up to Mr. Talkin. It may be a
2 very good defense to let him go on and on and on, I'm not
3 going to say no, because it may be in his best interest, and
4 his best judgment for you to just be tedious about all of
5 this, I don't know. But from my perspective, I just don't
6 think you really have to go on and on and on.

7 Now, Mr. Talkin, do you want him to go on and on and
8 on? It's up to you.

9 MR. GREENSPAN: I appreciate it, Judge.

10 THE COURT: No, I want to hear from Mr. Talkin.

11 MR. TALKIN: Your Honor, I'm not going to get in the
12 way of how the Government tries their case. They can do what
13 they want.

14 THE COURT: Right. So he's not going to get in your
15 way, so I will defer to his judgment.

16 Okay. I spoke my peace. Let's bring the jurors in.
17 Check. Jury.

18 THE COURTROOM DEPUTY: All rise.

19 (Jury enters the courtroom.)

20 THE COURTROOM DEPUTY: You can all be seated.

21 THE COURT: All right. Members of the jury, I hope
22 you had a nice lunch break and we can continue with the direct
23 examination of this witness.

24 Mr. Edwards-Balfour, your witness.

25 MR. EDWARDS-BALFOUR: Thank you.

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1 DIRECT EXAMINATION (Continued)

2 BY MR. EDWARDS-BALFOUR:

3 Q Can we please pull up what's already in evidence as
4 Government Exhibit 7809. Okay. If we look down in the daily
5 activities section, do you see, Mr. Viloria, do you see what's
6 on the screen?

7 A Yes.

8 Q Okay. Do you see, on August 18th, the remaining balance
9 there is zero?

10 A Yes.

11 Q And the next day -- sorry, the next -- the next line
12 there, it says credit memo and an addition of \$250,000 went
13 into the bank; do you see that?

14 A Yes.

15 Q What was that?

16 A That was the loan ACH.

17 Q That was the loan -- that's the money going into the bank
18 from the loan?

19 A Yes.

20 Q Okay. And on the next day, on August 19th, there is a
21 subtraction of \$150,000; do you see that?

22 A Yes.

23 Q What was that?

24 A That was the first check of the month.

25 Q Okay. When that subtraction came out, did you go to the

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1 bank on that day?

2 A Yes.

3 Q Okay. And we talked about you going to the bank numerous
4 times earlier, and apart from -- apart from those times and
5 when you went to the bank on this specific time, were there
6 any times when you met the defendant and Mr. Castro,
7 Anthony Castro, to talk about information to put in the
8 fraudulent application while you were at the bank?

9 A Yes.

10 Q Okay. So we'll come back to some of the meetings.
11 Looking at August 28th, which is the next day, do you see
12 50,000 came out of the account as well?

13 A Yes.

14 Q Okay.

15 MR. EDWARDS-BALFOUR: We can take that down.

16 Q So let's look at some of the checks that you mentioned
17 came out of the account.

18 MR. EDWARDS-BALFOUR: Can we please pull up for the
19 witness --

20 Q Showing you what is in evidence as
21 Government Exhibit 352. Do you see what's on the screen? Can
22 you see what's on the screen?

23 A Yes.

24 Q Okay. August 18th -- sorry, August 19th, \$150,000 came
25 out of the check. There's a signature on the bottom there.

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1 Is that your signature?

2 A Yes, sir.

3 Q Okay. And does this -- is this the check that you took
4 out -- that took out the money on that day from the bank?

5 A Yes.

6 Q Okay. Let's scroll down a little bit. Do you see two
7 checks there?

8 A Yes.

9 Q That top check, do you know what happened to that check?

10 A I don't know.

11 Q And the date is for -- same day, it says to payroll
12 payment. Was it for payroll payment?

13 A No.

14 Q Okay.

15 MR. EDWARDS-BALFOUR: Can we scroll down a little
16 bit. Keep scrolling.

17 Q So we're not going to go over each of these individual
18 checks, but all of these checks that are in evidence now, are
19 these checks, they add up to the \$150,000 that was taken out
20 that day?

21 A I believe so.

22 Q Okay. And did you take home all that money that day?

23 A No.

24 Q Where did some of the money go?

25 A I took some of the checks for the rent and also they

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1 charging me 35 percent of commission.

2 Q Who is they?

3 A Anthony and the banker.

4 MR. EDWARDS-BALFOUR: Okay. We can take that down.

5 Thanks.

6 Q You mentioned before you had a couple of employees for
7 your businesses; is that right?

8 A Yes.

9 Q Did you pay your employees before?

10 A I'm sorry?

11 Q Do you normally pay your employees?

12 A Yes.

13 Q Do you usually pay them with cashiers checks?

14 A Checks.

15 Q Cashiers checks like we just saw just now?

16 A No.

17 Q How do you normally pay them?

18 A Just write a check from the checkbook.

19 Q And did the checks have, like, written on it the way that
20 we just saw?

21 A No.

22 Q You mentioned that some people at the bank -- some money
23 was taken out for commission from people at bank; is that
24 right?

25 A Yes.

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1 Q Prior to day you went to the bank and money was taken out
2 of the account, did you know that any of the people at the
3 bank would be taking money from your account?

4 A After that loan got approved, yes.

5 Q What do you mean? What did you know?

6 A When the loan got approved, they tell me it's 35 percent
7 commission of it.

8 Q So on the day that you went to take money out of the
9 account, can you describe how you actually went and got the
10 money?

11 A I went, that day, I signed that check, and they --

12 MR. TALKIN: Your Honor, I object to the day.

13 THE COURT: Sustained. Next question.

14 Q Why don't we show you Government Exhibit 514-A.

15 MR. EDWARDS-BALFOUR: Can you please pause once we
16 get on the exhibit.

17 Q Do you see what's on the screen there?

18 A Yes.

19 Q In the bottom right, it says, August 19th at 13:07, and
20 this is -- in the bottom left, it says teller two. Do you see
21 that?

22 A Yes.

23 Q Do you recognize what's on the screen?

24 A The layout of the bank.

25 Q Okay. So I'm going to, please, play this video, which is

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1 at two times the normal speed, until we get to 13:07:47.

2 (Video playing; video stopped.)

3 MR. EDWARDS-BALFOUR: Pause.

4 Q We just stopped at 13:07:48:67. Did you recognize anyone
5 on the video?

6 A Yes.

7 Q Who did you recognize?

8 A Myself, Anthony and -- and in the office was Ms. Okeke.

9 THE COURT: I can't hear you.

10 THE WITNESS: Myself, Anthony, and in the office was
11 Ms. Okeke.

12 THE COURT: The other was who?

13 THE WITNESS: Ms. Okeke.

14 THE COURT: Ms. Okeke?

15 THE WITNESS: Yes.

16 THE COURT: Okay.

17 MR. EDWARDS-BALFOUR: Sorry, Judge, were you asking
18 a question?

19 THE COURT: No, I just wanted to hear.

20 You said Ms. Okeke?

21 THE WITNESS: That's correct.

22 THE COURT: Where is she?

23 THE WITNESS: She's sitting in the office right
24 where I'm at.

25 Q Can you please circle it.

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1 THE COURT: She's in that office there?

2 THE WITNESS: That's correct.

3 THE COURT: Okay.

4 MR. EDWARDS-BALFOUR: Your Honor, the record should
5 reflect that at minute 13:07:48:67, the witness circled the
6 top right portion of the screen.

7 THE COURT: Go ahead. Next question.

8 MR. EDWARDS-BALFOUR: Okay.

9 Okay. Can we play the rest of this video.

10 (Video played; video stopped.)

11 MR. EDWARDS-BALFOUR: We can take that down.

12 Thanks.

13 Can we please pull up what's in evidence
14 Government Exhibit 514-B, as in boy, and pause at the
15 beginning.

16 Q In the bottom right, the stamp says August 19th, 2020, at
17 13:08:09:67, and in the bottom left, it says teller two, top
18 left, it says camera one. Do you see this is a little later
19 in time from the video we just watched?

20 A Yes.

21 Q Okay.

22 MR. EDWARDS-BALFOUR: Can we please play this, which
23 is at three times the normal speed, until you get to 13:13:09.

24 (Video played; video stopped.)

25 Q Okay. So we stopped at 13:13:09:67. Do you see yourself

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1 on the video there?

2 A Yes.

3 Q Who was the individual you were talking with?

4 A On the phone, or?

5 Q Oh, sorry. Good question. Who was the individual that
6 was in front of you on the screen there that you were speaking
7 with?

8 A Anthony.

9 Q And do you recall what you might have been talking about
10 at that time?

11 A I guess he was explaining how is everything was gonna be
12 cashed.

13 Q Okay.

14 MR. EDWARDS-BALFOUR: Can we take this video down,
15 please. Can we please pull up Government Exhibit 514-C, and
16 pause when we get to the beginning.

17 THE COURT: 514-G, did you says?

18 MR. EDWARDS-BALFOUR: C as in Charlie.

19 THE COURT: C. That's already in. Yeah, go ahead.

20 Q Okay. So the stamp at the bottom, on the bottom right,
21 it says August 19th, 2020, 13:28:08:53, on the bottom left, it
22 says, waiting area, top left, it says, camera 14.

23 MR. EDWARDS-BALFOUR: Let's please play this video.

24 (Video played; video stopped.)

25 Q That's a short one there. Did you see yourself in that

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1 video?

2 A Yes.

3 Q What was happening?

4 A I went to the back to receive the money.

5 Q Okay.

6 MR. EDWARDS-BALFOUR: Can we take this down and
7 please put up Government Exhibit 514-D as in Daniel and pause
8 when we get to the beginning.

9 Q Okay. Do you see this, at the bottom right on the screen
10 here, it's August 19th, 2020, the time is 13:28:07:23, on the
11 bottom left, it says vault, top left, it says camera three.
12 This is a little later than the video we just watched, right?

13 A Yes.

14 MR. EDWARDS-BALFOUR: Now, Kayla, can you go towards
15 the middle of this video. Right there is fine. Actually, go
16 back towards the beginning. Sorry. Let's play it from the
17 beginning there. Sorry. It's a short one. Please play.

18 (Video played; video stopped.)

19 MR. EDWARDS-BALFOUR: Okay. We can take that down.

20 Q Mr. Viloria, did you just see yourself on the screen
21 there?

22 A Yes.

23 Q Where did you go at end of that?

24 A The first time, I went to the restrooms, and then I sit
25 at a table that they had me sit out there.

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1 Q Okay.

2 MR. TALKIN: Your Honor, I object to the they. Who?

3 THE COURT: I'm sorry?

4 MR. TALKIN: I object this him saying they. Can we
5 hear exactly who said what?

6 THE COURT: Sustained. Next question.

7 MR. EDWARDS-BALFOUR: I didn't ask a question but
8 okay.

9 514-E, please.

10 Q Do you see in the bottom right, it says August 19th,
11 2020, and at time 13:29:19:30, bottom left, it says vault, top
12 left, it says camera three. This is a little after the prior
13 video we just watched?

14 A Yes.

15 MR. EDWARDS-BALFOUR: For this one, Kayla, can we go
16 halfway through. Okay. We'll stop there and let's -- we're
17 gonna play from 13:32:31:46.

18 (Video played; video stopped.)

19 THE COURT: While we're watching this, did you go
20 over there at all?

21 Do you see this?

22 THE WITNESS: Yes.

23 THE COURT: Nothing has happened. What did you do,
24 if anything?

25 THE WITNESS: I went and I sit down at the table in

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1 the back to receive the money.

2 THE COURT: Well, what about this picture here? Did
3 you go to that spot, to the vault?

4 THE WITNESS: I went across the -- the vault.

5 THE COURT: And this is what's going to show you on
6 this right now if we continue to play it, right?

7 THE WITNESS: I believe so, yes.

8 THE COURT: That's you, right?

9 THE WITNESS: No, that's Anthony.

10 Q Okay.

11 MR. EDWARDS-BALFOUR: Now, can we take this down.

12 THE COURT: We're just eating up a lot of time here
13 just looking at this thing. If we can move it along a little
14 faster. I'm sure you can do that. Next question.

15 MR. EDWARDS-BALFOUR: That's what we're -- 514-F,
16 please.

17 THE COURT: We're seeing this picture again.
18 Members of the jury, I told you sometimes we may move things
19 along if I think things are dragging a little bit. Don't draw
20 any conclusions about anything I'm thinking about. I'm just
21 trying to manage the trial and if I see things that are not
22 happening I think I can move it along without doing any harm
23 to anybody, I try to do that, as part of my responsibilities,
24 to move it along, okay?

25 Next question.

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1 MR. EDWARDS-BALFOUR: Can we play this, which is at
2 two times normal speed, and stop when we get to 13:41.

3 Q Before we play it, the bottom right, it says August 19,
4 2020, the time is 13:41 --

5 THE COURT: Received. The jury is not blind. They
6 can read. Next question.

7 MR. EDWARDS-BALFOUR: I'm making a record, Your
8 Honor.

9 THE COURT: Yeah. It's already an exhibit. The
10 record is established. Next question.

11 MR. EDWARDS-BALFOUR: Can we play it.

12 (Video played; video stopped.)

13 Q Okay. Did you see yourself on that video?

14 A Yes.

15 Q And you just gestured. What were you doing when you just
16 gestured on that video?

17 A I was saying bye to Ms. Okeke.

18 Q Okay.

19 MR. EDWARDS-BALFOUR: Can we please pull up 514-L,
20 as in Larry, and stop at, as close as possible to 14:21:41.

21 (Video played; video stopped.)

22 MR. EDWARDS-BALFOUR: That's good. Let's play.

23 (Video played; video stopped.)

24 MR. EDWARDS-BALFOUR: And let's stop there. Thank
25 you.

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1 Q Mr. Viloria; do you see there are two screens, top and
2 left?

3 A Yes.

4 Q And this is still August 19th, 2020. The top left, I
5 believe before you identified that individual as Anthony. Do
6 you know who the individual in the bottom left -- the bottom
7 of -- the bottom camera is?

8 A The manager, Ms. Okeke.

9 Q And so the record is clear, because there's more than one
10 person at the bottom, can you describe what she's wearing in
11 this video?

12 A A black blouse with black pants.

13 Q Okay.

14 MR. EDWARDS-BALFOUR: We can take that down. Thank
15 you.

16 Q So, Mr. Viloria, we have been talking a lot about Car
17 Expert but you also got a loan for another company AutoNext;
18 isn't that right?

19 A Yes.

20 MR. EDWARDS-BALFOUR: So, can we please show for the
21 witness's eyes only, Government Exhibit 787.

22 San, any objection to moving this in?

23 MR. TALKIN: All the bank records can go in.

24 THE COURT: I'm sorry, what is this? What did you
25 say?

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1 MR. TALKIN: We have an agreement, all the bank
2 records can go in, so this is one of them.

3 MR. EDWARDS-BALFOUR: The Government moves to admit
4 Government Exhibit 787.

5 THE COURT: 787 you want in evidence?

6 MR. EDWARDS-BALFOUR: Yes.

7 THE COURT: It's not in evidence yet?

8 MR. EDWARDS-BALFOUR: No.

9 THE COURT: I will let it in evidence but let's move
10 it along, okay? It's getting a little tedious.

11 (Government Exhibit 787 was received in evidence.)

12 MR. EDWARDS-BALFOUR: I appreciate it. Can we --
13 can we scroll down a little bit.

14 Q Do you see money was taken out of the account -- well,
15 first, do you see a PPP loan money went into the account on
16 August 9 -- 18?

17 A Yes.

18 Q And you see multiple days where money was taken out of
19 the account as well?

20 A Yes.

21 Q On those days that money was taken out of the account,
22 did you go into the bank to get the money?

23 A No.

24 Q Who went into the bank and got the money?

25 A My wife.

Viloria - direct - Edwards-Balfour

416

1 Q And for the documents related to -- related to AutoNext,
2 which is on the -- the company that we're talking about here,
3 did you also work on those documents?

4 A Yes.

5 Q Okay.

6 THE COURT: Let me ask you this: About how many of
7 these accounts did you open up here? Do you know? We went
8 through a couple already. It's getting to be kind of, you
9 know, repetitious.

10 THE WITNESS: It was only two, sir.

11 THE COURT: A little louder.

12 THE WITNESS: Only two, sir.

13 THE COURT: Two?

14 THE WITNESS: Yes.

15 THE COURT: This is the second one?

16 THE WITNESS: Correct.

17 THE COURT: So, basically, the testimony is
18 basically the same here as what you testified before, you knew
19 it was not legal what you did, right?

20 THE WITNESS: That's correct.

21 THE COURT: He's going to show you a lot of records
22 but you agree this was something you did, the second loan is
23 the same type of thing basically as the first, am I putting
24 words in your mouth --

25 THE WITNESS: Correct, sir.

Viloria - direct - Edwards-Balfour

417

1 THE COURT: I don't know want to put words in your
2 mouth.

3 THE WITNESS: Yes.

4 THE COURT: We're getting a little slow here. I
5 just want to move it along. Anything else you want to ask him
6 about this loan?

7 MR. EDWARDS-BALFOUR: Yes. I would like to please
8 pull up what's in evidence as 515-D.

9 THE COURT: 515-D?

10 MR. EDWARDS-BALFOUR: Yes. And can we please play
11 that. Sorry, can you pause it.

12 Q We paused and -- at the bottom right, it says August 20,
13 2020, the time is 13:25:27. Do you recognize this place?

14 A Yes.

15 Q And what is this?

16 THE COURT: It's the bank, right?

17 THE WITNESS: Bank.

18 THE COURT: Next question.

19 MR. EDWARDS-BALFOUR: Can we play this.

20 (Video played; video stopped.)

21 MR. EDWARDS-BALFOUR: Can we pause there.

22 Q Do you recognize anyone in that video?

23 A Yes.

24 Q And who did you recognize?

25 A My wife and Anthony.

Viloria - direct - Edwards-Balfour

418

1 Q And what is your wife wearing and where is she on the
2 screen?

3 THE COURT: What are we seeing? The jury just saw
4 it. Explain to them what you're seeing here.

5 A The same thing I was doing before, that I went to
6 received the money in the back, my wife did the same.

7 MR. TALKIN: Objection, Your Honor, that's not what
8 we see here.

9 THE COURT: Well, describe what we see here.

10 THE WITNESS: My wife coming out -- out of the back
11 office from the back.

12 THE COURT: That's what we see; your wife coming out
13 of the back office? That's what we see here?

14 THE WITNESS: Yes, sir.

15 THE COURT: Okay.

16 Next question.

17 MR. EDWARDS-BALFOUR: Okay. Let's take that down.

18 Q At some point after you got the money from the accounts
19 that we just talked about, were the accounts frozen?

20 A Yes.

21 Q And what happened after the accounts were frozen?

22 A I couldn't get to anybody. I was trying to talk to them
23 to see what happened, and I couldn't get to anybody.

24 Q When you said you were trying to talk to them to see what
25 happened --

Viloria - direct - Edwards-Balfour

419

1 A I tried to call Anthony, he didn't have the answer, I
2 tried to call answer the manager Okeke, she didn't have the
3 answer. I also called the bank, Banco Popular, to see what
4 was going on and there was no answer.

5 Q Okay. So before we finish today, I want to just show you
6 two images to see if you can identify them.

7 MR. EDWARDS-BALFOUR: Can you pull up what's in
8 Government Exhibit 10.

9 Q Do you know that person?

10 A Yeah.

11 Q Who is that?

12 A Myself.

13 Q Okay.

14 MR. EDWARDS-BALFOUR: Can we go to
15 Government Exhibit 2.

16 Q Can you ID that person?

17 A Yes.

18 Q Who is that?

19 A Anthony.

20 Q Okay. So, earlier, you said you pleaded guilty in
21 connection with your testimony today; do you remember that?

22 A Yes.

23 Q Did you plead guilty pursuant to a cooperation agreement?

24 A Yes.

25 Q Did you review that agreement before you signed it?

Viloria - cross - Talkin

420

1 A Yes.

2 Q Do you have any agreements outside of the Government
3 besides that agreement?

4 A No, sir.

5 Q And what do you hope to receive from the Government in
6 response -- what do you hope to receive -- what do you hope
7 that you receive by cooperating?

8 A A 5K letter.

9 Q And what is that?

10 A A recommendation.

11 Q What goes into a 5K letter?

12 A The good and the bad.

13 Q Will the Government recommend a specific sentence?

14 A No.

15 Q Can the government promise you a specific sentence?

16 A No.

17 Q And who will decide your sentence?

18 A The judge.

19 Q And what's your obligation under the agreement?

20 A To say the truth and all the truth.

21 MR. EDWARDS-BALFOUR: Give me one second.

22 Q No more questions.

23 THE COURT: Cross-examination.

24 CROSS EXAMINATION

25 BY MR. TALKIN:

Viloria - cross - Talkin

421

1 Q Good afternoon.

2 A Good afternoon.

3 Q It was Anthony that your barber told you to go see at
4 Banco Popular, right?

5 A Yes, sir.

6 Q And when you went, you sat down and you spoke to Anthony?

7 A That's correct, sir.

8 Q And when you spoke to Anthony the first time you went,
9 you showed him some paperwork you had about your business?

10 A First time?

11 Q Yes.

12 A I did not bring anything.

13 Q The second time you saw him, you showed him some
14 paperwork about your business?

15 A Yes.

16 Q And it was Anthony who said that what you were showing
17 him wasn't enough to get much of a big loan, but he would do
18 the best he could?

19 A Yes.

20 Q And it was Anthony that had you sign the paperwork, I
21 guess, it was --

22 MR. TALKIN: If we could put up 737, page 23.

23 Q It was Anthony who had you sign that paperwork?

24 A Yes, sir.

25 Q And it was Anthony who filled out that paperwork?

Viloria - cross - Talkin

422

1 A I don't know.

2 Q Did you watch him fill out that paperwork?

3 A No, sir.

4 Q It was Anthony that referred you to the accountant for
5 the tax documents?

6 A Yes.

7 Q And it was Anthony that informed you about how the
8 paperwork would work in this case, the PPP process?

9 A An example, they showed me, yes.

10 Q Not they. It was Anthony who showed you that?

11 A Yes, sir.

12 Q When you say they, you really -- you mean Anthony, right?

13 A In the case we talking about Anthony, yes.

14 Q And it was Anthony that told you that the loan was going
15 to have 20 employees?

16 A Yes, sir.

17 Q And it was Anthony that you had that long text chain with
18 about getting paperwork?

19 A Can you repeat it again? I'm sorry.

20 Q Sure. I think it's Government's 101. Do you remember
21 the text you went through at length on your direct
22 examination?

23 A My texts, yes.

24 Q I guess it's WhatsApp, I'm sorry --

25 A Yeah.

Viloria - cross - Talkin

423

1 Q The WhatsApp chain; do you remember that?

2 A Yes.

3 Q That was you and Anthony, right?

4 A That's correct.

5 Q And it was Anthony that called you when the funds were in
6 and told you to come down to the bank and get it?

7 A Yes.

8 Q And it was Anthony that gave you the money?

9 A The bank gave me the money.

10 Q Anthony handed you the money, right?

11 A Yes, sir.

12 Q And it was Anthony that cashed the checks?

13 A Yes.

14 Q And it was Anthony that told you he would try to max out
15 the loan?

16 A Yes.

17 Q And it was Anthony that told you that you would have to
18 take the money out in pieces?

19 A Yes.

20 Q And it was Anthony that presented you with the -- showed
21 you the check for \$150,000 to Expert Auto Group, right?

22 A For me to sign it, yes.

23 Q And it was Anthony that told you that you were supposed
24 to pay a fee to the bank?

25 A Yes.

Viloria - cross - Talkin

424

1 Q And it was Anthony that wrote the cashiers checks?

2 A I don't know. It was filled out when it came.

3 Q And it was Anthony that was running everything, right?

4 A I don't think so.

5 Q Didn't you tell the -- do you remember meeting with

6 Government agents and talking about this case with them?

7 A They went to my house, yes.

8 Q And when they went to your house during that interview,
9 during the very first interview you had with them, you told
10 them it was Anthony that was running everything; do you
11 remember saying that?

12 A No, I don't remember saying that.

13 MR. TALKIN: One second, Your Honor.

14 (Pause in proceedings.)

15 MR. TALKIN: Witness only, Michael.

16 THE COURT: Is this in evidence?

17 MR. TALKIN: No, it is not, nor is it coming in.

18 THE COURT: You don't plan to offer that into
19 evidence I take it. Okay.

20 Q Could we take a look at the very bottom there that's been
21 highlighted for you. I don't want you to read it out loud.
22 Just see if that helps you remember what it said.

23 THE COURT: If it's going to be used to help refresh
24 his recollection, just let him read it to himself.

25 MR. EDWARDS-BALFOUR: Agreed, Your Honor.

Viloria - cross - Talkin

425

1 THE COURT: Does that refresh your recollection as
2 to whether you said whatever it was to Anthony that counsel
3 asked you?

4 THE WITNESS: I don't remember. Anthony was --
5 should I --

6 THE COURT: I'm having a hard time hearing --

7 THE WITNESS: Should I read it allowed or to myself?

8 THE COURT: No. I want you to read it to yourself.
9 The question is, you know, the limited question that
10 Mr. Talkin asked you. Ask the question again.

11 Q Thank you. Do you -- well, let's go back. We're talking
12 about when they came to your house and you were interviewed by
13 law enforcement. You didn't know exactly who they were,
14 correct?

15 A Correct.

16 Q But it was law enforcement and you knew that?

17 A They introduced themselves, yeah.

18 Q And during that interview, as a matter of fact, towards
19 the end of it, you told them first that Anthony wrote the
20 cashiers checks; do you remember saying that?

21 A Yes.

22 Q And at the same time, you told them that Anthony was
23 running everything; do you remember saying that?

24 A No, I don't remember.

25 THE COURT: Well, this that was just shown to you,

Viloria - cross - Talkin

426

1 does it refresh your recollection that you said that; yes or
2 no?

3 THE WITNESS: No.

4 THE COURT: It does not refresh your recollection?

5 THE WITNESS: No, sir.

6 THE COURT: All right.

7 So, members of the jury, we know that things are
8 introduced into evidence. Not everything that's shown to a
9 witness is going to necessarily be introduced into evidence,
10 nor does it have to be. So as I have explained to you before,
11 I will explain to you again, that counsel can show anything to
12 any witness at all and ask them whether or not this might jog
13 their recollection if they say they don't remember because we
14 don't remember everything, right? And this is what was just
15 shown to him, he looked at it, he says it doesn't jog his
16 recollection, and that's what we had happen just right now.

17 Next question.

18 MR. TALKIN: Thank you.

19 Q And just so we're clear about that, is it your testimony
20 today that you did not tell law enforcement that Anthony was
21 running everything?

22 A Today? You saying --

23 Q No, not today. Going back to the meeting the day they
24 showed up at your house, is it your testimony that you did not
25 tell law enforcement that Anthony was running everything?

Viloria - cross - Talkin

427

1 A I don't remember. That's what I'm trying to say.

2 Q Okay.

3 THE COURT: You don't remember that is what you're
4 saying?

5 THE WITNESS: That's correct, sir.

6 THE COURT: Okay.

7 Q All right. You talked about you have another conviction
8 for a fraud type offense?

9 A Yes, sir.

10 Q And that's -- you were stealing, correct?

11 A You could say so.

12 Q You were charged with grand larceny as a felony, correct?

13 A Yes.

14 Q You pled guilty to grand larceny as a felony?

15 A Yes.

16 Q And when did you get arrested on that -- well, I don't
17 want a date. Before Covid or after Covid?

18 A Before Covid.

19 Q How long before Covid?

20 A I don't really remember. Like, a year before Covid.

21 Q So by Covid, you had already been indicted on the felony,
22 correct?

23 A At the end of Covid I think.

24 Q At the end of Covid, you were indicted?

25 A I don't remember.

Viloria - cross - Talkin

428

1 Q Well, you testified on direct examination that when you
2 filled out the forms for the PPP, there was a section on there
3 about being indicted and you said that wasn't -- you checked
4 off you were not indicted and that wasn't true because you had
5 already been be indicted; do you remember that?

6 A I didn't check the boxes.

7 Q I understand that but you said it was incorrect
8 because -- I'm not saying you checked the boxes. What I'm
9 saying is it was incorrect because at the time when that PPP
10 application was submitted, you had already been indicted,
11 correct?

12 A Yes.

13 Q And how long before you filled out the PPP loan that
14 we've been talking about today were you indicted?

15 A I don't remember, but I was indicted already.

16 Q Okay. Was it weeks? Months?

17 A I -- I really don't remember.

18 Q Well, let me try -- remember when you said you went out
19 and you tried to get another PPP loan?

20 A Yes.

21 Q Was it before or after you -- well, let me ask you this:
22 When you filled out the other PPP loan, did you go through the
23 application process?

24 A Yes. I did it online.

25 Q And you answered the same question, correct?

Viloria - cross - Talkin

429

1 A Yes.

2 Q And you answered that question that you had been indicted
3 or you had not been indicted at the time you were filling out
4 the PPP application the first time, meaning the Capital One
5 PPP?

6 A I don't remember.

7 Q You don't remember how you answered it?

8 A No.

9 Q And you know that if you answered that you had been
10 indicted, you wouldn't get the PPP loan, right?

11 A Yes, but I don't remember if it was me or my partner that
12 filled it out.

13 Q Okay. So it might have been somebody else that filled it
14 out?

15 A Correct.

16 Q For you or the business?

17 A For the business.

18 Q So he was also an owner of the business?

19 A That's correct.

20 THE COURT: Well, it could of been a she too, I
21 guess, right?

22 MR. TALKIN: He identified who it was already.

23 THE COURT: He?

24 THE WITNESS: Yes.

25 Q As you sit here today, when you say, I don't know if it

Viloria - cross - Talkin

430

1 was me or my partner who filled it out, is that because you
2 don't remember if you filled it out?

3 A I don't remember.

4 Q And you don't remember if he filled it out?

5 A That's why I say I don't remember.

6 Q As far as AutoNext, did you fill out the application for
7 that?

8 A Which application are we talking about?

9 Q I'm talking about the AutoNext PPP application at
10 Popular Bank. Did you fill that out?

11 A No, sir.

12 Q Did your wife fill it out?

13 A No, sir.

14 Q Did you sign the loan?

15 A No, sir.

16 Q Did your wife sign the loan?

17 A No, sir.

18 Q So your wife never signed the loan?

19 A No, sir.

20 Q She never filled out the application for the loan?

21 A No, sir.

22 Q Your wife never signed any false documents?

23 A No, sir.

24 MR. TALKIN: Your Honor, I have in front of me a
25 document that I labeled D-51 for identification. I ask

Viloria - cross - Talkin

431

1 that -- I'll put it on the -- for the witness only.

2 THE COURT: This is proposed D-51 did you say or B?

3 MR. TALKIN: D as in David -- Defense 51.

4 THE COURT: D-51 for identification.

5 Q Does that -- Do you recognize that?

6 A Yes.

7 Q What is that?

8 A That's for the PPP loan application.

9 Q For AutoNext, correct?

10 A Yes, sir.

11 Q I'm going to show you page two of the same document. Do
12 you recognize that?

13 A Yes.

14 Q Whose -- does that help you remember whether or not your
15 wife signed the document?

16 A That's not her signature.

17 THE COURT: Do you recall now that you did sign a
18 document?

19 THE WITNESS: I did not sign this document and her
20 signature --

21 THE COURT: I can't hear you. It's my fault. You
22 have to speak louder. Speak into the machine.

23 THE WITNESS: Okay. That's not her signature.

24 THE COURT: So you see something there but you say
25 it's not her signature?

Viloria - cross - Talkin

432

1 THE WITNESS: That's correct.

2 THE COURT: Okay. You don't know who signed it, do
3 you?

4 THE WITNESS: That's correct.

5 THE COURT: Next question.

6 BY MR. TALKIN:

7 Q You were present when you signed your application,
correct, meaning CarNext, correct?

8 A Car Expert, yes.

9 Q I'm sorry, Car Expert?

10 A Yes.

11 Q And that was done on August 5th of 2020, right?

12 A Yes.

13 Q And at the same time you applied for a loan on the second
14 business, correct?

15 A It was one first and the second one after.

16 Q When you say first, after, on the same day or on
17 different days?

18 A The same day.

19 Q And the second one, you know it was after because you
20 were there when the paperwork was filled out, correct?

21 A No.

22 Q You were -- so what happened was, for AutoNext, you did
23 not sign the documents, correct?

24 A No, sir.

25 Q And your wife did not sign the documents, correct?

Viloria - cross - Talkin

433

1 A No, sir.

2 Q But for Car Expert, you did sign the documents?

3 A Yes.

4 Q On the same day, correct?

5 A Yes.

6 Q At the same bank?

7 A Yes.

8 Q Around the same time?

9 A Could you -- I don't remember. Yes.

10 Q I mean, it was back-to-back, right?

11 A No back-to-back because it was some paperworks that was
12 missing.

13 Q No, I'm just talking about signing the loan, signing the
14 application.

15 A Yes, you could say that.

16 Q Yeah. I mean, you didn't leave and then come back and
17 then sign, did you?

18 A I don't remember.

19 THE COURT: All right. So it's not being offered
20 into evidence.

21 Next question.

22 MR. TALKIN: Thank you.

23 Q We're almost done. Just a few more questions. The --
24 and we don't have to put it up but if you don't remember,
25 you'll let me know, but do you remember talking about the

Viloria - cross - Talkin

434

1 Signature Card that didn't have your signature on it; do you
2 remember that? When you opened --

3 MR. TALKIN: Well, can we put up Government's 849,
4 please.

5 THE COURT: That's in evidence, right?

6 MR. TALKIN: Yes, that's Government Exhibit --

7 THE COURT: 849? It's already in evidence I
8 believe, right?

9 MR. BUFORD: Do you remember seeing that document?

10 A No.

11 Q On direct examination, you don't?

12 A No.

13 MR. TALKIN: Go down to the bottom, please.

14 Q Do you remember, on direct examination, you said you did
15 recognize that document and it was created by Anthony Castro;
16 do you remember that?

17 A Yes, but I didn't see it. You say in examination --

18 Q I'm sorry. When you were up here a few minutes ago when
19 the prosecutor was asking you questions.

20 A Oh, here, yes.

21 Q I'm sorry, I'll be more clear. You were talking about in
22 the past?

23 A Correct.

24 Q And then you said that's not even my signature on that
25 document, right?

Viloria - cross - Talkin

435

1 A That's correct.

2 Q And that's why it made sense that you've never seen it
3 before because it's not your signature, right?

4 A Yes.

5 Q So somebody forged your signature there?

6 A I believe so.

7 MR. TALKIN: And then can we see 851, please.

8 Q And the signature page. Do you see that signature? Do
9 you remember seeing that signature when you were being asked
10 questions by the prosecutor?

11 A Yes.

12 Q And that's the same signature that you saw on your
13 Signature Card, right?

14 A That's not my signature.

15 Q I agree. I agree with you it's not your signature. My
16 question is, it's the same one you saw on the Signature Card
17 that was not your signature; we can agree on that, correct?

18 A Correct.

19 Q And we can agree Mr. Castro created the Signature Card?

20 A Yes.

21 Q And, so, is it -- it's a fair deduction that Mr. Castro
22 forged your signature on the Signature Card, right?

23 A I don't know who did the signature but I believe so.

24 Q And the same person who did that signature did the
25 signature that's here on 851 on this document, correct?

Viloria - cross - Talkin

436

1 A They look similar.

2 Q So it was Mr. Castro who also forged you your name as
3 well, correct?

4 A I don't know who filled out the paperwork, like I said
5 before.

6 Q And do you know whether or not it was Mr. Castro who
7 forged your wife's signature?

8 A I don't know because the paperwork was filled out
9 already.

10 (Continued on the following page.)
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25

VILORIA - CROSS - MR. TALKIN

437

1 BY MR. TALKIN: (Continuing.)

2 Q It was already signed?

3 A It was already filled out when I saw it.

4 Q Okay. Just so we're clear, because I'm a little
5 confused, the two documents that we're talking about are
6 basically identical. You have what is --

7 MR. TALKIN: And this is just for the witness,
8 please. Actually, you know what, I will offer D51. Can you
9 give me a second, Your Honor. I just want to show it to the
10 Government.

11 (Pause in the proceedings.)

12 MR. TALKIN: Your Honor, I will offer D51 into
13 evidence.

14 THE COURT: Any objection?

15 MR. EDWARDS-BALFOUR: No objection.

16 THE COURT: In evidence, at this time.

17 (Defendants' Exhibit D51, was received in evidence.)

18 MR. TALKIN: Michael, can you please show it. Thank
19 you. All right.

20 (Exhibit published.)

21 Q So now that everyone can see it, what we were talking
22 about before, D51, that is the handwritten application for
23 AutoNext, correct?

24 A Yes.

25 Q And you don't know who filled -- you don't know whose

VILORIA - CROSS - MR. TALKIN

438

1 handwriting that is, right?

2 A No.

3 Q I just want you to look at -- there's something
4 distinctive about it though. If you look at in the middle you
5 see the Alicia, and the Vignola.

6 Am I saying that right?

7 A Yes.

8 Q Above the I's there's like a circle, right?

9 A Yes.

10 Q It's pretty distinctive, right?

11 A Yes.

12 Q And then on Page 2, you have the signature of Alicia
13 Vignola, correct? The signature that's purported to be hers,
14 direct?

15 A It's not her signature. Actually, she's Alicia Viloria.

16 Q Alicia Viloria.

17 A She's married. So that was before.

18 Q So when you say, she's married, she was just using her
19 maiden name, you were at this time married, correct?

20 A Yes. That's why I don't know who filled out this
21 application because she's Alicia Viloria.

22 Q Just so we're clear, and you raise a fair point, Alicia
23 Viloria and Alicia Vignola are the same person, right?

24 A Yes.

25 Q Vignola is the maiden name, and that's the name is this

VILORIA - CROSS - MR. TALKIN

439

1 application, correct?

2 A Yes.

3 Q But she's also, on paper, the owner of AutoNext, correct?

4 A Yes.

5 Q And the reason for that is because your partner had some
6 kind of problems with -- he had problems with child support or
7 something like that?

8 A I don't believe so.

9 Q So -- but she's listed as the owner of AutoNext, correct?

10 A One of the owners, yes.

11 Q Whose the other owner?

12 A Manuel Salcedo, the same owner of Car Expert.

13 Q And Mr. Salcedo is the one I was referencing to you.

14 You didn't know he had child support problems so he
15 didn't want to sign the paperwork?

16 A The only thing I know he only got one child.

17 Q And as we're looking at this here, so she would have had
18 to been the person -- if the appropriate person signed the
19 paperwork, it would have been either Alicia or Mr. Salcedo
20 correct, because they're the owners?

21 A Sorry, can you repeat the question.

22 Q Sure. An owner of AutoNext had to sign this document,
23 correct?

24 A Yes.

25 Q And there's only two owners, correct?

VILORIA - CROSS - MR. TALKIN

440

1 A Yes.

2 Q One is your wife, correct?

3 A Yes.

4 Q One is your partner?

5 A Yes.

6 Q And here, the person that the signature -- and I'm not
7 saying it's her signature, but it's purporting to be or looks
8 like it's to be, is your wife, Alicia, correct?

9 A Yes.

10 Q All right. Now, that was filled out the same exact day
11 as you filled out the one for Car Expert?

12 A I don't know. But yes.

13 Q So in the end, your signature wasn't forged, right?

14 A No, sir.

15 Q At least not on that document?

16 A That's correct.

17 Q But hers was, correct?

18 A Yes.

19 THE COURT: You don't know who that did, I
20 understand?

21 THE WITNESS: No, sir. She was not even there.

22 Q But she did go and collect some of the money for you?

23 A Who, my wife?

24 Q Alicia?

25 A Yes.

VILORIA - CROSS - MR. TALKIN

441

1 Q And she had to do that because the account was in her
2 name?

3 A That's correct.

4 Q And she opened that account in her name?

5 A She wasn't there when they opened the account, that's
6 what I'm trying to tell you.

7 Q Did they forge her signature to open the account too?

8 A I don't know. I don't see the paperworks.

9 Q And when I say, they, I mean Mr. Castro, right?

10 A If that's what you're referring.

11 Q Right. Mr. Castro is the guy you dealt with, isn't he?

12 A No. I dealt with two people there. But, yes, Mr. Castro
13 was the point person.

14 MR. TALKIN: Nothing further. Thank you.

15 THE COURT: Any redirect?

16 MR. EDWARDS-BALFOUR: No redirect.

17 THE COURT: You may step down. Thank you very much.
18 Thank you, sir.

19 Next witness, please.

20 MR. AMIR: The Government calls Brahima Lengane.

21 THE COURTROOM DEPUTY: Good afternoon, Mr. Lengane.
22 If you can take witness stand, please.

23 (The witness takes the stand.)

24 THE COURTROOM DEPUTY: Good afternoon.

25 THE WITNESS: Good afternoon, sir.

VILORIA - CROSS - MR. TALKIN

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1 THE COURTROOM DEPUTY: You can remain standing and
2 raise your right hand.

3 (The witness was sworn and/or affirmed in by the
4 courtroom deputy.)

5 THE WITNESS: Yes, sir.

6 THE COURTROOM DEPUTY: Thank you. Please have a
7 seat. I ask you if you can keep your voice up, and if you can
8 state and spell your name.

9 THE WITNESS: Okay. My name is Brahma Lengane.

10 THE COURTROOM DEPUTY: Can you spell it.

11 THE WITNESS: Okay. My first name is Brahma,
12 B-R-A-H-I-M-A. My last name is Lengane, L-E-N-G-A-N-E.

13 THE COURT: All right. Keep your voice up.

14 Your witness, Mr. Amir.

15 MR. AMIR: Thank you.

16 (Witness takes the stand.)
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LENGANE - DIRECT - AMIR

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1 **BRAHIMA LENGANE,**

2 called by the Government, having been

3 first duly sworn, was examined and testified

4 as follows:

5 DIRECT EXAMINATION

6 BY MR. AMIR:

7 Q Good afternoon, Mr. Lengane.

8 A Good afternoon, sir.

9 Q What is your native language?

10 A My native language is Bissa.

11 Q Do you speak and understand English?

12 A Yes, sir.

13 Q Where are you from, originally?

14 A I'm from Burkina Faso.

15 Q When did you move to the U.S.?

16 A In 2016.

17 Q In what city do you live?

18 A Newark, New Jersey.

19 Q Is that where you lived in the summer of 2020?

20 A Yes, sir.

21 Q Where do you work?

22 A I work in the Ludlow House.

23 Q How long have you worked there?

24 A Eight years.

25 Q Are you familiar with the Paycheck Protection Program or

LENGANE - DIRECT - AMIR

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1 PPP?

2 A Yes, sir.

3 Q Did you apply for a PPP loan?

4 A Yes, sir.

5 Q And was that on behalf of a company?

6 A Yes, sir.

7 Q Which company?

8 A Fatim's Braiding Beauty and Business Space.

9 Q Did the PPP application contain false information?

10 A Yes, sir.

11 Q What was false?

12 A The location, and the number of employees.

13 Q And for doing that, were you charged with a crime?

14 A Yes, sir.

15 Q Which crime?

16 A Bank -- wire and bank fraud conspiracy.

17 Q How did you plead to that crime?

18 A Guilty.

19 Q Did you commit this fraud with other people?

20 A Yes, sir.

21 Q Would you be able to identify someone you committed the
22 fraud with if they were in this room?

23 A Yes, sir.

24 Q Please look around the room.

25 Do you see anyone with whom you committed PPP fraud?

LENGANE - DIRECT - AMIR

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1 (Pause in the proceedings.)

2 MR. AMIR: Can we show what is in evidence as
3 Government Exhibit 1.

4 MR. TALKIN: Objection, Your Honor.

5 THE COURT: Sustained.

6 Look around the room. Do you see anybody who you
7 can identify you say committed a fraud or whatever it was?

8 THE WITNESS: Yes, I can see a lady.

9 BY MR. AMIR:

10 Q Who is that?

11 A Anuli Okeke.

12 Q Can you please describe an article of clothing she's
13 wearing?

14 THE COURT: Where is she sitting?

15 THE WITNESS: She's sitting next to the screen
16 there. Wearing glasses.

17 MR. TALKIN: We acknowledge the defendant.

18 THE COURT: So he's identified the defendant.

19 Go ahead.

20 Q At the time of the fraud, where did Ms. Okeke work?

21 A At Popular Bank.

22 Q And where was the Popular Bank located?

23 A In Harlem.

24 Q In addition to Ms. Okeke, did you work with other people
25 in the fraud?

LENGANE - DIRECT - AMIR

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1 A Yes, sir.

2 Q I'd like to show you what is in evidence as Government
3 Exhibit 4.

4 A Will you repeat the question, sir.

5 Q It's actually not a question. It's a comment --

6 THE COURT: He'll show you a picture now.

7 (Exhibit published.)

8 THE COURT: Do you recognize that person?

9 Q Mr. Lengane, look at the screen now.

10 Do you see a picture?

11 A Yes, sir.

12 Q Do you recognize who that is?

13 A Yes, sir.

14 Q Who is that?

15 A Assana Zampaligre.

16 Q Where did Assana Zampaligre work at the time of the
17 fraud?

18 A She had a salon in Harlem.

19 Q Do you have any nicknames for Assana?

20 A Yes, sir.

21 Q What?

22 A Auntie.

23 Q How do you know Assana?

24 A I knew her through my sister who used to work in the
25 salon.

LENGANE - DIRECT - AMIR

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1 Q And how long have you known Assana?

2 A I knew her back to 2019.

3 Q Is Assana -- does Assana have a relationship with
4 Ms. Okeke?

5 A Yes, sir.

6 Q What's their relationship?

7 A Friends.

8 Q Was Assana involved in the fraud?

9 A Yes, sir.

10 Q I'd like to show you what is in evidence as Government
11 Exhibit 8.

12 Mr. Lengane, do you recognize who's pictured there?

13 A Yes, sir.

14 Q Who is that?

15 A Auguste.

16 Q And was he involved in the fraud?

17 A Yes, sir.

18 Q What was his role?

19 A Prepared the tax documents.

20 Q I'd now like to show you what's in evidence as Government
21 Exhibit 5.

22 Do you recognize who's depicted there?

23 A Yes, sir.

24 Q Who is that?

25 A Me.

LENGANE - DIRECT - AMIR

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1 MR. AMIR: We can take that down.

2 Q You mentioned at the start that you had applied for a PPP
3 loan on behalf of Fatim's Hair Braiding.

4 Just talking about Fatim's, what is that business?

5 A That business was meant to trade goods for braiding,
6 okay, name business, and selling goods to Africa.

7 Q At the time that you applied for a PPP loan, did the
8 business have any operations?

9 A No, sir.

10 Q Did you have a bank account for the business?

11 A Yes, sir.

12 Q Where?

13 A At Popular Bank.

14 Q Why did you open an account at Popular Bank for the
15 business?

16 A Just to make it -- to make it believe that it is
17 functional.

18 Q How did you first learn about the PPP program?

19 A From Assana.

20 Q And what did she tell you about the program?

21 A She told me that it was possible to get a loan, okay,
22 because of the COVID crisis, and this loan -- and that loan
23 would be forgiven.

24 Q Do you know if Assana had any experience with the PPP
25 program?

LENGANE - DIRECT - AMIR

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1 A Yes, sir.

2 Q What was her experience?

3 A She was granted the same loan.

4 Q Whose idea was it to apply for a PPP loan on behalf of
5 Fatim's?

6 A It was Assana's idea.

7 Q What did she say to you?

8 A She said that this loan could help fix the basement in
9 the salon for the business in my name.

10 Q Where was the business supposed to be located?

11 A In Assana's salon on the basement.

12 Q What, if anything, was in the basement at that time?

13 A Not -- it was naked business, naked business, nothing
14 there.

15 Q After you and Assana decided to apply for a PPP loan for
16 Fatim's, did you go to Popular Bank?

17 A Yes, sir.

18 Q Who did you meet at the Popular Bank location?

19 A Anuli Okeke.

20 Q Did you meet anyone else at the bank that day?

21 A Yes, Charlene.

22 Q Who's Charlene?

23 A She's the kind of assistant to Anuli Okeke.

24 Q Did you have any discussions at Popular Bank about
25 Fatim's?

LENGANE - DIRECT - AMIR

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1 A Yes, sir.

2 Q What was discussed?

3 A That I could apply for this loan, this PPP loan, that
4 money, and fix the basement for the new business.

5 Q When you say, get the loan and fix the basement for the
6 new business, what do you mean?

7 A I mean that, okay, applying, using, okay, the business ID
8 in my name, okay, and apply for the PPP loan, got money, and
9 fix the basement for the project of a new business and selling
10 goods Africa.

11 Q Who was present for that discussion? Who was there?

12 A I was there, Assana, Anuli Okeke, Charlene, and my
13 sister.

14 Q Did you have any discussions about the location of the
15 business during that meeting?

16 A Yes, sir.

17 Q And what was discussed?

18 A The business ID, okay, didn't have, okay, the address of
19 the salon, the basement. So it was a home address, so they
20 told me that, okay, in this case, we have to make it believe
21 that the customers come for -- the customers come for -- you
22 have customers call in, okay, the braiders to come, okay, and
23 the work at home. So it would be it looks like we're going to
24 work at home and the braiders would come in work whenever we
25 have customers.

LENGANE - DIRECT - AMIR

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1 Q Were there any discussions about inspectors coming to
2 that location?

3 A Yes. That was the worry, because of that, okay. I was
4 told that we have to bring in -- we have to consider that,
5 okay, braiders come and work whenever we have customers and
6 leave, because Anuli told us that inspectors may come, okay,
7 to check what the money was used for.

8 Q Was there also a discussion -- actually, to be clear, you
9 mentioned the business ID had an address.

10 Where was that address?

11 A That address was in the Bronx, 2772 Valentine Avenue.

12 Q And just to be clear, was there any business in that
13 Bronx location?

14 A No, sir.

15 Q Was it a residential apartment?

16 A Yes, sir.

17 Q And did you intend to start Fatim's at that location?

18 A No, sir.

19 Q Was there also a discussion about the number of employees
20 to list on the PPP form?

21 A Yes, sir.

22 Q How many were listed?

23 A Okay. Initially, 13 at the beginning. Then, the number
24 of employees increased to 20.

25 Q And to be clear, did Fatim's have any employees at that

LENGANE - DIRECT - AMIR

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1 time?

2 A No, we didn't have any employees. And the 13 employees,
3 that was in my presence at Anuli's desk, but afterward, I was
4 informed that, okay, the number of employees was increased to
5 20. I was just informed.

6 MR. AMIR: I'd like to pull up what's in evidence as
7 Government Exhibit 751 at Page 2.

8 Q Mr. Lengane, do you see that on your screen?

9 A Yes, sir.

10 Q Is this the borrower application form for Fatim's?

11 A Yes, sir.

12 Q And what address is listed on this form?

13 A 2772 Valentine Avenue, Suite E9, Bronx, New York 10458.

14 Q Did you write this form?

15 A No, I didn't.

16 Q Did someone give this form to you?

17 A Yes, sir.

18 Q Who?

19 A Anuli Okeke.

20 Q And was the writing on the form when you received it?

21 A Will you repeat that, sir?

22 Q Yes. Was the written information on the form already
23 there when you received it?

24 A Yes, sir.

25 Q And going back to the business address for Fatim's. It

LENGANE - DIRECT - AMIR

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1 says here Suite E9.

2 Do you see that?

3 A Yes, sir.

4 Q Was that an actual suite address?

5 A No, it's the apartment.

6 Q Looking at the average monthly payroll for Fatim's, what
7 number is listed there?

8 A 100,000.

9 Q Was that an accurate number of Fatim's monthly payroll?

10 A No, sir.

11 Q And do you see in the center, the number next to, loan
12 request?

13 A Yes, sir.

14 Q And how much was requested?

15 A 250,000.

16 Q And do you see the number of employees listed on the
17 form?

18 A Yes, sir.

19 Q How many?

20 A Twenty.

21 Q And to be clear, did Fatim's have any employees at this
22 time?

23 A No, sir.

24 MR. AMIR: Turning to the second page, please.

25 Q Do you see in certifications on this form?

LENGANE - DIRECT - AMIR

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1 A Yes, sir.

2 Q And do you see BL next to various sentences?

3 A Yes, sir.

4 Q Are those your initials?

5 A Yes, sir.

6 Q Did you write BL on this form?

7 A No, sir.

8 Q When you received this form, was BL already filled out?

9 A Yes, sir.

10 Q Okay.

11 MR. AMIR: Scrolling down a little further, please.

12 Q Do you recognize any signatures on this form, sir?

13 A Yes, sir.

14 Q Whose signature do you recognize?

15 A Mine.

16 Q Did you sign this form?

17 A Yes, sir.

18 Q And did this form contain false information about

19 Fatim's?

20 A Yes, sir.

21 Q Okay. Where were you when you signed this form?

22 A At Anuli's desk.

23 Q And was that her desk at Popular Bank?

24 A Yes, sir.

25 Q Why did you sign this form?

LENGANE - DIRECT - AMIR

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1 A For the PPP loan.

2 MR. AMIR: Thank you. We can take this down.

3 Q Mr. Lengane, were tax forms prepared with this
4 application?

5 A Yes, sir.

6 Q Who prepared them?

7 A Auguste.

8 Q Do you remember his last name?

9 A No, sir.

10 Q Okay. I'd like to show you what is in evidence as
11 Government Exhibit 751 at Page 6.

12 Looking at the top of this form, do you see that
13 this is a Form 941?

14 A Yes, sir.

15 Q And is that an employer's quarterly federal tax return?

16 A Yes, sir.

17 Q What quarter is this for in 2019?

18 A January, February, March.

19 Q And what business is this for?

20 A For Fatim's braiding and business space.

21 Q Did Fatim's actually have any wages in January, February,
22 and March of 2019?

23 A No, sir.

24 Q Okay. Looking at number one, number of employees.

25 Do you see that question?

LENGANE - DIRECT - AMIR

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1 A Yes, sir.

2 Q What was listed there?

3 A Twenty employees.

4 Q And in question two, wages tips and compensation, what's
5 listed there?

6 A 300,000.

7 Q And were those made up?

8 A No, sir.

9 Q Did Fatim's really have 20 employees in 2019?

10 A No, sir.

11 Q And did Fatim's really pay 300,000 in wages in the first
12 quarter of 2019?

13 A No, sir.

14 Q Okay.

15 MR. AMIR: Looking to bottom of the next page,
16 please.

17 Q Do you see any signatures here, sir?

18 A Yes, sir.

19 Q Whose signature do you see?

20 A My signature.

21 Q And do you see a date below your signature?

22 A Yes, sir.

23 Q Did you write that date?

24 A No, sir.

25 Q What date is listed there?

LENGANE - DIRECT - AMIR

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1 A March the 30th, 2019.

2 Q Did you sign this actually on March 30th of 2019?

3 A No, sir.

4 Q Why did you sign this quarterly tax form?

5 A I was given that, okay, and told to sign.

6 Q Do you know what happened with this form after you signed
7 it?

8 A Yes. I returned them to -- I gave them to Anuli Okeke.

9 MR. AMIR: Okay. We can take this down.

10 Q Did you prepare a list of names and numbers for Fatim's?

11 A Yes, sir.

12 Q Why did you do that?

13 A I was told that I have to issue the number -- the list of
14 employees.

15 Q Who told you that?

16 A Okay, Assana told me that.

17 Q And did you end up preparing such a list?

18 A Yes, sir.

19 Q And did you send that list to anyone?

20 A Yes, sir.

21 Q Who did you send it to?

22 A Auguste.

23 MR. AMIR: I'd like to show the witness only, what's
24 marked for identification as Government Exhibit 201F, like
25 Frank. Looking at Page 2, please.

LENGANE - DIRECT - AMIR

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1 Q Mr. Lengane, do you recognize what's on your screen?

2 A Yes, sir.

3 Q Is this the list of names and numbers we just spoke
4 about?

5 A Yes, sir.

6 Q And is this in your handwriting?

7 A Yes, sir.

8 MR. AMIR: The Government offers Exhibit 201F into
9 evidence?

10 THE COURT: Any objection?

11 MR. GREENSPAN: Are there any other pages to this?

12 MR. AMIR: There's just one page at the top.

13 MR. GREENSPAN: No objection.

14 THE COURT: It's in evidence.

15 (Government Exhibit 210F, was received in evidence.)

16 Q Mr. Lengane, did you take a photograph of this page?

17 A Yes, sir.

18 Q Was that with your cell phone?

19 A Yes, sir.

20 Q Let's talk about how you put this together.

21 Where were you when you wrote this?

22 A In Assana's salon.

23 Q And what are these names supposed to represent?

24 A The employees of Fatim's Braiding Beauty and Business
25 Space.

LENGANE - DIRECT - AMIR

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1 Q And how many names were there?

2 A Twenty.

3 Q And is that the same number of employees listed on the
4 PPP application?

5 A Yes, sir.

6 Q Where did you get these names from?

7 A From Assana. I -- and I added my name, and my wife's
8 name too.

9 Q Where did Assana get these names from?

10 A From old employees, the employees in the salon.

11 Q And you mentioned earlier that you sent this to Auguste;
12 is that right?

13 A Yes, sir.

14 Q I'd now like to show you what's in evidence as Government
15 Exhibit 718.

16 Are these W2 tax forms for Fatim's?

17 A Yes, sir.

18 Q Did you receive a copy of these tax forms?

19 A Yes, sir.

20 Q From who?

21 A From Auguste.

22 Q So I'd like to look at the first page of this document.

23 Who is the employee listed?

24 A Fanta Kamara.

25 Q And how much are you wages listed for Fanta Kamara.

LENGANE - DIRECT - AMIR

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1 A 56,000.

2 Q And to be clear, Mr. Lengane, did Fatim's pay Ms. Kamara
3 \$58,000 in 2019?

4 A No, sir.

5 Q Do you know if these W-2 forms were ultimately submitted
6 to the bank?

7 A Yes, sir.

8 Q How do you know that?

9 A Auguste met Assana and me at Assana's salon, in Assana's
10 salon, then gave me, okay, the W forms, okay, to be given to
11 the bank to Anuli.

12 Q Thank you.

13 MR. AMIR: And just looking back at the screen, if
14 we could just flip through the next few pages.

15 Q Mr. Lengane, are these the other names that you and
16 Assana put together?

17 A Yes, sir.

18 Q Okay.

19 MR. AMIR: Thank you we can take this down.

20 Q Mr. Lengane, what year did you begin cooperating with the
21 Government?

22 A In 2020.

23 Q And at your meetings, were you asked questions?

24 A Yes, sir.

25 Q Did you get to pick the questions you were asked at any

LENGANE - DIRECT - AMIR

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1 of your meetings?

2 A No.

3 Q Did you get to pick the topics at your meetings?

4 MR. GREENSPAN: Objection.

5 THE COURT: Sustained.

6 Q Mr. Lengane, did you ultimately enter into cooperation
7 agreement with the Government as part of your guilty plea
8 in this case?

9 A Yes, sir.

10 Q And was that in 2021?

11 A Yes, sir.

12 Q Mr. Lengane, what are your obligations as you understand
13 them under the cooperation agreement?

14 A To tell the truth and nothing the truth.

15 Q If you meet your obligations, what are the obligations of
16 the prosecutors?

17 A Okay. You repeat that, sir.

18 Q Yeah. If you meet your obligations, what are the
19 obligations of the prosecutors?

20 A Okay. The obligation of the prosecutors is to give a
21 letter to the judge, okay, which will, okay, tell, that, okay,
22 I cooperated, okay, and with the prosecutor.

23 Q Sitting here today, do you know if you're going to get a
24 5K letter?

25 A No, sir.

LENGANE - DIRECT - AMIR

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1 Q What's the maximum penalty you face under your guilty
2 plea?

3 A Thirty years prison.

4 Q Who decides your sentence?

5 A The judge.

6 Q Will the prosecution recommend any particular sentence
7 for you?

8 A No, sir.

9 Q Does the judge have to give you a low sentence if the
10 prosecution sends a 5K letter?

11 A No, sir.

12 Q What sentence are you hoping to get?

13 A Okay. No prison sentence.

14 Q Mr. Lengane, was the Fatim's PPP loan ultimately
15 approved?

16 A Yes, sir.

17 Q And did there come a time you went to Popular Bank to
18 make a withdrawal?

19 A Yes, sir.

20 Q Who was at the bank?

21 A Anuli Okeke and Charlene.

22 Q And was anyone with you when you went to the bank?

23 A Yes, sir.

24 Q Who?

25 A My sister.

LENGANE - DIRECT - AMIR

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1 Q Was Assana at the bank?

2 A Yes, she was there too.

3 Q What happened at the bank?

4 A Okay. The day we withdrew the 100,000, okay, there was a
5 disagreement about how the money -- how we going to split the
6 money.

7 Q And what was the disagreement between -- what was being
8 fought over?

9 A Assana wanted 60 percent of the money.

10 Q And did she say that, that she wanted 60 percent?

11 A I refused to for 60 percent.

12 Q Who was there and present for this conversation?

13 A At Anuli's desk, okay, it was Anuli, Charlene, my sister,
14 Assana, and myself.

15 Q What, if anything, did Anuli say about this?

16 A She paid, okay, to help my auntie.

17 Q And you say your auntie, are you referring to Assana?

18 A Yes, sir.

19 Q What did you understand her to be saying about what you
20 should do for your auntie?

21 A To help her with the business because her business is --
22 was collapsing.

23 Q Did she ask you to give the 60 percent to Assana?

24 A Yes. This what I mean, this what I say.

25 Q What ended up happening with this disagreement?

LENGANE - DIRECT - AMIR

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1 A Definitely, Assana was upset, okay, I refused, and
2 afterwards, she left.

3 Q And what happened after she left?

4 A Well, she left because of -- she had to attend customers
5 in the salon, okay, and a solution came up.

6 Q What was the solution?

7 A Charlene told me that -- told us that, okay, we may get
8 another location for the business.

9 Q Were you ultimately presented with checks at the bank?

10 A Yes. When we agreed of changing the location because
11 Assana didn't want to give her business for the new business,
12 so we got to find another location. This suggestion came from
13 Charlene. And then we agreed.

14 Q After you agreed, was money withdrawn from the Fatim's
15 loan?

16 A Yes, sir.

17 Q I'd like to show you what's in evidence as Government
18 Exhibit 719 at Page 11.

19 Mr. Lengane, do you recognize this withdrawal slip?

20 A Yes, sir.

21 Q Is this for Popular Bank?

22 A Yes, sir.

23 Q Do you recognize any signature on this slip?

24 A Yes, sir.

25 Q Whose signature?

LENGANE - DIRECT - AMIR

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1 A My signature.

2 Q Did you write the rest of the words on this slip?

3 A No, sir.

4 Q Who wrote the rest of the words on this slip?

5 A Anuli Okeke.

6 Q And what is the date of this slip?

7 A Okay. Auguste the 21st, 2020.

8 Q And was the \$100,000 withdrawn from the account?

9 A Yes, sir.

10 Q How much cash did you get that day?

11 A Okay, a lot of money was returned that day, and it was
12 kind of confusion because we didn't make the checks, okay.
13 Everything was taken care of by Anuli and his team. So we
14 just given some cash. Okay. When I say we, I mean I and my
15 sister.

16 Q How did you receive the cash? Was it in an envelope?

17 A Yeah, we definitely put everything in envelope.

18 Q Who else received money that day?

19 A We received the cash, but checks, okay, was issued. Okay
20 checks for Assana, \$10,000, Auguste, okay, \$27,000, because
21 Charlene told me that, okay, Auguste requires 10 percent of
22 the money, 10 percent is 25,000, and then he added \$2,000 for
23 other fees. So definitely Auguste obtained, okay, he got
24 \$27,000.

25 Q Did you give any money directly to bank employees?

LENGANE - DIRECT - AMIR

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1 A No, sir.

2 Q Did you learn that bank employees had retained some of
3 the hundred thousand?

4 A Yeah. That's after calculation, when I got home, because
5 everything was done by them.

6 MR. GREENSPAN: Objection to them.

7 THE COURT: Sustained.

8 MR. AMIR: You can continue, sir.

9 A Okay. So everything was prepared by the banks, okay, the
10 checks and everything, okay. We -- the documents and
11 everything, we just given checks, so that's after when we're
12 out there that we try to figure out really what happened, and
13 we noticed that, okay, we were not given all the money, some
14 money is missing.

15 Q Do you recall approximately how much was missing?

16 A According to my calculation, about 14,000 missing.

17 THE COURT: About how much?

18 THE WITNESS: 14,000.

19 THE COURT: 14,000?

20 THE WITNESS: Yeah, one-four thousand.

21 Q I'd like to show you what's in evidence as Government
22 Exhibit 790.

23 Mr. Lengane, is this a bank statement for Fatim's?

24 A Yes, sir.

25 Q What is the date of this statement?

LENGANE - DIRECT - AMIR

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1 A May the 29th, 2020.

2 Q So is this before the PPP application?

3 A Yes, sir.

4 Q And what was in the account -- what was the account
5 balance, average balance at that time period?

6 A 31.24.

7 Q So a couple of months before Fatim's applied for a
8 \$250,000 PPP loan, your bank account had \$30 in it?

9 A Yes, sir.

10 MR. AMIR: I'd like to go to Page five of this
11 document, please.

12 Q Is this another bank statement for Fatim's?

13 A Yes, sir.

14 Q And what's the date of this statement?

15 A August the 31st, 2020.

16 Q Is that after the 250,000-dollar loan?

17 A Yes, sir.

18 Q So looking at the transaction on Auguste 19th, do you see
19 a deposit into the account that day?

20 A Yes, sir.

21 Q On how much was deposited?

22 A 250,000.

23 Q Was that the PPP loan?

24 A Yes, sir.

25 Q And below that, there's a transaction dated Auguste 21st.

LENGANE - DIRECT - AMIR

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1 Do you see that?

2 A Yes, sir.

3 Q How much was that for?

4 A Was for -- okay, this is the first day we made the
5 withdrawal, okay, from the PPP loan. The 100,000 was
6 withdrawn.

7 Q That's the hundred thousand dollar withdrawal slip we
8 just talked about, right?

9 A Yes, sir.

10 Q And below that, there's another transaction on
11 August 24th.

12 Do you see that?

13 A Yes, sir.

14 Q How much was that withdrawal?

15 A \$22,000.

16 Q Do you recall what the \$22,000 withdrawal was for?

17 A Yes, sir.

18 Q What was it for?

19 A That was for the new location because definitely we found
20 a basement to look -- to rent in the Bronx, okay, and we came
21 and withdrew money to pay for the rent of that basement for
22 the new business location, and the lady who withdrew that
23 money that day name is Tenin Diallo. And when we went to the
24 bank, we asked for \$20,000, so we were given \$20,000, but
25 \$2,000 was retained, okay, by Charlene, and the explanation

LENGANE - CROSS - MR. GREENSPAN

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1 when we asked to share that with us, it was for fees.

2 Q What was your reaction to the bank taking a 2,000-dollar
3 fee?

4 A Really, we felt really upset, and we couldn't believe
5 that for a mere withdrawal, \$2,000 could be retained as fees.
6 Too much.

7 MR. AMIR: One moment, please.

8 No further questions. Thank you.

9 THE COURT: All right. I think this is a good time
10 for our mid afternoon break. We'll reconvene at 20 after
11 3:00. Don't talk about the case.

12 THE COURTROOM DEPUTY: All rise.

13 (Jury exits the courtroom.)

14 (A recess was taken.)

15 THE COURTROOM DEPUTY: All rise.

16 (Jury enters the courtroom.)

17 THE COURTROOM DEPUTY: You can all be seated.

18 THE COURT: Mr. Greenspan, cross-examination.

19 MR. GREENSPAN: Thank you, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. GREENSPAN:

22 Q Good afternoon, Mr. Lengane.

23 A Good afternoon, sir.

24 Q Mr. Lengane, you testified that you came to the United
25 States in 2016; is that right?

LENGANE - CROSS - MR. GREENSPAN

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1 A Yes, sir.

2 Q And your immigration status today, are you a legal
3 permanent resident?

4 A Permanent resident.

5 Q And what did you do professionally when you came to the
6 United States?

7 A I started as a dishwasher.

8 Q And did you do anything after that?

9 A Yes, sir.

10 Q And what was that?

11 A Okay, my new job. My job I'm currently doing.

12 Q Is that at Ludlow House?

13 A Yes, sir.

14 Q And what do you do at Ludlow House?

15 A I work at the bar.

16 Q Are you a bartender?

17 A Yes, sir.

18 Q Have you also done translation work professionally?

19 A I actually graduated in translation in my country.

20 Q Have you made money off of translation work in the United
21 States?

22 A No.

23 Q And then at some point, you opened up Fatim's, right?

24 A Yes. With Assana.

25 Q With Assana. And when was that?

LENGANE - CROSS - MR. GREENSPAN

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1 A It's back in 2019.

2 Q And did you open up a bank account at Popular Bank at
3 that time?

4 A Yes, with the advice of Assana.

5 Q With the advice of Assana, you went to Popular Bank and
6 you opened up a bank account for Fatim's in 2019, right?

7 A Yes. I didn't know Popular Bank, okay. She took me
8 there.

9 Q And what was the address that was on the bank account at
10 the time?

11 A 2772 Valentin Avenue.

12 Q The same address that you testified about a moment ago
13 that was on the bank account in 2020, right?

14 A Yes, sir.

15 Q And when was what was that property?

16 A That's the home address.

17 Q Whose home? Who lives there?

18 A My cousin lives there.

19 Q And do you sometimes stay there?

20 A No. I don't stay there.

21 Q Did your cousin know that you used his address for a
22 business account?

23 A I told him later.

24 Q And when was that?

25 A Okay, that was when, okay -- okay, when the problem broke

LENGANE - CROSS - MR. GREENSPAN

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1 out, when what happened -- okay, when we face this problem, I
2 tried to tell him.

3 Q When you were confronted by law enforcement in this case?

4 A No. Yes, the first time, okay, I just tell him because
5 this is his home address.

6 Q Have you used the home addresses of anybody else for
7 business accounts without their permission?

8 A To tell you, this home address, initially, my cousin I
9 were intending to live there, but, okay, we only have two
10 rooms, I couldn't stay there with my family because I have a
11 wife and two children. So that's why definitely I moved to
12 New Jersey.

13 Q Is it a rental?

14 A It's rented, it's a rented room.

15 Q Is your name on the lease?

16 A Yes --

17 Q Sorry. Withdrawing the question.

18 Was your name on the lease in 2019 when you opened
19 up the Popular Bank account?

20 A The lease on the home?

21 Q The lease on the Valentine address?

22 A That address, okay, the name -- the main name on the
23 lease is my cousin. But I got my name too because, as I said,
24 that we rented it for both of us at the beginning, but it was,
25 okay, a small apartment for my family. He had a wife too.

LENGANE - CROSS - MR. GREENSPAN

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1 Q And so you moved to New Jersey, right?

2 A Yes, sir.

3 Q When you opened up the business, Fatim's, or you opened
4 up the bank account, around that time, you also loaned Assana
5 Zampaligre \$40,000, right?

6 A May you repeat this.

7 Q Sure. Around the time -- this is in 2019 -- that you
8 opened up Fatim's or at least opened up a bank account at in
9 Fatim's name, you also loaned Assana Zampaligre \$40,000,
10 right?

11 A Yeah, she owed me money because when I met her, she was
12 in debt. She couldn't pay her rent, her home rent, she have
13 some problems to pay for the rent of the salon, okay, and I
14 paid -- I help her many times. They shut down, okay, the
15 salon, and I paid to open it, let's say, two -- okay, for some
16 times, I help her with a lot of money.

17 Q How much money did you help her with?

18 A I approximate it's about 40,000.

19 Q And where did that money come from?

20 A Yeah, from my, okay -- from my job.

21 Q From your job as a busboy or your job as a bartender or a
22 different job?

23 A Yeah. No different job, the same job I do.

24 Q Those jobs?

25 A My job, my actual job, my current job, okay.

LENGANE - CROSS - MR. GREENSPAN

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1 Q At Ludlow House?

2 A At Ludlow House.

3 Q And at some point, you and Assana signed a general
4 partnership agreement for Fatim's, right?

5 A Yes.

6 Q And that agreement said that she was a 60 percent owner
7 and you were a 40 percent owner, right?

8 A This is what she told me and she took me to a lawyer who
9 issued this, okay, partnership agreement.

10 Q And did you sign that agreement?

11 A Yes, sir.

12 Q Now, you described your cooperation to some extent on
13 direct examination. I want to talk about that a little bit.
14 But let me go to the beginning.

15 You first met with law enforcement agents on October
16 5th, of 2020, right?

17 A Yes, sir.

18 Q And do you recall meeting law enforcement agents outside
19 of a Whole Foods and sitting in an agent's car?

20 A Yes, sir.

21 Q And when those agents asked you about Fatim's and the PPP
22 loan, you initially lied to them, right?

23 A I never lied to them.

24 Q Well, didn't you tell them that Fatim's had 20 employees.

25 Do you remember saying that?

LENGANE - CROSS - MR. GREENSPAN

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1 A I say that day I was panicked, because I never, okay,
2 thought that I could be in such a trouble because Anuli and
3 Assana assured me there was no problem, no issue with this
4 loan is what they told me in the beginning, and I believe in
5 Assana as a business, okay, and explain -- a business woman --

6 MR. GREENSPAN: Your Honor, I move to strike --

7 A A business woman who has some appearance --

8 THE COURT: Listen to me now. Just listen to the
9 question and answer the question. Don't go rambling on and
10 on. So motion granted. Just disregard that. It was not
11 responsive. Start again.

12 THE WITNESS: Okay. Yes, sir.

13 Q I'll re-ask the question, sir.

14 A Yes, sir.

15 Q Do you recall telling the agents that Fatim's had 20
16 employees?

17 A I don't remember that originally --

18 THE COURT: Do you recall; yes or no?

19 THE WITNESS: No, I don't remember.

20 Q You don't remember?

21 A Yeah.

22 MR. GREENSPAN: I'd want to show a document. This
23 is just for the witness. Mr. Turner, if you could pull up
24 BL006. And let's go to the first page. And if you could just
25 pull up just the very last row of text.

LENGANE - CROSS - MR. GREENSPAN

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1 Q And Mr. Lengane, if you could look at that. Just read
2 that to yourself, please. Tell me when you've heard a chance
3 to read that last row of text.

4 MR. GREENSPAN: And then Mr. Turner, if you could go
5 to the next page and complete that sentence for the witness.

6 THE COURT: Why don't you just ask him directly.

7 MR. GREENSPAN: Sure, Your Honor.

8 Can you go to the next page, please.

9 THE COURT: What's your question? What do you want
10 to ask him?

11 Q Does this refresh your recollection, Mr. Lengane, that
12 you told law enforcement agents that Fatim's had 20 employees?

13 THE COURT: Do you know how many employees you told
14 law enforcement that you had; yes or no?

15 THE WITNESS: Yeah, it's about the number of
16 employees --

17 THE COURT: I'm sorry, I'm having a hard time
18 hearing. It's probably my problem.

19 Can you answer the question, how many people?

20 THE WITNESS: We had -- the business had 20
21 employees, this is what I said, okay.

22 THE COURT: How many?

23 THE WITNESS: Twenty employees.

24 THE COURT: Next question.

25 Q And that wasn't truthful, right?

LENGANE - CROSS - MR. GREENSPAN

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1 A No.

2 THE COURT: Was it truthful; yes or no?

3 THE WITNESS: The business -- no, we had -- the
4 business didn't have the 20 employees in it.

5 Q And then later on in that same conversation, do you
6 recall telling law enforcement agents that you actually had
7 six employees, and that some were full time, some were part
8 time, and you paid them in cash?

9 Do you remember saying that?

10 A How many, sir?

11 Q Six employees. Do you remember saying that?

12 A No, I don't remember saying that.

13 THE COURT: Let me ask you this: You were not
14 truthful in terms of telling law enforcement how many
15 employees you had; yes or no?

16 THE WITNESS: Yeah, I don't remember everything.

17 THE COURT: What?

18 THE WITNESS: I don't remember. I don't remember
19 that.

20 THE COURT: You don't remember?

21 THE WITNESS: I don't remember saying I have six
22 employees.

23 MR. GREENSPAN: Your Honor, if I may try to refresh
24 his recollection, perhaps.

25 Q Mr. Lengane, if you could look at the highlighted portion

LENGANE - CROSS - MR. GREENSPAN

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1 here. Just read that to yourself, not out loud.

2 And let me know, does that refresh your recollection
3 that you told law enforcement --

4 THE COURT: This is something that you're being
5 shown that you purportedly said before or told law
6 enforcement.

7 Does that refresh your recollection about how many
8 employees you told law enforcement you had; yes or no?

9 THE WITNESS: Yes. As I said, I don't remember,
10 okay --

11 THE COURT: I don't understand you.

12 Does that refresh your recollection how many
13 employees you told law enforcement you had; yes or no?

14 THE WITNESS: No, sir.

15 THE COURT: It doesn't refresh your recollection?

16 THE WITNESS: No.

17 THE COURT: Read it again.

18 Does it refresh your recollection as to whether you
19 said anything to them about whether they paid this cash and
20 how much money you paid them per week? Does that refresh your
21 recollection; yes or no?

22 THE WITNESS: No, that does not really refresh --

23 THE COURT: The answer is yes or no.

24 THE WITNESS: No, sir.

25 THE COURT: No, it doesn't refresh his recollection.

LENGANE - CROSS - MR. GREENSPAN

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1 MR. GREENSPAN: You can take this down, Mr. Turner.

2 Q Do you deny that you told law enforcement during that
3 meeting that you had six employees, some full time, some part
4 time, and that you paid them in cash?

5 MR. AMIR: Objection. Asked and answered.

6 THE COURT: Overruled. Do you remember saying
7 anything like that; yes or no?

8 THE WITNESS: No, I don't remember, sir.

9 THE COURT: He told me he doesn't remember.

10 Q After that first meeting, do you recall having a phone
11 call with law enforcement agents only a few days later?

12 A Yes, sir.

13 Q And do you recall that during that meeting, you said that
14 there was a guy who set the whole thing up? Do you remember
15 that?

16 A Yes. I mean Aguste.

17 Q So you told law enforcement that Aguste, whose last name
18 you don't remember, he set the whole PPP loan up, right?

19 A May you repeat that, sir?

20 Q Yes. Sorry. That was a bad question. Let me break that
21 down.

22 You don't remember Aguste's last name, that's all
23 you remember him as, Aguste, right?

24 A Yes, sir.

25 Q And said that he's the person who prepared the tax

LENGANE - CROSS - MR. GREENSPAN

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1 documents that you described?

2 A Yes. The tax documents, yes.

3 Q Do you recall telling law enforcement that that person,
4 Aguste, set the whole thing up in terms of the PPP loan?

5 A I didn't say that exactly.

6 Q What do you recall saying?

7 A That he made the tax forms.

8 Q Do you recall whether you said that he set the whole
9 thing up?

10 A Set? Say that again.

11 Q Set the whole thing up. Do you recall saying that?

12 A No, I don't remember saying that.

13 Q You don't remember.

14 MR. GREENSPAN: Mr. Turner, could we show the
15 witness BL-014, and let's highlight for him, what's been
16 marked A, there. Only the witness, please.

17 THE COURT: Read that and tell the Court whether
18 that refreshes your recollection; yes or no?

19 THE WITNESS: No, I don't remember.

20 THE COURT: Does that refresh your recollection.
21 Read it. Yes or no?

22 THE WITNESS: No, it doesn't --

23 THE COURT: The answer is no, it doesn't refresh
24 your recollection? Is that what you're saying? You can tell
25 me.

LENGANE - CROSS - MR. GREENSPAN

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1 THE WITNESS: No.

2 THE COURT: It doesn't refresh your recollection.

3 Next question.

4 MR. GREENSPAN: You can take that down, Mr. Turner.

5 Q Do you deny, Mr. Lengane, that you said that he was the
6 guy who set the whole thing up?

7 THE COURT: Do you deny that?

8 Q Do you deny saying that to law enforcement that day?

9 THE COURT: Yes or no?

10 THE WITNESS: I deny that because Aguste made the
11 tax forms. It was part of the scheme, made the tax forms.

12 Q All right. Mr. Lengane, I just want to show you?

13 MR. GREENSPAN: Mr. Turner, this is in evidence and
14 can be shown to the jury. This is Government Exhibit 790.

15 Q You were shown this page.

16 MR. GREENSPAN: Mr. Turner, if you could highlight
17 the popular business checking in the middle with the account
18 number and that information. Actually, sorry, if you could
19 blow that up.

20 (Continued on the following page.)
21
22
23
24
25

Lengane - cross - Greenspan

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1 (Continuing.)

2 BY MR. GREENSPAN:

3 Q You were shown this and you were asked questions about
4 that by the Government; do you remember that?

5 A Yes, sir.

6 Q Did you expect that bank employees would look at your
7 account balance without your permission?

8 Did you expect bank employees to look at this
9 information?

10 A I don't know, sir.

11 Q Okay.

12 MR. GREENSPAN: You can take -- actually let's
13 scroll down -- can you scroll down to the next page, please,
14 and keep going. Stop there. Sorry. Yeah, can you highlight
15 the activity, the daily activity section, please.

16 Q This deposit on July 1st of \$6,000; do you see that?
17 What is that?

18 A That is a -- it's a deposit.

19 Q Yeah. Did you make that deposit?

20 THE COURT: You're looking at that. It says,
21 deposit \$6,000. Did you make it; yes or no?

22 THE WITNESS: Yes, I made this deposit.

23 THE COURT: Okay, you made this deposit.

24 Q And do you know the source of those funds?

25 A Yes, sir.

Lengane - cross - Greenspan

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1 Q And what is that?

2 A Assana paid the money she owed me.

3 Q Is this the only money she ever paid you?

4 A Yes, only one -- only money she paid me.

5 Q Okay.

6 MR. GREENSPAN: Mr. Turner, if you could go back to
7 the document and scroll down to the next page, please, and the
8 page after that. Perfect. If you could again, pull out the
9 daily activity.

10 Q You spoke about the two withdrawals here, one on
11 August 21st and the other on August 24th just a moment ago; do
12 you remember that?

13 A Yes, sir.

14 Q You made those withdrawals in person at the bank
15 yourself, right?

16 A Yes, sir, with the presence of -- of the guy who owns
17 that -- I mentioned previously.

18 Q You signed the withdrawal slips for both the \$100,000
19 withdrawal and the \$22,000 withdrawal, correct?

20 A Yes, sir.

21 MR. MR. GREENSPAN: You can take that down,
22 Mr. Turner.

23 Q Turning back to the PPP loan, you said that it was
24 Assana Zampaligre's idea to take out the loan, right?

25 A Yes, sir.

Lengane - cross - Greenspan

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1 Q And it was Assana Zampaligre who changed the number of
2 employees on the loan paperwork from 13 to 20; isn't that
3 right?

4 A Not only her.

5 Q She's the one who did it though, isn't it?

6 A Yeah, she came up with the idea.

7 Q Do you recall speaking to the Government on October 21st
8 of 2020, so a few weeks after your initial discussion with
9 them, at the U.S. Attorney's Office?

10 A Yes, sir.

11 Q And do you recall, at that meeting with the Government,
12 telling them that Assana Zampaligre changed the number of
13 employees from 13 to 20? Do you recall telling them that?

14 A Yes, sir.

15 Q Now, you were shown in your direct examination a list of
16 20 names. You said that those names all but a few of them
17 were provided by Ms. Zampaligre; is that correct?

18 A I said I added my name and my wife's name.

19 Q You added your name and your wife's name?

20 A Yeah.

21 Q And the rest of the names were provided by
22 Ms. Zampaligre, correct?

23 A Yes.

24 Q And --

25 A After she could not remember my wife's, so she made it --

Lengane - cross - Greenspan

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1 she made me write it in, so.

2 Q But she provided you the information for you to write on
3 the list; is that right?

4 A Yeah, she could not remember that. She could not
5 remember that.

6 Q Understood, but the information that was written there
7 came from her, right?

8 A Yeah, except my name and my wife's name.

9 Q Okay. Turning back to the withdrawal slips that you just
10 said that you signed on the 21st and 24th of August, there
11 were some teller transactions that were done after that,
12 right, you got some checks; do you remember that?

13 A The \$22,000?

14 Q The \$22,000 and the \$100,000, both of them resulted in
15 checks being issued, right?

16 A Yes, sir.

17 Q And those checks were issued by someone at the teller
18 window, right?

19 A Yeah. After everything's ready, the checks were made by
20 the bank employees and everything.

21 Q And that was done at the teller window, right?

22 A Yeah. You withdraw money from the teller after
23 everything is done.

24 Q Charlene Wint did all of those transactions, didn't she?
25 She's the one who created those checks?

Lengane - cross - Greenspan

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1 A No, because Anuli was there too.

2 Q Did two people type at the same time or was it just one?

3 A This is -- this is a -- the company, the job, I don't
4 know how I can explain things, how it would work, I can't
5 explain things how they work for that bank, they were work --
6 actually working.

7 Q You said that you remembered meeting at the U.S.
8 Attorney's Office on October 21st of 2020. At that meeting,
9 do you remember telling them that Wint was the one who dealt
10 with the teller transaction?

11 A Can you repeat that, sir?

12 Q Yeah. Again, this is the meeting at the U.S. Attorney's
13 Office between you and the Government on October 21st of 2020.
14 Do you remember telling the Government that it was Wint that
15 dealt with the teller transactions?

16 A I don't understand the last part, the last part about
17 your -- your statement.

18 Q Do you know what a teller window is?

19 A Yes, I know the teller window, we know.

20 Q And do you know what sort of transactions take place at a
21 bank at the teller window?

22 A Yes, withdraw money from there.

23 Q And when you were withdrawing money on the 21st and 24th,
24 did you do anything at the teller window?

25 A Yeah, according to the checks, okay, which were prepared

Lengane - cross - Greenspan

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1 by, okay, Anuli and Charlene, okay, they gave us a loan. We
2 didn't prepare anything. They brought everything.

3 Q Let me just -- I would like to be clear on exactly who
4 did what, and that's the nature of these questions. So I
5 believe you testified that at least with respect to the first
6 withdraw slip, Anuli Okeke prepared the withdrawal slip and
7 you signed it; do you remember that?

8 A Like I said, okay, Charlene and Anuli worked together.
9 Charlene was -- is kind of an assistant to Anuli, so they work
10 together. I -- I can't tell you exactly what they were doing
11 together, that's what --

12 Q So you can't separate what Charlene did and what Anuli
13 did from that day. In your mind, everything was done
14 together; is that your testimony?

15 A This is technical, okay. It's a bank job, it's very
16 technical, so it's very hard for me to explain that.

17 Q Is this a language issue or is this is memory issue or is
18 it something else?

19 MR. AMIR: Objection.

20 THE COURT: Overruled.

21 A I speak facts of what I saw. I saw them working on
22 something, on the documents, but I can't tell you exactly what
23 each one was doing. That's gonna be hard.

24 Q Because you don't remember clearly who did which things;
25 is that what you're saying?

Lengane - cross - Greenspan

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1 A No, not because of that, because -- okay, I'm not
2 involved in the bank job. I don't know how things work at the
3 bank, so I can't really tell anything about that because they
4 were working something, so I can't explain their job for them.

5 Q Let's turn to the second of those two withdrawals that
6 happened on August 24th, and the withdrawal slip that you said
7 you signed for \$22,000; do you recall that?

8 A Yes, sir.

9 Q That was prepared by Charlene Wint; is that right?

10 A Yes, sir.

11 Q And you remember that was specifically Charlene Wint,
12 right?

13 A Yes, specifically Charlene.

14 Q And then you came back the next day on August 25th to the
15 bank, right?

16 A After withdrawal of the \$22,000?

17 Q Correct. The next day of the 24th as the 25th and do you
18 recall coming back to the bank that day?

19 A I -- I can't remember that.

20 Q Okay.

21 MR. GREENSPAN: Can we put up Government Exhibit 307
22 and I am going to move this into evidence by agreement with
23 the Government.

24 THE COURT: What exhibit number is that now?

25 MR. GREENSPAN: 307, Your Honor.

Lengane - cross - Greenspan

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1 THE COURT: 307?

2 THE COURTROOM DEPUTY: Yeah.

3 MR. AMIR: No objection.

4 THE COURT: In evidence at this time.

5 (Government Exhibit 307 was received in evidence.)

6 MR. GREENSPAN: And, Mr. Turner, if you could turn
7 to page 22.

8 Q Mr. Lengane, what is this that's being depicted on the
9 page?

10 A Yes, this is the amount of money, okay, left in the
11 account.

12 Q And it's dated 08-25-2020, right?

13 A Yes, you can see now.

14 Q And it says, by Jamaican agent; do you see that?

15 A Yes, I mean Charlene.

16 Q And did you write this?

17 A Yes, I wrote this.

18 Q Does this refresh your recollection that you went to the
19 bank on August 25th?

20 A Yeah, because I wanted to know how much was left in
21 the -- the account.

22 Q You said that Mr. Napabi was paid for producing tax
23 documents, right?

24 A Yes, sir.

25 Q Paying Mr. Napabi was something that was suggested by

Lengane - redirect - Amir

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1 Charlene Wint and Assana Zampaligre; wasn't it?

2 A Can you repeat that, sir?

3 Q Yeah. The idea to pay Mr. Napabi was something that was
4 suggested to you by Charlene Wint and Assana Zampaligre,
5 right?

6 A What I know exactly, Charlene, okay, told me Auguste,
7 okay, is gonna take 10 percent, the 10 percent for Auguste.

8 Q And that was something that you said Charlene told you?

9 A Yeah, he told me that -- she told me that, 10 percent
10 gonna be for her, but we knew -- I knew that already. We were
11 told that before, and she got -- the day we -- okay, we -- we
12 got the money, she reminded me, she -- just a reminder.

13 Q Ms. Wint told you that before?

14 MR. AMIR: Objection. Hearsay.

15 THE COURT: Objection sustained.

16 Next question.

17 MR. GREENSPAN: I have nothing further, Your Honor.

18 THE COURT: Any redirect?

19 MR. AMIR: Yes, Your Honor.

20 REDIRECT EXAMINATION

21 BY MR. AMIR:

22 Q Good afternoon, Mr. Lengane.

23 A Good afternoon, sir.

24 Q Do you recall being asked questions about who wrote
25 certain checks at the bank?

Lengane - redirect - Amir

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1 A Yes, sir.

2 Q And do you recall writing a note to yourself about this
3 scheme in October of 2020?

4 A Yes, sir.

5 Q What did you -- why did you write such a note?

6 A After meeting -- okay, the agents, the federal agents,
7 I -- I knew that I was -- it was serious, I have to -- to tell
8 them what happened exactly, facts, they needed facts, I have
9 to tell them the truth. So I tried, okay, to write this, what
10 happened and I tried to tell them because I -- I knew that
11 they would come and ask questions again, I have to tell them
12 the truth what happened exactly. They knew -- this is what
13 they told me, they need to know what happened exactly, so I
14 got to get prepared for that.

15 Q Did you prepare that in October 2020?

16 A Yes, sir.

17 MR. AMIR: Your Honor, the Government moves Exhibit
18 201-B into evidence as a prior consistent statement.

19 MR. GREENSPAN: Objection. It's not a prior
20 consistent statement, and it's has not been a prior consistent
21 statement.

22 MR. AMIR: Yes, it has, and I would ask for a
23 sidebar.

24 THE COURT: Let's come up for a sidebar. This is
25 one of those rare situations where we have to discuss a legal

Sidebar

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1 matter. (Continued on the next page.)

2 (The following occurred at sidebar.)

3 THE COURT: Let me see the statement.

4 MR. AMIR: Yes, Your Honor. I apologize, it's a
5 little bit small, but as you can see, it's about who wrote the
6 checks which was a significant part of cross.

7 THE COURT: You just told that part of it alone.

8 MR. AMIR: I'm happy to limit it to that. We can
9 create a redacted versus --

10 THE COURT: This was a statement that was given way
11 back at that time. Why should we not allow this into evidence
12 now, Mr. Greenspan?

13 MR. GREENSPAN: Your Honor, first of all, he moved
14 the entire document in.

15 THE COURT: It's just going to be this part.

16 MR. GREENSPAN: I haven't seen what part he's
17 talking about, if I may.

18 THE COURT: I looked at it quickly. It looks like
19 it's appropriate. It's a prior inconsistent statement, just
20 that one part, not the entire thing. Look at it and see
21 whether we can move on.

22 MR. GREENSPAN: Just this one sentence?

23 MR. AMIR: Yeah.

24 MR. GREENSPAN: She wrote the check, she made a
25 check of -- to where?

Sidebar

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1 MR. AMIR: Can I see it? Sorry.

2 THE COURT: Don't mumble back and forth because the
3 court reporter is going to lose it.

4 MR. GREENSPAN: In the meantime, my recollection of
5 his testimony is he couldn't remember anything, he couldn't
6 remember who wrote the checks, I believe we've had multiple
7 instances where they say --

8 THE COURT: My sense is -- I try to pay more
9 attention is that he was equivocal, he didn't really answer
10 the question, he didn't understand. I may be wrong. Do you
11 really want to take the time to look at the record or move on?

12 MR. AMIR: The rule 81(d)(1)(b) states that.

13 THE COURT: I know the rule but I don't hear the
14 prior statement is what I'm concerned about. I think I
15 remember him saying I don't recall that type of thing.

16 MR. GREENSPAN: He said they both did everything.
17 He didn't know what anybody did.

18 MR. AMIR: Which is inconsistent with what he wrote
19 in October of 2020, so therefore --

20 THE COURT: This is what I am going to do. Not
21 everybody all at once, okay? We can do one of two things, we
22 can break and we can look if it's that important. My general
23 recollection is he did discuss this matter to some extent. I
24 can't remember the specifics of it but I will -- and just let
25 you do it. I think under the circumstances, I think it's

Sidebar

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1 okay.

2 MR. GREENSPAN: Can I just make one point?

3 THE COURT: Yeah.

4 MR. GREENSPAN: Mr. Amir is talking about a
5 statement that's inconsistent with this statement, not a
6 statement that's inconsistent with what he previously said.

7 MR. TALKIN: It doesn't fit the rule.

8 THE COURT: Why don't we do this: It's now ten
9 after four. If it's that critical and that important to you,
10 I'm going to have to get the transcript, we're going to have
11 to take time to do that. I could send the jury home now, but
12 we have to make a practical decision. I'm willing to do that
13 but we're going to have to put a halt to everything, we're
14 gonna have to get the prior statement, I am going to have to
15 look at it carefully. Do you want to do that? Just tell me
16 if you want to do that because my memory is not as good as
17 yours.

18 MR. AMIR: I think we could move on and litigate
19 this later. His testimony isn't gonna change.

20 MR. GREENSPAN: We won't object to that.

21 THE COURT: Let's see if we can move on and finish
22 with him. If it's that critical after five o'clock, we can
23 take a look at it which I don't really think you need to do.

24 (End of sidebar conference.)

25 (Continued on the next page.)

Sidebar

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Lengane - redirect - Amir

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1 (In open court.)

2 THE COURT: Thank you for your patience. This is an
3 example, like I told you before, sometimes we have to discuss
4 a matter of law, which you're not you allowed to hear, without
5 being discourteous to you. I told you in advance, these
6 things do happen from time to time and we worked it all out
7 and we're ready to move forward.

8 MR. AMIR: Thank you, Judge.

9 BY MR. AMIR:

10 Q Mr. Lengane, do you recall being asked on
11 cross-examination about the address that was listed for
12 Fatim's in the bank statement?

13 A Yes, sir.

14 Q Did you say where Fatim's would operate at the time you
15 were applying for a PPP loan?

16 A Yes, sir.

17 Q And who was there for that discussion?

18 A I was there, Anuli, Assana's not -- on her way --

19 THE COURT: It must be my fault, I must be getting
20 too old. I have a hard time hearing you. No disrespect, it
21 may very well be that I talk with a Brooklyn accent and you
22 don't, but tell me who was there as loud and clear as you can
23 do that so we can all understand.

24 THE WITNESS: I'm telling you those who were
25 there --

Lengane - redirect - Amir

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1 THE COURT: Who?

2 THE WITNESS: Those were there. I'm telling you
3 those -- the people who were there when we talk about this.

4 THE COURT: You understand what his answer was?

5 BY MR. AMIR:

Q Mr. Lengane, why don't you just say the names of people
6 who were there for that conversation. I think you said Anuli
7 and Assana already.

8 Yeah.

THE COURT: You said Anuli was there?

9 THE WITNESS: Yes, Anuli was there.

10 THE COURT: Do you remember that?

11 THE WITNESS: Yes.

12 THE COURT: Who else?

13 Q Who else was there?

14 A Okay. Charlene was there.

15 THE COURT: Okay.

16 BY MR. AMIR:

Q And, Mr. Lengane, for this conversation where Anuli and
17 Charlene were present, did you discuss where Fatim's would end
18 up operating?

19 A Yes, sir.

20 Q And where was that location?

21 A Okay. The home address 2772 Valentine Avenue.

22 Q And did you discuss how you would use the PPP money?

23 A Yes, sir.

24 Q And where were you intending to use the money on?

25 A The money was intended to be used for -- to fix the

Lengane - redirect - Amir

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1 basement at Assana's salon.

2 Q And did you discuss that plan at that meeting with Anuli?

3 A Yes, we talked about that.

4 Q No further questions.

5 THE COURT: Any recross?

6 MR. GREENSPAN: No, Your Honor. Thank you.

7 THE COURT: You may step down. Thank you very much.

8 I think we have time -- you can step down.

9 THE WITNESS: Okay, sir.

10 THE COURTROOM DEPUTY: You're free to go.

11 THE COURT: You're free to go.

12 (The witness steps down.)

13 MR. AMIR: Your Honor, the Government calls its next
14 witness, Peter Tsakonas.

15 THE COURT: All right. Let's have the next witness.

16 THE COURTROOM DEPUTY: Good afternoon, Mr. Tsakonas.
17 Could you take the witness stand, please.

18 (Witness sworn.)

19 THE COURTROOM DEPUTY: Thank you. Please have a
20 seat. I ask you if you could please state and spell your name
21 and keep your voice up.

22 THE WITNESS: Sure. My name is Peter Tsakonas.
23 That's P-E-T-E-R, last name is T-S-A-K-O-N-A-S.

24 THE COURTROOM DEPUTY: Thank you.

25 THE COURT: Your witness, Mr. Amir.

Lengane - redirect - Amir

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MR. AMIR: Thank you, Judge.

(Continued on next page.)

Tsakonas - direct - Amir

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1 **PETER TSAKONAS,**

2 called by the Government, having been

3 first duly sworn, was examined and testified

4 as follows:

5 DIRECT EXAMINATION

6 BY MR. AMIR:

7 Q Good afternoon, Mr. Tsakonas.

8 A Good afternoon.

9 Q How far have you gone in school?

10 A College.

11 Q What did you study in college?

12 A Business management.

13 Q Where do you work?

14 A Popular Bank.

15 Q Is that where you worked in the summer of 2020?

16 A Yes, it was.

17 Q And what is your position at Popular Bank?

18 A I am a credit analyst.

19 Q And how long have you held that position?

20 A With Popular, six years, but I've been in the profession
21 over 20.

22 Q And just briefly, what is your experience in the
23 profession?

24 A Basically just credit analysis for specifically
25 residential mortgages, analyzing credit, income, calculating

Tsakonas - direct - Amir

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1 income, assets, and basically overall ability to repay.

2 Q And at Popular Bank, what are your duties as a credit
3 analyst?

4 A Just making sure, whenever an application comes in,
5 someone purchasing or refinancing a mortgage, just making sure
6 that they do have that ability to repay by calculating the
7 income, assets and just making sure we don't put them in any
8 financial hardship if they are purchasing a home or
9 refinancing.

10 Q Are you familiar with the Paycheck Protection Program or
11 PPP?

12 A Yes, I am.

13 Q Were PPP loans issued at Popular Bank?

14 A Yes, they were.

15 Q And were you present for the rollout of the PPP program
16 at Popular Bank?

17 A I was part of the team, yes.

18 Q And did you receive training on how that worked?

19 A Yes, yes, I did.

20 Q What was your role regarding PPP applications?

21 A Same thing, credit analysis.

22 Q And with regard to PPP loans, what did you do?

23 A Once an application came in, basically I was assigned the
24 application, and what I did is reviewed the application,
25 making sure it was thorough and also reviewing any

Tsakonas - direct - Amir

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1 documentation associated to the PPP program.

2 Q Who else did you work with on PPP loans?

3 A Directly, I worked with Olga Ojeda and Sandra Jones, they
4 were actually part of the SBA department with Popular. Then I
5 also reported directly to Carlos Gorgas and Joanne Schementi.

6 Q Did you have any interactions with branch managers?

7 A Yes, I did.

8 Q What were the role of branch managers regarding the PPP
9 program?

10 A Branch managers took in the applications initially and
11 then submitted them over to the corporate office.

12 Q Are there other credit analysts who work at Popular Bank?

13 A Yes, there are.

14 Q Was Jason McFarlane another credit analyst at
15 Popular Bank?

16 A Yes, he was.

17 Q For the PPP applications that you reviewed, were you
18 responsible for a particular region?

19 A No. They -- they pretty much came from everywhere, all
20 branches.

21 Q Approximately, how many branches?

22 A I would say 23 to 26 at that time.

23 Q And how were credit analysts assigned a loan application
24 to review?

25 A They first went to Olga Ojeda or Sandra Jones, and then

Tsakonas - direct - Amir

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1 from there, it was basically an email sent over to the analyst
2 assigning that application to the analyst.

3 Q And when you were assigned the PPP loan, what were you
4 looking for?

5 A Just looking through the application, you know, number of
6 employees, the -- the amount requested, then analyzing any of
7 the documentation that was submitted with the application.
8 Typically they would be 941s, quarterly 941s that were
9 submitted.

10 Q Briefly, what's a 941?

11 A 941 is basically the quarterly payrolls that the company
12 pays out to the employees.

13 Q Is that a tax form?

14 A Yes, it is.

15 Q I would like to direct your attention to 125th Street in
16 Manhattan. Did Popular Bank maintain a branch there?

17 A Yes, they did.

18 Q And did that branch give out PPP loans?

19 A Yes, it did.

20 Q Do you know who managed that location in 2020?

21 A It was Anuli Okeke.

22 Q And who in the 125th Street branch submitted loans for
23 review?

24 A It could of been -- it was either the branch manager or
25 the supervisor or possibly even bankers.

Tsakonas - direct - Amir

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1 Q Do you recall receiving PPP applications from that
2 branch?

3 A Yes, I do.

4 Q Did you recall anything out of the ordinary with those
5 applications?

6 A Yes, you know, there was one in -- in a hair braiding
7 business that did come in. And upon reviewing the
8 application, you know, I saw that there were, I believe, 15 or
9 20 employees on the application, and the payroll, if I'm not
10 mistaken, was a little bit over 1.2 or 1.5 million dollars.
11 Upon doing further research, and specifically looking at
12 the -- or searching the physical address of the business, it
13 came up -- it came back to a New York City residential
14 apartment.

15 Q Why did that stick out to you?

16 A Again, being a New York City residential apartment which
17 are typically smaller in size, you know, to have 20 employees
18 in there, that -- that seemed a little odd.

19 Q Do you recall any other types of businesses that were
20 unusual to you?

21 A There was also an auto sales business as well.

22 Q And do you recall what was unusual about that business?

23 A Same thing, kind of did a search, some research on the
24 address, which is typical for credit, you know, for what we do
25 in our role. And that address, which typically would be the

Tsakonas - direct - Amir

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1 physical address that should be on the application, came back
2 to a residential home.

3 Q And was that a red flag?

4 A Yes, it somewhat was because further research also showed
5 the home was foreclosed.

6 Q And what is a red flag?

7 A A red flag is anything that might seem out of the
8 ordinary, maybe something not typical and, you know, in my
9 role, when you kind of compile those, you know, obviously, if
10 there's smoke, chances are there's fire, so.

11 Q And when you saw these red flags in the auto and the hair
12 braiding business, what did you do?

13 A I had a discussion with Olga Ojeda being that she ran
14 the -- the -- or she managed the SBA department which rolled
15 out PPP. So I basically had a conversation with her about my
16 findings and we kind of came up with a game plan as to what we
17 can further ask for to verify this information that we're
18 seeing on the application.

19 Q Did you reach out to the branch manager?

20 A Yes, we did.

21 Q And just a reminder, was that Ms. Okeke?

22 A Yes, it was.

23 Q And what did you say to Ms. Okeke?

24 A If I recall the conversation, we basically brought up
25 some -- some of the issues that we were finding and we did

Tsakonas - direct - Amir

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1 decide to ask for some additional documentation to verify some
2 of the information.

3 Q Do you recall what kind of additional documentation?

4 A I believe we asked for W2s from -- for every employee.

5 Q And, initially, did the applications need to include W2s?

6 A No. For the PPP program, according to the rules, they
7 did not.

8 Q What did Ms. Okeke say in response?

9 A I believe she just stated that, yeah, she -- she would
10 get them for us.

11 Q Did there come a time where you learned that the volume
12 of PPP applications was unusual for that branch?

13 A Not initially but, eventually, yeah. It -- you know,
14 I -- I believe about four or five of them came in kind of, you
15 know, right around the same time.

16 Q I'd like to show you what's in evidence as
17 Government's Exhibit 1146. And before this comes up,
18 Mr. Tsakonas, did you raise any of these concerns by email?

19 A Yes, sir.

20 MR. AMIR: Mike, may it be switched?

21 THE COURTROOM DEPUTY: Yeah, sorry.

22 MR. AMIR: Thank you so much.

23 Q So I would like to scroll down to the earliest email.
24 Starting from the earliest email, who is this email with?

25 A Sandra Jones, Olga Ojeda, Anuli Okeke, Joanne Schementi

Tsakonas - direct - Amir

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1 and Carlos Gorgas.

2 Q Who is Carlos Gorgas?

3 A He's one of the managers based out of Florida. He
4 basically does the commercial loans but he was put in for the
5 PPP program to basically manage the group.

6 Q And who is Sandra Jones?

7 A Sandra Jones is an individual who works for the SBA for
8 Popular, SBA department.

9 Q What about Olga Ojeda?

10 A She was also with the SBA department.

11 Q And Joanne Schementi?

12 A Joanne Schementi was also a manager, along with Carlos.

13 Q Were you on this email initially?

14 A No, I was not.

15 Q Were you later added to this thread?

16 A I believe I was, yes.

17 Q And when you were added, did you review this email?

18 A Yes, I did.

19 Q Okay. Can you please read the first paragraph of
20 Sandra Jones' email?

21 A Sure.

22 Tenin Diallo's second application was not approved
23 by the SBA due to a duplicate PPP application under the same
24 tax ID. Per Anuli, the customer's account you mentioned that
25 the business has an EIN and the application was revised to

Tsakonas - direct - Amir

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1 reflect the EIN. They also revised the 941s for the business
2 for 2019 to match the EIN. Are we okay with proceeding with
3 the revised and backdated 941s for the proceeding year.

4 Q And can we scroll down to the last sentence of Ms. Jones'
5 email. Can you please read that last sentence?

6 A I am asking, as the duplicate PPP warning will raise red
7 flags for the SBA, are these longtime customers of the bank.
8 Please let me know how you wish to proceed.

9 Q And scrolling up, was there a response to this email?

10 A Yes, there was.

11 Q By whom?

12 A Anuli Okeke.

13 Q And what did she say?

14 A Dear Sandra, the clients mentioned are not longtime
15 clients of the bank and are SBA PPP clients. Thank you.

16 (Continued on the following page.)
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Tsakonas - direct - Amir

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1 BY MR. AMIR: (Continued.)

2 Q And is there a response to this e-mail?

3 A I believe there is, yes.

4 MR. AMIR: Scroll up.

5 Q Are you added to this e-mail dated August 7, 2020?

6 A Yes, I am.

7 Q And who is this e-mail from?

8 A Olga Ojeda.

9 Q What did she write in response?

10 A "I suggest that in order to continue with these
11 applications, we request for additional information we are
12 asking for when in doubt. W-2s or W-3s or any other tax
13 verification we can obtain to verify the payroll amount paid
14 in 2019, tax returns, bank statements, leases, et cetera.
15 Peter, am I missing any documents?"

16 Q And did you reply to Olga's e-mail?

17 MR. AMIR: You can scroll up.

18 A No. It does not appear I did.

19 Q Looking at the signature, do you see your name?

20 A That is me, yes.

21 Q So did you respond to this e-mail?

22 A Yes, I did.

23 Q Can you please read your response?

24 A Sure. "Hi, Joanne. Just a background on an e-mail from
25 Olga. Last night we discovered some red flags on a few of

Tsakonas - direct - Amir

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1 these loans so we are asking for additional documentation to
2 verify payroll. There were two loans that were submitted last
3 night with 941s reflecting exactly \$300,000 and both showing
4 20 employees which raised some questions. Olga and I spoke
5 last night and also discussed with Anuli to obtain additional
6 documentation to determine if we will proceed with the
7 submission."

8 Q And what's the date of your e-mail here?

9 A That is August 7, 2020.

10 Q And what -- you asked for obtaining additional
11 documentation. What's the purpose of obtaining additional
12 documentation for these loans?

13 A So, as an analyst, if there is something that they're
14 questioning, something that might not seem right, you do ask
15 for some additional documentation for further due diligence
16 and see if you can overcome what we call the red flag.

17 MR. AMIR: We can take this down and pull up what's
18 in evidence as Government Exhibit 930. Can we go to the
19 earliest e-mail?

20 (Exhibit published.)

21 Q Do you see an e-mail from yourself?

22 A Yes.

23 Q What's the date of this e-mail?

24 A August 13, 2020.

25 Q Is that after the last e-mail that we just reviewed?

Tsakonas - direct - Amir

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1 A Yes, it was.

2 Q Who did you send this e-mail to?

3 A This went to Carlos, Joanne, Olga and Singh.

4 Q And what's the subject line of this e-mail?

5 A Benne hair braiding and Fatim's Beauty Braiding.

6 Q Did you attach something to this e-mail?

7 A Yes.

8 Q What did you attach?

9 A Copies of some W-2s received.

10 Q Can you read the first paragraph of your e-mail?

11 A Sure. I received separate e-mails with W-2s for each
12 entity. As a reminder, these entities are not affiliated per
13 application. Benne Hair Braiding, 941s reflecting 720,000 in
14 payrolls for fifteen employees and Fatim's Beauty Braiding,
15 1.2 million in payrolls for 20 employees. W-2 amount match
16 the payrolls reflected on the 941s. However, I have a few
17 concerns I wanted to point out before processing the loan."

18 Q And, just briefly, what issues are you raising here?

19 A Copies of the W-2s that were sent in. The copies that
20 were sent in are typically not kept by the employer. So the
21 W-2s that would come directly from an employer would be a
22 copy -- don't quote me on this please. I think it's copy C,
23 right. So when W-2s roll out, some of them go over to the
24 IRS, social security, employee -- and employers also retain
25 copies.

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1 And basically what was sent over for review, some of
2 them would have or should have gone to Social Security
3 Administration or the IRS directly. So there was no reason
4 the employer should have had these copies.

5 Q And looking at the third bullet above the picture, could
6 you read that?

7 A "Copy A of W2s were provided which are the copies that
8 are submitted to Social Security Administration. Copy B is
9 typically retained by employer or CPA."

10 Q Is that what you were just talking about now with the
11 copies?

12 A Yes, it was.

13 Q Looking at the next bullet, what is that about?

14 A So, part of our due diligence, we kind of looked through
15 public records, Department of the State to see when these
16 companies were licensed or registered. And in this case, one
17 of them was registered in October of 2019. Being that we were
18 taking payroll, 4/20/19, what I was pointing out is that we
19 shouldn't have had all quarters of 941s submitted, the full
20 year.

21 Because, again, the thought process is if a business
22 is licensed in October of 2019, that's basically when they're
23 able to do business. However, it could very well be that
24 there was some sort of name change, which I also brought up in
25 that sentence as well.

Tsakonas - direct - Amir

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1 Q Got it. And below that, there's another bullet. Can you
2 describe what you're indicating there?

3 A Yeah. One of the W-2s definitely came over and it did
4 look like it was tampered with. It doesn't appear to be a
5 smudge or anything of that nature. So, it looked like it was
6 some sort of -- you know, the best way I could describe it, is
7 some sort of computer error or something of some sort that
8 didn't look right.

9 Q Scrolling down, you also raised some concerns about a
10 company called Fatim's Beauty Braiding and Business Space?

11 A Yes.

12 Q And what were the concerns regarding Fatim's Beauty
13 Braiding?

14 A So, speaking about Tenin Diallo, Tenin Diallo I believe
15 also owned another business and was the owner of another
16 business and when they submitted W-2s for Fatim's, there was a
17 W-2 in there for that man, Tenin Diallo as well.

18 Q Looking at the second bullet about registration, what are
19 you raising there?

20 A Same as previously. It looks like that company was
21 registered in August of 2019 and, again, they shouldn't have
22 had -- unless there was a name change, we shouldn't have had
23 all quarters of the 941s.

24 Q Can you please read the last sentence?

25 A Yes. "I understand SBA rules are different than standard

Tsakonas - direct - Amir

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1 lending rules. However, these findings would typically be
2 considered red flags. Please review and advise if we should
3 proceed with processing."

4 MR. AMIR: We can take this down and pull up what's
5 in evidence as Government Exhibit 1123.

6 (Exhibit published.)

7 Q And starting from the bottom e-mail, do you see the? Do
8 you see the date of this e-mail?

9 A August 17, 2020.

10 Q Is that after this last e-mail we reviewed?

11 A Yes.

12 Q Who is this to?

13 A Anuli Okeke.

14 Q Who else is copied on the e-mail?

15 A Charlene Wint, Andres Cabrero, Olga Ojeda, Christopher
16 Lalan.

17 Q What was Christopher Lalan's role at Popular Bank?

18 A He is with the legal department for Popular.

19 Q Can you please read the e-mail?

20 A Sure. "I am writing in reference to the current SBA PPP
21 applications for AutoNext LLC, Car Expert Auto Group, Benne
22 Hair Braiding and Fatim's Hair Braiding and Business Spaces.
23 Please verify all protocols for Know Your Customer and
24 Customer Identification Program have been completed pursuant
25 to SBA Payroll Protection Program rules and Popular Bank

Viloria - cross - Talkin

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1 guidelines."

2 Q Mr. Tsakonas, in your time reviewing PPP loans, do you
3 recall sending this kind of an e-mail to another branch
4 manager?

5 A I do not.

6 Q And how did Ms. Okeke respond?

7 MR. AMIR: Scroll up, please.

8 A She basically said, "Please be advised that three of the
9 businesses are new clients and the accounts have not been
10 opened yet. Fatim's Hair Braiding is an existing client.
11 However, all KYC and customer identification programs and
12 protocols will be completed prior to account opening pursuant
13 to Popular Bank guidelines and SBA Payroll Protection rules.
14 The site visits were not completed as the accounts were not
15 opened."

16 Q Mr. Tsakonas, did you rely on Ms. Okeke's responses?

17 A Yes.

18 Q Did you believe she was telling the truth?

19 A Yes.

20 MR. AMIR: No further questions.

21 THE COURT: Cross-examination?

22 MR. TALKIN: Very briefly Your Honor, thank you.

23 CROSS-EXAMINATION

24 BY MR. TALKIN:

25 Q Good afternoon.

Viloria - cross - Talkin

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1 A Good afternoon.

2 Q Just a few questions. You had the opportunity during
3 this PPP crunch to look at numerous loans from the 125th
4 Street branch; correct?

5 A That is correct.

6 Q Fair to say a lot?

7 A I don't know the exact number, but yeah, there were quite
8 a few.

9 Q And there was only a few that you said you found red
10 flags or issues with?

11 A That is correct.

12 Q And even the ones that you had issues with, they were
13 ultimately funded; correct?

14 A Yes, they were.

15 Q And, so, that decision was made -- I'm sure it wasn't
16 your decision, but ultimately knowing the information you
17 provided, people decided to fund those loans?

18 A Yes.

19 Q And when I say "people," people in the bank and the SBA;
20 right?

21 A I'm assuming. That wasn't my call. I can only make
22 recommendations.

23 Q You made a recommendation and then after that they were
24 funded?

25 A That is correct.

Viloria - cross - Talkin

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1 Q And, I believe it was 930, where you listed several issues
2 you had with some of the documents that you were given;
3 correct?

4 A That is correct.

5 Q And you actually -- you never shared that e-mail with
6 Ms. Okeke, did you?

7 A No.

8 Q But prior to that you had actually had a phone
9 conversation with her?

10 A Yes.

11 Q And she was very responsive to you?

12 A Yes, she was.

13 Q And she was cordial to you?

14 A Yes.

15 Q And she was helpful in assisting you?

16 A Yes.

17 Q And she ultimately sent those documents to you; is that
18 correct?

19 A That is correct.

20 Q And your understanding is those documents came from the
21 borrower/customer?

22 A That is correct.

23 Q The PPP lending -- I mean, you were an analyst of loans
24 but the PPP was kind of a different animal, wasn't it?

25 A Yes, it was.

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1 Q It was a rushed process, wasn't it?

2 A Correct, yes.

3 Q Streamlined?

4 A Yes.

5 Q And there was a lot of internal pressure to keep things
6 moving, right, internally; meaning internal in the bank, not
7 internal personally?

8 A Not necessarily, but I guess when it started sunseting
9 because there was a cutoff time to submit these loans, yeah,
10 there was somewhat of a crunch.

11 Q And when you talk about your role -- at the very
12 beginning of your testimony you talked about your role as the
13 bank manager was to submit the file. It's also to help the
14 borrowers prepare the files; isn't that correct?

15 A As far as -- are you saying the branch manager.

16 Q I'm going to start with the branch manager. One of their
17 rules roles is to help -- let me back up.

18 You said that one of the roles is to actually submit
19 it to you and your colleagues; correct?

20 A That is correct.

21 Q Another of their roles is to help the customer prepare
22 the applications?

23 A I believe so, yes.

24 Q And that's also the role of bankers as well; correct?

25 A Yes. Yes, it is.

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1 MR. TALKIN: Nothing further, thank you.

2 THE COURT: Any redirect?

3 MR. AMIR: No, Your Honor.

4 THE COURT: You can step down. Thank you very much.

5 (Witness excused.)

6 THE COURT: So I think that probably is as far as we
7 can go today and we will see you folks tomorrow. Keep up the
8 good work. It may well be that we may be able to have the
9 trial completed by maybe next Tuesday, possibly, but certainly
10 in the early part or the middle part of next week, probably by
11 Tuesday, so we have an idea of what to expect.

12 But keep yourselves flexible because once jury
13 deliberations start, nobody has a crystal ball. Nobody knows
14 how long it's going to take or short it's going to take. You
15 don't want to have any personal plans to interfere with a full
16 and proper deliberation so keep flexible a little bit. See
17 you tomorrow 10:00.

18 THE COURTROOM DEPUTY: All rise.

19 (Jury exits.)

20 (In open court.)

21 THE COURT: The jury is not here. Does anybody wish
22 to put anything on the record before we adjourn for the day?

23 Mr. Edwards-Balfour?

24 MR. AMIR: Your Honor, just briefly I think we will
25 take a look at the transcript tonight and submit any thoughts

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1 on the prior inconsistent statement via letter to the Court.

2 And also tomorrow we have some witnesses with Giglio
3 that we've moved to preclude. So perhaps tomorrow morning we
4 can work on getting decisions on those or today, if the Court
5 is ready.

6 THE COURT: We'll take a look at the prior
7 inconsistent statements. I don't think you need it, but I'm
8 not going to preclude it.

9 MR. TALKIN: I think the Giglio we'll be able to
10 work out tonight.

11 THE COURT: Try to work it out. I'm going to take a
12 look at the charge that my expert law clerk has given to me
13 tonight and see whether he did a did job or not.

14 MR. TALKIN: As far as the charge, Your Honor, there
15 may be one or two things we wanted to add, but we'll get them
16 to you.

17 THE COURT: Let me know, but we'll get them to you
18 probably tomorrow and it seems to me that you may be wrapping
19 up the Government's case by Monday.

20 MR. AMIR: That's correct.

21 THE COURT: It may be early in the day. Let's be
22 optimistic. It could be in the morning.

23 MR. TALKIN: I can't say by the morning --

24 THE COURT: Well, we have a sense.

25 So, Mr. Talkin, my thinking is that we will be

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1 presenting this case to the jury on Tuesday unless we have a
2 number of witnesses that you're going to present which I don't
3 think.

4 MR. TALKIN: I don't think there's going to be any
5 witnesses, but you never know. If that changes, I will inform
6 the Government right away.

7 THE COURT: We'll get the jury charge over to you
8 tomorrow. We're not going to be sitting on Friday. I can do
9 one of two things. I can possibly have a Zoom conference on
10 Friday if you want to do it or do it Monday. It will all work
11 out.

12 Thank you for your cooperation. See you tomorrow at
13 10:00.

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15 (Matter adjourned until 10:00 a.m., June 13, 2024.)

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CROSS EXAMINATION

BY MR. TALKIN

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BRAHIMA LENGANE

DIRECT EXAMINATION BY MR. AMIR

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CROSS-EXAMINATION BY MR. GREENSPAN

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REDIRECT EXAMINATION BY MR. AMIR

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PETER TSAKONAS

DIRECT EXAMINATION BY MR. AMIR

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CROSS-EXAMINATION BY MR. TALKIN

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E X H I B I T S

Government Exhibits 200-A through E, and 207

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Government Exhibit 101

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Government Exhibit 100

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Government Exhibit 787

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Government Exhibit 210F

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Government Exhibit 307

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