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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

21 Cr. 746 (MKV)

5 ADEDAYO ILORI,

6 Defendant.

Jury Trial

7
8 New York, N.Y.
9 October 28, 2022
9:34 a.m.

10 Before:

11 HON. MARY KAY VYSKOCIL,

12 District Judge

13 APPEARANCES

14 DAMIAN WILLIAMS

15 United States Attorney for the
Southern District of New York

16 BY: JULIANA N. MURRAY, ESQ.

DAVID R. FELTON, ESQ.

17 Assistant United States Attorneys

18 BRILL LEGAL GROUP, P.C.

Attorneys for Defendant

19 BY: PETER E. BRILL, ESQ.

20 ALSO PRESENT: ISABEL LOFTUS, Paralegal Specialist, USAO

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1 (Trial resumed)

2 (In open court; jury not present)

3 THE COURT: All right. Have we anything to discuss
4 this morning?

5 MS. MURRAY: I don't believe so, your Honor.

6 THE COURT: Mr. Brill?

7 MR. BRILL: A couple of brief things, your Honor.

8 THE COURT: Sure.

9 MR. BRILL: I just want to flag for the Court the fact
10 that the government's last witness will be bringing in or
11 attempting to bring in the conversations on the Samsung phone.
12 That was the issue that was covered in the motion *in limine*, so
13 there's likely to be an objection that will come up that was
14 contemplated in your Honor's decision. So just to give you a
15 heads up about that.

16 THE COURT: When you say conversation on the Samsung
17 phone, can you give me more of an insight into what we're
18 talking about. Is it prior -- is it statements of a --

19 MR. BRILL: The alleged co-conspirator conversation
20 among the three people on the Telegram app.

21 THE COURT: Okay.

22 MR. BRILL: So I'm likely to object to that when the
23 government moves to have it come in.

24 THE COURT: On the grounds that?

25 MR. BRILL: That the government can't establish that

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1 it was co-conspirator conversations.

2 THE COURT: Okay. We'll deal with it when we get to
3 it, but thank you.

4 MR. BRILL: And just if we -- the Court still intends
5 on us closing, depending on how far we get, I would just ask
6 for a few extra minutes at the lunch break, if possible.

7 THE COURT: We'll see where we're at, okay?

8 MR. BRILL: Thank you.

9 THE COURT: All right. So I just want to highlight
10 for people that I saw an article yesterday in Inner City Press.
11 I don't know if you all follow that. My chambers gets Google
12 alerts on me, so it popped up. The article does reference the
13 fact that we have Marshals here. Obviously that's a fact, but
14 I intend to just remind the jurors that they're not to be
15 reading or researching anything about the case and to ask if
16 anybody has done that, just to be safe. Agreed?

17 MS. MURRAY: Yes, your Honor.

18 MR. BRILL: Yes, your Honor.

19 THE COURT: All right. Mr. Brill, your client is
20 raising his hand.

21 THE DEFENDANT: I'd like to address the Court on the
22 record.

23 THE COURT: I'm sorry?

24 THE DEFENDANT: I would like to address the Court on
25 record.

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1 THE COURT: Mr. Brill?

2 MR. BRILL: I don't know what he wants to say, your
3 Honor.

4 THE COURT: Would you talk to your lawyer, please,
5 sir. You're represented by counsel. It's highly unusual
6 during a trial for you to address me on record unless you're
7 choosing to testify.

8 Talk to your lawyer, and then he can tell me the
9 subject matter.

10 (Mr. Brill conferring with the defendant)

11 MR. BRILL: Your Honor, Mr. Ilori would like to ask
12 the Court, or suggest to the Court, that my representation
13 during this trial has been ineffective.

14 THE COURT: All right. Mr. Ilori, your position is
15 noted. I do not agree with you personally, but I'm not the
16 ultimate arbiter of that. You have a number of options. At
17 this point I cannot tell you what you should do. Should you
18 choose to change counsel, you may significantly prejudice
19 yourself. I am not adjourning the trial. I am not declaring a
20 mistrial, if that's what you're hoping is going to happen. And
21 as I say, you can either continue with Mr. Brill, you can
22 request new counsel, but new counsel will pick up right where
23 we're at today and we will continue with this trial, with no
24 lapse in time, or you can represent yourself. If you do that,
25 I'm going to ask Mr. Brill to remain on to advise you, but if

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1 you are representing yourself, you do not get latitude to
2 testify without actually taking the stand and being under oath
3 through your representation of yourself. The other option is,
4 you can always file an appeal on the grounds of ineffective
5 assistance of counsel if you end up being convicted.

6 So I will give you a few moments to talk to Mr. Brill
7 or to think about it yourself and decide what it is you want to
8 do.

9 MR. BRILL: Your Honor, could we have some privacy?

10 THE COURT: Yes, of course.

11 MR. BRILL: Thank you.

12 THE COURT: We'll take a brief recess.

13 Ms. Dempsey, can you let the jury know we have an
14 issue that's arisen and we'll be a few moments.

15 THE DEPUTY CLERK: Yes, your Honor.

16 (Recess)

17 (In open court; jury not present)

18 THE COURT: Please be seated.

19 All right. Where are we at, Mr. Brill?

20 MR. BRILL: Your Honor, I've had an opportunity to
21 speak with Mr. Ilori. If I could just -- I'll tell you what
22 he's asking for, and I just would like to add one comment, if I
23 could.

24 THE COURT: Sure.

25 MR. BRILL: Mr. Ilori again has indicated that he

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1 doesn't believe that my representation of him thus far at trial
2 has been effective. As a result of that, he is asking that I
3 be relieved as his attorney and a new attorney appointed. And
4 here's my comment. Based upon my experience with all of the
5 attorneys on the CJA panel, I would find it highly improbable
6 that any attorney would agree that it was -- not to use a
7 double negative. I believe that any attorney on the panel
8 would believe it would be malpractice to jump into a trial
9 mid-trial without preparation. So I'm sure your Honor already
10 thought about that, but --

11 THE COURT: Of course. And you told that to
12 Mr. Ilori?

13 MR. BRILL: Yes.

14 THE COURT: But I'm also telling you, Mr. Ilori, we
15 are not adjourning the trial and you are not getting a
16 mistrial.

17 So two points I want to ask. One, I would need the
18 government's consent to this, but Mr. Brill and Mr. -- I'm
19 going to ask you, Mr. Brill, would you like to have a
20 conversation in the robing room with you and your client and
21 me, but only if the government consents?

22 Let me ask first what the government's position is on
23 this.

24 MS. MURRAY: Your Honor, just for clarity, the purpose
25 of the conversation would be for your Honor to advise the

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1 defendant about the situation and what his options are?

2 THE COURT: Well, I've already done that on the
3 record.

4 MS. MURRAY: Understood.

5 THE COURT: And for me to understand better the nature
6 of Mr. Ilori's concern and to observe to him, as I have on the
7 open record and I will do it again right now -- Mr. Ilori, my
8 opinion is the counsel you have been given has been quite
9 effective. You do not have an argument about ineffective
10 assistance of counsel. But obviously, as I said to you, at the
11 end of the day, this is your call. And you have an appellate
12 right in that regard if you should be convicted. So I've told
13 you what your options are. We can go through the list of
14 people on the CJA panel if you are insisting that you would
15 still like to change counsel. I suspect Mr. Brill is right
16 that they are all going to say they will not step in under
17 these circumstances, but that's an option we can pursue.

18 He's raising his hand again. Would you --

19 Mr. Ilori, while you are represented by counsel, which
20 you still are at this moment, you need to speak through
21 counsel.

22 MS. MURRAY: Your Honor, if I may answer your
23 question, the government consents to your Honor having a
24 conversation in the robing room, and we take no position on the
25 new counsel request.

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1 THE COURT: All right. In the meantime -- all right.
2 Let me first hear from Mr. Brill on this issue.

3 (Mr. Brill conferring with the defendant)

4 MR. BRILL: Your Honor, Mr. Ilori would like to take
5 you up on your offer of a private conversation.

6 THE COURT: And your view, though, Mr. Brill? You are
7 still his counsel. It is potentially dangerous because you
8 enjoy right now attorney-client privilege with Mr. Brill.

9 MR. BRILL: I know what he's going to say, your Honor,
10 but I don't -- I think that probably falls under the topic of
11 attorney-client privilege, so I don't think I can say it, so --
12 that's really the only option that he has if he wants to get
13 his -- make his record.

14 THE COURT: All right. In the meantime, Ms. Murray
15 and Mr. Felton, while I speak with Mr. Brill and Mr. Ilori in
16 chambers, *ex parte*, with your consent, you should be looking
17 into *Faretta* hearing issues.

18 MS. MURRAY: We will do so, your Honor. Thank you.

19 THE COURT: Thank you.

20 All right. Let me see the two of you, with the court
21 reporter, though --

22 MR. BRILL: If we just check with the Marshals to see
23 how they want to --

24 THE COURT: Ah, yes.

25 THE MARSHAL: Is it acceptable for me to accompany you

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1 to the robing room, your Honor?

2 THE COURT: Mr. Brill?

3 MR. BRILL: I mean, it's a nonprivileged conversation
4 at that point with the Court anyway, your Honor, so I don't
5 imagine that the -- I'm sure the Court will order the Marshals
6 not to have conversations about what occurred.

7 THE COURT: Yes, of course the Marshals are going to
8 be subject to confidentiality.

9 Mr. Ilori, the question for you is: Do you consent to
10 the Marshals being present?

11 THE DEFENDANT: Yes.

12 THE COURT: All right. Because I'm not prepared to
13 have a conversation without the Marshals present.

14 All right. So we'll adjourn to the robing room then.
15 Thank you.

16 MS. MURRAY: Thank you, your Honor.

17 THE COURT: All right. Ms. Dempsey, could you let our
18 jurors know, with apologies. I landed on them about being
19 late, and now we're keeping them waiting.

20 (Pages 515-523 SEALED by order of the Court)

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(In open court; jury not present)

THE COURT: Mr. Brill, are you ready or not yet?

MR. BRILL: Your Honor, perhaps we should approach with the Marshal. It can be on the record if you want.

THE COURT: Do you want to join us?

MS. MURRAY: Government? Yes.

(At the sidebar)

MR. BRILL: Again, within the bounds of what I can and can't discuss under privilege, your Honor, Mr. Ilori, unhappily, has determined that he wants to move forward with counsel--me, that is--number one.

Number two, based upon the Court's own observations and mine and the government's, the delay to the July trial, from my opinion, as I previously told the Court, I believe was unwarranted because I believe I was fully prepared to move forward at that time, as I said to the Court at that time.

This is not based upon any privileged conversation, but my belief is that this may -- this situation may be a delaying tactic.

THE COURT: That's painfully obvious.

MR. BRILL: Yes. I have expressed to the Marshals my concern that the additional delay tactics are fairly limited, and I don't know if I am fantasizing here, but could include hauling off and punching me in the head in the middle of the trial, because obviously that would lead to a delay. So I

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1 don't particularly have a physical fear of Mr. Ilori, but given
2 that his options may be limited--and I'm sorry to have to say
3 this at all--if he feels that he really wants this trial not to
4 move forward with me as his attorney, given his limited
5 options, he might try something more dramatic. I have no basis
6 in fact to say that this actually will happen, but in narrowing
7 down the possibilities, if delay is his tactic, then there
8 aren't that many left.

9 I don't want to prejudice Mr. Ilori in front of the
10 jury by noticeably increasing security or handcuffing him or
11 something like that. I don't even know if moving him a chair
12 over would be obvious to the jury and prejudicial. And we
13 obviously want to protect the record and make sure that this
14 trial is fair to Mr. Ilori. But in good conscience, as I was
15 thinking about it, and given, again, not based upon any
16 privileged conversation but just on my observation of his
17 emotional state, I don't know if it's a realistic concern or
18 not, your Honor, but I just want to raise it with the Court.

19 THE COURT: All right. Two things. Is somebody with
20 Mr. Ilori?

21 MR. BRILL: Yes.

22 THE MARSHAL: He's in the holding cell.

23 THE COURT: Okay. I guess I welcome views from the
24 Marshals about this.

25 THE MARSHAL: So I can get in contact with our

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1 higher-ups, our management, just to get what the options are,
2 but ultimately it would be up to you as to what level of
3 restraint, if any, or separation. But I will contact our
4 management to find out.

5 THE COURT: All right. Well, I'll just observe for
6 the record -- I'm not going to say much, but I will observe for
7 the record that it is absolutely my view that this is a tactic
8 by Mr. Ilori, completely unfounded and strategic on his part,
9 and he is, to my observation, somewhat manipulative. So I
10 understand your concern, Mr. Brill.

11 MR. BRILL: The minimal -- the minimum step would be
12 simply to put a chair in between us. I don't know if that
13 would be -- or maybe even a chair's length in between us
14 without a chair.

15 THE COURT: Yeah.

16 MR. BRILL: Because that would just make it harder to
17 do something, and since the Marshal is young and athletic, it
18 wouldn't be hard for him to, you know, close that distance
19 rather quickly if there was ever an issue.

20 THE COURT: And what we could certainly do is if you
21 put a chair distance between you, your chair could be in the
22 space, right? So that --

23 THE MARSHAL: Yes, your Honor.

24 THE COURT: So that you could intercede quickly if
25 need be.

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1 THE MARSHAL: We could also pull in an additional CSO,
2 if that would be more comforting.

3 THE COURT: As we get to turning the case over to the
4 jury, I think the CSOs come up anyway then, right?

5 THE DEPUTY CLERK: Yes.

6 MR. BRILL: That's give or take four hours from now.

7 THE COURT: I agree. Well, at this point now, because
8 we have to do the charging conference. I don't think it will
9 be very long, unless there's new issues that you haven't told
10 me about. But that's what I think we need to do is separate
11 them and move ahead.

12 THE MARSHAL: I'll contact management just to make
13 sure we're all squared away?

14 THE COURT: Yes. If you could consult with them, and
15 then we'll confirm everything before we go back.

16 THE MARSHAL: Thank you, your Honor.

17 THE COURT: But sir, you have a shirt with --

18 THE MARSHAL: I'm actually doing another matter on
19 that side, your Honor. I just heard about it so I came over to
20 assist if I could. It would be more natural to have the CSOs
21 here, which would provide more protection or security. Puts
22 another chair, puts another barrier, to just make it go
23 smoother like a normal trial.

24 THE COURT: Thank you. Thank you for your assistance.

25 So Ms. Dempsey, do you want to ask them if they'll

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1 have a CSO come up.

2 Is there any objection?

3 MS. MURRAY: No, your Honor.

4 THE COURT: Mr. Brill?

5 MR. BRILL: As long as it's inobtrusive.

6 THE COURT: In the back of the courtroom, which is
7 where they would be sitting anyway, once we turn the case over
8 to the jury. But I did mention to you yesterday -- I mentioned
9 earlier this morning, actually; just seems like yesterday --
10 that one of the jurors did inquire who were the people in the
11 suits sitting behind Mr. Ilori, and Ms. Dempsey just said
12 they're part of the team and left it at that.

13 So let's see what the feedback is, okay? All right.
14 Thank you.

15 (Recess)

16 (Continued on next page)

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1 (Jury not present)

2 THE COURT: All right. We are back on the record.

3 Please, Mr. Ilori, can you pull that microphone over
4 in front of you?

5 Sir, we've now had a long opportunity for us to talk
6 and for you to talk with Mr. Brill. I'd like you to just
7 confirm on the record that we are proceeding with Mr. Brill as
8 your counsel.

9 THE DEFENDANT: I only have two choices, and which I
10 either go on with Mr. Brill, that never gave me my discovery,
11 or I go with myself. So, I do not have any understanding of my
12 case, so I have to go with Mr. Brill right now. I don't have
13 my discovery.

14 THE COURT: Yes.

15 THE DEFENDANT: Yes.

16 THE COURT: Thank you.

17 So since we've inconvenienced the jurors for over an
18 hour already, and Mr. Greenwald, counsel for Mr. Recamier, is
19 here, we're going to take out of order the defense' request to
20 call Mr. Recamier.

21 Is that still your intent, Mr. Brill?

22 MR. BRILL: Yes, your Honor.

23 THE COURT: All right. So will the Marshals please
24 bring --

25 U.S. MARSHAL: Yes, your Honor. He's being brought

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1 up, your Honor.

2 THE COURT: Okay. Mr. Greenwald, have you had an
3 opportunity to speak with him?

4 MR. GREENWALD: Yes, your Honor. I spoke with him in
5 the cell block today and reconfirmed his intent not to testify.

6 THE COURT: Thank you.

7 It's my intent to put him under oath, let Mr. Brill
8 ask whatever it is he wants to ask, and then you can as his
9 counsel invoke, but I need him to confirm that he's invoking.

10 MR. GREENWALD: Yes, your Honor. I'm unfamiliar with
11 the choreography. Do I stand next to him or do I stand back
12 here?

13 THE COURT: You know, it is a little awkward, but if
14 you're comfortable, there is a chair there.

15 Any objection to that?

16 MS. MURRAY: No, your Honor. Thank you.

17 MR. BRILL: No, your Honor.

18 How many questions should I have ready?

19 THE COURT: You need to make clear what your subject
20 matter is going to be in order for him to make an informed
21 decision, and the question is do your questions put him at risk
22 for further incrimination or prosecution. Correct?

23 MR. BRILL: Yes, your Honor. I'm prepared to do a
24 full examination.

25 THE COURT: Okay. Mr. Greenwald, is it your intent to

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1 be heard after he invokes?

2 MR. GREENWALD: Not unless anyone has any questions.
3 If he invokes, then I think he's done.

4 THE COURT: Well, he's done if I say he's done.

5 MR. GREENWALD: Right.

6 I will have nothing unless the Court or counsel has
7 any questions.

8 THE COURT: Okay. Is it your intent to be heard?

9 MR. BRILL: We may, just for the clarity of the
10 record, want the government's prior representation that they
11 are not to going to claim immunity to be placed in this part of
12 the record.

13 THE COURT: Yes, that's fine. Okay. So we all have
14 the script. Thank you.

15 All right. I'm going to ask Ms. Dempsey to let me
16 know when they're ready. You can stay seated. Thank you.

17 (Recess)

18 (Jury not present)

19 THE COURT: Please be seated, everyone.

20 Mr. Brill, are you calling a witness?

21 MR. BRILL: Yes, your Honor. The defense calls
22 Christopher Recamier.

23 THE COURT: All right. And, for the record, we're
24 taking this out of order for the reasons we previously
25 discussed.

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RECAIMER - DIRECT --

1 Good afternoon, sir.

2 Ms. Dempsey, would you swear the witness, please?

3 CHRISTOPHER RECAIMER,

4 called as a witness by the Defendant,

5 having been duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 THE COURT: Mr. Brill.

8 MR. BRILL: Thank you, your Honor.

9 BY MR. BRILL:

10 Q. Good morning, Mr. Recamier.

11 A. Good morning.

12 THE COURT: Sir, if you would, if you could lean
13 forward and speak into the microphone.

14 THE WITNESS: Yes, ma'am.

15 THE COURT: Thank you, sir.

16 Q. Mr. Recamier, do you know an individual known as Brian or
17 Adedayo Ilori?

18 (Discussion between the witness and his counsel)

19 A. I want to invoke my right not to testify.

20 Q. All right. I'll ask you a couple of other questions.

21 All right. With regard to Mr. Ilori, did there come a
22 time that you provided him with access to a leased Mercedes
23 Benz?

24 A. I'm going to invoke my right not to testify.

25 Q. With regard to Mr. Ilori, did there come a time when you

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RECAIMER - DIRECT --

1 provided -- when you leased an apartment for him in the name of
2 William Jamieson?

3 A. I invoke my right not to testify.

4 MR. BRILL: Is that sufficient, your Honor?

5 THE COURT: Is that the extent to what you want to ask
6 him about subject matter wise?

7 MR. BRILL: Subject matter wise, they're all similar
8 subjects. So I can continue. I just -- they're all going to
9 be along the same lines.

10 THE COURT: All right. Counsel, what is the basis for
11 Mr. Recamier's invoking of the privilege?

12 MR. GREENWALD: Your Honor, Mr. Recamier has a -- has
13 a belief that truthful answers would tend to incriminate him
14 for matters beyond the charge for which he's plead guilty and
15 been sentenced, and in discussions with the government, we
16 understand that there is potential exposure to Mr. Recamier if
17 he offered truthful answers to the questions and subject matter
18 Mr. Brill is exploring.

19 THE COURT: All right. Mr. Recamier, do you intend to
20 follow your counsel's advice if additional questions are put to
21 you and you will be invoking your right not to incriminate
22 yourself?

23 THE WITNESS: Yes, ma'am.

24 THE COURT: All right. Let me ask the government, are
25 you prepared to grant Mr. Recamier immunity?

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RECAIMER - DIRECT --

1 MS. MURRAY: We are not, Your Honor.

2 THE COURT: All right. I do find that this line of
3 questioning that Mr. Brill has posed and additional questions
4 along the same lines do pose a risk to Mr. Recamier of further
5 incriminating himself and further prosecution.

6 I'll say for the record, the parties to this case
7 know, but for the record, he has plead guilty. He has been
8 sentenced, but only to Count 1 of the indictment against him,
9 which contained five additional charges.

10 Now, the government did dismiss those charges, but I
11 am aware from his sentencing or his plea allocution, I forget
12 which, that, as I recall, there are state charges that are out
13 there. In addition, I went back and I reviewed the plea
14 agreement, which very specifically reserves the government's
15 right to bring further prosecution under I believe the RICO
16 statute.

17 So I do find that Mr. Recamier faces the risk of
18 further incriminating himself and does have a right to invoke
19 his Fifth Amendment privilege.

20 MR. GREENWALD: Thank you, your Honor.

21 THE COURT: Anything further for the record?

22 MR. BRILL: No, your Honor.

23 THE COURT: From the government?

24 MS. MURRAY: No, your Honor.

25 THE COURT: All right. Thank you.

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RECAIMER - DIRECT --

1 Thank you, Mr. Recamier, and thank you, Mr. Greenwald,
2 very much.

3 (Witness excused)

4 MR. GREENWALD: Thank you, your Honor.

5 THE COURT: I'm sorry for the inconvenience about
6 timing to both of you.

7 All right. So it is now 11:15. Because of the issues
8 that we had this morning, we suggested to the jury that they
9 take an early lunch. They're coming back at what time,
10 Ms. Dempsey?

11 THE DEPUTY CLERK: 12:30, Judge.

12 THE COURT: 12:30. Is there anything else we can or
13 should accomplish between now and then, or should we all resume
14 at 12:30 with the expectation and the goal that we're pressing
15 through to the conclusion of evidence and perhaps hopefully
16 even summations?

17 MS. MURRAY: Yes, your Honor. Nothing from the
18 government to address right now.

19 THE COURT: Mr. Brill?

20 MR. BRILL: I can't think of anything, your Honor.

21 THE COURT: All right. So the only question I have
22 for each of you is how long do you each expect to be with
23 summations?

24 MR. FELTON: The government will be about 50 minutes,
25 5 0.

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RECAIMER - DIRECT --

1 THE COURT: Five 0.

2 Mr. Brill.

3 MR. BRILL: Probably 35 to 45.

4 THE COURT: Thank you. I'll see everybody then at
5 12:30 did you say?

6 THE DEPUTY CLERK: Yes, your Honor.

7 THE COURT: All right. I'll see you shortly before
8 12:30, so we're ready to go at 12:30.

9 (Recess taken.)

10 (Continued on next page)

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RECAIMER - DIRECT --

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(Jury not present.)

THE COURT: All right. Good afternoon. Are we ready to go?

MS. MURRAY: Yes, your Honor.

MR. BRILL: Yes, your Honor.

THE COURT: All right. Is your witness here?

MS. MURRAY: Yes. We just didn't want her in the courtroom in case there are any other issues to discuss. She's ready.

THE COURT: I don't have anything unless either of you do.

MS. MURRAY: No, your Honor. Thank you.

THE COURT: So, Ms. Palm mer, you want to resume the witness stand, and we'll get the jury then after that.

Thank you very much. I'm sorry to keep you waiting. You can have a seat. Thank you.

We're going to bring the jury out now, okay? Thank you.

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Palmer - Cross

1
2 (Jury present)

3 THE COURT: All right. Please be seated, everyone.

4 To our jury, thank you very, very much. I know you
5 were all here on time and ready to go. I appreciate your
6 patience very much. Unfortunately, this is sometimes the way
7 it works with trials, that legal issues come up and I have to
8 deal with the parties and lawyers outside of your presence.
9 And that's what happened this morning.

10 So we had two separate things we had to deal with, and
11 it became obvious -- I didn't want you sitting around any
12 longer. So I hope you all got something to eat. We're going
13 to move ahead with dispatch. And I'm still trying to keep to
14 what I told you yesterday was my hope, that we'll complete the
15 evidence today.

16 So, Ms. Palmer, you remain under oath, and we are
17 ready for Mr. Brill's cross-examination I believe. Right?

18 MR. BRILL: Yes. Thank you, your Honor.

19 ELIZABETH PALMER, resumed.

20 CROSS EXAMINATION

21 BY MR. BRILL:

22 Q. Good afternoon, Ms. Palmer.

23 A. Good afternoon.

24 Q. Just generally, throughout the records that you reviewed in
25 creating your charts, did you ever come across the name Adedayo

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Palmer - Cross

1 Ilori?

2 A. In the bank statements, no.

3 Q. Okay. And did you ever come across the name Brian Ilori?

4 A. No.

5 Q. Or any Ilori for that matter?

6 A. Not that I recall.

7 Q. A couple of just specific things I was wondering about.

8 There was some Zelle transfers with specific names attached to
9 them. Do you recall that?

10 A. Yes.

11 Q. I think there was like a John and a David?

12 A. Yes.

13 Q. Were you provided any additional information about who
14 those individuals were?

15 A. I did not look into the details of the Zelle transactions.

16 Q. Aside from you personally, do you know if anyone else did
17 that -- you know, that the information was provided to you?

18 A. I am not aware of that.

19 Q. Looking at --

20 MR. BRILL: Ms. Loftus, could we put up Exhibit 702 to
21 begin with?

22 Q. I think, Ms. Palmer, it was clear what the 137,000
23 transfers to controlled accounts -- that is what you summarized
24 towards the end of your testimony yesterday, right?

25 A. Yes.

xMAS1ILO1

Palmer - Cross

1 Q. Okay. With regard to the \$13,000 cash and other
2 withdrawals, does that cover the ATM withdrawals, the Zelle --
3 what else is included in that?

4 A. Any Zelle or other P2P transactions would not be to that.
5 They would be in the 1,700.

6 Q. Okay.

7 A. The other withdrawals are withdrawals that just on the face
8 of the documents from the bank I could not tell if they were
9 cash. Could have been case, but they would not have been an
10 electronic transfer.

11 Q. Okay. So, basically, on the far left, that is clear those
12 are actual transfers between accounts, correct?

13 A. Yes.

14 Q. On the right, is that peer-to-peer? Is that what P2P
15 stands for?

16 A. Yes.

17 Q. So basically Zelle or Venmo or something like that where
18 people are sending money to each other?

19 A. Yes.

20 Q. There's this \$13,000 other category in the middle. I know
21 you weren't out there investigating a lot of this, but did you
22 receive any information as part of the investigation as to
23 where that money went, who that money went to, other than being
24 able to say it was like an ATM withdrawal?

25 MR. FELTON: Objection to form, your Honor.

xMAS1ILO1

Palmer - Cross

1 MR. BRILL: I'll rephrase it.

2 Q. Specifically with the ATM withdrawals, were you able to
3 determine who withdrew the money?

4 A. I had the information on the bank statements, which only
5 showed the amounts coming out.

6 Q. Okay. And presumably the person in control of the account
7 or who had access to the account, right?

8 A. I wouldn't be able to say.

9 THE COURT: Hold on. Is that a question?

10 MR. BRILL: Yes.

11 THE COURT: You need to rephrase.

12 MR. BRILL: Okay.

13 Q. The information that you were provided simply shows that
14 there were ATM transactions, correct?

15 A. Correct.

16 Q. And was there any information provided to you that would
17 allow you to draw a conclusion about where the money went after
18 the ATM withdrawals?

19 A. No additional information outside the bank statements was
20 provided to me.

21 Q. Okay.

22 A. I would note that there were also cash deposits in two
23 other accounts.

24 Q. All right. Did the -- did you take all of the cash
25 withdrawals from all of these accounts and add them up and

xMAS1ILO1

Palmer - Cross

1 compare them to the cash deposits?

2 A. There were -- I couldn't recall exactly which account, but
3 in the exhibits, there is at least one note of net cash
4 withdrawals, and it's a summary chart, so overall I looked at
5 the total cash in, cash out.

6 Q. Okay. Was that 709?

7 MR. BRILL: Would you put up 709 briefly?

8 Q. This may or may not be the one, but you can let me know.
9 Was that the one you're talking about?

10 A. Yes.

11 So there on the left in the yellow pie piece, you can
12 see the net cash used, net cash out was about \$59,000 so that
13 would take into account all the cash out and all the cash in of
14 the bank statements I reviewed.

15 Q. Okay. So just to be clear, the six percent in the net cash
16 bubble, that indicates just the percentage in the pie chart,
17 right?

18 A. Correct.

19 Q. The 51,000 net is when you take all the cash out and all
20 the cash in, there's -- is it 59,000 that you determined had
21 been taken out and not put back in?

22 A. Correct. So this, the whole pie chart is a little over a
23 million dollars of money that had come into the account and
24 where it went. So this shows about \$59,000 of cash was
25 expended and not brought back into another account.

xMAS1ILO1

Palmer - Cross

1 Q. Okay. And given, you know, cash being fungible, is there
2 any way to tell whether the actual cash that was taken out of
3 the ATMs was the same cash as put back into the ATMs?

4 A. No. There's no way to tell which dollar was taken out and
5 which dollar was deposited.

6 MR. BRILL: Okay. And just quickly, if we could put
7 up 703, Ms. Loftus.

8 Q. Similarly, when it says net cash withdrawal, that would be
9 in this account specifically, in 703, which is, for the record,
10 M2 Gold Jet -- would that indicate there had been cash
11 withdrawals and cash deposits in this account?

12 A. Yes.

13 Q. Okay. And the 8,000 was the amount not made up for by the
14 deposits, correct?

15 A. Correct.

16 Q. Okay. Can we put up Exhibit 704? Here, with regard to
17 Twinway Air Charter, you have a \$15,000 cash withdrawal. Would
18 that indicate that there was no cash deposits in this account
19 at all because it doesn't say net?

20 A. I don't recall the specifics. These are the material
21 transactions that I'm showing on the summary here.

22 Q. Okay. Just based upon your practice, without having to go
23 back and look through all the, you know, bank statements again,
24 if you had not put the word "net" in would that indicate
25 generally that there would not have been a corresponding

xMAS1ILO1

Palmer - Cross

1 deposit or deposits compared to withdrawals?

2 A. Correct.

3 MR. BRILL: Okay. And then if we could take a look at
4 705, please.

5 Q. Here, with regard to BRS Consulting, you have 100,000 to
6 named individual. Right?

7 A. Yes.

8 Q. Named individual, the way you've written this without a
9 pleural, you know, it's not individuals, would that indicate
10 there's only one person or it's just the term that you used?

11 A. It is to one person.

12 Q. And who would that person be? Do you recall?

13 A. I don't recall the last name.

14 Q. Okay. And this was a transfer out, like an electronic
15 transfer out?

16 A. I don't recall if it was a transfer or check.

17 Q. Okay. And then with regard to the \$22,000 in transferred
18 to controlled account and cash withdrawals, what you have here
19 is two categories, right?

20 A. Yes.

21 Q. You have the transfers to controlled account, meaning one
22 of the -- you said you did the review of 22 accounts in total,
23 right?

24 MR. FELTON: Objection, Your Honor.

25 THE COURT: Sustained. Just ask the question,

xMAS1ILO1

Palmer - Cross

1 Mr. Brill.

2 Q. You did -- did you review 22 accounts as part of this
3 analysis?

4 A. I believe there were 23.

5 Q. Twenty-three. Fine. I wrote it down wrong.

6 And as part of that analysis, you determined that in
7 regard to this \$22,000, there were transfers out of the BRS
8 Consulting into one or more of the other of the 23 accounts; is
9 that accurate?

10 A. Yes.

11 Q. Okay. And there were also cash withdrawals here, right?

12 A. Yes.

13 Q. And, again, without having to go back and look at the
14 accounts, would it be based upon your practice, you used the
15 word net, that there would simply be no withdrawals and no
16 charges into this account?

17 A. Yes.

18 Q. Okay. Based upon the information that you were provided,
19 was there any way to determine who was responsible for the
20 transfers to the controlled accounts in this -- and the others
21 that we looked at?

22 A. Not specifically, but I would say in general bank practice
23 only people who have access to the account could make
24 electronic transfers out of the account.

25 Q. Okay. And based upon your review of the information you

xMAS1ILO1

Palmer - Cross

1 were provided, were you given information to indicate -- well,
2 two different things. One, how many people have access to each
3 account? Did you get that information?

4 A. I did have the bank account opening documents. We saw
5 examples the signature pages yesterday.

6 Q. Okay. So, for example --

7 MR. BRILL: Just so we're clear, can we just put up
8 Exhibit 113.

9 Q. Is this what you were referring to when you just talked
10 about the account opening documents?

11 A. Yes.

12 Q. Okay. And so this would be for one that you reviewed,
13 correct?

14 A. Yes.

15 Q. Mula Apps Corp, right?

16 A. Yes.

17 Q. And the person alleged to have opened this account was
18 someone named Jonathan Herttua or Herttua, right?

19 A. Yes.

20 Q. And would it be fair to say for the 23 accounts which you
21 reviewed, you reviewed a similar document for all of them or
22 most of them?

23 A. I couldn't say how many -- how many accounts I looked at,
24 the specific bank opening documents. On all the bank
25 statements I reviewed, there would also have been the name of a

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Palmer - Cross

1 user on the top of the bank statement.

2 Q. Okay. And based upon your background with forensic
3 accounting and auditing, is there a way to determine from bank
4 statements the authorized -- all of the authorized users on an
5 account?

6 MR. FELTON: Objection.

7 THE COURT: What's the objection?

8 MR. FELTON: Beyond the scope.

9 THE COURT: Overruled.

10 THE WITNESS: No. The bank statements do not always
11 list all authorized users.

12 Q. Okay. Would the -- if something like this business
13 signature card had accompanied the information for each account
14 opening -- withdrawn. That didn't make sense.

15 If the business signature card like this had
16 accompanied the documentation you received for each account,
17 would that be able to -- would that allow you to draw the
18 conclusion about who had control of the account?

19 MR. FELTON: Objection, calls for speculation.

20 THE COURT: No. She can say whether it would or it
21 wouldn't.

22 Can you ask the question again, please?

23 MR. BRILL: Sure, if I can remember it.

24 THE COURT: Do you want it read back?

25 MR. BRILL: No, I can do it. Thank you, your Honor.

xMAS1ILO1

Palmer - Cross

1 Q. If the business signature card like this was included with
2 each account that you reviewed, would that have indicated to
3 you who had control over the account?

4 A. Yes. I think the business signature card would have
5 included all authorized users on all accounts for each account.

6 Q. Based upon your training and experience, were there any
7 other documents separate from the business signature card that
8 might also indicate who had access to the account if there are
9 other people?

10 A. There could have been a number of account opening
11 documents. Different banks might do it differently. So a
12 signature card is something that could do that. I couldn't
13 tell you which documents every bank uses that -- had statements
14 been reviewed.

15 Q. But based upon your training and experience, would it be
16 fair to say that banks would require some sort of document from
17 an authorized user before that person would be able to access
18 an account?

19 A. A bank would have a list of names of who was authorized.
20 What they would require from a user I couldn't say.

21 Q. Okay. I don't have anything further. Thank you.

22 THE COURT: Thank you.

23 Redirect.

24 MR. FELTON: Yes, your Honor.

25 DIRECT EXAMINATION

MASRILO3

PALMER - REDIRECT

1 BY MR. FELTON:

2 Q. Good afternoon.

3 A. Good afternoon.

4 Q. Ms. Palmer, who asked you to prepare the summary charts?

5 A. The prosecution team.

6 Q. Who provided you the materials that you reviewed?

7 A. The prosecution steam.

8 Q. Did you review any materials other than what the
9 prosecution team provided you?

10 A. No.

11 Q. Did you review anything else on this case other than the
12 financial statements provided to you?

13 A. No.

14 Q. Were you asked to do anything else on this case?

15 A. No.

16 MR. FELTON: No further questions, Your Honor.

17 THE COURT: Thank you.

18 Mr. Brill.

19 MR. BRILL: Nothing else, your Honor. Thank you.

20 THE COURT: All right. Ms. Palmer, you are excused.

21 Thank you for coming in.

22 (Witness excused)

23 THE COURT: And the government's next witness?

24 MR. FELTON: Your Honor, the government calls Robert
25 Bateman.

MASRILO3

BATEMAN - DIRECT

1 THE COURT: All right. Good afternoon, Mr. Bateman.
2 If you would come up here and stand here at the witness stand.
3 Once you're situated, my courtroom deputy will administer the
4 oath.

5 Yes. Step up and stand, please.

6 ROBERT BATEMAN,

7 called as a witness by the government,

8 having been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 THE COURT: All right. Thank you, sir. I'm going to
11 ask you to please pull the microphone a little bit forward, and
12 speak into it when you answer the questions put to you. Thank
13 you very much.

14 Mr. Felton.

15 MR. FELTON: Thank you very much, your Honor.

16 BY MR. FELTON:

17 Q. Good afternoon, Mr. Bateman.

18 A. Hi. How are you?

19 Q. In what area do you live?

20 A. I'm in Chelsea.

21 Q. What do you do for a living?

22 A. I'm in real estate.

23 Q. What do you do in the real estate field?

24 A. Right now I'm an agent and team leader for Highline
25 Residential.

MASRILO3

BATEMAN - DIRECT

1 Q. What is that?

2 A. It's a residential real estate firm based all throughout
3 New York City.

4 Q. How long have you been in that position?

5 A. With this company, I joined earlier this year, May.

6 Q. What did you do before that?

7 A. I was working in real estate in Brooklyn MySpace NYC.

8 Q. What is MySpace NYC?

9 A. It's a residential real estate firm based in Brooklyn.

10 Q. What type of real estate?

11 A. Predominantly residential rentals.

12 Q. Turning your attention to 2021, were you involved in
13 leasing apartments in the building located at 123 Melrose
14 Street in Bushwick?

15 A. Yes.

16 Q. What is that building?

17 A. It's a high-end luxury building in Bushwick, as you said.

18 Q. Mr. Bateman, I'm showing you Government Exhibit 503, which
19 is in evidence.

20 THE COURT: It will appear on your screen, sir.

21 Do you have it?

22 MR. FELTON: Ms. Loftus, is that published for the
23 jury?

24 Q. Mr. Bateman, do you see the document?

25 A. Yes.

MASRILO3

BATEMAN - DIRECT

1 Q. Do you recognize the photograph?

2 A. Yes.

3 Q. What is that?

4 A. That's the front of 123 Melrose.

5 Q. What was your role with this building?

6 A. So I was an agent. So our firm, MySpace, was contracted to
7 lease out the vacant units at this property.

8 Q. Approximately how many units are there in this property?

9 A. So the Denizen's two buildings. There's 122 Melrose and 54
10 Noel. They share a number of units between the two. There's
11 900 something units, just over half at Melrose, so 500ish, give
12 or take, on the Melrose half.

13 Q. You mentioned amenities. What amenities are there?

14 A. There's a massive gym, swimming pool, bowling alley, golf
15 simulator, arcade, game rooms, work space, movie rooms, two
16 roof decks, four courtyards. You name it.

17 Q. In the spring and summer of 2021, approximately how many
18 apartments, if any, were you working to lease at one time?

19 A. I'd do like five or ten to 20 in any given month.

20 Q. What was the turn around from when a perspective tenant
21 reached out to you until an apartment was leased?

22 A. Could be anywhere from a few days to a couple weeks on
23 average.

24 Q. Longer than a few weeks would be unusual?

25 A. Correct. Yeah.

MASRILO3

BATEMAN - DIRECT

1 Q. Did there come a time when you met a person who identified
2 himself as William Jamieson?

3 A. Yes.

4 Q. How did you first encounter this individual?

5 A. So typically leads reach out to us through our online
6 advertising, so they would have reached out through one of
7 those platforms and then we, you know, usually make an
8 introduction via phone call or email.

9 Q. Approximately when did you first interact with this person?

10 A. I believe around January 2021.

11 Q. What happened next?

12 A. So I had a preliminary back and forth with him, and then
13 met him in the building to tour him through the amenities and
14 then available units.

15 Q. So you met this person in person?

16 A. Correct. A few times, yeah.

17 Q. What were the discussions, if any?

18 A. Well, typically when somebody comes in, you take them
19 through the amenities, then apartments that fit their range or
20 fit their price and points.

21 Q. What sorts of discussions about potential apartments did
22 you have with this individual?

23 A. Well, he wanted apartments, up, you know, fairly high end
24 for that building. So, you know, two bedroom, two baths in the
25 4,000 to 5,000 range from what I remember, at the gross rent.

MASRILO3

BATEMAN - DIRECT

1 Q. Approximately how many times, when you say you met this
2 individual in person?

3 A. I believe three or four.

4 Q. How would you describe the individual?

5 A. African American, fairly tall, 6' 3", 6' 4", give or take.
6 Fairly sizable.

7 Q. What, if anything, do you recall this individual saying
8 about himself?

9 A. I do remember he was staying with his brother. He had just
10 gotten out of a divorce, and did some sort of like chauffeuring
11 luxury -- or, you know, escort business for, you know, wealthy
12 people and/or celebrities, that type of stuff.

13 Q. What's your process for determining if a client is
14 financially eligible to rent an apartment in the building?

15 A. Yes. So, typically, New York clients have to make 40 times
16 the gross rent with 680 credit or better. So if they clear
17 that, that's simple.

18 There's other ways to get approved, but that's the
19 standard. And I remember what he told me, he met those
20 qualifications.

21 Q. What did he tell you?

22 A. I want to say 250,000 income, give or take.

23 Q. How would you describe the conversations you had with the
24 person described as Mr. Jamieson wanting to rent an apartment?

25 A. Well, the entire time I was doing that building for four

MASRILO3

BATEMAN - DIRECT

1 years, that was the longest cycle I had from meeting a client
2 to closing. Part of it was he came in January 2021 when we had
3 extended concessions due to the COVID lockdowns, and then we
4 cut our concessions back at the end of January and for months
5 he kept negotiating trying to get the previous concessions.
6 And it wasn't until the summer we eventually came to an
7 agreement and did a deal.

8 Q. What do you mean by concessions?

9 A. Typically -- often in New York you get concessions, have
10 free months, especially luxury. So you might have a month
11 free, two months free. At this time, it was the end of COVID,
12 so we were doing four months free when he first came in.

13 Q. Did you take any steps to identify the financial
14 information provided by the individual identified as
15 Mr. Jamieson?

16 A. So once somebody tours the building and finds an apartment
17 and they want to apply, they have to submit financial
18 information before getting approved and signing a lease. So he
19 would submit the financial information. We have a back office
20 financial person who processes that file, and once it checks
21 out, once the owner approves it, we go to lease signing.

22 Q. Other than your personal interactions with this individual,
23 did you communicate with the individual representing themselves
24 as Mr. Jamieson?

25 A. Uh-huh. Yeah. So emails, phone calls, texting, all of the

MASRILO3

BATEMAN - DIRECT

1 above.

2 Q. To your knowledge, did anyone else you work with
3 communicate with the individual identifying themselves as
4 Mr. Jamieson?

5 A. So I had our closing manager, who processes the financial
6 information, her name is Sabrina, so she would have
7 communicated as well.

8 Q. Did there come a time when the person you knew as
9 Mr. Jamieson actually rented an apartment at the building?

10 A. Yes.

11 MR. FELTON: Ms. Loftus, could you please publish
12 Government Exhibit 341, which is in evidence.

13 Q. Mr. Bateman, do you recognize this document?

14 A. Uh-huh.

15 MR. FELTON: Ms. Loftus, could you --

16 THE COURT: Sir, hold on. You need to say yes or no.

17 THE WITNESS: Oh, yes.

18 THE COURT: Because when you say uh-huh, it's the same
19 as huh-uh when it's transcribed.

20 THE WITNESS: Oh, yes.

21 THE COURT: Thank you.

22 Q. Mr. Bateman, do you see a logo in the top left portion of
23 the document?

24 A. Yes. That's MySpace NYC, the firm I work for.

25 Q. And what does it say at the top of the document?

MASRILO3

BATEMAN - DIRECT

1 A. It's a rental application form.

2 Q. Do you see the name of the applicant?

3 A. Yes. William Jamieson.

4 Q. The person we've been discussing?

5 A. Correct.

6 Q. What does this person provide as their current address?

7 A. 74 East Seventh in Brooklyn.

8 Q. Where does the applicant say that they work?

9 A. It looks like Amana Air Charters.

10 Q. And what does it say they do for a living?

11 A. Air charter broker.

12 Q. What about their annual income?

13 A. 250,000.

14 Q. Is that information consistent with your recollection of
15 your discussions with the individual?

16 A. Yes.

17 Q. Turning to the next page --

18 MR. FELTON: Page two, Ms. Loftus. Ms. Loftus, could
19 you just zoom in on the account holder information?

20 Q. Mr. Bateman, you see the account holder information?

21 A. Yes.

22 Q. What does it say?

23 A. It's William Jamieson. It's a bank statement.

24 Q. What is the role, if any, of bank statements with a rental
25 application in your field?

MASRILO3

BATEMAN - DIRECT

1 A. We need to know if they're financially qualified to lease
2 an apartment. So you check income, you check credit, savings,
3 sometimes investments. Yeah.

4 MR. FELTON: Ms. Loftus, could you please zoom out.
5 And I ask that you zoom in to the checking summary portion of
6 the document.

7 Q. Mr. Bateman, do you see where it says deposits and
8 additions?

9 A. Uh-huh.

10 THE COURT: Sir.

11 THE WITNESS: Sorry. Yes.

12 THE COURT: Thank you.

13 Q. Do you see the amount in the right side of the page?

14 A. Yes.

15 Q. Can you read that for the jury, please?

16 A. \$1,049,210.52.

17 MR. FELTON: And, Ms. Loftus, could you please zoom
18 out?

19 Q. And, Mr. Bateman, do you see the top right portion of the
20 document there's a date range?

21 A. Yes.

22 Q. What is the date range?

23 A. May 1st, 2021, to May 30th, 2021.

24 Q. Do you understand this document to be saying that in a
25 single month this account received over a million dollars in

MASRILO3

BATEMAN - DIRECT

1 deposits, in additions?

2 A. Yes.

3 Q. Who, if anyone, would provide this document as part of a
4 rental application?

5 A. Typically the applicant.

6 Q. And who was the applicant in this case?

7 A. William Jamieson.

8 MR. FELTON: Ms. Loftus, could you please turn to page

9 5. Can you please zoom in on this document.

10 (Continued on next page)

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MAS1ILO3

Bateman - Direct

1 BY MR. FELTON:

2 Q. Mr. Bateman, who is the name on this ID?

3 A. William Jamieson.

4 Q. What is the height listed?

5 A. 6,2.

6 Q. Is this consistent with the individual you met as part of
7 that apartment rental process?

8 A. Yes.

9 MR. FELTON: Ms. Loftus, could you please publish
10 Government Exhibit 343, which is in evidence.

11 Q. Mr. Bateman, do you recognize this document?

12 A. Yes.

13 Q. What does it say for monthly rent?

14 A. The gross is 4850.

15 Q. And is the name of a tenant listed anywhere on this
16 document?

17 A. Yes. William Jamieson.

18 Q. And for what building is this document?

19 A. 123 Melrose.

20 Q. Is that the building, the luxury building we've been
21 discussing?

22 A. Correct, yes.

23 Q. Does this document reflect that the person identifying as
24 William Jamieson ultimately rented that apartment?

25 A. Yes.

MAS1ILO3

Bateman - Direct

1 Q. Directing your attention to the bottom of the page, who
2 appears to have signed the document under the tenant portion?

3 A. William Jamieson.

4 Q. On what date?

5 A. August 30, 2021.

6 MR. FELTON: Ms. Loftus, could you please turn to
7 page 2.

8 And just zoom in a little bit higher, the title of
9 this document. Thank you.

10 Q. Mr. Bateman, what is this document?

11 A. Looks like a parking rider to lease a parking space.

12 Q. Do you understand this to be the tenant paying an extra fee
13 to rent a parking space in addition to the apartment?

14 A. Yes.

15 MR. FELTON: Ms. Loftus, can you please turn to
16 page 4.

17 Q. Mr. Bateman, is the signature on the bottom purporting to
18 be Mr. Jamieson signing for that parking spot?

19 A. Yes.

20 Q. On what date?

21 A. August 30, 2021.

22 MR. FELTON: And Ms. Loftus, could you please turn to
23 page 5.

24 Q. What is this document?

25 A. That's the washer-dryer rider.

MAS1ILO3

Bateman - Redirect

1 Q. Does this document purport to be the tenant paying an extra
2 fee to have a washer-dryer in the apartment as well?

3 A. Yes.

4 Q. Who appears to have signed that document?

5 A. William Jamieson.

6 Q. On what date?

7 A. August 30, 2021.

8 Q. With respect to your interactions with Mr. Jamieson, was
9 that person a middle-aged white guy?

10 A. No.

11 MR. FELTON: No further questions.

12 THE COURT: Mr. Brill? Cross-examination?

13 MR. BRILL: Just one question.

14 THE COURT: Sure.

15 CROSS EXAMINATION

16 BY MR. BRILL:

17 Q. As part of this application, sir, was a credit report run,
18 that you're aware of?

19 A. I believe so.

20 Q. Did you have a chance to review that?

21 A. Closing manager Sabrina would before getting a file
22 approved.

23 Q. Okay. But you didn't see it.

24 A. No.

25 MR. BRILL: I have nothing further. Thank you.

MAS1ILO3

Bateman - Redirect

1 THE COURT: Thank you.

2 Redirect?

3 MR. FELTON: Briefly, your Honor.

4 THE COURT: Keep in mind this is redirect. Go ahead.

5 REDIRECT EXAMINATION

6 BY MR. FELTON:

7 Q. Mr. Bateman, when you met Mr. Jamieson, do you recall if
8 Mr. Jamieson was wearing a mask?

9 A. I believe he was. It's been a while, though. I'm -- I
10 can't remember a hundred percent certainty.

11 Q. Do you recognize the individual you knew as Mr. Jamieson in
12 this courtroom?

13 A. I believe I do, yes.

14 Q. Could you identify that individual.

15 A. Sitting over there.

16 Q. Where?

17 THE COURT: Can you tell us what table you're
18 referencing, sir.

19 THE WITNESS: To your left, two seats down.

20 THE COURT: Next to the gentleman who just finished
21 questioning you on cross?

22 THE WITNESS: Yes.

23 THE COURT: All right. Indicating next to Mr. Brill?

24 MR. BRILL: Yes, your Honor.

25 MR. FELTON: Your Honor, let the record reflect that

MAS1ILO3

Hezir - Direct

1 the witness has identified the defendant.

2 THE COURT: It shall reflect. Thank you.

3 MR. FELTON: No further questions, your Honor.

4 THE COURT: Mr. Brill?

5 MR. BRILL: Nothing else. Thank you.

6 THE COURT: All right. Thank you very much,
7 Mr. Bateman. I appreciate your coming in.

8 (Witness excused)

9 THE COURT: Ms. Murray.

10 MS. MURRAY: Thank you, your Honor. The government
11 calls Special Agent Damjan Hezir.

12 THE COURT: Good afternoon, sir. If you'd please
13 stand here in the witness box, my courtroom deputy Ms. Dempsey
14 will administer the oath whenever you are comfortable.

15 THE WITNESS: Yes, ma'am.

16 THE DEPUTY CLERK: Please raise your right hand.

17 (Witness sworn)

18 THE DEPUTY CLERK: Thank you. Please say and spell
19 your name for the record.

20 THE WITNESS: Sure. Daman Hezir. D-A-M-J-A-N, last
21 name H-E-Z-I-R.

22 THE DEPUTY CLERK: Thank you. Please be seated.

23 THE WITNESS: Thank you.

24 THE COURT: All right. Sir, and when you're answering
25 the questions, can you direct that microphone towards your

MAS1ILO3

Hezir - Direct

1 mouth and speak clearly into the microphone. Thank you very
2 much.

3 THE WITNESS: Yes, ma'am.

4 THE COURT: Ms. Murray.

5 DAMJAN HEZIR,

6 called as a witness by the Government,

7 having been duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MS. MURRAY:

10 Q. Good afternoon, Special Agent Hezir. Where do you work?

11 A. Good afternoon. I work at the U.S. Department of Justice
12 Office of the Inspector General.

13 Q. Is that also referred to as DOJ-OIG?

14 A. Yes, it is.

15 Q. What is DOJ-OIG?

16 A. The DOJ-OIG is in charge of detecting, deterring and
17 preventing fraud, waste, and abuse within the Department of
18 Justice.

19 Q. How long have you been employed at DOJ-OIG?

20 A. I've been employed since 2018.

21 Q. Do you work in a particular division within DOJ-OIG?

22 A. Yes, I do. I work in the cyberinvestigations office, which
23 falls under the investigations division.

24 Q. What is your title?

25 A. I'm a special agent.

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Hezir - Direct

1 Q. What are your duties and responsibilities as a special
2 agent?

3 A. I investigate allegations of fraud, waste, and abuse within
4 the department, as well as conduct digital forensics in support
5 of investigations.

6 Q. At a high level, can you describe what you mean by digital
7 forensics.

8 A. Yes. Digital forensics is a branch of the forensic
9 sciences which deals with collecting and analyzing electronic
10 or digital data.

11 Q. Did you have any prior law enforcement experience before
12 DOJ-OIG?

13 A. Yes, I did.

14 Q. And where did you work prior to DOJ-OIG in law enforcement?

15 A. I was an auxiliary police officer with Fairfax County;
16 that's in Virginia.

17 Q. For how long did you work in that role?

18 A. Approximately six years.

19 Q. Special Agent Hezir, did there come a time when you became
20 involved in an investigation into COVID loan fraud?

21 A. Yes.

22 Q. What was the nature of your involvement in that
23 investigation?

24 A. I played a supporting role. I assisted with surveillance
25 as well as performing digital forensics and record review.

MAS1ILO3

Hezir - Direct

1 Q. In your assisting role in that investigation did you also
2 participate in any search warrants?

3 A. Yes, I did.

4 Q. And you mentioned you assisted in surveillance. Did that
5 include physical surveillance?

6 A. Yes, it did.

7 Q. Did that also include electronic surveillance?

8 A. Yes, it did.

9 Q. Can you describe what physical surveillance is.

10 A. Sure. Physical surveillance is pretty much what it sounds
11 like. It's usually static in nature. It can be static, where
12 it's sitting and observing an individual or a target or -- of
13 the investigation.

14 Q. And what is electronic surveillance?

15 A. Electronic surveillance would be, as an example, perhaps,
16 having what we call a pinger, which is basically a GPS
17 surveillance of a target phone device.

18 Q. Did you conduct any physical --

19 THE COURT: Excuse me. Special Agent, there's a
20 bottle of water there if you need it, all right?

21 THE WITNESS: Thank you. I appreciate it.

22 MS. MURRAY: Thank you, your Honor.

23 Q. Did you conduct any physical surveillance on the afternoon
24 of September 22, 2021, in your role in assisting with this
25 investigation?

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Hezir - Direct

1 A. Yes, I did.

2 Q. Where were you conducting surveillance that afternoon?

3 A. That afternoon I was conducting surveillance off Jackson
4 Avenue in Long Island City.

5 Q. Why, if at all, were you at that location to conduct
6 surveillance on that day?

7 A. We were there based on a GPS surveillance, a pinger, that I
8 mentioned earlier. We had a pinger for the target phone
9 number, and we knew the general vicinity of that target phone.

10 Q. Now when you say target phone number, can you explain what
11 you mean.

12 A. Yes. That target phone number in this particular case, it
13 ended in 0642. That's what we identified as the target phone.

14 Q. And just to be clear about the electronic surveillance, had
15 DOJ-OIG obtained a warrant to electronically surveil the
16 location of that 0642 phone?

17 A. Yes.

18 MS. MURRAY: Your Honor, at this time I'd like to hand
19 Special Agent Hezir a witness binder. We have copies for the
20 Court and the defense as well.

21 THE COURT: Sure. Thank you.

22 Q. Special Agent Hezir, in the binder in front of you are
23 documents that have been marked for identification as
24 Government Exhibits 540 through 547. Can you please look at
25 those documents and then look up at me when you've completed

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Hezir - Direct

1 your review.

2 What are Government Exhibits 540 through 547?

3 A. These are photographs.

4 Q. Do you recognize those photographs?

5 A. Yes, I do.

6 Q. Are those photographs fair and accurate depictions of what
7 you observed during your surveillance on September 22, 2021?

8 A. Yes, they are.

9 MS. MURRAY: Your Honor, the government offers
10 Government Exhibits 540 through 547 into evidence.

11 MR. BRILL: No objection.

12 THE COURT: They are received into evidence.

13 (Government's Exhibits 540 through 547 received in
14 evidence)

15 MS. MURRAY: Thank you.

16 Ms. Loftus, can you please publish Government
17 Exhibit 540.

18 Is the jury able to see that?

19 THE JURORS: Yes.

20 BY MS. MURRAY:

21 Q. Special Agent Hezir, can you describe what is depicted in
22 this photograph.

23 A. In this photograph, we see a gentleman near a black car.

24 Q. What type of car is that individual standing near?

25 A. This particular car was a black Mitsubishi Outlander.

MAS1ILO3

Hezir - Direct

1 Q. Did there come a time when you learned the identity of the
2 individual in this photograph?

3 A. Yes.

4 Q. When was that that you learned this individual's identity?

5 A. We learned the individual's identity after the execution of
6 a search warrant later in the investigation.

7 Q. And what is his identity?

8 A. This individual is Chris Recamier.

9 MS. MURRAY: Ms. Loftus, can you please publish
10 Government Exhibit 541.

11 Q. What is depicted in this photograph?

12 A. In this photograph, we see the same individual. He's
13 standing behind the black Mitsubishi Outlander.

14 Q. And that's the same car that we saw depicted in the prior
15 surveillance photo; is that correct?

16 A. That's correct.

17 Q. Did you continue your surveillance after the point when
18 this particular photo was taken?

19 A. I did, yes.

20 Q. Where, if anywhere, did you observe this individual, Chris
21 Recamier, go after walking away from this car?

22 A. I observed this individual travel down Jackson Avenue and
23 make a left onto Purves Street.

24 Q. And as you continued your surveillance, what, if anything,
25 did you see this individual do?

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Hezir - Direct

1 A. I saw this individual walk down Purves Street and enter the
2 apartment building there off Purves.

3 MS. MURRAY: Ms. Loftus, can you please publish
4 Government Exhibit 502, which is in evidence.

5 Q. Special Agent Hezir, do you recognize this building?

6 A. Yes, I do.

7 Q. What is it?

8 A. This is the apartment building that the individual entered.

9 Q. And to be clear, is this the building that the person you
10 came to learn was Chris Recamier entered when you were
11 conducting surveillance on September 22, 2021?

12 A. Yes, that's correct.

13 Q. Did you continue your surveillance after Mr. Recamier
14 entered the building?

15 A. Yes, I did.

16 Q. And in that continued surveillance, what, if anything, did
17 you observe?

18 A. During that time, we observed a black Mitsubishi Outlander
19 exit Purves Street and make a left onto Jackson Avenue.

20 MS. MURRAY: Ms. Loftus, can you please now publish
21 Government Exhibit 545.

22 Q. What's depicted in this photograph, Special Agent Hezir?

23 A. In this photograph, we see a black Mitsubishi Outlander
24 exiting Purves Street and about to make a left onto Jackson
25 Avenue.

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Hezir - Direct

1 MS. MURRAY: Ms. Loftus, if you could please zoom in
2 on that car, that's the car that's driving through the lane.

3 Q. Is this the Mitsubishi you were referring to, Special Agent
4 Hezir?

5 A. Yes.

6 Q. When you were conducting surveillance that day, were you
7 able to determine whether anyone was in the front seat of that
8 car?

9 A. Yes, I was.

10 Q. Were you able to determine how many people were in the
11 front seat of that car?

12 A. Yes.

13 Q. And what, if anything, was your determination, based on
14 your observations during surveillance?

15 A. Based on my observations, I observed two individuals in the
16 front seats of the vehicle.

17 MS. MURRAY: Thank you, Ms. Loftus. You can take that
18 down.

19 Q. Directing your attention now to October 7, 2021, did you
20 participate in the execution of a search warrant on that day in
21 connection with your assistance in this investigation?

22 A. Yes, I did.

23 Q. And where, if anywhere, was the location of that search
24 warrant?

25 A. That search warrant was executed at 44-41 Purves Street in

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Hezir - Direct

1 Apartment No. 1805.

2 MS. MURRAY: And Ms. Loftus, can you please publish
3 again Government Exhibit 502.

4 Q. Is this the building that housed the apartment that you
5 searched on that day?

6 A. Yes, that's correct.

7 Q. And this is the same building that you had previously
8 observed Chris Recamier walk into during your surveillance; is
9 that correct?

10 A. Yes, that's correct.

11 MS. MURRAY: Thank you, Ms. Loftus. You can take that
12 down.

13 Q. Which apartment did you say that you assisted in searching
14 on that day?

15 A. The apartment number was 1805.

16 Q. I'd like you to walk the jury through the process of
17 searching Apartment 1805, starting with when you first arrived
18 at the apartment. If you could please tell us what, if
19 anything, you saw when you entered that apartment.

20 A. Sure. I arrived a little after the rest of my team did.
21 However, upon entering the apartment, just the general layout,
22 it was open; on the left-hand side as you walked in the door,
23 there was the kitchen area; straight ahead was the living room
24 area. It was kind of very -- again, very open, very open
25 design, floor-to-ceiling windows.

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Hezir - Direct

1 On the right-hand side off the living room was a
2 bedroom; before you got to the bedroom, also on the right-hand
3 side, was a restroom, or bathroom; and then on the right-hand
4 side before you reached the bathroom was a closet area, little
5 closet space.

6 Q. Focusing first on the living room space that you mentioned,
7 can you describe the appearance of the living room, including
8 any furniture, any televisions, what it was set up as, what the
9 layout was.

10 A. Yes. Again, it was -- it was pretty open. I don't recall
11 furniture or maybe like a traditional living room that you'd
12 think of. Again, very open. And again, I do recall the -- the
13 windows being floor to ceiling.

14 Q. And then the bedroom that you mentioned, what, if anything,
15 do you recall about the appearance of that bedroom?

16 A. I recall there being an air mattress there in the bedroom,
17 a little stand; and the stand, that's where we located an iPad,
18 which was playing some kind of video. And there was a little
19 closet off of the -- in that living room, a little closet area.

20 Q. When you assisted in executing the search warrant on
21 apartment 1805 on October 7, 2021, were there any occupants or
22 any occupant in that apartment at the time of the search?

23 A. Yes, there was.

24 Q. Who was that?

25 A. We later identified him as Chris Recamier.

MAS1ILO3

Hezir - Direct

1 Q. Now during that search of apartment 1805 did you recover
2 any evidence?

3 A. Yes, I did.

4 Q. Can you describe generally the categories of evidence that
5 you recovered from that apartment during that search.

6 A. Generally, in terms of the digital evidence, it was laptop
7 computers, there was an iMac, there were USB devices, as well
8 as mobile phones.

9 Q. So focusing on the electronic devices that you recovered
10 from apartment 1805, what, if anything, did you do with those
11 devices after you located them in the apartment?

12 A. We identified them, collected them, and entered them into
13 evidence.

14 Q. I'm going to return to those devices in a bit.

15 Special Agent Hezir, directing your attention to the
16 next day, October 8, 2021, did you assist in the execution of a
17 search warrant on that day in connection with this
18 investigation?

19 A. Yes, I did.

20 Q. And where was that search warrant executed?

21 A. That search warrant was located off Hannibal Street in
22 Queens.

23 Q. What, if anything, did you search on that day?

24 A. On that day we searched the person of Mr. Ilori as well as
25 the vehicle that he was occupying.

MAS1ILO3

Hezir - Direct

1 Q. Mr. Ilori, do you know his full name?

2 A. I believe it's Adedayo Ilori.

3 Q. Do you see anybody you recognize as Adedayo Ilori in the
4 courtroom today?

5 A. Yes, I do.

6 Q. Can you please identify that person by the approximate
7 location of where they're located and an article of clothing
8 they're wearing.

9 A. Mr. Ilori is wearing glasses, he's seated behind the
10 prosecution table, at defendant's table, and he is in a suit
11 with a tie with kind of a -- with dots, looks like, yellow with
12 big black dots. I can't tell too well.

13 Q. Thank you.

14 MS. MURRAY: Let the record reflect that Special Agent
15 Hezir has identified the defendant Adedayo Ilori.

16 Q. So turning again, Special Agent Hezir, to October 8, 2021,
17 and this search warrant, can you please describe what, if
18 anything, you did on that day before you executed the warrant
19 that was relevant to your investigation.

20 A. Before executing the warrant, we were positioned on
21 Hannibal Street; we were conducting surveillance on a white
22 Mercedes, the vehicle that was parked there on Hannibal Street.

23 Q. Special Agent Hezir, in the binder in front of you are
24 documents that have been marked for identification as
25 Government Exhibits 572 through 575. Can you please look

MAS1ILO3

Hezir - Direct

1 through those and then look up when you've finished reviewing
2 them.

3 Do you recognize Government Exhibits 572 through 575?

4 A. Yes, I do.

5 Q. What are they?

6 A. Photographs. These are photographs of the vehicle there.

7 Q. And just to be clear, when you say the vehicle there, what
8 vehicle are you referring to?

9 A. Excuse me. The -- the white Mercedes that we located off
10 Hannibal Street.

11 Q. Are these photographs fair and accurate depictions of what
12 you observed on October 8, 2021?

13 A. Yes.

14 MS. MURRAY: Your Honor, the government offers
15 Government Exhibits 572 through 575.

16 MR. BRILL: No objection.

17 THE COURT: They are received into evidence.

18 (Government's Exhibits 572 through 575 received in
19 evidence)

20 MS. MURRAY: Ms. Loftus, can you please publish
21 Government Exhibit 573.

22 BY MS. MURRAY:

23 Q. As we're pulling that up, Special Agent Hezir, can you just
24 remind us what the appearance and make and model of the car
25 was.

MAS1ILO3

Hezir - Direct

1 A. It was a white Mitsubishi -- excuse me. White Mercedes.

2 Q. And looking now at Government Exhibit 573, is that the car
3 you're referring to, the white Mercedes that you observed on
4 that day?

5 A. Yes, that's correct.

6 Q. Where, if anywhere, in relation to this car was the
7 defendant, Mr. Ilori, when you executed the search on his
8 person?

9 A. As we were conducting surveillance, we saw Mr. Ilori
10 approach the driver's side vehicle and enter the driver's side,
11 which is when we executed the search warrant.

12 Q. At the time that you executed the search warrant, when
13 Mr. Ilori was in the driver's side -- or entering the driver's
14 side of the vehicle, who else, if anyone, was in the car?

15 A. No one else; no one else was in the vehicle.

16 Q. Now on that day, in addition to searching Mr. Ilori's
17 person, what else, if anything, did you search?

18 A. Aside from Mr. Ilori's person, we searched the vehicle
19 itself.

20 Q. And what, if anything, did you recover from the Mercedes
21 pursuant to that search?

22 A. We recovered two mobile phones as well as some payment
23 cards.

24 Q. Focusing on the mobile phones for a moment, where in the
25 vehicle were those phones located?

MAS1ILO3

Hezir - Direct

1 A. One mobile phone was located in between the driver and
2 passenger seats in the front of the vehicle and the other phone
3 was located in the trunk of the vehicle.

4 MS. MURRAY: Ms. Loftus, can you please publish
5 Government Exhibit 575.

6 Q. What's depicted in this photograph?

7 A. In this photograph we see the interior of the white
8 Mercedes.

9 Q. And can you please identify approximately where the
10 cellphone that you recovered from the passenger part of the
11 car, that cellphone, was located. And you can draw on the
12 picture. That should work.

13 A. Okay. It was approximately in this area, again, between
14 the driver and passenger seats.

15 Q. And was it inside the console, if you recall?

16 A. I -- I don't recall exactly where. It was in that general
17 area.

18 MS. MURRAY: Ms. Loftus, can you please take that
19 down--and I'll erase this--and publish side by side Government
20 Exhibits 572 and 574.

21 Q. Special Agent Hezir, starting with 572, which is the photo
22 on the left, can you describe for us what we're looking at in
23 this photo.

24 A. On the left, on 572, that's the inside of the trunk of the
25 white Mercedes.

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Hezir - Direct

1 Q. And what items, if any, appear to be inside the trunk of
2 that white Mercedes?

3 A. In that white Mercedes, we see a -- it was like a red
4 shopping bag, I think maybe Target.

5 Q. Anything else in the trunk based on that photograph?

6 A. Based on the photograph on the left, no. It's hard to
7 tell, but we did locate other items inside that trunk.

8 Q. Now looking at the photo on the right, what does that
9 reflect relative to the photograph on the left?

10 A. The photo on the right shows a brown paper bag that was
11 located inside the -- if you look on the left, that -- the
12 white shopping bag that's located inside the red shopping bag.

13 MS. MURRAY: Thank you, Ms. Loftus. You can take that
14 down.

15 Q. Special Agent Hezir, have you received training in the
16 analysis of electronic evidence and forensic examinations?

17 A. Yes, I have.

18 Q. Did that training include the analysis of cellphones?

19 A. Yes.

20 Q. In general terms can you please describe some of that
21 training.

22 A. Sure. I have attended courses with the National White
23 Collar Crime Center as well as at the Federal Law Enforcement
24 Training Center in how to handle and analyze digital
25 evidence--specifically mobile devices.

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Hezir - Direct

1 Q. What are some of the topics that are covered during that
2 training?

3 A. Again, preserving, collecting, and also analyzing digital
4 devices, also most -- mostly mobile devices.

5 Q. During your time at DOJ-OIG have you completed cellphone
6 extractions?

7 A. Yes, I have.

8 Q. Approximately how many?

9 A. Approximately 70.

10 Q. Have you analyzed cellphone extractions performed by
11 others?

12 A. Yes, I have.

13 Q. Have you completed extractions of other electronic devices,
14 including computers?

15 A. Yes, I have.

16 Q. Have you analyzed computer extraction reports prepared by
17 others?

18 A. Yes, I have.

19 Q. Focusing for a moment on mobile devices, at a high level,
20 what are the basic steps to a mobile device examination?

21 A. For a mobile device, it's -- the first step is usually to
22 separate it from the wireless network. That preserves -- not
23 only does it preserve the data that's on the mobile device but
24 prevents erasure.

25 Then it's typical to connect it to some kind of

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Hezir - Direct

1 extraction device. And by extraction, I kind of mean a backup
2 of sorts. What it does is it takes the files that are on the
3 phone and puts it into a forensic image.

4 Once you have that forensic image, you can then take
5 that forensic image and open it up into a forensic software
6 tool. Cellebrite is a very common mobile device forensic tool.
7 The analyst will then use that software to go through the phone
8 and, in a forensically sound manner, to look through keywords
9 or artifacts of interest.

10 Q. I just want to break down a couple of things that you said.

11 First, can you explain what you mean by "forensic
12 image."

13 A. Sure. Forensic image allows us to review the data so that
14 we do not tamper or alter the data that's already on the phone.
15 And it also can ensure that no data was added or deleted or
16 modified in any way.

17 Q. And you said that the forensic image is used at times to
18 permit the examiner to review things including artifacts. What
19 is an artifact?

20 A. An artifact could be anything of interest in the
21 investigation. It could be a document, an image, a video, call
22 logs, it could be a voicemail, basically anything on the phone
23 that's pertinent to the investigation.

24 Q. So at a high level, does artifact describe a certain, you
25 know, piece of data that's on that forensic image of a phone?

MAS1ILO3

Hezir - Direct

1 A. Yes, that's fair to say.

2 Q. Now in your training and experience are there occasions
3 where you're unable to conduct a forensic examination of a
4 device?

5 A. Yes, that happens.

6 Q. Why, if at all, would that happen?

7 A. Forensic tools sometimes aren't up to date with the latest
8 security patches that come out for cellphones, or other
9 devices, for that matter, so at times we have to refer to -- or
10 we have to use a method we refer to as a manual review of the
11 device.

12 Q. Can you describe what you mean by manual review.

13 A. Sure. A manual review is similar to how a user would
14 actually use your, you know, a phone. You would open up the
15 phone, again, try, if you could, if you're able to, separate
16 from the cell network, and then use it like a user would, you
17 know, scrolling through messages, for example, and capturing
18 that using a -- either a -- with a still camera or a video
19 camera.

20 Q. Did you conduct any manual review of any of the devices
21 that were recovered either from apartment 1805 on October 7,
22 2021, or on October 8, 2021, from Mr. Ilori's person or the
23 Mercedes?

24 A. Yes, I did.

25 MS. MURRAY: Your Honor, at this time the government

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Hezir - Direct

1 offers a stipulation between the parties.

2 THE COURT: All right.

3 MS. MURRAY: It is hereby stipulated and agreed by and
4 between the United States of America, by Damian Williams,
5 United States Attorney for the Southern District of New York,
6 Juliana N. Murray and David R. Felton, assistant United States
7 attorneys, and Adedayo Ilori, by his attorney, Peter Brill,
8 that if called as a witness, a special agent at the US
9 Department of Justice Office of the Inspector General
10 ("DOJ-OIG") would state as follows:

11 The special agent is familiar with the recordkeeping
12 and forensic extraction practices of DOJ-OIG.

13 Government Exhibit 601 is true and accurate
14 photographs of an Apple iMac A1419 computer, with serial number
15 DCPQD7TJGL1Q (the "iMac"). The iMac was recovered by law
16 enforcement from 44-41 Purves Street, apartment 1805, Long
17 Island City, New York 11101, on October 7, 2021, pursuant to a
18 judicially authorized search warrant.

19 Government Exhibits 602 through 612 are true and
20 accurate copies of data extracted from the iMac.

21 Government Exhibit 621 is true and accurate
22 photographs of a Lexar 32-gigabyte USB thumb drive (the
23 "Lexar"). The Lexar was recovered by law enforcement from
24 44-41 Purves Street, apartment 1805, Long Island City, New York
25 11101, on October 7, 2021, pursuant to a judicially authorized

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Hezir - Direct

1 search warrant.

2 Government Exhibits 622 through 629 are true and
3 accurate copies of data extracted from the Lexar.

4 Government Exhibit 630 is true and accurate
5 photographs of a Samsung SM-A102U1 mobile phone with IMEI
6 number 358369106854992 (the "Samsung phone"). The Samsung
7 phone was recovered by law enforcement on October 8, 2021, from
8 the passenger compartment of a white 2021 Mercedes sedan
9 bearing New York registration KMT-9862, located in the vicinity
10 of Hannibal Street and Elmira Avenue in St. Albans, New York,
11 pursuant to a judicially authorized search warrant.

12 Government Exhibits 631 through 659 are true and
13 accurate copies of data extracted from the Samsung phone.

14 Government Exhibit 660 is true and accurate
15 photographs of an Apple iPhone 11 mobile phone with IMEI number
16 352905119810392 (the "iPhone 11"). The iPhone 11 was recovered
17 by law enforcement on October 8, 2021, pursuant to a judicially
18 authorized search warrant.

19 Government Exhibit 661 is true and accurate
20 photographs of an Apple iPhone 12 Pro Max mobile phone with
21 IMEI number 359237633685016 (the "iPhone 12"). The iPhone 12
22 was recovered by law enforcement on October 8, 2021, pursuant
23 to a judicially authorized search warrant.

24 Government Exhibits 662 through 670 are true and
25 accurate copies of data extracted from the iPhone 12.

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Hezir - Direct

1 Government Exhibit 671 is true and accurate
2 photographs of a Motorola XT2005-3 mobile phone with IMEI
3 number 352179101034573 (the "Motorola XT2005-3 phone"). The
4 Motorola XT2005-3 phone was recovered by law enforcement on
5 October 8, 2021, pursuant to a judicially authorized search
6 warrant.

7 Government Exhibits 672 through 676 are true and
8 accurate copies of data extracted from the Motorola XT2005-3
9 phone.

10 Government Exhibit 677 is true and accurate
11 photographs of a Motorola XT2052-6 mobile phone with IMEI
12 number 353587111315189 (the "Motorola XT2052-6 phone"). The
13 Motorola XT2052-6 phone was recovered by law enforcement from
14 44-41 Purves Street, Apartment 1805, Long Island City, New York
15 11101, on October 7, 2021, pursuant to a judicially authorized
16 search warrant.

17 Government Exhibit 678 is true and accurate copies of
18 data extracted from the Motorola XT2052-6 phone.

19 It is further stipulated and agreed that this
20 stipulation and Government Exhibits 601 through 612 and 621
21 through 678 may be received into evidence as Government
22 Exhibits at trial.

23 Your Honor, the government offers this stipulation,
24 which is Government Exhibit 6, and Government Exhibits 601
25 through 612 and 621 through 678.

MAS1ILO3

Hezir - Direct

1 MR. BRILL: Your Honor, may we approach briefly to
2 clarify something.

3 THE COURT: Sure.

4 (At the sidebar)

5 THE COURT: Mr. Brill, maybe you should come over
6 here, just so I can hear you. Thank you.

7 MR. BRILL: So through previous conversations with the
8 government, we had agreed that these were admissible and that
9 they were authentic, that we weren't going to require the
10 government to authenticate them. Contained within these
11 exhibits are certain things that were -- that our relevancy
12 objection was still within. So perhaps the one -- it should
13 have been clarified with respect to that last sentence that
14 they were admissible. They certainly are admissible because
15 we're not objecting to their authenticity, but there's that
16 separate threshold question of whether certain things fall
17 within the categories that we discussed in the motion *in*
18 *limine*.

19 MS. MURRAY: Your Honor, this was a stipulation
20 between the parties that we agreed to. To the extent that the
21 defendant intends to alter the stipulation, it would be helpful
22 to know the scope and also which specific items.

23 THE COURT: Do you have a copy of the stipulation for
24 me?

25 MS. MURRAY: Yes.

MAS1ILO3

Hezir - Direct

1 THE COURT: As I was listening to you, I was going to
2 ask you to give me a set of all the stipulations.

3 MS. MURRAY: They're in the government exhibit
4 binders.

5 THE COURT: I know, but I can't find them there
6 easily, so --

7 MS. MURRAY: Of course.

8 THE COURT: Are there certain exhibits?

9 MR. BRILL: Yes. It's specifically the 631 through
10 659. I think it's even fewer exhibits than that. It's the
11 Telegram conversations.

12 THE COURT: It's 31 to?

13 MR. BRILL: I think it's less than that.

14 THE COURT: I didn't hear the last number.

15 MR. BRILL: Within the 631 to 659 range.

16 THE COURT: All right. Hold on one second.

17 Can we go off the record for a minute, please.

18 (Discussion off the record)

19 THE COURT: Mr. Brill, I'd like you to review this
20 range of exhibits and tell me exactly which exhibits you are
21 now trying to in effect modify the stipulation with respect to
22 before I enter any kind of a ruling.

23 MR. BRILL: You want me to bring the book up here so
24 we can look at them together?

25 THE COURT: You don't need to just yet. I want to

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Hezir - Direct

1 know, is it one of the exhibits, the whole range of exhibits,
2 what is it, okay?

3 MR. BRILL: Thank you, your Honor.

4 (Pause)

5 THE COURT: Okay.

6 MR. BRILL: It's three, Exhibits 638 through 640 --
7 four exhibits, 638 through 641. It's a series of messages on
8 an app called Telegram, which is contained on that phone.

9 THE COURT: And your objection is, or what you wish to
10 resurrect?

11 MR. BRILL: Yeah. So the question is whether the
12 government has established a conspiracy among those individuals
13 as to make them nonhearsay or a hearsay exception.

14 MS. MURRAY: And it's the government's position that
15 they are very clearly co-conspirator statements and --

16 THE COURT: I know, but now you're arguing the merits.
17 Now I'm talking about the stipulation issue.

18 MS. MURRAY: Oh, I understand. So what do you
19 propose, that we exclude those from the stipulation for
20 purposes of admission but you consent to stipulate to their
21 authenticity?

22 MR. BRILL: Right. I'm sorry, your Honor. This had
23 been -- we orally discussed this both with Ms. Murray and
24 Mr. Nessim, prior counsel for the government on the case. Just
25 when it translated to the stipulation, it was just an error on

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Hezir - Direct

1 my part.

2 MS. MURRAY: Your Honor, my proposal would be not to
3 modify the body of the stipulation which covers the
4 authenticity but simply to change which exhibits the government
5 is seeking to admit pursuant to the stipulation, and we would
6 still seek to admit the stipulation as well into evidence, and
7 then with respect to those four exhibits, as we go through them
8 with the agent, Mr. Brill can make the objection and then we
9 can argue the merits.

10 THE COURT: You're permitting him to make the
11 objection is the question I'm asking you.

12 MS. MURRAY: Well, I don't believe it's appropriate,
13 but I do know that your Honor had reserved the ruling on it in
14 the motions *in limine* order, so I defer to the Court.

15 THE COURT: Well, look, the issue is this: I mean,
16 the stipulation is dated October 20th, which is after the date
17 of my *in limine* rulings, and it says what it says. I take
18 Mr. Brill at his word that it's a miscommunication, and I'm
19 asking the government, are you standing on the stipulation, in
20 which case I have no choice but to enforce it, or are you
21 honoring Mr. Brill saying there was a miscommunication?

22 MS. MURRAY: I'm absolutely honoring Mr. Brill. I was
23 then going to the next stage, which is proposing a solution of
24 how we would modify the stipulation.

25 THE COURT: No, I appreciate your solution.

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Hezir - Direct

1 So with that, I'm going to carve out those four
2 exhibits, I'm going to admit all the rest of them pursuant to
3 the stipulation, with no objection, and when you offer those
4 four, we'll deal one by one with any objection.

5 MS. MURRAY: Okay.

6 THE COURT: Okay?

7 MR. BRILL: Thank you, your Honor.

8 MS. MURRAY: Thank you, your Honor.

9 THE COURT: Thank you.

10 (Continued on next page)

MAS1ILO3

Hezir - Direct

1 (In open court)

2 THE COURT: All right. Thank you, all. Getting back
3 to order.

4 So I had a conversation with counsel at sidebar here.
5 I am going to accept the stipulation into evidence as drafted,
6 and pursuant to agreement of the parties, we're going to modify
7 the agreement of the parties, and all of the exhibits
8 referenced here are now admitted into evidence with the
9 following exceptions: 638, 639, 640, and 641. With respect to
10 those exhibits, there is a stipulation that the exhibits are
11 authentic--in other words, there are no issues about whether
12 they are what they purport to be--but Mr. Brill, on behalf of
13 Mr. Ilori, has preserved relevance objections to those
14 exhibits, and he may assert them at the time Ms. Murray tries
15 to use those exhibits, and I'll rule one by one at that time.
16 Is that accurate?

17 MS. MURRAY: Yes, your Honor. Thank you.

18 THE COURT: Mr. Brill?

19 MR. BRILL: Yes. Thank you, your Honor.

20 THE COURT: All right. Thank you.

21 (Government's Exhibits 6, 601 through 612, 621 through
22 637, 642 through 678 received in evidence)

23 THE COURT: All right. Ms. Murray, you may proceed.

24 MS. MURRAY: Thank you, your Honor.

25 BY MS. MURRAY:

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Hezir - Direct

1 Q. Special Agent Hezir, the parties have stipulated that an
2 iPhone 12 was recovered from the defendant on October 8, 2021.
3 Did you conduct an examination of certain of the contents of
4 that iPhone 12?

5 A. Yes, I did.

6 Q. For that iPhone 12, what type of examination did you
7 conduct?

8 A. That was a manual review.

9 Q. And why, if at all, did you conduct a manual review of that
10 device?

11 A. For that device, at the time, it wasn't supported by
12 forensic tools; therefore, manual review was conducted.

13 Q. I'd like you to walk us through some of the contents of
14 that iPhone 12 that was recovered from the defendant.

15 MS. MURRAY: Ms. Loftus, if you could please publish
16 Government Exhibit 662.

17 Is everyone able to see that?

18 THE JURORS: Yes.

19 Q. Special Agent Hezir, what is reflected in Government
20 Exhibit 662?

21 A. This is a photograph.

22 Q. And what is this a photograph of?

23 A. In this photograph, we see the first page of the settings,
24 when you open up the settings on an iPhone.

25 Q. And looking at the top portion.

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Hezir - Direct

1 MS. MURRAY: Ms. Loftus, if you could please zoom in.

2 Q. For this iPhone 12 that was recovered from the defendant,
3 on the settings, what name is associated with the Apple ID?

4 A. Dayo Ilori.

5 MS. MURRAY: And Ms. Loftus, if you could turn to the
6 next page, please.

7 And again, zoom in on the top portion of this page in
8 the settings.

9 Q. What is the name of this particular device, this iPhone 12?

10 A. The device name is Dayo's iPhone.

11 MS. MURRAY: And Ms. Loftus, turning to the next page.

12 And zooming in on the top portion.

13 Q. What email accounts are associated with this iPhone 12?

14 A. There are two accounts--dayodfine01@gmail.com and
15 adedayoilori@gmail.com.

16 MS. MURRAY: Ms. Loftus, can you please now publish
17 Government Exhibit 663, which is another of the iPhone 12
18 contents.

19 Q. Special Agent Hezir, what information is reflected in
20 Government Exhibit 663?

21 A. This is under the settings application. If you open up
22 settings on an iPhone and click on accounts, this reflects a
23 gmail account that's on the iPhone.

24 MS. MURRAY: Ms. Loftus, if we could zoom in on the
25 top portion.

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Hezir - Direct

1 Q. What is the gmail account associated with this iPhone 12
2 that was recovered from the defendant?

3 A. Dayodfine01@gmail.com.

4 MS. MURRAY: And if we could go to the next page,
5 please, Ms. Loftus.

6 And zoom in on the top portion of this.

7 Q. What are the details of the Apple ID for Dayo Ilori on this
8 particular iPhone 12?

9 A. For this particular iPhone, we see Dayo Ilori is the name
10 and dayodfine01@gmail.com is the address.

11 MS. MURRAY: Ms. Loftus, can you please take that down
12 and publish what's in evidence as Government Exhibit 201.

13 Q. Special Agent Hezir, this is an Apple business record
14 that's in evidence, and it relates to information for sign-on
15 records relating to a certain IP address. Do you see that?

16 A. Yes, I do.

17 Q. What is that IP address?

18 A. The IP address is 67.245.59.23.

19 Q. And on what date does this Apple record reflect a
20 connection to that IP address?

21 A. May 7th of 2021.

22 MS. MURRAY: Ms. Loftus, can you please turn to page 2
23 of this exhibit.

24 And zoom in on the middle two entries there, please.

25 Q. What is the customer name for this particular Apple log-on

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Hezir - Direct

1 on May 7, 2021, to that IP address?

2 A. Dayo Ilori.

3 Q. And the email address?

4 A. Dayodfine01@gmail.com.

5 MS. MURRAY: Ms. Loftus, can you please now publish
6 Government Exhibit 411, which is in evidence.

7 Q. Special Agent Hezir, Government Exhibit 411 is a Google
8 business record that's in evidence.

9 MS. MURRAY: If we could zoom in on the top portion,
10 please.

11 Q. Looking at this portion of the subscriber information, what
12 account did these records relate to?

13 A. The account ID is listed up at the top there. The email in
14 question is dayodfine01@gmail.com.

15 (Continued on next page)

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Hezir - Direct

1 Q. And what is the name associated with that email address in
2 this Google record?

3 A. Adedayo Ilori.

4 MS. MURRAY: And if we could zoom out, please,
5 Ms. Loftus, and then zoom in on the account recovery portion.

6 Q. First of all, Special Agent Hezir, what is a recovery
7 email?

8 A. A recovery email is usually set up when you create an
9 online account, typically like an email account, you'll set a
10 recovery email so that just in case you get locked out of the
11 account, it will set an automated email to your recovery
12 address in order for you to unlock the first account.

13 Q. And in looking at the next line, it indicates recovery SMS.
14 Can you describe what that is, please?

15 A. Sure. That recovery SMS is a telephone number typically to
16 a mobile device where it will send a text message in case you
17 get locked out of the primary account.

18 Q. Now, looking at this record for this email address,
19 Dayodfine01@gmail.com, what is the recovery email listed for
20 that account?

21 A. The recovery email is Dfinebydayo@gmail.com.

22 MS. MURRAY: Ms. Loftus, can you please now publish
23 Government Exhibit 412, which is in evidence. These are
24 additional Google subscriber records.

25 If we could zoom in on the top portion, please,

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Hezir - Direct

1 through to the end of account recovery.

2 Thank you.

3 Q. Special Agent Hezir, what email address do these records
4 relate to?

5 A. These records relate to the email address
6 Dfinebydayo@gmail.com.

7 Q. And what is the name associated with that Gmail address in
8 these business records?

9 A. Dayo Ilori.

10 Q. Looking down to the same section we just discussed, the
11 account recovery, what is the recovery account for this
12 particular email account?

13 A. The recovery email address is Adedayoilori@gmail.com.

14 MS. MURRAY: And, Ms. Loftus, if you could please now
15 publish Government Exhibit 410, which is in evidence.

16 Q. Again, Special Agent Hezir, subscriber records from Google
17 for an email account.

18 MS. MURRAY: Focus, Ms. Loftus, on the next section.

19 Q. What is the email address for the account that these
20 records relate to?

21 A. The email address is Adedayoilori@gmail.com.

22 Q. And the name associated with that email address in these
23 records?

24 A. Adedayo Ilori.

25 Q. And then looking down to the account recovery, what is the

MAS1ILO3

Hezir - Direct

1 recovery email?

2 A. Dayodfine01@gmail.com.

3 MS. MURRAY: Ms. Loftus, could you please publish
4 Government Exhibit 665.

5 Q. Special Agent Hezir, we're returning now to some of the
6 records that you manually reviewed on the iPhone 12 that was
7 recovered from the defendant's person on October 8, 2021.

8 Looking at this imagine, can you tell us what is
9 depicted here?

10 A. These are email messages that are in the trash for a Gmail
11 account.

12 MS. MURRAY: And if we could zoom in on the first
13 three, please, Ms. Loftus.

14 Q. What is the name of the -- the first item that appears to
15 be in the trash of the email account on this iPhone?

16 A. The name is Jonathan Herttua.

17 Q. And looking again on the third, what is that name in this
18 trash email on the iPhone 12?

19 A. Also Jonathan Herttua.

20 Q. And is there a -- what appears to be a subject line in that
21 third entry?

22 A. For the third entry, the subject appears to be tax.

23 MS. MURRAY: Ms. Loftus, if you could turn now to page
24 4 of Government 665.

25 Q. Special Agent Hezir, what is reflected here?

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Hezir - Direct

1 A. Here we're looking at an email.

2 Q. And starting at the bottom portion, which would be earlier
3 in the chain on this email, below forwarded message, can you
4 explain who that email is from, what account, and what account
5 that email is sent to?

6 A. I'm looking at the original message that is from Adedayo
7 Ilori from the address Adedayoilori@gmail.com.

8 Q. And this is sent to --

9 A. The name is Dayo. The email address is
10 Dayodfine01@gmail.com.

11 Q. And looking how that appears, understanding that it's just
12 a photograph of a screen, does there appear to be an attachment
13 to that email?

14 A. Yes, there does.

15 Q. What is the title of the attachment?

16 A. The attachment is named Adedayo-Ilori-35061.pdf.

17 Q. Now, working our way up the image, looking below the next
18 forwarded message line higher up on the screen, can you read
19 for us where that email is forwarded from and to whom it is
20 sent?

21 A. The email is forwarded from Dayo Ilori. That's the name.
22 The email address is Dayodfine01@gmail.com, and it's sent to
23 Herttuaajonathan1957@gmail.com.

24 MS. MURRAY: Ms. Loftus, for a moment, if we could
25 please turn back to page 1. So Government Exhibit 665, page 1.

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Hezir - Direct

1 If we could zoom in on the email, Nara from Renthop, please.

2 Q. Special Agent Hezir, can you read what this particular
3 email as depicted in this photo reflects?

4 A. Sure. Would you like me to read?

5 Q. Just the text, please. Thank you.

6 A. Sure.

7 Room for \$964 in Bushwick and ten more listin.

8 Q. And what is the date of that email?

9 A. January 3rd, 2021.

10 MS. MURRAY: Ms. Loftus, could we please go to
11 Government Exhibit 665, page 16. And if we could zoom in on
12 the screen of the phone that's shown here.

13 Q. Special Agent Hezir, looking at the very top where there's
14 an R and then some text, can you tell us what account or what
15 entity this email was sent from and to whom it was sent?

16 A. It was sent from Robinhood, and it's sent to Adedayo Ilori.

17 Q. And then looking at the subject line as reflected in white
18 found underneath those two email -- or those two, sender,
19 recipient information, can you tell us what that said?

20 A. Robinhood password has been reset.

21 Q. And the date of this email?

22 A. April 19, 2021.

23 Q. And then looking at the body of the email, you don't need
24 to read the entire thing, but if you could let us know to whom
25 that email appears to be addressed and what Robinhood account

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Hezir - Direct

1 identifier it relates to?

2 A. It's addressed to Dayo. The hi Dayo line. And the email
3 address is Dayodfine01@gmail.com.

4 MS. MURRAY: Ms. Loftus, can you go to the next page,
5 please, 17. And if we could again zoom in on the content of
6 the screen.

7 Q. Special Agent Hezir, looking at this, can you read what
8 appears to be the subject line which is in white and then blue
9 font on the top of the screen?

10 A. Security alert for Adedayoilori@gmail.com.

11 Q. And then looking just below that, if you could please read
12 that text, the first sentence essentially of that section.

13 A. This is a copy of a security alert sent to
14 Adedayoilori@gmail.com.

15 Q. And then the next sentence, please?

16 A. Dayodfine01@gmail.com is the recovery email for this
17 account.

18 Q. And if we look down the email, we don't need to read the
19 entire thing, but below the line that states that
20 Adedayoilori@gmail.com address, it indicates something about
21 the Google account.

22 Can you read that first sentence, please?

23 A. Your Google account was just signed into from a new Mac
24 device.

25 MS. MURRAY: Ms. Loftus, can you please publish

MAS1ILO3

Hezir - Direct

1 Government Exhibit 670? Again, content of the iPhone 12 that
2 was recovered from the defendant.

3 Q. Special Agent Hezir, what part of the phone or what
4 information in the phone is reflected in this particular
5 exhibit?

6 A. This is the notes application on the iPhone.

7 MS. MURRAY: And if we could turn to the next page,
8 please, Ms. Loftus. Zooming in on the text that we see here
9 focusing on the first two lines.

10 Q. Special Agent Hezir, can you read the name that's on the
11 second line, please?

12 A. On the second line, Appserd.

13 Q. And above that there appear to be numbers, two digits, a
14 hyphen, and then a series of additional digits. Based on your
15 training and experience, what if anything do you understand
16 those numbers to represent?

17 A. Those look like employer identification numbers for tax
18 purposes.

19 Q. Is that also referred to as a TIN number, Taxpayer
20 Identification Number?

21 A. Yes.

22 Q. And then looking at the next entry again, lines three and
23 four, does that appear to be the same type of information for
24 what appears to be a different name?

25 A. Yes. That's correct.

MAS1ILO3

Hezir - Direct

1 MS. MURRAY: Ms. Loftus, can you please publish
2 Government Exhibit 156 alongside Government Exhibit 670?

3 And, sorry, Ms. Loftus, page 2. Thank you.

4 And if we could zoom in on Government Exhibit 156, on
5 the business legal name through to the business TIN.

6 Q. Special Agent Hezir, Government Exhibit 156 is a Paycheck
7 Protection Program application form that is in evidence. Can
8 you read the business legal name on that PPP form?

9 A. Appserd, Inc.

10 Q. And then looking to the right and a line down, can you read
11 the business TIN associated with Appserd on that PPP loan
12 application form?

13 A. 46-5422859.

14 Q. And then you can see it on your screen still, on the top
15 right. This is Government Exhibit 670, page 2. Again, the
16 notes application from the iPhone 12 that was recovered from
17 the defendant.

18 Can you read that TIN that's associated with Appserd
19 in that notes entry?

20 A. 46-5422859.

21 Q. Do these two documents reflect the same information with
22 respect to an entity and its associated Taxpayer Identification
23 Number?

24 A. Yes.

25 Q. Thank you.

MAS1ILO3

Hezir - Direct

1 MS. MURRAY: Ms. Loftus, you can take that down.

2 Q. I want to step away from electronic devices for a moment.
3 Were you involved in analyzing any other electronic data when
4 you were assisting in this investigation?

5 A. Yes.

6 Q. Does that include IP address data?

7 A. Yes. That's correct.

8 Q. During the investigation, did the DOJ OIG identify any IP
9 addresses of interest?

10 A. Yes. We did.

11 Q. Now, we looked at an Apple business record a few minutes
12 ago. Does the IP address that we discussed in that Apple case
13 record, is that one of the IP addresses of interest that the
14 DOJ OIG identified?

15 A. Yes. That was one of them.

16 Q. Special Agent Hezir, what kind of analysis, if any, did you
17 perform regarding that IP address 67.245.59.23?

18 A. I performed a records analysis.

19 MS. MURRAY: Ms. Loftus, can you please show the
20 witness only and the Court and the parties what's been marked
21 for identification as Government Exhibit 720.

22 Q. Special Agent Hezir, do you recognize this?

23 A. Yes.

24 Q. What is it?

25 A. It's a document.

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Hezir - Direct

1 Q. Does it appear to be a summary chart?

2 A. Yes, it does.

3 Q. Does the summary chart reflected in Government Exhibit 720
4 summarize certain information contained within voluminous
5 records?

6 A. Yes, it does.

7 Q. Is the information that is reflected in this chart
8 accurate?

9 A. Yes. It is.

10 Q. How do you know it's accurate?

11 A. I reviewed it personally.

12 Q. Are the source documents that the summary chart relied on
13 cited in Government Exhibit 720 on the left side?

14 A. Yes, they are.

15 MS. MURRAY: Your Honor, the government offers Exhibit
16 720.

17 MR. BRILL: No objection.

18 THE COURT: It will be received. It's a summary
19 chart. You may publish.

20 (Government Exhibit 720 received in evidence)

21 MS. MURRAY: Thank you, your Honor.

22 Ms. Loftus, can you please publish that to the jury?

23 Q. Special Agent Hezir, at a high level can you please
24 describe what type of information is reflected in Government
25 Exhibit 720?

MAS1ILO3

Hezir - Direct

1 A. In this exhibit we're looking at, providers that have
2 captured the specific IP address in their records.

3 Q. And looking at the date time column, in preparing this
4 summary chart, did you standardize the times that are listed in
5 these various different providers' records into ET or Eastern
6 Time?

7 A. Yes, that's correct.

8 Q. Now, looking at the second row, Government Exhibit 201, the
9 entry for Apple, Inc, is that the particular Apple IP
10 connection that we looked at earlier in the Apple record?

11 A. Yes.

12 Q. And what is the date and time of that connection to that
13 Apple record, which, as reflected, relates to the Dayo Ilori
14 account or Dayodfine01@gmail.com?

15 A. That date is May 7, 2021.

16 Q. And what is the time?

17 A. 6:02p.m.

18 Q. Can you read the exact time as reflected on the summary
19 chart?

20 A. Sure. 6:02:24 p.m.

21 Q. Looking now at the entry for Government Exhibit 351,
22 provider Robinhood, can you read the date and time of the first
23 connect for that Robinhood account?

24 A. May 7, 2021.

25 Q. And what is the time range?

MAS1ILO3

Hezir - Direct

1 A. Between 6:10 and 7:09 p.m.

2 Q. And the subscriber information associated with that
3 Robinhood account that connected to the IP on that date and
4 time. Just a name and an email address would suffice.

5 A. John Herttua. Herttuajonathan1957@gmail.com.

6 Q. And, actually, the phone number associated with that entry
7 as well, please?

8 A. 646-575-0642.

9 Q. And then looking at the top row of this document, which is
10 Government Exhibit 241, information reflected from provider
11 Charter Communications, what is the date and time range for
12 that IP address associated with the Charter Communications
13 account?

14 A. May 7, 2021, to July 27, 2021.

15 Q. And for that connection, based on the Charter records, who
16 was the a named subscriber and what was the email address?

17 A. Mark Heffron, Markheffron92@gmail.com.

18 Q. And what is listed as the residential or location address
19 associated with that subscriber?

20 A. 44-41 Purves Street, LIC, NY 11101.

21 Q. Finally, looking at the last row which reflects documents
22 from provider Charles Schwab -- looking at the last row which
23 reflects documents from provider Charles Schwab, what is the
24 subscriber information for the Charles Schwab account that
25 connected to that IP address on July 21, 2021?

MAS1ILO3

Hezir - Direct

1 A. Jonathan Herttua, 74 E. Seventh Street, NY, NY 11218.

2 MS. MURRAY: And Ms. Loftus, if you could take that
3 down.

4 Q. I would like to play for you now, Special Agent Hezir,
5 another Charles Schwab exhibit in evidence, Government Exhibit
6 243. It's an audio recording that was provided by Charles
7 Schwab in response to a subpoena.

8 We're going to play a portion of it, and pause it, and
9 ask you to confirm for the jury what we're hearing on this
10 audio recording.

11 (Recording played)

12 MS. MURRAY: Ms. Loftus, can you pause it there,
13 please.

14 Q. Special Agent Hezir, in this recorded Charles Schwab
15 customer service call, were you able to hear the email address
16 that the customer who's calling for assistance provided?

17 A. I only caught the last little bit of that email. I'm
18 sorry.

19 MS. MURRAY: Ms. Loftus, can you turn the volume up a
20 little and just go back a few seconds. I'm sorry. We're just
21 going to try to capture that email address.

22 (Recording played)

23 MS. MURRAY: You can pause, Ms. Loftus.

24 Q. Were you able to hear the email, understanding that it was
25 stated, but the email address provided by the customer?

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Hezir - Direct

1 A. I'm sorry. I still didn't catch it. I apologize.

2 Q. No problem.

3 MS. MURRAY: Your Honor, I'm going to turn to a new
4 device now. I'm not sure if you wanted to take an afternoon
5 break now or you wanted to continue with the new device.

6 THE COURT: All right. Why don't we take our
7 afternoon break now. It is 2:20, so if we can be back roughly
8 at 2:30, 2:35, somewhere around there, okay?

9 Please leave your notebooks on your chair. And I
10 remind you, Special Agent, you remain under oath. Please do
11 not discuss your testimony with anybody while we are in recess.

12 And, jurors, please do not talk about the case while
13 we're in recess. Thank you.

14 (Continued on next page)

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MAS1ILO3

Hezir - Direct

1 (Jury not present)

2 THE COURT: All right. You may step down, sir.

3 THE WITNESS: Thank you.

4 THE COURT: Is there anything we need to discuss?

5 MS. MURRAY: No, your Honor.

6 MR. BRILL: No, your Honor. Thank you.

7 THE COURT: All right. Thank you. So I'll see you
8 all in about ten minutes or so.

9 (Recess)

10 (Jurors not present)

11 THE COURT: Yes. The witness can come back to the
12 stand.

13 Do we have anything we need to discuss?

14 MS. MURRAY: No, your Honor.

15 THE COURT: Okay. Ms. Dempsey, do you want to
16 retrieve the jurors, please.

17 THE DEPUTY CLERK: Yes, your Honor.

18 (Continued on next page)

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MAS1ILO3

Hezir - Direct

1 (Jurors present)

2 THE COURT: All right. You may be seated.

3 Ms. Murray.

4 MS. MURRAY: Thank you, Your Honor.

5 THE COURT: Excuse me. You remain under oath.

6 THE WITNESS: Yes, your Honor.

7 Q. Special Agent Hezir, I'd like to turn to the iMac computer
8 recovered from apartment 1805 at 4441 Purves Street on October
9 8, 2021.

10 MS. MURRAY: Ms. Loftus, can you please publish
11 Exhibit 601, which is in evidence? And if you could scroll
12 through the pages of this exhibit.

13 Q. Special Agent Hezir, are these photos of the iMac that was
14 recovered at apartment 1805?

15 A. Yes.

16 Q. Did DOJ OIG review the contents of the iMac?

17 A. Yes.

18 Q. From that review, were any reports created?

19 A. Yes.

20 Q. Have you reviewed any reports or tags created during that
21 iMac forensic review?

22 A. Yes.

23 MS. MURRAY: Ms. Loftus, if you could publish
24 Government Exhibit 602, which is in evidence. This is certain
25 information that was retrieved from the iMac computer.

MAS1ILO3

Hezir - Direct

1 Looking at the type of information reflected here, if
2 we could go down, please, Ms. Loftus, to the contents. Thank
3 you.

4 Q. Do you see various tags with different titles that are
5 listed in this document?

6 A. Yes. I do.

7 MS. MURRAY: To take a few examples, Ms. Loftus, if
8 you could zoom in from device down to the bottom of that first
9 page of tags, attached devices.

10 Q. So what information does this reflect with respect to the
11 reports that were created from the review of the contents of
12 the iMac?

13 A. These tags represent artifacts, things that the examiner
14 has highlighted for the case agent to review.

15 Q. And did the examiner highlight those artifacts, which we
16 earlier described to be just pieces of evidence or pieces of
17 data? Did the examiner categorize those by different topics
18 that were identified?

19 A. Yes.

20 MS. MURRAY: If you could zoom out, Ms. Loftus, and I
21 just want to scroll through the contents of the iMac reports,
22 the iMac forensic reports, get a general sense of what some of
23 the tags were.

24 Q. We're going to go through some of these in detail, not all
25 of them.

MAS1ILO3

Hezir - Direct

1 MS. MURRAY: Ms. Loftus, can you please publish
2 Government Exhibit 603. This is device information for the
3 iMac.

4 Q. And looking at this device information, if we could turn to
5 page 2, please, and zoom in on the middle of the page, there's
6 a model, there's a host name, and there's some additional
7 information in the middle of the page.

8 Special Agent Hezir, what does host name reflect in
9 this information for the iMac computer?

10 A. Host name in this particular case is Dayos-iMac.

11 MS. MURRAY: Ms. Loftus, can you please pull up
12 Government Exhibit 604.

13 This reflects tags again that we saw in the earlier
14 version of the device extraction information, and if we could
15 go down to page 2, please, Ms. Loftus, and just up a bit,
16 please, and focus on the top left tag.

17 Q. Special Agent Hezir, do you see what kind of tags are
18 reflected in this particular report?

19 A. Yes, I do.

20 Q. What type?

21 A. These are user accounts.

22 Q. And how many user accounts were tagged in this user report?

23 A. Sixteen.

24 Q. I want to discuss a few of these user accounts that were
25 tagged. And, again, this is an iMac recovered from apartment

MAS1ILO3

Hezir - Direct

1 1805.

2 Looking at this first user account we see here, can
3 you read the name of the account?

4 A. The name of the first one is Dfinebydayoilori.

5 Q. And the account type?

6 A. Mac user.

7 MS. MURRAY: Ms. Loftus, if you could go to 604, page
8 3, I'd like to zoom in on the fourth account that's listed,
9 please.

10 Q. Do you see this account?

11 A. Yes, I do.

12 Q. What is the name and the account type for this account that
13 was located on the iMac as a user account?

14 A. The name is Dayo@dfinebydayoilori.com, and the account type
15 is Facebook.

16 MS. MURRAY: And, Ms. Loftus, if we could go to the
17 next page, please, page 4 of Government Exhibit 604. And if we
18 could focus on the fourth account listed here. Actually, the
19 third and fourth if we could, please.

20 Looking at the third account, which is the first
21 highlighted in this excerpt, can you read the name and the
22 account type of that account that was a user account on the
23 iMac?

24 A. Dfinebydayo@gmail.com and the account type is Gmail.

25 Q. Next user, same thing, name and account type.

MAS1ILO3

Hezir - Direct

1 A. Dayodfine01@gmail.com, and account type is iCloud.

2 MS. MURRAY: Ms. Loftus, if we could zoom out, I'd
3 like to go again to page 2. And just pause for a moment on
4 each page so the jury has an opportunity to look at this
5 exhibit and see, generally speaking, what the names are
6 associated with these 16 user accounts.

7 So if we could go to the next page, please, page 3 and
8 pause for a moment.

9 Now, the next page, please. Page 4 and page five,
10 please.

11 Q. Special Agent Hezir, looking through all these 16 accounts
12 on the iMac, do these accounts generally appear to pertain to
13 the same general identifier or identifiers?

14 A. Yes.

15 Q. And what would that be or those be?

16 A. The identifier that sticks out the most is Dayo.

17 MS. MURRAY: Ms. Loftus, can you now publish 607.
18 This is in evidence. This is another iMac report.

19 Q. Looking at the top, Special Agent Hezir, what tag does this
20 report relate to from the iMac contents?

21 A. It relates to the tag passport.

22 Q. So focusing on this first file that's listed, I'd like to
23 zoom in on the first three lines here, the first three entries,
24 source device through path.

25 Can you describe what information is here for this

MAS1ILO3

Hezir - Direct

1 first file tagged passport in the iMac?

2 A. Sure. We're looking at source device. This is where the
3 file came from. The name of the file itself is the second
4 listing there. And the path is going to where it's going to
5 logically be found on the computer.

6 Q. And when you say logically, can you describe what you mean
7 by that, please, forensically?

8 A. Sure. It's basically where it's located in the operating
9 system. Basically, what folders and subfolders a file is
10 located underneath.

11 Q. So for this particular file, again the first file reflected
12 on this report having been tagged passport, what is the name of
13 the file?

14 A. The name is NazmulpassportID.pdf.

15 Q. And without reading the entire path, can you describe where
16 this file is located based on the path line information?

17 A. Based on the path line, it's under the Dfinebydayoilori
18 user profile in the trash folder.

19 MS. MURRAY: If you could zoom out now, Ms. Loftus.

20 I want to zoom in now on the middle portion of this.

21 There are a couple of dates here, created, changed and
22 modified.

23 Q. For this Nazmul passport ID pdf file, can you read what
24 date this file was created and modified? It appears to be the
25 same.

MAS1ILO3

Hezir - Direct

1 A. Date created and modified is September 24, 2018.

2 Q. And the time?

3 A. 20:41:55 in UTC.

4 Q. Now, in the middle there's a field called date changed.

5 Can you read what date this file Nazmul passport ID was
6 changed?

7 A. July 2, 2019.

8 Q. And at what time?

9 A. 00:25:33 UTC time.

10 MS. MURRAY: Ms. Loftus, can you please turn to page
11 12 of Government Exhibit 607.

12 And if we could zoom in on the bottom portion of this
13 image file.

14 Q. Special Agent Hezir, is that the file that we were just
15 discussing, the PDF file located in the iMac trash folder?

16 A. Yes.

17 Q. What is the name listed on this purported passport?

18 A. Nazmul Islam.

19 MS. MURRAY: Ms. Loftus, can you please turn back to
20 page 1.

21 Looking now at the second file tagged passport in the
22 iMac, it goes from page 1, carries over into page 2. If you
23 could zoom in on the source device through to the spotlight,
24 kind of last spotlight entry there.

25 Q. Special Agent Hezir, what was the name of this file?

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Hezir - Direct

1 A. Ericpassport.pdf.

2 Q. And again, without reading the entire pathline information
3 in, can you describe for the jury where this file was located
4 in the iMac?

5 A. This was located under the user profile Dfinebydayoilori in
6 the mail application for a Gmail mailbox as an attachment.

7 Q. Now, looking at the second line of the pathline near the
8 right side, there's an indication .Mbox. Are you familiar with
9 that file type?

10 A. Yes, I am.

11 Q. What is an mbox file?

12 A. An mbox file contains emails.

13 Q. Looking now at the spotlight, so starting with the first --
14 the second, excuse me, spotlight entry reading down the next
15 couple names can you read what those spotlight entries reflect?
16 So spotlight user shared received recipient, what is that?

17 A. Would you like me to read the entries?

18 Q. Yes. If you could read the entry, I'll read the fields.

19 A. Dayo Ilori.

20 Q. And then user shared received recipient handle?

21 A. Dfinebydayo@gmail.com.

22 Q. What about the sender, use shared received sender?

23 A. Dayo Ilori.

24 Q. And user shared received sender handle?

25 A. Dayodfine01@gmail.com.

MAS1ILO3

Hezir - Direct

1 Q. In plain English, can you explain to us what those
2 different fields indicate about this Ericpassport.pdf file
3 which was in the Gmail account or the Gmail inbox as an
4 attachment?

5 A. This would reflect the sender and recipient of this
6 specific PDF.

7 Q. And in this particular case, which particular account sent
8 this Eric passport file to which email account?

9 A. The sender would reflected at the bottom,
10 Dayodfine01@gmail.com. The receiver would be
11 Dfinebydayo@gmail.com.

12 MS. MURRAY: And if you could zoom out again, Ms.
13 Loftus. Going to the dates, created, changed and modified.

14 Q. On what date was this file created, changed and modified?

15 A. September 24, 2018.

16 Q. At what time? Thank you.

17 A. Sure. 20:41:57 UTC time.

18 MS. MURRAY: Ms. Loftus, can you please now turn to
19 page 13 of Government Exhibit 607. And zooming in on the
20 bottom portion of this passport as we see it.

21 Q. Special Agent Hezir, is that the file we were just
22 discussing, that Ericpassport.pdf file that was located in the
23 Dfinebydayo@gmail address in the iMac?

24 A. Yes.

25 Q. What is the name listed on this passport, this purported

MAS1ILO3

Hezir - Direct

1 passport?

2 A. Eric Charles Chenworth.

3 MS. MURRAY: Ms. Loftus, page nine of Government
4 Exhibit 607, and zoom in on the media picture entry we see on
5 that page, the bottom two-thirds of the page.

6 Q. Special Agent Hezir, can you describe what information's
7 reflected here for this file that was recovered from the iMac?
8 I don't want you to read everything here in, but if you could
9 explain the name of the file and what type the file appears to
10 be?

11 A. Sure. In this case, the name of the file, IMG_0543.jpg,
12 and jpg's are typically imagine files.

13 Q. And looking at the path, again, if you could just explain
14 generally speaking where this is located in the iMac?

15 A. In general terms, it's under the Dfinebydayoilori user
16 profile in the pictures folder, in the photos library,
17 subfolder area.

18 Q. And I want to look a couple of lines down. There's a field
19 that indicates EXIF colon scene type a few rows from the bottom
20 of that. Do you see that?

21 A. Yes.

22 Q. First of all, what .EXIF mean, if you know?

23 A. EXIF is basically meta data attached to picture files.

24 Q. And then looking at the description for EXIF scene time for
25 this particular file, what does that indicate?

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Hezir - Direct

1 A. Directly photographed image.

2 MS. MURRAY: Ms. Loftus, if you could turn to page 33
3 of Government 607 and zoom in on the bottom portion of this
4 image file.

5 Q. Special Agent Hezir, what number is reflected on this
6 apparent photograph of a passport?

7 A. Adedayo Adewale Ilori.

8 Q. And this photo was saved on the iMac that was in apartment
9 1805; is that correct?

10 A. That's correct.

11 MS. MURRAY: Ms. Loftus, you can take that down, and
12 please publish Government Exhibit 609. Again, a report from
13 the iMac. This reflects tags for internet history.

14 Q. I'd like to look first at the URL that is indicated in this
15 first entry. Again, not reading the entire thing into the
16 record but the main URL.

17 A. Sure. Trading2.com.

18 Q. And just to be clear, what is an URL?

19 A. An URL stands for uniform resource locator. It's basically
20 a path to get to a website. The best example might be like
21 www.google.com, for example, would be an URL.

22 Q. And looking near the bottom profile, what profile on iMac
23 accessed this URL?

24 A. Dfinebydayoilori.

25 Q. And on what date?

MAS1ILO3

Hezir - Direct

1 A. October 7, 2021.

2 MS. MURRAY: Ms. Loftus, if we could please go to
3 Government Exhibit 609, page 18. I'd like to zoom in on that
4 page, on the session on the top half of the page.

5 And this is an internet last session that was tagged
6 in the iMac.

7 Q. Looking at this, what's the pathline for this particular
8 file? Like a second entry here.

9 A. The actual path or --

10 Q. Again, the content of the path. Thank you.

11 A. Sure. It's under the user profile Dfinebydayoilori under
12 the library Safari, Safari being the internet browser for MAC,
13 under the recently closed tabs.plist file.

14 Q. And if we could look at the file, again, not reading the
15 whole thing, but what was the source URL of this file?

16 A. Source URL would be drive.google.com.

17 Q. And then looking at the title, and then the next tab, the
18 last -- or the entry, the last visit, can you read this?

19 A. Title is source.PSD-googledrive. Last visit is 2020-11-25,
20 20:35:51 UTC.

21 Q. Now, in the title of this document, I want to focus on that
22 .PSD. Is that a file type?

23 A. Yes, it is.

24 Q. Do you know what type of file it is?

25 A. I do.

MAS1ILO3

Hezir - Direct

1 Q. What is it?

2 A. PSD files are Adobe Photoshop document files.

3 Q. And what is Adobe Photoshop?

4 A. An image manipulation tool.

5 MS. MURRAY: Ms. Loftus, can you please publish
6 Government Exhibit 610?

7 Q. Special Agent Hezir, these are certain files from the iMac
8 that were tagged, in particular source, the number four, jets.

9 Looking at the first page and the first media picture
10 here --

11 MS. MURRAY: If we could zoom in, Ms. Loftus, from
12 media picture down to the bottom of the page.

13 Q. What's the file name for this particular file?

14 A. Source4jets.PSD.

15 Q. So that's a Photoship file; is that correct?

16 A. That's correct.

17 MS. MURRAY: And turning to page 2, please,
18 Ms. Loftus.

19 Q. What date was this file created, about midway through the
20 page?

21 A. November 25th, 2020.

22 MS. MURRAY: Ms. Loftus, can you please publish
23 Government Exhibit 163, alongside Government Exhibit 610, page
24 1.

25 And, Ms. Loftus, on Government Exhibit 163, if you

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Hezir - Direct

1 could zoom in on the first couple lines under business
2 information.

3 Q. Special Agent Hezir, what is the business legal name of
4 this SBA document that's shown in Government Exhibit 163?

5 A. Source 4 Jets, Inc.

6 (Continued on next page)

MAS1ILO5

Hezir - Direct

1 BY MS. MURRAY:

2 Q. And looking on the left side on the media picture entry for
3 the Photoshop file recovered from the iMac, what was the name
4 on that file?

5 A. Source4jets.psd.

6 MS. MURRAY: Ms. Loftus, please take that down and
7 publish Government Exhibit 612.

8 Q. Special Agent Hezir, what is the name of the file described
9 on the bottom of page 2 in Government Exhibit 612, if we could
10 go there?

11 A. The name at the bottom there is Image 6-3-19@2.52pm.jpg.

12 Q. Thank you. I apologize. I directed you to the wrong
13 portion.

14 MS. MURRAY: Ms. Loftus, if we could zoom out.

15 Q. Focusing now just on the bottom half of that prior entry, I
16 want to focus on the spotlight indicates Adobe Photoshop. If
17 we look at the source file on the bottom, it appears that the
18 path line indicates the file name, starts with Image. Can you
19 read that, please.

20 A. Image 12-18-20@6pm2.psd.

21 Q. And looking above, there are some spotlight information.

22 It looks like layer names with some numbering. Generally
23 speaking, do you have an understanding of what information is
24 reflected there in this Photoshop document, the metadata or the
25 data for this Photoshop document?

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Hezir - Direct

1 A. Yes.

2 Q. What's reflected in the layers?

3 A. Again, in Adobe Photoshop, layers are added on top of the
4 original image to -- when they -- a new addition or correction
5 is made to that, basically any alteration made to that image is
6 an additional layer.

7 Q. So looking in particulate, the layer name 4 field here, if
8 you could look at that and just indicate what, if anything, is
9 notable to you about the text that appears in that layer name.

10 A. Appears there's no space between 2021 and the word
11 "through."

12 MS. MURRAY: Ms. Loftus, can you please pull up what's
13 in evidence as Government Exhibit 111, page 19, alongside this
14 Government Exhibit 612, page 3.

15 I apologize, Ms. Loftus. I think I have the wrong
16 page number for 111.

17 Okay. You can take that down. I'll find the right
18 document.

19 Okay. If we could publish, actually, Ms. Loftus, just
20 Government Exhibit 111.

21 BY MS. MURRAY:

22 Q. This is a business signature card from Chase Bank for a
23 bank account in the name of Amana Air Charters, LLC.

24 MS. MURRAY: And if we could go to page 3, please.

25 Q. What is the name, the printed name that's associated with

MAS1ILO5

Hezir - Direct

1 this particular Chase account?

2 A. David W. Dilley.

3 MS. MURRAY: Thank you, Ms. Loftus. You can take that
4 down.

5 Q. Special Agent Hezir, I'd like to talk about another of the
6 devices that you recovered between October 7th and October 8th,
7 2021.

8 This is the iPhone 11, and the parties have stipulated
9 that the iPhone 11 was recovered pursuant to one of the search
10 warrants. Were the contents of the iPhone 11 able to be
11 extracted?

12 A. No, they were not.

13 Q. Why not?

14 A. They were not supported with our current forensic tools at
15 the time.

16 Q. Were you able to extract any information from the iPhone 11
17 or the SIM card that was contained within the iPhone 11?

18 A. I was able to get an extraction of the SIM card.

19 MS. MURRAY: And the parties have stipulated the
20 iPhone 11 was recovered from the defendant's person the date of
21 his arrest, October 8, 2021.

22 Ms. Loftus, if you could please show the witness
23 what's been marked for identification as Government
24 Exhibit 660-A. And this is for the witness and the parties and
25 the Court, please.

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Hezir - Direct

1 When we get that up, Ms. Loftus, if we could go to
2 page 2 of that particular document.

3 We'll come back to that, Ms. Loftus, if we could.
4 I'll make a note of it. Just so we can keep going for a
5 moment.

6 The parties have also agreed that a Samsung was
7 recovered from the console of the Mercedes, the white Mercedes,
8 on October 8, 2021.

9 BY MS. MURRAY:

10 Q. Special Agent Hezir, did you extract the contents that was
11 recovered from the Samsung from the defendant's car?

12 A. Yes.

13 Q. Can you describe how you performed that extraction, what
14 type of extraction that was.

15 A. For that Samsung device, we -- in the vehicle, we were able
16 to get a complete forensic extraction.

17 MS. MURRAY: Ms. Loftus, can you please publish
18 Government Exhibit 631, which is in evidence.

19 And if you could zoom in on the content indicated here
20 in Device Information.

21 This is device information for the Samsung that was
22 recovered from the center console of the Mercedes. Starting
23 with MSISDN, it's about halfway through the page here, it's
24 under Current SIM Operator, if you could highlight that field,
25 please, Ms. Loftus.

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Hezir - Direct

1 About halfway down, under Current SIM Operator. Just
2 a bit further.

3 Yeah. And if you could highlight the next line,
4 please, MSISDN number.

5 BY MS. MURRAY:

6 Q. First of all, Special Agent Hezir, what is an MSISDN
7 number?

8 A. MSISDN stands for Mobile Station International Subscriber
9 Directory Number, which is really just kind of a long-winded
10 way of saying telephone number.

11 Q. And so an MSISDN number, is that the number that you would
12 actually punch into your phone or dial if you wanted to reach
13 another phone?

14 A. Yes, that's correct.

15 Q. So one's phone number is in fact one's MSISDN device
16 number; is that correct?

17 A. That's correct.

18 Q. Now looking down this page, again, device information for
19 the Samsung that was recovered from the center console of the
20 Mercedes, near the bottom of the page, there's a bold entry,
21 "Last Known Use 9/23/2021." Do you see that?

22 A. Yes.

23 Q. And beneath that there's a different MSISDN number. What
24 is that MSISDN number?

25 A. +1, which is the US country code, 929-381-9691.

MAS1ILO5

Hezir - Direct

1 Q. And I should have asked you, if you could read the MSISDN
2 that's reflected in the middle of this page. So for the device
3 information for the Samsung.

4 A. 1 929-526-8254.

5 Q. And then looking at the very bottom of this page, again,
6 device information for the Samsung recovered from the Mercedes,
7 there's a different last known MSISDN for August 4, 2020. Can
8 you read that, please.

9 A. +1 646-575-0642.

10 MS. MURRAY: Ms. Loftus, could we try to publish
11 Government Exhibit 660-A again, if you're able to. Oh, excuse
12 me. Just for the witness and the Court and the parties.

13 If I may have just a moment, your Honor.

14 THE COURT: Sure.

15 MS. MURRAY: Thank you.

16 We just need a moment to retrieve the file, your
17 Honor.

18 THE COURT: Sure.

19 MS. MURRAY: Thank you.

20 (Pause)

21 MS. MURRAY: Thank you all for your patience. We're
22 just trying to find a workaround. We want to be able to show
23 you this next exhibit.

24 THE COURT: Do you have it in the binders?

25 MS. MURRAY: That's what we're looking for, yes, your

MAS1ILO5

Hezir - Direct

1 Honor.

2 We'll come back to that. I want to make sure that we
3 keep moving.

4 I'm going to ask one of my colleagues to try to figure
5 out how to get a hard copy of that document to court so we can
6 present it to the witness, the Court, and defense counsel, so
7 perhaps three hard copies, and then we can proceed on that
8 point.

9 In the meantime, Ms. Loftus, if we could please pull
10 up what's in evidence as Government Exhibit 395.

11 BY MS. MURRAY:

12 Q. Special Agent Hezir, this is a T-Mobile record for a
13 particular phone number.

14 MS. MURRAY: If we could zoom in on the top portion
15 down to Device Details. The end of Device Details. Excuse me.

16 Q. Looking at this, what is the phone number or MSISDN number
17 that's associated with this particular account? It's in the
18 Device Details, a couple of rows down.

19 A. 929-381-9691.

20 Q. And what is the listed subscriber and the date that the
21 subscriber was associated with this number?

22 A. David Dilley, October 23, 2020.

23 Q. And can you read the last four -- actually, thank you.

24 MS. MURRAY: And Ms. Loftus, if you could now please
25 publish Government Exhibit 114, which is in evidence, alongside

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Hezir - Direct

1 Government Exhibit 395.

2 And if we could zoom in on the content on the left, on
3 the Chase account, on the top portion.

4 Q. Do you see the account title for this Chase account,
5 Special Agent Hezir?

6 A. Yes.

7 Q. What is it?

8 A. David W. Dilley.

9 Q. And that's Dilley with a D is the last name?

10 A. Yes, that's correct.

11 Q. What are the last four of the Social Security number
12 reflected on the top left?

13 A. 2503.

14 Q. And the personal address that's listed here, do you see
15 that?

16 A. Yes, I do.

17 Q. Can you read that, please.

18 A. 84-19 256th Street, Floral Park, New York 11001.

19 MS. MURRAY: Ms. Loftus, if you could zoom out on the
20 Chase account and if we could just look on the right side under
21 Billing Details for that phone number we just looked at. So
22 that's near the bottom portion.

23 Q. What's the name on this particular phone number?

24 A. David Gilly.

25 Q. That's Gilly with a G; is that correct?

MAS1ILO5

Hezir - Direct

1 A. That's correct.

2 Q. But does it reflect the same billing address that we just
3 saw as the address for the Chase signature card?

4 A. Yes.

5 Q. And for the Social Security number, does it reflect the
6 same last four, 2503, as we saw for the David Dilley Chase
7 signature card?

8 A. Yes, that's correct.

9 MS. MURRAY: Thank you, Ms. Loftus. You can take that
10 down.

11 I'd like to review some additional data that was
12 retrieved from the Samsung that was recovered from the car at
13 the time of the defendant's arrest and the search of the
14 Mercedes.

15 Ms. Loftus, can you please pull up Government
16 Exhibit 632.

17 BY MS. MURRAY:

18 Q. Special Agent Hezir, what type of information is reflected
19 in 632, generally speaking? It looks like there's a title kind
20 of on the top left of that.

21 A. This report reflects user accounts on the device.

22 Q. And looking at this report, how many user accounts were
23 there in the Samsung phone?

24 A. 146.

25 Q. Now turning to page 2, and focusing on user accounts

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Hezir - Direct

1 numbered 15 through 18.

2 MS. MURRAY: Ms. Loftus, we don't need to go all the
3 way to the right. If we could just zoom in on those user
4 accounts.

5 Q. Do you see those user accounts that are in the Samsung that
6 was in the Mercedes?

7 A. Yes, I do.

8 Q. Can you just read the user name, please, for each of those
9 four.

10 A. Wjamieson758@gmail.com; thomasjhockenberry@gmail.com;
11 geraldebrown53@gmail.com; herttuajonathan1957@gmail.com.

12 MS. MURRAY: And Ms. Loftus, if you could go further
13 down that same page, if we could zoom in on Entry No. 22,
14 please.

15 Q. What is that user account?

16 A. Geraldmhanson@gmail.com.

17 MS. MURRAY: And now turning to page 4, if we could
18 zoom in on entry 37, please.

19 Q. Now this isn't a simple email address for this user
20 account. Can you describe what we're looking at here, please.

21 A. This appears to be a user name and password for a website.

22 Q. What is the user name for this particular account?

23 A. Herttua.

24 Q. And looking at the service type or the particular website
25 that you mentioned, there's a kind of https which I understand

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Hezir - Direct

1 to be directing to a url. What is the url that's reflected
2 here?

3 A. M.mtb.com.

4 MS. MURRAY: Thank you, Ms. Loftus. We can take that
5 down.

6 Q. Special Agent Hezir, have you reviewed records from Google
7 for subscriber information relating to various of the user
8 accounts that were reflected in Government Exhibit 633?

9 A. Yes.

10 Q. Did you conduct any analysis of that subscriber
11 information?

12 A. Yes.

13 Q. What kind of analysis did you conduct?

14 A. It was record analysis.

15 MS. MURRAY: Ms. Loftus, can you please show the
16 witness only and the Court and defense what's been marked for
17 identification as Government Exhibit 730.

18 Q. Special Agent Hezir, do you recognize this?

19 A. Yes.

20 Q. What is it?

21 A. It's a document.

22 Q. What type of information does this document reflect,
23 generally speaking?

24 A. Generally speaking, it has Google accounts and information
25 related to those specific accounts.

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Hezir - Direct

1 Q. Does this chart summarize certain information contained
2 within voluminous records?

3 A. Yes.

4 Q. Is the chart accurate?

5 A. Yes.

6 Q. How do you know it's accurate?

7 A. I went through it.

8 Q. And did you go through it and compare the information
9 reflected in the chart with the information reflected on the
10 source documents that are cited by government exhibit in
11 column -- in the first column?

12 A. Yes.

13 MS. MURRAY: Your Honor, the government offers
14 Government Exhibit 730.

15 MR. BRILL: No objection.

16 THE COURT: It will be received into evidence as a
17 summary document.

18 (Government's Exhibit 730 received in evidence)

19 MS. MURRAY: Ms. Loftus, can you please publish that
20 to the jury.

21 BY MS. MURRAY:

22 Q. Now, Special Agent Hezir, Government Exhibit 730 reflects
23 certain information from various Google subscriber records.
24 Looking at this summary chart, and particularly focusing on the
25 Created On date, what links, if any, do you see among certain

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Hezir - Direct

1 of these Google accounts?

2 A. The number of accounts had the same or very close to the
3 same Created On Date.

4 MS. MURRAY: So Ms. Loftus, focusing in particular, if
5 we could, on what's on the left, Government Exhibit 423 through
6 to Government Exhibit 425 and going all the way over through to
7 Created On Date.

8 Q. So looking at this, Special Agent Hezir, it appears that
9 there are five of these email accounts that were created
10 between September 11th and September 12th of 2020; is that
11 right?

12 A. That's correct.

13 MS. MURRAY: You can zoom out on that, Ms. Loftus.

14 Q. And again, Special Agent Hezir, this summary chart reflects
15 subscriber information for various of the accounts that were
16 user accounts in the Samsung device; is that correct?

17 A. That's correct.

18 MS. MURRAY: We could take that down, Ms. Loftus.

19 I'm going to try again with Government Exhibit 660-A,
20 please, your Honor.

21 THE COURT: Okay.

22 MS. MURRAY: So this is from the iPhone 11, the iPhone
23 11 that was recovered from the defendant's person. This was
24 not covered in the stipulation, so I'm going to show defense
25 counsel and then I'm going to show the witness.

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Hezir - Direct

1 Your Honor, I'm approaching the witness to show what's
2 been --

3 THE COURT: Can I look at it?

4 MS. MURRAY: Yes, of course. Government
5 Exhibit 660-A.

6 THE COURT: Did you find it electronically? That
7 might be easier. Let me just take a quick look.

8 Okay. Give this one to the witness. I'll look on the
9 screen. Thank you.

10 MS. MURRAY: Thank you, your Honor.

11 BY MS. MURRAY:

12 Q. If you could take a look at this, please.

13 Do you recognize what's been marked for identification
14 as Government Exhibit 660-A?

15 A. Yes, I do.

16 Q. What is it, generally speaking?

17 A. It's a forensic extraction report.

18 Q. Did you create Government Exhibit 660-A using a particular
19 forensic tool?

20 A. Yes, I did.

21 Q. What tool?

22 A. It was with Cellebrite Physical Analyzer.

23 Q. Is that a tool you use in the course of your work to
24 extract electronic device contents?

25 A. Cellebrite Physical Analyzer is used to review forensic

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Hezir - Direct

1 extractions. In this case I used a Touch2 made by Cellebrite
2 to extract the SIM card.

3 Q. Does Government Exhibit 660-A accurately reflect data that
4 was extracted from the SIM card contained in the iPhone
5 11--again, the iPhone 11 that was on the defendant at the time
6 of his arrest?

7 A. Yes.

8 MS. MURRAY: Your Honor, the government offers
9 Government Exhibit 660-A.

10 MR. BRILL: No objection.

11 THE COURT: It will be received. You may publish.

12 (Government's Exhibit 660-A received in evidence)

13 MS. MURRAY: Thank you.

14 Can we please publish page 2, Ms. Loftus. And I want
15 to -- oh -- focus on the top portion, the summary.

16 BY MS. MURRAY:

17 Q. Special Agent Hezir, what does this reflect about who the
18 examiner was for this particular SIM card?

19 A. The examiner was me.

20 MS. MURRAY: And Ms. Loftus, if you could go to the
21 next page, please, the bottom of page 3.

22 Q. There is -- in SIM data row 8, there's an MSISDN number
23 that's reflected there, in particular MSISDN1:MyNumber. Can
24 you read the MSISDN or calling number that was associated with
25 the SIM card in the iPhone 11?

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Hezir - Direct

1 A. +1 646-575-0642.

2 Q. Thank you.

3 MS. MURRAY: All right. Ms. Loftus, we can take that
4 down.

5 If we could go to Government Exhibit 633, please.
6 Give a moment to switch over the tech.

7 Q. Special Agent Hezir, this reflects emails that were
8 recovered from the Samsung. Looking at the top left portion,
9 can you see how many emails were in that Samsung device?

10 A. 820.

11 Q. I want to go through just a few of these.

12 MS. MURRAY: Ms. Loftus, can you please turn to
13 page 14. We're going to zoom in on entry 51 on that page,
14 please.

15 That's enough. Thank you. Just to bottom of the
16 content.

17 Q. Do you see the time stamp of this document?

18 A. Yes.

19 Q. Who is this from?

20 A. It's from thomasjhockenberry@gmail.com.

21 Q. And who is it to?

22 A. Nsamuel@silver.silverstarny.com.

23 Q. And then looking in the body of that email, Subject:
24 Requested Documents for Registration, I don't want you to read
25 the whole thing in, but can you just let us know, registration

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Hezir - Direct

1 of what, according to that email?

2 THE COURT: Can you make this a little larger?

3 MS. MURRAY: Sure, yes.

4 THE COURT: Thank you.

5 A. This is the registration for a vehicle.

6 MS. MURRAY: Ms. Loftus, if you could zoom out. And
7 then if you could just enlarge what appear to be the thumbnails
8 of the attachments to this email.

9 Q. Are you able to determine what the two thumbnails on the
10 right appear to be?

11 A. Yes.

12 Q. Without getting into obviously the very tiny font, if you
13 could just tell us what type of documents those attachments
14 appear to be.

15 A. Appears to be image documents, images.

16 MS. MURRAY: And Ms. Loftus, if we could zoom in on
17 the top right image document even more closely, and then the
18 one below it, just very closely so we can see what those are.

19 Q. Are you able to determine from this what is reflected in
20 the image document on the top? Again, not the words.

21 A. Yes.

22 Q. And what is it?

23 A. It appears to be a Pennsylvania driver's license.

24 Q. And generally speaking, what does the bottom image document
25 appear to be?

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Hezir - Direct

1 A. Appears to be a payment card.

2 MS. MURRAY: Ms. Loftus, if we could go to page 57 of
3 633, please. I'd like to zoom in on entries 181 and 182.

4 Q. And looking at these, just 181, can you tell us who this
5 was sent to -- the first email address--excuse me--that this
6 document, this email, was sent to.

7 A. Wjamieson758@gmail.com.

8 Q. And looking on the right, what's the subject line?

9 A. Re: 123 Melrose APT: 417.

10 Q. And looking at the left again, it looks like somebody else
11 was copied in the To line. What is that email address and
12 name, the next one after W. Jamieson?

13 A. Rbateman@myspacenyc.com, and the name is Robert Bateman.

14 Q. Now the next entry, 182, without reading the whole email
15 address but the -- kind of the line below the email address,
16 who is this from, this email?

17 A. Schwab Alerts.

18 Q. And who is it sent to?

19 A. Herttuaajonathan1957@gmail.com.

20 Q. And again, these are emails that were in the Samsung
21 device, correct?

22 A. Correct.

23 MS. MURRAY: And Ms. Loftus, can you please turn to
24 page 159 of Government Exhibit 633. And zoom in on entry --
25 page 159, please. And zoom in on entry 508, the bottom.

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Hezir - Direct

1 Q. Looking at this, who is this sent from and to, please?

2 A. Sent from wjamieson758@gmail.com with the name William
3 Jamieson, and sent to rbateman@myspacenyc.com with the name
4 Robert Bateman.

5 Q. And just looking at the subject of the email, not the
6 content but the subject, what is the subject?

7 A. Re: Rental Papers.

8 MS. MURRAY: We can take this down. Thank you,
9 Ms. Loftus.

10 Can we please pull up now Government Exhibit 636.

11 Q. Now, Special Agent Hezir, this is the full email that we
12 just saw reflected on the extraction summary. It was also
13 extracted from the contents of the Samsung.

14 MS. MURRAY: If we could close out of that error box.
15 Thank you.

16 Q. Do you see that this email reflects the same general
17 information we just looked at?

18 A. Yes.

19 Q. The way that the emails are categorized in the extraction
20 report we were just looking at with all of the entries, is that
21 just a summary of then the source emails, like this particular
22 email?

23 A. Yes, that's correct.

24 MS. MURRAY: We can take that down. Thank you,
25 Ms. Loftus.

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Hezir - Direct

1 And I'd like to publish Government Exhibit 609,
2 page 17.

3 If we could zoom in on the bottom half of the page.

4 Q. These are internet sessions for the iMac we had looked at
5 previously. For this internet session, what is the path at the
6 very end, after Safari, which we understand to be a browser?

7 A. The path is under the dfinebydayoilori, user profile under
8 Safari, as you mentioned, the recently closed tabs list file.

9 Q. And the title for this particular internet session?

10 A. It's (no subject)-wjamieson758@gmail.com-gmail.

11 MS. MURRAY: Ms. Loftus, you can take that down. And
12 I'd like to pull up please, Government Exhibit 677.

13 The parties have stipulated and agreed that the
14 Motorola that's depicted in Government Exhibit 677 was
15 recovered from apartment 1805--that's the Purves Street
16 apartment, 44-41 Purves Street--on October 7, 2021.

17 BY MS. MURRAY:

18 Q. Did law enforcement conduct a review of the Motorola
19 reflected in Government Exhibit 677?

20 A. Yes.

21 Q. And what type of review was that, a forensic review or
22 manual review, if you recall?

23 A. I don't recall.

24 MS. MURRAY: Ms. Loftus, can we publish Government
25 Exhibit 678. This is, again, in evidence, as stipulated by the

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Hezir - Direct

1 parties, as certain contents of that Motorola device.

2 Q. Special Agent Hezir, do you recognize this?

3 A. Yes.

4 Q. Does this appear to be some of the contents of the Motorola
5 we just looked at?

6 A. Yes, it does.

7 Q. And based on your viewing this particular government
8 exhibit, which is in evidence, do you have a recollection of
9 what type of review was conducted on that Motorola?

10 A. Yes, I do.

11 Q. What kind?

12 A. This is a manual review.

13 Q. Now looking at this, are you able to determine which of the
14 chats that appear in this photo are associated with the user of
15 this particular phone, this Motorola, like which side of the
16 bubbles are associated with the user?

17 A. Sure, yes, I do.

18 Q. Which ones are associated with the user of the phone?

19 A. The user of this device will be in the green-colored
20 bubbles on the right-hand side.

21 Q. So the bubbles originating from the right are the user of
22 the device; is that correct?

23 A. That's correct.

24 Q. And the bubbles originating from the left are the
25 counterparty to the conversation?

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Hezir - Direct

1 A. Yes, that's correct.

2 Q. And looking at the top here -- if we could zoom in, please,
3 Ms. Loftus -- what is the title for the counterparty to this
4 particular conversation?

5 A. Dee.

6 MS. MURRAY: Ms. Loftus, if you could please zoom out
7 and go to page 2 of Government Exhibit 678, and zoom in on --
8 from the top portion Dee through to the bottom of that first
9 photo that's sent.

10 Q. Do you recognize the individual in this photograph which
11 was sent by the user of the Motorola device that was recovered
12 from apartment 1805?

13 A. I do, yes.

14 Q. How do you recognize him?

15 A. I recognize him as Chris Recamier.

16 Q. And how do you recognize him as Chris Recamier?

17 A. After we executed the search warrant on the apartment, we
18 identified that individual who was in the apartment at the time
19 and he identified himself as Chris Recamier.

20 Q. And based on this particular photo of messages from the
21 apartment 1805 Motorola, does it appear that Chris Recamier --
22 or, excuse me -- that the user of the Motorola sent a photo of
23 Chris Recamier to the counterparty who's in the phone as Dee?

24 A. Yes, that's correct.

25 Q. I want to return to the Samsung now that was recovered from

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Hezir - Direct

1 the Mercedes the defendant was in on October 8, 2021.

2 MS. MURRAY: And your Honor, at this point we are
3 going to be getting into the issue that Mr. Brill had raised.

4 Ms. Loftus, can you please show the witness, the
5 Court, and defense counsel what has been marked for
6 identification as Government Exhibit 638.

7 BY MS. MURRAY:

8 Q. Special Agent Hezir, do you recognize this?

9 MS. MURRAY: If we could zoom in, Ms. Loftus, on kind
10 of the top portion through the first -- yeah. Thank you.

11 A. Yes.

12 Q. Does this appear to be a certain -- an extraction of a
13 certain chat conversation that was on the Samsung device that
14 was recovered from the Mercedes?

15 A. Yes.

16 Q. So looking at this, are you able to determine which color
17 the chat bubbles are for the user of the Samsung device?

18 A. Yes.

19 Q. And what is listed as the name of the user for this
20 particular conversation?

21 A. In this conversation, it's Jonathan.

22 Q. Is there any other information associated with that?

23 A. There appears to be some kind of an account number for that
24 user.

25 Q. For the name Jonathan itself, though, as it appears on this

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Hezir - Direct

1 participant's log, what does it say?

2 A. Jonathan (Owner).

3 Q. The counterparty, the other participants of the
4 conversation, who is the nonuser of the Samsung?

5 A. It's listed as him with a different account number.

6 Q. Looking at the path line below the first message here --

7 MS. MURRAY: And Ms. Loftus, if you could zoom in on
8 that, please.

9 Q. You see source info? Are you able to determine what
10 messaging application these messages come from?

11 A. Yes.

12 Q. And which messaging app does it come from?

13 A. Telegram.

14 Q. Are you familiar with Telegram?

15 A. Yes.

16 Q. What is it?

17 A. Telegram is a messaging application that basically sends
18 messages in encrypted format.

19 MS. MURRAY: Ms. Loftus, can you please turn to
20 page 66 of Government Exhibit 638. And again, this is just for
21 the witness, the parties, and the Court at this point.

22 If you could highlight the first blue message on that
23 page.

24 Q. Do you see that, Special Agent Hezir?

25 A. Yes, I do.

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Hezir - Direct

1 MS. MURRAY: And Ms. Loftus, if you could now please
2 do a side-by-side for the witness, the Court, and defense, for
3 now, of Government Exhibit 638, page 66 on one side and
4 Government Exhibit 678, page 1 on the other side.

5 Q. Now looking at 678 on the right, do you see that same
6 message we just highlighted reflected as being sent by the user
7 of the Motorola that was recovered from 1805?

8 A. Yes.

9 Q. And looking at the other messages kind of before and after
10 that, do you see that the messages are the apparent mirror
11 images of one another between the two devices, the Samsung and
12 the Motorola?

13 A. Yes.

14 Q. And again, the Samsung was recovered from the Mercedes when
15 the defendant was arrested, and the Motorola was recovered from
16 apartment 1805 the day before when Chris Recamier was arrested;
17 is that right?

18 A. That's correct.

19 MS. MURRAY: Your Honor, at this point the government
20 would offer Government Exhibit 638 into evidence.

21 THE COURT: The entirety?

22 MS. MURRAY: Yes, your Honor.

23 MR. BRILL: Objection, your Honor.

24 THE COURT: And is it the objection that we discussed
25 in connection with motion practice?

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Hezir - Direct

1 MR. BRILL: Yes, your Honor; particularly the third
2 prong of that test.

3 THE COURT: That's overruled. It's received.

4 MS. MURRAY: Thank you, your Honor.

5 (Government's Exhibit 638 received in evidence)

6 MS. MURRAY: All right. And so Ms. Loftus, if you
7 could now --

8 THE COURT: Hold on.

9 I just want to be clear, when you say the third prong,
10 you're talking in furtherance.

11 MR. BRILL: Yes, your Honor.

12 THE COURT: Overruled.

13 MS. MURRAY: Thank you, your Honor.

14 Ms. Loftus, if you could now please publish this side
15 by side for the jury.

16 And just for the jury, on the left you see Government
17 Exhibit 638. This is a page from a Telegram chat message from
18 the Samsung that was in the white Mercedes when the defendant
19 was arrested. And Government Exhibit 678 on the right is an
20 image from a Motorola that was recovered from apartment 1805 on
21 October 7, 2021, the night before the defendant was arrested,
22 and that was when Chris Recamier was arrested. So if you look
23 at these -- and Ms. Loftus, if you could please zoom in now on
24 the left side on the first blue message.

25 And pull it up so we can see.

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Hezir - Direct

1 BY MS. MURRAY:

2 Q. So Special Agent Hezir, again, can you please for the jury
3 now explain what we're seeing here in the blue image from the
4 Samsung versus the green image from the Motorola.

5 A. We're seeing the same image -- or the image depicts that
6 one side is in this case him -- sorry. Let me step back. This
7 basically depicts the -- the same message on both sides of the
8 conversation.

9 Q. So based on your review of these particular messages, what,
10 if anything, are you able to determine about the relationship
11 between these two phones?

12 A. These two phones are both used in the same conversation.

13 Q. So is it accurate to say that they're communicating with
14 each other with these messages that we're seeing?

15 A. Yes, that's correct.

16 MS. MURRAY: All right. Ms. Loftus, you can take down
17 those two.

18 And I'd like to turn back now and focus on the
19 Samsung. This is Government Exhibit 638. I'd like to go
20 through a couple of the particular chats in this Telegram
21 conversation. As you can see on the top, there are 842
22 messages in this conversation. I just want to go over a few.

23 On page 5, please, Ms. Loftus, if we could please zoom
24 in on the second blue message until the green message.

25 BY MS. MURRAY:

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Hezir - Direct

1 Q. And Special Agent Hezir, I'm not going to kind of say this
2 every time, but just for the initial framing, as a reminder,
3 the green messages are being sent by the user of the Samsung
4 that was in the white Mercedes, the blue messages are being
5 sent by the other side of the conversation which we've seen is
6 the user of the Motorola that was in apartment 1805. So for
7 ease, what does blue say?

8 A. "If you have it ready, would you please send me the list of
9 companies for the IRS."

10 Q. And then what does green, the user of the Samsung, respond?

11 A. "I will send it tonight."

12 MS. MURRAY: If we could go to page 14, please,
13 Ms. Loftus.

14 And looking at this, if we could focus in on the blue
15 message here, from the 1805 Motorola.

16 Q. What does this say?

17 A. "Unless we bring work up there's no way to bring someone
18 else on board. The first question would be how much money am I
19 making and they wouldn't like the answer."

20 MS. MURRAY: And then going to the next page, if we
21 could look at the top blue message, please.

22 Q. What does that say, again, from the Motorola user?

23 A. "A lot of people have chase in PA."

24 MS. MURRAY: Ms. Loftus, if we could go to page 7,
25 back to page 7 of this exhibit, please.

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Hezir - Direct

1 I want to focus on the first blue message and then the
2 green response -- or excuse me -- the third blue message and
3 then the green response.

4 Q. So this is a message from blue or Motorola to the Samsung
5 that was in the white Mercedes. Can you read blue, please.

6 A. "Good morning. Since we haven't used it yet, I will set
7 the Appserd site to be used as app C. It's ready to go online
8 any time. If you want to take a look at it, go to
9 mturnerapp.wixsite.com/mulaappscorp."

10 Q. And then on the right, what does the Samsung user respond?

11 A. "Cool."

12 MS. MURRAY: If we could go to page 22, please,
13 Ms. Loftus.

14 Focusing on the first blue message until the first
15 green message.

16 Q. So 1805 Motorola, the Chris Recamier phone, sends this
17 message. Without reading this in its entirety, Special Agent
18 Hezir, generally speaking, what does this message appear to
19 reflect?

20 A. This message appears to reflect individuals' names and
21 Social Security numbers.

22 Q. Why, if at all, did you describe those numbers that are
23 indicated after each name as, in your estimation, Social
24 Security numbers?

25 A. Based on my training and experience, Social Security

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Hezir - Direct

1 numbers typically start with three digits, a hyphen, two
2 digits, a hyphen, and then four digits following.

3 Q. And so looking at the first green message here, the
4 response from the user of the Samsung, what does that read?

5 A. I'm sorry. The response from the Samsung?

6 Q. Yeah, the green. If you could read green in.

7 A. "Do we need the credit card for payment at M&T?"

8 MS. MURRAY: And then Ms. Loftus, the next page,
9 please, page 23.

10 If we could go from first green down through third
11 green.

12 Q. So this is -- again, green is Samsung user, white Mercedes;
13 blue is 1805, Recamier phone. What does green ask?

14 A. "Does the lady ask you for credit --" excuse me. "Does the
15 lady ask you for your card for payment?"

16 Q. And what does blue say?

17 A. "She has the number. She doesn't need it."

18 Q. And then what does green respond?

19 A. "Because I don't have the card and ID."

20 Q. And then?

21 A. "So we are good?"

22 MS. MURRAY: If you can zoom out. Thanks, Ms. Loftus.

23 A few more here.

24 Going to page 52 of 638, please. I want to focus on
25 the big blue message, please.

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Hezir - Direct

1 Q. This is sent from Motorola to Samsung. Again, Special
2 Agent Hezir, you don't need to read this in its entirety. If
3 you could just tell us again what generally each of these kind
4 of blocks of text appear to reflect.

5 A. Generally they reflect individuals' names, addresses,
6 Social Security numbers, and dates of birth.

7 Q. What about the second entry on the fifth line that starts
8 with, "No DOB"? Can you read that, please.

9 A. "No DOB, already has a Chase credit card but no account by
10 the time I checked."

11 Q. And then looking at the bottom, after these blocks of text,
12 starting with, "All those," can you read that, please.

13 A. "All those are good for Chase, Citibank and HSBC with the
14 exception of Rodney W. Werner, who already has a Chase credit
15 card."

16 MS. MURRAY: Ms. Loftus, can we please go to page 57
17 of 638.

18 I want to focus on first blue into the first green, or
19 the next green. Excuse me. Those two.

20 Q. So can you please read those two messages, starting with
21 blue, which is 1805 Motorola.

22 A. "Good morning. I need the info for Mark DOB and social to
23 activate the card."

24 Q. And then what does green respond?

25 MS. MURRAY: Thank you.

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Hezir - Direct

1 A. "We need to meet."

2 Q. Do you have any understanding of what DOB means?

3 A. Yes.

4 Q. What is that understanding, based on your training and
5 experience?

6 A. Date of birth.

7 MS. MURRAY: Now if we could go to page 61, please,
8 Ms. Loftus.

9 I want to focus on the second blue message and the
10 third blue message.

11 Q. So these are sent from the Motorola that had the Recamier
12 photo. Starting with the second line of this blue message, can
13 you read that, please.

14 A. "I went to see a couple apart -- it's misspelled,
15 A-P-P-A-R-T-M-E-N-T-S -- in LIC, one bedroom for 3200, two
16 bedrooms for 4075, both with two months free."

17 Q. What is the date of this message?

18 A. It's April 12, 2021.

19 MS. MURRAY: And then if we could zoom out, please,
20 Ms. Loftus.

21 And go to the next page, please. And zoom in on the
22 first four messages, three blue, one green.

23 Q. Can you please read just the first blue message for now.

24 A. "No background check B's, just one month deposit and we're
25 good. It's a new building, washer-dryer in the APPT, gym and

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1 roof access."

2 Q. And then after two additional follow-on messages, what does
3 green respond? Again, Samsung, what does Samsung respond?

4 A. "Cool."

5 MS. MURRAY: And if you could zoom out, please,
6 Ms. Loftus. I'd like to go to page 71.

7 The third blue, can you please zoom in on that
8 message.

9 Q. This is a message sent from blue, Motorola, to green,
10 Samsung, on April 13, 2021. What is the address, street
11 address, not the apartment but the street address that's
12 indicated in this message?

13 A. 44-41 Purves Street.

14 Q. And then the apartment, what's the apartment number?

15 A. Number is 708.

16 Q. And does there appear to be a link to a certain url?

17 A. Yes.

18 Q. After building, what is the name of that building in that
19 url?

20 A. Halo-LIC.

21 MS. MURRAY: If we could go to page 72, please,
22 Ms. Loftus. From the third blue to the bottom of the page.

23 Q. Can you read the blue message, please.

24 A. "Can you send me the info for Mark."

25 Q. What does the user of the Samsung respond?

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1 A. "Ok."

2 Q. And then?

3 A. "In a few."

4 MS. MURRAY: If we could zoom out again, Ms. Loftus.
5 The first blue message on that page, please.

6 Q. What does that read?

7 A. Heffron.

8 MS. MURRAY: And if we could zoom out and go to
9 page 73, the next page. Just scroll down.

10 Green through to the next green message, please.

11 Q. So what does the Samsung user respond?

12 A. "What the full name."

13 Q. And then the next two messages, which are from the Motorola
14 user?

15 A. "K. Mark Heffron."

16 Q. And then on the right, what does the Samsung user respond?

17 A. "04/04/1957, XX-XXX-XXXX."

18 Q. Based on your training and experience, what, if anything,
19 do you understand that first set of numbers, the first line of
20 numbers in that last screen message to reflect?

21 A. I believe that reflects a date of birth.

22 Q. And what about the next line?

23 A. Social Security number.

24 MS. MURRAY: If we could go to page 97, please,
25 Ms. Loftus. I'd look to -- zoom in on the first -- excuse

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1 me -- the last full message from the Motorola user.

2 Q. I don't need you to read all of these, but generally
3 speaking, what information is reflected in this message which
4 was sent to the user of the Samsung?

5 A. These look like names of individuals.

6 Q. Looking at the first line of this, which is text, can you
7 read that, please.

8 A. "Those are good for all three."

9 Q. And then what are the first two names listed here, just as
10 an example?

11 A. Thomas J. Hockenberry, Gerald E. Brown.

12 MS. MURRAY: If we could go to the next page, please,
13 Ms. Loftus. Thank you.

14 And let's zoom in first on the first blue message.

15 Q. Can you read that, please.

16 A. "As mentioned earlier, the other are not good with at least
17 one or more. I'll check if I find more."

18 MS. MURRAY: And zoom out.

19 Go to the largest blue message at the bottom of the
20 page.

21 Q. We don't need to read these what appear to be names or
22 company names in, but if you could just read the first line of
23 that blue message on the left.

24 A. "Checked with C and CT."

25 Q. And then the next block of text, if you could read what

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1 that says on the first line.

2 A. "Good with C."

3 Q. And then looking down, that same day, at 1:54 p.m., what
4 does the green message indicate? That's the user of the
5 Samsung. What does the Samsung respond?

6 A. "How many business do you have all together?"

7 MS. MURRAY: Could you go to page -- the next page,
8 please, 99.

9 So from the first green message on this page through
10 to the second green message on the page, please.

11 Q. So can you read what the user of the Samsung sends to the
12 user of the Motorola.

13 A. "We are working tomorrow so shave, look good, and be
14 ready."

15 Q. And what does the user of the Motorola respond? You can
16 read all three of those.

17 A. "Seven are good with C, CT, and H. I will. What time
18 should I be ready?"

19 Q. And what does green respond, the Samsung?

20 A. "1 pm."

21 MS. MURRAY: Ms. Loftus, could we go to page 108,
22 please.

23 Can you please zoom in on just the first message --
24 excuse me -- the first two messages, which are from Motorola to
25 Samsung.

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1 Q. Generally speaking -- actually, could you read that message
2 in, please, the first blue message.

3 A. "John57herttua.....user id pw.....born 1957, debit....1901
4 (it can't be birthday or social)."

5 MS. MURRAY: And Ms. Loftus, could we go to page 20,
6 please.

7 Looking at this page, I want to start with the third
8 blue message, please.

9 And then go through the green message.

10 Q. So the first blue message is from the Motorola to the
11 Samsung. Can you read that, please.

12 A. "I need the password to enter Jonathan. I'm not sure
13 where's the cap and the dash, thx."

14 Q. And then?

15 A. "I'll start double-checking mm...."

16 Q. And what does the Samsung respond?

17 A. "It's on the phone with Madeiras."

18 (Continued on next page)
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1 MS. MURRAY: And, Ms. Loftus, if we could zoom out.
2 I'd like to go to the next page, please.

3 Going from the first green message down to the third
4 green message. So the Samsung sends these green messages.

5 Q. Can you please read those first two?

6 A. Actually, don't worry about Jonathan. I will check it
7 myself.

8 Q. And then what does blue or Motorola respond?

9 A. Actually, I can also check straight from the file on the
10 computer. It'll be easier to read.

11 Q. And how does the Samsung respond?

12 A. Cool.

13 MS. MURRAY: You can take that down. Thank you,
14 Ms. Loftus.

15 Your Honor, I would like to focus on another of the
16 subjects Mr. Brill had mentioned. I'd like to put up for the
17 witness, the Court, and the parties what's been marked for
18 identification as Government Exhibit 639, please.

19 Q. Special Agent Hezir, do you recognize this? Generally
20 speaking?

21 A. Yes.

22 Q. Is this another Telegram conversation that was extracted
23 from the Samsung?

24 A. Yes.

25 MS. MURRAY: Ms. Loftus, can we zoom in on the

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1 participants here, please, who are listed.

2 Q. Not the numbers, but the names of the participants to this
3 conversation.

4 A. Teddy Riley and Jonathan.

5 Q. And is that Jonathan (owner)?

6 A. Yes.

7 Q. Here again does that reflect that the same Telegram user is
8 having these Telegram conversations from the Samsung as the
9 chat thread we just looked at?

10 A. Yes.

11 MS. MURRAY: You can zoom out on that, please,
12 Ms. Loftus.

13 Q. So if we could look at the first blue message, how does the
14 counter-party to this conversation refer to the user of the
15 Samsung?

16 A. It refers to him as D.

17 MS. MURRAY: And if we could go to page 26, bottom two
18 messages, into the top of page 27, please.

19 Yeah. Through to the green message. So the greens
20 are from the user of the Samsung.

21 Q. Can you read the two green messages, please?

22 THE COURT: You can't read these in the record.
23 They're not in evidence.

24 MS. MURRAY: Apologies, your Honor.

25 Q. I meant can you read with your eyes the first two messages,

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1 please.

2 A. Sure.

3 Q. Great. And then the blue response.

4 A. Okay.

5 Q. And then the green response.

6 A. Okay.

7 MS. MURRAY: And then if we could go to page 44,
8 please.

9 Q. Focusing on the top three messages, again not aloud, but if
10 you could please read those. And just look up when you're
11 finished.

12 Based on your training and experience and your
13 involvement in assisting with this investigation, what
14 understanding, if any, do you have about what these messages
15 you just read from this Telegraph conversation relate to in
16 general?

17 A. In general, it appears to be some kind of identity theft.

18 MS. MURRAY: Your Honor, the government offers
19 Government Exhibit 639.

20 MR. BRILL: Objection, Your Honor. Could I have a
21 brief voir dire to clarify something?

22 THE COURT: Sure.

23 VOIR DIRE EXAMINATION

24 BY MR. BRILL:

25 Q. Hello, sir.

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1 A. Hello.

2 Q. It might just be easier if I hand you up the paper exhibits
3 just for this purpose. I'm just going to hand you my copies of
4 638 and 639.

5 THE COURT: Do you not have a binder for the witness
6 with these?

7 MS. MURRAY: We do, Your Honor.

8 THE COURT: Yes. It's going to be hard for you to do
9 it without a copy.

10 MR. BRILL: Thank you, your Honor.

11 THE WITNESS: Thank you.

12 THE COURT: Thank you.

13 MR. BRILL: And Ms. Loftus, just so the jury can see
14 part of what I'm talking about, you can put up page 638, at the
15 top.

16 Q. All right. So at the top of Government Exhibit 638, let me
17 know when you're there.

18 A. Sure. Go ahead.

19 Q. There's a conversation between someone identified as "him"
20 and someone identified as "Jonathan (owner)" correct?

21 A. That's correct.

22 Q. Okay. Which one of those, based only your prior testimony,
23 is the Samsung and which one is the Motorola?

24 A. The Samsung is going to be Jonathan, the user of this
25 particular device, and the "him" is going to be the Motorola.

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1 Q. And the conversation with regard to 639, which is not in
2 evidence, is between the Samsung -- let me know when you get to
3 it.

4 A. Yeah. I'm there.

5 Q. The Samsung and somebody I believe you identified as Teddy
6 Riley, correct? At least that's the name that's there?

7 A. That's the name that's here. I'm not sure I testified to
8 that.

9 Q. All right. So I just wanted to clarify that.

10 MR. BRILL: Your Honor, based upon the evidence to
11 this point, I would offer an objection with regard to the
12 second prong.

13 THE COURT: On 639.

14 MR. BRILL: On 639, your Honor.

15 THE COURT: Counsel?

16 MS. MURRAY: If I may have just a moment to look
17 specifically at the second prong based on the Court's Order.

18 THE COURT: Timing. Correct?

19 MR. BRILL: Who the people are.

20 THE COURT: Okay.

21 MS. MURRAY: Your Honor -- your Honor, I'm happy to
22 give a few more examples before we offer it into evidence, and
23 then I would propose for the sake of time that we then just
24 advise the jury that the record reflects what we looked at, so
25 we don't have to re-put up the specific pages and examples if

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1 it is in fact admitted into evidence.

2 THE COURT: Well, you'd have to extract it. I'd like
3 to talk to you at sidebar.

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1 (At sidebar)

2 THE COURT: Are you offering it for the truth?

3 MS. MURRAY: We're offering co-conspirator statements
4 in furtherance of the conspiracy. These are messages -- we
5 haven't indicated who the message is between, but we've
6 indicated the phone the messages are through.

7 THE COURT: I get that. My question is different,
8 though. We only have a hearsay problem if you're offering it
9 for the truth of the matter asserted.

10 MS. MURRAY: No. We're offering it as co-conspirator
11 communications.

12 THE COURT: Just for the fact these communications
13 took place?

14 MS. MURRAY: That's correct. And the information
15 reflected in the communications' not for the truth of it, just
16 for the conversation, the relationship between the
17 conspirators.

18 MR. BRILL: Your Honor, frankly, I take your point of
19 course, but given the volume of the conversation, I think that
20 there's an inherently very large risk of prejudice. We'd have
21 to go through each of the other person's -- the unidentified
22 person's statements, statement by statement, to make a
23 prejudice analysis. I would think that under --

24 THE COURT: Yes. I think that is true. It is a fair
25 point. And, frankly, with regard to even 638, which I have

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1 admitted, you picked out certain select portions, I certainly
2 didn't have the opportunity to review the whole entirety of it
3 to be sure, although they did come from where they came from.
4 I don't need to make a record on that, but this one, I don't
5 have enough to say if this comes in.

6 MS. MURRAY: I'm happy to bring in additional
7 messages. I would note that 638, for example, is a single chat
8 conversation, so even though they are individual messages,
9 similar with 639 --

10 THE COURT: Okay.

11 MS. MURRAY: It's a single chat conversation between
12 two participants.

13 THE COURT: That's fine, but I don't know who this
14 person is, and you certainly haven't put in anything to
15 establish, even assuming your theory that the one phone was in
16 the possession of or belonged to or is Mr. Ilori's, I don't
17 know who this other person is. We've had no evidence about
18 this other person. So I don't know anything about a supposed
19 conspiracy between Mr. Ilori and this other person.

20 The dates also seem out of wack. That's why I asked
21 you about the dates. So, you know, your alleged conspiracy,
22 this is outside the time frame, isn't it?

23 MS. MURRAY: No, your Honor, not further in the
24 communications. Again, this is a single conversation, so I'm
25 --

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1 THE COURT: A single conversations that went on for
2 months?

3 MS. MURRAY: Yes.

4 THE COURT: Ah.

5 MS. MURRAY: So it's like having a text message chain.

6 THE COURT: So it's a chain. Okay.

7 But the part you point to long predates your
8 allegations of the conspiracy.

9 MS. MURRAY: I'm happy to point to the part that is
10 well within the conspiracy, and, in fact, on the exact topics
11 we've discussed so far. I would just note one point, and, your
12 Honor, I'm trying to get through this expeditiously.

13 THE COURT: I get that.

14 MS. MURRAY: My point is we had marked this and
15 provided it to Mr. Brill in July, frankly, before our trial
16 date, and there was no suggestion or proposal of redacting any
17 portion of this chain --

18 THE COURT: I get it.

19 MS. MURRAY: -- on the basis of the objection.

20 THE COURT: I get it, but I have to say, honestly, I'm
21 sitting up here thinking I got this in limine motion that you
22 should be allowed to admit statements among co-conspirators,
23 and normally, in all the years I practiced, when you make an in
24 limine motion, you point the Court to specific evidence. And
25 then I could have looked at this and we wouldn't be having this

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1 problem about what is it we are fighting about, which is why I
2 reserved the ruling on it, because I didn't know what we were
3 talking about.

4 MS. MURRAY: I understand.

5 MR. BRILL: And, your Honor, I would raise the other
6 issue about whether these would be separate conspiracies, so it
7 wouldn't be in furtherance of this conspiracy.

8 THE COURT: I don't know. I think the indictment
9 alleges that there was more than two co-conspirators.

10 MR. BRILL: Right, but within one conspiracy.

11 THE COURT: Yes. Correct.

12 MR. BRILL: So the government would have to establish
13 this was part of that conspiracy, not a separate conspiracy.

14 THE COURT: I know. I understand. Correct.

15 MS. MURRAY: I'm happy to point the witness and
16 parties to a particular message unless, again, this chain that
17 is directly on point of the conspiracy we're discussing --

18 THE COURT: All right. You can do that, but I'm
19 telling you now it may well be that the best you're going to
20 get out of this is I say this portion is admissible and all the
21 rest of it isn't.

22 MS. MURRAY: Understood. I think there are two or
23 three portions that there is no question in the government's
24 mind are directly on topic.

25 THE COURT: Do you want to show those to Mr. Brill.

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1 MS. MURRAY: Yes.

2 THE COURT: And maybe we can short circuit all this.

3 MS. MURRAY: Yes.

4 THE COURT: And while we're here, we ought to have a
5 conversation on timing, because it's after 4:00.

6 MS. MURRAY: So this slowed the government's
7 questioning of this witness. I can further slim down the
8 specific instances I'm pointing to in particular since I
9 anticipate these --

10 THE COURT: No, I'm not telling you you have to do
11 that. You have a right to put your case on. And we did have
12 the problem we had this morning, which was not of your making.
13 And this issue with respect to these documents was not of your
14 making. So I'm not in any way faulting you on this.

15 I'm just trying to get a sense is it any longer
16 realistic to say to this jury we're going to complete evidence
17 today. Keep in mind Mr. Brill has a right to cross.

18 MS. MURRAY: Understood.

19 THE COURT: Are you anticipating cross?

20 MR. BRILL: My cross is not going to be extensive.

21 THE COURT: It's not.

22 MS. MURRAY: I think if Mr. Brill can have a moment or
23 two to work through this issue, and if the jury is willing to
24 stay a few minutes, then, your Honor, I do think we can
25 complete the evidence today.

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1 MR. BRILL: Completion of the evidence of course
2 requires at some point the jury to exit so you can inquire of
3 Mr. Ilori his intention.

4 THE COURT: Correct. Yes.

5 MR. BRILL: That's a whole separate issue.

6 MS. MURRAY: The government will rest if you're
7 willing to stay until 5:00, assuming we can work through this
8 issue.

9 THE COURT: Do you want the weekend?

10 MR. BRILL: To cross?

11 THE COURT: No. To deal with your client.

12 MR. BRILL: I just --

13 THE COURT: It's okay. You don't have to answer me.
14 We can revisit it.

15 MR. BRILL: That might be better.

16 THE COURT: All right.

17 MS. MURRAY: Thank you, your Honor. We'll just take a
18 moment.

19 (Side bar concluded)

20 (Continued next page)

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1 THE COURT: All right. Ladies and gentlemen, what is
2 going on is, as you see, these are very thick, voluminous
3 exhibits. I asked counsel to spend a couple minutes talking
4 about the very specific portions they're interested in in the
5 hope we can streamline this a little bit, so that's what
6 they're going to do for a couple minutes.

7 So, again, if you want to take a stretch break in your
8 seats, that's what we'll do. We are still aiming for the
9 government to finish their case until the end of the day if we
10 can press on until 5:00.

11 Are you all okay with that?

12 JURORS: (Nodding heads up and down.)

13 THE COURT: I have to be honest with you. We are not
14 going to get to summations today. It is going to be necessary
15 for us to be back on Monday. Okay. So you're welcome to have
16 a stretch break.

17 JUROR: Your Honor, could I use a restroom?

18 THE COURT: Sure. Of course. If you want to adjourn
19 to the back --

20 Ms. Dempsey, do you want to see the jurors to the
21 back.

22 THE DEPUTY CLERK: Yes.

23 All rise.

24 (Continued next page)

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1 (Jurors not present)

2 THE COURT: All right. You may step down, but please
3 don't discuss with anybody --

4 THE WITNESS: Yes, your Honor.

5 THE COURT: -- the substance of your testimony.

6 And I would suggest to both of you you look at the
7 next two exhibits --

8 MS. MURRAY: Yes, your Honor.

9 THE COURT: -- so when we come back, you'll be ready
10 to go.

11 (Recess taken.)

12 THE COURT: Okay. Where are we at?

13 MS. MURRAY: Your Honor, Mr. Brill and I have talked
14 through --

15 MR. BRILL: We wanted to approach, as Mr. Ilori is not
16 here. So can we consider this a bench conference?

17 THE COURT: Sure. I mean, stay where you are. We
18 don't have to be literally at the bench.

19 MS. MURRAY: I'm very literal at this time of the
20 week.

21 Mr. Brill and I have looked through, if I could point
22 your Honor to a few very specific examples that I think we
23 agree make these different chats within the conspiracy. So,
24 first, the time period of the conspiracy charged begins
25 September of 2020.

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1 MR. BRILL: Not to interrupt, your Honor, I think the
2 characterization of the government that I agree is inaccurate.
3 However, the government has explained to me its position. I
4 maintain my objection, but I will accept the Court's ruling.

5 MS. MURRAY: So I think what we would propose, given
6 the defendant isn't here, we can walk your Honor through each
7 side's reasoning, and then on the record, when the defendant is
8 here, we can you do it again a little more streamlined.

9 MR. BRILL: Yes, your Honor.

10 MS. MURRAY: So, your Honor, starting with Government
11 Exhibit 639, the earliest message in this, again, single
12 Telegraph chat thread is February 28, 2021. That's several
13 months into the charged conspiracy.

14 THE COURT: Hold on. What are the dates of the
15 charged conspiracy?

16 MS. MURRAY: September of 2020 through October of
17 2021. Well, August, excuse me, your Honor, August of 2020
18 through October of 2021.

19 THE COURT: Okay. I'm sorry. Go ahead.

20 MS. MURRAY: So just to give your Honor the clearest
21 examples, if we go in 639 to page 107, to begin with --

22 THE COURT: By the way, where is Mr. Ilori?

23 MR. BRILL: He's just in the back. He can come out,
24 your Honor, if you prefer that.

25 THE COURT: Well, I guess I'd rather not do this

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1 twice. I'm not understanding the logic of what we're doing
2 here to be perfectly honest.

3 MR. BRILL: Well, because we have to walk it through
4 with the Court, we figured we would do it outside the presence
5 of the jury as a bench conference, and then the ruling would be
6 made in front of the jury.

7 THE COURT: Yes, but I don't need all the repeat of
8 the reasoning.

9 MR. BRILL: So how would we do the bench conference
10 outside the presence of the jury?

11 THE COURT: Get Mr. Ilori here, and we continue what
12 we're doing.

13 MR. BRILL: Okay.

14 THE COURT: You mean because he wouldn't normally be
15 at a bench conference.

16 MR. BRILL: Right.

17 THE COURT: Okay. So go ahead.

18 MS. MURRAY: So page 107, and this is Government
19 Exhibit 639.

20 THE COURT: I'm not hearing you.

21 MS. MURRAY: Government Exhibit 639, page 107.

22 THE COURT: Yes.

23 MS. MURRAY: The second blue message writes to the
24 user of the Samsung, I need the code sent to 0642 for Capital
25 One. 0624 is the target phone. A code is then sent.

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1 Blue says, they will send another one.

2 Now going into the next page, the Samsung user sends a
3 code again.

4 Blue writes, thanks. It's Jonathan Herttua, right?

5 And the Samsung user writes, yes.

6 And then blue writes, I need this for the Capital One.

7 And then going through to the next couple of pages,
8 requesting scans for Jonathan Herttua. Send right away. I
9 need it.

10 THE COURT: Okay. But are you proposing that you're
11 going to now just proffer certain extracts or you're still
12 wanting to do the whole thing, because this is in the middle of
13 this big, long exchange.

14 MS. MURRAY: Well, your Honor, there are numerous
15 other directly relevant communications. For the sake of
16 expediency and because we wanted to highlight the most
17 important ones for the jury, we've just cherry picked a few,
18 but we would like the entire chat thread to be in evidence. It
19 is response.

20 THE COURT: Responsive to what?

21 MS. MURRAY: I'm sorry, your Honor. I misspoke. It's
22 relevant.

23 Under the Federal Rules of Evidence, they are
24 conversations between Mr. Ilori, because the parties have
25 stipulated the Samsung was on his person at the time of his

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1 arrest, and we've established other bases for believing it is
2 Mr. Ilori --

3 THE COURT: No. It was in the car, right?

4 MS. MURRAY: Excuse me. Yes. Parties have stipulated
5 it was in the car.

6 We've now established various bases for at least
7 arguing that it was used by Mr. Ilori. And I understand that
8 will be argument, but it was certainly in the car when he was
9 arrested. It seems to be from the 638 communicating with a
10 phone that Chris Recamier was using about topics relating to
11 the conspiracy. And now we see it also communicating with
12 unindicted co-conspirators during the same time period about
13 the same topics.

14 THE COURT: Well, the one excerpt you gave me I see
15 your point. You want to give me a few more?

16 MS. MURRAY: Sure.

17 If we go to page 44 of 639, so starting at the top
18 right, the user of the Samsung asks blue or Teddy Riley to
19 please send 1,600 dollar sign to that cashapp for the license
20 numbers.

21 Teddy Riley asks, how much is one each? I'm buying
22 four NA.

23 Samsung says, yours is 400 at a hundred each. I will
24 give you \$1,200 when I see you.

25 Based on our understanding of the nature of this crime

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1 and the numerous fake IDs that we've seen, including at
2 apartment 1805 which the government contends is essentially
3 Mr. Ilori and Mr. Recamier's fraud office, we would view this
4 as a communication between the user of the Samsung, an
5 unindicted co-conspirator, about creating and paying for
6 identification documents, specifically licenses.

7 THE COURT: And how do I know that's in furtherance of
8 the conspiracies that you have charged in the indictment?

9 MS. MURRAY: Your Honor, it's an argument, because it
10 is the same time period. We see other communications
11 throughout this chain as with Government Exhibit 638, and
12 frankly the government would contend that this was Mr. Ilori's
13 job during the time period of the conspiracy. He day in day
14 out committed fraud, created fraudulent documents, coordinated
15 with others regarding those, paid for those, stored them in
16 apartment 1805, sent them among other people.

17 And we've cherry picked a few examples, but the
18 contents of the iMac, the contents of the phones show, you
19 know, the use of certainly more than a dozen Gmail accounts and
20 the names of more than a dozen identity theft victims.

21 THE COURT: Hold on. Hold on. All right. At side
22 bar, please.

23 (At side bar)

24 THE COURT: I'm sorry, but I just noticed you have a
25 reporter here.

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1 MS. MURRAY: Another example, your Honor, and
2 understanding your point, but the frequency of the
3 communications and the time period and the context -- just a
4 few pages later in the same chat then --

5 THE COURT: Let me grab it. Mine. Okay.

6 MS. MURRAY: This is now page 48 of 639.

7 THE COURT: Okay.

8 MS. MURRAY: So blue, Teddy Riley, writes, it was 75K
9 when I submitted it.

10 Two messages later the user of the Samsung writes, I
11 calculated it. It's based off the 100K maximum. Two to
12 individual employee, which comes out to that amount.

13 And then carrying it over to the next message from the
14 Samsung user --

15 THE COURT: I see.

16 MS. MURRAY: And, your Honor, we would intend to show
17 that the information reflected in this message from the Samsung
18 user, the employees, and the amount matches the employees and
19 amount left on one of the fraudulent loan applications.

20 THE COURT: Okay. I'm convinced on this one.

21 Anything you want to put on the record?

22 MR. BRILL: We maintain our objection.

23 MS. MURRAY: On the other two, your Honor, I think
24 these can be handled quite briefly.

25 THE COURT: Okay. The one thing I'm going to observe

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1 to you, have you thought about cumulativeness here? I mean,
2 the last point you just made is not cumulative matching this up
3 with the others, but is this just more of the same repetition
4 of names and numbers and -- or are you going to match them up
5 with other --

6 MS. MURRAY: Exactly. We're going to do it side by
7 side. That's exactly the intent, your Honor.

8 THE COURT: Okay.

9 MS. MURRAY: So 641.

10 THE COURT: What happened to 640?

11 MS. MURRAY: I'm going to bounce back to it, because
12 the timing is --

13 THE COURT: Okay.

14 MS. MURRAY: So 641, it requests money to a cashapp.
15 Again, in the prior conversation with Teddy Riley, there was a
16 discussion of sending money for licenses. On page 3 of 641,
17 the top message indicates, PII, personal identifying
18 information, for Mark Heffron, who's the renter of the Purves
19 Street apartment.

20 THE COURT: Where is that?

21 MS. MURRAY: On page 3 of 641.

22 THE COURT: Yeah. I'm on page 3.

23 MS. MURRAY: Pardon. Three of 640. You're right.
24 Three of 640.

25 THE COURT: Okay.

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1 MS. MURRAY: And then these two.

2 And the relevance here, your Honor, is this message
3 from the Samsung user contains information for two of the
4 identity theft victims, and then you can see it's forwarded to
5 the counter-party of this text conversation. And then when you
6 go --

7 THE COURT: It's forwarded multiple times it looks
8 like.

9 MS. MURRAY: That's correct.

10 THE COURT: Do we have a way to know to whom?

11 MS. MURRAY: So the way that it's reflected, and I'm
12 happy to tie this together, if you then go to 641, page 50 --

13 THE COURT: Sorry. I don't know why mine's coming
14 apart.

15 MR. BRILL: Government binders.

16 THE COURT: I'm going to give them all back at the
17 end, except I wrote on this one.

18 MS. MURRAY: So the bottom message here, that is not
19 forwarding. So what that indicates is that this counter-party,
20 Donald, was the originator of this message. Donald sent it to
21 the Samsung. And you see that reflected in Government Exhibit
22 640, because it appears in the green as a forwarded message.

23 And then Samsung in turn forwards it along to Teddy
24 Riley.

25 THE COURT: Okay.

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1 MS. MURRAY: So that should cover those three.

2 MR. BRILL: For the record, your Honor, the
3 government's suggestion, while it may cover the relevancy of
4 these items, does not discount the possibility of the multiple
5 conspiracies. Specifically, Mr. Herttua, for example,
6 indicated that he was the subject of multiple identity theft
7 situations, so multiple people may have been stealing his
8 identity. And it doesn't, of course, preclude the fact that --
9 well, that's my main point is that it is not necessarily
10 evidence that the co-conspirators here engaged in the charged
11 conspiracy.

12 THE COURT: Okay. First of all, I do not have to find
13 for sure that it is, as you've stated. I only need to find by
14 a preponderance of the evidence that it was during and in
15 furtherance of the conspiracy that existed.

16 I think there's enough here for me to find by
17 preponderance of the evidence, and I do so find. And I am
18 going to admit them.

19 MS. MURRAY: Thank you, Your Honor.

20 THE COURT: Now, obviously you have whatever arguments
21 you want to make about them in connection with summation, and,
22 you know, they may or may not be tied up in the mind of the
23 jurors here, but okay.

24 MS. MURRAY: Thank you, your Honor.

25 THE COURT: Thank you.

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1 (Sidebar concluded)

2 THE COURT: Okay. The witness can come back up here,
3 because one Mr. Ilori is back out we will bring the jury out
4 and I will put my rulings on the record.

5 All right. Ms. Dempsey do you want to bring the
6 jurors back out?

7 (Continued on next page)

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1 (Jurors present)

2 THE COURT: All right. So we've had a somewhat
3 lengthy discussion at a bench conference with respect to these
4 four exhibits, 638 through 641. I've already admitted 638.
5 You have that received in evidence. I am, over the defense
6 objection, admitting the remaining three exhibits, 639, 640,
7 and 641.

8 (Government Exhibits 639, 640 and 641 received in
9 evidence)

10 THE COURT: I'm going to make the same observation
11 that I made at the sidebar, that I'm really not sure that we
12 seen have the hearsay issue that you're all talking about,
13 because I don't know that you're offering these statements for
14 the truth of the matters asserted.

15 Are you?

16 MS. MURRAY: No, your Honor.

17 THE COURT: Okay. But, in any event, I do find that
18 the requirements for the admissions of these statements, to the
19 extent you are trying to admit them as a statement of a
20 co-conspirator, I do find -- I need to make the finding by a
21 preponderance of the evidence. For the reasons we stated at
22 sidebar, I do find that they are properly admitted into
23 evidence. All right?

24 MS. MURRAY: Thank you, your Honor.

25 THE COURT: I also discussed with counsel, trying to

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1 be focused on which pieces of these massive strings of messages
2 are most relevant. So, with that, we're ready to proceed,
3 right?

4 MS. MURRAY: Thank you, Your Honor.

5 Ms. Loftus, if you could please publish Government
6 Exhibit 639.

7 This is another government chat thread between the
8 user of a Samsung and another individual. Publish to the jury
9 as well. Thank you.

10 It's not coming up right now.

11 Can the jury see that? Great.

12 Okay. If we could zoom in, please, Ms. Loftus on the
13 participants through to the first blue message.

14 Q. Special Agent Hezir, these are again Telegram messages, as
15 indicated by the source info, between Jonathan, the owner, and
16 an individual listed as Teddy Riley.

17 Could you tell us how Teddy Riley greets the user of
18 the Samsung?

19 A. Hello D.

20 MS. MURRAY: Ms. Loftus, if we could go from 26 into
21 27, these are the bottom two messages on 26 into the top two
22 messages on 27.

23 Q. Special Agent Hezir, can you read these, please, the two
24 green messages which are the user of the Samsung first?

25 A. Do you need a specific picture for the scans? Black or

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1 white.

2 Q. And what did Teddy Riley respond?

3 A. Two white one Spanish. I'll send his picture.

4 Q. And what does he send in return?

5 A. Send it now please.

6 Q. Based on your training and experience, what if anything do
7 you understand these messages to relate to?

8 A. Relates to identity theft, perhaps sending pictures of
9 individuals.

10 MS. MURRAY: If we could go to page 44, please,
11 Ms. Loftus.

12 THE COURT: All right. Ms. Murray, I am going to
13 remind you this is now in evidence.

14 MS. MURRAY: I understand, your Honor. I'm not using
15 the agent as a mouth piece. I'm just using it for the purpose
16 of explaining very specific messages that benefit I think from
17 context, and very specific messages.

18 THE COURT: Okay.

19 MS. MURRAY: If you could zoom in on the first two
20 messages, please.

21 Q. Reading the first message, which is from the Samsung user,
22 can you please read that?

23 A. Please send 1600 dollar sign to that cashapp for the
24 license numbers.

25 Q. Do you have an understanding what cashapp is?

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1 A. Yes.

2 Q. What is cashapp?

3 A. It's a payment application users can request and send
4 payments.

5 MS. MURRAY: And if we could go now to page 49,
6 please, Ms. Loftus.

7 Q. So I'd like to focus on the top three messages, please.

8 So, the user of the Samsung sends the first one. Can you read
9 that, please?

10 A. If we do 18 employees at the maximum, 100K each, it comes
11 out to 375K.

12 Q. And what does Teddy Riley respond?

13 A. I know. I'll pull it and do the employees.

14 Employees is misspelled.

15 MS. MURRAY: And then, Ms. Loftus, if we could go to
16 page 52, please.

17 Q. So focusing on the green message at the bottom, this is
18 from the Samsung user. Do you see the name, the first line of
19 that message? Can you read that, please?

20 A. M2 Gold Jets, LLC.

21 Q. And focusing just on the message at the bottom, that's --
22 can you read?

23 A. That's the original address, so you can change it.

24 Q. And what is the address that's listed in Telegram chat for
25 M2 Gold Jets, LLC?

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1 A. 342 Seventh Avenue, Brooklyn, New York 11215.

2 MS. MURRAY: Ms. Loftus, if you could pull up
3 Government 150, at page 3, along with Government Exhibit 239 at
4 page 5.

5 Q. I want to focus on Government Exhibit 150. If you could
6 focus on the business legal name through the primary contact
7 and business TIN and down to the business address. So what is
8 the business name here?

9 A. M2 Gold Jet, LLC.

10 Q. Is that the same name that we saw in the Telegram chat?

11 A. I believe jets was pleural in the Telegram.

12 Q. And looking at the business address, so this is a business
13 address associated or, pardon, listed on the PPP loan
14 application. What business address is listed there?

15 A. 347 Seventh Avenue, Brooklyn, New York 11215.

16 MS. MURRAY: And, Ms. Loftus, you could zoom out on
17 that. Zoom in on again the address that's in the Telegram
18 chat, the original address.

19 Q. Is that a slightly different address here?

20 A. Yes.

21 MS. MURRAY: And, Ms. Loftus, can you please take both
22 of those down, and go to page 70 -- Government Exhibit 639,
23 page 73. So zoom in on the first three messages, please.

24 Q. The users of the Samsung sends this first message on
25 March 15, 2021. Can you please read that?

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1 A. This is for the big one we have to complete tonight.

2 Q. And what are the two messages, same date, same minute from
3 Teddy Riley -- or, pardon, from the blue, now not associated
4 with a name.

5 A. Name? I'm still working on these ones.

6 MS. MURRAY: Ms. Loftus, if you could please pull up
7 Government Exhibit 156 alongside this page.

8 This is a Paycheck Protection Program application. If
9 we could zoom in on the amount requested, that's in the --
10 yeah, in the center.

11 Q. What is the amount requested on this loan application?

12 A. I believe that's \$4,409,560.

13 MS. MURRAY: If you could zoom out and go to the
14 bottom of page 2 of 156 to find the date for us and zoom in on
15 the date. Sorry. The name and the date would be great.

16 Q. What's the name of the applicant who signed and the date on
17 which the applicant signed?

18 A. Jonathan Herttua, March 15, 2021.

19 Q. And that is the same date as the Telegram messages
20 referencing the big one; is that correct?

21 A. That's correct.

22 Q. And the amount requested on this loan application was
23 approximately a little more than 4.4 million?

24 A. Correct.

25 MS. MURRAY: We can zoom out, take these down. We're

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1 going to go to page 108 -- pardon, 107 of Government Exhibit
2 639.

3 So focusing on the second blue message through to the
4 third blue message. With the message I need --

5 Q. The second blue that's here, can you read that, please?

6 A. I need the code sent to 0642 for Capital One.

7 Q. And what does green respond?

8 A. 392678.

9 Q. First of all, what is your understanding what 0642 reflects
10 based on your involvement in the investigation?

11 A. I believe that's the 0642 mobile telephone number that we
12 identified earlier in the investigation.

13 Q. Do you have an understanding of what a code would be that's
14 sent to a phone number for a bank?

15 A. Yes. Typically you would see SMS authentication. It's a
16 form of two-factor authentication. Basically, it would send
17 you an authentication code on a mobile device, and you would
18 enter it on the website to make sure it's actually you logging
19 in.

20 MS. MURRAY: And then, Ms. Loftus, the next page, 108,
21 please, the third blue message on this page to the green
22 message.

23 Q. The blue participant, what does the blue participant
24 confirm or say?

25 A. It's Jonathan Herttua, right.

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1 Q. And what does the user of the Samsung say in response?

2 A. Yes.

3 Q. I just want to briefly go through --

4 MS. MURRAY: You can take that down. Thank you,
5 Ms. Loftus.

6 Q. I'd like to briefly go through a couple additional chats.
7 First, Government Exhibit 641.

8 THE COURT: This is pursuant to the stip, right?

9 MS. MURRAY: This is pursuant to your Honor's ruling.

10 THE COURT: So this is the last one. I'm sorry. Yes.

11 MS. MURRAY: Thank you.

12 And if you could please zoom in, Ms. Loftus,
13 participants into the first green message.

14 Q. So who are the participants of this Telegram messaging
15 chain?

16 A. Jonathan (the owner) and Donald.

17 Q. And looking at the first message from Donald, can you read
18 that?

19 A. Okay. Cancel the Mula Apps registration and we can talk in
20 person tomorrow.

21 Q. What does the Samsung person respond?

22 A. Okay.

23 Q. I'd like to go to page 50 of this exhibit, please. I just
24 want to focus on the last blue message. This is from the blue,
25 so the counter-party to the Samsung's conversation. And can

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1 you see generally what information is reflected?

2 A. Yes.

3 Q. What's the date of this message?

4 A. April 6, 2021.

5 Q. At what time?

6 A. 2:03:12 a.m. UTC time.

7 MS. MURRAY: Ms. Loftus, if we could then go, please,
8 to Government Exhibit 640.

9 That's the third and final of the exhibits admitted
10 pursuant to your Honor's order.

11 Q. Focusing on the participants, who appeared to be the
12 participants of this chain?

13 A. Jonathan (owner), and it's the googly eyes emoji.

14 MS. MURRAY: Okay. If we could zoom out, please,
15 Ms. Loftus, and go into page 3, please.

16 So focusing first -- actually, focusing on those two
17 large blocks, green and blue. So do you see the date and time
18 that this message is forwarded by the Samsung user?

19 A. Yes.

20 Q. What time and date?

21 A. April 6, 2021, at 2:07:09 a.m. UTC time.

22 Q. Is that approximately a few minutes after the counter-party
23 of the prior chat we looked at sent that same message to the
24 user of the Samsung?

25 A. I believe so, yes.

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1 Q. And then looking at the blue message, can you see that
2 based on the blue message, the blue message then forwards the
3 information along. We don't have an indication of to whom, but
4 the indication at the top with the arrow indicates forward; is
5 that right? Forwarded?

6 A. That's correct.

7 Q. And that is a day later; is that right?

8 A. That's correct.

9 MS. MURRAY: Okay. We can take this down, Ms. Loftus.
10 Thank you.

11 Q. I'm going to very briefly go over just a few of the
12 documents that were saved on the Samsung. Did you review those
13 as part of your review?

14 A. Yes.

15 MS. MURRAY: Government Exhibit 644, which is in
16 evidence, if we could publish that, please, Ms. Loftus. That's
17 a screen shot of certain contents of the files on the documents
18 folder on the Samsung; is that right?

19 A. Yes, that's correct.

20 Q. Looking at the first one which is titled zero underscore
21 Jamison space two dot PDF.

22 MS. MURRAY: Ms. Loftus, if you could please now take
23 this down and publish Government Exhibit 645, which is in fact
24 that file as extracted from the Samsung.

25 Q. Do you recognize this?

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1 A. Yes, I do.

2 Q. What does it appear to be a scan or photo of?

3 A. It appears to be a scan or photo of a New York State
4 driver's license.

5 Q. And this was a file saved on the Samsung, correct?

6 A. Correct.

7 MS. MURRAY: If we could go, Ms. Loftus, to Government
8 Exhibit 646, which is, again, in evidence, some of the contents
9 of the Samsung.

10 This is another document. If we could zoom in on the
11 top portion through the total amount due, please.

12 Q. Looking at the information here, including billing period,
13 what, if anything, do you notice about the appearance of the
14 text reflected on this document?

15 A. It appears that some text may have been changed or
16 manipulated.

17 MS. MURRAY: Ms. Loftus, can you please publish
18 Government Exhibit 647? And just zoom in on the top portion,
19 please.

20 Q. This is a lease document. Can you read who the tenant is
21 on this lease document?

22 A. The tenant is William Jamieson.

23 Q. And the address?

24 A. 123 Melrose Street, apartment 417, Brooklyn, New York,
25 11206.

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1 Q. And, again, this was a document that was on the Samsung
2 device; is that right?

3 A. That's correct.

4 MS. MURRAY: Ms. Loftus, can we please publish
5 Government Exhibit 655? These are certain photos that were
6 recovered from the Samsung.

7 I'm just going to go through these quickly. Page one
8 first, Ms. Loftus.

9 Q. Do you see the name listed on this New Jersey license?

10 A. Yes.

11 Q. Do you recognize the person depicted?

12 A. Not in this photograph, no.

13 Q. Can we go to the next page, please. Do you recognize the
14 person depicted here?

15 A. Yes.

16 Q. Who is it?

17 A. That's Chris Recamier.

18 MS. MURRAY: Can we go to page 4, please, Ms. Loftus?
19 All the way down so we can see both of those images. Thank
20 you.

21 Q. Looking at the images on this page, what state do these
22 driver's licenses purport to be from?

23 A. Pennsylvania.

24 Q. And what name is the top license in?

25 A. Gerald M. Hanson.

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1 Q. What name is the bottom license in?

2 A. Thomas J. Hockenberry.

3 Q. What if anything do you notice about the individual
4 depicted in each of these licenses?

5 A. That appears to be Chris Recamier.

6 MS. MURRAY: If we could publish Government Exhibit
7 657, please, Ms. Loftus.

8 Q. Again, a photo from the Samsung device; is that correct?

9 A. Yes.

10 Q. Do you recognize this car or do you -- I understand there's
11 no license plate. Does this car look familiar to you based on
12 your investigation?

13 A. Yes, it does.

14 Q. What does it look familiar to?

15 A. Looks familiar to the car we executed -- excuse me, that we
16 searched after executing the search warrant for Mr. Ilori's
17 person.

18 MS. MURRAY: And page 2, please, Ms. Loftus.

19 Q. Is this another photo of what appears to be the same car?

20 A. Yes.

21 MS. MURRAY: And if we could go to Government Exhibit
22 658, please. This is, again, content from the Samsung device
23 that was recovered from the Mercedes.

24 If we could zoom in on participants.

25 Q. The owner, the user of the Samsung is associated with what

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1 name here?

2 A. Jonathan Herttua.

3 Q. And what's going to be the user name?

4 A. Herttuaajonathan57.

5 MS. MURRAY: Could we zoom out. If we could go to
6 page 6, please. And zoom in on the top document.

7 Q. Looking at the source in the source info, this is from Text
8 Now. Is that a messaging application?

9 A. Yes, it is.

10 Q. So in this message, how does the blue person refer to the
11 user of the Samsung?

12 A. Will.

13 MS. MURRAY: And if we could go to page 8, please,
14 Ms. Loftus.

15 Q. Looking at the bottom of page 8, can you read what the --

16 MS. MURRAY: Yes. Zoom in, please.

17 Q. Could you read what the apartment address and number is
18 that this individual is texting the user of the Samsung about?

19 A. 123 Melrose 715.

20 MS. MURRAY: And one final exhibit, please.
21 Government Exhibit 659. This is another message chain from the
22 Samsung.

23 If we could go to page 4, please. Focusing on the
24 green and then the blue message, what does the user of the
25 Samsung send to the counter-party of this chat?

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1 A. Thomasjhockenberry@gmail.com.

2 Q. And then in the response, from the blue message, how does
3 the blue message refer to the user of the Samsung?

4 A. Thomas.

5 MS. MURRAY: Could we go to page 18, please, and zoom
6 in on the first message first.

7 Q. What does this message to the user of the Samsung reflect?

8 A. It reflects, the deal is approved.

9 Q. On what date is this sent?

10 A. September 22, 2021.

11 MS. MURRAY: Can you zoom out, please, and zoom in on
12 the last message on this page.

13 Q. What is the lienholder for the lease as reflected in this
14 message to the Samsung user?

15 A. Mercedes Benz Financial Services.

16 MS. MURRAY: And, Ms. Loftus, the next page, please,
17 page 19. If you could you zoom in on the blue message again
18 sent to the user of the Samsung.

19 Q. What does this reflect?

20 A. Instructions to send a certified check.

21 Q. To what company or entity?

22 A. Silver Star Motors.

23 Q. And that is sent to the user of the Samsung; is that right?

24 A. Yes.

25 Q. On what date?

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1 A. September 22, 2021.

2 MS. MURRAY: May we have a moment, your Honor?

3 Nothing further.

4 You can take that down, Ms. Loftus. Thank you.

5 THE COURT: All right. Thank you.

6 So, ladies and gentlemen, here's where we're at. At
7 this point, Mr. Brill is entitled to cross-examine this
8 witness. He's told me his cross will be relatively brief, but
9 I promised you all 5:00, and we are at the witching hour.

10 I would propose the following. I said to you --
11 unfortunately, despite my best efforts, we're going to be back
12 here on Monday. The government has told me this is their last
13 witness. So after Mr. Brill finishes with whatever
14 cross-examination he has of this witness, I believe the
15 government intends to rest its case. Meaning it will be
16 presenting no more evidence.

17 At that point the defense has the opportunity but no
18 obligation to present a case to you. Thereafter, you would
19 hear from each side with summations, their closing arguments to
20 you in which they say here's the evidence you've seen and
21 here's what we think it proves to you. I would then give you
22 instructions on the law, and you would begin to deliberate.
23 That's what we have remaining in this case.

24 So I'm very sorry that we didn't get to meet our goal
25 of completing the evidence today. I think we're 99 percent

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1 there. But at this point I think it makes sense for us to
2 break for the day, since we're not going to conclude in any
3 event today.

4 All right. So we should come back -- let me just talk
5 to counsel at sidebar for one moment, and I'll let you know
6 what time we plan to start on Monday.

7 This can be off the record.

8 (Side bar held off the record)

9 THE COURT: All right. Ladies and gentlemen, we're
10 going to keep working for a little while after we let you go
11 tonight so that we can move things along for you.

12 So we can plan on 9:30 Monday morning, please.

13 All right. Thank you all very much. Have a great
14 weekend.

15 Let me tell you all before you jump up, leave
16 everything here, but let me say for the record we're breaking
17 for the weekend, so there could be temptations, people saying
18 what have you been doing all week and that sort of thing.
19 Please don't discuss the case with anyone. Don't do any
20 research on the case. Don't read anything if you happen to see
21 articles on these sorts of things. The last thing we want is
22 to have a problem with you all having put in so much time and
23 energy.

24 I'm going to remind the witness, you remain under
25 oath, sir.

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1 With that, I'll see you at 9:30 Monday morning.
2 Thanks very much. Have a great weekend.

3 (Continued on next page)

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1 (Jurors not present)

2 THE COURT: All right. You may step down from the
3 witness stand. Thank you.

4 And are our court reporters all right to stay with us
5 for what we don't think should be too terribly long?

6 THE REPORTER: Yes, we're fine.

7 (Continued on next page)

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1 THE COURT: Have a seat, everyone.

2 So just to confirm, I think that we were off the
3 record when we spoke at the sidebar, so what we've agreed to do
4 is we are going to do the charging conference now, with the
5 understanding that obviously we can revisit things on Monday
6 morning if, after further consultation, there are any
7 additional issues that we should talk about, but I want to give
8 both sides -- these charges were largely consensual so I don't
9 think there should be a great number of issues, but I want to
10 give you the maximum opportunity to have what is close to the
11 final charges as you have the weekend to work on your
12 summations. All right?

13 So with that, I can do this with you, Mr. Ilori.
14 Mr. Brill, is Mr. Ilori choosing to be present for the charging
15 conference? Normally you would not be. This is a conference
16 on a matter of law. But you certainly can be. It's entirely
17 your call.

18 THE DEFENDANT: I would like to be.

19 THE COURT: Okay. All right. Then I'm going to ask
20 anybody who's not a party to the case to please clear the
21 courtroom because this is a conference which we would normally
22 do in the robing room, but because I have the defendant here,
23 I'm going to stay where we are. Thank you.

24 Okay. So I have the proposed requests to charge which
25 were submitted to me on consent by the parties back when we had

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1 the pretrial conference on August 5, at which time we thought
2 we were proceeding to trial, but it became necessary for me to
3 adjourn the trial because at that time Mr. Ilori told me he
4 wanted to change counsel. He then reversed course after
5 conferring further, and we are where we are today. But at that
6 August 5 conference, I was told by the parties that the jury
7 instructions were on consent.

8 Since then, I corrected only a couple of very minor
9 typos. I went through them with you when we met on
10 October 20th for the conference in anticipation of today. And
11 I mean literally, these were minor edits. I changed a "her" to
12 a "him," because you're a "him," Mr. Ilori. I don't remember
13 what the other two edits were, but they're in the record on the
14 October 20th conference.

15 So it is my understanding that what we have in front
16 of us at ECF 66, with those three minor edits that I put on the
17 record on October 20th, are a set of jury instructions which
18 are on consent.

19 Now there are a couple of them that noted "If
20 Applicable," so we need to talk about that, whether, in your
21 view, those various charges are applicable still at this
22 particular point in time.

23 But let me pause for a moment to just give anybody who
24 wishes to an opportunity to be heard.

25 MS. MURRAY: Nothing from the government.

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1 THE COURT: You're in agreement with what I recited?

2 MS. MURRAY: We are, your Honor.

3 THE COURT: All right. Thank you.

4 Mr. Brill?

5 MR. BRILL: I don't know if we need character witness,
6 your Honor.

7 THE COURT: We're not up to that yet. I'm asking, do
8 you have anything on what I've said so far?

9 MR. BRILL: No, your Honor.

10 THE COURT: So you're in agreement with what I put on
11 the record.

12 MR. BRILL: Yes, your Honor.

13 THE COURT: All right. So let's walk through the
14 charges that you bracketed in what you submitted as proposed
15 charges as "If Applicable."

16 All right. Request No. 29, conscious avoidance, is
17 that in or out?

18 MS. MURRAY: Your Honor, the government would propose
19 to include that charge.

20 THE COURT: I would agree.

21 Mr. Brill?

22 MR. BRILL: I don't have strong feelings one way or
23 the other, your Honor, so that's fine.

24 THE COURT: Okay. Charge No. 36, about particular
25 investigative techniques, it seems to me this one is

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1 applicable. This talks about, you know, certain techniques may
2 or may not have been used, and there was some cross-examination
3 about whether certain things were looked at or not, that sort
4 of thing, so it seems to me, Mr. Brill, this is certainly
5 applicable.

6 MR. BRILL: Yes, your Honor.

7 THE COURT: From the government?

8 MS. MURRAY: We agree, your Honor, yes.

9 THE COURT: All right. I'm going to strike the words
10 "If Applicable" in No. 36, which just means I'm going to give
11 that charge.

12 38, stipulations, is clearly applicable. You had five
13 stipulations that you read into the record. So that one will
14 remain.

15 Charge No. 40, law enforcement and government employee
16 witnesses. We did have at least, I think, three. So this is
17 clearly applicable.

18 MS. MURRAY: Yes. And your Honor, with respect to
19 this, some additional language had been bracketed, bracketing
20 additional government agencies. We can strike that. The
21 government witnesses in this case have all been from Department
22 of Justice Office of Inspector General.

23 THE COURT: Mr. Brill?

24 MR. BRILL: That's fine, your Honor.

25 THE COURT: So we're striking in two places "and/or

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1 the FBI and/or HIS and/or NYPD as applicable." Right?

2 MS. MURRAY: Yes, your Honor.

3 THE COURT: Yes, Mr. Brill?

4 MR. BRILL: Yes, your Honor.

5 THE COURT: Okay. No. 41, Mr. Ilori, you should pay
6 particular attention here. This is 41, and I believe you must
7 have a 42.

8 Yes. These are mirror images of one another. One
9 talks about the right that you have not to testify, and 41
10 comes in here if you did testify. 42 comes in if you did not
11 testify. So we would use one or the other. I would like, sir,
12 for you over the weekend to please confer with Mr. Brill, and
13 once the government rests its case, then it will be the
14 defense's turn to put on a case. If you decide not to, or
15 either way, whatever you decide to do--and it is ultimately
16 your decision, sir, whatever you decide to do--I'm going to ask
17 you on the record, not in front of the jury, but on the record,
18 to confirm that it is your decision, that you understand that
19 you have the right to testify but that you are not required to
20 do so, and at all points during your case, the burden remains
21 on the government to prove your guilt with respect to each
22 count beyond a reasonable doubt. Okay? So you just need to be
23 prepared that I'm going to ask you that on Monday.

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Okay. Whatever your decision ends up

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1 being.

2 THE DEFENDANT: Yes.

3 THE COURT: All right. Thank you.

4 So we have to wait on this one. I'm going to take out
5 the "If Applicable." I guess we really can't print it over the
6 weekend then, because we need to know the answer to that.

7 All right. 43, I don't really recall too much of a
8 discussion about preparation, but I may be forgetting. So what
9 is the view of people on No. 43?

10 MS. MURRAY: Your Honor, there wasn't much discussion.
11 There was some discussion with summary witnesses in particular.
12 So we would propose to include this instruction.

13 THE COURT: Exactly as it's worded? "You have heard
14 evidence that witnesses had discussed the facts of the case"?

15 MS. MURRAY: I do believe so, your Honor. The La
16 Colombe witnesses had reviewed the files in advance.

17 THE COURT: That's true.

18 Okay. Mr. Brill?

19 MR. BRILL: No objection.

20 THE COURT: All right. I'm going to take out the "If
21 Applicable" then.

22 No. 44. I certainly think this is applicable.
23 Mr. Brill, I assume you want this charge, right?

24 MR. BRILL: Yes, your Honor.

25 THE COURT: And the government agrees?

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1 MS. MURRAY: We do, yes.

2 THE COURT: All right. And 46. Are you both with me?

3 MS. MURRAY: Yes.

4 THE COURT: What is your position?

5 Mr. Brill, in large respect this is your call, I
6 think, though obviously both sides have the right to be heard
7 on it.

8 MR. BRILL: Yes.

9 THE COURT: Do you want to reserve? Do you want to
10 hold it back and let me know on Monday?

11 MR. BRILL: Yeah. If I could, your Honor, that would
12 be helpful.

13 THE COURT: All right. 47 I think is out. We didn't
14 have any expert witnesses, right?

15 MS. MURRAY: That's correct.

16 THE COURT: Mr. Brill?

17 MR. BRILL: Right.

18 THE COURT: Okay. I'm going to strike 47.

19 48 is certainly applicable. We had a number of
20 summary charts that came in. Right?

21 MS. MURRAY: That's correct.

22 THE COURT: Mr. Brill is nodding his head. Yes?

23 MR. BRILL: Correct, yes.

24 THE COURT: Okay. 49 is also on charts and summaries
25 not in evidence. I believe they were received.

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1 MS. MURRAY: That's correct. Every chart or summary
2 was received into evidence.

3 MR. BRILL: Agreed.

4 THE COURT: Okay. So 49 goes then.

5 50, we did not really have character -- this is the
6 point you were making, Mr. Brill, No. 50?

7 MR. BRILL: Yes, your Honor.

8 THE COURT: So I think this goes, right?

9 MR. BRILL: Yes, your Honor.

10 MS. MURRAY: Yes, your Honor.

11 THE COURT: All right. 50 is out.

12 51, I don't think we had anything that was redacted,
13 did we?

14 MS. MURRAY: We did not, your Honor.

15 MR. BRILL: No, I don't think we did.

16 THE COURT: All right. So 51 is out.

17 And I believe that is it.

18 Now I just want to highlight for you 52, which is -- I
19 don't know if you gave me this or if this was my standard
20 charge, but I generally just have the first person in the box
21 act as the foreperson, unless they're unwilling to do so, and
22 that's what this charge relates to. Do you want to take a look
23 at it and --

24 MS. MURRAY: That's fine with the government.

25 THE COURT: This was in what I gave you all.

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1 MR. BRILL: No. If that's the Court's practice, then
2 we have no objection to it. Often it's given to the jury to
3 make its own determination, but I don't think there's
4 anything --

5 THE COURT: Not my practice to do that. I generally
6 have it be the first juror.

7 MR. BRILL: There's no objection.

8 THE COURT: Okay. So we need to fill in the name.

9 And then I am just not remembering, but whether I
10 proposed the last few, I don't think so, but they're all
11 standard instructions in any event, so if you want to just look
12 at them very quickly to make sure you're all fine with the
13 remainder, and then I'll give you a moment if there's anything
14 else on the record.

15 MR. BRILL: I have no issues with any of them, Judge.

16 THE COURT: Thank you, Mr. Brill.

17 MS. MURRAY: Fine with us, your Honor.

18 THE COURT: Did you have something, Mr. Felton?

19 MR. FELTON: No, your Honor.

20 MS. MURRAY: We were just conferring, your Honor,
21 before --

22 THE COURT: Do you want a minute? I mean --

23 MR. FELTON: I was just confirming we were on the same
24 page. We're okay, your Honor. Sorry.

25 THE COURT: No, you don't have to apologize. This is

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1 important.

2 Okay. So I think that we have a set of instructions
3 to the jury. I'm going to hold off printing them, obviously,
4 because we have the one where I need to know which of the two
5 with regard to whether Mr. Ilori testifies or he doesn't
6 testify goes in; and then Mr. Brill, you can look at No. 46,
7 but I believe it comes out. I don't think we had any prior
8 acts. I understand what you're saying. So you'll let me know.

9 MR. BRILL: I will. Thank you.

10 THE COURT: Okay. Are there any other objections to
11 the charges as they now stand?

12 MS. MURRAY: Not from the government.

13 THE COURT: I will give you a final opportunity on
14 Monday morning.

15 MR. BRILL: Yes. With that understanding, no.

16 THE COURT: Okay. All right. So then I think that's
17 all I have. Do either of you have anything?

18 MS. MURRAY: No, your Honor. Thank you.

19 THE COURT: Mr. Brill?

20 MR. BRILL: Not beyond that, your Honor. Thank you.

21 THE COURT: All right. So we're going to resume our
22 group at 9:00 on Monday. Does that work for the court
23 reporters?

24 THE REPORTER: Yes.

25 THE COURT: Yes? Thank you very much. I don't know

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1 what we'd do without our court reporters, so I really
2 appreciate it. Thank you.

3 We'll start with the jury at 9:30. Hopefully we'll be
4 ready to move into closing statements fairly early. I think
5 given the estimates that you've each given us, we should be
6 finished with that well before lunchtime, and hopefully I can
7 charge the jury even before lunch. It would make for a little
8 bit of a later lunch so we'll have to see whether -- where
9 we're at, whether we do the charge first and then lunch or
10 lunch and then charge and let them deliberate. We'll just have
11 to play it by ear.

12 MR. BRILL: I think my understanding is that you take
13 a lunch order if you're planning on charging them before lunch
14 so --

15 THE COURT: Yes, we'll do that on Monday morning, yes.
16 Because that is correct, lunch gets brought in for deliberating
17 jurors. Okay?

18 All right. If there's nothing else, then I hope
19 everyone has a nice weekend. All right. Thank you again.

20 ALL COUNSEL: Thank you, your Honor.

21 (Adjourned to October 31, 2022, at 9:00 a.m.)
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