UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : 22-CR-20(FB)

-against- : United States Courthouse
Brooklyn, New York

ANULI OKEKE, :
June 13, 2024
Defendant. : 10:00 o'clock a.m.

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TRANSCRIPT OF TRIAL
BEFORE THE HONORABLE FREDERIC BLOCK
UNITED STATES DISTRICT JUDGE, and a jury.

APPEARANCES:

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Proceedings recorded by mechanical stenography, transcript produced by computer-aided transcription.

(In open court; outside the presence of the jury.)

THE CLERK: Criminal cause on trial. United States of America versus Okeke.

All counsel and Ms. Okeke are present.

THE COURT: Mr. Innelli tells me we're waiting for Juror No. 2.

Mike, why don't you check to see whether she's here or he's here, and we can talk in the meantime.

THE CLERK: Yes.

THE COURT: So Mr. Edwards-Balfour, you have the next witness, right?

MR. EDWARDS-BALFOUR: Yes.

THE COURT: And you submitted some papers, which I'll look at, and you have some evidentiary issue here.

Do you still want to pursue that? I'll take a look at it.

MR. EDWARDS-BALFOUR: Yes, that's correct.

THE COURT: And we'll talk about it during the first jury break, I guess, right?

MR. EDWARDS-BALFOUR: That's correct, Your Honor, unless the juror is not here.

THE COURT: You got the proposed charge? I sent it to you last night.

MR. EDWARDS-BALFOUR: We did.

THE COURT: Okay. We can talk later on today about it, if there's any problems you have with it. It's basically standard stuff. I don't think there's going to be much of a problem on it, I suspect. But we'll chat with you maybe during our lunch break. If you have any thoughts about it, you can share it with me then.

(Pause.)

THE COURT: What's the verdict?

THE CLERK: She's running late. There were train problems, and she'll be here in about 20 minutes or so.

THE COURT: Okay. We can wait for 20 minutes or we can, you know, replace her with the alternate. What's your preference?

MR. EDWARDS-BALFOUR: We'd prefer to wait, Your Honor.

THE COURT: Mr. Talkin?

MR. TALKIN: That's fine. I guess we can maybe handle the evidentiary issue now, if you want to do that.

THE COURT: So let me look at the papers now. So we can do that in the meantime.

Do you have any objection, Mr. Talkin, by the way?

MR. TALKIN: Objection to?

THE COURT: To the evidentiary, I really appreciate the fact that you gave the judge something to do here. I was waiting something profound. So I want to thank you for that.

But did you look at the papers, and does it ring the bell?

MR. GREENSPAN: We submitted a letter at 6:30 this morning.

THE COURT: Talk to me now. Just talk me through. Okay?

MR. GREENSPAN: Okay.

MR. AMIR: Yes, Your Honor. I can introduce the issue.

Yesterday, Mr. Lengane testified, and he was attacked on cross-examination quite explicitly as to his ability to remember. He was also asked if he was lying.

In addition, Mr. Lengane, like our other cooperators, they were all, all of their credibility was questioned at the opening statement of this case by the defense.

THE COURT: I can read the papers. Look, I don't think I'm going to allow all of it in. I think you focused yesterday on one paragraph, which seemed to be what you're talking about, but you want all of this in or just that one paragraph?

MR. AMIR: Your Honor, I think having had the evening to read the transcript and the case law, it's not, it's not been reduced to just one sentence or so, but, you know, the Second Circuit has said the statement comes in and in the SDNY, the Ray decision, discusses not only the statement but the same or closely-related topics. So we think those closely-related topics, which were attacked by the defense, opens the door.

THE COURT: How much of this do you want in?

My apologies. I'm just having a hard time hearing you clearly. You may have to speak a little louder for me.

MR. AMIR: No problem, Judge. So I don't think we need to admit the entire document, but I think it would be appropriate to go broader than just the one area we highlighted yesterday.

THE COURT: Yes. I'm looking for that now. Where is it?

MR. AMIR: I prepared a copy of the exhibit with sections, I submit, are appropriate to admit; and I can distribute those to the Court and defense counsel now.

THE COURT: My inclination was to allow that paragraph. Do you have a copy of that paragraph?

MR. AMIR: Yes, I do, Judge. I can hand it up. One second.

THE COURT: Now, let me read this in the meantime.

(Pause.)

THE COURT: So what you want here, I think, is this language that says that: "Charlene and my sister, Charlene convinced my sister and me that we could look for another location to rent instead of complying with Assana's demands because my sister and I wanted the loan canceled. She explained" --

MR. GREENSPAN: Is it possible to get a copy? I don't have a copy.

MR. AMIR: This is page 2 of 201B, but I'll give you another copy.

THE COURT: Just one second. Am I reading the right thing here? Do you want --

MR. AMIR: Yes.

THE COURT: Let me finish. Let me back up now. Don't interrupt me.

"We could look for another location to rent instead of complying with Assana's demands because my sister and I wanted the loan canceled."

I think this is the explicit part you want.

"She explained to us that we could rent a place somewhere else and keep the loan and she and Anuli would take care of the rest. We agreed. They started making the checks. Anuli wrote the checks. She made the check for $10,000 for Assana."

I think that's what you want, correct?

MR. AMIR: Yes, that's correct. We can stop at "Anuli wrote the checks."

THE COURT: So it seems to me that it probably would be okay, and let me just see what the underlying testimony was.

MR. GREENSPAN: Your Honor, is it possible to respond briefly?

THE COURT: Pardon?

MR. GREENSPAN: Is it possible to respond briefly?

THE COURT: I want to see what the underlying testimony is first.

MR. GREENSPAN: Sure.

THE COURT: I'm looking for that. I don't see it.

MR. AMIR: Your Honor, at page 487 of the transcript.

THE COURT: I'm trying to find that. 487. What I have goes to 476.

MR. AMIR: I can show you the copy I'm looking at.

THE COURT: I don't have 487. If that's what you're relying upon, let me see 487.

MR. AMIR: Yes, Judge. And just to prove to you, on 487 there are questions about Anuli writing the checks; and the defense counsel attacks the witness's memory saying, is this a memory issue, is this a language issue, and then he also says because you don't remember clearly who did which things.

And so an attack on the witness's memory or credibility, under the Second Circuit's decision of Purcell in 2020, entitles us to rehabilitate with a prior consistent.

I'm bringing up the transcript now.

THE COURT: Why don't you let me see the actual transcript, if you have it. What I have is 462 to 476, but if you're reading from something else I would like to see it.

MR. GREENSPAN: Your Honor, it may help to clarify that this isn't even a prior statement at all. It's a statement that the witness made as a script to talk to law enforcement after he met with them twice, after most of the citations that the government said were, you know, impeaching or prior statements.

There's never been a case that's allowed any kind of document like this.

THE COURT: Let me see the underlying testimony.

MR. GREENSPAN: Fair enough. I think the government is mischaracterizing what the document even is.

THE COURT: Look, there's nothing that substitutes for the actual language in the actual transcript. Let me read it.

(Pause.)

THE COURT: So now, what is your problem now, Mr. Greenspan? So I'm reading what they want, what they claim justifies the admission of this paragraph that I read; and it's on page 487.

Question: Let me just -- I would like to be clear on exactly who did what, and that's the nature of these questions.

This is cross by Mr. Greenspan.

So I believe you testified that at least with respect to the first withdraw slip, Anuli Okeke prepared the withdrawal slip and you signed it; do you remember that?

And then he says: Like I said, Charlene and Anuli worked together. Charlene was -- is kind of an assistant to Anuli, so they work together. I -- I can't tell you exactly what they were doing together, that's what --

Question: So you can't separate what Charlene did and what Anuli did from that day. In your mind, everything was done together; is that your testimony?

Answer: This is technical, okay. It's a bank job, it's very technical, so it's very hard for me to explain that.

Question: Is this a language issue or is this a memory issue or is it something else?

Objection.

The Court: Overruled.

Answer: I speak facts of what I saw. I saw them working on something, on the documents, but I can't tell you exactly what each one was doing. That's gonna be hard.

Question: Because you don't remember clearly who did which things; is that what you're saying?

Answer: No, not because of that, because -- okay, I'm not --

I don't see the next page. Is there anything else here?

I'm not involved in the bank job. I don't know how things work at the bank, so I can't really tell you anything about that because they were working something, so I can't explain their job for them.

Okay. So I think we have, you know, a record here.

Now let me hear why you don't think this prior statement should be admissible, Mr. Greenspan.

MR. GREENSPAN: Sure. Thank you, Your Honor. The major problem with this is the nature of the document itself. So we went through the chronology. The government didn't do that.

The first time that Mr. Lengane was confronted by law enforcement was on the 5th of October. He made statements that he was cross-examined about yesterday. Those are, the majority of what they talked about is the basis for this motion.

Then he was cross-examined about statements he made on the 7th. Again, I guess that's part of the basis of their motion.

He doesn't create this document until October 14th. So it's a week or twelve days, a week or nine days after the two conversations, and he creates it, and he testified about this before the government tried to move the document in, that basically what he was doing was he was writing himself a script of what he was going to say to law enforcement because he now realized this was a serious matter and he wanted to get his story straight.

So essentially, they're saying -- the government's position, as I understand it, is we can have a witness who drafts a self-serving statement of what he's going to say to law enforcement after he's already been contacted. Not contemporaneous. It's completely different than all the cases they cite, and that's a prior inconsistent statement; and there's no law for that.

It makes no sense in the rule, and it would establish horrible precedent about what kinds of documents would come in. The document is completely self-serving. It's basically for the purpose of reinforcing his story. It's not contemporaneous and it doesn't establish his credibility.

THE COURT: The question then, Mr. Edwards-Balfour, is this contemporaneous?

MR. AMIR: Your Honor, you'll see no language in the rule or the cases about the statement being contemporaneous.

What the defense is arguing goes to its weight, and they're free to argue in closing at that it was a self-serving statement. That does not change the fact that it is a statement he made in 2020, shortly after the scheme.

THE COURT: How shortly after? How shortly after?

MR. AMIR: It is weeks after withdrawing the funds. It is a month after he signs documents and part of the bank. His memory was fresh at the time.

The reason for the hearsay rule is to prevent unreliable statements. This is something he wrote himself before he was arrested in 2020, when it was fresh in his mind. The defense is creating an exception that finds no basis in the text of the rule, no basis in Second Circuit authority.

Their argument goes to its weight, and they are free to argue in their closing that it was self-serving. That does not undermine its admissibility.

And the decision by the Second Circuit in Purcell makes clear this is a flat rule. When the defense attacks a witness on their credibility and their memory, you are entitled to introduce their prior consistent statements. And in fact, that rule also applies even before cross-examination. So the Second Circuit's decision in O'Connor allowed admission of a statement when the witness was attacked in the opening statement, before any questions on cross-examination.

So this entire argument by the defense is just lacking basis in law.

This should be admitted. If they have reasons to doubt its weight, they can make them, but it doesn't go to its admissibility.

THE COURT: And you did your homework, obviously.

Well stated. I think you're probably right. So let me read the Second Circuit decision and --

MR. GREENSPAN: Your Honor, if I may?

THE COURT: -- I'll make my ruling later.

What do you have to say in response?

MR. GREENSPAN: I mean, I think the indicia of reliability is exactly the point here. This has no indicia of reliability.

THE COURT: Why not?

MR. GREENSPAN: Because it's not merely the amount of time passed between the actual acts and when it was written.

This person was contacted by law enforcement. It's the purpose for which he wrote this document. He wrote it in order to decide what to say to law enforcement.

It's not -- and this is at the top of page 3 of our letter. We went through all of their cases and talked about the facts of each one and this is how, this is different. In each of those, the statement, what somebody said to their sister, as it was happening, it was what somebody said to law enforcement in a situation in which they were accused of cherry-picking language.

This is completely different. I mean this is a guy who was spooked by law enforcement, decided to get his story straight, and put whatever he wanted on paper. I mean you can even see the kind of stuff he writes.

He writes about, you know, his son's tuition, and how he was taken advantage of, and all of these things are not contemporaneous messages. This is advocacy. This is a self-serving piece of advocacy. It has no indicia. And it goes so far in that direction that it's not an issue of weight.

There's no, there's no case that's anywhere like this where somebody can prepare something --

THE COURT: I have your arguments. I'm going to think about it. I'm going to look at the case law. I haven't had a chance to read it yet, but it's an interesting cup of tea.

It seems to me that it has the indicia of reliability, which I think is the primary concern that we have to address, not whether it was done the next day or a week or two later; but let me think about it, and we'll make the ruling in due course. We don't have to do it this very second.

Is the juror yet here?

THE CLERK: I'll check. I don't think so, but I'll check.

(Pause.)

THE CLERK: Still waiting on Juror No. 2.

THE COURT: We'll just have to be patient.

(Pause.)

MR. GREENSPAN: Would Your Honor indulge me to point out one brief cite that I neglected to mention in the previous argument?

THE COURT: Yes, go ahead.

MR. GREENSPAN: This is United States v. Ray. It's a case that is cited in the government's papers. It's 2022 Westlaw 813942. This goes to the issue of, the government said there's no, the idea of whether it's contemporaneous is irrelevant. The case says that Mr. Rosario relayed in a message to his sister and at a time nearly contemporaneous with the event and before he ever met with the government that Ray had threatened and attacked the roommate made more likely that his testimony on the same subject at trial, the subject matter which was generally attacked, was a product of his genuine recollection and not a recollection that was recently fabricated or generated as a result of improper influence or motive. It also is admissible under Rule 801(d)(1)(B)(2).

MR. AMIR: Your Honor, the defense is blurring two different standards. The recently fabricated --

THE COURT: Just one second. We want to see if the jury is here.

MR. AMIR: Go ahead.

THE CLERK: The juror is here.

THE COURT: So we're going to pass upon this. We don't have to do it right now.

Let's call your next witness. We have the jury here, and let's get started. Okay?

MR. AMIR: Yes, Judge.

THE CLERK: Shall I bring them in, Judge?

THE COURT: Yes.

(Jury enters.)

THE CLERK: All rise. You can all be seated.

THE COURT: All right. So obviously, we know sometimes things happen. I almost had an emergency myself today.

I want to thank the juror who was late because it gave me an opportunity to discuss some issues of law with counsel, and I appreciate that. You're doing a great job, but you realize we're all subject to all sorts of variables. I had a hard time getting to court myself today. But you're terrific. We used the time to talk about some legal matters.

Let's resume the trial. We have a new witness I suspect.

MR. AMIR: Yes, Judge. The government calls Lauren Munoz.

THE CLERK: Good morning, Ms. Munoz. Can you stand and raise your right hand.

(The witness, LAUREN MUNOZ, was duly sworn/affirmed by clerk.)

THE CLERK: Thank you. Please have a seat.

If you can please state and spell your name and keep your voice up.

THE WITNESS: Sure. Lauren, L-A-U-R-E-N, Munoz, M-U-N-O-Z.

THE CLERK: Thank you.

THE COURT: Your voice is terrific.

THE WITNESS: Thank you.

THE COURT: Your witness.

DIRECT EXAMINATION

BY MR. AMIR:

Q Where do you work?

A I work at the Federal Reserve Board, a consumer financial protection bureau, Office of Inspector General.

Q What's your title there?

A Special agent.

Q And how long have you had that position?

A Five years.

Q And generally speaking, what are your duties and responsibilities as a special agent?

A I investigate fraud, waste and abuse, primarily bank fraud.

Q How far have you gone in school?

A I have a Master's of business administration.

Q Did you work on the investigation that gave rise to

charges in this case?
A Yes, I did.
Q And in the course of your investigation, have you reviewed records provided by financial institutions?
A Yes, I have.
Q Did you analyze accounts belonging to Anuli Okeke?
A Yes, I did.
MR. AMIR: Your Honor, at this time the government moves to admit the following exhibits on consent: Government Exhibits 600 to 675 -- I'm sorry -- 600 to 610, 622 to 632, 633 to 642, 643 to 652, 653 to 662, and 662 to 673, and 675 to 678. The government moves to admit those following exhibits on consent.
THE COURT: No objection to that, Mr. Talkin?
MR. TALKIN: No objection. There are some agreed-upon redactions that I will deal with but understanding that, yes, no objection.
MR. AMIR: Are they admitted?
THE COURT: They're admitted.
MR. AMIR: Thank you, Judge.
(Government Exhibits 600 to 610, 622 to 632, 633 to 642, 643 to 652, 653 to 662, 662 to 673, and 675 to 678 so marked.)
THE COURT: Okay.
Q So I'd like to discuss some of the bank accounts that the

defendant had.

Did Ms. Okeke have multiple bank accounts?
A Yes, she did.
Q I'd like to walk through one of those accounts.
MR. AMIR: Can we please show you what is in evidence as Government Exhibit 669.
Q And what are we looking at here?
A This is a Chase Bank statement.
Q In whose name?
A Anuli Okeke.
Q For what time period?
A May 30, 2020 through June 30, 2020.
Q And which bank?
A Chase Bank.
Q What's the address listed?
A 2199 Holland Ave., Apartment 4D, Bronx, New York 10462-1755.
Q And what type of account is this?
A This is a Chase Business Select checking account.
Q What are the last four digits of the account?
A 4544.
Q And just generally speaking, and scrolling down, what does this show?
A This shows transactions that occurred in this specific time period.

Q And Special Agent Munoz, is this one of many such bank accounts you reviewed?
A Yes, it is.
Q Did you review other accounts, other statements for this account in 2020?
A Yes, I did.
Q And did you review statements from the defendant's other bank accounts?
A Yes, I did.
MR. AMIR: We can take this down.
Q Did you schedule out transactions?
A I did.
Q What does that mean?
A It means to take transactions from bank statement format and put them into a spreadsheet.
Q And once the transactions were scheduled, did you analyze them?
A I did.
Q How?
A I take a look at inflows and outflows and do an analysis of the account.
Q After you scheduled the transactions, did you also trace some of them?
A I did.
Q What does it mean to trace a transaction?

A When we trace a transaction, we take the starting point. For instance, money comes into an account and we follow this money. Follow the path is basically what we do.

Q And just generally speaking, how do you perform that tracing?

A I can use charts, I tend to make summary charts to assist myself in doing so.

Q And we looked at one example of a bank record, but were the overall bank records voluminous?

A They were.

Q Were they thousands of pages?

A Absolutely, yes.

Q And you mentioned you created a summary chart; is that correct?

A I did.

Q So can you just generally describe what kind of summary charts you created?

A I specifically focused on money coming into the accounts, and in this case I was focused on ATM cash deposits.

MR. AMIR: I'd like to show the witness only what's been marked as Government Exhibit 103.

Q Is this the chart or diagram that you described you prepared from the underlying bank records?

A Yes.

Q And, just generally speaking, what does it show?

A This shows cash deposit activity in each month of 2020 in Anuli Okeke's accounts.
Q And does this summary chart represent a fair and accurate picture of the deposits into her account?
A Yes.
Q Can we please go to page 3 of this document.
And just generally speaking, what is depicted here?
A This is an example of tracing.
Q And is the example of tracing a fair and accurate representation of the movement of funds after they were deposited into Ms. Okeke's account?
A Yes, it is.
MR. AMIR: Your Honor, at this time the government moves to admit Exhibit 103 and publish to the jury.
THE COURT: Is there any objection to that?
MR. TALKIN: No, Your Honor.
THE COURT: All right. I'll allow it.
(Government Exhibit 103 so marked.)
MR. AMIR: Please go to the first page. Thank you.
Q Special Agent Munoz, can you please describe what's on the screen.
A Sure. So on the left-hand side, you'll see dollar values. On the bottom axis, you will see months. And the line graph represents the amount of cash deposits into the accounts on each, in each month.

Q Did you prepare this chart?
A I did.
Q And you mentioned that this represents inflows into the account.
Was there a specific type of inflow that you tracked?
A Yes. It was specifically ATM cash deposits.
Q And what does the blue line represent?
A The blue line represents, you'll see the dots, and those are the total amount of cash deposits in each given month.
Q And in what year were you tracking these months?
A 2020.
Q How did you calculate this information?
A I started with the bank statements and once I scheduled them, I created charts, summary charts, and I used that information to create this chart.
Q Did you observe any trend based on the summary chart you prepared?
A Yes, I did.
Q What trend did you observe?
A There was a peak in July, August, September, October, November, and December of 2020.
Q And prior to July, what was the highest monthly cash deposit?
A In January of 2020, the highest was $1,710.

Q And how much was the defendant's ATM cash deposits in July of 2020?
A $4,890.
Q And how much were the defendant's ATM cash deposits in August of 2020?
A $10,982.
Q What about for September?
A $5,850.
Q In which month did the defendant deposit the most cash?
A August of 2020.
Q Is it fair to say the defendant's deposits in August were almost seven times more than she deposited in January of 2020?
A Yes.
Q And is that number more than ten times what she deposited in June of 2020?
A Yes.
Q Let's move to slide two, please.
Can you please describe what is depicted here?
A This shows the peak months that we just saw in the previous chart, and you'll see that in that six-month total from July of 2020 through December of 2020, the total cash deposits were $31,452. In the six months preceding July 2020, you'll see that there was a, you know, a difference of about $5,000 here.
So there's a 12-month total of 37,000, and in those

six peak months, it was 31,452.
Q And just to be clear, is this summary chart one you prepared as well?
A Yes, it is.
Q Did you prepare this from the same records we looked at previously?
A Yes, I did.
MR. AMIR: Okay. We can take this down.
Q Special Agent Munoz, did you also track the PPP loans for the 125th Street branch of Popular Bank?
A I tracked the funding dates for the PPP loans.
Q Thank you. And did you do that with records you obtained from Popular Bank?
A Yes, I did.
Q Roughly speaking, approximately how many PPP loans were funded at the 125th Street branch?
A One hundred seventy-four loans.
Q And in tracking them, did you observe the date on which those loans were funded?
A Yes, I did.
Q And did you prepare a summary chart of the volume of PPP loans and the date?
A Yes.
Q Was that based on voluminous underlying records?
A Yes, it was.

MR. AMIR: I'd like to now show the witness only what's been premarked for identification as Government Exhibit 110.

Q Do you recognize this?

A I do.

Q What is this?

A This chart shows the total funded applications per month in a select number of months in 2020.

Q And is this a fair and accurate representation of the date loans were funded from Popular Bank's 125th Street branch?

A Yes, it is.

MR. AMIR: The government moves to admit Exhibit 110 and publish to the jury.

THE COURT: Any objection?

MR. TALKIN: No, Your Honor.

THE COURT: All right. In evidence.

(Government Exhibit 110 so marked.)

Q Special Agent Munoz, can you describe what we're looking at here.

A Sure. So on the left-hand column, you'll see the given months in 2020, and on the right-hand side, you'll see the amount of applications that were funded in each given month, and totaling 174 on the bottom.

Q How many loans were funded in June of 2020?

A Twenty-one.
Q And what about July 2020?
A Seventy.
Q And August 2020?
A Sixty-nine.
Q Based on your view of when the loans were funded, did you observe any trend?
A There was a significant uptick in loans in July of 2020 and August of 2020.
Q And remind me, when did, what month did the defendant's ATM cash deposits peak?
A It was, I believe, June of 2020. July of 2020, I believe, actually. I'm sorry.
Q No problem.
So we can take this down.
I'd now like to discuss some of the tracing you discussed earlier today.
Did you analyze how the defendant spent her ATM cash deposits?
A A select few of them, yes, I did.
Q And did you create a summary chart of that as well?
A I did.
Q And that was also based on the bank statements we discussed earlier?
A Yes.

MR. AMIR: Ms. Ausbrooks, can you please pull up Government Exhibit 103 in evidence, slide three.

Q Can you please describe what we're looking at here.

A This is an example of tracing that I described earlier, where we follow what happens to a cash deposit that enters into an account.

Q And so starting from the top account, whose account is this?

A The defendant's.

Q And in your tracing, did you look only at the defendant's accounts?

A For this specific task, yes.

Q And looking at the first line, the ATM cash deposit on August 6th, where was that cash deposit made?

A 55 West 125th Street, New York, New York.

Q How much was deposited?

A $500.

Q And did you determine where some of that money went?

A Yes, I did.

Q Where did it go?

A There was a transfer to checking account ending in 1379.

Q Is that also the defendant's account?

A Yes, it is.

Q Was the transfer made on the same day as the cash deposit?

A Yes, it was.
Q Can we please move to slide four.
Can you please describe what is depicted here?
A This is another example of tracing a deposit into a bank account.
Q And starting at step one, what date was that deposit?
A August 4, 2020.
Q And just to be clear, that was into the defendant's account?
A Yes, Bank of America, ending in 7988.
Q And where was that deposit made?
A Harlem West, New York, New York.
Q And were you able to determine how much was deposited?
A Yes. It was $500.
Q And did you determine how much was, where that money went?
A Yes. There was a cell transfer that occurred in the name of, or to an account in the name of Anuli.
Q And what date was that transferred?
A The same day, August 4, 2020.
Q What's Zelle?
A It's a payment system that allows you to make online payments and receive online payments.
Q And did you trace that transaction further?
A I did.

Q Where did the Zelle transaction go?
A It went to JPMorgan, ending in 0181.
Q And to be clear, is that the defendant's account?
A Yes, it is.
Q And where did that money go next?
A There were two transfers that were made on that same day. One was to an account ending in 8965 for $380, and the second was going to an account ending in 4544 for $200.
Q And were both those accounts the defendant's accounts?
A Yes, they are.
Q If you can go to the next slide, please.
Can you describe what we're looking at here?
A We are looking at another deposit into Bank of America, ending in 7988.
Q How much was deposited into that account?
A $450.
Q And when was that deposit made?
A July 28, 2020.
Q What was the location of that ATM?
A Pelham Parkway, Bronx, New York.
Q And were you able to determine where that money went?
A Yes, I was.
Q Where did it go?
A On that same day, two Zelle transfers were made. One was to an account in the name of Anuli, and the second was to an

account in the name of Hashim.
Q And setting aside the transfer to Hashim, were you able to determine where the Zelle to Anuli went?
A Yes. It went to JPMorgan, ending in 0181.
Q Is that the defendant's account?
A Yes, it is.
Q And did you identify further transactions?
A Three transfers were made to three different accounts in the name of the defendant. One was to 8965 for $30, one was to 4544 for $30, and one was to 1379 for $66.
Q And just looking at the date of all this money movement, was it all on the same day?
A Yes, it was.
MR. AMIR: Thank you. We can take this down.
Q I now would like to talk about the defendant's tax records.
Did you also obtain tax records belonging to the defendant?
A Yes.
Q What kind of records?
A Personal income tax returns.
Q Did you focus on a particular income tax year?
A 2020.
MR. AMIR: I'd like to show you what's been marked for identification, for the witness only, as Government

Exhibit 308-C.
Q Do you recognize this?
A I do.
Q What is this?
A This is a IRS form 1040, which is a U.S. Individual Income Tax Return.
MR. AMIR: The government moves to admit Exhibit 308-C and publish to the jury.
MR. TALKIN: No objection.
THE COURT: All right. Go ahead.
(Government Exhibit 308-C so marked.)
Q Starting at the top of this form, what kind of tax form is this?
A This is an individual income tax return.
Q Is there a number associated with that?
A Yes. It's an IRS form 1040.
Q And that's for the year 2020, correct?
A That is correct.
Q Whose name is listed in this 1040 individual tax return?
A Anuli O. Okeke.
Q And what address is listed?
A 2199 Holland Avenue, 4D, Bronx, New York 10462.
Q Is that the same address we saw on the bank statements?
A Yes, it is.
Q Does this form list the defendant's wages and income in

box one?
A Yes, it does.
Q What's that number?
A Would you mind scrolling down? Thank you. It's $86,653.
Q And can we please go to page 18 of this document.
What are we looking at here?
A This is a form W-2, which is a wage and tax statement.
Q And did an employer issue this form?
A Yes, Popular Bank.
Q To whom?
A Anuli O. Okeke.
Q And what are the wages listed in box one of this form?
A $86,653.
Q Is that the same number was in box one of the defendant's 1040?
A Yes, it is.
Q Okay. Let's please go to page 14 of this document.
What are we looking at here?
A This is a Schedule C, which is a profit and loss from business form.
Q And is there a type of business that's identified here?
A Yes. This is a sole proprietorship.
Q What's a sole proprietorship?
A A sole proprietorship is a business that is owned by one person and there's no distinction between the business and the

owner.
Q And whose name, who's the individual who's listed as the sole proprietor?
A Anuli O. Okeke.
Q And is there a business name in box C?
A Monabie, by Gaseno.
Q And what type of business is identified in this form?
A Health product sales.
Q What address is listed for the business?
A 2199 Holland Avenue, Suite 4D, Bronx, New York 10462.
Q And is that largely the same address that we saw previously?
A Yes.
Q Turning to question seven of the form, what is the gross income listed here?
A $1,900.
Q What does gross income mean?
A Gross income is the revenue that, in this case, would be from health product sales less the cost to obtain those products.
Q Apart from this one, does the defendant have any other sole proprietorship tax forms in their tax return?
A Not in 2020.
MR. AMIR: Can we please go back to page one for one moment. And, Ms. Ausbrooks, would it be possible to put

page 1 side by side with page 14 and could we highlight the address listed on page 1 and the address listed on page 14.

Q Do you see any difference in how the unit number is listed on these forms?

A They're both unit 4D. One says "suite."

MR. AMIR: Thank you. We can take this down.

Q So I think just a moment ago I asked you if the defendant had any other sole proprietorship in this tax return, and you said no. Do you remember that?

A Yes.

(Continued on the next page.)

(Continuing.)

BY MR. AMIR:

Q Now, aside from the income reported by the sole proprietorship and the defendant's income for her Popular Bank employment, did the defendant otherwise report income on her tax return for 2020?

A No.

Q And did the defendant have a significant amount of cash deposits from 2020?

A Yes.

MR. AMIR: No further questions.

THE COURT: Any cross-examination?

MR. TALKIN: Very briefly, Your Honor.

CROSS-EXAMINATION

BY MR. TALKIN:

Q Good morning.

A Good morning.

MR. TALKIN: I am going to ask that we pull up Government Exhibit 110 for a second.

Q So, the -- looking at 110, going to the bottom, in September of 2020, there were zero funded PPP applications; is that correct?

A Right.

Q And it's not on this chart but it's fair to say that in October and November and December, the number is also zero or

they would be on there?
A We did not have data from those months.
MR. TALKIN: And now, if we could take a look at 103, please.
Q Looking at December of 2020, there was almost $5,000 in cash deposited?
A Four thousand -- yes, $4,980.
Q And that was the third highest of the deposits, right? The third highest month?
A Correct.
Q And just going back to the beginning of the year, you had two. In January, you had almost -- you had 1,700, right?
A Correct.
Q And March, you had 1,600, correct?
A 1,680, yes.
Q I'm estimating, but thank you. And then Covid started in March of 2020, right?
A Yeah -- yes.
Q And you're aware that in December of 2020, Ms. Okeke was not working at Popular Bank anymore; isn't that correct?
A I'm not sure when her employment terminated.
Q During your investigation, you didn't uncover that information?
A It was uncovered, I'm just unsure of the exact time when it happened.

Q All right. Nothing further. Thank you.
A Thank you.
THE COURT: Any redirect?
MR. AMIR: Very briefly, Judge.
REDIRECT EXAMINATION
BY MR. AMIR:
Q Special Agent Munoz, you were asked questions about deposits into the Defendant's account in November and December of 2020; do you remember that?
A Yes.
Q Would the chart reflect any cash the defendant received but did not deposit?
MR. TALKIN: Objection, Your Honor.
THE COURT: Overruled.
Q Would the chart reflect any cash the defendant received on her person but did not deposit into a bank account?
A Yes, it could.
Q Thank you.
THE COURT: Anything else?
MR. TALKIN: I do have one question.
THE COURT: All right.
RECROSS EXAMINATION
BY MR. TALKIN:
Q Just one more question.
A That's okay.

Q Isn't it equally true that the chart could reflect cash she did receive in December of 2020?
A Sure.
Q Thank you.

THE COURT: Okay.

You may step down.

THE WITNESS: Thank you.

(Witness steps down.)

THE COURT: Next witness.

MR. AMIR: The Government calls -- I'm sorry, the Government calls Auguste Nipabi.

THE COURTROOM DEPUTY: Good morning, Mr. Nipabi. Please take the witness stand. Straight, right there. Right there, sir. Good morning.

THE WITNESS: Good morning.

THE COURTROOM DEPUTY: I ask if you could remain standing, if you could raise your right hand.

(Witness sworn.)

THE COURTROOM DEPUTY: Thank you. Please have a seat.

THE WITNESS: Thank you.

THE COURTROOM DEPUTY: If you could please state and spell your name, and keep your voice up.

IF you could state your name. You could be seated, if you could just state your name.

THE WITNESS: My name is Auguste Nipabi.

THE COURTROOM DEPUTY: Thank you.

(Continued on next page.)

(Witness takes the witness stand.)

AUGUSTE NAPABI, called as a witness, having been first duly sworn/affirmed, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. AMIR:

Q Good morning, Mr. Nipabi.
A Good morning.
Q How old are you?
A Sixty-five.
Q What's your nationality?
A I'm from Togo, West Africa.
Q How far have you gone in school?
A I got M -- MBA with concentration in information systems.
Q And where do you live?
A I live on Roosevelt Island.
Q Is that where you lived in the summer of 2020?
A Yes.
Q Do you have a company?
A Yes.
Q What's it called?
A NI Global Enterprises, Inc.
Q And that is NI Global, like the letter N, the letter I?
A Yes.
Q What kind of work does NI Global do?

A We prepare, file taxes, we do consultation of documents and other administrative services.
Q I would like to show you what's been premarked for identification as Government Exhibit 202-A.
MR. AMIR: Just the witness only, please.
Q Mr. Nipabi, do you see that on your screen?
A No. No.
Q Let me know when you see something on your screen.
A Okay. Yes. I can get it now.
Q Thank you.
A Thank you.
Q What do you see on your screen?
A Business card.
MR. AMIR: The Government moves to admit 202-A into evidence and publish to the jury.
MR. TALKIN: No objection.
THE COURT: All right. In evidence.
(Government Exhibit 202-A was received in evidence.)
THE COURT: What's the number again?
MR. AMIR: 202-A, like Adam.
THE COURT: Okay.
Q Mr. Nipabi, is this your business card?
A Yes.
Q Are you familiar with a federal program known as the Paycheck Protection Program or PPP?

A Yes.
Q Did you apply for a PPP loan on behalf of your company NI Global?
A Yes.
Q Did you have fraudulently assist applicants with the PPP program as well?
A Yes.
Q What was your role in the fraud?
A I fabricated the IRS Form 940, 941.
Q And are those tax documents?
A Yes, those are IRS forms that companies have to file with the IRS quarterly.
Q And where those falsified tax forms ever submitted to the IRS?
A No.
Q What was the purpose of falsifying tax forms?
A The tax forms had been falsified to allow the applications to go through.
Q And when you were describing the applications, you mean the PPP applications?
A Yes.
Q Were the PPP applications submitted through a bank?
A Yes.
Q Was that Popular Bank?
A Yes.

Q Which location?
A Popular Bank is located on 125th Street in Manhattan.
Q Did you participate in this fraud with other people?
A Yes.
Q I would like to show you what's in evidence as Government Exhibit 1. Mr. Nipabi, do you recognize who is depicted here?
A Yes.
Q Who is this?
A This is Ms. Anuli Okeke.
Q Where did Anuli Okeke work at the time of the fraud?
A She worked at Popular Bank at -- at that time.
Q Do you know her position at the bank?
A Yes, she was the manager.
Q And was she involved in the fraud?
A Yes.
Q I'm showing you what's in evidence as Government Exhibit 3. Do you recognize who is depicted here?
A Yes.
Q Who?
A This is Ms. Charlene Wint.
Q Where did Charlene work at the time of the fraud?
A She worked at Popular Bank.
Q Did she work underneath Ms. Okeke?
A Yes.

Q And was she involved in the fraud?
A Yes.
Q I'm showing you what is in evidence as Government Exhibit 4. Do you recognize who is depicted here?
A Yes.
Q Who is this?
A This is Ms. Assana Zampaligre.
Q Where did Assana Zampaligre work at the time of the fraud?
A She owned a braiding salon.
Q How long have you known -- do you know Assana Zampaligre?
A Yes.
Q How long have you known her?
A I known -- I known her since 2006.
Q Was she a customer of NI Global, your company?
A Yes.
Q Do you know what Ms. Zampaligre's relationship with Ms. Okeke was?
A Ms. Assana Zampaligre told me that Ms. Okeke was --
MR. TALKIN: Objection.
MR. GREENSPAN: Objection.
THE COURT: Sustained. Go ahead.
Q Was Ms. Zampaligre involved in PPP fraud?
A Yes.
Q Showing you what's in evidence as Government Exhibit 6.

Do you recognize who is depicted here?
A Yes.
Q Who is this?
A This is Ms. Tenin Diallo.
Q How do you know Ms. Diallo?
A Ms. Diallo had been introduced to me by Ms. Assana Zampaligre.
Q Did Ms. Diallo have a business?
A Yes.
Q What kind of business?
A She owned a braiding salon.
Q Was Ms. Diallo involved in the PPP fraud?
A Yes.
Q I would like to show you what's in evidence as Government Exhibit 8. Do you recognize who is depicted there?
A Yes, that's my t-shirt.
Q Thank you.
A You're welcome.
Q Let me take this down.
Mr. Nipabi, did you initially assist Assana Zampaligre and Tenin Diallo with PPP loans?
A Yes, I -- yes, I previously helped them apply online with loan amount, coverage and lending.
Q So what kind of assistance did you provide them? What did you submit online?

A I submitted the PPP application online.
Q And what kind of businesses did they have again?
A Can you, please, repeat the question?
Q What kind of businesses did they have?
A Those are the online lenders.
Q Were Assana and Tenin missing any documents for their PPP applications?
A Yes. Previously when -- yes -- yes, they missed a form.
Q Which form were they missing?
A The IRS Form 940, 941.
Q Even though they were missing the form, did you submit the PPP application?
A Yes. Initially, I submitted -- I submitted these applications online without the form, the IRS Form 940, 941.
Q Were those tax forms a requirement?
A Yes.
Q Were those initial applications for Assana and Tenin Diallo ever approved?
A No.
Q Did there come a time when you learned that Popular Bank was involved with PPP loans?
A Yes.
Q And who told you that?
A Ms. Diallo called me on -- it was Ms. Diallo.
Q And where did you go after you spoke with Ms. Diallo?

A I went to Popular -- I went to Popular Bank with Ms. Diallo.
Q Who was at the bank when you were there?
A When we got there, Ms. Diallo introduced me to Ms. Charlene Wint.
Q Did you have a discussion with Ms. Charlene Wint?
A Yes.
Q What was discussed?
A Ms -- Ms. Charlene Wint told me that she would be -- her bank will be able to assist my -- Ms. Diallo with her online application.
Q What did you say in response, if anything?
A After saying that, she grabbed a folder and start -- starting talking about the documents such as the PPP application, the IRS Form 940, 941.
Q And what did you discuss about the Form 940, 941?
A When she pointed out that form, I told her immediately that Ms. Diallo hasn't -- didn't have that form. She never submit it to IRS.
Q And what happened after you said that?
A Yeah. After -- after that, she left her cubicle and went to Ms -- Ms. Okeke's cubicle, and when she came back, she asked to go to -- to talk to Ms. Okeke.
Q And what was discussed with Ms. Okeke?
A When we got there, I went there with Mr -- Ms. Diallo.

As soon as we got to her cubicle, she was asking me why am I so wicked.
Q Who said why are you so wicked?
A Ms. Okeke.
Q What did you understand that to mean?
A Yeah. Obviously, I understood that Ms. Wint told her that I --
MR. GREENSPAN: Objection.
MR. AMIR: Co-conspirator statements, Judge.
MR. TALKIN: Foundation issue.
THE COURT: Go ahead. You can answer.
Q You can continue, Mr. Nipabi. What did you understand why are you so wicked to mean?
A Yeah. I understood that Ms. Wint told her that I objected -- the form -- the IRS Form 940, 941, and that it was one she was -- she was calling me wicked, and in addition to that, she was asking me why I didn't want to assist these people who didn't work for four or five months.
Q What did you understand Ms. Okeke to be asking you to do?
A Obviously, she -- she would like me to -- to -- to use that form and complete the application because that form only was missing according to what I saw that day.
Q Did you initially refuse to fabricate the Form 940?
A Can you, please, repeat that question?
Q No problem. Did you refuse to fabricate the Form 940?

MR. TALKIN: Objection. Leading.
A Yes.
THE COURT: Go ahead.
Q And when you refused to fabricate the Form 940, what was Ms. Diallo's reaction?
A Ms. Diallo was emotional. She even cried before we left the bank that day.
Q Did there come a time where you changed your mind and agreed to fabricate tax forms?
A Yes.
Q And were those for Ms. Diallo and Ms. Zampaligre's PPP applications?
A Yes.
Q Can you describe how that happened?
A Yeah. Even though Ms. Diallo was the first -- the one who invited me to go and meet with Ms. Okeke and Ms. Wint. Ms. Assana Zampaligre was the one, the first one who got her application completed at that -- at that time.
Q And why did you change your mind and agree to fabricate tax forms?
A Yeah. I -- I agreed to fabricate it because Ms -- at the time when I have to complete the application, Ms. Okeke, I can't say -- handed -- handed me the form, the previous form, the previous -- the previous IRS Form 940 belonging to Ms. Assana Zampaligre, and asked me to fabricate the new one

for her new application.

Q How did you fabricate a new tax form for Assana Zampaligre?

A There -- based on her previous Form 940, on -- what I did is -- I was instructed to change the -- the amounts of the PPP loan and the number of employees.

Q And where were you when you fabricated this tax form?

A When Ms. Okeke gave me that form, I went to Staple -- Staples to -- to do it.

Q And where was that Staples in relation to Popular Bank?

A Staples is located 125th Street, two blocks away from Popular Bank.

Q Did anyone ask you to work inside the bank?

A I'm sorry?

Q Did anyone ask you to work inside the bank?

A Oh. Yes. Ms. Okeke offered me to work in -- to -- to bring my laptop any time I need to work and use their conference room, but I declined her offer.

Q Thank you. I would like to show you what is in evidence as Government Exhibit 701. Mr. Nipabi, is this a tax form you created?

A Yes.

Q What's the name of the company for this tax form?

A This is Assana Hair Salon, LLC.

Q And what's the address of the company?

A 2705 Colden Avenue Suite 5A, Bronx, New York 10462.
Q What quarter of 2019 is this for?
A The first quarter of 2019.
Q What are listed as the number of employees for Assana's hair salon?
A Fifteen.
Q And what about the wages?
A The wages, the tips and other compensation, were -- the amount is $90,000.
Q And going to the second page, do you see any handwriting on this page?
A Yes.
Q Whose handwriting do you see?
A I see my handwriting for the day.
Q What date is listed here?
A March 30, 2019.
Q Did you actually prepare this form on March 30, 2019?
A No.
Q When did you prepare this form, roughly what year?
A 2020.
Q And why -- what was the purpose of backdating the form?
A This form had to be backdated to be able to -- to be valid because the forms, the IRS Form 940, 941, show we filed the previous year before the company can use it for any -- any business.

Q And to be clear, was this ever submitted to the IRS?
A No.
Q This was prepared only for the purpose of the PPP loan?
A Yes.
Q And the information such as the date was false, correct?
A Yes.
Q Did you prepare a Form 940 for other quarters in 2019?
A Yes. I prepared the four quarters.
Q After you fabricated those forms, did you give them to someone?
A Yes, I -- I give the form back to Ms. Assana Zampaligre.
Q Did you prepare similar tax forms for other people?
A Yes.
Q Thank you. I would like to show you what is in evidence as Government Exhibit 703 at page 12. Is this another tax form you created?
A Yes.
Q For which company?
A For Mommy African Hair Braiding.
Q Was that Tenin Diallo's company?
A Yes.
Q What quarter of the year was this from?
A The first quarter of -- of 2020.
Q And does this form also list 15 employees in question one?

A Yes.
Q Going to the next page at the bottom, do you recognize the date?
A Yes, the date is my -- is my handwriting.
Q And did you actually prepare this on March 25, 2020?
A No.
Q Was this prepared in the summer of 2020?
A Yes.
Q And to be clear, was this tax form ever submitted to the IRS?
A No.
Q Did you fabricate tax forms for the other quarters for 2019?
A Yes, all four quarters.
Q After you fabricated these forms, did you give them to someone?
A Yes, I gave -- I gave this form back to Ms. Diallo.
Q Thank you.

MR. AMIR: We can take this down.

Q Mr. Nipabi, did there come a time when you applied for your own PPP loan for NI Global?
A Yes, I did.
Q Why did you apply for your own PPP loan?
A After submitting -- after submitting two applications, I noticed that the process had been quick and I noticed, also,

that if the application had been -- had been -- has been approved, and in addition to that, Ms. Okeke told me that the Small Business Administration, some of them, loosened the requirements. So I -- I saw the results. When I saw this application going through, I believed that she was telling me the truth. So I told myself why not me, because I helped two people already and their application had been approved without -- and I also, the third -- my third assumption was that none of their -- my third assumption was that the SBA didn't do any check or verification before -- before approving the loan. So I asked myself -- I -- I said, why not me, that -- it was the reason why I applied for the loan, my company also.

Q And you mentioned that you had submitted an application for Assana Zampaligre; is that right?

A Yes.

Q What was Assana's relationship with Ms. Okeke?

A Can you, please, repeat the last question?

Q What was Assana's relationship with Ms. Okeke?

A Oh. Ms. Assana Zampaligre told me that Ms. Okeke was her friend.

Q So, turning back to your decision to apply for a PPP loan for NI Global, which bank did you submit that through?

A Popular Bank.

Q And did you have any discussions with the Popular Bank

employees about your decision to apply?
A Yes. Before I applied, I talked to Ms. Okeke and I showed her all my documents and she told me why not. So I went ahead and send -- send the application.
Q I would like to show you what's in evidence as Government Exhibit 705 at page -- 705 at page five.
Mr. Nipabi, is this the PPP application for your company?
A Yes.
Q And that's NI Global Enterprises, Inc.?
A Yes.
Q And what's the address listed here?
A The address is 580 Main Street Suite 407, Roosevelt Island, New York 10044.
Q And what is the primary contact for this form?
A The primary contact is Auguste Nipabi.
Q And that's you, right?
A Yes.
Q What's the average monthly payroll?
A 60,000.
Q Was that your actual monthly payroll?
A Not -- not really at that time. It had been inflated.
Q And what was the loan request on this form?
A One hundred -- one -- $150,000.
Q How many employees of NI Global were listed on this form?
A Fifteen.

Q Did NI Global have 15 employees?
A Not all of them are full-time. We combined our full-time, seasonal and part-time.
Q And turning to the second page, do you see certain certifications on this page?
A Yes.
Q And looking at the second certification from the bottom, do you see that?
A Yes.
Q Did you initial next to that certification?
A Yes.
Q And that certification states, I further certify that the information provided in this application is true and accurate in all material respects?
A Yes.
Q Is it correct that everything in this application was true and accurate?
A No.
Q And did you sign this form?
A Yes, I did.
Q What date did you put next to your signature?
A July 10, 2020.
Q Did you provide any tax forms in connection with this PPP application?
A Yes. I provided the similar -- similar form I used for

the previous applications.
Q And did you fabricate those forms as well?
A Yes.
Q And did they contain false information about your payroll?
A Yes.
Q I would like to show you what's in evidence as Government Exhibit 707.
MR. AMIR: Scroll down. There we go.
Q Is this the tax form you fabricated for NI Global?
A Yes.
Q And looking at the bottom of page two, did you sign this form?
A Yes, I did.
Q Did you also backdate this form?
A Yes, I did.
Q Was this ever submitted to the IRS?
A No.
Q And was this prepared for the purpose of your PPP loan?
A Yes.
MR. AMIR: We can take this down.

(Continued on the following page.)

BY MR. AMIR: (Continuing)
Q Mr. Nipabi, was the PP loan for NI Global ultimately approved?
A Yes.
Q How did you learn that?
A Ms. Okeke, the manager of Popular Bank, called me and let me know that my, the application had been approved.
Q And I'd like to show you what's in evidence as 708.
Looking at the second check on the bottom -- please zoom in on the bottom check -- do you recognize this check?
(Pause.)
Q I'll withdraw the question.
A I'm sorry.
Q That's okay. What date is this check?
A July 22, 2020.
Q And what is listed as the remitter of this check?
A NI Global Enterprises, Inc.
Q And is that your company?
A Yes.
Q How much is the check for?
A The check is for $15,000.
Q And Mr. Nipabi, did you sign this check?
A No.
Q Do you know whose signature that is?
A No, no idea.

MR. AMIR: We can take this down.
Q Mr. Nipabi, did you offer to pay Popular Bank employees for their help with the NI Global PPP loan?
A I didn't offer to pay them but I offer to give them a gift or a tip.
Q What you did you say?
A I'm sorry?
Q What did you say about giving a gift or a tip?
A Yes. I told, I told -- after the approval of the loan, I, a week later, I went to the bank and then I talked to Ms. Okeke telling her that I am intending to give them gifts.
Q Continue.
THE COURT: Yes.
A And she said, okay, and automatically she told me that she got, she already got 8,000.
Q And do you know how she got 8,000?
A No. I assume that she get it from my, my business account because I have a business account with them.
Q And what did you think about that?
A I'm sorry?
Q What did you think about the fact that Ms. Okeke told you she took $8,000?
A Yes, I was surprised because, you know, I was, I wasn't intending to give them a tip back not that high amount, but I said it's okay. I didn't, I didn't contest.

Q Mr. Nipabi, I'd like to discuss your cooperation with the government.

After committing these crimes, did you decide to cooperate?

A Yes.

Q And did you ultimately plead guilty to a federal crime?

A Yes.

Q Was that wire and bank fraud conspiracy?

A Yes.

Q And did you enter into a cooperation agreement as part of your guilty plea?

A Yes.

Q What are your obligations under the cooperation agreement?

A Under the cooperation agreement, I think myself or I, I plan to fully cooperate, to tell the truth, to tell the prosecutor, to tell the prosecution what I have heard, see, and experienced during that event.

Q And does this agreement require you to testify against any specific person?

A No.

Q If you meet your obligations, what are the obligations of the prosecutors?

A If I meet my application, my obligations, the prosecution will provide the court with 5K, a letter.

Q What's in that letter?
A That letter describe the crime committed and the description of the, my cooperation to give the pros, to give prosecution. I'm sorry.
Q That's okay. It's a hard word.
Sitting here today, do you know if you are going to get a 5K letter?
A No.
Q What's your hope?
A I hope to get one.
Q Who decides your sentence?
A The court.
Q And will the prosecution recommend any particular sentence for you?
A No.
Q Does the judge have to give you a low sentence if the prosecution sends a 5K letter?
A No.
Q What sentence do you hope to get?
A I hope to get no time.
Q What happens to your cooperation agreement if you lie?
A If I lie, my corporation agreement will be ripped, ripped up, so I would face the consequences.
Q If your cooperation agreement is ripped up because you lied, would you get a 5K letter?

A No.
Q If your cooperation were ripped up, do you get to take back your guilty plea?
A No.
Q You would still be sentenced for the crimes you pled guilty to, correct?
A Yes.
Q I'd just like to briefly discuss some other applications you worked on.
Did you assist with submitting other PPP applications through Popular Bank?
A Yes.
Q I'd like to turn your attention to Benne Hair Braiding. Is that another company you fabricated documents for?
A Yes.
Q And I'd like to turn your attention to Hot Spot Clothing.
Is that a company that you prepared false tax returns for?
A Yes.
MR. AMIR: Turning back to Benne Braiding, can we please display what's in evidence as government Exhibit 711 at page 23.
THE COURT: Do you have any idea how much more you're going to have on direct? I'm considering whether we should take a little break now. Give me an idea.

MR. AMIR: I think probably about 20 to 30 minutes.

THE COURT: Why don't we take a little break now.

MR. AMIR: Sure.

THE COURT: And come back in 15 minutes.

Don't talk about the case.

(Jury exits.)

(Recess taken.)

(In open court; outside the presence of the jury.)

THE COURT: So when the jurors come in, I want a gauge. How much cross-examination do you anticipate. I just want to see if you do it before lunch break.

MR. TALKIN: Mr. Greenspan is doing it. So if you can finish his testimony before the lunch break, that would be a good thing to do. Okay?

MR. AMIR: I think that's possible.

THE COURT: So be mindful of that. I'm not putting a lot of pressure on you.

I'll make my ruling during the lunch break on the evidentiary issue.

(Jury enters.)

THE COURT: Let's continue with your direct examination and let's see when we can do this before our lunch break and so we can start a new witness after our lunch break.

MR. AMIR: Yes, sir.

THE COURT: Give it a shot.

BY MR. AMIR:

Q Mr. Nipabi, before the break, we talked about your cooperation agreement. Do you remember that?

A Yes.

MR. AMIR: I'd like to show the witness what's been marked as 3500-AN-32.

Q Mr. Nipabi, do you recognize what's on your screen?

A Yes. This is the cooperation agreement.

Q And turning to the last page, do you see a signature on this page?

A Yes.

Q Is that your digital signature?

A Yes.

MR. AMIR: The government moves to admit 3500-AN-32 into evidence and publish to the jury.

MR. GREENSPAN: No objection.

THE COURT: All right. That's in evidence.

(Government Exhibit 3500-AN-32 so marked.)

MR. AMIR: Just go to the first page.

All right. We can actually take this down now.

Q Mr. Nipabi, before the break, we were talking about two companies, Benne Hair Braiding and Fatim's Hair Braiding. Do you remember that?

A Yes.

Q I'd like to start first with Benne Hair Braiding. Did

you fabricate tax forms for that company?
A Yes.
Q I'd like to show you what's in evidence as Government Exhibit 712.
Mr. Nipabi, is this the Form 941 you created for Benne Hair Braiding?
A Yes.
Q And for which quarter was this?
A The first quarter.
Q And going to the second page, please, did you write the date on this form?
A Yes.
Q And was that backdated?
A Yes.
Q Was this ever submitted to the IRS?
A No. This form doesn't exist.
Q And so this was prepared for the PPP application, correct?
A Yes.
MR. AMIR: We can take this down.
Q Mr. Nipabi, did you prepare additional tax forms for Benne Hair Braiding?
A Yes, I prepared all four quarters.
MR. AMIR: And can we please display what's in evidence as Government Exhibit 318, at page 14.

Q Mr. Nipabi, do you recognize what type of tax form this is?
A Yes.
Q What kind of tax form?
A This is W- 2.
Q And for which company is this?
A This is for Benne Hair Braiding Inc.
Q And did you prepare W-2s for Benne Hair Braiding?
A Yes.
Q Why did you prepare W-2s for Benne Hair Braiding?
A Her application had been returned to Popular Bank for additional information.
Q How did you learn that?
A I'm sorry?
Q How did you learn that?
A Yes. When the application had been returned, Ms. Okeke called me and let me know that the application had been returned so she already, Ms. Okeke called her or called Bernette, Bernadette, to submit or to provide the names and the Social Security number for her employees.
Q And to be clear, were these W-2s ever filed with the IRS?
A No.
Q And so these were also fabricated for the purpose of the PPP loan application, correct?
A Yes.

Q Looking at the bottom of this form, do you see where it says: Copy A for Social Security Administration?
A Yes.
MR. AMIR: We can take this down.
Q Turning to Fatim's Beauty Braiding, I'd like to show you what is in evidence as Government Exhibit 968, at page 6.
THE COURT: What exhibit is that?
MR. AMIR: 968 in evidence.
THE COURT: Okay.
Q Do you see the document on your screen, Mr. Nipabi?
A Yes.
Q Is this another Form 941 that you prepared?
A Yes.
Q And is this for Fatim's Beauty Braiding & Business Space?
A Yes.
Q Turning to the second page, do you see the date for this document?
A Yes.
Q And is that your handwriting?
A Yes.
Q Did you also backdate this form?
A Yes.
Q And to be clear, was this ever submitted to the IRS?
A No.
Q Mr. Nipabi, did you also prepare W-2s for Fatim's?

A Yes, I did, because his application had been returned, just like Bernadette's applications too.
Q And when you say "his application," are you referring to the owner of Fatim's Beauty Braiding?
A Oh, yes.
Q And same for Bernadette, was that the listed owner for Benne Hair Braiding?
A Yes.
Q How did you get the information --
MR. AMIR: We can take that down.
Q How did you get the information that you needed for the W-2s for Fatim's, the names and numbers?
A Fatim, Brahima Lengane sent it to me over the phone, sent the lists of the employees and their Social Security number over the phone.
Q I'd like to show you what's in evidence as Government Exhibit 201-F. Let's go to the second page.
Mr. Nipabi, is this the list that Brahima Lengane sent you?
A Yes.
Q And how many names are listed on this form?
A Twenty.
Q What did you do with this list?
A I created an individual W-2 for each and every employee, each and every employee.

Q And why did you -- why were you preparing W-2s in addition for Fatim's?
A Fatim's application came back to Popular Bank claiming additional information such as W- 2 to prove the wages of this company.

MR. AMIR: Can we please show what is in evidence as Government Exhibit 718.

Q Mr. Nipabi, are these the W-2s you fabricated for Fatim's?
A Yes.
Q And were these W-2s filed with the IRS?
A I'm sorry. Say that again?
Q Were these W-2s submitted to the IRS?
A No.
Q And looking at the first -- actually, never mind. Sorry.

After you prepared these W-2s, did you give them to anyone?
A Yes, I gave them back to Fatim.
Q Who is Fatim?
A Oh, Fatim is one of these companies that applied for PPP loans and consequently, this company's application had been returned for additional information.
Q Okay. I'd like to show you what is in evidence as Government Exhibit 973, page 2, please.

Mr. Nipabi, is this another tax form?

A Yes, this is the 1120. This is the IRS form for corporation.
Q Did you ask -- did you create this form?
A Yes. Actually, I file this form for Fatim.
Q And looking at the bottom of this form, do you see that there's a preparer identified on the form?
A Yes.
Q Who is listed there?
A Charles K. Tapa.
Q Who is Charles K Tapa?
A Charles K. Tapa is my business partner.
Q Did Charles K. Tapa prepare this form?
A No.
Q Why did you use the name Charles K. Tapa on this form?
A Okay. When I was preparing it, Ms. Okeke told me not to put my name on all of these taxes and she asked, Ms. Okeke asked me if I know a name I can put on this form and I say yes, so I put that name because she say it's not good to have my name put on all these tax forms.
Q After you completed this form, did you give it to anyone?
A I'm sorry?
Q After you completed this form, did you give it to anyone?
A Yes, I gave it back to Fatim.
Q And was the owner of Fatim's, Brahima Lengane?
A Yes.

Q Is that who you gave it to?
A Yes.
Q Thank you.
MR. AMIR: We can take this down.
Q Mr. Nipabi, we discussed several companies that you fabricated several tax forms for. Were you paid for doing that?
A Yes. I charged 10 percent for commission. That means that it's not a flat fee. That is commission. Any of these companies will pay 10 percent if, in case their application went through. That means that if an application didn't go through, that customer should not pay anything for my work.
Q And how did you receive, how did you receive your commission?
A I received my commissions by checks.
Q Did you discuss the commission with any Popular Bank employees?
A I didn't discuss with them but I told them that I'm charging 10 percent of commission per, per customer. And the fact also was that I had been charging 10 percent during the online application before knowing them, so I actually informed them that I charge 10 percent of commission.
Q And you mentioned that you would receive your commission by check. How did you find out, how did you pick up your check?

A Any time an application is approved, Ms. Charlene Wint called me and let me know that the check is ready. She was the one who gave me all these checks.
Q And did you cash the checks you were given?
A Yes, I put all these checks in the business account with the same bank.
Q That's Popular Bank?
A Yes.
Q Let's take a look at some of these checks.
MR. AMIR: Can we please display what is in evidence as Government Exhibit 719, 704, 815 on the screen and if we can zoom into the checks.
The government also moves to admit Exhibit 808, page 39, in evidence on consent.
MR. GREENSPAN: No objection, Your Honor.
THE COURT: In evidence.
(Government Exhibit 808 so marked.)
Q So do you see that on your screen, Mr. Nipabi?
A Yes.
Q Looking first at the top left, at Exhibit 719, at page 10, how much was that check for?
A 25,000.
Q And who is it paid to?
A It was paid to NI Global Enterprises.
Q And that's your company, correct?

A Yes.
Q And who is it from?
A It's from Fatim's Beauty Braiding & Business.
Q And what's the date of that?
A It was --
MR. AMIR: It's a little small.
A This is August 21, 2020.
Q And did you cash that check or did you deposit that check?
A I deposit it on the business account.
Q Looking to the top right, Exhibit 704, at page 5, do you see who that check was from?
A It's from Mommy's African Hair Braiding.
Q And was that Tenin Diallo's company?
A Yes.
Q How much was that check for?
A $11,250.
Q Who is the check to?
A NI Global Enterprises, Inc.
Q Is that your company?
A Yes.
Q Looking at the bottom left, who is that check from?
A Hot Spot Clothing.
Q Is this also a check to your company?
A Yes.

Q And did you deposit this into your business account as well?
A Yes.
Q Now, looking at the bottom right -- one second.
(Pause.)
Q Did you deposit these checks into the NI Global Enterprise accounts?
A Yes, I did.
Q Okay. We can --
A And by the way -- I'm sorry.
MR. AMIR: We can take these down.
Q Mr. Nipabi, I'd like to show you what is in evidence as Government Exhibit 704, page 11, please.
Mr. Nipabi, do you see a check on your screen?
A Yes.
Q Who is this check to?
A This check is sent to "Auguste Dipabi."
Q Is that a misspelling of your name?
A Yes.
Q To your knowledge, did you ever receive this check?
A No.
Q Now looking at the signature, do you recognize that signature?
A Yes. It appear to me that is Charlene Wint.
MR. AMIR: One moment, please.

(Pause.)

MR. AMIR: No further questions.

THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. GREENSPAN:

Q Good afternoon, Mr. Nipabi.

A Good afternoon.

Q I wanted to go back to your education. I think you said you had an MBA, is that correct?

A Yes.

Q Where did you receive your MBA?

A New York Institute of Technology.

Q And in what year was that?

A 2012.

Q Do you have any professional certifications?

A May I have some examples?

Q Sure.

Do you have any kind of certification in preparing taxes?

A No, I have diploma. A diploma is not a certification.

Q What entity or agency issued that diploma?

A I'm sorry?

Q Who did you get that diploma from for your tax certification?

A You mean tax, tax education, you said?

Q Yes. Who did you get your diploma in tax education from?
A Oh, no. It was confusing. It's not diploma but I always have certification, yearly certification for my tax preparation.
Q And when did you first get a yearly certification for tax preparation?
A 2013.
Q And how did you get that?
A Yes. I took, first of all, I took 40, 40 hours courses so I got that certification and every year, I request and I renew the certificate every year.
Q So did you have to pass an exam in 2013 to get that?
A It's not an examination but after the training is completed, you will apply for this certification and you will get it from, you'll get it online.
Q From the IRS?
A Yes.
Q And then have you to renew it every year?
A Yes.
Q And you have to review certain materials in order to stay current, is that right?
A Yes.
Q And you've done that? You're still current as a tax preparer?
A Yes.

Q In that study prior to 2020, you know, becoming a tax preparer and being certified, you learned what a 941 was, right?
A Yes.
Q So you knew that before 2020, right, what that document was?
A Yes.
Q And I believe you've said you've been preparing taxes since 2013, right?
A Yes, 2013.
Q And do you prepare both individual and corporate taxes?
A Yes, I prepare individual and corporate taxes.
Q Is Assana Hair Braiding one of the clients that you had prior to 2020 for tax preparation?
A Yes.
Q And what about Mommy's, is that a client of yours before 2020?
A Yes. I did Mommy's tax for 2019.
Q The first you did it for Mommy's was in 2019?
A Yes.
Q And what was the first year for Assana Hair Braiding that you did the taxes?
A Say that again? I'm sorry.
Q What was the first year of taxes that you prepared for Assana Hair Braiding?

A I believe two thousand, 2019 too.
Q Now, you said you submitted PPP forms for Ms. Zampaligre and Ms. Diallo online. Do you remember that?
Do you remember that testimony?
A Yes.
Q And you said those applications were never approved, right?
A Yes.
Q Were they ever denied?
A What happened was this online lenders sent a response saying that they, their application had been reviewed. At the same time, they introduced their application for Popular Bank.
So they just forget about the online application because the online application amount is only $20,000 but with Popular Bank, they got big money. So they just ignore their the online application. We didn't follow up.

(Continued on next page.)

(Continuing.)
BY MR. GREENSPAN:
Q So you didn't follow-up but it was never denied, right?
A I don't know because we didn't follow-up.
Q You've met with the Government and law enforcement a number of times throughout October of 2020 until now, right?
A Yes.
Q And the first time you met law enforcement agents, they came to your house on Roosevelt Island; do you remember that?
A They told me that they came back, I -- I didn't see them right there. They told me.
Q And then, so, after that, they scheduled a meeting with you when you came into Manhattan to meet with them, right?
A Yes, they left -- they left a voice mail, so I called them back and set up an appointment for -- and went and meet them on -- at 26 Federal plaza.
Q And that was in November of 2020, right?
A Yes, it was November 20th.
Q At the time, how many employees did NI Global have in November of 2020?
A November 2020, about five full -- full-time employees at that time.
Q And how many part-time employees?
A Four.
Q Now, when the agents asked you how many employees you

had, you lied to them, right?
A I didn't lie to them. I told them that I -- I -- I combined full-time, part-time and seasonal employees.
Q Well, you told them that you had 15 to 20 employees; do you recall saying that?
A I don't recall saying 20 because I said 15, but I didn't say 20.
Q You deny that you said 20 or do you not remember? I'm trying to understand --
A No, I don't recall. I'm sorry.
Q You don't recall. Okay.
MR. GREENSPAN: Mr. Turner, could you put up AN-003.
This is just for the witness, please, Mike. And could you call-out the very bottom of the page.
Q Read that to yourself, Mr. Nipabi, and let me know once you finished reading it to yourself.
A It says, NI Global --
Q Please just read to yourself, sir. Sorry.
A Oh.
Q Thank you.
A You're welcome.
Q Have you had a chance to read it, sir?
A Yes.
Q Does that refresh your recollection that you told the agents that you had between 15 and 20 employees?

A Again, I don't recall saying 20.
Q Okay.
MR. GREENSPAN: You can take that down.
Q During that same interview, you told the same law enforcement agents that you had a monthly rent for a business space that had been $6,000 but it increased to $9,000 over time. Do you remember that?
A Yes.
Q And that wasn't true, you didn't have a business space, right?
A Okay, the problem is I was terrified, the same -- that day, I had never been in police station for any reason in my life. When they start questioning me, I was scared, so I -- I give -- I give them that information.
The second reason was that when we were -- when they left a voice mail, they say that they would like to get some information regarding -- the information about Assana from me. Then when they came -- when I -- when I went there, they start asking about my company, so I was terrified. So that is the reason why I gave them that information.
Q So you were panicked and you said some things that weren't true; is that fair to say?
A Yes. I was panicked, I was terrified because this is the first time -- you might know, but if, outside of the courtroom, they talk about FBI, everyone is scared. So this

is what happened to me.
Q And you said some things that weren't true in that panic state, right?
A Yes, and just after that, I start telling them the truth because I -- I know that this is a serious matter.
Q So after, initially, being frightened and saying some things that weren't true, since then, you've told the truth; is that your testimony?
A Yes.
Q You talked about Assana just now when you said that the agents were asking you for information about Assana Hair. That was a real business, right?
A I'm sorry? Say that again.
Q That was a real business, it was an actual hair salon, right?
A Yes, it's a -- this is a hair salon. This is a business.
Q It existed in 2020, right?
A Yes.
Q And it had employees, right?
A Yes.
Q And those employees, you knew were paid in cash, right?
A Ms. Assana Zampaligre told me that some of them are paid cash, some of them by checks.
Q And you prepared the taxes for that company for 2019, right?

A No, 20 -- 2019, yes.
Q And you knew that they lacked -- that that company, Assana Hair, didn't have 941s, right?
A I prepared their individual tax, not the cooperation -- corporate tax.
Q You prepared Ms. Zampaligre's tax, you didn't prepare taxes for the business; is that right?
A Yes.
Q But, ultimately, you testified on direct that you did assist in creating false 941s for that company, right?
A Can you, please, repeat --
Q Yeah, sure. So, Assana Hair --
A Yes.
Q -- like the company, I believe you testified on direct examination that you prepared fraudulent form 941s so that the Assana Hair company could get a PPP loan, right?
A Yes. I was instructed by Ms. Okeke to fabricate that form. It doesn't -- it doesn't come from -- from me -- from me.
Q So you had no agency -- she told you what to do and you had to do it; is that what you're saying?
MR. AMIR: Objection.
THE COURT: Overruled.
Q You can answer the question, sir, if you understand it.
A She is a lender, that is why I believe her.

Q But you're an MBA and a certified tax preparer who knew what 941s were, right?
A I'm sorry?
Q You, at the time in 2020, you were a certified tax preparer, had been since 2013 --
A Yes.
Q -- you had an MBA. You were a sophisticated person, right?
A I cannot say -- I cannot tell.
Q So you knew what 941s were and you chose to go along and do it, right? That was your own choice?
A That's not my choice. I was instructed to -- to do it by a lender.
Q So if you --
A Someone who told me about SBA and all the information about PPP loans, that is why they called me to -- to -- to come and help my customers, and they told me that they would assist me help my customers. And I didn't know that's -- it to be fraudulent information they were -- instruct me to do.
Q So you didn't know the information was fraudulent; is that your testimony?
A Say that again. I'm sorry.
Q Yeah. Are you testifying now that you didn't know that the information was fraudulent on those 941s?
A No. I'm saying that I was instructed to fabricate that

form.
Q And, so, you went along and did it because that was your instruction, right?
A Yeah.
Q But you, ultimately, got paid, right?
A Yes.
Q And you made quite a lot of money doing this; didn't you?
A Not too much. Ten -- 10 percent only.
Q Well, how much did you make in total from these PPP loans?
A Fifty-thousand.
Q That's a significant sum, right?
THE COURT: All right. Next question.
Q And you also made money on your own PPP loan, right?
A Yes, I -- I applied for my own company.
Q And you got money for that, right?
A Yes, obviously.
Q And, earlier, you said you saw other people taking out these PPP loans, so why not me, right? That was your testimony?
A Yes.
Q And what you meant by that was that you wanted to get money too, right?
A Yes.
Q You talked about a company called CM Gold and you were

shown that that company's name was used on an 1120 Form for Fatim's. Do you remember that? Do you remember testifying about that?
A Yeah. It's not the company's name -- it's the partner's name, which is Charles Tapa --
Q Charles -- sorry. Go ahead.
A It's the person's name. It's not in the company's name.
MR. GREENSPAN: Can we put up Government Exhibit 973. This is in evidence and can be shown to the jury. And can we scroll down, stop right there, and can you call out, Mr. Turner, where it says sign here and prepared this check.
Q So, it says, paid-preparer's use, it has Charles K. Tapa, and the firm's name is CM Gold, Inc. Do you see that?
A Oh, okay. Oh, okay. Yeah. I don't recall that.
Q Apologies for the confusion.
A I didn't recall that.
Q Do you see that now?
A Yes.
Q What is CM Gold, Inc.?
A CM Gold is a partnership business which had been incorporated here in New York at the -- in Brooklyn here in 2017.
Q And what did this company do, if anything?
A This company is involved in selling gold accessories.

Q Did it also deal in mining rights and exploitation?
A Yes.
Q And was the company profitable?
A You mean a profit -- profitable?
Q Right. Did you make money off of CM Gold, Inc.?
A Not too much.
Q How much money did you make off of this company?
A I cannot tell.
Q Can you estimate?
A No. I cannot respond to that question.
Q Okay. Now, you said, when you were testifying about this on direct, that Anuli Okeke told you that you needed to put other companies' names on -- and other people's names on forms like this, right?
A Yes.
Q Did you tell Mr. Tapa that you were using his name?
A No.
Q That testimony, that Anuli Okeke told you to use Mr. Tapa's name in CM Gold, you never told the Government that before today, right?
A What happened to -- for that particular form was that Ms. Okeke told me not to put my name on all these tax forms, and she asked me -- Ms. Okeke asked me if I know a name I can put on -- on this form, and I said, yes. So I -- I said, okay. Let me put a name right there because she instructed me

not to put my name on all the -- the tax forms.
Q You met with the Government many times in preparation for today and in the investigation, right?
A I'm sorry?
Q You met with the Government, with the lawyers and law enforcement, many, many times in preparation for today, but also during the investigation, right?
A I have been interrogated but I don't -- I don't know if there's a preparation.
Q You've met with them, though, about this case more than ten times, right?
A Yes.
Q And in that time, you've been asked about Charles Tapa and CM Gold, right?
A Yes. I gave them the same information I just gave you.
Q Well, let's talk about one instance in which you talked about that. Do you remember that in March of 2021 before the cooperation agreement that we saw, you had a meeting at 26 Federal Plaza with law enforcement?
A I cannot recall the -- the date, but I went there three or -- two or three times. I even brought my computers for -- for the investigation, for a check.
Q And do you remember in that meeting or in one of those meetings around that time, you were asked about CM Gold and Charles Tapa and you never said anything about Anuli Okeke

telling you to use that name on tax forms; do you remember that?
A No, I told them. I told them the same thing I just told you right -- right now.
Q You told them that Anuli Okeke told you to put Charles Tapa's name and CM Gold?
A Yes, I told them.
Q How many times did you tell them that?
A I believe twice.
Q Twice?
A Yes.
Q And when --
A I recall that I told them.
Q Do you recall when?
A Yeah --
Q Do you recall when you told them that?
A I'm sorry? Say that again.
Q Do you recall -- you said you think you told them that information twice, I'm asking, do you recall when those conversations happened?
A When I -- I don't recall the time, but I knew that I told them.
Q Okay. The first time you assisted in a fraudulent PPP loan application process, was that for Assana's Hair, for that company?

A Please repeat that question.
Q Yeah. You testified on direct about a number of PPP loan applications that were fraudulent that you assisted in. Do you remember that?
A Yes.
Q Was the first one of those Assana's Hair?
A Yes.
Q And when was that loan funded? Do you know?
A I -- I only -- I can only say in July 2020, but I don't have a precise date.
Q And were you compensated for your work on that?
A I'm sorry?
Q Did you get paid to do the paperwork for Assana's Hair?
A No. She never paid a penny for her -- the work I did for her.
Q Were you angry about that?
A Sorry?
Q Were you angry that you didn't get paid for the work you did?
A No, I -- I was not.
Q It didn't bother you?
A Not too much because I knew her long time ago and I know that she's not -- she has not been generous, so I just forget it.
Q But on all of the other loans you did, you were paid,

right?
A Yes.
Q And when you were paid, you would get notified that you were being paid by CW, right?
A Yes.
Q Now, you talked about your own loan and about proposing to pay people at the bank for that. Do you remember that?
A I didn't propose to pay, but I proposed to give them a tip.
Q A tip, right?
A Yeah, a tip. I always give tip in restaurant, cab, even tip -- when management -- management sent people for repair in my house, I give them tip. I used to it.
Q But you said you never did that because you learned that $8,000 had already been taken out of your account, right?
A No. I did not understand your question.
Q Right. So you proposed giving a tip, but you testified that you, in the end, did not give a tip because you found out that they had already gotten $8,000 from the loan money, right?
A No. I said I approached Ms. Okeke and when I told her about it, she said she -- she got $8,000, so I didn't react to -- to that.
Q Well, wasn't it actually Charlene Wint that said to you that they got the $8,000?

A I don't recall that is Charlene because I talked to the manager.
Q Well, might it have been Charlene that actually said that to you and not Ms. Okeke?
A That, I don't recall.
Q Let's go back to your first meeting with the Government that we talked about in November of 2021. Didn't you tell the Government at that time that it was Charlene Wint that had told you that you were -- that they were taking $8,000?
MR. AMIR: Objection. Misstates the record.
THE COURT: Overruled.
Did you tell her that, if you recall?
A No. The dates you gave was November 20, 2020. It's not 2020 --
Q You're right. That's my mistake. In the interview that you did in November of 2020 --
A Okay. Yes, in November. Yeah.
Q -- didn't you tell law enforcement that it was Charlene that told you she was taking $8,000?
A No, I didn't tell them Charlene -- it was Charlene. I told them Ms. Okeke because she was the manager and I cannot go around the manager and talk to other employee regarding a tip I would like to give them. I would have to go to the manager and this is what I did.
Q And, so, that's what you told those people interviewing

you in November of 2020 --
A Yes, I told them the same thing.
Q What did you tell them exactly about that?
A I told them that I approached Ms. Okeke and -- to offer my intention to give them a tip.
Q I think we're confusing things here. I'm -- I recall that testimony but I'm talking about a different piece of testimony that you gave that someone at the bank told you they had taken $8,000 from the proceeds. Do you remember that part of --
A No, I don't recall that.
Q But do you recall testifying about that, that somebody from the bank told you --
A No, no, I -- I know them. I cannot say some -- some of them because, no, I know all of them, so I should be specific telling the names, not some -- someone at the bank.
Q Right. And you testified that Anuli Okeke told you -- sorry, one second. Today, you testified that Anuli Okeke told you that she was taking $8,000 from the loan proceeds, right?
A Not only today, I always say that.
Q And that's what you said to the investigators -- your testimony is that that's what you said to the investigators in November of 2020, right?
A Yes.
Q And we talked about another interview in March of 2021,

didn't you, at that time, tell them that it was Charlene Wint who told you that she was taking $8,000 from the loan proceeds?

A No, I never told them.

MR. AMIR: Objection.

A I never says -- I never said Charlene. I always said Ms. Okeke because I was -- she was one to whom I talked about that commission -- that -- that tip.

Q And when you say always, you're including in that March 2021, you didn't tell investigators that Charlene went into your business checking account and took out $8,000?

A No, I never say that.

MR. GREENSPAN: I have no further questions, Your Honor.

THE COURT: Any redirect?

MR. AMIR: Yes, Judge.

REDIRECT EXAMINATION

BY MR. AMIR:

Q Good afternoon, Mr. Nipabi.

A Good afternoon.

Q You were asked some questions -- actually, I apologize. One second. All right. I'll try that again.

You were asked some questions by defense counsel about how much money you made from the scheme. Do you remember that?

A Yes.
Q Mr. Nipabi, are you required to pay forfeiture under your cooperation agreement?
A Yes.

MR. AMIR: Can we, please, pull up the cooperation agreement, 3500-AN32. Can we please go to paragraph six.

Q Just take a moment and look at that.

THE COURT: Why don't you just read in what you want the jurors to know about that part of forfeiture agreement instead of taking time to try to find it.

MR. AMIR: Yes, Judge.

Can we please highlight the second sentence of this.

Q Mr. Nipabi, are you required to pay $6,000 in forfeiture as a result of your cooperation agreement?

MR. GREENSPAN: Objection. That's not --

THE COURT: Sustained, but you can read that if you want. It speaks for itself.

Q Mr. Nipabi, does your cooperation agreement obligate you to pay forfeiture of $6,000?

MR. GREENSPAN: Objection.

MR. AMIR: On what ground?

MR. GREENSPAN: A money judgment is not an obligation to pay. It's not an accurate reading of the --

THE COURT: Objection. Just read it, just read that sentence to the jury. When you use the word obligated, it creates problems and here we go, you can read it to the jury. It's in evidence.

MR. AMIR: Okay. I can move on. I think the point has been made.

Q Mr. Nipabi --

MR. AMIR: We can take this down.

Q You were asked some questions on cross-examination about a company called CM Gold, right?

A Yes.

Q And you were asked about CM Gold at certain meetings with law enforcement, right?

A They never asked me directly about CM Gold. They asked me about the tax I prepared for -- for Fatim's and I told them exactly the same thing which I said.

Q And at those meetings with law enforcement, did you get to choose the questions that were asked?

A No.

Q Did you get to choose the topics that were asked?

MR. GREENSPAN: Objection.

THE COURT: Overruled.

Q You can answer the question, Mr. Nipabi. Did you get to choose the topics you were asked at your meetings with law enforcement?

A No.

Q Did you get to choose which documents you were shown?

A No.
Q No further questions.
THE COURT: Anything else, Mr. Greenspan?
MR. GREENSPAN: No, Your Honor. Thank you.
THE COURT: You may step down.
Folks, it's one o'clock. It's a perfect time to take our lunch break. You can step down, do you understand what I said?
THE WITNESS: Yes.
THE COURT: You can leave.
THE WITNESS: Okay.
THE COURT: Go ahead.
THE WITNESS: Thank you very much.
THE COURT: You're welcome.
(Witness excused.)
THE COURT: All right. So we are going to take a little longer for lunch. It's a very nice day. I think we'll be back at 2:30. There are a few things I have to talk to the lawyers about so you will have the benefit of having a little extra time for lunch, and I think we can anticipate possibly even Monday afternoon, certainly by Tuesday, that you're going to be deliberating about this case. So I think we are going to complete the testimony, not this afternoon, Monday morning perhaps. I may be able to give you the case Monday afternoon or Tuesday. I think that's probably what you can expect.

What we don't know is how long it's going to take you to deliberate, obviously, right? So I'm giving you some guidance and, right now, don't talk about the case. We'll see you back at 2:30.

THE COURTROOM DEPUTY: All rise.

(Jury exits the courtroom.)

THE COURTROOM DEPUTY: You can all be seated.

THE COURT: The jury is out of the courtroom. Everyone, please be seated.

So since we're taking off tomorrow and it's possible that we can maybe even have summations, charge the jury Monday afternoon, I don't know but tell me if you have any real serious problems with the proposed charge so I'll be able to calibrate my time.

First, from the Government.

MR. EDWARDS-BALFOUR: Yes, Your Honor. We do have some things that we would like to go over.

THE COURT: All right. So tell me what it is and give me a sense of it. I mean, do you have any serious, serious objections to the substance of it?

MR. EDWARDS-BALFOUR: A few things. One is issue is that I know defense counsel wants to discuss some parts they want to potentially add, but we also had some things that we were reviewing that we might want to change the language on.

THE COURT: It's language?

MR. EDWARDS-BALFOUR: Well, it's not just language. It's, actually, we feel you might have added things that we don't agree with, so --

THE COURT: Can you give me a little sense right now so I know how to calibrate my time because we can do a bunch of things. We're going to be pretty busy the rest of the afternoon, I have a sentence at five o'clock. I have to decide if I come back tomorrow afternoon. It would be nice if you didn't have to impose upon me, but if you want to give me a little sense now, you can do so I will know what I have to do.

MR. AMIR: Yes, Judge. So in reviewing the Mens Rea standard in the instructions is erroneous. The Court is using willful. But as several decisions this district and Southern District have pointed out, it is actually not willful for a substantive --

THE COURT: I have a sense of that. That may be intentional sufficient, it's not needs to be willful as well, I think is what you're saying?

MR. AMIR: Yes. It needs to be knowing and intentional, not willful. That is not the correct standard, and we are happy to provide --

THE COURT: I think that's probably correct.

MR. GREENSPAN: Your Honor, we disagree with that and we're happy to write on that.

THE COURT: All right. So the question is whether willful should be or should not be in the charge, correct?

MR. AMIR: Yes.

MR. GREENSPAN: I think, currently, it's in the charge for bank fraud but not for wire fraud. Our position is it should be in for both.

THE COURT: You think it's the right way to do it?

MR. GREENSPAN: Correct.

THE COURT: All right. So I'll have to think about that.

What else?

MR. AMIR: I think that was the primary substantive issue.

THE COURT: Okay.

MR. AMIR: There was one other thing. At the time this charge was circulated, at least we had not yet admitted summary charts. It's sometimes helpful to give some instruction to the jurors on a summary chart --

THE COURT: We can do that. That's not really of any substantive significance. The willfulness issue, I will revisit that. I sort of made a little check on that, some case law I want to go over, and I just want to know if there's anything else I want to think about. I think everything else is pretty standard and is appropriate here. I don't see anything else. Conspiracy is conspiracy. The rest of the stuff is drawn from the statute.

So anything else? So I don't think I have to impose upon you to come back here Friday, okay? That's the one thing I wanted to just get a sense of.

Yes, Mr. Talkin?

MR. TALKIN: Your Honor, there may be a couple of additional charges. They would be fairly standard charges. It would just be an issue of whether to give them or not.

THE COURT: You want to let me know what they are now? Is it boilerplate stuff or something else?

MR. TALKIN: It's boilerplate stuff. It's just whether you give it or not is the issue. And we're gonna talk about it, but we -- we had discussed with the government, and over the weekend we'll have discussions and maybe we can come into agreement about certain things that we'll be able to tell Your Honor.

THE COURT: All right. It doesn't sound like anything that requires me to have you folks come back on Friday?

MR. TALKIN: No.

THE COURT: All right. That's the important thing. Submit to me whatever you want. Certainly between now and Monday, and I think we're going to be okay in terms of organizing what we have to do.

Now, we have this evidentiary issue and, so, I read in the cross-examination which, obviously, triggers all of this little situation we have to deal with, I just want to make it clear, the record, so that we know exactly what we're talking about.

In addition to what I read before, at page 487 and I think it laps over to 488, if I recall, I've read that into the record, I also am relying upon pages 464 and 465. I'm taking those questions and answers on direct into consideration in terms of the totality of things I'm reflecting upon credibility to making my ruling.

So, on 464, line 19, the question is asked of Mr. Nipabi:

Do you recognize this withdrawal slip?

Yes, sir.

Question: Is this for Popular Bank?

Answer: Yes, sir.

Next: Do you recognize any signature on the slip?

Yes, sir.

Whose signature?

My signature.

On page 465: Did you write the rest of the words on this slip?

No, sir.

Question: Who wrote the rest of the words on this slip?

Answer: Anuli Okeke.

Question: What is the date of this slip?

Okay. August the 21st, 2020.

And then it goes on to talk about whether $100,000 was withdrawn and it talks about the breakdown, I don't think I have to read it, the record was clear, but nothing set forth in the actual transcript.

The other thing is that I want to make clear that the issue that we are talking about is the document that was created on October 14, 2020, from what I'm reading here, from the extract, and it was modified on August -- I'm sorry, on October 14th, modified on October 21st, 2020, and it goes on, you know, for several paragraphs, a couple of pages.

I don't want to introduce all of that into evidence. I don't think it's appropriate. I think a lot of it is tangential and it doesn't really address the specific issue we have.

(Continued on the following page.)

THE COURT: (Continuing) I do think that it's clear, and I want to make sure I have it right, that these were the iPhone or the Apple notes that he made to himself before this was obtained by the government.

I think that's basically what I'm reading, correct?

MR. AMIR: That's correct.

THE COURT: These are his notes preparatory, I guess, to being with the government, I guess, which happened, I don't know exactly when but it was after this was made.

Am I correct about that?

MR. AMIR: Yes. He was first interviewed by law enforcement in early October and then he prepared these notes and continued to meet with law enforcement after that.

THE COURT: All right. So the interview with the government followed after these notes were made by him in his iPhone, I guess? Is that where it happened?

MR. AMIR: Exactly, Judge, in his notes app, he wrote this.

THE COURT: Okay. I think the record is clear.

Now, I'm going to allow some of this to be in evidence. I think it needs to know and I am satisfied that it's trustworthy and reliable under all the circumstances, but I think we're going to have to make a document here that we'll submit as a piece of evidence and I think the document should indicate when was made and it was done by his, on his Apple phone, whatever. I just want to make it clear to the jury that we're talking about a particular document and the circumstances of when it was made and how it was made. Okay?

MR. AMIR: Yes, Judge.

THE COURT: So I'm going to call upon the government to make sure you get me the proper document and, of course, you'll submit it to your adversary to make sure you're on the same page.

The part I think I'm going to allow will be that part which says, "I refuse" -- "A big quarrel." Let's start with that. "A big quarrel started out between Assana and me in the bank. I found it hard to concede 60 percent to Assana, 10 percent to Auguste and let Assana use the loan in my name to pay the 36,000 (40,000 minus 6,000) she already owed me."

Now, I'm doing that because I think you need some context before we continue with the rest of it. Right?

"And only try to convince me to comply and help Assana, but I refuse. Assana left because she had some customers to attend in her salon leaving me with Anuli. Charlene and my sister" -- I'm sorry -- "leaving me with Anuli, Charlene and my sister. Charlene convinced my sister and me that we could look for another location to the rent instead of complying with Assana's demands because my sister and I wanted the loan canceled. She explained to us that we can rent a place somewhere else and keep the loan and she and

Anuli would take care of the rest. We agreed. They started making the checks. Anuli wrote the checks. She made a check of $10,000 to Assana, 8,000, 7,000, 20,000, in the name of my sister, 13,000 for me."

I think that's probably all we need. So I'm going to allow that in evidence. You'll just make the proper document and make sure that we have no slip-ups.

Is that okay?

MR. AMIR: Yes, Judge. We will create a redacted version and share it with defense counsel.

MR. GREENSPAN: Your Honor --

THE COURT: I see, Mr. Greenspan, you have your objection.

MR. GREENSPAN: Perfect. Thank you.

THE COURT: No question about it. Maybe the Circuit Court would enjoy delving into this rule of evidence, but I think, under the circumstances, it really does support what the rule is all about. And I -- the fact that, you know, that this was made by himself before he met with law enforcement, I'm satisfied that it's sufficiently credible and reliable under all of the circumstances so I'm comfortable allowing that portion into evidence.

MR. GREENSPAN: Just to clarify the record, it was both before and after. It was after he had initially met with law enforcement.

THE COURT: Let's make it clear.

MR. GREENSPAN: Yes.

THE COURT: I have here that it was created on 10/14/2020. He met with law enforcement when?

MR. GREENSPAN: He met with law enforcement for the first time on October 5th.

THE COURT: On October 5th, yes.

MR. AMIR: And then he continued, Your Honor, to meet with law enforcement after he prepared that note prior to his cooperation with the government and this note obviously preceded his testimony in court today.

THE COURT: I think that's all understood now, right?

MR. AMIR: Yes, Judge.

THE COURT: All right. We have the record.

Okay. So 2:30. Let me know what we have in store for this afternoon.

MR. EDWARDS-BALFOUR: I think we have one more witness and then we believe the case agent will be the final witness. We'll probably do him Monday morning.

THE COURT: How long is your next witness going to last?

MR. EDWARDS-BALFOUR: Probably about the same time.

THE COURT: Okay. So it will use up most of the afternoon?

MR. EDWARDS-BALFOUR: Yes.

THE COURT: I just have a sentencing at 5:00. I just want to make sure that we'll be able to --

MR. EDWARDS-BALFOUR: We'll be done before 5:00, Your Honor.

THE COURT: Okay. See you at 2:30.

Luncheon recess.)

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

(Time noted: 2:45 p.m.)

(In open court; Jury not present.)

THE COURT: Mike, bring in the jurors.

THE COURTROOM DEPUTY: You all may be seated.

THE COURT: Mr. Edwards-Balfour?

MR. EDWARDS-BALFOUR: Yes.

THE COURT: If you do it fast, I won't mispronounce your name any more.

MR. EDWARDS-BALFOUR: I tried to find a way to streamline his testimony today.

THE COURT: Because towards the end of the line, it gets a little repetitious for the jurors. I look at them and a lot of them are not paying as much attention as they did before, you know.

MR. EDWARDS-BALFOUR: I have some stuff that I'm hoping will keep their interest today.

THE COURTROOM DEPUTY: All rise.

(Jury enters the courtroom.)

THE COURTROOM DEPUTY: You can all be seated.

THE COURT: All right.

Mr. Edwards-Balfour, your witness.

MR. EDWARDS-BALFOUR: The government calls Jose Anormaliza.

THE COURTROOM DEPUTY: Good afternoon,

Mr. Anormaliza.

Please stand and raise your right hand.

(The witness takes the witness stand.)

JOSE ANORMALIZA, called as a witness, having been first duly sworn/affirmed, was examined and testified as follows:

THE WITNESS: Yes.

THE COURTROOM DEPUTY: Thank you. Please have a seat.

If you can please state and spell your name and keep your voice up.

THE WITNESS: Of course. Jose Anormaliza. J-O-S-E, A-N-O-R-M-A-L-I-Z-A.

THE COURTROOM DEPUTY: Thank you.

THE COURT: Your witness.

MR. EDWARDS-BALFOUR: Thank you.

DIRECT EXAMINATION

BY MR. EDWARDS-BALFOUR:

Q Good afternoon, Mr. Anormaliza.

A Good afternoon.

Q In 2020, did you submit a fraudulent application and receive money from the Payment Protection Program, or what is commonly known as the "PPP Program" that you were not entitled to receive?

A Yes.

Q And did anyone assist you with your fraudulent PPP loan application?
A Yes.
Q Who helped you with the fraudulent application?
A Charlene and Anuli and the bank.
Q In 2020, did you own a business?
A Yes.
Q And did the business have any employees?
A No.
Q Did the business have any revenue in 2019?
A No.
Q Did the business have any revenue in 2020?
A No.
Q On January 28, 2021, did you plead guilty to a crime here in federal court?
A Yes.
Q Generally, what did you do to commit that crime?
A I gave fraudulent paperwork.
Q And why are you here testifying today?
A One, I'm obligated; and two, it's the right thing to do. I have nothing to hide.
Q And when you say you're obligated, what obligates you to be here?
A I pled guilty, and in my plea, that's what I'm obligated to do.

Q We'll get back to that later.
I want to first talk about your background.
So how old are you?
A Fifty-three.
Q And where were you born?
A Ecuador.
Q And when did you come to the United States?
A When I was two years old.
Q Are you a U.S. citizen?
A Yes.
Q How far did you go in school?
A High school.
Q Are you married?
A Yes.
Q Do you have any kids?
A Yes.
Q How many?
A I have four boys in a previous marriage, which I raised. And two with the person I'm with now, who helped me raise my boys, too.
Q What do you do to make a living?
A I'm a reglazer. I reglaze bathtubs and tiles.
Q What is reglazing?
A Instead of ripping out the bathtub or the tiles, I could give it a whole new coat, new finish on top, without ripping

it out in one day.
Q Have you done any other type of work as well?
A Yes.
Q What other type of work?
A I've cooked. I've done real estate. I've been a manager at Comfort Inn. I've done a lot of different things.
Q What city do you live in?
A Brooklyn.
Q And how long have you lived there?
A All my life.
Q Were you living in Brooklyn during the summer of 2020 specifically?
A Yes.
Q Have you ever worked for a business called Abasco Transport Services, LLC?
A No.
Q Okay. So I want to talk a little bit about the business you said you own.
What's the name of the business?
A R.R. Franklyn.
Q And what type of business was R.R. Franklyn?
A Real estate.
Q And how long have you owned that business? Approximately?
A From when COVID happened, it was only about two, three

years.

Q And what kind of -- you said it was a real estate business.

Did you ever do real estate with R.R. Franklyn?

A No.

Q Did you ever file taxes relating to income of R.R. Franklyn?

A No.

Q Did the business ever actually operate?

A No.

Q Now earlier today you talked about submitting fraudulent applications as part of the PPP loan process.

Do you remember that?

A Yes.

Q Was that the first time that you illegally stole anything?

A No.

Q Approximately how many times have you illegally stole anything?

A Two times.

Q Okay. So I want to talk about each of those. Let's start with the first one.

What happened the first time you stole something?

A It was at a Home Depot. I was coming out of Home Depot and there was an individual in the truck selling stolen merchandise.

I bought the stolen merchandise, brought it home, and as soon as I got home, within five minutes, there was law enforcement there.

They took back all the merchandise, and I was given disorderly conduct for that.

Q And how about the second time you stole something, what happened then?

A The second time, I was going through some rough times. I was paying child support for four kids that I had, even though I provided as much evidence and proof that they were living with me. My wife at that time was receiving public assistance, and I had to pay that back.

So I was working two jobs and it just wasn't enough. And we needed food, I went to the supermarket and I got caught.

Q I'm going to transition a little bit to 2020.

During the pandemic, were you working?

A Yes.

Q Where?

A G&G Reglazing.

Q And did the pandemic have any impact on your work?

A Yes.

Q How so?

A I went from doing two to three jobs a day to doing two to

three jobs a week.
Q And did that change have any impact on you life?
A Yes.
Q In what way?
A I couldn't -- things were getting really tough, the bills kept coming. It was getting hard to survive.
Q And in the summer of 2020, did you come to learn about the PPP loan?
A Yes.
Q How did you first learn about them?
A I had a broker that I was working with. Well, I worked with when they had a different company.
When COVID happened, he reached out to me and he told me he had -- he had -- he knew somebody that could help me out get a loan.
Q You mentioned a broker.
Who is this broker?
A Ricco. His name is Raymond Lewis.
Q And when Ricco told you that he had someone who could help you with a loan, can you give us a little detail about what he specifically told you?
A He called me and told me -- he first text me telling me to give him a call. I ended up calling him. He told me do I still have the corporate books that he gave me? I told him, yes. He said I have a plug for you to get you approved for a

loan.
Q And what happened next?
A Then after that we made a date for him -- for me and him to meet. We met, and he brought me into the branch at 125th Harlem, Manhattan.
Q You said a "branch". A branch of what?
A Banco Popular, the bank.
Q And turning your attention to around June of 2020, what happened when you went into the branch?
A I went in. It was quiet at first, and then it was -- when you enter the bank, there's a meeting room straight ahead, and I waited there with Ricco.

Ricco went to go -- he stepped out of the meeting room. He met up with Charlene. At the time I didn't know that was Charlene. She came back into the room. He introduced me to her.

And then at that point she said, okay, I'm going to need your ID, your license, your social.
Q And did you provide those to her?
A Yes, I did.
Q And then what happened next after you provided her with that information?
A She came back and she told me that I had owed Citizens Bank and TD Bank. I still owed like $200.

That in order for her to open up an account for me,

I would have to clear that.
Q And when you said you owed Citizens Bank and TD Bank, did you have accounts there?
A Yes.
Q And prior to that day, when you were -- when you went there, did you have an account at Banco Popular?
A No.
Q So after Charlene told you that you had to clear those other accounts, what did you do next?
A The next thing I went to go clear them.
Once I cleared them, I went back to the bank, to Popular. I gave the receipts to show proof that it was taken care of and cleared to Charlene.
Q And you went back to Charlene. So you just talked about two times you went to the bank.
Do you recall going to the bank more than that?
A Yes.
Q And were there times when you went to the bank and you were given documents to sign?
A Yes.
Q And those times when you were given documents to sign, did you sign them?
A Yes.
Q When you were given those documents to sign, were those documents every explained to you?

A No.

Q Would you be able to recognize some of the documents you signed?

A Yes.

MR. EDWARDS-BALFOUR: I'm going to show you what's already in evidence as Government Exhibit 975.

And please go to page 3.

(Exhibit published.)

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

A Yes.

Q So this is -- at the top left, it says the opening date is June 30th, 2020.

Do you see that?

A Yes.

Q And the account title is for R.R. Franklyn Ave.

Is this the R.R. Franklyn Ave. Account here?

A Yes.

MR. EDWARDS-BALFOUR: Okay. And can we scroll down a little bit?

Q Is that your signature underneath president?

A Yes.

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

Q And is that your signature again at the bottom there?

A Yes.

Q And do you see it's June 30th, 2020 on the right?
A Yes.
Q Now below that it says "employee". It says "Lenny Sanchez".
Do you see that?
A Yes.
Q Who is Lenny Sanchez?
A He's an individual that worked at the branch at Banco Popular.
MR. EDWARDS-BALFOUR: Okay, we can take that down.
Q I want to change topics again.
At some point did you provide law enforcement with your phone?
A Yes.
Q Did law enforcement take pictures of some of the content from your phone copy other information?
A Yes.
MR. EDWARDS-BALFOUR: I'm going to hand you Government Exhibit 205.
Q Do you recognize that?
A Yes.
Q How do you recognize that?
A That has all the information from my phone.
Q How do you know?
A When the phone was given to the law enforcements, that

was copied on there and as well I looked at it when I went down to the -- to meet with law enforcement.
Q Does this drive, which is Government Exhibit 205, contain true and accurate copies of the information from the phone?
A Yes.
MR. EDWARDS-BALFOUR: Your Honor, the government moves to admit Government Exhibit 205, which is inclusive of 205A, 205B, 205C, 205D, 206, 208, 209, 210 and 211.
THE COURT: Hearing no objection, it's all in evidence.
(Government Exhibits 205A, 205B, 205C, 205D, 206, 208, 209, 210 and 211, were received in evidence.)
MR. EDWARDS-BALFOUR: Can we please pull up the fourth page of Government Exhibit 206, which is already in evidence.
(Exhibit published.)
Q Do you see what's on the screen?
A Yes.
Q And what is on the screen here?
A It's a text between me and Ricco.
Q Is this the Ricco you were talking about earlier who introduced you to Popular Bank?
A Yes.
Q Now are these how the text messages looked to you as you wrote them?

A Yes.
Q So at the bottom you have a message at 7:41 p.m. And in that message you said: But I know this was Charlene it's gonna go through.
Who is "Charlene"?
A She's the individual that works at the bank.
MR. EDWARDS-BALFOUR: Can you go to page 206, please.
Q Do you see at the bottom it says Wednesday, August 5th, 2020?
A Yes.
Q And you said: Signed all the paperwork today with Charlene at 6:38 p.m.
Do you see that?
A Yes.
Q What paperwork were you referring to that you signed with Charlene?
A The paperwork to get the PPP loan approved.
MR. EDWARDS-BALFOUR: Can we please now go to page 10.
Q Do you see there where it says Thursday, August 20th, 2020?
A Yes.
Q And just underneath that, you ask: What the good bro? Any word yet? Any response? Ricco says he didn't get email

yet.
Do you remember what you were talking about there?
A Yes.
Q And what were you talking about?
A Did I get any word about the PPP loan.
Q And then below that, at 10:01 p.m., you said: I'm still doing my thing, don't get me wrong, but this would be a blessing.
Can you explain what you were talking about there?
A If the loan would have came -- the PPP loan would have came through, it would have been a blessing. I would have been able to invest with Ricco.
Q So at this point your intention, when you were getting the loan, was to do an investment with Ricco?
A Yes.
MR. EDWARDS-BALFOUR: Go to the next page.
Q You see it says Thursday, August 27th, 2020, at the top there?
A Yes.
Q And then you say: Dam, bro, Charlene said I have to wait for the next wave.
Do you see that?
A Yes.
Q Why did you tell him that?
A Me and Charlene had spoke about Ricco -- sorry, excuse

me.

Me and Charlene had spoken about Ricco. He was getting a cut from the money that I was receiving. And she had mentioned that she had somebody that she can refer to me who would charge my less interest on that money.

Q And when you said a "cut," where was this cut coming from?

A From the PPP loan.

Q And later, a little further down on Friday, August 28th, 2020, you say, you ask: Ricco any word? And in response he says: Yeah, the state put everything on hold. Only took a certain amount of people. I have ten people that have to wait like you.

Do you see that?

A Yes.

Q What did you understand him to mean when he said he has ten people that have to wait like you?

MR. TALKIN: Objection, Your Honor.

THE COURT: Sustained.

MR. EDWARDS-BALFOUR: Let's take this down.

Can we please put up the first page of what is in evidence as Government Exhibit 209.

(Exhibit published.)

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

A Yes.

Q What's this?
A It's texts between me and Charlene.
MR. EDWARDS-BALFOUR: Okay, we can take that down.
Can we please put up the first page of what is in evidence as Government Exhibit 208.
(Exhibit published.)
Q Do you see what's on the screen there?
A Yes.
Q What is this image of?
A Texts between me and Anuli.
Q And you seem to have labeled the top "works with Charlene".
Do you see that?
A Yes.
Q And why did you label it "works with Charlene"?
A I didn't know how to spell her name.
MR. EDWARDS-BALFOUR: You can take that down, please.
Can we please pull up the first page of Government Exhibit 210.
(Exhibit published.)
Q Do you see what's on the screen there?
A Yes.
Q And what is this?
A That's texts between me and Hashim, the accountant.

MR. EDWARDS-BALFOUR: Okay, can we take that down, please?

Now can we please pull up Government Exhibit 205C and put that alongside 208.

(Exhibit published.)

Q Do you see both of those images on the screen there?

A Yes.

Q Now on the right side you have Government Exhibit 208, "works with Charlene," and you said that was Anuli. And on the left side, you have another image, 205.

Are these the same messages on both sides?

A Yes.

MR. EDWARDS-BALFOUR: Now if you look on the left side in Government Exhibit 205C, and you look at participants, you named it: Works with Charlene, Banco Popular. That's the entire name. And the number is (917)607-6862.

And pursuant to the stipulation, 300, which is in evidence as Government Exhibit 300, that's the defendant's phone number.

So we can take those down.

Q So earlier during your testimony you stated that you lived in Brooklyn during the entirety of 2020.

Do you remember that?

A Yes.

Q Were there times in the summer and early fall of 2020 when you would text each of the individuals we just talked about Anuli, Hashim and Charlene, while you were at home in Brooklyn?

A Yes.

Q Did you ever call any of them?

A Yes.

Q Were there times when you called them while you were at home in Brooklyn?

A Yes.

MR. EDWARDS-BALFOUR: I'm going to show you, for the witness' eyes only, what has been premarked as Government Exhibit 102.

(Exhibit published to the witness.)

Q Do you see what's on the screen?

A Yes.

MR. EDWARDS-BALFOUR: Please scroll down a few.

And then back to the top. Thanks.

Q Have you seen this before?

A Yes.

Q What is this?

A This is texts between me, Hashim and Charlene.

Q And others?

A Yes.

Q Is this a document that was created to assist the jury in seeing some of your text messages?

A Yes.
Q Are the messages generally in chronological order?
A Yes.
Q Does Government Exhibit, which is on the screen, 102, contain a fair and accurate representation of content from the text messages that were on your phone in 2020?
A Yes.
MR. EDWARDS-BALFOUR: Your Honor, the government moves to admit Government Exhibit 102 and publish.
THE COURT: Any objection?
MR. TALKIN: No, Your Honor.
THE COURT: In evidence.
(Government Exhibit 102, was received in evidence.)
Q Okay, let's start with this first page.
You mentioned this is with Hashim, who you said he was an accountant.
Do you remember that?
A Yes.
MR. EDWARDS-BALFOUR: On July 8th, 2020, he sends you a phone number and what appears to be a text -- an email and then he says: Excellent. In response, you send an image.
Can we go to the next page?
And you follow up with another image and then more information at the bottom.
Q Why did you send this information in response to what he

sent you?
A This is what he needed from me to start the paperwork that he was going to submit to me.
Q And how did you know he needed that information?
A Charlene told me.
MR. EDWARDS-BALFOUR: Can we go to the next page?
Q So here's your message with Charlene on July 8th.
Do you see that?
A Yes.
Q And the first, the top message at 3:29 p.m., you say -- you send what appears to be an email, email. And you say: Ricco email.
Is that the Ricco you were talking about earlier?
A Yes.
Q And then you say, at 4:55: Sent over a screenshot of purchases under cooperation name, please confirm you received it. Thank you.
What were you talking about there?
A It was the -- well, the -- it was the corporation name, the EIN, the EIN number for the corporation.
Q And the corporation R.R. Franklyn Ave.?
A Yes.
MR. EDWARDS-BALFOUR: Can we please go to the next page.
Q Now we're on July 24, 2020.

Do you see that?
A Yes.
Q And in this message you asked Charlene: Following up with you, any updates. She said she's checking. And then later, at 3:29, you say: I know you're busy, but were you able to give anything out.
And next she responds: I just text Hashim you information and told him need it today.
Did I read that correctly?
A Yes.
Q And what did you understand her to mean when she said she texted Hashim your information and told him she needs it today?
A My information was the documentations that he was providing me for the PPP loan. There was a cutoff date, and she needed to submit it.
MR. EDWARDS-BALFOUR: Can we please go to the next page.
Q Do you see this is a text message between you and Hashim here?
A Yes.
Q And on July 27th, 2020, you sent another image.
What image did you send there?
A It's the paperwork from the corporation, the EIN number.
MR. EDWARDS-BALFOUR: Can we please go to the next

page.

Now here's another message with Hashim.

Q And you say -- and your message is 7:05 p.m.

Please let me know if you need anything. Charlene did say she also spoke to you on this.

Do you see that?

A Yes.

Q And they're talking about Charlene from Popular Bank; is that correct?

A Correct.

Q And then you say also -- at 7:08, you say: Also, it's R.R. Franklyn Ave. The dots in RR must be put in or the corporation can't be found.

Why are you telling him this information?

A If he tried to look up the corporation without the dots, he never would have been able to find it. He needed to put the dots in there.

Q And taking a step back, what did you understand he was doing at this time?

A He was making up tax papers.

Q You said "making up". So did they not exist?

A Correct.

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

Q Here's a message with Charlene from Popular Bank, and you said to her, in relevant part, at 7:11 p.m.: Just letting you know I sent over everything Hashim needed. Just letting you know. And in response she says: Okay. Keep me informed.

Do you see that?

A Yes.

Q When you said you sent over everything Hashim needed, what did you send over to him that he needed?

A It was the -- my social, my name. The corporate name. The EIN number.

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

So two more messages about -- to Hashim here.

Q The top one you say: Charlene is waiting for you to move forward with my corporation. The bottom one you said: Charlene needs this info ASAP. Please let me know. She is waiting.

Did I read that correctly?

A She's waiting on this.

Q She's waiting on this. Yes, thank you.

And is your understanding she was waiting on him to finish the work he was doing for you?

A Yes.

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

Q Here's another text with Charlene. We're on August 3rd, 2020.

You said: Called Hashim no answer but I did text both his numbers. Hope to hear from him today. And she says: Okay.

Did I read that correctly?

A Yes.

MR. EDWARDS-BALFOUR: Let's go to the next page, please.

And you, again, text Hashim about Charlene on August 4th.

Can we please go to the next page?

Q Same day, you text Charlene and say: Charlene haven't heard from Hashim. Sent multiple texts.

She responds: I already have, because this is finishing by today.

When she said "I already have," what did you understand she meant?

A Charlene had said that if she couldn't get in touch with Hashim, the accountant, if he didn't respond back to her, she had someone that she could use as an accountant.

Q And when she said she had someone she can use as an accountant, did you understand that accountant would be able to create the paperwork for you?

A Correct, yes.

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

Q Do you see at the top Charlene says: Let's hope he finish in time because I just have to him today. Trying to get you 240 on the busy business.

Did I read that correctly?

A Yes.

Q What did you understand that she meant when she said: "Trying to get you 240"?

A 240,000.

Q And that was for the loan that she was trying to get you?

A For the PPP loan, yes.

Q And then later at 3:18 p.m., she text you again saying: Hashim sent over for just your personal, which will net you 20, let's see if the business will go through first.

Did I read that correctly?

A Yes.

Q What did you understand her to mean when she said: "Will net you 20"?

A She was trying -- trying to get me 20,000 under my name for the business.

Q And when she said, "Hashim sent over for just your personal," what did you understand that to mean?

A Charlene had told me that this dummy, Hashim, sent me your taxes, not the business.

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

Now I want to show you what's in evidence as Government Exhibit 779 at page 24.

(Exhibit published.)

Q Do you see the borrow application form on the screen for R.R. Franklyn Ave.?

A Yes.

Q Now, everything above where it says "applicant ownership," is that your handwriting?

A No.

Q Okay. And where it says "average monthly payroll," do you see that?

A Yes.

Q And there's an amount next to that.

Do you see that amount?

A Yes.

Q What amount is that?

A 102,667.

Q Was that accurate?

A No.

Q Was that number just completely made up?

A Yes.

Q Now moving to the right, all the way over to number of employees. It says number of employees is 28.

Was that accurate?

A No.
Q And where did that number come from?
A That's the number that Charlene had asked me for. She said I needed to provide 28 numbers. Twenty-eight employees, I'm sorry.
Q No worries.
And when you said she needed -- Charlene told you you needed 28 employees, was the number always 28 that she wanted you to provide?
A No, at first it was 20.
Q And then what happened?
A And then she just told me I needed 28 later on.
MR. EDWARDS-BALFOUR: Please scroll down to the next page. The bottom of that page.
Q Do you see a signature at the bottom there?
A Yes.
Q Is that your signature?
A Yes.
Q On August 5th, 2020?
A Yes.
Q And there had been a number of initials on the left side.
Do you see those?
A Yes.
Q It's under certifications.
Did you read these certifications before you

initialed there?
A No.
Q Did you -- was this explained to you?
A No.
Q So why did you sign this document if it wasn't explained to you and you didn't read it?
A Charlene told me if you wanted the loan, you would have to sign and initial on the sides.
Q And then on August 5th you signed this document?
A Yes.
MR. EDWARDS-BALFOUR: So can we go back to -- we can take this down, and let's go back to Government Exhibit 102 at page 13, where we left off, with August 5th.
Q So you just saw you signed the document on August 5th, right?
A Yes.
Q Now there are two messages on the screen here. On the left side you have a message with -- text messages with Charlene, and on the right side you have the text messages with Anuli.
Do you see that?
A Yes.
Q The first message in time is the one on the left, that's August 5th. And you said you signed on that day. So at the end there, at 6:35 when you say thank you again, was that

after you left the bank and then signed the paperwork?

A I'm sorry, can you repeat that again?

Q Yep.

Do you see on the left side, under August 5th, 2020, and you said -- at 6:35 p.m., you said: Thank you again.

Did you send that after you left the bank after signing that document?

A Yes.

Q So the next in time, is moving over to the right side to your message but with Anuli.

Do you see it's Friday, August 7th, 2020?

A Yes.

Q And in terms of timing, I know there's two Friday, August 7ths on the screen, but the one on the right side is at 12:50 p.m., the one on the left side is at 1:37 p.m. So the one on the right side is the one that's first in time.

Is that right?

A Yes.

MR. EDWARDS-BALFOUR: So before we talk about the substance of that text with Anuli that you have on the screen there, I want to show you another document that's already in evidence as Government Exhibit 893.

(Exhibit published.)

MR. EDWARDS-BALFOUR: Scroll down a little bit.

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

A Yes.
Q Is this an email from Anuli on August 7th, 2020?
A Yes.

MR. EDWARDS-BALFOUR: And pursuant to the stipulation, which is in evidence as Government Exhibit 300, it says four hours ahead of Eastern Standard Time. So it's actually 12:50 p.m. that this message was sent.

Q And who did this email go to?
A To me.
Q Is your email allcityjma@gmail.com?
A Yes.
Q And who's copied on that?
A Charlene.
Q The subject is "NAICS code".

What is the -- what is written in that message there, can you please read it?
A NAICS code for your business. Attachments SBA.
Q And then below that, what did she write to you?
A Good day Jose. Please see attachment. Thank you.

MR. EDWARDS-BALFOUR: Can we scroll down.

Q Is this the attachment that came?
A Yes.
Q And did you understand what you needed to do when you received this attachment?
A At first I didn't, but then it was explained to me that I

needed to have a code for the business.
Q Who explained it to you?
A Anuli.
MR. EDWARDS-BALFOUR: Now, please, can we go back to Government Exhibit 102 on August 7th, 2020, on page 13.
(Exhibit published.)
Q So, again, looking at the message where we left off on the right side of this exhibit here. The email we just read was at 12:50 as well. And then on the right side here you're emailing Anuli, and at 12:50, around the same time, you said: It's Anormaliza, can you call me when you get a chance. Just one question.
Did I read that correctly?
A Yes.
Q You said Anuli had explained to you what you needed to do.
Do you believe -- did you talk to her after this or when she explained it to you?
A Yes.
Q Now, looking a little further down, the next message that you sent to Anuli is at 1:27 p.m.
Do you see that?
A Yes.
MR. EDWARDS-BALFOUR: So before we get into -- before we get too far with that one, I want to show you

another exhibit, which is Government Exhibit 981, already in evidence.

(Exhibit published.)

MR. EDWARDS-BALFOUR: Please scroll down. Right there.

Q So do you see this is the email that we had talked about before that you sent at 12:50, right?

A Yes.

MR. EDWARDS-BALFOUR: Can you please scroll up a little.

Q Do you see this email?

A Yes.

Q That's at 1:36 p.m.

A Yes.

Q It's from you to Anuli; is that right?

A Correct.

Q And you say: Please be advised that my NAICS code, 236118, residential remodelers. Any questions or concerns, please reach out to me. Thank you. Jose Anormaliza.

Did I get that right?

A Yes.

Q And this email you didn't copy Charlene, you just sent it to Anuli; is that right?

A Correct.

MR. EDWARDS-BALFOUR: Okay. Can we please go back to Government Exhibit 102 where we were on page 13.

(Exhibit published.)

Q Now the NAICS code that you sent in your text message on the right side at the bottom of 127 was a different one then the one you just sent in the email.

Do you know -- do you remember why you sent a different one?

A For my business, for what I do, reglazing, there's no code on -- on the list for what I do. So I was trying to find what best fitted my business, what exactly is that I do, because there's no code for it.

Q And then the message just below that you sent to Anuli, at 1:36 p.m., was just around the time when you sent that email, and you said: Just sent it to you, let me know if it's okay.

Do you see that?

A Yes.

Q Why are you asking Anuli to let you know if it's okay?

A So she can give me the approval that that was good enough.

Q Now next in time we're going to go to the left side of the screen, where it's also Friday, August 7th, and about a minute after you sent the email to Anuli, that Charlene wasn't copied on, Charlene tells you: Good job.

Do you recall why Charlene told you good job, what

she was talking about?
A That I had sent the code over.
MR. EDWARDS-BALFOUR: Okay.
You can take that down, please.
Now you want to show you what's in evidence as Government Exhibit 894.
(Exhibit published.)
Q Do you see what's on the screen here?
A Yes.
Q And is this email from you to Anuli on August 10th, 2020?
A Yes.
Q And, again, in terms of the timing, it says 12:51 p.m. there, but it's GMT time, so it's really 8:51 a.m. Eastern Standard Time.
The subject of the email is Jose Anormaliza attached something called Charlene loan.
Did I get that right?
A Yes.
Q In your email you say: Here are 28 employers and vendors I worked with.
Did I read that correctly?
A Yes.
Q What were you sending here?
A I was sending her 28 employees with socials and names.
Q And why did you send this to Anuli?

A Because she was -- she was the boss, so I figured she needed them before Charlene.

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

Q Is this the attachment that you sent to her?

A Yes.

Q So you have the names, the socials and addresses, right?

A Yes.

Q And do you know the individual in the first line?

A Yes.

Q Who is that?

A Me.

Q Okay. How about the individual in the second line?

A Yes.

Q Who is that?

A My wife.

Q Do you know every other person on this list?

A No.

Q Where did you get these individuals from?

A When I used to do rentals, I had the information still.

Q So were these -- were any of these your employees?

A No.

Q How about the line number 22, do you know that person?

A No.

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

Let's pick back up with your text messages on Government Exhibit 102 on page 14.

(Exhibit published.)

Q So we just saw you sent an email to Anuli at 8:51 a.m. on August 10th, right? That's what we just went over with the attachment of Charlene and all the employees and socials.

After you sent that at 8:54 a.m. on the left side of the screen here, you sent a text to Charlene and you say: Good morning. Hope you had a great weekend. I sent over the list to Anuli with the names of 28 employees, social and addresses and the vendors I worked with. Please let me know if there's anything else you need. Thank you.

Did I read that correctly?

A Yes.

Q Why are you telling Charlene about what you sent to Anuli?

A So that she can double check and let me know if there's something else that she needed.

Q And then below that, in response to your message to Charlene, she responds with: Okay, I will call Hashim.

What did you -- why did you understand that she would call cash Hashim in response to your message to her?

A Because the 28 employees -- the 28 employees that I had sent the email over with, needed to go to Hashim so Hashim could make the fraudulent tax papers that he needed for the PPP loan.

Q At the bottom there, you respond: I will also try and reach out -- reach him. But as I told you, he never answers.

And looking to the right side of the screen, which comes later in time, at 9:04 a.m., which is the top, you said: Spoke to him. He asked what was the payroll account we put in the application? Sorry, mistyped. He needs to know how much we put down for payroll amount.

Did I read that correctly?

A Yes.

Q Do you recall speaking with Hashim?

A I'm sorry?

Q Do you recall speaking with Hashim between these messages?

A Yes.

Q And what -- why was Hashim asking you these questions? Why were you understanding he was asking you these questions?

A He needed to know the numbers that -- I don't know what numbers he needed, but he needed to know -- he had told me to get the numbers for the application that he -- Charlene needed to provide in order for him to get the paperwork started.

Q And in response to your message asking about what was put down for payroll amount, Charlene responds to you and says: Your loan amount was 256,666, at 9:15 a.m. She follows up with saying, at 9:16 a.m.: For 28 people, each quarter was 308,000.

Did I read that correctly?

A Yes.

Q What is your understanding she was talking about in that second message when she said at 9:16 a.m.?

A The businesses have four quarters in a year, and for the 28 people, each quarter was 308,000.

Q So did she -- so why would she be telling you this information about a company that you had?

A That's what I was supposed to give to Hashim, the accountant.

Q And then you follow up, at 9:16 a.m., and you say: Yes, but you asked how much was for payroll so that he knows how much to put for employees paperwork.

Did I read that correctly?

A Yes.

Q And then she responds: 1.232 million.

What do you understand the 1.232 million corresponded with?

A That's what my payroll was.

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

Q Do you see the 1.232 million at the top there?

A Yes.

Q And to be clear, when you say that was what my payroll was, your payroll wasn't actually that; is that right?
A No, I had no employees.
Q So when you're saying that's what your payroll was, are you saying that's what your payroll was going to be in the fraudulent documents?
A Yes.
Q Okay. Now, on the second page, and you saw that this message, the 1.232 million, is the same message we saw at the bottom of the prior page, she next sends you a message at 9:17 a.m., and she says: Send him the 941 I gave you.
Did I read that correctly?
A Yes.
Q What did you understand her to mean when she's saying, send him the 941.
What 941?
A It was a sheet, a paper, a document that she gave me to send over to him.
MR. EDWARDS-BALFOUR: Okay. Can we please go to the next page?
Q And here are more text messages with Hashim.
You see on the left side you text him on August 4th, and then he responded on August 10th, right?
A Yes.
Q We saw your message before on August 4th where he said:

Charlene is waiting, please let me know. He responds with: Yes.

Moving to the right side, at 9:46 a.m. on August 10th, he asks: Also send your company name, address and tax ID.

Did I read that correctly?

A Yes.

Q And then further down, at 11:45 a.m., you said: Charlene said she spoke to you on this. And in response, at 11:58 a.m., he says: It's all good.

Further down, at 1:02 p.m., Hashim says: Need the name of your company. And you responded at 1:05 with some information there.

What are you talking about in these messages here?

A She needed the company's EIN number, and tax -- the EIN name. So that's...

Q And at some point after this, were W-2s created for your company?

A Yes.

MR. EDWARDS-BALFOUR: I'm going to show you what's in evidence as Government Exhibit 958 at page 2.

Sorry, 956.

(Exhibit published.)

MR. EDWARDS-BALFOUR: Can you please scroll through a couple of pages.

And then go back to the top.

Q Do you see what's on the screen?

A Yes.

(Continued on the following page.)

BY MR. EDWARDS-BALFOUR: (Continuing)

Q What is on the screen?

A Those are my fake W-2 paperwork.

Q And are these the ones that Hashim created for the company?

A Yes.

Q Are the names on this document that correspond with these W-2s the same as the names that are on the list that you sent to Anuli?

A You're only showing me one right now.

Q Well, why don't we look at it.

MR. EDWARDS-BALFOUR: Please pull up Government Exhibit 984 on one side alongside Government Exhibit 956. So I want 984 -- sorry -- 894 on the second page alongside 956.

Q So this one's for you, right?

A Yes.

Q Right.

Now, the second one, do you see that second person being on that list on the left side that you had sent to Anuli?

A Yes. It's the fourth one on the list.

Q Let's scroll down to the next one.

All right. There are two more names here. There's Brigido Abreu and Skyla Alvarez. Do you see those names on the left side?

A Yes.

Q Now, we're not going to go through all of them, but is it your understanding that the names on the W-2s are the names of the people you sent in the e-mail to Anuli?

A Yes.

MR. EDWARDS-BALFOUR: You can take those exhibits down, thanks.

Q I want to show you what's in evidence as Government Exhibit 972, at page 25.

THE COURT: Someone needs a bathroom break.

Okay. Let's take 15 minutes now.

(Jury exits.)

THE COURT: All right. The jurors are out.

How much more do you have, Mr. Balfour? How much more do you have?

MR. EDWARDS-BALFOUR: I'm more than halfway through, Your Honor.

THE COURT: Let's wrap it up in 20 minutes.

MR. EDWARDS-BALFOUR: I'll try.

THE COURT: I'm putting you on a time schedule now. I'm using my discussion to say move it along. At 4 o'clock, you're finished.

MR. AMIR: Your Honor, while we're on break, this might be a good time just to see if the defense, the defendant is planning to testify.

THE COURT: What?

MR. AMIR: While we're on break, I was going to raise the issue of whether the defendant is testifying. I'm not sure if the defendant is intending to testify. There's typically a colloquy the Court goes through if the defendant chooses not to but since we may wrap up on Monday, I just wanted to raise the issue.

THE COURT: My understanding is that the defendant isn't going to be testifying. I may be wrong about that.

MR. AMIR: I'm just not sure one way or the other.

THE COURT: Let's keep going. How many more witnesses do you have after this?

MR. AMIR: Currently, just one is scheduled, Your Honor. That's why we were asking if there would be any other defense witnesses.

THE COURT: You have one more witness for your case after this and we're finished?

MR. AMIR: Yes, we think for Monday.

THE COURT: Can we do it this afternoon?

MR. AMIR: No, Your Honor. I don't believe we'll be able to finish it today.

THE COURT: Is it going to be a similar type of witness?

MR. AMIR: No. It will be the case agent, the summary witness.

THE COURT: All right. So you'll have some cross-examination here, I take it?

MR. TALKIN: Not extensive though.

(Recess taken.)

(In open court; jury present.)

THE COURT: All right. Mr. Balfour, let's continue.

MR. EDWARDS-BALFOUR: Can we please pull up what's in evidence as Government Exhibit 795.

DIRECT EXAMINATION (Continued)

BY MR. EDWARDS-BALFOUR:

Q You see this is an account statement for R.R. Franklyn Avenue at Popular Bank, Mr. Anormaliza?

A Yes.

MR. EDWARDS-BALFOUR: Can we go down to page 3.

Q Okay. Do you see on August 17th, that's when the loan money hit the account?

A Yes.

MR. EDWARDS-BALFOUR: And just -- can you scroll down a little, same page.

Q Do you see just below that, on August 18th, there seems to be an account balance inquiry on August 18th there in Brooklyn, is that correct?

A Yes.

Q Did you check the bank at that time?

A Yes.

Q Okay. And that's when you found out that the money was there?
A Yes.
MR. EDWARDS-BALFOUR: Let me go down to the next page, please. All right. Let's take this down.
Q So we just saw on August 19th, you had -- on August 18th, money had come in the account and on August 19th, you checked the balance, is that right?
A Yes.
Q On August 19th, did you also go to the bank and take out money from your account?
A Yes.
MR. EDWARDS-BALFOUR: Okay. Can we please pull up what's in evidence as Government Exhibit 514-H.
Q Do you recognize this place?
A Yes.
Q What do you recognize it as?
A The bank, Banco Popular.
Q Okay. On the bottom right, it tells it's August 19, 2020, at 13:09.
MR. EDWARDS-BALFOUR: Can we please play the video.
(Video played.) (Video stopped.)
Q Did you recognize anyone in the video there?
A Yes.
Q Who did you recognize?

A Myself.
Q What were you wearing?
A A green shirt.
Q And where did you go?
A To the Charlene's booth.
MR. EDWARDS-BALFOUR: Can we please pull up Government Exhibit 514-I.
Q This is a little bit after the last video. Do you see that?
A Yes.
MR. EDWARDS-BALFOUR: Okay. Can we please play this video which is at three times the normal speed.
(Video plays.)
Q And while this video is playing, where are you seated?
A Straight ahead. Right here.
Q Okay. And what are you doing right there?
A On my phone waiting.
Q And were there times when you were also meeting with Charlene at that moment?
A Yes.
Q Is this a day when you had to sign documents as well?
A Yes.
Q Do you recall what you and Charlene were talking about?
A I do not.
Q Now, someone just got up from -- that was sitting with

you and went somewhere else. Did you see that?
A Yes.
Q Who was that?
A Charlene.
Q And where did she go?
A To speak with Anuli.
Q And Charlene's the one that's in the blue shirt?
A Yes.
Q So right now, you're seated in the cubicle on the right and you're saying Charlene is sitting in the cubicle on the left of this exhibit talking to Anuli?
A Correct.
Q And when you would go and talk to Charlene, were there times when she would go and talk to Anuli like this?
MR. TALKIN: Objection to the leading, Your Honor.
THE COURT: Sustained.
Q Were there ever times when you talked to Charlene when she would get up and leave to speak with someone else?
A Yes.
MR. TALKIN: Same objection.
THE COURT: Sustained.
(Video stopped.)
MR. EDWARDS-BALFOUR: Okay. Sam, we can take this one down.
Can we please put up Exhibit 514-M, as in "Mary" --

sorry -- 514-L, as in "Larry."

Can we please play this one.

(Video plays.)

Q This is the same day. This is a little later in time from the last message. Do you see that?

A Yes.

MR. EDWARDS-BALFOUR: Same thing. Let's press the fast forward on it a little bit.

Q And the person that's on the bottom image there, is that Charlene?

A Yes.

Q And are you still seated in the same chair?

Looking at the screen on the bottom -- I know there's two images, they're both approximately the same time, but looking at the screen on the bottom, are you still seated in the same chair in Charlene's cubicle area?

A Yes.

Q Mr. Anormaliza, during times like this, what do you recall doing at this time when you were just sitting by yourself there?

A On my phone.

Q Were you told anything that they were going to be doing while you were sitting there waiting?

A No. I was just waiting there.

Q Did you see yourself just walk there?

A Yes.

Q Where do you recall walking?

A To go put money in the meter.

THE COURT: Is there anything else that's going to happen? We've been watching this for a long time.

MR. AMIR: Just a little bit more.

Right there.

Q Okay. So are you still sitting at Charlene's desk there?

A Yes.

Q Is that Charlene that just came back to you?

A Yes.

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

(Video stopped.)

Q Do you recall how you were paid back then?

A Yes.

Q How were you paid?

A $15,000 in cash.

Q And where were you paid, where in the bank?

A In the bag behind the tellers.

MR. EDWARDS-BALFOUR: Can you please pull up Government Exhibit 514-N. Let's play that.

(Video plays.)

Q In that video, where were you coming from?

A From behind the teller.

Q And was that Charlene that were you saying "bye" to?
A Yes.
Q And then as you walked past Charlene and you were walking towards the exit, you waived again. Who were you waiving to?
A To Anuli.
(Video stopped.)
Q Okay. So when you first started speaking with law enforcement in 2020, do you remember that?
A Yes.
Q And when you first spoke with law enforcement, were you completely truthful about everything about your employees?
A No.
Q And why not?
A Because they were all made up.
Q And why weren't you truthful though?
A I was scared. I didn't know what to say. I was stuck.
Q Did you eventually provide the truth and accurate information to law enforcement?
A Yes.
Q And at some point after you first spoke with law enforcement, did you receive a call or did you speak with Charlene again?
A Yes.
Q And what did you speak about?
A She said that my account was on hold and that they were

investigating my account. If anyone should call, just to say all the employees and everything is legit.

Q Now, I want to show you what's in evidence as Government Exhibit 9.

Do you know who that individual is?

A Yes.

Q Who is that?

A Me.

MR. EDWARDS-BALFOUR: Okay. Now for the witness' eyes only, can we please show what's premarked as Government Exhibit 312.

San, these are the checks. Do you have any objection?

MR. TALKIN: No.

MR. EDWARDS-BALFOUR: Can we have these admitted? Your Honor, Government Exhibit 312, can we admit and publish?

THE COURT: It's not in evidence already?

MR. EDWARDS-BALFOUR: No.

THE COURT: Any objection?

MR. TALKIN: No, Your Honor.

THE COURT: Go ahead. It's in evidence.

(Government Exhibit 312 so marked.)

MR. EDWARDS-BALFOUR: Can we scroll down through all of them.

Q Do you see all those checks that are on the screen?

A Yes.
Q Are all those the checks that you got from August 19, 2020, the same day that we just saw you on the video?
A Yes.
Q And this check right here for $91,600, did all those cashiers checks come out to this amount?
A Yes.
Q And did you write in the "for" line, "Rent plus PPP loan"?
A No.
Q But you signed this check on the right-hand side?
A Yes.
MR. EDWARDS-BALFOUR: No further questions, Your Honor.
THE COURT: Any cross-examination, Mr. Talkin?
MR. TALKIN: Yes.
CROSS-EXAMINATION
BY MR. TALKIN:
Q Good afternoon, Mr. Anormaliza.
A Good afternoon.
Q Toward the end of your cross-examination, you talked about when you were first approached by law enforcement, you told some lies. Do you remember that?
A Yes.
Q And what happened was when they approached you, the first

thing that happened was they asked you whether you really had 28 employees, right?
A No. The first thing they asked me, they had a list, they had a list that they were reading off of and they were like, who's this, who's that, what role did they play, and as, as they were going through each individual name, I would tell them, oh, he's in charge of this, he's in charge of that, she's in charge of this.
Q Thank you.
So what happened was you didn't just say you have 28. They asked you individually about all 28 people or a large number of them?
A Yes. I think more than ten people. They were going down the list.
Q And each time you responded to them with a comment about what they did and what their role was, right?
A Correct.
Q And whether it was he or she each time you did that, that was a lie, right?
A Yes.
Q And then they asked you about kind of similar questions about the W-2s but they did that kind of all at once and you said the W-2s were genuine at the beginning, correct?
A No, they didn't ask me that.
Q They didn't ask you whether or not the W-2s were

accurate?

A Not at that moment, no.

Q During the first time they met you, did they ask you that question?

A No.

Q I believe the first time you met with them was around October 5th of 2022, do you remember that?

A Yes.

Q And during that meeting, do you remember reporting that all the information on the W-2s were accurate as depicted or as written? Do you remember saying that to them?

A Yes.

Q So during the first meeting, what you did is you said the W-2s were accurate, correct?

A Yes.

Q And that also wasn't true, right?

A Correct.

Q Now, you realized that those lies weren't going to hold up very long so you quickly informed the government or, not the government, but the investigators that you were lying to them, right?

A Yes.

Q And you did that because you knew that it wouldn't take very much for anybody to figure out you didn't have 28 employees, would it?

A Correct.
Q And then there came a time, I guess, about a month and a half later where you revisited the list of the 28 employees during a meeting with the government, actually with the government and as well as agents, and you also had a lawyer at that meeting.
Do you remember that?
A Yes.
Q And that meeting was pursuant to what's known as a proffer agreement.
Do you know what that term is? Do you remember that?
A No.
Q Do you remember them saying that anything you say during this meeting won't be used against you, do you remember that?
A Yes.
Q And also during that meeting, before you started, the Assistant United States Attorney said to you, look, the most important thing here is that you tell the truth. Do you remember that discussion?
A Yes.
Q And during that time, they asked you again about the 28 employees and you told them that Charlene had given you those names and information, correct?
A Yes.

Q And that was a lie as well, wasn't it?
A Yes.
Q And you didn't just tell them that Charlene gave them to you; you made up a story that she gave it to you, a list in an envelope that she gave you when you opened the account. Do you remember that?
A Yes.
Q And the reason you added that detail was to make it a believable lie, right?
A Yes.
Q And that was on November 4th, November 24th of 2020 or somewhere around there, late November?
A Yes. Yes.
Q I'm sorry. I didn't mean to cut you off.
A Yes.
Q And after that, you met with the government many other times between then and the end of 2023. Do you remember that?
A Yes, about two times.
Q Two times? And you also had about two or three phone calls with the agents?
A Yes.
Q And during that time, you never corrected that lie that you had told them, right?
A Yes.
Q But you knew you had lied to them about that, right?

A Yes.
Q And you knew that that list was something that they were interested in because they had asked you about it a couple of times already? You knew it was important, right?
A I knew it was important, yes.
Q And then on -- eventually, you talked about a cooperation agreement you entered into and you entered into that on January 28th of 2021, right?
A Yes.
Q And that's the same day you entered the plea of guilty you talked about?
A Yes.
Q And when you entered the cooperation agreement, you understood the terms of the agreement, correct?
A Yes.
Q And the agreement required you to provide truthful and complete information, correct?
A Yes.
Q Prior to signing that agreement, you did not tell the government or any agents that you had lied, made up that lie about where the 28 names came from, did you?
A No.
Q And it was until almost three, over three years or about three full years later, three years later that you eventually told the government that you were, that you had lied about

what you said, that the names came from Charlene, do you remember that?

A Yes. I didn't keep in touch with them during those three years though.

Q But you did have communication with them at the end of 2023, didn't you, and you met with them?

A Yes.

Q And it was a pretty extensive meeting in the end of 2023?

A Yes.

Q And during that meeting, you didn't correct that lie that you had out there, did you?

A No.

Q And finally, in January, late January of 2024, you did correct that lie. You finally said, You know what, I've got to tell you something, I've been lying about that.

Do you remember that?

A Yes.

Q And when you did that, that's when you were sitting at meetings when you knew you were getting ready to testify at trial, right?

A Yes.

Q So you knew that lie was coming out at one point if you didn't clear it up then, right?

A No.

Q You weren't concerned that that lie would be exposed?

A I just wanted to tell the truth.
Q And you just wanted to tell -- you didn't want to tell the truth through all of 2022, right?
A I didn't speak with them that often during that time.
Q That often, but when you did, you didn't fix that problem, right?
A No. I was scared. This was the first time of ever doing something like this.
Q But you had a lawyer at that time, right?
A I did but he was never around.
Q And then had you a long meeting with them at the end of the 2023 and you didn't correct that lie either, did you?
A No.
Q And so it was trial time when you finally decided to correct it, getting close to getting ready for trial?
A Yes.
Q And at that point in time, did the government rip up your cooperation agreement?
A No. No.
Q Did they charge you with a crime of lying to a federal officer?
A No.
Q You knew it was a crime to do that though, right?
A That's why I told the truth, yes.
Q Well, wait a minute.

You know when you met with them numerous times on those proffer agreements, when the government said it's important for you to tell the truth, they also said you understand that lying to a federal officer is a crime, right?
A Yes.
Q And that happened way back before 2021?
A Yes.
Q So in 2022 and 2023, you knew that you had committed a crime of lying to a federal officer, right?
A Yes.
Q You were obligated to tell the government about any lies that you were told -- excuse me. Let me take that back.
You were obligated to tell the government about any crimes you committed while you were their cooperator, correct?
A Yes.
Q And you didn't do that?
A No.
Q And your cooperation didn't get ripped up?
A No.
Q And you sit here today testifying pursuant to a cooperation agreement, right? You said that at the beginning.
A Yes.
Q And you're hoping for a lenient sentence, right?
A Yes.
MR. TALKIN: I have nothing further. Thank you.

THE COURT: Any redirect?

MR. EDWARDS-BALFOUR: Briefly, Your Honor.

REDIRECT EXAMINATION

BY MR. EDWARDS-BALFOUR:

Q Mr. Anormaliza, you were asked about a lot of meetings just now. Do you remember that?

A Yes.

Q At every single meeting, were you asked the same question about the list of employees? Were you asked that at every meeting?

A No.

MR. EDWARDS-BALFOUR: So I want to show -- I'm going to offer Exhibit 303 which is the plea agreement. Any objection?

MR. TALKIN: The cooperation agreement? No objection.

MR. EDWARDS-BALFOUR: I want to put government Exhibit 303 into evidence.

THE COURT: In evidence now.

(Government Exhibit 303 so marked.)

MR. AMIR: That's all. Take it down.

THE COURT: All right. Anything else, Mr. Talkin?

MR. TALKIN: Very quickly, Your Honor. I'm sorry.

RECROSS-EXAMINATION

BY MR. TALKIN:

Q You were just asked about other meetings you had after you had told the lie about the 28 names when you weren't asked specifically about that list or anything or anything about it, right?

A Correct.

Q But before every one of those meetings, the government told you you needed to be truthful, right?

A Yes.

Q And before that, they told you that lying to a federal agent is a crime, right?

A Yes.

MR. TALKIN: Nothing further. Thank you.

THE COURT: Now you may step down.

THE WITNESS: Am I allowed to say something, Your Honor? Can I say something? Am I allowed to say something?

THE COURT: No. You can't say anything now.

THE WITNESS: Okay.

(Witness excused.)

THE COURT: Mr. Edwards-Balfour, I think you told me before that this is your last witness today. Am I correct?

MR. EDWARDS-BALFOUR: Yes, this is the last witness for the day.

THE COURT: I think you have one more witness on Monday, if I remember correctly?

MR. EDWARDS-BALFOUR: That's correct.

THE COURT: And just give the jurors a little bit of a sense about how long you think you would take with that witness.

MR. EDWARDS-BALFOUR: We think we would take the morning and then we expect --

THE COURT: The morning. Then you'll be resting, you anticipate, at the end of the morning?

MR. EDWARDS-BALFOUR: We expect summations and stuff could be in the afternoon.

THE COURT: So, members of the jury, get good rest. You're off tomorrow. You deserve it and we're going to see you Monday at 10 o'clock. It may well be that we may have summations Monday afternoon, we'll see how it goes, but you can pretty much anticipate that I don't think we're going to have any witnesses from the defense.

MR. TALKIN: We're still thinking about it but probably not.

THE COURT: There might be but it may not be. So we'll see what happens but we're getting towards the end.

Have a nice weekend. Don't talk about the case.

See you Monday at 10 o'clock.

(Jury exits.)

THE COURT: The jury is out of the courtroom.

If you have anything you want me to consider in terms of the charge, you can just send it to me tomorrow. I suspect it's not going terribly profound.

As far as the willfulness is concerned, I think we charged, we prepared to charge exactly as the government asked us to do, so I'm not clear about what your problem is.

MR. AMIR: I think we had a different intent standard, at least, as to wire fraud and wire fraud conspiracy. We can check and submit a letter.

THE COURT: You look it over. If you want to send something to me tomorrow, send it and we'll consider it. I think we'll see you on Monday.

Anything else, Mr. Talkin, from you folks?

MR. TALKIN: Not right now. Like we said, if there's any additional charges --

THE COURT: You let me know.

MR. TALKIN: -- we'll send them on to you tomorrow.

THE COURT: All right. See you Monday at 10 o'clock.

(Matter adjourned to June 17, 2024 at 10:00 a.m.)

I N D E X

WITNESSES:

EXHIBITS: