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**UNITED STATES DISTRICT COURT**
**FOR THE NORTHERN DISTRICT OF GEORGIA**
**ATLANTA DIVISION**

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| UNITED STATES OF AMERICA, | ) | |
| | ) | |
| | ) | |
| -VS- | ) | DOCKET NO. 1:20-CR-00296-JPB |
| | ) | VOLUME 4 (PM SESSION) |
| CARLA JACKSON AND | ) | |
| TELDRIN FOSTER, | ) | |
| | ) | |
| DEFENDANTS. | ) | |

**TRANSCRIPT OF JURY TRIAL PROCEEDINGS**
**BEFORE THE HONORABLE J.P. BOULEE**
**UNITED STATES DISTRICT JUDGE**
**FEBRUARY 8, 2024**

**APPEARANCES:**

**ON BEHALF OF THE GOVERNMENT:**
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SAMIR KAUSHAL, ESQ.
BABASIJIBOMI MOORE, ESQ.
ASSISTANT UNITED STATES ATTORNEYS

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LEIGH ANN WEBSTER, ESQ.
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**ON BEHALF OF THE DEFENDANT - CARLA JACKSON:**
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UNITED STATES DISTRICT COURT
ATLANTA, GEORGIA

# I N D E X

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(PROCEEDINGS HELD IN OPEN COURT AT 1:44 PM, ATLANTA, GEORGIA)

THE COURT: Y'all can be seated. Let's bring out the jury.

MS. CHAIKEN: Your Honor?

THE COURT: One moment.

Yes.

MS. CHAIKEN: We have another witness whose testimony we anticipate being brief who has a scheduling conflict. His flight is leaving tomorrow morning at 11:45 a.m. We've discussed with defense counsel putting him up after Agent Stites's direct and before his cross, if the Court is amenable to that.

Everybody consents?

MR. MARSHALL: Yes, Judge.

MS. WEBSTER: Yes.

THE COURT: Yeah, that's fine.

MS. CHAIKEN: He's on his way. We've asked him to come as soon as he can to the courthouse.

THE COURT: No problem.

(The jury entered the courtroom at 1:45 p.m.)

THE COURT: Off the record.

(Off-the-record discussion.)

THE COURT: Y'all can be seated. Thank you.

Ladies and gentlemen of the jury, I hope you had a wonderful lunch and that you're enjoying our delightful

federal courthouse cafeteria as much as I do.

All right. Ms. Chaiken, you have the floor.

MS. CHAIKEN: Thank you, Your Honor.

DIRECT EXAMINATION

BY MS. CHAIKEN:

**Q.** All right. Agent Stites, we are going to move on to talking about Infinite Education Services, okay?

**A.** Okay.

**Q.** Is that another one of the PPP loans involved in your investigation?

**A.** It is.

MS. CHAIKEN: Could you please publish Government Exhibit 2431.

BY MS. CHAIKEN:

**Q.** What's 2431?

**A.** This is an e-mail from Teldrin Foster iCloud account to Darrell Thomas on April 27, 2020, at 3:29 p.m. And it's a forward of a message from Teldrin Foster Yahoo! account to Teldrin Foster iCloud account. The subject is Infinite.

MS. CHAIKEN: And could you please publish 2431C and D side by side.

BY MS. CHAIKEN:

**Q.** Are these 941s that were attached to Mr. Foster's e-mail?

**A.** Yes.

**Q.** And then are these 941s stamped?

**A.** No, they're not.

**Q.** Do they include the same numbers that we looked at earlier for all of the businesses that submitted identical forms?

**A.** Yes.

MS. CHAIKEN: Could you please publish 2413A and 2431B side by side.

BY MS. CHAIKEN:

**Q.** Is 2431B a 940 that Teldrin Foster sent to Darrell Thomas?

**A.** Yes.

**Q.** And is 2413A a 940 that was prepared for Bellator Phront Group?

**A.** Yes, it is.

**Q.** And are the numbers on those documents identical?

**A.** They're identical.

**Q.** Was anything changed?

**A.** Just the information changed to Infinite Education Services and the EIN number and then the address information for Infinite Education Services.

MS. CHAIKEN: If you could please publish Government Exhibit 2436. And if you could pull that out, please. Thank you.

BY MS. CHAIKEN:

**Q.** What's Government Exhibit 2436?

**A.** It's an e-mail from Teldrin Foster iCloud account to Darrell Thomas on April 28th, 2020, at 1:13 a.m. It's a forward of a message from Utwuan Cooper to Teldrin Foster iCloud account.

**Q.** And, again, did you speak to Teldrin Foster about Utwuan Cooper in your interview?

**A.** Yes.

**Q.** And does Teldrin Foster know Utwuan Cooper?

**A.** He does.

MS. CHAIKEN: And if you could scroll down.

BY MS. CHAIKEN:

**Q.** Was there an attachment embedded within the e-mail?

**A.** Yes.

**Q.** And what was that?

**A.** It's a Form 941 for 2020, first quarter for Infinite Education Services, Inc. It shows 66 employees. And the wages were 959,946.42. And it does have stamps on it.

**Q.** And what quarter did you say this was for?

**A.** The first quarter.

**Q.** Of 2020?

**A.** Of 2020.

**Q.** Okay. So it ended in March of 2020?

**A.** Yes.

**Q.** What was the date of the stamp on the form?

**A.** It says April 22nd of 2019.

**Q.** So is it stamped as being received before the quarter even ended?

**A.** Yes.

MS. CHAIKEN: If you could please publish 2318 and 2318A side by side. And if you could pull out that second message, please, Ms. Holland.

BY MS. CHAIKEN:

**Q.** Was this a document that Darrell Thomas sent to Teldrin Foster on May 5th of 2020?

**A.** Yes.

**Q.** What was the document?

**A.** It is a document from Internal Revenue Service to Infinite Education Services, Inc., a letter thanking them for the inquiry on March 29th, 2017, and providing an EIN number.

MS. CHAIKEN: If you could please go to 2445 and 2445G.

BY MS. CHAIKEN:

**Q.** Is this the same e-mail we've looked at with the identical payroll spreadsheets for various businesses?

**A.** Yes.

**Q.** Was there a spreadsheet for Infinite Education?

**A.** Yes.

**Q.** Again, was this that spreadsheet that used the template that was created by Gena Pyfrom-Foster for Bellator?

**A.** Yes.

MS. CHAIKEN: Could you please publish 2332, page 2.

BY MS. CHAIKEN:

**Q.** And could you please just read the conversation to the jury.

**A.** So Darrell Thomas says, Resend Infinite 941 forms.

And Teldrin Foster replied, SMH, or shaking my head.

**Q.** And what was the date of those messages?

**A.** 6/16/2020.

**Q.** At this point in time had Darrell Thomas already begun communicating directly with Gena Pyfrom-Foster via WhatsApp?

**A.** Yes.

**Q.** And who did Darrell Thomas send this WhatsApp message to when he wanted the Infinite 941 forms to be re-sent?

**A.** To Teldrin Foster.

MS. CHAIKEN: Could you please publish 2513.

BY MS. CHAIKEN:

**Q.** And tell me what that exhibit is?

**A.** It's an e-mail from Teldrin Foster Yahoo account to Darrell Thomas on June 25th, 2020, at 12:58 a.m.

**Q.** And what did that e-mail attach?

**A.** It attached payroll reports for Infinite Education Services, 941s for 2019 and a -- let's see. That's it.

MS. CHAIKEN: Could you please publish 2513C.

BY MS. CHAIKEN:

**Q.** Is this the payroll spreadsheet that was sent by Teldrin

Foster at Yahoo?

**A.** Yes.

**Q.** Did it change the amount of the payroll from the spreadsheet that had previously been sent by Teldrin Foster at iCloud?

**A.** Yes.

**Q.** Did it change the names?

**A.** Yes.

**Q.** And did this happen in June after Gena Pyfrom-Foster started communicating directly with Darrell Thomas via WhatsApp?

**A.** Yes.

MS. CHAIKEN: Could you please publish 2513F.

BY MS. CHAIKEN:

**Q.** Is this one of the Form 941s that the Yahoo account sent?

**A.** Yes, it is.

**Q.** And are the numbers on this 941 different from the numbers that teldrinfoster@icloud had previously sent?

**A.** Yes.

**Q.** Was this document stamped?

**A.** No.

MS. CHAIKEN: Could you go to 2474, please.

I'm sorry, before we get to 2474.

Your Honor, I'm going to --

Can you go back to 2513 real quick, please.

Okay. I'm going to move to admit 2348, which was previously authenticated by Candace Hunter.

MS. WEBSTER: No objection.

THE COURT: Mr. Marshall?

MR. MARSHALL: Yes, Judge, I'm pulling it up.

Okay. No objection.

THE COURT: It's admitted.

MS. CHAIKEN: Thank you.

Ms. Holland, could you please publish 2348.

BY MS. CHAIKEN:

**Q.** Is this a WhatsApp message from Darrell Thomas to Gena Pyfrom-Foster?

**A.** Yes.

**Q.** Okay. And what did Darrell Thomas say in the first message?

**A.** Good morning. Sounds great.

**Q.** What's the date of these messages?

**A.** 6/25 of 2020.

**Q.** Is that the same date that the Yahoo account sent the Infinite Education documents?

**A.** Yes.

**Q.** And what did Gena Pyfrom-Foster say?

**A.** Okay. Did you get the three from yesterday?

**Q.** What did Darrell Thomas say?

**A.** Yeah, just waiting on him to knock the stamps out.

MS. CHAIKEN: Could you pull that message out, please, Ms. Holland.

BY MS. CHAIKEN:

**Q.** He said, Yeah, just waiting on him to knock the stamps out?

**A.** Yes.

MS. CHAIKEN: If you could please publish 2474.

BY MS. CHAIKEN:

**Q.** What's 2474?

**A.** It's an e-mail message from Teldrin Foster iCloud account to Darrell Thomas on June 26th, 2020, at 1:40 a.m.

**Q.** Is that late at night after the messages we just looked at?

**A.** Yes.

**Q.** Did this e-mail come from the iCloud account?

**A.** It did.

MS. CHAIKEN: And if you could please publish 2474A and B.

BY MS. CHAIKEN:

**Q.** Were these two of the attachments that were included in that e-mail from the iCloud account?

**A.** Yes.

**Q.** And were they Form 941s for Infinite Education Services?

**A.** Yes.

**Q.** Did these have stamps on them?

**A.** They do.
**Q.** So did this loan follow the same pattern where the iCloud account sent identical documents, then the Yahoo account changed those documents and the iCloud account stamped them?
**A.** Yes.
**Q.** Okay. Let's move on to Advertising and Then Some. Is that the name of a business that was involved in your investigation?
**A.** Yes.

MS. CHAIKEN: Could you please publish 2441.

BY MS. CHAIKEN:
**Q.** What's 2441?
**A.** It's an e-mail from Teldrin Foster iCloud account to Darrell Thomas on May 6th, 2020, 11:12 p.m. And its subject is Advertising.

MS. CHAIKEN: If you could please publish 2441A and B side by side.

BY MS. CHAIKEN:
**Q.** Were these two of the attachments that were included in the e-mail?
**A.** Yes.
**Q.** What were those attachments?
**A.** Form 941s for 2019, quarter 3 and quarter 4, for Advertising and Then Some, Inc.
**Q.** Did these forms have the same numbers as the set of

numbers we've looked at earlier?

**A.** Yes.

MS. CHAIKEN: If you could go to 2447, please.

BY MS. CHAIKEN:

**Q.** What's 2447?

**A.** It's an e-mail from Teldrin Foster iCloud to Darrell Thomas on May 8th, 2020, at 12:51 a.m. And the subject is Advertising and Then Some.

MS. CHAIKEN: If you could please put 2447A side by side with 2445D.

BY MS. CHAIKEN:

**Q.** Is 2447 the payroll spreadsheet that was attached to the iCloud e-mail for Advertising and Then Some?

**A.** Yes.

**Q.** And is 2445D the payroll spreadsheet we looked at earlier for Gaines Reservation & Travel?

**A.** It is.

**Q.** Are they the same or different?

**A.** They are the same except for the company name.

**Q.** And the -- are the employee names different as well?

**A.** And the employee names, yes.

MS. CHAIKEN: Could you please publish 2322.

BY MS. CHAIKEN:

**Q.** Is this a series of messages from Darrell Thomas to Teldrin Foster on May 12th of 2020?

**A.** Yes, it is.

**Q.** And looking at the page, what did Darrell Thomas send to Teldrin Foster?

**A.** Sending a business name, a QuickBooks login, letter of incorporation, EIN, DL front and back, voided check, business card, utility bill. It's a listing of things that were going to be needed for the businesses.

**Q.** And looking down below, is there additional information listed for more businesses?

**A.** Yes.

MS. CHAIKEN: And if you could scroll down, Ms. Holland.

BY MS. CHAIKEN:

**Q.** Was there a long list of businesses?

**A.** Yes.

**Q.** Do you see Continuing Success on there in the middle?

**A.** Yes.

**Q.** Is that one of the businesses we've talked about?

**A.** Yes.

MS. CHAIKEN: Okay. And if you could go up a little bit. Right there.

BY MS. CHAIKEN:

**Q.** Do you see Advertising and Then Some?

**A.** Yes, I do. Right at the bottom of the -- where the government exhibit sticker is.

MS. CHAIKEN: If you could go to 2512, please.

BY MS. CHAIKEN:

**Q.** What's 2512?

**A.** It's an e-mail from Teldrin Foster Yahoo account to Darrell Thomas on June 15, 2020, at 9:20 p.m. And the subject is Advertising and Then Some.

**Q.** And what did that e-mail attach?

**A.** Several 941s for 2019 and the first quarter of 2020. And then payroll reports for 2019 and 2020.

MS. CHAIKEN: And if you could go to 2512D and 2512E.

BY MS. CHAIKEN:

**Q.** Are these two of the attachments that were attached to the Yahoo e-mail?

**A.** Yes.

**Q.** And did these -- did these numbers in these documents change from what Teldrin at iCloud had previously sent?

**A.** Yes.

**Q.** Was the 941 form stamped?

**A.** No.

MS. CHAIKEN: If you could please go to 2472.

BY MS. CHAIKEN:

**Q.** What's 2472?

**A.** It's an e-mail from Teldrin Foster iCloud to Darrell Thomas, June 16th, 2020, at 5:37 a.m. And the subject is Some, Inc.

**Q.** Is this the day -- is this sent after the Yahoo e-mail?

**A.** Yes.

MS. CHAIKEN: Could you please publish 2472A and 2472B.

BY MS. CHAIKEN:

**Q.** Were these two of the forms that were attached to the iCloud e-mail to Darrell Thomas?

**A.** Yes.

**Q.** And were these forms stamped?

**A.** Yes, they were.

MS. CHAIKEN: Ms. Holland, if you could blow up the first half -- the top half of 2472B.

BY MS. CHAIKEN:

**Q.** What quarter was this 941 for?

**A.** What -- say it again.

**Q.** I'm sorry. What quarter was it for?

**A.** Quarter. The fourth quarter.

**Q.** Which months are those?

**A.** October, November, December.

**Q.** So when did the fourth quarter of 2019 end?

**A.** December 31st.

**Q.** Of 2019?

**A.** 2019.

**Q.** And do you see the stamp there in the middle of the page?

**A.** I do.

**Q.** And what date is listed on that stamp?

**A.** 10/21/2019.

**Q.** Is it stamped as if it was received before the quarter ended?

**A.** Yes.

MS. CHAIKEN: If you could please go to 2336. And if you could blow up that green message, please, Ms. Holland.

BY MS. CHAIKEN:

**Q.** Did Darrell Thomas message anybody about the mistake in the stamp?

**A.** Yes.

**Q.** Who did he message?

**A.** Teldrin Foster.

**Q.** And what did he say?

**A.** And fourth quarter Advertising you have to put the 2020 stamp on it.

**Q.** At this point in time was Darrell Thomas already communicating via WhatsApp with Gena Pyfrom-Foster?

**A.** Yes.

**Q.** If he wanted Gena Pyfrom-Foster to fix the stamp, could he have messaged her?

**A.** Yes.

**Q.** What was the date and time of this e-mail?

**A.** It would be 6/27/2020. And if you take it back the four hours, then it would have been 6/26/2020.

**Q.** Okay. So June 26th, 2020, at about 8:05?

**A.** 8:05.

MS. CHAIKEN: Okay. If you could please publish 2477 and 2477A.

BY MS. CHAIKEN:

**Q.** What's 2477?

**A.** It's an e-mail from Teldrin Foster iCloud account to Darrell Thomas on June 27th, 2020, at 1:25 a.m. Subject is Advertising.

**Q.** And is that a few hours after the WhatsApp message we just looked at?

**A.** Yes.

**Q.** What was the attachment?

**A.** The Form 941 for 2019 fourth quarter for Advertising and Then Some, with a corrected stamp.

**Q.** Okay. So the stamp now is a 2020 date?

**A.** Now the stamp's at 2020. It's January 24th, 2020.

**Q.** Okay. So Darrell Thomas WhatsApped Teldrin Foster to say you need a 2020 stamp. And then the iCloud account sent a Form 941 with a 2020 stamp?

**A.** Yes.

**Q.** Let's talk about D. Parker Holdings. Is that another business that was involved in your investigation?

**A.** Yes.

MS. CHAIKEN: Could you please publish 2322, page 2.

BY MS. CHAIKEN:

**Q.** Is this the list of businesses we were looking at before?

**A.** Yes.

**Q.** Was D. Parker on that list down towards the bottom?

**A.** Yes. Yes. Right -- kind of a little bit lower than the middle.

**Q.** Did Darrell Thomas send the list of various documents?

**A.** Yes.

MS. CHAIKEN: Could you please publish 2324 and 2324A.

BY MS. CHAIKEN:

**Q.** Did Darrell Thomas send Teldrin Foster an image on the late night of May 16th, 2020?

**A.** Yes, he did.

**Q.** What was that image?

**A.** An image that had a business name of D. Parker Holdings with the address for D. Parker Holdings, a contact name of Derek Parker, a phone number for Derek Parker, or for the D. Parker Holdings, and then the EIN.

MS. CHAIKEN: Could you please go to 2464.

BY MS. CHAIKEN:

**Q.** Is this an e-mail from the iCloud account to Darrell Thomas?

**A.** Yes.

**Q.** And is it sent on May 17th, 2020, at 3:24 a.m.?

**A.** It is.

**Q.** Was that shortly after the WhatsApp message we just looked at?

**A.** Yes.

MS. CHAIKEN: If you could go to 2464B and C, please.

BY MS. CHAIKEN:

**Q.** What were the attachments?

**A.** Form 941s for 2019, the fourth quarter and the third quarter, for D. Parker Holdings.

**Q.** And did these 941s have the same numbers as forms we've been looking at?

**A.** Yes, these are the ones that are exactly the same.

MS. CHAIKEN: Could you please go to 2329 and 2329A.

BY MS. CHAIKEN:

**Q.** Down at the bottom, the bottom message on the right, did Darrell Thomas send Teldrin Foster a document?

**A.** Yes.

**Q.** What was that document?

**A.** A Bank of America bank statement for D. Parker Holdings for the month of February 2020, with an account number ending in 1920.

**Q.** Did you get bank records for this bank account?

**A.** Yes.

**Q.** Was this a real bank statement?

**A.** No.

**Q.** And in your review of the WhatsApp messages between Darrell Thomas and Teldrin Foster, did you see anything that would explain why they were exchanging documents related to all these businesses other than PPP program?

**A.** No.

MS. CHAIKEN: Could you go to 2467, please.

BY MS. CHAIKEN:

**Q.** What's 2467?

**A.** It's an e-mail from Teldrin Foster iCloud account to Darrell Thomas on June 4th, 2020, at 12:55 a.m.

**Q.** Okay. And is this just about one day before Gena Pyfrom-Foster and Darrell Thomas started communicating via WhatsApp?

**A.** Yes.

MS. CHAIKEN: Could you do 2445D side by side with 2467A, please.

BY MS. CHAIKEN:

**Q.** Is 2467A what Teldrin at iCloud sent to Darrell Thomas on June 4th?

**A.** Yes.

**Q.** And is 2445D the payroll spreadsheet we looked at before for Gaines Reservation & Travel?

**A.** Yes.

**Q.** Are the numbers the same?

**A.** Numbers are the same.

**Q.** Are the names the same?

**A.** The names are different.

**Q.** And is the business name the same?

**A.** The business name is different.

**Q.** Okay. So used the same numbers, different names?

**A.** Yes.

MS. CHAIKEN: Could you go to 2508, please.

BY MS. CHAIKEN:

**Q.** What's the date of this e-mail?

**A.** June 8th, 2020, at 7:39 p.m.

**Q.** And who is it from and to?

**A.** teldrin_foster@yahoo to Darrell Thomas. And the subject is D. Parker Holdings, Inc.

**Q.** And is this document -- is this e-mail about four days after the e-mail we just looked at from the iCloud account?

**A.** Yes.

**Q.** And is this e-mail after Gena Pyfrom-Foster started communicating with Darrell Thomas via WhatsApp?

**A.** Yes.

MS. CHAIKEN: Could you go to 2508H side by side with 2467A, please.

BY MS. CHAIKEN:

**Q.** Is 2467A on the right the payroll spreadsheet that the Teldrin iCloud account sent to Darrell Thomas?

**A.** Yes.

**Q.** And is 2508H on the left the payroll document that Teldrin at Yahoo sent to Darrell Thomas?

**A.** Yes.

**Q.** Did the numbers change in them?

**A.** Yes.

**Q.** Did the names change?

**A.** Yes.

**Q.** Is this the same pattern where the iCloud account prepared the documents and then the Yahoo account came in and changed them?

**A.** Yes.

**Q.** Let's go to ML Exotic Customs.

MS. CHAIKEN: Could you publish 2511, please.

BY MS. CHAIKEN:

**Q.** What's Government Exhibit 2511?

**A.** It's an e-mail from Teldrin Foster Yahoo account to Darrell Thomas on June 14th, 2020, at 8:02 p.m. And the subject is ML Exotic Customs.

**Q.** And this was after Darrell Thomas and Gena Pyfrom-Foster were in communication?

**A.** Yes.

MS. CHAIKEN: If you could go to 2511E, please.

BY MS. CHAIKEN:

**Q.** Was this one of the attachments to the Yahoo e-mail?

**A.** Yes.

**Q.** And was it a 941 for 2019?
**A.** Yes, it is.
**Q.** Was it stamped?
**A.** No.

MS. CHAIKEN: If you could go back to 2511.

BY MS. CHAIKEN:

**Q.** What was the date on that e-mail?
**A.** June 14th, 2020, at 8:02 p.m.

MS. CHAIKEN: If you could go to 2332, please. And if you could pull out the big green message, please.

BY MS. CHAIKEN:

**Q.** What did Darrell Thomas text to Teldrin Foster on the late night of June 15th, 2020?
**A.** What's the ETA on ML Customs?
**Q.** Okay. And was that about 8:28 p.m. June 15th?
**A.** Approximately, yes.

MS. CHAIKEN: Could you please publish 2471.

BY MS. CHAIKEN:

**Q.** And what's 2471?
**A.** An e-mail from Teldrin Foster iCloud to Darrell Thomas on June 16th, 2020, at 4:14 a.m. Subject is ML Exotic Custom.
**Q.** Was that a few hours after the WhatsApp message we just saw?
**A.** Yes.

MS. CHAIKEN: And if you could please publish 2471A

and B.
BY MS. CHAIKEN:
**Q.** Were these the attachments to the e-mail from the iCloud account?
**A.** Yes, they are.
**Q.** And this time were the Form 941s stamped?
**A.** Yes, they were.
**Q.** So the Yahoo account sent the 941s -- Darrell Thomas sent a message on WhatsApp to Teldrin Foster and then the iCloud account sent the stamped documents?
**A.** That's correct.
**Q.** All right. Is another loan involved in your investigation Bellevie?
**A.** Yes.
MS. CHAIKEN: Could you please publish 2333 and 2333A. If you could pull out that message at the top right corner, please.
BY MS. CHAIKEN:
**Q.** What did Darrell Thomas send to Teldrin Foster on June 23rd, 2020?
**A.** A Paycheck Protection Program borrowing application for Bellevie Corp.
**Q.** And at this point in time on June 23rd, 2020, was Darrell Thomas already in direct communication via WhatsApp with Gena Pyfrom-Foster?

**A.** Yes.

**Q.** Could he have sent this to her?

**A.** He could have.

MS. CHAIKEN: Could you please go to 2514.

BY MS. CHAIKEN:

**Q.** What was 2514?

**A.** It's an e-mail from teldrin_foster@yahoo to Darrell Thomas on June 26th, 2020, at 12:08 a.m.

**Q.** And did it attach payroll spreadsheets and 941s for Bellevie?

**A.** Yes.

MS. CHAIKEN: If you could publish 2514G, please.

BY MS. CHAIKEN:

**Q.** Is this one of the 941s that was attached to the e-mail?

**A.** Yes.

**Q.** Were the 941 forms stamped?

**A.** No.

MS. CHAIKEN: Could you go to 2475, please.

BY MS. CHAIKEN:

**Q.** What's 2475?

**A.** An e-mail from Teldrin Foster iCloud account to Darrell Thomas on June 26th, 2020, at 7:38 a.m.

MS. CHAIKEN: If you could please publish 2475A and B. And if you could scroll down on 2475A, please.

BY MS. CHAIKEN:

**Q.** Were these two of the attachments to the iCloud e-mail?
**A.** Yes.
**Q.** And were they 941 forms?
**A.** Yes.
**Q.** Were they stamped?
**A.** Yes.
**Q.** Did this loan follow the same pattern where the Yahoo account sent the documents and then the iCloud account stamped them?
**A.** Yes.
**Q.** Finally let's talk about Mickies Auto and Tire. Is that another loan that was involved in your investigation?
**A.** Yes.

MS. CHAIKEN: Could you please publish 2516.

BY MS. CHAIKEN:

**Q.** What is 2516?
**A.** It's an e-mail from teldrin_foster@yahoo account to Darrell Thomas. And the subject is Mickies Auto and Tire, LLC.
**Q.** Did it attach payroll spreadsheets and 941s?
**A.** Yes.

MS. CHAIKEN: Could you go to 2516E, please.

BY MS. CHAIKEN:

**Q.** Is this one of the 941s that was attached to the e-mail?
**A.** Yes.

**Q.** Was it stamped?

**A.** No.

MS. CHAIKEN: Could you go to 2479, please.

BY MS. CHAIKEN:

**Q.** What's 2479?

**A.** That's an e-mail from Teldrin Foster iCloud account to Darrell Thomas on June 30th, 2020, 11:11 p.m. And the subject is Mickies.

MS. CHAIKEN: And if you could go to 2479A and B, please.

BY MS. CHAIKEN:

**Q.** Were these two of the attachments to the iCloud e-mail?

**A.** Yes.

**Q.** Were they Form 941s?

**A.** Yes.

**Q.** And were these copies of the 941s stamped?

**A.** Yes, they were.

**Q.** Of the 14 businesses that we've just talked about, is Mickies Auto and Tire the only one that you didn't see referenced in the WhatsApp communications between Darrell Thomas and Teldrin Foster?

**A.** Yes.

**Q.** Did it follow the same pattern where the Yahoo account sent the documents and then the iCloud account sent the stamped documents?

**A.** Yes, that's correct.

MS. CHAIKEN: Is 2348 in?

MS. HOLLAND: Yes.

MS. CHAIKEN: Could we please publish 2300, page 388, side by side with 2348.

BY MS. CHAIKEN:

**Q.** On the left side, 2300, page 388, is that a string of WhatsApps between Darrell Thomas and Teldrin Foster?

**A.** Yes.

**Q.** And on the right side, is that a string of WhatsApp messages between Darrell Thomas and Gena Pyfrom-Foster?

**A.** Yes.

**Q.** Were both of these messages -- message strings on the same date, June 25th of 2020?

**A.** Yes.

**Q.** And if Darrell Thomas wanted to be communicating with Gena Pyfrom-Foster at this time, could he have -- would he have messaged her?

**A.** Yes.

**Q.** And if he wanted to communicate with Teldrin Foster, would he have messaged Teldrin Foster?

**A.** Yes.

**Q.** When you reviewed the WhatsApp messages between Darrell Thomas and Teldrin Foster on the one hand and Darrell Thomas and Gena Pyfrom-Foster on the other hand, did you notice a

difference in communication styles between them?

**A.** Yes.

**Q.** Can you describe those?

**A.** Gena Pyfrom-Foster's messages with Darrell Thomas are a little more verbose, you know, full sentences, a lot of punctuation, capitalization. And even the -- even Darrell Thomas's responses are a little more, you know, full sentence-type structure; where the communication between Mr. Foster and Darrell Thomas is more maybe traditional, sort of short text messages, shortened words. You know, there's curse words and stuff in the language, not really punctuating or creating, you know, full sentences, but just very shortened, to-the-point sort of messaging.

MS. CHAIKEN: Your Honor, I'm going to move to admit 2350, which was authenticated by Candace Hunter.

MS. WEBSTER: No objection.

MR. MARSHALL: No objection.

THE COURT: It's admitted.

MS. CHAIKEN: Thank you.

Could you publish 2350, please.

BY MS. CHAIKEN:

**Q.** Is this a string of text messages between Darrell Thomas and Gena Pyfrom-Foster?

**A.** Yes.

**Q.** Okay. And can you just describe what you saw in the

language that you were using now that -- the language that you were describing now that you have this exhibit in front of you?

**A.** Yes. Just on -- on Darrell Thomas's message, he's writing pretty long, you know -- long sentences with punctuation. And then when you get to the Gena response, she's responding in longer sentences and clear words, not shortened words with punctuation.

MS. CHAIKEN: If you could go down to page 2.

BY MS. CHAIKEN:

**Q.** Did Darrell Thomas say to Gena Pyfrom-Foster, Yeah, if it isn't too much trouble --

**A.** Yes.

**Q.** -- in that message at the top?

**A.** Yes.

**Q.** Did you ever see him say anything like that when he was talking to Teldrin Foster?

**A.** No.

**Q.** Did Darrell Thomas speak differently to Gena Pyfrom-Foster than to Teldrin Foster?

**A.** Yes.

**Q.** Based on your review of all the evidence we've looked at and the e-mails and the messages, did you determine that after Gena Pyfrom-Foster began communicating directly with Darrell Thomas via WhatsApp, that Teldrin Foster stayed involved and

also continued working with Darrell Thomas?
**A.** Yes.
**Q.** Based on your review of the phone calls, did they continue talking on the phone every day or nearly every day during that period?
**A.** Yes.
**Q.** Based on your review of the WhatsApp messages between Teldrin Foster and Darrell Thomas, was there anything else the two of them could have been talking about daily other than the PPP program?
**A.** No.
**Q.** In your interview with Teldrin Foster, did he tell you how much money he got from Darrell Thomas since April of 2020?
**A.** Yes. He said between 50 and $60,000.

MS. CHAIKEN: Ms. Holland, could you publish 2250G, please.

(Government Exhibit 2250G published.)

MS. CHAIKEN: And if you could go to 2879, please.

BY MS. CHAIKEN:
**Q.** Is this the check we looked at earlier that Teldrin Foster got from Bellator Phront Group?
**A.** Yes.
**Q.** What did the memo line say?
**A.** Roswell Road office.
**Q.** Did you ever see anything in their conversations about a

Roswell Road office?

**A.** No.

MS. CHAIKEN: Could you go to 2871, page 2, please.

BY MS. CHAIKEN:

**Q.** Was this the bank statement for Teldrin Foster that we looked at earlier?

**A.** Yes.

**Q.** And do you see the deposit there of the $34,500 check?

**A.** I do.

MS. CHAIKEN: If you could scroll down to page 3, Ms. Holland.

BY MS. CHAIKEN:

**Q.** What kind of transactions were in the account after that?

**A.** A little bit of cash withdrawal and a lot of Cash App payments and Zelle payments. A little bit of purchasing.

MS. CHAIKEN: If you could go to 2872, page 2, please.

BY MS. CHAIKEN:

**Q.** Is this the account statement for Teldrin Foster for the following month, June 11th, 2020, to July 10th of 2020?

**A.** Yes.

**Q.** And what kinds of transactions were there in the account that month?

**A.** Same sort of thing, purchases at retail stores, Zelle transfers, some cash withdrawals, Cash App.

**Q.** In your investigation did you get bank records for Gena Pyfrom-Foster's bank account at Bank of America?

**A.** Yes.

MS. CHAIKEN: Your Honor, I'll move to admit Government's Exhibits 2940 through 2943, pursuant to Rule 902.11.

MS. WEBSTER: No objection.

MR. MARSHALL: No objection, Judge.

THE COURT: It's admitted. One moment.

MR. MARSHALL: No objection, I'm sorry.

THE COURT: Oh. Ms. Lee is indicating that she had those admitted yesterday already.

MS. CHAIKEN: Okay.

THE COURT: They're either admitted now or admitted twice now then.

Ladies and gentlemen of the jury, those are definitely in.

MS. CHAIKEN: I was not trying to sneak them in, Your Honor.

THE COURT: I understand.

MS. CHAIKEN: Okay. Could we publish 2943, please.

THE COURT: The record will reflect laughter in the courtroom. That was all a joke. Nobody was being serious.

BY MS. CHAIKEN:

**Q.** Okay. What is 2943?

THE COURT: The documents are in.

THE WITNESS: It is a check from Bellator Phront Group to Pyfrom Exclusive Consulting on 6/11/2020 for $10,560. And the memo line says, Payroll services accounting.

MS. CHAIKEN: Could you please publish Government Exhibit 2940.

BY MS. CHAIKEN:

**Q.** Is this the signature card for the Pyfrom Exclusive Consulting account?

**A.** Yes, it is.

**Q.** And whose name was on that account?

**A.** Gena Pyfrom-Foster.

**Q.** When was that account opened?

**A.** June 10th of 2020.

MS. CHAIKEN: Could you please go to 2941, page 3.

BY MS. CHAIKEN:

**Q.** Is this the bank statement for that Pyfrom Exclusive Consulting account starting on June 10th, 2020?

**A.** Yes.

**Q.** Was the $10,560 check from Bellator deposited into this account?

**A.** Yes, it was.

**Q.** What date was it deposited?

**A.** 6/11 of 2020.

**Q.** Was that the day after the account was opened?

**A.** Yes.

MS. CHAIKEN: Could you go to 2942, page 3, please.

BY MS. CHAIKEN:

**Q.** Is this the bank statement for that account for July 1st to July 31st of 2020?

**A.** Yes.

**Q.** Does it reflect an approximately $9,810 withdrawal from that account --

**A.** Yes.

**Q.** -- on July 24th?

**A.** Yes.

**Q.** Was this money that represented a portion of that $10,560 check?

**A.** Yes, for sure.

**Q.** Did you ask Teldrin Foster about this payment from Bellator Phront Group to Pyfrom Exclusive Consulting when you interviewed him?

**A.** I did.

MS. CHAIKEN: Could you please publish Government Exhibit 2250H.

(Government Exhibit 2250H published.)

MS. CHAIKEN: Your Honor, I previously moved to admit 2250I. I'm going to withdraw 2250I and move to admit 2250W in its place pursuant to our conversation earlier?

MS. WEBSTER: No objection to that, Your Honor.

THE COURT: It's admitted.

MS. CHAIKEN: Could you please publish 2250W.

(Government Exhibit 2250W published.)

BY MS. CHAIKEN:

**Q.** Did Mr. Foster tell you that the check that was made out to Pyfrom Exclusive Consulting was actually a check for him?

**A.** That's what he said, yes.

**Q.** And he told you that he took that money from the account?

**A.** Yes.

**Q.** Did he tell you that he got the approximately $34,000 check and deposited it in his Navy Federal account?

**A.** Yes.

**Q.** Is that consistent with what you saw in the Navy Federal account?

**A.** Yes.

MS. CHAIKEN: Could you please publish Government Exhibit 1146, page 6.

BY MS. CHAIKEN:

**Q.** Is this a bank statement for Elite Executive Services, Inc.?

**A.** Yes, it is.

**Q.** Is Elite Executive Services the business we talked about yesterday that got the payroll payment from Gaines Reservation & Travel?

**A.** Yes.

**Q.** And did that business get payroll payments from other of the businesses that we've been looking at?

**A.** Yes, they did.

**Q.** On May 22nd of 2020, did Darrell Thomas -- or did Elite Executive Services make a Cash App payment?

MS. CHAIKEN: If we can pull or highlight that May 22nd payment.

THE WITNESS: Yes, they made a Cash App payment on May 22nd, 2020, and it says Teldrin, for 1,380.41.

BY MS. CHAIKEN:

**Q.** And I think I actually misspoke. The date that it was posted was May 22nd?

**A.** Yes.

**Q.** Is there a different date listed in the description of the transaction?

**A.** 5/21. 05/21.

MS. CHAIKEN: Is 2327 in?

Can we please publish 2327 and 2327A. Could you pull out that top right message, please.

BY MS. CHAIKEN:

**Q.** Was this a WhatsApp that Darrell Thomas sent to Teldrin Foster on May 20th of 2020?

**A.** Yes.

**Q.** What was the attachment?

**A.** It is information regarding a rapid! PayCard program,

which is a corporate prepaid payroll card company, rapid!.

**Q.** Did you determine during the course of your investigation what rapid! PayCard is?

**A.** Yes.

**Q.** What is it?

**A.** It's a payroll card company that allows companies to set up an account, deposit funds into the account and then set up prepaid debit cards for their employees and be able to transfer money from the main account, the company account, to those cards for payroll purposes.

**Q.** So instead of cutting checks to their employees, they can load up their employees' debit cards?

**A.** Yes.

**Q.** Did you get -- and do you see that this document that Darrell Thomas sent to Teldrin Foster is an agreement between the Green Dot Corporation doing business as rapid! PayCard and then Bellator Phront Group?

**A.** Yes.

**Q.** That's Darrell Thomas's company?

**A.** Yes.

**Q.** Did you get records from MetaBank for the rapid! PayCard account that's associated with Bellator?

**A.** Yes, we did.

MS. CHAIKEN: Your Honor, I move to admit Government's Exhibits 2950 through 2954, pursuant to

Rule 902.11.

MS. WEBSTER: No objection.

MR. MARSHALL: No objection, Judge.

THE COURT: They're admitted.

BY MS. CHAIKEN:

**Q.** Based on your review of the MetaBank records, how was Bellator's rapid! PayCard account used?

**A.** It was used to distribute funds to numerous individuals in different names. Primarily there was a lot of names of people that were involved in the PPP loans. And they would distribute the money to the cards. Actually, the funding of the account came from the various business owners' companies. Once they got their PPP funding, there were deposits or transfers made to the Bellator rapid! PayCard account, and then the money was distributed to the cards.

**Q.** Okay. So when we were talking about Gaines Reservation & Travel, we saw payments to Elite Executive Services for payroll?

**A.** Yes.

**Q.** Later on with some of the business applications, the PPP loan applications that were submitted later, did those businesses send money to rapid! PayCard for payroll?

**A.** Yes.

**Q.** And did all of that money go to Bellator's rapid! PayCard account?

**A.** Yes. It was a single rapid! PayCard account in the name of Bellator.

**Q.** And then were there various cards that were tied to that account?

**A.** Yes.

MS. CHAIKEN: Could you please publish Government Exhibit 2954 and pull out line 51, please. Scroll down, please.

BY MS. CHAIKEN:

**Q.** Do you see line 51 there?

**A.** I do.

**Q.** Whose name -- is this a listing of the payroll cards that were issued by Bellator Phront Group?

**A.** Yes, these are the rapid! PayCards.

**Q.** And whose name is associated with the PayCard that's on line number 51?

**A.** Teldrin Foster.

**Q.** Was there also a card in the name of Gena Foster?

**A.** Yes, right below it.

**Q.** And the address that's listed there for Teldrin Foster, is that his real address?

**A.** No.

**Q.** Do you still have that binder in front of you?

**A.** I do.

**Q.** Could you please review Government's Exhibits --

Government Exhibit 3015 and tell me if you recognize it?

**A.** 3015?

**Q.** Yes.

**A.** There it is. It's the last one. Yes, I do.

**Q.** What do you recognize it as?

**A.** This is a listing of all the rapid! PayCard transactions that were associated with the rapid! PayCard assigned to Teldrin Foster.

MS. CHAIKEN: I move to admit Government Exhibit 3015.

MR. MARSHALL: No objection from Ms. Jackson, Judge.

MS. WEBSTER: Can I have one second, Your Honor? I'm sorry.

No objection.

THE COURT: It's admitted.

MS. CHAIKEN: Could you please publish 3015.

BY MS. CHAIKEN:

**Q.** Is this a summary of the transactions on the Teldrin Foster rapid! PayCard?

**A.** Yes.

**Q.** And what was the time frame for these transactions?

**A.** Started June 2nd of 2020. And then at the bottom is July 20th of 2020.

**Q.** And is the June 2nd of 2020 a transaction on the card?

**A.** No. That is just the creation of the card.

**Q.** How much money was spent on the Teldrin Foster payroll card in July of 2020?

**A.** It was approximately -- just a little over $8,000.

**Q.** Did the records that you got from T-Mobile for Teldrin Foster's cell phone that we looked at yesterday, did those include cell site location information?

**A.** Yes.

**Q.** Did you ask another agent to analyze those cell site locations that Teldrin Foster's cell phone hit on the dates of these transactions?

**A.** Yes.

**Q.** And who was that agent?

**A.** James Berni, Agent James Berni.

**Q.** Could you please take a look in your binder at 3005 and tell me if you recognize it?

**A.** Yes.

**Q.** What is it?

**A.** These are call records between Teldrin Foster and Gena Pyfrom-Foster.

MS. CHAIKEN: Your Honor, I move to admit Government's Exhibit --

BY MS. CHAIKEN:

**Q.** And are these taken from the T-Mobile records for Teldrin Foster?

**A.** Yes.

MS. CHAIKEN: Your Honor, I move to admit Government Exhibit 3005.

MS. WEBSTER: Your Honor, we object to relevance on -- for at least part of this exhibit. It covers a very long period of time that doesn't include -- or extends well past the dates of the charged conspiracies.

THE COURT: Mr. Marshall?

MR. MARSHALL: I have no objection, Judge.

THE COURT: Let me pull it up.

All right. I guess, first off, which dates -- which date ranges do you object to, what date range? This is a 26-page document.

MS. WEBSTER: Your Honor, we object to any -- to the inclusion of calls outside of the August 2020 -- I believe Darrell Thomas was arrested on August 6th, 2020, and we would object to anything after that date.

THE COURT: All right. So you don't object to pages 1, 2, and 3, and you object to pages 4 through 26?

MS. WEBSTER: Correct.

THE COURT: Ms. Chaiken?

MS. CHAIKEN: Your Honor, this is relevant to showing that Teldrin Foster and Gena Pyfrom-Foster each had possession of their own phone and continued to have possession of their own phone after the relevant time period.

THE COURT: Well, you closed your argument with

"after the relevant time period." So what's the relevance of whether or not they had their own phones after the relevant time period?

MS. CHAIKEN: Your Honor, the fact that they continued calling each other on their phones for several months after this time period that we're looking at is relevant to the showing that during that time period they would have each had their own phones and that they each used their own phones separately, including to call each other.

THE COURT: I kind of feel like we're going in circles, but why is it relevant after August 6th?

MS. CHAIKEN: Because it shows that Teldrin Foster continued to have his phone, that this is his phone that he used before, that he used during this time period, and that he used after this time period is highly relevant to showing that this is his phone. If the defense is not going to challenge that he's the one using the phone, then we don't need to admit the rest of these pages.

THE COURT: Ms. Webster?

MS. WEBSTER: We're challenging the fact that he was not the only person with access to his WhatsApp account. So I don't know -- but even in light of that argument, I'm not sure what relevance calls after the relevant time period have to whether or not he had -- he was the person who had access to his WhatsApp -- the only person who had access to his WhatsApp

account.

THE COURT: All right. I'll sustain the objection as to pages 4 through 26.

Ms. Chaiken, I'm not convinced of why you're telling me what happened after August 6th and who had the phone after August 6th is -- has any relevance.

Go ahead.

MS. CHAIKEN: Okay. Your Honor, the version we have in Trial Director has all of the pages, but can we publish it and not go --

THE COURT: Just publish the first three and make sure the hard copy document that goes to Ms. Lee just has the first three, please.

MS. CHAIKEN: Okay.

THE COURT: Thank you.

MS. CHAIKEN: Could you please publish 3005.

BY MS. CHAIKEN:

**Q.** Okay. Is this a summary of the communications, phone calls and texts between Gena Pyfrom-Foster and Teldrin Foster?

**A.** Yes.

**Q.** And is July 1st, 2020, the earliest date for which you have this set of records from T-Mobile?

**A.** Yes.

**Q.** Is July 2020 the time frame for which you've summarized the transactions in the rapid! PayCard account?

**A.** Yes.
**Q.** And that's the same time frame for which you asked the agent to analyze the cell site location for Teldrin Foster's phone?
**A.** That's correct.
**Q.** And during this time frame did Teldrin Foster and Gena Pyfrom-Foster regularly call each other?
**A.** Yes, calls and texts.

MS. CHAIKEN: If you could go down to page 2, Ms. Holland.

BY MS. CHAIKEN:

**Q.** Did they continue communicating regularly throughout July of 2020?
**A.** Yes.
**Q.** If Gena Pyfrom-Foster was the one who had Teldrin Foster's phone during this time period, would you expect there to be calls between Teldrin Foster and Gena Pyfrom-Foster?
**A.** No.
**Q.** Did you ask Teldrin Foster about the rapid! PayCard in your interview?
**A.** Yes.

MS. CHAIKEN: Ms. Holland, could you please publish 2250T.

(Government Exhibit 2250T published.)

BY MS. CHAIKEN:

**Q.** Did Mr. Foster tell you that the rapid! PayCard was going to make it look like there was a paper trail of money going to people?

**A.** Yes.

**Q.** And did he tell you that he got a rapid! PayCard from Darrell Thomas?

**A.** Yes, he got a card.

**Q.** Did he tell you that he got some money off of it?

**A.** He said maybe a thousand dollars.

MS. CHAIKEN: Could you please publish 2250U.

(Government Exhibit 2250U published.)

BY MS. CHAIKEN:

**Q.** Did Mr. Foster tell you he knew what they did with Bellator was wrong?

**A.** Yes.

**Q.** Did he tell you his motive was to try to get money back from Darrell if he got a PPP loan?

**A.** Yes.

**Q.** When you interviewed Teldrin Foster, did he tell you he knew that what he did with the Bellator loan would have consequences?

**A.** Yes.

MS. CHAIKEN: Could you please publish 2250Q.

(Government Exhibit 2250Q published.)

MS. CHAIKEN: Your Honor, could I have a few moments,

please?

THE COURT: I'm sorry?

MS. CHAIKEN: Could I have a few moments, please?

THE COURT: Of course.

MS. CHAIKEN: Thank you.

(Pause in proceedings.)

MS. CHAIKEN: Your Honor, I have no further questions for this witness.

THE COURT: All right. Thank you.

Ladies and gentlemen of the jury, you'll recall this morning we took one witness out of order, given some scheduling issues. We've got something else like that now. Normally what would happen after the government does their direct examination of someone is that the defense attorneys would take an opportunity and cross-examine that witness if they chose to.

What we're going to do here instead is take a break from Special Agent Stites's testimony and hear from a different witness entirely. After that witness, we will have Special Agent Stites back up if there's any cross-examination of him.

So, sir, you can step down.

(Witness excused from the witness stand.)

THE COURT: And, Counsel, how long will this next witness last?

MR. MOORE: Less than 15 minutes, Your Honor.

THE COURT: Okay. Let's go ahead and call him or her, please.

MR. MOORE: United States calls Salvatore Hazel.

THE COURT: Good afternoon, sir.

THE WITNESS: Good afternoon.

THE COURT: How are you?

THE WITNESS: I'm good. How are you?

THE COURT: I'm well, thank you.

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SALVATORE HAZEL

a witness herein, being first duly sworn,

was examined and testified as follows:

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DIRECT EXAMINATION

BY MR. MOORE:

**Q.** Please state and spell your name for the record.

**A.** My name is Salvatore Hazel. That's S-A-L-V-A-T-O-R-E. Hazel, H-A-Z-E-L.

**Q.** Where do you work?

**A.** I work for the Internal Revenue Service.

**Q.** What is your title?

**A.** My current title is a court witness coordinator.

**Q.** Can you explain what a court witness coordinator does?

**A.** Yes, I can. As a court witness coordinator, I represent

the Commissioner of the Internal Revenue Service as his role of custodial records. I'm tasked with gathering these records, certifying and testifying that they are, in fact, in the possession of the IRS.

**Q.** In your time with the IRS have you become familiar with how taxes are filed?

**A.** Yes, I have.

**Q.** Are you familiar with the IRS Form 941?

**A.** Yes, I am.

**Q.** What is that?

**A.** That is the quarterly form that's filed by an employer just for the withholdings taken out of the employees' paychecks each month.

**Q.** So that's filed four times a year?

**A.** Yes, it is, each quarter.

**Q.** Are you familiar with the IRS Form 940?

**A.** Yes, I am.

**Q.** What is that?

**A.** The Form 940 is an annual form. And that's a form that the employers file to help fund the federal unemployment tax system.

**Q.** Does the IRS have a recordkeeping system?

**A.** Yes, it does.

**Q.** Are you familiar with it?

**A.** Yes, I am.

**Q.** Do you work in that system in the regular course of your job?

**A.** Yes, I do.

**Q.** What is the name of that system?

**A.** The name of that system is the Integrated Data Retrieval System. It's also known as the IDRS system.

**Q.** What is stored in the IDRS system?

**A.** Most of the taxpayer information. It's considered the master file that IRS employees like myself have access to to access information of taxpayers.

**Q.** Are those records regularly made and preserved as part of the public business of the IRS?

**A.** Yes, they are.

**Q.** Can searches be ran in the IDRS system?

**A.** Yes, they can.

**Q.** Do you know how to conduct searches in the system?

**A.** Generally, most times I do, yes.

**Q.** And that's a regular part of your job?

**A.** Yes, it is.

**Q.** During this investigation, were you asked to check if 940 and 941 forms were filed for certain businesses?

**A.** Yes, I was.

**Q.** I'm going to list off a series of businesses, and could you please tell the jury if these are the businesses you looked for:

Bellator Phront Group, Arcade Painting, Impact Creations, Gaines Reservation & Travel, Transportation Management Services, Lee Operations, D. Parker Holdings, All Star Room and Board Services of Michigan, Continuing Success, ML Exotic Customs, Bellevie, Advertising and Then Some, Infinite Education, Mickies Auto and Tire, Roadrunner Automotive, Management Resource Services, Technology Analysis System, Premier Choice Office Supply, and A1 Cuts Barber Shop.

Did you look up 940s and 941s for those companies?

**A.** Yes, I did.

**Q.** Did any of those companies file a 940 or 941?

**A.** There might have been one or two filed for one or two of the companies. I don't know the exact companies and filings and so forth right now.

MR. MOORE: Can we publish 2116.

BY MR. MOORE:

**Q.** This is a document that had been previously shown to the jury. Do you know if this document was filed to the IRS?

**A.** I do not believe so.

**Q.** Does the IRS stamp documents?

**A.** They do.

**Q.** Does the IRS send the documents back to the individuals after they are stamped?

**A.** They do not.

**Q.** So in the typical course of business would a taxpayer

have a stamped version of their document?
**A.** They would not.
MR. MOORE: Can we publish 2116 -- sorry. 2222.
BY MR. MOORE:
**Q.** So this is a 941 for a business purportedly called Bellator Phront Group. Was this document filed with the IRS?
**A.** It was not.
**Q.** And, again, would you expect the taxpayer to have a stamped version of the document as this taxpayer supposedly had?
**A.** I would not.
MR. MOORE: Just one moment, Your Honor.
(Pause in proceedings.)
BY MR. MOORE:
**Q.** And just to be clear, you had said that they may have filed a few tax documents, correct, the businesses I listed off?
**A.** There might have been a couple 941s out of all those companies.
**Q.** All right. But when we asked you to look for specifically 2019 for 941s, were there any 941s filed in the year 2019 for any of the companies that I listed?
**A.** No. Specifically for the tax year 2019, there were no returns filed.
MR. MOORE: Okay. All right. Thank you. Nothing

further.

THE WITNESS: You're welcome.

THE COURT: Any cross-examination?

MS. DURRETT: Your Honor, we have no questions for this witness.

MR. MARSHALL: No questions, Judge.

THE COURT: All right. Sir, you can step down. Thank you.

THE WITNESS: Thank you, Your Honor.

(Witness excused.)

THE COURT: Probably a decent time for us to take a short comfort break, all right? Thank you.

MS. WEBSTER: Your Honor.

(After a recess at 3:03 p.m., the proceedings continued at 3:19 p.m. as follows:)

MS. WEBSTER: Your Honor, assuming it's okay with you, Mr. Marshall is going to do the first cross-examination of Agent Stites.

THE COURT: That's fine.

MR. MARSHALL: That's fine, Judge.

THE COURT: Off the record.

(Off-the-record discussion.)

(The jury entered the courtroom at 3:20 p.m.)

THE COURT: All right. You can be seated. Thank you.

Mr. Marshall, your witness.

MR. MARSHALL: Thank you.

Ladies and gentlemen.

CROSS-EXAMINATION

BY MR. MARSHALL:

**Q.** Good afternoon, Agent Stites.

**A.** Good afternoon.

**Q.** So I want to do a little bit of overview of your investigation. I know there's been a lot of evidence put on the record, but you're just -- your overall view when you do an investigation for a case like this, you interview the witnesses that you find important to interview; correct?

**A.** Correct.

**Q.** And in this case, you also obtained records. And you do that through subpoenas that get issued?

**A.** Yes.

**Q.** Search warrants occasionally --

**A.** Occasionally.

**Q.** -- right?

Did you do that in this case?

**A.** A couple. Actually, about -- if you include search warrants for records, almost ten total --

**Q.** For the search warrants you have to go to a -- write out an affidavit, an application, and present it to a judge and get approved for a search warrant to be executed; correct?

**A.** Yes.
**Q.** Okay. And in this case you've got, I guess, all of these -- the WhatsApp messages and so forth. Where did -- did that mostly come out of laptop analysis or what?
**A.** The WhatsApp came out of Darrell Thomas's phone.
**Q.** So that's one -- that's another thing you did in this case; right?
**A.** We --
**Q.** Correct? Okay.
**A.** We processed phones, yes, and other devices. We processed seized phones and other devices.
**Q.** This type of investigation, that could mean like cell phones can be important, correct --
**A.** Yes.
**Q.** -- in the case?
Desktop computers can be important; correct?
**A.** Yes.
**Q.** Laptop computers, other digital devices; correct?
**A.** Yes.
**Q.** And you've done that in this case for at least Darrell Thomas; right?
**A.** Correct.
**Q.** Just curious, in this case did you ever try to get any -- either a search warrant or any kind of effort to try to analyze Ms. Jackson's devices?

**A.** No.
**Q.** So you didn't get her cell phone; correct?
**A.** No.
**Q.** All right. You didn't get any laptops that she's used during this time period of the investigation; correct?
**A.** No.
**Q.** Or any desktop computers?
**A.** No.
**Q.** Would you say that there could be information that might be important on those devices if you had obtained some authorizations to get those devices?
**A.** I wouldn't know if there is. I guess there could be.
**Q.** But you made no effort to get any of those devices; correct?
**A.** No.
**Q.** All right. Let's go to the interviews again. You've interviewed a lot of witnesses in this case; right?
**A.** Yes.
**Q.** I want to go over a little bit of the technique. You saw Ms. Jackson on July 7th, 2020; is that correct?
**A.** That is correct.
**Q.** And you went over there with Agent Cromer. He's another FBI agent --
**A.** Correct.
**Q.** -- right?

I think it was about, what, 9:40 in the morning when you went over there --

**A.** Yes.

**Q.** -- right?

Is it normally -- now, at that time you had a grand jury subpoena in your possession; right?

**A.** I did.

**Q.** So it was twofold. You had two purposes. You wanted to go over there, I guess, and question Ms. Jackson, but also you wanted to serve the subpoena on her; is that right?

**A.** Correct.

**Q.** All right. Did you know her phone number at that time before you went over there?

**A.** I'm sure we did. We would have done some analysis about her before showing up.

**Q.** Did you think about making an attempt just to call her before you went over there?

**A.** No.

**Q.** Is it normally just your best method just to show up and do these interviews?

**A.** It depends. It depends on the situation. Every investigation, every person we want to interview we think through, you know, what's the best way to do it. And for Ms. Jackson, it was -- we thought the best way to do it would be a knock-and-talk and serve a subpoena.

**Q.** These knock-and-talks, that's a phrase you use. These knock-and-talks, how many do you think you've done in your career similar to this type of investigation?

**A.** Hundred plus.

**Q.** Would you find it -- you're an FBI agent. Would you agree with the statement that a lot of people are kind of shocked and surprised when an FBI agent shows up at their front door?

**A.** Some.

**Q.** Was Ms. Jackson, in your opinion, in the way she appeared and answered, did she seem surprised?

**A.** She actually seemed pretty comfortable, to be honest.

**Q.** You didn't think she wanted to be somewhere else and be working at the time?

**A.** She definitely was working, but she was willing to spend the time that she spent with us. I think it was like 12 -- 12, 13 minutes.

**Q.** Okay. I'm going to go over some of the things that y'all talked about during your interview with her. And we already had the recording played in court; correct?

**A.** Yes.

**Q.** Now, I think the government prosecutor asked you a couple questions about some details that Ms. Jackson didn't provide to you. For instance, this real estate project in Alabama, do you remember her talking about that?

**A.** Yes.

**Q.** And I think you mentioned that -- I think the prosecutor asked you if Ms. Jackson provided any documentation similar to, for instance, the proposal that she mentioned, any documents related to this real estate project to you as part of her response to your grand jury subpoena.

Do you remember that?

**A.** Correct, yes. I remember that.

**Q.** Now, you had just shown up at the front door with the grand jury subpoena in your hand; right?

**A.** Yes.

**Q.** So you didn't know about a real estate project that she had been working on at that time; right?

**A.** No.

**Q.** So that question for those types of records wouldn't have been in that grand jury subpoena, in that request for records, would it?

**A.** The grand jury subpoena was directed at any activities associated with the inflow of the money that was associated with the money that came in on that --

**Q.** Okay. But more specifically -- but in direct response to my question, there was no question in the grand jury subpoena requesting records about real estate projects and things like that; right?

**A.** Right.

**Q.** Or a proposal; correct? Any types of things like that, contracts?

**A.** I don't believe so.

**Q.** Now, I think you asked (sic) a bunch of questions. I think you mentioned Andre Gaines; is that right?

**A.** Yes.

**Q.** At that time you didn't mention John Gaines during that first interview. Was he on your radar at that point?

**A.** We knew about John Gaines at that point.

**Q.** Now, this interview, it lasted probably about 13 minutes; correct?

**A.** Correct.

**Q.** Or less than that because there was some walking time before you got up to her; right?

**A.** Right.

**Q.** Did you have a second interview with Ms. Jackson?

**A.** The second interview with Ms. Jackson was when we went to knock on her front door asking for Mr. Gaines.

**Q.** Okay. That's what I was going to ask you about.

So you were going there for the purpose of talking to Mr. John Gaines; correct?

**A.** Correct.

**Q.** And do you recall when that second interview was with Ms. Jackson?

**A.** I believe it was on the 27th of July. So it was maybe,

what, 20 days later.

**Q.** Were you with Agent Cromer again for the second interview?

**A.** I was.

**Q.** Was he there? Okay.

So do you recall when you -- did you find out whether Mr. Gaines was there that day?

**A.** Ms. Jackson said that Mr. Gaines was not there or she didn't know where he was, something to the effect. That she doesn't know -- you know, she's not his babysitter, I think she used.

**Q.** Did you have some reason to believe that John Gaines had been living there?

**A.** We had seen a vehicle that was registered to him that was, I believe, outside the residence.

**Q.** Do you recall finding out that actually Mr. Gaines occasionally spent time overnight at that residence?

**A.** I think we knew that that was a possibility.

**Q.** So at least at that point you knew that he probably spent some time at Ms. Jackson's residence; correct?

**A.** Yes.

**Q.** Okay. Now, we had previously introduced into evidence I think Government's Exhibit Number -- I think it was 1700. The divorce petition.

Do you recall that?

**A.** Yes.
**Q.** And I think that there was a separation date at some point. Do you recall when they might have been separated, when that petition was filed?
**A.** Yeah. It was November something. I don't remember the exact date, but November of 2019.
**Q.** Okay.
**A.** Is that correct?
**Q.** November 26th, that sound about right? Somewhere around there?
**A.** Yeah.
**Q.** Okay. All right. Let me move you over to something else, a different topic right now.

MR. MARSHALL: Ms. Holland, if you could possibly bring up Government's Exhibit 1116.

BY MR. MARSHALL:

**Q.** Do you recall this exhibit being introduced into evidence, Agent Stites?
**A.** Yes, I do.
**Q.** What is this record? If you can tell the jury again about what this is.
**A.** This is a listing of the -- I believe the Wells Fargo -- this is the Wells Fargo bank account transactions or activity with the addresses and the dates.
**Q.** So is there anything important about the IP address in

this exhibit that you had pointed out during your testimony?
**A.** That the IP address had come back to Ms. Jackson's residence.
**Q.** You had established that through a separate request, I think, through Comcast; right? To find out who --
**A.** (Nods head.)
**Q.** Okay.
And so the IP address, do you know which one of those belongs to Ms. Jackson?
**A.** It is the 76.105.87.198.
**Q.** And over to the right, the second from the -- from the very right side, those columns, the second column from the right, I think it says, what is that, SID. Do you know what that means? Do you have any idea?
**A.** I don't know. I just -- I recognized it as a city name that's in that column. I don't know what SID stands for.
**Q.** And it has Stone Mountain down there; is that correct? For most -- I guess that's the location for all these --
**A.** Yes.
**Q.** -- IP addresses?
**A.** Yes.
**Q.** Is there anything here that -- well, you already know from the other thing that this IP address comes from Ms. Jackson's residence or not?
**A.** Yes.

**Q.** The address?
**A.** The IP address comes back to her residence.
**Q.** Okay. And are these logins or -- what are these entries here? If this is interaction with Wells Fargo, what do these dates on the very left-hand side, what do they signify?
**A.** The date that the access -- a date of access.
**Q.** And, again, you just answered a couple questions ago from me a little bit -- and these -- well, let me back up a little bit.

The dates on the left, are they generally -- what months are showing there that you can tell?
**A.** Those are May and June.
**Q.** Primarily May and June, would that be correct?
**A.** Yes.
**Q.** And that's 2020?
**A.** Correct.
**Q.** And that's a month or two before you made your visit with Ms. Jackson; correct?
**A.** Correct.
**Q.** And you just testified just a little while ago that you had information that Mr. Gaines was staying at that residence at least occasionally; correct?
**A.** Yes. We figured at least occasionally.
**Q.** All right. So at least from this record, especially if you know that Mr. Gaines might be living at that residence for

some time, you don't know who specifically accessed the Wells Fargo account at all from that address at that time, do you?

**A.** Correct.

**Q.** It could be Mr. Gaines; correct?

**A.** Correct.

**Q.** Or anybody else there at that location?

**A.** Yes.

**Q.** I'd like to go over to Government's Exhibit 1150. Turn over a little bit to -- this is a -- well, we'll get that back up first.

Do you recognize this exhibit?

**A.** Yes, I do.

**Q.** This was previously admitted earlier. What is this exhibit again?

**A.** This is the Bank of America signature card for Roadrunner Automotive Group, LLC.

**Q.** Thank you.

MR. MARSHALL: And, Ms. Holland, can you go to the next page. I think this is a two-page document.

Thank you.

BY MR. MARSHALL:

**Q.** Is this another signature card for Bank of America?

**A.** That's the original signature card.

**Q.** Okay. That's the original one, you say. So down at the bottom, whose name is there?

**A.** Carla Jackson.

**Q.** And there's her signature to the right?

**A.** Yes.

**Q.** What's the date of this original signature card?

**A.** 12/30 of 2019.

MR. MARSHALL: Ms. Holland, can you go to the first page again, please. Thank you.

BY MR. MARSHALL:

**Q.** And what's the date of this second signature card?

**A.** 6/17 of 2020.

**Q.** And what's different with this card? Who's added?

**A.** John Stacey Gaines.

MR. MARSHALL: Ms. Holland, that's fine with that one. Could you please go to Government's Exhibit 1151. If you could go down to the transaction page. I think it's either page -- that's good right there. Thank you.

If you could -- if you can't see it all right, if you could maybe pull out the deposit section. Thank you very much.

BY MR. MARSHALL:

**Q.** There was testimony earlier that you provided about some of these transactions and deposits on this exhibit.

Do you recall that?

**A.** Yes.

**Q.** And I'm going to refer your attention to the dated

transaction of June 5th, 2020.

Do you see a deposit amount there?

**A.** I do.

**Q.** And this is made into a Roadrunner account; right?

**A.** Yes.

**Q.** And we just saw the signature card for that Roadrunner account. So we know that Ms. Jackson and Mr. Gaines is associated with this account; correct?

**A.** Mr. Gaines is associated as of 6/17.

**Q.** Well, I'm going to ask you about that in a second too.

All right. You don't have any evidence in any e-mails -- let's see.

Do you have any e-mail communications from Ms. Carla Jackson regarding this deposit that you see here in the amount of $71,144.35?

**A.** Can you restate -- do I have an e-mail?

**Q.** Any e-mails in the record that have been presented at trial that discuss -- where Ms. Jackson is in the e-mail discussing this deposit?

**A.** No.

**Q.** As a sender of an e-mail?

**A.** No.

**Q.** As a recipient of an e-mail?

**A.** No.

**Q.** Or being copied on an e-mail?

**A.** No.

MR. MARSHALL: Could you also go down to the transactions below. Thank you. Pull that all up. Thank you very much.

BY MR. MARSHALL:

**Q.** So let's look at these here, these transactions. Who are the majority of these transactions done by?

**A.** A majority of them are associated with John Gaines.

**Q.** John Gaines. In fact, that's all the way down, I guess, till the bottom, which is, what, with the last entry? Would that be correct?

**A.** The last entry, a Geico entry for Carla Jackson.

**Q.** And that's, what, June 17, 2020?

**A.** Yes.

**Q.** Now, you just testified a little while that Mr. Gaines had been added on, I guess -- well, that -- he was added on to the Bank of America account as a -- to be able to participate in the bank transactions; correct?

**A.** Correct.

**Q.** But he had been associated with Roadrunner before that; do you recall?

Well, let me ask you this: Do you know if he was a founding organizer or a member of Roadrunner?

**A.** I believe he was on the Secretary of State for Roadrunner Automotive.

**Q.** Do you know what that year was when it was formed?
**A.** I don't really recall. If you want to show me something to refresh my --
MR. MARSHALL: Your Honor, can I approach the witness?
THE COURT: Yes. Again, y'all can feel free to move about the courtroom.
BY MR. MARSHALL:
**Q.** Agent Stites, I'd like to refresh your recollection with this document here and then I'll ask you a question.
**A.** Okay.
**Q.** Are you able to determine the date when that was formed?
**A.** It says the effective date is 1/24 of 2019.
**Q.** Okay. Thank you very much.
So Mr. John Gaines would have been involved with this company from its inception; correct?
**A.** Since -- yeah. Yes.
**Q.** So he didn't just start doing transactions at the dates that we're seeing here in the Bank of America in June of 2020, he had been involved with the company earlier than that?
**A.** He had been involved with the company. He was not a signer on the account.
**Q.** And we don't have a Bank of America official here testifying. We don't really know what the reason is why Mr. Gaines got added that particular day to that account, do

we, the Bank of America account?

**A.** We don't know.

MR. MARSHALL: Could we please go to 1166, Ms. Holland. Thank you.

BY MR. MARSHALL:

**Q.** Do you recall this exhibit being entered into evidence?

**A.** Yes.

MR. MARSHALL: If we could go down to the deposit sections, the transaction sections, and pull that part out, please.

BY MR. MARSHALL:

**Q.** Do you remember testifying about these transactions?

**A.** Yes.

**Q.** Okay. And of note there are two deposits there. What are the two big deposits there that you see?

**A.** The 155,252.50, which was the check that was deposited. And then the wire from PNC Bank for 179,985.72.

**Q.** I'm going to come back a little bit and make a big general comment again. In your investigation we presented all these WhatsApp messages that have been entered into the record; correct?

**A.** Correct.

**Q.** All kinds of e-mail messages that we've seen from different parties in this case; correct?

**A.** Yes.

**Q.** Text messages?

**A.** Yes, some text messages.

**Q.** Have any WhatsApp messages, e-mail messages or text messages had Carla Jackson as one of the parties communicating?

**A.** No.

**Q.** So we're not going to find any kind of e-mails or any kind of communications about why this deposit came in and so forth on June 8th, 2020, in that amount of about $155,000; correct?

**A.** Not e-mail.

**Q.** Same thing with the second deposit, 179 -- almost $180,000, no communications between Carla Jackson and John Gaines, for instance?

**A.** Not between Carla Jackson and John Gaines.

**Q.** Or Carla Jackson and Andre Gaines; correct?

**A.** No.

**Q.** And Andre Gaines is the founder of Gaines Travel & Reservation; right?

**A.** Correct.

**Q.** All right. Down below, I think there's some extra testimony --

MR. MARSHALL: Let's go to -- if we could go to Government's Exhibit 1169. Go down to -- yes, that's fine. That's fine.

BY MR. MARSHALL:

**Q.** Do you remember this exhibit?

**A.** Yes.

**Q.** What is this exhibit that you recall? What's this withdrawal receipt?

**A.** This is the withdrawal receipt from Wells Fargo to -- to get the three certified checks.

**Q.** Okay. All right.

MR. MARSHALL: Go down -- there's some certified checks in there. If you could go down below where the checks are, there are some images. Let's pull that one up.

BY MR. MARSHALL:

**Q.** So after these two deposits have been entered, there is some money taken out and these cashier's checks are obtained; right?

**A.** Correct.

**Q.** And do we know from this document right here who the person was that took this check out?

**A.** Yes. The remitter was Carla Jackson.

**Q.** Who is the payee? Who is this made out to?

**A.** 365 Enterprise, LLC.

**Q.** And who do we know from previous testimony who that company belongs to?

**A.** John Gaines.

**Q.** And have you entered -- is there anything in the record

that shows any e-mail communications from John Gaines to Carla Jackson or Carla Jackson to John Gaines about this check?

**A.** No.

**Q.** Are there any communications from Andre Gaines to Carla Jackson about this check?

**A.** No.

MR. MARSHALL: If we can go to the next image, please. It's another check.

BY MR. MARSHALL:

**Q.** Here's another one here. This is one of the other cashier's checks taken out that day; correct?

**A.** Yes.

**Q.** Who took this one out?

**A.** Carla Jackson.

**Q.** And that's in the amount of how much?

**A.** $10,000.

**Q.** Okay. Similar to the last amount on the last check?

**A.** Yes.

**Q.** Right?

Okay. And down below there's a notation there. What does it say down below? It has something redacted, but what does it have noted there?

**A.** John Gaines auto loan.

**Q.** Okay.

**A.** The account ending in 5813.

**Q.** And we had additional testimony about payment being on an auto loan related to this; correct?

**A.** Correct.

**Q.** Again, is there anything in the record, any e-mail communications, WhatsApp messages, text messages that you have that show Carla Jackson in contact with John Gaines about this matter?

**A.** No.

MR. MARSHALL: If you can go to the next one. Thank you.

BY MR. MARSHALL:

**Q.** Who took this cashier's check out?

**A.** Carla Jackson.

**Q.** And who's this -- I should maybe reference this.

Who's this payee in this one?

**A.** USAA.

**Q.** And down below there's a notation again. What does that say, handwritten or printed?

**A.** Auto loan number ending 4019.

**Q.** Okay. What's the name there?

**A.** John Gaines.

**Q.** What's the amount of this check?

**A.** $10,000.

**Q.** And, again, same question. Any communications at all between John Gaines that we have in the record here and Carla

Jackson about this check and why it's being taken out?
**A.** No.
**Q.** Okay. Thank you.
Let me ask you a little bit more about the -- just generally about your interviews that you do. And I want to ask -- so Ms. Jackson indicated this information about this real estate project that she was involved in; right?
**A.** I think she called it a construction project.
**Q.** During that second visit did you ever ask her -- do you recall asking her any additional -- for any additional information about that project?
**A.** No.
**Q.** You wouldn't have requested it in your grand jury subpoena because you didn't know about it at that time?
**A.** I didn't ask her in the second one because I knew that she was seeking counsel.
**Q.** Did you ask -- do you recall asking her during that one if she had an attorney at that point?
**A.** Yes, I did.
**Q.** Do you know if she had one?
**A.** I believe she said Dwight Thomas was going to be her attorney.
**Q.** Did you ever reach out to Attorney Dwight Thomas to find out if he'd talk to you about that or if his client would talk to you about that?

**A.** I personally did not.

**Q.** I know there was a question asked during the -- when you spoke with Ms. Jackson on July 7th, 2020, you asked her about Andre Gaines. Remember that?

**A.** Yes.

**Q.** And what do you recall her response was?

**A.** She said that she was referred -- or that he was referred to her, there was a referral, but that she didn't really know him prior to this.

**Q.** Do you recall her saying that she knew of him or something?

**A.** She knew of him. She didn't know him.

MR. MARSHALL: Just a minute, Your Honor. One second, Judge.

Nothing further, Judge.

Thank you, Agent Stites.

THE WITNESS: Thank you.

THE COURT: Ms. Webster, any questions?

MS. WEBSTER: I do. Thank you.

CROSS-EXAMINATION

BY MS. WEBSTER:

**Q.** Good afternoon, Agent Stites.

**A.** Good afternoon.

**Q.** We've heard a lot about certain people in this case, but there are a lot of other people that were charged in this

indictment as well; is that right?

**A.** Yes.

MS. WEBSTER: Could we see Government's Exhibit 3000, please, Ms. Holland.

BY MS. WEBSTER:

**Q.** How many people were charged in this case? Do you know off the top of your head?

**A.** 24.

**Q.** So were they each involved in one of these loans?

**A.** Yes.

**Q.** And, in fact, Mr. Foster's actually charged in at least one count with most of them; is that right?

**A.** Yes.

**Q.** So let's go through some of those people.

We've heard a lot about Darrell Thomas, but can you just describe his role again?

**A.** Darrell Thomas is sort of the main guy. He was responsible for submitting the fraudulent loans. He recruited individuals to go out and find business owners who would submit information for PPP loans.

**Q.** Okay. You would describe him as the ring leader?

**A.** Yes.

**Q.** And he was the one who was communicating with the recruiters?

**A.** Yes.

**Q.** And he was the one -- well, was he the one communicating with all of the business owners or were they sometimes communicating through the recruiters?

**A.** Most of the time through the recruiters.

**Q.** Okay. And then Meghan Thomas is also charged. Do you know which of these loans she's charged with?

**A.** I know Bellator, but I don't remember exactly which -- I don't remember which loans she was exactly charged with.

**Q.** What was her role?

**A.** Meghan's role was more of a collector of documents and managing the -- sort of the checklist of items that were collected.

**Q.** Okay.

**A.** And assisting Mr. Thomas with whatever, you know, he asked her to do.

**Q.** And they were married?

**A.** They were married.

**Q.** And Jesika Blakely, what was her role?

**A.** Jesika Blakely played a very similar role, where she was managing the listing of loans and what documents were collected and what still was outstanding and kind of managing the process of collecting the documents.

**Q.** And she -- did she consider herself an employee of Mr. Thomas?

**A.** Yes, she considered herself as part of Bellator.

**Q.** As part of Bellator.

And she had a Bellator Phront Group e-mail address?

**A.** She had an e-mail address.

**Q.** And do you remember which of these loans she was involved with?

**A.** I don't recall which ones she was charged with. If you provide me with something to refresh my memory, I would...

**Q.** It's fine.

And then who is Kahlil Green?

**A.** Kahlil Green was the business owner for Impact Creations.

**Q.** Do you know if he had direct communication with Darrell Thomas?

**A.** Yes. Yes, he did.

**Q.** And in this case, right, you subpoenaed a lot of e-mails; is that correct?

**A.** Yes.

**Q.** And that includes Darrell Thomas's e-mail addresses; correct?

**A.** Yes.

**Q.** Okay. So that includes his Bellator Phront Group e-mail address?

**A.** Yes.

**Q.** And a Gmail account; correct?

**A.** Correct.

**Q.** And you didn't subpoena Mr. Foster's e-mail address; is

that right?
**A.** No.
**Q.** Did you subpoena Mr. Green's e-mail address?
**A.** His -- no.
**Q.** Okay.
**A.** Can I ask what e-mail address are you referring to for Mr. Green?
**Q.** I don't have one. I was just wondering if you had subpoenaed any e-mails from Mr. Green.
**A.** No.
**Q.** Okay.
And then John Gaines is also charged in this case; correct?
**A.** Correct.
**Q.** And do you -- what was his role?
**A.** John Gaines was a recruiter, sort of a middle person on the Gaines Reservation & Travel loan. And the borrower was Andre Gaines.
**Q.** Say that last part again.
**A.** The borrower was Andre Gaines.
**Q.** Okay. And so was Gaines Reservation & Travel the only loan that -- or the only company that he was responsible for?
**A.** The -- of the ones that got charged.
**Q.** But there are other ones that happened that were not charged; is that right?

**A.** There were other loans that were in the works, yes.
**Q.** And who was Amanda Christian?
**A.** Amanda Christian is an individual that was in -- sort of a recruiter or sort of a middle person between Darrell and a business owner. And she also had a business of her own.
**Q.** Okay. And what business did she have?
**A.** She had Advertising and Then Some.
**Q.** And that's one of the loans that's charged here; is that right?
**A.** Yes.
**Q.** And was she also responsible for preparing some fake documents?
**A.** I believe so.
**Q.** Okay. And then who is Mr. Charles Petty?
**A.** Charles Petty is a recruiter, sort of a middle person between Darrell and business owner. He was primarily involved in the Transportation Management loan.
**Q.** Did you have -- see any evidence of communication between Mr. Petty and Mr. Foster?
**A.** No, I don't believe so.
**Q.** Who is Jerry Baptiste?
**A.** Jerry Baptiste is an individual that was a middle person between Darrell Thomas and Bern Benoit. In the Transportation Management loan, Mr. Petty and Mr. Baptiste worked together on that loan.

**Q.** Okay. Was there any evidence of communication between Mr. Baptiste and Mr. Foster?

**A.** I don't recall that there were.

**Q.** You can't recall --

**A.** I don't recall that there were.

**Q.** Okay. Thank you.

And Bern Benoit, you just said, was associated with the Transportation Management group?

**A.** Yes.

**Q.** Do you have any evidence of communication with Teldrin Foster and Bern Benoit?

**A.** I don't think so.

**Q.** Who is Denesseria Slaton? Am I saying that name correctly?

**A.** Close. I think she goes by Dee, Dee Slaton.

**Q.** Okay. Who is she?

**A.** Again, she's a recruiter for -- that Darrell used to find borrowers.

**Q.** And do you know which of these loans she's responsible for?

**A.** I think she had her hand in several of them. I don't recall exactly which ones at this point.

**Q.** Okay. And tell me about Ricky Dixon. Who is that?

**A.** Ricky Dixon is a recruiter, but he also had his own business, Arcade Painting. So he was a borrower, and he also

recruited some individuals to submit loans.

**Q.** And do you know who he recruited?

**A.** Edward Lee from Lee Operations. Derek Parker from D. Parker Holdings. Charmaine Redding from All Star Room and Board. ML Exotic Customs, Ryan Whittley. And that might be it.

**Q.** Okay. And Mr. Dixon corresponded quite a bit with Darrell Thomas; is that correct?

**A.** Say that again.

**Q.** Mr. Dixon corresponded quite a bit with Darrell Thomas; is that right?

**A.** There was a decent number of e-mails, communication.

**Q.** There were also messages on Mr. Thomas's phone; is that right? Do you recall those?

**A.** From Mr. Dixon?

**Q.** Uh-huh (affirmative).

**A.** I believe there were some. I don't recall what they were, though.

**Q.** Tell me who Charmaine Redding is.

**A.** Charmaine Redding was the owner of All Star Room and Board or the borrower for All Star Room and Board Services of Michigan.

**Q.** And she was communicating with Ricky Dixon; is that right?

**A.** Yes.

**Q.** And Darrell Thomas?
**A.** I believe there might have been some e-mails.
**Q.** And who is Derek Parker? His name is on at least one of these accounts; right?
**A.** Yes. He's the borrower for D. Parker Holdings, Inc.
**Q.** And did he communicate with Mr. Thomas or did he only communicate with Mr. Dixon?
**A.** D. Parker -- Derek Parker communicated through Ricky Dixon.
**Q.** So there was no evidence of communication between him and Teldrin Foster?
**A.** Between Derek Parker and Teldrin Foster?
**Q.** Yes.
**A.** I don't believe so.
**Q.** Okay. And who is David Belgrave?
**A.** David Belgrave was the borrower for Continuing Success, Inc.
**Q.** So he's a business owner?
**A.** Yes.
**Q.** And who was he communicating with?
**A.** I believe he was communicating with Amanda Christian.
**Q.** Okay. Was there any evidence of communications directly with Darrell Thomas?
**A.** I don't believe so.
**Q.** Tell me about Charles Hill. Who is that?

**A.** Charles Hill was -- let me see. Which one was he? Infinite Education Services. He was the borrower for Infinite Education Services, Inc.

**Q.** And who was he communicating with?

**A.** I believe he was Dee Slaton. He was communicating through Dee Slaton.

**Q.** And so did he communicate with Darrell Thomas or it all went through Dee Slaton?

**A.** I don't recall if there were any communications with Darrell Thomas directly.

**Q.** Okay. But the primary communication would have been with Ms. Slaton?

**A.** I believe so.

**Q.** Who is Ryan Whittley?

**A.** Ryan Whittley is the borrower for ML Exotic Customs, Inc.

**Q.** Okay. And who did he communicate with?

**A.** That'd be Ricky Dixon.

**Q.** Okay. And was there any evidence that he was actually communicating with Darrell Thomas?

**A.** I believe he had some communications with Darrell Thomas.

**Q.** Okay.

**A.** And just to note, they're -- at some point, you know, I think Darrell Thomas had stated that he had put some -- or that he had communicated with the borrowers once they got the loans through the recruiters on how to get the money back to

him.

**Q.** I'm sorry, I just want to make sure I understood what you were saying.

That once the loans were approved and they received the funds, Darrell Thomas then began communicating --

**A.** Was communicating through the recruiters to dictate -- or direct where the money flow was supposed to go.

**Q.** Okay. So when the loan came in to the borrower's account, it all went into the business owners' accounts; is that right?

**A.** Right.

**Q.** And then Darrell Thomas would tell the recruiters to tell the business owners where to send the money?

**A.** Correct.

**Q.** And was Teldrin Foster involved in that process?

**A.** I don't believe so.

**Q.** Who is Dwan Ashong?

**A.** Dwan Ashong is a -- I guess we'll call her a recruiter, but she also had some of her own loans that she was doing.

**Q.** And do you mean that -- when you say she was doing her own loans, that she was also a business owner or that she was also preparing fraudulent loans outside of Darrell Thomas?

**A.** I think she was doing some stuff outside of Darrell Thomas.

**Q.** Okay.

**A.** But also had some loans that she was working with Darrell Thomas. And then the one, Bellevie Corporation, her husband, El Hadj Sall, was the borrower for that.

**Q.** So tell me who that is again. Say his name again.

**A.** El Hadj Sall.

**Q.** So he's the owner of Bellevie; is that right?

**A.** Correct.

**Q.** And did he have any communications with Darrell Thomas?

**A.** I don't believe so.

**Q.** And then who is Rick McDuffie?

**A.** He is the borrower for Mickies Auto and Tires, LLC.

**Q.** Okay. And who was he communicating with?

**A.** I believe it was Amanda Christian, but I'm not positive.

**Q.** Was he communicating with Teldrin Foster?

**A.** I don't believe so.

**Q.** So we've seen a lot of communications and e-mails between Teldrin Foster's e-mail addresses and Darrell Thomas's e-mail addresses. And we've also seen the WhatsApps. But we haven't seen any e-mails between Teldrin Foster and any of these other people; is that right?

**A.** That's correct.

**Q.** And we haven't seen any WhatsApp messages between Teldrin Foster and these people that I've mentioned?

**A.** Correct.

**Q.** Okay. So I want to spend some time talking about Darrell

Thomas.

You've spent a lot of time investigating this case; is that right?

**A.** Yes.

**Q.** That might be an understatement, I imagine.

**A.** There was a lot of hours put in.

**Q.** And so you spent a lot of time reviewing his communications?

**A.** Whose communications?

**Q.** Darrell Thomas's communications.

**A.** Yes.

**Q.** And that includes his e-mails?

**A.** Correct.

**Q.** And other messages that are on his phone?

**A.** Correct.

**Q.** So that includes WhatsApp messages?

**A.** Yes.

**Q.** And not just with Teldrin Foster; right?

**A.** Yeah.

**Q.** And have you reviewed his Telegram messages?

**A.** Darrell's Telegram messages?

**Q.** Yes.

**A.** No.

**Q.** So you haven't -- are you aware that there are Telegram messages on his phone?

**A.** I don't recall the Telegram messages.
**Q.** Do you know what Telegram is?
**A.** Yes.
**Q.** Tell us what it is.
**A.** I know it's a messaging platform.
**Q.** Is it sort of like WhatsApp?
**A.** I believe it's similar, yeah.
**Q.** Okay. And what about Signal?
**A.** I believe Signal is another type of messaging platform.
**Q.** And did you review any messages between Darrell Thomas and anyone on -- using Signal?
**A.** No.
**Q.** So you haven't reviewed any messages between Darrell Thomas and Jesika Blakely on Telegram; is that right?
**A.** Correct.
**Q.** Okay. And Bellator Phront Group was Darrell's company; correct?
**A.** Yes.
**Q.** And it was the first company that applied for a PPP loan?
**A.** I believe that's the first one out of this group, yes.
**Q.** Okay. And as we were discussing earlier, when the money came in for loans for other companies, he instructed them what to do with the money?
**A.** Correct.
**Q.** And some of those companies sent funds to the Bellator

Phront Group; is that right?

**A.** Yes.

**Q.** And Darrell Thomas controlled Bellator Phront Group?

**A.** Yes.

**Q.** And during this investigation, you've obtained Georgia Secretary of State records for Bellator Phront Group; is that right?

**A.** Yes.

**Q.** And other companies as well?

**A.** Correct.

**Q.** Can you look in the binder in front of you and turn to Exhibit 1B, please?

**A.** I'm sorry, which one was it?

**Q.** 1B.

**A.** 1B. Okay.

**Q.** Do you recognize these documents?

**A.** It looks like the State of Georgia Secretary -- it's the registration for Bellator Phront Group.

**Q.** Thank you.

MS. WEBSTER: Your Honor, we'd move to admit Exhibit 1B under Rule 902.11.

MS. CHAIKEN: No objection, Your Honor.

MR. MARSHALL: No objection, Judge.

THE COURT: It's admitted.

MS. WEBSTER: Thank you.

I'm going to use the Elmo here.
BY MS. WEBSTER:
**Q.** Can you tell me what this document is?
**A.** Is there a way to turn off the --
**Q.** The thing on the side?
**A.** Yeah.
MS. WEBSTER: I don't know where that's coming from. Is it a touch screen?
(Organizational pause.)
MS. WEBSTER: Okay. All right. Problem solved. Okay. Thank you. Here we go. Okay.
BY MS. WEBSTER:
**Q.** Can you tell me what that document is?
**A.** That looks like the articles of incorporation for Bellator Phront Group.
**Q.** Who's listed as the incorporator?
**A.** This one says Meghan Thomas.
**Q.** And that's not Darrell Thomas; correct?
**A.** Correct.
**Q.** Can you tell me what this is?
**A.** It looks like an amended annual registration for Bellator Phront Group.
**Q.** What year is this? It's on the top right corner, filing date.
**A.** Filing date is 9/23/2019.

**Q.** And you see who is listed as the CEO or CFO, I believe?
**A.** Yes.
**Q.** And that's Darrell Thomas?
**A.** It is.
**Q.** And then Meghan Thomas is listed as the secretary?
**A.** Yes.
**Q.** And then Kevin James is listed as the CEO. Do you know who that is?
**A.** We had heard the name -- we had heard the name Kevin James, but we don't really know who he is.
**Q.** To your knowledge, was he actually a CEO of Bellator Phront Group?
**A.** I don't believe so.
**Q.** Thank you.

And then if we're looking at the -- this document, this was also filed in December of -- or this was also filed in 2019; is that right?
**A.** Correct.
**Q.** And that's another amended annual registration for Bellator Phront Group; correct?
**A.** Yes.
**Q.** And now where it says officers, Darrell Thomas is still listed as CFO; correct?
**A.** Correct.
**Q.** And Meghan Thomas is still listed as secretary; correct?

**A.** Yep.
**Q.** But now someone named Brenda Johnson Miller is listed as CEO; is that right?
**A.** Correct.
**Q.** And do you -- I think you testified yesterday about where Darrell Thomas was living during the time of the -- of the PPP loans. Was that the address 7200 Grandview Overlook, Duluth, Georgia?
**A.** That was the address that he was living, yes.
**Q.** Do you know who Brenda Johnson Miller is?
**A.** I believe she's the mother of Dwan Ashong.
**Q.** And is she the CEO of Bellator Phront Group?
**A.** No.
**Q.** Do you know why she was listed here?
**A.** I don't.
**Q.** But through your investigation you learned that she doesn't know Darrell Thomas; is that right?
**A.** Correct.
**Q.** And she's definitely not the CEO of Bellator Phront Group?
**A.** Correct.
**Q.** Are you aware that Bellator Phront Group was dissolved -- administratively dissolved by the Georgia Secretary of State in 2021 for failing to register?
**A.** I believe I knew that.

**Q.** But did you know that it's been reinstated in July of 2023?

MS. CHAIKEN: Your Honor, objection. Relevance. We're now three years outside the time frame.

THE COURT: Ms. Webster?

MS. WEBSTER: I think it goes to show that -- there's a set of follow-up questions that's relevant to this that shows that Darrell Thomas is still using other people's names in order to further his -- what I would call his fraud and his --

THE COURT: Well, I know earlier you cut off Ms. Chaiken's document --

MS. CHAIKEN: August 6th.

THE COURT: -- on August 6th of 2020, I think. So wouldn't the same thing apply here?

MS. WEBSTER: This document's already been admitted into evidence, Your Honor, without objection.

THE COURT: That won't do it. Why don't you answer my question.

MS. WEBSTER: Okay. I can move on, Your Honor. It's fine.

THE COURT: Very well. It sounds like the question is withdrawn; therefore, I don't need to rule on the objection.

Go ahead.

MS. WEBSTER: Thank you.

BY MS. WEBSTER:

**Q.** But the name Brenda Miller wasn't just used on the Secretary of State registration; is that right?

**A.** I'm trying to think of where else it was. I don't remember where else it was used.

**Q.** Do you remember seeing the name in e-mails?

**A.** I -- I do recall seeing e-mails with Brenda Miller in them.

**Q.** Okay. If you look at F19 and F19A and B in the binder in front of you.

**A.** You said F19, one-nine?

**Q.** Yes, sir. One-nine, yeah.

**A.** 19A?

**Q.** A and B.

**A.** A and B.

**Q.** Have you reviewed those documents? Are you still working on it?

**A.** Oh, sorry. Didn't know you wanted me to review them.

**Q.** Yes, please.

**A.** Okay.

**Q.** Do these appear to be documents that were received from GoDaddy in response to your subpoena for Darrell Thomas's e-mails?

**A.** Yes.

MS. WEBSTER: Move to admit those pursuant to Rule 902.11.

MS. CHAIKEN: Your Honor, we object under Rules 401 and 608.

THE COURT: May I see a copy of the document?

MS. WEBSTER: Yes.

THE COURT: All right, Ms. Chaiken, if you can expand on that, please.

MS. CHAIKEN: Your Honor, Rule 608 allows impeachment only of a witness who has testified in trial. This exhibit, and a lot of the lines of questionings that have been pursued so far are directed to impeachment of Darrell Thomas through this witness. Darrell Thomas has not testified in this trial and, therefore, Rule 608 does not allow impeachment of him, especially not through another witness. So it's otherwise irrelevant.

THE COURT: Well, what I've been given is a document with the -- looks to be a bio of a Ms. Miller.

MS. CHAIKEN: Right. I think it's being used to show that there was a fake bio created for a fake CEO of Bellator Phront Group. And we've given leeway on these questions because they really are not relevant to anything, but the only purpose of these documents being admitted is to impeach Darrell Thomas and show that he's engaged in other preparation of fraudulent bios. It's not relevant to any issue in the

case.

THE COURT: Well -- so you're saying improper impeachment of someone who hasn't been a witness?

MS. CHAIKEN: Correct. Rule 608 only allows impeachment of somebody who is a witness. And the Eleventh Circuit has held the term "witness" refers to someone who testified personally at trial or whose testimony has been otherwise introduced as a substantive legal equivalent of in-person testimony, like through a stipulation as to what they would testify to.

THE COURT: All right. Ms. Webster?

MS. WEBSTER: Your Honor, I'm not admitting this to call Darrell Thomas a liar. I'm admitting -- or I'm seeking to admit it because I think the evidence will show that he had a pattern and practice of using other people's names when it benefited him. So using other people's names for, maybe, applying for credit, things like that. Putting things in other people's names.

And that's entirely relevant to our defense because, obviously, our defense is that he was using Mr. Foster's e-mail addresses and things like that. So I think it directly goes to that. I think it's sort of like MO evidence, basically.

THE COURT: Sorry, I didn't catch the last thing you said. Sort of like what?

MS. WEBSTER: MO evidence.

THE COURT: Okay. One moment.

MS. CHAIKEN: Your Honor, on that basis we'd invoke Rule 404 as well.

THE COURT: Give me a minute.

I want to hear you, Ms. Chaiken, but I can't hear you and try to process what's already been said at the same time.

All right. Go ahead, Ms. Chaiken.

MS. CHAIKEN: Your Honor, just based on the explanation Ms. Webster just offered for why they're offering this, we would invoke Rule 404. It sounds like propensity evidence.

THE COURT: Ms. Webster?

MS. WEBSTER: I'm sorry, I'm not sure what you mean by you invoke 404.

MS. CHAIKEN: 404 bars the introduction of propensity evidence to prove that a person acted in conformity with a particular character or trait on a particular occasion. And it sounds like that's exactly what Mr. Foster is -- Ms. Webster is trying to do here.

MS. WEBSTER: Your Honor, it's not meant for propensity purposes. It's to establish that he -- there was modus -- MO, modus operandi, is a permissible purpose under 404. And I think that is what this is going to.

I also think it's just relevant to the course of the

investigation. These e-mails, these documents were being sent during and around the time of these charges. They also -- I have another exhibit that's relevant to this and it goes to show there was other stuff going on besides the PPP fraud. And I think all of that is relevant to rebut the government's case.

THE COURT: Ms. Chaiken, anything else? It's your objection, I'll give you the last word.

MS. CHAIKEN: Still improper impeachment under 608, Your Honor.

THE COURT: All right. Overruled. Go ahead.

MS. WEBSTER: Thank you, Your Honor.

Can I have that copy back?

THE COURT: Sure.

BY MS. WEBSTER:

**Q.** Okay, Agent Stites. Can you tell us who this e-mail was sent from?

**A.** bpgintakecoordinator@gmail.com.

**Q.** That was labeled as Meghan Thomas; correct?

**A.** Yes.

**Q.** And it was sent to Darrell Thomas; correct?

**A.** Yes.

**Q.** And it says, The requested items are attached; yes?

**A.** Yes.

**Q.** And then what was attached is this document; right? And

this says it's the bio of Brenda J. Miller, a real estate developer and CEO of Bellator Phront Group; correct?

**A.** Yes.

**Q.** And so it says that Ms. Miller leads all divisions of operations, business development and construction as the CEO of Bellator Phront Group, that she served in that capacity since 2017 and had continued to develop and grow in the multifamily industry, and that she brings a level of expertise and knowledge in rebuilding multifamily complexes.

Is any of that true to your knowledge?

**A.** I don't have -- no. I don't know. I don't think she's part of Bellator Phront Group after interviewing her.

**Q.** And then when it says that Bellator Phront Group sets the industry standard in model multifamily living, does that seem accurate based on your investigation of Bellator Phront Group?

**A.** No.

**Q.** No; right?

**A.** No.

**Q.** Thank you.

I'm showing you what I've marked as Defendant's Exhibit 408.

Was this also a document that you received in your response to your subpoena to GoDaddy?

**A.** Yes, I remember seeing this e-mail.

**Q.** You recall seeing it?

**A.** Yeah, I remember seeing some e-mails from an Andrew Berkovitz.

**Q.** Okay. Thank you.

MS. WEBSTER: We'd move to admit Defendant's Exhibit F408, also under Rule 902.11.

MS. CHAIKEN: No objection, Your Honor.

THE COURT: It's admitted.

MS. WEBSTER: Thank you.

BY MS. WEBSTER:

**Q.** Can you -- this is a document where there's communication between this individual and allegedly Brenda Miller; correct? It's the same document you have in your hand, if that's easier to read.

**A.** It's cut off on the top, so I just want to make sure I've got the same thing you're looking at.

It's from Andrew Berkovitz to info@bellatorphrontgroup.com.

**Q.** Do you see who it's addressed to?

**A.** It says, Hi, Brenda.

**Q.** And it says, Thanks for this application; correct?

**A.** Yes.

**Q.** Okay. And you said that you read this e-mail before. Is that --

**A.** No. I said I've seen some e-mails from this individual.

**Q.** And do you recall that these e-mails generally discuss

some sort of equipment loan?
**A.** I don't recall.
**Q.** You don't recall that? Okay. Thank you.
I want to go back to Ricky Dixon for a little while. He -- as I think we mentioned, he had a lot of interactions with Darrell Thomas; is that right?
**A.** He had some interactions with Darrell Thomas, yes.
**Q.** Some? Do you disagree --
**A.** I don't know the number.
**Q.** Okay. But he had more than one interaction with Darrell Thomas.
**A.** Yes. True.
**Q.** And he -- I think you testified earlier that he was involved with the Lee Operations loan; is that correct?
**A.** Yes. He was the recruiter for Edward Lee.
**Q.** And if you turn to Exhibits 20A and 20 -- through 20D, can you take a look at those?
Have you reviewed all those pages?
**A.** Yes. Just 20A and B; right?
**Q.** A, B, C and D.
**A.** I didn't hear C and D, sorry.
**Q.** You're fine.
**A.** Yes.
**Q.** Can you tell me what that appears to be?
**A.** It's an e-mail from Darrell Thomas from his Gmail account

to Ricky Dixon to his Hotmail account. And it has a -- basically a write-up of -- regarding Lee Operations and, you know, the -- something to do with the PPP loan and...

**Q.** And then what is 20C and D?

**A.** This is an e-mail from Ricky Dixon to Darrell Thomas. And it has a -- has that same verbiage, that same paragraph about Lee Operations. And it's signed Edward Lee, with a signature. And then there's a notary stamp. Then looks like there's some other kind of stamp. I'm not sure what that other stamp is.

**Q.** Okay. And so are these documents that you received in response to a subpoena to Google?

**A.** Yes, we got these through the Google subpoena.

**Q.** Thank you.

MS. WEBSTER: I'd move to admit F20A through F20D.

MS. CHAIKEN: No objection.

THE COURT: Hearing no objection from Mr. Marshall either, they're admitted.

MR. MARSHALL: No objection, Judge.

BY MS. WEBSTER:

**Q.** So just to be clear, this is -- first, 20A is an e-mail from Darrell Thomas; correct?

**A.** Yes.

**Q.** And it's to Ricky Dixon and it sends an attachment?

**A.** Yes.

**Q.** And that attachment is an unsigned statement; is that right?

**A.** Yes.

**Q.** And that statement relates to Lee Operations; correct?

**A.** Yes.

**Q.** Okay. And so specifically it says, On May 21st after discussing the loan I obtained for my employees at Lee Operations with my investor Darrell Thomas, we discussed that he had recently set up his payroll through rapid! PayCards for accurate bookkeeping.

And it basically discusses this alleged agreement that they had; correct?

**A.** Correct.

**Q.** And then the F20C is the document where Ricky Dixon sends that statement back to Darrell Thomas; is that right?

**A.** Yes.

**Q.** But now the statement is signed and certified; correct?

**A.** I don't know about certified but it's notarized.

**Q.** Notarized, sorry. I used the wrong word there.

**A.** I'm not sure it's certification.

**Q.** And so Ricky Dixon and Darrell Thomas were communicating and coming up with ideas on how to make sure that they could get the funds from the loans that Lee Operations received; is that right?

**A.** Yeah, that appears what they were trying to do.

**Q.** Are you aware that Darrell Thomas actually sent that statement to Gena Pyfrom-Foster in order to see if she thought that it was okay or acceptable or a good idea?

**A.** Am I aware that Darrell Thomas sent that to her?

**Q.** Yes.

**A.** I don't recall it, but you could refresh my recollection. Yes, this is in the WhatsApp between Darrell and Gena on 6/30 of 2020.

**Q.** And so he's asking her basically if she thinks that's okay?

**A.** Yeah.

**Q.** Okay.

**A.** Well, is the one on top after or before? I -- the message basically just has the -- those words. It doesn't ask do you think this is okay or anything.

**Q.** Okay.

**A.** It just has the -- that paragraph. There's no other --

**Q.** Can I see?

**A.** Okay. Okay.

**Q.** So it's asking?

**A.** Yeah. I didn't know about that other message. Sorry.

**Q.** Sure. I wanted to confirm before I told you.

**A.** Okay. I gotcha.

**Q.** So there are communications between Ricky Dixon and Darrell Thomas about these loans that are charged in this

indictment?
**A.** Yes.
**Q.** And that's not just -- that's not the only one, that's just one example; is that right?
**A.** That's not the only what, e-mail?
**Q.** That's not the only communication between Darrell Thomas and Ricky --
**A.** No, I believe there are more e-mails between Ricky Dixon and Darrell Thomas, yes.
**Q.** Okay. And in this case one of the things that you did was you conducted interviews; is that right?
**A.** Yes.
**Q.** And you actually interviewed a lot of the people in this case; is that right?
**A.** Yes.
**Q.** You had what we call sort of proffer sessions with some of them; is that correct?
**A.** Yes.
**Q.** And that's where you have meetings with them?
**A.** It's an interview. It includes the individual that we're interviewing, it has -- their attorney is there, the US Attorney's Office is there and agents involved in the case are there.
**Q.** So those are prearranged ahead of time; is that right?
**A.** Yes.

**Q.** And those people are represented by counsel?
**A.** Yes.
**Q.** And when you come into a meeting, their attorneys are there?
**A.** Yes.
**Q.** They're there, obviously, the person being interviewed?
**A.** Yes.
**Q.** You're there as the agent?
**A.** Yes.
**Q.** And then there are prosecutors from the US Attorney's Office?
**A.** Correct. And usually other agents that are involved in the case are there as well.
**Q.** Okay. And in this case, one of those interviews was -- or one of those proffer sessions was with Ricky Dixon; is that correct?
**A.** Yes.
**Q.** And so you had a meeting with him?
**A.** Yes.
**Q.** And that was -- I believe it was Webex or Zoom or something?
**A.** It was a Webex.
**Q.** Because it was during the pandemic?
**A.** Yes.
**Q.** So his attorney was present?

**A.** Yes.
**Q.** And he spoke with you pursuant to a proffer letter?
**A.** Yes.
**Q.** And a proffer letter, it sort of sets out -- is a letter that sort of sets out the terms of that interview; is that right?
**A.** Yes.
**Q.** That's not what happened when you interviewed Teldrin Foster; correct?
**A.** Correct.
**Q.** And at that time he did not have a lawyer?
**A.** No.
**Q.** There was no proffer letter setting out the terms of the interview?
**A.** No.
**Q.** You didn't advise him about any -- how the statements could be used against him?
**A.** No.
**Q.** You -- he came in, you just started talking basically; is that correct?
**A.** Pretty much, yes.
**Q.** But back to Ricky Dixon.

He came in and he was asked to talk about his involvement in the case; is that right?
**A.** Yes.

**Q.** And he gave you a version of events?

**A.** Yes.

**Q.** And that version of events was inaccurate?

MS. CHAIKEN: Objection, Your Honor, 608.

MS. WEBSTER: Your Honor, I'm not trying to impeach Ricky Dixon. I think that he falsely identified Teldrin Foster and that's what it's being admitted for.

MS. CHAIKEN: Your Honor, the government hasn't relied on Ricky Dixon in any way to prove its case against Teldrin Foster. So whether or not Ricky Dixon said it was Teldrin Foster or not is completely irrelevant.

THE COURT: All right. I was close to taking a break anyway, so why don't we take that comfort break and then we'll come back and discuss this issue and then I'll bring the jury in. I don't think they need to be here for all that anyway.

Ladies and gentlemen of the jury, let's take a short comfort break. Your break may be a little bit longer than all of ours. All right? You're reminded of your instructions for breaks. Thank you.

(The jury exited the courtroom at 4:40 p.m.)

THE COURT: Y'all can be seated. Thank you.

It's been a while, so why don't we all take a comfort break first and we'll come back and debate that issue. Thank you.

(After a recess at 4:41 p.m., the proceedings

continued at 4:57 p.m. as follows:)

THE COURT: Let's put 608 to the side for a second.

I know that, Ms. Chaiken, you also made the relevance objection, so -- I guess under 401, I guess even to the extent there's some relevance, 403. Let's talk about that.

I guess I -- Ms. Webster, I don't know why we're going down the road of attacking Ricky Dixon if the government isn't using Ricky Dixon to prove their case.

MS. WEBSTER: It's not about attacking him per se, or not really attacking him or impeaching him at all. The idea is that not just Ricky Dixon but other people in this case, when they were asked about who they were communicating with, they -- I'm sorry.

Can the agent be excused for this part of the conversation since it's the subject of the testimony?

THE COURT: Sure. Can you step down, please.

(Witness exited the courtroom.)

THE COURT: Give me one more moment, Ms. Webster.

MS. WEBSTER: Okay.

THE COURT: All right. Go ahead, Ms. Webster.

MS. WEBSTER: So it wasn't just Ricky Dixon, Your Honor. It was multiple witnesses that were interviewed by the government who were involved in this case who, to my knowledge, had no actual communication with Teldrin Foster. Somehow, when they went in to interview and to proffer, they

lied to the agents and said that they were communicating exclusively with Teldrin Foster and were not communicating with Darrell Thomas. And so we know that's a lie because we know they were communicating with Darrell Thomas.

And so -- and the agent actually called -- especially with Ricky Dixon, actually confronted him and said you are lying, like this is not true. You've known Darrell Thomas, you were interacting with Darrell Thomas. And then the proffer sort of ended at that point.

And so our defense is that it wasn't actually Teldrin Foster sending the e-mails or in the WhatsApp chats. And so that is -- this evidence goes to there being other efforts to sort of point the finger at Teldrin Foster when they are not true.

THE COURT: So what you want to get out through this agent is, you talked with Bob, Bob said I talked to Foster, but that wasn't true. I talked to Susie who said she talked to Foster, but that wasn't true. I talked to Jimbo, Jimbo said he talked to Foster, but that wasn't true, et cetera, et cetera, et cetera. These are the -- where we're going with this and it sounds like a lot of other questions.

MS. WEBSTER: I don't think there are a lot of other questions, Your Honor, but there are -- there -- when you say et cetera, et cetera, et cetera, there aren't like ten examples of this. I think there are approximately three

examples of this.

And those are basically the questions, that he said Teldrin Foster, he was actually communicating with Darrell Thomas. He did not communicate with Teldrin Foster. He was lying to you about that; right? Those are -- and for Ricky Dixon, he didn't even like -- he called him Taldrid. It was like he didn't even know his real name.

So I think it all is -- those are the questions. I think it all goes to the idea that there were efforts to blame Mr. Foster for things that Darrell Thomas was doing.

THE COURT: Okay.

First off, I guess, how do you -- how are you getting in any of these other statements? Through what rule?

MS. WEBSTER: None of them are being offered for the truth of the matter, so they're not hearsay because they're lies, so...

THE COURT: Ms. Chaiken, what's your issue with this testimony?

MS. CHAIKEN: Your Honor, we're not relying on Ricky Dixon or anybody else implicating Teldrin Foster. We're relying on the evidence itself. I think this is completely irrelevant. It doesn't in any way support that there was some concerted effort to frame Teldrin Foster.

I think that the jury would need to understand that these people received target letters telling them they were

going to be charged with federal crimes. Some of them came in for proffers. Some of them had already been charged. They were obviously trying to save themselves by pointing the finger at other people.

We did not rely on that in any way. And as Ms. Webster said, Agent Stites confronted Ricky Dixon and said, you're lying. So that's not any part of the government's proof in this case. And unless Ms. Webster is planning to introduce some kind of affirmative evidence that someone was told to lie or to implicate Teldrin Foster, to frame him and that he was not involved, there is just nothing in this case that's consistent with somebody being framed.

As the Court knows, there's been 24 people charged. Every single one of them who is not here in this trial has pleaded guilty, has said I was involved. And so the suggestion that Darrell Thomas has an MO of falsely implicating people in things is just not borne out by any evidence and it's incredibly misleading to the jury to suggest that it is.

If you look at the evidence that came in about Brenda Miller, Brenda Miller was a name on a piece of paper that Darrell Thomas used. There's no doubt he put a fake name on a piece of paper of someone that was not involved with Bellator. But he did not have hundreds of e-mails with Brenda Miller, he did not have WhatsApp messages with her. There's no

indication at all that he took over her e-mail account or took over her phone and was impersonating her. He just took a name of someone he knew, the mother of one of his co-conspirators, and put her name on a piece of paper. That's not an MO of what's happening here with Teldrin Foster.

THE COURT: All right. Thank you.

Ms. Webster, I think Ms. Chaiken has an okay relevance argument here, to the extent she's arguing. The relevance of this is pretty slight.

However, I see your argument, that there's arguably some slight relevance. So I'm going to give you a little leeway. You know, under 403 and that balance, I think it'll depend on how much of this -- how far you want to go down this road because I think as you -- if you go too far down it, I think you may run afoul of wasting time. And that 403 balance may cut against you eventually.

I know that Ms. Chaiken has also mentioned the misleading part. And perhaps that's at play as well.

So I'm going to give you a little leeway on these types of questions and we'll see how far you go and whether there's a renewed objection under 403 at any point, depending on how far you decide to go.

Let's bring in the jury, please.

And let's bring in the witness. Thank you.

How much longer do you think you have of cross,

Ms. Webster? I'm trying to just gauge our evening.

MS. WEBSTER: I'm not going to finish today.

THE COURT: Very well.

You can have a seat, sir.

(Witness recalled to the witness stand.)

THE COURT: Y'all can be seated until the jury comes in.

(The jury entered the courtroom at 5:07 p.m.)

THE COURT: Y'all can be seated. Thank you.

Ms. Webster, go ahead.

The objection's overruled.

MS. WEBSTER: Thank you, Your Honor.

BY MS. WEBSTER:

**Q.** So going back to where we were before we broke, you were interviewing Ricky Dixon; is that correct?

**A.** Yes.

**Q.** And that was in a proffer session via Zoom or Webex?

**A.** Correct.

**Q.** And in that interview he told you that he had not been communicating with Darrell Thomas; is that correct?

**A.** He said that he had not been communicating to him regarding the PPP loan.

**Q.** Right. And, in fact, instead he said that it was Teldrin Foster that he had been communicating with?

**A.** He did.

**Q.** But he didn't actually say Teldrin. Does this sound familiar?

**A.** Yeah. I think he said Taldrin.

**Q.** Taldrid?

**A.** Taldrid.

**Q.** Like T-A-L-D-R-I-D?

**A.** Something like that. Yeah, it was a little bit off.

**Q.** So he didn't actually affirmatively say Teldrin?

**A.** Correct.

**Q.** And, in fact, he lied or misstated what he had been doing so much that you had to confront him on it; is that right?

**A.** Yes.

**Q.** And you had to say, we know that you're lying about this; is that right?

**A.** Yes.

**Q.** And then at that point he had to take a break in the interview?

**A.** Yes.

**Q.** And took a moment to speak with his lawyer?

**A.** Yes.

**Q.** And then that was the end of the interview; correct?

**A.** Correct.

**Q.** But Ricky Dixon wasn't the only one who denied communicating with Darrell Thomas; is that right?

**A.** I'm not sure who you're referring to, but...

**Q.** Okay. Charmaine Redding also came in for an interview; is that right?
**A.** Yes.
**Q.** Okay. And she also said that she had not been communicating with Darrell Thomas about the PPP fraud; is that correct?
**A.** I -- I would have to relisten to that to confirm.
**Q.** Okay. Do you recall that she said that she did talk to Teldrin Foster?
**A.** Again, I would have to listen to Charmaine's interview again.
**Q.** Okay. Let me -- I'm going to circle back to that.
And so you are the case agent, as we said, in this case; correct?
**A.** Yes.
**Q.** Okay. So you're responsible for the overarching investigation?
**A.** Correct.
**Q.** And some people are not located in Atlanta; is that right?
**A.** Correct.
**Q.** So, for example, Amanda Christian lives in South Carolina?
**A.** Yes.
**Q.** Okay. And when her loan -- the PPP funds were deposited

into her account, the Secret Service went to interview her; is that right?

**A.** Yes.

**Q.** And in that interview she denied knowing that it was fraudulent; is that right?

**A.** Yes.

**Q.** And then she said that she had received telephone calls from an individual with the last name of Foster; is that right?

**A.** Again, I'd have to probably relisten to confirm that.

**Q.** Would seeing the report from that interview help you refresh your recollection?

**A.** Sure. This is the Secret Service interview?

**Q.** Yes. In this paragraph.

**A.** She references Foster FNU, so first name unknown.

**Q.** So she says that someone from this CDC SBF -- is that the small business --

**A.** It just says --

MS. CHAIKEN: Your Honor. Your Honor.

I object to this. He's reading from a report that he was -- of an interview he was not present for and a report he did not write and an interview he has no firsthand knowledge of.

THE COURT: Ms. Webster?

MS. WEBSTER: He -- well, one, you can refresh

someone's recollection with anything. He doesn't have to have been part of the initial interview, but he testified that he was the case agent and he's responsible for the entire investigation. So I'm happy for him to put the report down and testify about if his recollection was refreshed.

MS. CHAIKEN: Your Honor, you can't refresh someone's recollection about something they never knew in the first place. He read the report, but he was not there for the interview, so he doesn't know what was said.

THE COURT: Ms. Webster?

MS. WEBSTER: I think the rules are pretty clear that you can refresh recollection with anything and if -- and so he knows what's in the report.

THE COURT: You can. I think the issue is if he ever had the information in his mind at any point. So let's establish that and then you can --

MS. WEBSTER: Okay.

BY MS. WEBSTER:

**Q.** Agent Stites, did you previously during your investigation read the report about the interview with Amanda Christian?

**A.** I believe I've seen this report. I got it from the Secret Service agent that interviewed Ms. Christian.

**Q.** And that was part of your investigation in this case; correct?

**A.** Yeah.

**Q.** Right? You received it as part of your duties as the case agent?

**A.** Yes.

**Q.** And so would seeing -- does seeing it now refresh your recollection about the contents of it?

**A.** It does.

MS. CHAIKEN: Your Honor, the report is hearsay of a different agent who is not here. And refreshing recollection is about refreshing a witness's recollection about something they did or something they knew, not about something they read. Otherwise you could just put any document before a witness and refresh their recollection about what that document says.

THE COURT: Ms. Webster?

MS. WEBSTER: Again, it's not being offered for the truth of the matter, Your Honor. It's -- because she's clearly, I think, lying about basically everything in there, so it's not hearsay, it's not being offered for that.

Again, this was -- he's the case agent who investigated the entirety of the case. So this is part of his investigation, part of his efforts.

THE COURT: All right. This is seeming awfully messy, folks.

Ladies and gentlemen of the jury, why don't you-all

have a great evening and we'll see you tomorrow at 9:00. And perhaps by then I will have waded through this and figured it out. Okay?

Have a great evening. See you at 9:00.

(The jury exited the courtroom at 5:14 p.m.)

THE COURT: Y'all can have a seat. Thank you.

Give me a moment.

I guess the issue is, you know, how far does the fact that --

And, sir, if you could step outside the courtroom, please.

(Witness exited the courtroom.)

THE COURT: I feel like we're in a bit of a bizarre scenario. I'm just trying to break down where we are.

I don't know that I've seen this happen before. That's not to say it's wrong and you can't do it, it's just I haven't seen this before. So I just want everyone to break it down for me and we can think about the actual Rules of Evidence.

We have the case agent on the stand; right?

MS. WEBSTER: Yes.

THE COURT: Knows a lot about the case.

MS. WEBSTER: Yes.

THE COURT: Didn't do everything on the case, but did some stuff on the case and read a lot of other stuff about the

case; right?

MS. WEBSTER: Yes.

THE COURT: Agree, Ms. Chaiken?

MS. CHAIKEN: Yes, Your Honor.

THE COURT: All right. And you want to ask him questions about a lot of different things?

MS. WEBSTER: Many different things.

THE COURT: Okay. I'm going to ask some questions right now, Ms. Webster, and then I'll let you make your argument, okay?

MS. WEBSTER: Okay.

THE COURT: Thank you.

And what you want to do is ask him some questions about Amanda Christian, who was part of this investigation; right?

MS. WEBSTER: Yes. And someone that he was charged -- Mr. Foster was charged with conspiring with, I believe.

THE COURT: So far, so good.

And, Ms. Chaiken, it seemed like you were fine with questions about Amanda Christian until she wanted to refresh his recollection about Amanda Christian; right?

MS. CHAIKEN: Yes, Your Honor.

THE COURT: Okay. And you didn't want her to be able -- you didn't want her to be able to provide the agent a

copy of the interview transcript to refresh his recollection?

MS. CHAIKEN: Well, Your Honor, it's not an interview transcript. It's a report of an interview that was done by an agent from a different agency who was not involved in this investigation.

THE COURT: Okay. Whether it's that or whether it's a telephone book, does it matter what she wants to refresh his recollection with?

MS. CHAIKEN: It matters because you can only refresh a witness's recollection about something they once had a recollection about. And so I --

THE COURT: And I think she established that he would have known this at one point.

MS. CHAIKEN: He would have read it, but he doesn't -- when you refresh a witness's recollection, generally the witness was at an interview and wrote a report and then you ask the agent, you know, did the witness say X, and the agent says, I don't remember exactly. And then they look at a copy of their report that they wrote and that reminds them that in the interview the witness said X.

But, here, the agent doesn't know that because he wasn't at the interview. He has no idea what was said because he didn't write the report. All he did was get a copy of the report and read it.

And so if you could refresh an agent's recollection

with everything he read in the course of his investigation, you could just present your entire case through reports, hearsay reports from third parties that the agent has no personal knowledge of.

THE COURT: Do you have something that shows me you can't do that?

MS. CHAIKEN: Not right in this moment. I agree that you can refresh a witness's recollection with anything, but I don't think that she's established that it refreshed his recollection about what was said in the interview. All she's done is refreshed his recollection about what's in the report.

THE COURT: Well, that sounds just like an issue with semantics then and how the question's phrased.

MS. CHAIKEN: The report is hearsay. She is offering it for the truth of what the report says, which is Amanda Christian said she had calls with Foster, or whatever it is. So that's the whole point, is that --

THE COURT: That seems to make sense to me, Ms. Webster. When you're going that far and trying to get that statement in, that does seem to be different.

MS. WEBSTER: I'm not --

THE COURT: And I know you say, oh, I'm not offering it for the truth of the matter asserted, but what are you offering it for, if not?

MS. WEBSTER: I'm not offering the --

THE COURT: And I'll let you know, I don't -- I'm not persuaded by Ms. Chaiken's argument about you can't use this, that or the other to refresh somebody's recollection if it refreshes it. But I do think her argument about hearsay makes sense. And I'm just not understanding why -- if you're just having him read what she said in an interview and then spill it out to the jury, that does seem like for the truth of the matter asserted.

MS. WEBSTER: So, Your Honor, we're not -- I think there's potentially two levels of hearsay. We're not trying to get in that the Secret Service agent said anything. We're just trying to get out that Amanda Christian made the false statement. And so that statement, I think, is what is not being offered for the truth of the matter. And so I think that it's admissible.

And I would just tell the Court, I'm not -- that's basically the last question I have for him, is just to say, that's what she said, she identified Mr. Foster, which I think he's already testified to. And then to say there's no indication that that's actually true what happened. That's it. That's the entirety of the questioning about that.

THE COURT: Well, you asked, Sure, this is a Secret Service interview. Yes, in this paragraph. She references Foster, first name unknown. So she says that someone from the CDC SBF -- is that the small business -- is that -- that seems

like a different question than what you just said you were going to ask.

MS. WEBSTER: I'm sorry. Say it again.

THE COURT: It looks to me like you're just going through her testimony and have him say did she say this, did she say this.

MS. WEBSTER: But what she's saying is not being offered for the truth of the matter because it's not true. Because the idea that someone named Foster from CDC SBF called her and that's when she knew that it was a lie, is not true. So it can't be offered for the truth of the matter. And, therefore, it's not hearsay.

MS. CHAIKEN: Your Honor, you can't get to that second level of what she said and what that is offered for without first getting to the first part, which is this is a Secret Service agent who is saying Amanda Christian said X. And that is hearsay.

We don't know if that is true or not, we weren't there. Nobody was there. And you can't get to what Amanda Christian said. They should call the Secret Service agent if they want to establish what Amanda Christian said, but she's having our agent read a different agent's report in order to prove what was said.

I agree that the underlying -- if she actually said it is not true and would -- well, I don't know if it's not

true, but it's fine that they're not offering it for the truth.

But the fact that it was said in and of itself is hearsay because it's coming from an out-of-court declarant's report.

MS. WEBSTER: When she's in -- sorry.

When I was offering, I was not asking him, And did the Secret Service agent tell you that she said this? I said she was interviewed by the Secret Service and then she said this; right? So I'm not offering that middle level or that --

THE COURT: You've lost me, Ms. Webster. I mean, the question was, So she says that someone from the CDC SBF -- is that the small business -- it just says -- and so he's -- you know, at that point he's reading from the report what the agent asked and what she said, which Ms. Chaiken has said, well, it's -- at least what the agent said someone else said is hearsay.

And, you know, perhaps if you want her answer to come in and that's not offered for the truth, Ms. Chaiken said fine, but at least what the Secret Service agent asked is hearsay.

MS. WEBSTER: But what the -- I didn't offer anything about what the Secret Service asked. When I referred to the CDC SBF, that is the bank and who she --

THE COURT: Why don't you give me the exhibit.

MS. WEBSTER: Yes.

THE COURT: And we can go line by line what questions you're going to ask and why you're going to ask them. And I'll let Ms. Chaiken object.

The only -- the only question that's currently objected to is, So she says that someone from the CDC SBF -- is that the small business.

So hand me the document that says that and we'll figure it out.

MS. WEBSTER: Your Honor, it's two pages, but the relevant part is just this top paragraph on this page.

THE COURT: Well, for now, I'm guessing. We're going to have this conversation, then you're going to ask the next question. So give me a moment to read this.

Which page is the first page of this two-page document?

MS. WEBSTER: The complete one is the first page that goes all the way down. And then the second page only goes part of the way down.

THE COURT: And this is a report of investigation, just paragraphs, notes from some agent that wrote them at some point?

MS. WEBSTER: It was produced to us in discovery as a document from the Secret Service. I recognize it's not on the form, but that's how it was produced to us in discovery.

THE COURT: All right. I've now read through this. Point me to -- so she says that someone from the CDC SBF -- is that the small business -- where in here exactly is that?

MS. WEBSTER: It's the first paragraph on the second page, Your Honor.

THE COURT: I don't see the SBF part.

MS. WEBSTER: Or -- I'm sorry, I guess I'm -- it's CDC Finance.

THE COURT: All right. So what question are you going to ask? So she says that someone from this CDC SBF, CDC Finance, is that the small business -- go ahead with what your question was going to be before Ms. Chaiken objected.

MS. WEBSTER: It was going to be, she said that she received a call from CDC Finance, that that person had the last name of Foster, and that's when she figured out that it was a fraud allegedly.

THE COURT: I don't see that in this document.

MS. WEBSTER: Christian stated that at this point she began to suspect that the loan was a part of a scam.

It's the last -- the entirety of the first paragraph; right. That's it.

THE COURT: All right. And, Ms. Chaiken, your objection to her asking Agent Stites, was this what she said, is what?

MS. CHAIKEN: Your Honor, it's just pure hearsay.

The agent would just be reading off what another agent said that Amanda Christian said. There's no other basis for our agent to know what Amanda Christian said in that interview other than somebody else saying it in a report.

THE COURT: All right. So you're -- where you're going is not the underlying Amanda Christian statement. You're conceding, okay, that might not be offered for the truth. But this is saying what somebody else said about what Amanda Christian said; correct?

MS. CHAIKEN: Right. Right. Because they are offering the agent's statement to prove the truth that this is what Amanda Christian said. You can't get to what Amanda --

THE COURT: Very well.

Ms. Webster, how do you get around that? That seems to be a fair argument on Ms. Chaiken's point.

And I'm sorry it took me 15 minutes to understand what you were saying, but that does seem -- you've got -- I don't know if double hearsay is the correct way to say it, but you've got one rung there that does seem like hearsay. I get that under the rung below that, you're saying, well, that's not offered for the truth, but it's still hearsay of this other agent.

So I don't know who wrote this. Maybe we bring him in and you might not have a problem, but I think you've got a problem right now if you want to get this in through Agent

Stites.

MS. WEBSTER: Because my arguments are a couple. One is that I'm not offering -- I'm not going to ask the agent, another agent told you this; correct? No. I just want to ask him if this is what was said.

So the hearsay layer that the government is worried about is not being offered into evidence. That's one.

THE COURT: Well, of course it is.

MS. WEBSTER: What do you mean?

THE COURT: Did you just say that the hearsay the government's not (sic) worried about isn't being offered into evidence? You're doing exactly that.

MS. WEBSTER: The hearsay level that the government -- because I'm not going to introduce a statement from the agent saying another agent interviewed her and then she said, right?

THE COURT: So you'd like to just skip that level and pretend it doesn't exist?

MS. WEBSTER: Yes.

THE COURT: Okay. I'm not going to let you do that.

MS. WEBSTER: Okay.

THE COURT: So objection sustained on that grounds.

MS. WEBSTER: Okay. Can I -- but let me make a couple different arguments.

First of all, it's relevant to the entirety of the --

or to the course of the investigation, which I think we have --

THE COURT: I'm with you on relevance. You don't have to argue relevance.

MS. WEBSTER: Okay.

THE COURT: What you do have to argue is the hearsay, which I just sustained.

MS. WEBSTER: Okay. Can I have one second?

THE COURT: Yes.

MS. WEBSTER: Your Honor, it is not -- that middle level of hearsay I think is not actually being offered for the truth of the matter either. It's actually being offered to show the effect on the investigation, which is something that the government uses all the time to get in what would otherwise be hearsay evidence because this woman, Amanda Christian, ended up being charged in a -- the same count with Teldrin Foster about this crime. And so -- or about this loan that she's referring to; right? And so I'm entitled to ask him about that statement and the effect that it had on his investigation.

THE COURT: Ms. Chaiken?

MS. CHAIKEN: Your Honor, this is just an attempt to end run here. Just to be clear, this interview was not conducted at Agent Stites's direction. This was a separate investigation that was being conducted by the Secret Service.

When we -- when we did our investigation, we found out that the Secret Service had a separate investigation that they had closed into Amanda Christian. We got the documents because we have an obligation to turn over a defendant's statement. And Amanda Christian was a defendant, and so we got this and we turned it over.

But the defense doesn't have any evidence that we charged Teldrin Foster because Amanda Christian identified a CDC Finance employee as first name unknown Foster. She can't show that this did have any impact on the investigation or that Agent Stites in some way decided Teldrin Foster was involved because of this statement by Amanda Christian.

She hasn't laid a foundation for that at all. And saying "effect on the investigation" is just an attempt to end run the fact that she can't get in the fact that this statement was made.

THE COURT: All right. Yeah.

I'm happy to see if you can lay that foundation about the effect on the investigation, but, otherwise, I think Ms. Chaiken's -- that layer of hearsay objection is well taken. And it's sustained but without prejudice to lay the foundation for the effect on the investigation.

MS. WEBSTER: Thank you.

And just to be clear, we would argue a lack of the effect on the investigation is also relevant.

THE COURT: Okay.

MS. WEBSTER: Thank you, Your Honor.

THE COURT: Very well.

All right. Anything else that we can anticipate discussing to save us some time? I mean, I would hate to come back at 9:00 and then five minutes later after the jury comes back and we get through this issue, there's another big issue that's going to take us a long time to debate.

So anything coming down the pipe?

MS. WEBSTER: I am a little concerned about timing for tomorrow, so maybe we should take that up. So I still have a fair amount to go through with Agent Stites. The government has -- did you say six -- six more witnesses that it needs to go through and maybe get them all done tomorrow? Right. But they're supposed to be short, I think. And I'm just talking for them.

But then we also need to get to Persinger because of his conflict. And so that's sort of the issue.

THE COURT: Well, I thought we already agreed that Persinger, at some point, you would call him and it would be out of order.

MS. WEBSTER: I think that that's right, Your Honor, but we're just -- I think we're worried about me being able to finish with Agent Stites, get all the witnesses that have to go tomorrow, and then get to Persinger before the end of the

day.

THE COURT: I'm missing something. I mean, if that's the problem, do Persinger earlier in the day.

MS. CHAIKEN: Well, Your Honor, that's the problem. We have a witness who needs to be done by 3:00 tomorrow. And then we have five other witnesses who are short, like Ms. Liddiard, the bank witnesses, who will, you know, each be five minutes. But they have been here since Wednesday. They're all here from out of town, mostly from the west coast, and they also need to be done tomorrow. We can't keep them here over the weekend. We can't bring them back next week. And so we're just worried about running out of time, because all of our --

THE COURT: This seems like -- these seem like problems we can handle. So let's do this.

What's our estimate for how long, Ms. Webster, you need with Mr. Persinger?

MS. WEBSTER: With Mr. Persinger, I think we -- on direct, an hour, an hour and a half. An hour and a half might be a little extra.

THE COURT: What's your anticipated cross of Mr. Persinger? Or is it Dr. Persinger?

MS. CHAIKEN: Probably about 45 minutes, Your Honor.

MR. MARSHALL: Your Honor, I have my own mini scheduling issue. So I'm assuming that we would not get to my

part of the case and my witness until at least Monday? Is that fair?

MS. CHAIKEN: I think so.

MR. MARSHALL: Think?

MS. CHAIKEN: Yeah, I don't think -- we're not going to get to him tomorrow.

MR. MARSHALL: Okay. Because I've got to arrange -- I have one witness, so...

THE COURT: All right. So Persinger will last about two hours and 15 minutes, give or take. You have five or six short witnesses.

MS. CHAIKEN: We have five bank witnesses who we anticipate, you know, assuming that there's no cross, as there wasn't for Ms. Liddiard, we'd estimate, you know, 45 minutes tops for those together, collectively. 30, 45 minutes.

THE COURT: So far I've got a total of three hours for Persinger and those five witnesses.

MS. CHAIKEN: And then we've got one more that our -- the cell site analyst, who our examination would probably be 30 minutes, 45 minutes.

THE COURT: And how long does the defense counsel believe their cross of these five bank experts and this one other cell person will be?

MS. WEBSTER: I don't anticipate having any cross of the bank witnesses, but I anticipate that the cross for the

cell site expert will be approximately an hour.

MR. MARSHALL: I don't anticipate any on that witness, Judge.

THE COURT: All right. Persinger, two hours and 15 minutes. The five bank witnesses, 45 minutes. That's a total of three hours.

Cell tower person, 30 to 45, plus one. Let's call it an hour and 45 minutes. That's a total of three, plus hour 45 is four hours and 45 minutes, which we should be able to do; right?

I must be missing something.

MS. WEBSTER: My finishing the cross of Agent Stites.

THE COURT: Oh, that's where we might have to give.

So I guess you get to decide. Do you want to finish crossing Agent Stites tomorrow morning and risk not getting through Persinger? Or do you want to pause with Agent Stites, do all these bank witnesses and the cell witness and Persinger, and then come back to Stites at the end of the day if we have time?

MS. WEBSTER: That is what I suggested, but there's an issue with the government, because while Agent Stites is on the stand, they cannot talk to him. And he's their case agent.

MS. CHAIKEN: Your Honor, Agent Stites is our agent. We haven't been able to speak to him since he started

testifying yesterday. And if he doesn't finish tomorrow, we won't be able to talk to him over the weekend and we'll be preparing for the defense case, we'll be preparing for closings, and that, you know, is going to severely limit our ability to work through things. He's an integral part of our team.

THE COURT: All right. Here's what we'll do.

Ms. Webster can finish her cross-examination of Mr. Stites, at which point we will then hear from the five bank witnesses. Then we will hear from Mr. Persinger.

And then if we have time, we'll hear from the cell phone person. It may be that one cell phone person will have to come back.

MS. CHAIKEN: Your Honor, he's on leave next week. He's out of town next week, the cell site expert is.

THE COURT: Who is the cell site expert?

MS. CHAIKEN: His name is Jay Berni.

THE COURT: Is he a government employee?

MS. CHAIKEN: He's an FBI agent.

THE COURT: Okay.

MS. WEBSTER: Your Honor, can we propose a slightly different solution? Which is that we agree that the government can speak with Agent Stites over the weekend so long as it's not about his testimony? Would that solve the problem?

MS. CHAIKEN: Your Honor, the time we've estimated still leaves about three hours for tomorrow morning for the cross of Agent Stites. Is that -- do we really think you're going to need longer than that to finish crossing him?

MS. WEBSTER: I'm sorry, one second.

Alternatively, why can't we do the bank witnesses, the cell site expert, let us do Persinger, and we can put Agent Stites at the end of the day and hopefully it'll be done.

THE COURT: But if he's not?

MS. WEBSTER: But if it's not, then, again, we agree that they can talk to him over the weekend.

THE COURT: About anything and everything?

MS. WEBSTER: Except for what he's testified to, yeah.

MS. CHAIKEN: Your Honor, he's testified about basically the whole case. When we're talking through closing and what we're going to say and what the defenses are and what the responses are to that, that's obviously going to implicate things he's testified about. I don't think that's a line we can really draw.

THE COURT: I agree. I'm not going to ask the government -- I mean, this is, from what I've seen, their most important witness, who is kind of helping them with the entire case. So I'm not willing to accommodate your witness issue --

MS. WEBSTER: Sure.

THE COURT: -- stymie the government, so --

MS. WEBSTER: We'll agree they can talk to him.

THE COURT: -- absent the defense -- both defendants saying, yes, if we don't finish Stites tomorrow, the government can talk with Stites about anything and everything, what I'm going to do is have Stites go first, followed by the five bank witnesses, followed by the cell phone expert, followed by Persinger, if and when we get to him.

But I don't think it's -- you know, the government's already saying, fine, we can interrupt our case to have your expert witness, but, you know, to do that, to then bind them out of talking to their agent over the weekend, when I would assume everybody's going to be working pretty hard on this case, that's not an acceptable solution.

MS. WEBSTER: Okay. We'll agree to it, Your Honor.

MR. MARSHALL: Yeah. And we'd have no objection to it.

THE COURT: All right. Very well.

So just so we're clear then, before we begin tomorrow, if we don't get back to Stites and finish Stites tomorrow, the government's not going to be prohibited from speaking to him about anything and everything.

Is that correct, Ms. Webster?

MS. WEBSTER: That's correct.

THE COURT: Is that correct, Mr. Marshall?

MR. MARSHALL: Yes.

THE COURT: All right. Very well then.

In that case, it would seem prudent to tie up this last little line of questioning with Agent Stites, and then to pause him and do everyone else and then go back to him at the end of the day to the extent we have time left.

Does everyone agree?

MS. WEBSTER: Yes.

MS. CHAIKEN: Sure, yes.

MR. MARSHALL: I'm fine with that, Judge.

Judge, can I add one more thing when you get to the next thing?

Can I ask, Ms. Webster, how many -- other than Mr. Persinger, how many other witnesses you have and how long it might take?

MS. WEBSTER: Sorry, my mind has just gone totally blank.

MR. MARSHALL: That's okay.

MS. WEBSTER: I think we have -- we're not entirely sure. I think it might be three, but I'm not positive.

THE COURT: And that was the first part of Mr. Marshall's questions.

MR. MARSHALL: And then about how long?

MS. WEBSTER: How long they will take?

MR. MARSHALL: Yeah.

MS. WEBSTER: One of them is our investigator, who could take -- and we're going to admit various records through her. So that one could take, you know, a few hours or an hour, maybe two.

And then the other two I think should be fairly short.

THE COURT: Okay.

MR. MARSHALL: Okay.

THE COURT: All right. Anything else for this evening, Counsel?

MR. MARSHALL: No, Judge. At some point, when we get to my part and my witnesses, we'll have to advise my client of her right to testify if she wants to and all that. We might still call her.

THE COURT: Certainly. I'll do that as to both defendants when we get there.

All right. Anything else?

MS. CHAIKEN: Yes, Your Honor.

We had raised this in some of our pretrial briefing and at the pretrial conference. I do think at this point that the defense has opened the door to admission of the co-defendants' guilty pleas. First of all, by asking about how many people were charged and going through the fact that they were charged and not tying up that loop of what happened

with those charges, but also by suggesting to the jury that Darrell Thomas falsely implicated people, and none of those people who were charged were falsely implicated.

And I think that this is exactly what we predicted was going to happen and the argument that was going to be made. And I think the door's been opened to that and we should be able to put that in on redirect.

MS. WEBSTER: Your Honor, I just have litigated this issue in the Eleventh Circuit recently. I think that the law is very clear that you can't admit -- it's a confrontation clause issue. And so the law is very clear that you can't admit co-defendants' guilty pleas without having them come and testify.

And I think I cited two cases in the response to the government's motion in limine, and I think they're named *Griffin* and *Easley*, something like that, and I can provide those to the Court, but I think the law is pretty clear on that.

We are not -- we have not suggested that any of the co-defendants have been falsely charged. If the government has a guilty plea from Brenda Miller, I guess that would be relevant potentially, but I don't think that's what has happened here. So I don't think that we have opened the door to that.

And I don't think that it's admissible. I think the

law is very clear, that co-defendants' guilty pleas are not admissible unless they come and testify.

THE COURT: Mr. Marshall, anything to add?

MR. MARSHALL: No, Your Honor. It's not directed towards me, I don't believe. Is that correct, Ms. Chaiken?

MS. CHAIKEN: Well, it would be evidence that would come in at the trial that the jury would hear as to everyone.

MR. MARSHALL: Well, what would you actually be trying to introduce?

MS. CHAIKEN: We would be introducing that all of the list of people that Ms. Webster went through for each one and asked if they were charged and asked if they communicated with Darrell Thomas and in some way implied, I think, that they were not really involved, they didn't talk to Darrell Thomas, but they were charged, that they pleaded guilty and admitted that they were involved.

MS. WEBSTER: That was -- I'm sorry.

THE COURT: That was a response to Mr. Marshall's question, so I'll let Mr. Marshall speak and then I'll hear from you, Ms. Webster.

MR. MARSHALL: I really don't have a dog in that fight, but I'll just object based -- I'll follow co-counsel's arguments, Judge.

THE COURT: I'll have to look back at that. Yeah. It seems that we are somewhere different than we were at the

pretrial conference, given some of the questions that were asked. So I don't know -- I don't know where that shakes out. I'll take a look.

MS. CHAIKEN: Your Honor, I would just note that we had filed a motion in limine to preclude reference to charging decisions and to who was charged and who was not charged, precisely because who was not charged and was not charged is not generally relevant to the jury's consideration. The questions could have been asked as who was the owner, what did you determine about the owner's involvement, without putting before the jury that they were charged.

But it was the defense that chose to go into that, despite the case law that charging decisions really are not relevant, and I think that the jury may be left with a misimpression based on the nature of the questions about people's interactions with Darrell Thomas directly tied to whether they were charged. Who was this person, did they communicate with Darrell Thomas, I think implies to the jury, oh, here's another person that didn't communicate with Darrell Thomas and was charged with a crime.

MS. WEBSTER: Your Honor, there were -- first of all, these people are charged in the same indictment. They're charged in the same counts as Mr. Foster, so the government's case, when they are saying, like, look at these communications between these two people, it doesn't address other people that

he's charged with conspiring with. And so I'm entitled to ask the agent about their role.

It was not -- the point of that line of questioning, of did they communicate with Darrell Thomas or not was to lead to the questions where Ricky Dixon was falsely identifying Mr. Foster. That is the whole point. That was the setup for those questions, is to say these people -- some of them were communicating directly with Darrell Thomas, some of them weren't. But Ricky Dixon absolutely was. Amanda Christian -- Charmaine Redding also was and was not communicating with Teldrin Foster.

THE COURT: Right. Didn't you ask about the charge?

MS. WEBSTER: I said they were charged in this case. And is the jury not going to get a copy of the indictment that has them charged?

I think there's a limiting instruction that says, you know, you don't consider anyone else's guilt or -- like what -- how they answer their charges is left for another day, basically, and you're only considering whether or not Teldrin Foster and Ms. Jackson are guilty.

But the idea that just because I said other people were charged in this case means that their guilty pleas get to come in without them testifying violates a number of Constitutional rights, his confrontation clause rights, due process rights.

THE COURT: I asked for Ms. Chaiken, Ms. Webster.

MS. CHAIKEN: Your Honor, first of all, I think it was put before the jury that other people in this case pleaded guilty and not by us earlier in the case. So I think the door has been opened to that in any event.

But Ms. Webster said, in the presence of the jury, several times that Mr. Foster's defense is that Darrell Thomas's MO is to use other people's names and suggesting that he falsely implicates people. And I think the brief they filed pretrial said that that was their defense. That he, at least in part, falsely implicates people or falsely inculpates people.

And I think telling the jury that all of these people have been charged, trying to distance them from Darrell Thomas, and in some way suggesting to the jury that, you know, this is all a big conspiracy against people who don't know Darrell and don't talk to Darrell, I think leaves the impression that Darrell Thomas may have falsely inculpated other people. And that is not true.

There is nobody who has been charged in this case who has not admitted their guilt, other than the people who are here on trial and Mr. Baptiste. We're certainly happy for the Court to give a limiting instruction that the jurors should not rely on anybody else's guilt to determine Mr. Foster or Ms. Jackson's guilt. We are not offering it for that purpose.

We certainly agree that the jury should not consider it for that purpose.

But guilty pleas are permitted to be considered for other purposes. And here it's to rebut the defense that Darrell Thomas has an MO of falsely implicating people.

THE COURT: All right. One moment.

All right. Anything else from either side on this for right now?

MR. MARSHALL: I would just say, Judge, from my side -- well, when you get to me, Your Honor.

THE COURT: Go ahead.

MR. MARSHALL: If there is any ruling that admits any of these plea agreements, obviously, if they're standard plea agreements, I'm not assuming any of them make any reference to my client in any way. So I'd object if there was any kind of reference like that. So I think I'm in a different position from Mr. Foster's counsel, but I will -- I just object on that additional ground.

MS. CHAIKEN: Just to be clear, Your Honor, we're not seeking to introduce any actual plea agreements, just the fact there was a guilty plea.

THE COURT: Anything else, Ms. Webster?

MS. WEBSTER: Your Honor, I would like to be able to provide you with the citations to the cases if you're inclined to grant the government's motion.

THE COURT: All right. I think I'd like more than that. I think this would -- I want to be very cautious.

Ms. Chaiken, I'm not sure you're not right, you might be, but I want to be very cautious if I take that step and admit what you want me to admit. Therefore, I'd like a motion from the government, a response and a reply. So perhaps by tomorrow morning you could put together a motion of what you want to do and why. And then it might be that we get to -- over the weekend I get some response briefs and I'll let y'all know on Monday when it's looking like the government's case will still be open at this point.

All right. Okay. Thanks, everyone. Have a good evening. See you at 9:00.

(After a recess at 5:57 p.m., proceedings were continued on February 9, 2024, as follows:)

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# C E R T I F I C A T E

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF GEORGIA

I do hereby certify that the foregoing pages are a true and correct transcript of the proceedings taken down by me in the case aforesaid.

This the 7th Day of February, 2024.

PENNY PRITTY COUDRIET, RMR, CRR
OFFICIAL COURT REPORTER

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