

# 18-3546(L)

Consolidated with 19-497

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IN THE  
**United States Court of Appeals**  
**FOR THE SECOND CIRCUIT**

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UNITED STATES OF AMERICA,

*Appellee,*

v.

RAHEEM BRENNERMAN  
AKA Jeferson R. Brennerman, AKA Ayodeji Soetan,

*Defendant-Appellant.*

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

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**APPENDIX**  
**Volume V of IX**

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HC4KBRE1

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

17 CR 337 (RJS)

5 RAHEEM J. BRENNERMAN,

6 Defendant.

7 -----x

8 New York, N.Y.  
9 December 4, 2017  
9:30 a.m.

10 Before:

11 HON. RICHARD J. SULLIVAN,

12 District Judge  
13 and a Jury

14 APPEARANCES

15 JOON H. KIM  
16 Acting United States Attorney for the  
17 Southern District of New York  
18 DANIELLE SASSOON  
19 EMIL BOVE, III  
20 NICOLAS LANDSMAN-ROOS  
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22 Assistant United States Attorneys

23 THOMPSON HINE LLP  
24 Attorneys for Defendant  
25 MARANDA FRITZ  
BRIAN WALLER  
BRIAN STEINWASCHER

ALSO PRESENT:

Ariella Fetman, USAO Paralegal  
Justin Ellard, Special Agent, U.S. Department of State  
Dwayne A. Lunde, Thompson Hine LLP Paralegal



HC4KBRE1

1 (In open court; jury not present)

2 THE COURT: We're all set?

3 Who is our next witness?

4 MR. LANDSMAN-ROOS: Enrique Santos. Should we bring  
5 him in?

6 THE COURT: Yes.

7 MS. FRITZ: Judge, I wonder, before we to that, could  
8 we talk scheduling a little bit?

9 THE COURT: Sure.

10 MS. FRITZ: It sounds as if there is a real  
11 possibility that the government is going to be able to blast  
12 through their remaining witnesses today.

13 THE COURT: Really? I thought we weren't going to  
14 finish the government's case until tomorrow.

15 MR. LANDSMAN-ROOS: I think it's much more likely that  
16 it's tomorrow, but we were preparing to have everyone testify  
17 today, so we can fill a full day, if that's what we get to, but  
18 I think there's a decent chance, if I were to bet, that there  
19 will be at least a few witnesses left for tomorrow morning.

20 THE COURT: Okay. I was planning to get you a charge  
21 tonight, so that we could have a charge conference, presumably,  
22 tomorrow sometime.

23 MS. FRITZ: That's what I wanted to ask: I wonder if  
24 we could discuss today perhaps bringing the jury in later  
25 tomorrow, so that we could --

HC4KBRE1

1 THE COURT: Maybe let's see where we are. I think  
2 we'll probably have a better idea by lunchtime. So, for now,  
3 it's 9:30, and I want to get the jury out, so they know 9:30  
4 means 9:30, and we won't delay them. Let's revisit this around  
5 lunch hour.

6 MS. FRITZ: Aye aye. Yes, sir.

7 THE COURT: Okay. Great. Let's bring them in.

8 I like that attitude, Ms. Fritz.

9 I guess, just for the record, I got a letter from  
10 Ms. Fritz on Friday and a response from the government on  
11 Saturday that relate to the charge. So we'll deal with that.

12 MS. FRITZ: And so that your Honor is aware, we  
13 prepared a letter over the weekend that is being filed even as  
14 we speak.

15 THE COURT: Okay. A response to their response?

16 MS. FRITZ: Correct.

17 Plus it raises another issue. But, by the way, Judge,  
18 Mr. Roos and I have spoken about that issue. I think that  
19 issue is going to be -- may be resolved.

20 THE COURT: Okay.

21 MS. FRITZ: I'm just giving you a heads-up.

22 THE COURT: Great. Thanks.

23 (Continued on next page)  
24  
25

HC4KBRE1

Santos - Direct

1 (Jury present)

2 THE COURT: Good morning, ladies and gentlemen. I  
3 hope you had a nice weekend. Welcome back and thanks for week  
4 two of your service. It's greatly appreciated by all of us. I  
5 really mean that.

6 We are going to resume the direct examination of  
7 Mr. Santos by Mr. Roos.

8 ENRIQUE SANTOS, resumed.

9 DIRECT EXAMINATION CONTINUED

10 BY MR. LANDSMAN-ROOS:

11 Q. Good morning, Mr. Santos.

12 A. Good morning.

13 MR. LANDSMAN-ROOS: Ms. Fetman, can we please publish  
14 Government Exhibit 602, which is now in evidence.

15 Q. Mr. Santos, is that up on your screen?

16 A. Yes.

17 THE COURT: Everybody's screen working?

18 JURY MEMBERS: Yes.

19 THE COURT: Let me know if they're not. I'll assume  
20 everything is hunky-dory unless you tell me, okay?

21 BY MR. LANDSMAN-ROOS:

22 Q. Mr. Santos, have you listened to the recordings that are  
23 now in evidence as 450-A, 450-B, 451-A, 451-B, and 452?

24 A. Yes.

25 Q. I'm showing you what's marked for identification as 450A,

HC4KBRE1

Santos - Direct

1 450-B, 451-A, 451-B, and 452.

2 What are these documents? I'm sorry, each of those,  
3 is that number dash T.

4 THE COURT: Dash T.

5 A. These are transcripts of those recordings.

6 Q. And are they accurate transcriptions of the portions of the  
7 telephone calls that you reviewed that are referenced on  
8 Government Exhibit 602?

9 A. Yes.

10 Q. How do you know that?

11 A. I reviewed them before coming here today and agreed that  
12 they were accurate.

13 MR. LANDSMAN-ROOS: The government offers Exhibits  
14 450-A-T, 450-B-T, 451-A-T, 451-B-T and 452-T as aids to the  
15 jury.

16 MS. FRITZ: Your Honor, point of clarification on voir  
17 dire?

18 THE COURT: All right.

19 VOIR DIRE EXAMINATION

20 BY MS. FRITZ:

21 Q. Mr. Santos, you just said a moment ago the documents you're  
22 looking at are transcripts of the conversations that you  
23 listened to. So I just want to clarify: These are not  
24 transcripts of the tape-recorded conversations, correct?

25 A. They're transcripts of just the portions that I listened

HC4KBRE1

Santos - Direct

1 to.

2 Q. So, somebody selected pieces, and then you listened to  
3 them?

4 A. Yes.

5 Q. And then these are just transcripts of those pieces?

6 A. Correct.

7 MS. FRITZ: Okay. No objection, your Honor.

8 THE COURT: So, 450-A-T and B-T, 451-A-T and B-T, and  
9 452-T are received in evidence.

10 (Government's Exhibits 450-A-T, 450-B-T, 451-A-T,  
11 451-B-T, and 452-T received in evidence)

12 MR. LANDSMAN-ROOS: Ms. Fetman, can we please publish  
13 Government Exhibit 1-12, which is in evidence, and please put  
14 up page 56.

15 BY MR. LANDSMAN-ROOS:

16 Q. Mr. Santos, do you see signatures on this page?

17 A. I do.

18 Q. And take a look at the second signature on page 56.

19 A. Okay.

20 Q. And what's the name for that signature?

21 A. It says Michael Sloanes.

22 Q. What's the person's title?

23 A. Secretary.

24 Q. Mr. Santos, in connection with your testimony today, did  
25 you review transcripts of Government Exhibits 10-H and 10-J,

HC4KBRE1

Santos - Direct

1 which are marked as 10-H-T and 10-J-T?

2 A. I'm sorry, which exhibits are those?

3 Q. Did you review transcripts that are marked as 10-H-T and  
4 10-J-T?

5 A. Is that this exhibit that I'm --

6 Q. No, that's not. I'll walk them up to you.

7 A. Thank you.

8 Yes, I reviewed these.

9 Q. Are there any comments in those exhibits about a person  
10 named Michael Sloanes?

11 A. Yes.

12 MS. FRITZ: Objection, your Honor. There's no  
13 connection between those transcripts and this exhibit other  
14 than the fact that he may have read them at some point.

15 THE COURT: I'm going to allow it. Just to the extent  
16 that Michael Sloanes is referenced, I'm going to allow that.

17 So you can answer.

18 THE WITNESS: Yes.

19 MR. LANDSMAN-ROOS: Ms. Fetman, please play Government  
20 Exhibit 10-H and put the display alongside it, 10-H-T.

21 MS. FRITZ: Same objection. This witness has no  
22 connection with those exhibits.

23 THE COURT: I just want to make sure. These are  
24 10-H-T and 10-J-T? I have 10-H-T. I don't think I have  
25 10-J-T.

HC4KBRE1

Santos - Direct

1 MR. LANDSMAN-ROOS: They came in on Tuesday, the 30th,  
2 your Honor. Or 29th.

3 MS. FRITZ: The witness was Mr. Ellard.

4 THE COURT: 10-J-T?

5 MR. LANDSMAN-ROOS: That's right.

6 THE COURT: Sorry.

7 Okay, I see it. All right. Go ahead.

8 MR. LANDSMAN-ROOS: Can you play and run the  
9 transcript along.

10 THE COURT: Hold on one second.

11 Ladies and gentlemen, these transcripts are just an  
12 aid to you. It's helpful sometimes to have a transcript while  
13 you're listening to a recording or a video because it just can  
14 help your ear to sort of inform your ear.

15 That's the only reason it's being offered. It's not  
16 evidence, right?

17 MR. LANDSMAN-ROOS: That's correct.

18 THE COURT: If you hear something that's different  
19 than what's on the transcript, it's what you hear that matters.  
20 So it's just an aid to your listening to an exhibit that is in  
21 evidence. All right?

22 MS. FRITZ: And, your Honor?

23 THE COURT: Yes.

24 MS. FRITZ: I just want to interpose a clearer  
25 objection with respect to the playing of these without the

HC4KBRE1

Santos - Direct

1 witness on the stand who is associated with this document  
2 because I didn't have an opportunity to question the witness  
3 about these additional pieces.

4 THE COURT: All right. Well, that's fine. You can  
5 recall him if you want, but, otherwise, I'm going to allow it.

6 So go ahead.

7 (Video playback)

8 MR. LANDSMAN-ROOS: Ms. Fetman, can you please play  
9 Government Exhibit 10-J and display alongside it 10-J-T as an  
10 aid to the jury.

11 (Video playback)

12 MR. LANDSMAN-ROOS: Ms. Fetman, please play Government  
13 Exhibit 4-51-A and display alongside it 4-51-A-T.

14 MS. FRITZ: Your Honor, if we could get some  
15 specification about where these tapes are coming from, dates,  
16 times, anything?

17 THE COURT: I think there's already been some  
18 testimony about that. So you can develop that on cross.

19 But go ahead.

20 (Audio playback)

21 BY MR. LANDSMAN-ROOS:

22 Q. Mr. Santos, what's this a recording of?

23 A. It's a phone conversation. It looks like it cuts off  
24 after, "look, hi," but it appears to be a conversation between  
25 someone named Aderinwale and Brennerman.



HC4KBRE1

Santos - Direct

1 MR. LANDSMAN-ROOS: Ms. Fetman, can you put back up on  
2 the screen Government Exhibit 602.

3 BY MR. LANDSMAN-ROOS:

4 Q. Mr. Santos, do you know where this recording, the 4:50  
5 through 4:52 recording, came from?

6 A. Yes.

7 Q. Where do they come from?

8 A. The Bureau of Prisons.

9 Q. What are that?

10 A. It's the federal prison system.

11 MR. LANDSMAN-ROOS: Ms. Fetman, please play Government  
12 Exhibit 451-B and display alongside as an aid 451-B-T.

13 (Audio playback)

14 MR. LANDSMAN-ROOS: Ms. Fetman, please play Government  
15 Exhibit 452 and display alongside it Government Exhibit 452-T  
16 as an aid.

17 (Audio playback)

18 MR. LANDSMAN-ROOS: Ms. Fetman, please play Government  
19 Exhibit 450-B and play alongside it or display alongside it  
20 450-B-T.

21 BY MR. LANDSMAN-ROOS:

22 Q. Mr. Santos, where was that last recording made?

23 A. I believe it's also the Bureau of Prisons.

24 Q. Let's take a look at Government Exhibit 4-73, which is in  
25 evidence, and we were looking at it on Thursday.

HC4KBRE1

Santos - Direct

1                   What is this?

2       A.   This is an excerpt of that cell phone report that I  
3       produced for this case.  Specifically this is a section of the  
4       contacts.

5       Q.   Whose contacts is it?

6       A.   The entry is listed as Raheem.

7                   MR. LANDSMAN-ROOS:  Now, Ms. Fetman, please zoom in on  
8       the first four cells, the top row.

9       Q.   Mr. Santos, what are the first three phone numbers  
10      attributable to Raheem in this entry?

11      A.   The first few phone numbers are labeled as work, mobile and  
12      iPhone.

13                   MR. LANDSMAN-ROOS:  Ms. Fetman, can you display  
14      alongside Government Exhibit 4-73 the second page of Government  
15      Exhibit 600.

16      Q.   Mr. Santos, I'll walk a copy of each of these up to you,  
17      473 and 600.  And, Mr. Santos, do you see on there paragraphs 5  
18      and 6, it says, "Government Exhibits 3, 5, and 6 are cell  
19      phones that were seized in Brennerman's apartment"?

20      A.   Yes.

21      Q.   Do you see below there, there are some phone numbers listed  
22      for various exhibits?

23      A.   Yes.

24      Q.   Can you compare those phone numbers for the phones that  
25      were seized to the phone numbers on 4-73?

HC4KBRE1

Santos - Direct

1 A. Sure. The phone number that appears in item number 7 of  
2 this stipulation matches the phone number on the report that is  
3 labeled as mobile, the phone number listed in item number 8 of  
4 the stipulation matches the number that's listed as work on the  
5 report, and the phone number that's listed in item number 9 of  
6 the report is listed as an iPhone on the cell phone report.

7 Q. So let's talk about the first number that's on there,  
8 that's (713)775-6535.

9 MR. LANDSMAN-ROOS: Ms. Fetman, publish to the jury  
10 what's in evidence as Government Exhibit 1-40. And please zoom  
11 in on the header information on the email.

12 Q. Now, Mr. Santos, what's the name that's listed on the from  
13 field of this email?

14 A. R.J. Brennerman.

15 MR. LANDSMAN-ROOS: Let's zoom out, Ms. Fetman.

16 Q. Mr. Santos, can you read the last sentence in the email?

17 MS. FRITZ: Your Honor, I continue to object to having  
18 a witness simply read documents that he bears no relationship  
19 to.

20 THE COURT: Overruled.

21 Go ahead.

22 A. "I wait to hear from you. I am contactable either via  
23 email or cell phone."

24 And there's two phone numbers: One is (917)699-6430  
25 or area code (713)775-6535.

HC4KBRE1

Santos - Direct

1 Q. Who is this email signed by?

2 MR. LANDSMAN-ROOS: Please zoom out, Ms. Fetman.

3 A. R.J. Brennerman.

4 MR. LANDSMAN-ROOS: Ms. Fetman, can you please move  
5 Government Exhibit 1-40 to one of the sides of the screen and  
6 put up alongside it Government Exhibit 1-39.

7 Q. Mr. Santos, on Government Exhibit 1-39, what's the name on  
8 the from field?

9 A. Annisa Rodriguez.

10 Q. Now let's look at the text. And, Mr. Santos, can you read  
11 the text of the email?

12 A. "Mr. Sloanes has not been in the office as he has been  
13 traveling between Asia and Africa, and there has been some  
14 delays with his travels. His cell phone contact number is  
15 (713)775-6535. You can leave him a message and allow about 48  
16 hours for him to respond. Warm regards, Ms. A. Rodriguez,  
17 Senior Executive Assistant."

18 Q. And, Mr. Santos, can you compare the phone number  
19 attributable in that 1-39 to Mr. Sloanes to the phone numbers  
20 in the 1-40 exhibit?

21 A. It's the same phone number.

22 Q. When you say "It's the same phone number," which phone  
23 number is the same?

24 A. The number ending in 6535.

25 Q. Is that phone number ending in 6535 listed in the contacts

HC4KBRE1

Santos - Direct

1 page for Raheem?

2 A. Yes.

3 MR. LANDSMAN-ROOS: Ms. Fetman, you can take down  
4 Government Exhibit 1-39. And please put up 1-13 in its place.

5 Q. Mr. Santos, who does this email indicate it's from?

6 A. M. Kelly.

7 MR. LANDSMAN-ROOS: Let's take a look at the body of  
8 the email, please. Now, let's zoom in on the signature block.  
9 Go all the way down. Thank you.

10 Q. So, Mr. Santos, who is this email signed by?

11 A. M. Kelly.

12 Q. What does it say his title is?

13 A. Senior vice president, acquisitions.

14 Q. Do you see where it lists -- it says "M." --

15 A. Yes.

16 Q. -- in the footer?

17 And what's the phone number next to "M."?

18 A. (713)775-6535.

19 Q. How does that phone number for M. Kelly compare to the  
20 second phone number for R.J. Brennerman?

21 A. It's the same number.

22 MR. LANDSMAN-ROOS: Ms. Fetman, can you take off 1-40,  
23 which is on the left side of the screen, and put back 1-39.

24 Q. Mr. Santos, how does the number for Mr. Sloanes, on the  
25 left side of the screen, compare to the number for Mr. Kelly in

HC4KBRE1

Santos - Direct

1 his footer on the right side of the screen?

2 A. It's the same number.

3 Q. I'm showing you now, for identification, what's been marked  
4 as Government Exhibit 4-71, 4-72, 4-76, 4-77, and 4-78. I'll  
5 walk these up to you so you can take a look.

6 Mr. Santos, what are these?

7 A. These are excerpts of different conversations that were  
8 recovered from that iPhone.

9 Q. The iPhone you testified about on Thursday?

10 A. Yes.

11 Q. Are they true and accurate copies of text messages or other  
12 messages that were extracted from the cell phone?

13 A. Yes.

14 Q. And how do you know that?

15 A. I remember reviewing these before I came here today, and I  
16 recognize them.

17 MR. LANDSMAN-ROOS: The government offers 4-71, 4-72,  
18 4-76, 4-77, and 4-78.

19 THE COURT: When you reviewed the text, you compared  
20 them to what?

21 THE WITNESS: I compared them against the full  
22 extraction report that I did and that had my name on it, and I  
23 compared the IMEI number on the reports of the actual cell  
24 phone that I extracted.

25 THE COURT: Okay. Any objection?

HC4KBRE1

Santos - Direct

1 MS. FRITZ: Yes. Objection; hearsay.

2 THE COURT: Overruled.

3 So, 4-71, 4-72, 4-76, 4-77, and 4-78 of the government  
4 exhibits are received.

5 (Government's Exhibits 4-71, 4-72, 4-76, 4-77, and  
6 4-78 received in evidence)

7 MR. LANDSMAN-ROOS: Ms. Fetman, please publish on the  
8 main screen 4-73, which is in evidence.

9 BY MR. LANDSMAN-ROOS:

10 Q. Mr. Santos, what's the phone number attributable to iPhone  
11 under the Raheem contact?

12 A. (310)210-0919.

13 MR. LANDSMAN-ROOS: Ms. Fetman, you can take that off  
14 the screen and please publish for the jury what's now in  
15 evidence as 4-72. Let's start at the top of this exhibit.

16 Q. Mr. Santos, what are we looking at here?

17 A. This is an iMessage conversation between a contact named  
18 Raheem and another contact labeled as Jamie Sanderson.

19 Q. What's an iMessage?

20 A. It's Apple's proprietary messaging system.

21 Q. What's the date on these messages?

22 A. Different date ranges, but the conversation starts on  
23 September 26, 2012, and extends through March 31st, 2017.

24 Q. For the record messages that are captured on this exhibit,  
25 what's the date range?

HC4KBRE1

Santos - Direct

1 A. Conversation starts on December 28th, 2013, and the last  
2 conversation is 12/28/2013 of the same -- one day.

3 Q. Mr. Santos, who are the participants to the conversation?

4 A. Raheem and the contact name that's Jamie Sanderson.

5 Q. Can you please read the conversation for the jury?

6 A. Sure. It starts with: "Jamie."

7 He or she says: "Yep."

8 And then again says, "What's the number again?"

9 Raheem responds: "You awake?"

10 And Raheem says, "Call my other phone."

11 And then gives the number: "(310)210-0919."

12 MR. LANDSMAN-ROOS: Ms. Fetman, please publish  
13 Government Exhibit 4-71, which is in evidence.

14 Q. Mr. Santos, what's this?

15 A. This is a WhatsApp conversation between a contact saved as  
16 Raheem and a contact named as Najia Pasche.

17 Q. What's a WhatsApp conversation?

18 A. It's a chat application that let's users send messages  
19 across different devices.

20 Q. Mr. Santos, can you please read the conversation for the  
21 jury?

22 A. The conversation starts with an incoming messaging from  
23 Najia. It says: "Hey you, HB have another number?"

24 And Raheem responds: "Yes."

25 Najia says: "Ha-ha, okay. Do I get the other



HC4KBRE1

Santos - Direct

1 number?"

2 Najia responds: "I'm on Inner Circle," winky face.

3 Raheem responds: "Yes. I need to charge this phone,"  
4 and then gives the number "(310)210-0919."

5 MR. LANDSMAN-ROOS: Ms. Fetman, move Government  
6 Exhibit 4-71 to the left side of the screen and put up next to  
7 that what's in evidence as Government Exhibit 1-9.

8 Q. Mr. Santos, looking at Government Exhibit 1-9, who is the  
9 email signed by?

10 A. Ms. A. Rodriguez.

11 Q. Do you see the sentence that begins "if you require"?

12 A. Yes.

13 Q. Can you read that for the jury?

14 A. "If you require any additional information, please do  
15 contact me at Ms. A. Rodriguez, (310)210-0919, or by email at  
16 arodriguez@blacksandspacific.com."

17 Q. Mr. Santos, can you compare the phone number provided by  
18 Raheem in 4-71 to the number provided in the email signed by

19 A. Rodriguez in 1-9?

20 A. It's the same number.

21 MR. LANDSMAN-ROOS: Ms. Fetman, can you take down  
22 Government Exhibit 1-9, which is on the right side, and put up  
23 next to 4-71 Government Exhibit 1-8.

24 Q. Mr. Santos, who signed the email in Government Exhibit 1-8?

25 A. Ms. A. Rodriguez.

HC4KBRE1

Santos - Direct

1 Q. Can you read the text of the email?

2 A. "Dear Ravi Toora: Thank you for your email. Please call  
3 my colleague, Mr. Kelly, at (310)210-0919 at 2:00 p.m. U.K.  
4 time to progress the account opening. Warm regards, Ms. A.  
5 Rodriguez."

6 Q. How does the number listed for Mr. Kelly compare to the  
7 number listed on the WhatsApp conversation for Raheem?

8 A. It's the same number.

9 MR. LANDSMAN-ROOS: Let's take down 4-71, which is on  
10 the left side of the screen, and put up next to 1-8 Government  
11 Exhibit 1-9.

12 Q. Mr. Santos, how does the number provided for Ms. A.  
13 Rodriguez on the left side of the screen compare to the number  
14 provided for Mr. Kelly on the right side of the screen?

15 A. It's the same number.

16 MR. LANDSMAN-ROOS: Ms. Fetman, you can take down both  
17 of those exhibits. And can you please publish what's in  
18 evidence as 1-43.

19 Q. Mr. Santos, who is this email from?

20 A. R.J. Brennerman.

21 Q. Who is it to?

22 A. Peter.

23 Q. What's the address for Peter?

24 A. Whollyabbey@yahoo.com.

25 Q. What's the subject line?

HC4KBRE1

Santos - Direct

1 A. "Regarding additional questions."

2 MR. LANDSMAN-ROOS: Can we please look at the text.

3 Q. And, Mr. Santos, can you please start at the top and read  
4 through what's marked as paragraph 1 up to the point of  
5 paragraph 2?

6 A. "Peter, below are the other questions: How should we  
7 respond to Mike Nouril of Mischon de Reya asking whether we  
8 still want to engage him following the email from Mortgage  
9 Trust lawyers? Shall I just send an email from Annisa that  
10 Mr. Brennerman is currently away due to family matters? Shall  
11 I email Mortgage Trust lawyer from Annisa advising them that we  
12 have a different lawyer?"

13 MR. LANDSMAN-ROOS: Can we publish for the jury what's  
14 in evidence as 1-32.

15 Q. And, Mr. Santos, who is this email from?

16 A. R.J. Brennerman.

17 Q. Who is it to?

18 A. Peter.

19 Q. What's the date on the email?

20 A. April 19th, 2017.

21 MR. LANDSMAN-ROOS: Can we look at the text.

22 Q. Mr. Santos, what's the top line of the text?

23 A. "Peter: See below email which I want to send to Mortgage  
24 Trust."

25 Q. And then, Mr. Santos, can you read what's below that, the

HC4KBRE1

Santos - Direct

1 word "dear" and the next sentence?

2 A. "Dear Mr. Bloom: Your witness statement was forwarded to  
3 me by Ms. Rodriguez. First, I enclose a copy of previous  
4 notice, which confirms that I will be dealing with matters  
5 relating to this property on behalf of the defendant. As you  
6 are aware from my statement, he is currently away due to  
7 medical reasons (kidney transplant)."

8 MR. LANDSMAN-ROOS: Ms. Fetman, can you please go to  
9 the next page, the signature line on this email.

10 Q. Mr. Santos, who is this email signed by?

11 A. Mike Kelly.

12 MR. LANDSMAN-ROOS: Ms. Fetman, can you please display  
13 alongside Government Exhibit 1-32 Government Exhibit 1-38.

14 Q. So you can compare them, also, Mr. Santos, I'll walk you up  
15 a copy. It's 1-32 and 1-38.

16 Mr. Santos, what's the sender's name on 1-38?

17 A. M. Kelly.

18 Q. What's the date on the email?

19 A. April 19th, 2017.

20 Q. What's the subject line?

21 A. "Regarding Mortgage Trust Limited - Account Number 2160072  
22 - Private and Legally Confidential."

23 Q. Who is on the to line of the email?

24 A. Anthony Bloom.

25 Q. Mr. Santos, can you compare the sender name on 1-32 to

HC4KBRE1

Santos - Direct

1 1-38? Are they the same or different?

2 A. Are you asking about the from?

3 Q. Just the from line.

4 A. Different email addresses.

5 Q. And who is it on the left side?

6 A. R.J. Brennerman.

7 Q. How about on the right?

8 A. M. Kelly.

9 MR. LANDSMAN-ROOS: Let's zoom out from these.

10 Q. Now, Mr. Santos, can you compare the text of the emails,  
11 1-32 and 1-38?

12 A. With the exception of the first line on 1-32, it appears to  
13 be the same email.

14 Q. Who signed the email on 1-38 at the bottom?

15 A. Mike Kelly.

16 MR. LANDSMAN-ROOS: Ms. Fetman, you can take these  
17 exhibits down. And can you please publish 2-9.

18 Q. Who is this email from, Mr. Santos?

19 A. R.J. Brennerman.

20 Q. Who is it to?

21 A. Peter Abiodun.

22 Q. What's the email address?

23 A. Whollyabbey@yahoo.com.

24 Q. What's the date on the email?

25 A. October 4, 2013.

HC4KBRE1

Santos - Direct

1 Q. Can you please read the first sentence of this email?

2 A. "Peter: What do you think about the email below and my  
3 response?"

4 Q. Then can you read from "Dear Ms. Suzy Parsons" downward?

5 A. "Thank you for your email. The payment details has been  
6 provided, and we are just waiting on confirmation of payment  
7 from them. I will follow up with them again on Monday to check  
8 on the status of the refund payment. Mr. Brennerman is getting  
9 better; however, still in the ICU (Intensive Care Unit).

10 "PS: In case we send the full refund to you, I will  
11 provide you an account to send the excess payment. Thank you  
12 and warm regards, Ms. A. Rodriguez."

13 Q. Is the email address for the sender on this email an  
14 account that indicates it belongs to A. Rodriguez?

15 A. No.

16 MR. LANDSMAN-ROOS: Can we publish 2-12, which is in  
17 evidence.

18 Q. Who is this email from, Mr. Santos?

19 A. R.J. Brennerman.

20 Q. Who is it to?

21 A. Peter Abiodun.

22 Q. What's the date on it?

23 A. Whollyabbey@yahoo.com.

24 Q. I'm sorry, what's the date on it?

25 A. October 17, 2013.

HC4KBRE1

Santos - Direct

1 Q. Can you read the first line of the email?

2 A. "Dear Peter: See the email below which I want to send from  
3 Mike to Julian and his colleagues. What do you think?"

4 Q. Who is the email signed by?

5 A. M. Kelly.

6 Q. How does the name M. Kelly compare to the sender on the  
7 email?

8 A. It doesn't.

9 MR. LANDSMAN-ROOS: Ms. Fetman, can we please publish  
10 Government Exhibit 2-1.

11 Q. Mr. Santos, who is this from?

12 A. Raheem.

13 Q. And who is it to?

14 A. Peter Abiodun.

15 Q. What's the date on it?

16 A. October 29th, 2013.

17 Q. Can you read the first line?

18 A. "Peter, what do you think?"

19 Q. And then can you read the email?

20 A. "Dear Mr. Justin Hayward: Mr. Brennerman is currently away  
21 due to medical reasons and expected to be discharged from the  
22 hospital by mid-November. I was intending to respond to your  
23 earlier message; however, have been away. Warm regards, Ms. A.  
24 Rodriguez."

25 Q. How does the name A. Rodriguez correspond to or compare to

HC4KBRE1

Santos - Direct

1 the name of the sender?

2 A. It doesn't. It's not there.

3 Q. Mr. Santos, I'd like to show you Government Exhibit 2-10,  
4 which is in evidence.

5 Who is this email from?

6 A. R.J. Brennerman.

7 Q. Who is it to?

8 A. Peter Abiodun.

9 Q. What's the date on it?

10 A. October 8, 2013.

11 Q. Can you read the first line?

12 A. "Peter: I know the email below is childish and harsh;  
13 hence, why it is from Mike and not me."

14 Q. Who is the email signed by?

15 A. M. Kelly.

16 Q. How does that name compare to the sender of this email?

17 A. It doesn't. It's not there.

18 Q. Who is the sender of the email?

19 A. R.J. Brennerman.

20 MR. LANDSMAN-ROOS: No further questions.

21 THE COURT: Okay.

22 Cross-examination?

23 MS. FRITZ: Yes. Thank you.

24

25



HC4KBRE1

Santos - Cross

1 CROSS-EXAMINATION

2 BY MS. FRITZ:

3 Q. Mr. Santos, I would like to go back and talk about the  
4 things that you actually did do.

5 You said that you received an iPhone and extracted  
6 data, correct?

7 A. Correct.

8 Q. And other than reading documents, was that really the  
9 extent of the tasks that you performed in relation to this  
10 case?

11 A. I extracted the phone, I produced a report that I gave to  
12 the investigators and the prosecutors, and I read -- I listened  
13 to some recordings and just confirmed that the transcript was  
14 accurate.

15 Q. So that's what you have done in relation to this case?

16 A. Yes, ma'am.

17 Q. Mr. Roos asked you, at the very beginning of your direct  
18 examination, about what you did after you received the phone.  
19 Do you have a recollection of telling him that you received an  
20 iPhone, and you received a search warrant?

21 A. Yes.

22 Q. Was it your job to then take material off of the iPhone  
23 consistent with that?

24 A. Yes.

25 Q. Can you just remind me, Mr. Santos, what provision of that

HC4KBRE1

Santos - Cross

1 warrant authorized you to take a picture of a shoe from a  
2 store?

3 MR. LANDSMAN-ROOS: Objection.

4 THE COURT: I'm not sure I even understand the  
5 question.

6 MS. FRITZ: I can rephrase, your Honor.

7 THE COURT: Okay.

8 BY MS. FRITZ:

9 Q. Do you have any recollection of what provision in a search  
10 warrant --

11 MS. FRITZ: If we could pull up -- Dwayne, do we have  
12 the ability to pull UP 4-14?

13 MR. LANDSMAN-ROOS: Objection.

14 THE COURT: 4-14 is in evidence, right?

15 MR. LANDSMAN-ROOS: Yes.

16 THE COURT: I'll allow him to look at the exhibit.  
17 Go ahead.

18 THE WITNESS: So, with a forensic device --

19 MS. FRITZ: Excuse me, did we get it up?

20 MR. LUNDE: Yes.

21 MS. FRITZ: And to the jury? Okay.

22 BY MS. FRITZ:

23 Q. So, this is an item -- let me just understand. You were  
24 the one that made the decision about what things could be taken  
25 off of Mr. Brennerman's cell phone, correct, and taken by the

HC4KBRE1

Santos - Cross

1 government?

2 A. With a forensic examination, the goal is to try to get as  
3 much data as possible from a --

4 Q. I apologize. That's not my question, though.

5 MR. LANDSMAN-ROOS: Objection.

6 MS. FRITZ: It's not responsive.

7 THE COURT: Well, I think it was a sentence. He was  
8 not even a sentence into it.

9 So you can answer. Go ahead.

10 THE WITNESS: So I can't pick and choose what comes  
11 off the device. The goal is to try to get a forensic image of  
12 the device, which means just getting everything that's on  
13 there. There are limitations of the actual software that limit  
14 me from saying, all right, let me just get this, but not that.

15 THE COURT: All right. Let's stop. So the question  
16 was: You were the one that made the decision about what things  
17 to take off of Mr. Brennerman's cell phone, correct? Is that  
18 true? Is that your decision?

19 THE WITNESS: No. The software limits what I can and  
20 cannot remove off the cell phone.

21 THE COURT: Okay. Next question.

22 BY MS. FRITZ:

23 Q. Okay. So there are some difficulties parsing the forensic  
24 images, is that what you were just saying?

25 A. I wouldn't say difficulty. The software is designed to

HC4KBRE1

Santos - Cross

1 remove as much information as possible. I can't cherry-pick  
2 what comes off the device.

3 Q. But isn't that exactly what the warrant tells you to do,  
4 cherry-pick that which is --

5 MR. LANDSMAN-ROOS: Objection.

6 Q. -- within its scope?

7 THE COURT: Overruled.

8 You can answer.

9 THE WITNESS: Yes.

10 BY MS. FRITZ:

11 Q. Okay. So, going back to my original question: Is there  
12 anything in that warrant that would have authorized the seizure  
13 of a picture of a shoe in a store?

14 A. Specifically, no.

15 Q. Is there anything in that warrant that was issued by the  
16 Court that would authorize the seizure -- is there anything in  
17 there that would authorize a picture of a hotel room?

18 MR. LANDSMAN-ROOS: Objection.

19 THE COURT: Overruled.

20 You can answer.

21 THE WITNESS: No specific mention, no.

22 Q. So you just took -- let me just understand: You just took  
23 everything off the phone irrespective of the terms of the  
24 warrant?

25 MR. LANDSMAN-ROOS: Objection.

HC4KBRE1

Santos - Cross

1 THE COURT: Ladies and gentlemen, I've already ruled  
2 on the admissibility of this evidence, so it's properly before  
3 you. So I'm not sure what else the point of the cross is, but,  
4 certainly, the evidence has been received, and you can consider  
5 it.

6 Go ahead. Next question.

7 BY MS. FRITZ:

8 Q. I'm just trying to clarify. Was everything that was on the  
9 iPhone removed by you?

10 A. Everything that the software allowed me to remove was  
11 removed.

12 Q. And that includes every single photograph that was on  
13 there?

14 A. That I know of, yes. And we recovered some deleted items.  
15 As with every cell phone model, our ability to recover certain  
16 amounts of data is different, so the model of the iPhone may  
17 complicate things, as well as the operating system.

18 Q. Okay.

19 A. So, we are able to recover more data from some phones than  
20 others.

21 Q. Did you at any time make an effort to ensure that what you  
22 were taking from that cell phone corresponded to the court  
23 order that allowed this search?

24 A. I'm sorry, can you repeat the question?

25 Q. Did you at any time make an effort to ensure that what you

HC4KBRE1

Santos - Cross

1 were taking off of the cell phone corresponded to what the  
2 judge said you could take?

3 A. You mean to limit the data that I was producing?

4 Q. Correct.

5 A. No.

6 Q. Okay. So you took, as far as you know, every picture off  
7 the cell phone, correct?

8 A. Yes.

9 Q. Every text message off the cell phone, correct?

10 A. Yes.

11 Q. Every email off the cell phone?

12 A. Email contents, we can't recover from iPhones, we can only  
13 recover the metadata. So I recovered the metadata, but not  
14 content, correct.

15 Q. All the metadata?

16 A. Yes.

17 Q. For example, we just look a moment ago at a communication  
18 that occurred with somebody named Jamie. Do you remember that?

19 A. Are you referring to the WhatsApp conversation?

20 Q. Yes.

21 A. Yes.

22 Q. Did you have any reason to believe that Jamie had anything  
23 at all to do with this case?

24 A. No.

25 Q. Did you have any knowledge of whether Jamie just happened

HC4KBRE1

Santos - Cross

1 to be a friend of Mr. Brennerman's?

2 A. I don't know who that person is.

3 Q. All right. Let me ask you: Since you took everything that  
4 you could get off of this thing, what was -- let's talk about  
5 it. What was the volume of what you got?

6 A. In terms of pages of the report, I believe it went into the  
7 thousands of pages and several gigabytes worth of data. I  
8 don't remember the exact number.

9 Q. Do you know whether it actually exceeded a terabyte?

10 A. No.

11 Q. You don't know or, no, it didn't?

12 A. No, it didn't.

13 Q. Do you know what the approximate volume was of the data off  
14 of this one device?

15 A. Less than 16 gigabytes, I believe.

16 Q. You said it covered what, a thousand pages in your  
17 extraction report?

18 A. Several thousand, I believe.

19 Q. Several thousand pages.

20 Can you ballpark the number of photos that were  
21 recovered from that phone?

22 A. It was probably in the thousands. I don't remember the  
23 exact number.

24 Q. Probably a thousand or more?

25 A. Yes.

HC4KBRE1

Santos - Cross

1 Q. So the photos that we looked at in the courtroom earlier  
2 today, those were certainly just a sliver of what was on there,  
3 correct?

4 A. Yes.

5 Q. Were those selected by you to show to the jury or somebody  
6 else?

7 A. Somebody else.

8 Q. Who selected those photos to show the jury?

9 A. The prosecution team.

10 Q. And there were lots and lots of other things on that phone  
11 regarding Mr. Brennerman, correct, in the photos section?

12 A. Yes.

13 Q. There were articles about Mr. Brennerman; is that correct?

14 A. Yes.

15 Q. Articles about Mr. Brennerman as an up-and-coming  
16 entrepreneur?

17 MR. LANDSMAN-ROOS: Objection.

18 THE COURT: Ms. Gorgone, are you okay?

19 JUROR: Yes, kind of.

20 THE COURT: All right.

21 BY MS. FRITZ:

22 Q. Do you recall an article, for example, called "Bucking the  
23 Trend"?

24 A. I don't remember --

25 MR. LANDSMAN-ROOS: Objection.



HC4KBRE1

Santos - Cross

1 THE COURT: The question is do you recall what was on  
2 the phone? Is that the question? Is that the question, what  
3 was on the phone?

4 MS. FRITZ: Does he recall seeing articles about --

5 THE COURT: Do you recall seeing articles, period?

6 THE WITNESS: I recall seeing at least one article.

7 BY MS. FRITZ:

8 Q. But those items, those were not among the ones that the  
9 prosecution selected to put into evidence here today?

10 A. No.

11 Q. What about various articles about an organization called  
12 the BLV Group, do you remember those being on the phone?

13 MR. LANDSMAN-ROOS: Objection.

14 THE COURT: Overruled.

15 You can answer.

16 THE WITNESS: I recall mention of the BLV Group, but I  
17 don't recall exactly where I saw that.

18 Q. And do you recall lots and lots of material with respect to  
19 Blacksands Pacific?

20 A. Yes.

21 Q. And did you at any time organize and provide specific  
22 images -- did you select certain images to show to the  
23 prosecution, or did they simply pick the images they wanted  
24 from all of the photos that were on there?

25 A. I believe the prosecution team selected the images they

HC4KBRE1

Santos - Cross

1 wanted.

2 Q. Okay. You were asked a number of questions with respect to  
3 certain phone numbers, correct?

4 A. Yes.

5 Q. And so you were able to read from Mr. Brennerman's phone  
6 that there is a -- in his contacts, there is an iPhone number,  
7 correct, that starts with 310?

8 A. Yes.

9 Q. And that was the phone from which you were extracting data;  
10 is that correct?

11 A. I would need the first few pages to recall which phone  
12 number was assigned to that iPhone that I examined. That  
13 number that you are asking me about, can you just remind me  
14 what the number is again?

15 Q. Let's do it the other way. How many phones did you look  
16 at?

17 A. For this case, a few. I believe it was four phones.

18 Q. Four phones.

19 And do you know whether all of those phones were taken  
20 from Mr. Brennerman's hotel room?

21 A. According to the warrant that I received, yes.

22 Q. And do you have any idea the extent to which Mr. Brennerman  
23 has any other individuals using any of those phones at any  
24 given point in time?

25 A. No, I don't know.

HC48BRE2

Santos - Cross

1 Q. Let me just ask you, with respect to the excerpted  
2 conversations, the messages that Mr. Roos showed you, would the  
3 same thing apply, the phone was full of messages and  
4 communications like the ones that were shown here before the  
5 jury, correct?

6 A. Yes.

7 Q. And the only ones that were seen by the jury are the  
8 ones -- I think four of them -- handpicked by the prosecution,  
9 correct?

10 A. Yes.

11 Q. Do you know how far back the data on the phone went? Did  
12 it go back ten years, five years?

13 A. I believe the data went back -- are you referring to  
14 individual pieces of data that may have been synced with that  
15 phone?

16 Q. Let me try again.

17 Information that's contained on the phone, much of it  
18 contains a date, correct?

19 A. Yes.

20 Q. Like the messages that have dates, correct?

21 A. Yes.

22 Q. And some of the images have metadata that had dates,  
23 correct?

24 A. Yes.

25 Q. So do you recall with respect to all of those dates,

HC48BRE2

Santos - Cross

1 whether it was a message or a photo, how many years of data was  
2 on there?

3 A. Several years. Just off the top of my head, 2013 seems  
4 like a year that sounds about right, but I could be wrong. I  
5 don't have the full report in front of me so I can't tell.

6 You might have data that's earlier than that if a  
7 database was synced with that phone. So you might have data  
8 that's older than the device itself.

9 Q. Your best recollection is we are talking probably about  
10 four years worth of data, correct?

11 A. Yes.

12 Q. Now, you were also asked by Mr. Roos to I guess review  
13 transcripts of a couple of conversations that occurred with  
14 someone named Peter, telephone conversations, correct?

15 A. Yes.

16 Q. And had you had anything to do with those conversations  
17 before Mr. Roos asked you to review those transcripts?

18 A. No.

19 Q. So he says, look, review those transcripts and then you  
20 guys went through it here in the courtroom, correct?

21 A. Yes.

22 Q. Again, do you have any knowledge of how many similar  
23 conversations might be in the possession of the government?

24 A. No.

25 Q. Do you have any knowledge of how long those conversations

HC48BRE2

Santos - Cross

1 were?

2 A. No.

3 Q. So let's just be clear. Do you know how many different  
4 conversations you read transcripts from? Did that make any  
5 sense?

6 A. Like how many different excerpts?

7 Q. No. I am trying to get to how many conversations were  
8 involved which were then excerpted by the government.

9 A. No, I don't know.

10 Q. Do you know whether it was two conversations?

11 A. No.

12 Q. With pieces?

13 A. No.

14 Q. So do you know if -- let me just give you an example.

15 MS. FRITZ: Can you pull up 450AT and 450BT.

16 Can you put them next to each other.

17 Q. So Mr. Roos showed you both of these, correct?

18 A. Yes.

19 Q. Do you know if both of these, 450A and 450B, are part of a  
20 single conversation that occurred on one particular day?

21 A. No.

22 Q. OK.

23 MS. FRITZ: Can you flip to the first page of each of  
24 those?

25 Q. Do you know whether the one on the left is just the first

HC48BRE2

Santos - Cross

1 few lines of that conversation and the one on the right is  
2 something that is said later in the conversation?

3 A. I don't know.

4 Q. Do you know how many minutes of conversation there actually  
5 were in this conversation?

6 A. No.

7 Q. Do you know how many seconds of that were excerpted by the  
8 government?

9 A. No.

10 MS. FRITZ: If we can go to 451. Same thing.

11 So 451A is on the left. 451B. OK.

12 If you could go to the text, the conversation of both.

13 Q. Same question. Do you know whether this is another single  
14 conversation?

15 A. No.

16 Q. Do you have any idea how long that conversation was?

17 A. No.

18 Q. Do you have any idea how many seconds of it were selected  
19 now and presented by the government?

20 A. No.

21 Q. OK. In the middle of the page that's on the right side, it  
22 appears that Mr. Brennerman is talking about "the fact of the  
23 assets."

24 Do you see that?

25 A. Yes.

HC48BRE2

Santos - Redirect

1 Q. And saying that "somebody needs to put the information  
2 together, put every detail together," correct?

3 A. Yes.

4 Q. Does it appear that what he is talking about there is these  
5 assets?

6 MR. ROOS: Objection.

7 THE COURT: Sustained. He doesn't need to say what it  
8 appears to be.

9 Q. Is it correct that in the middle of the page Mr. Brennerman  
10 says, "The fact is these assets, we need to really, really pull  
11 it together, pull it together?"

12 Does he say that?

13 A. Yes.

14 MS. FRITZ: One second, your Honor.

15 Nothing further.

16 THE COURT: Redirect.

17 MR. ROOS: Briefly, your Honor.

18 REDIRECT EXAMINATION

19 BY MR. ROOS:

20 Q. Mr. Santos, is there a difference between extracting data  
21 from a cell phone and the review of that data?

22 A. Yes.

23 Q. What is the difference?

24 A. Well, as a forensic examiner when you're extracting data,  
25 your goal is to try to extract as much data as possible,

HC48BRE2

Santos - Redirect

1 because you may not get a second chance to extract that data if  
2 later on you need it. You may destroy data just by the simple  
3 act of distraction. So we want to try to get as much of it as  
4 possible on the first try.

5 Q. Ms. Fritz asked you a bunch of questions about the  
6 selection of different pieces of the data from the cell phone.

7 Do you remember that?

8 A. Yes.

9 Q. Were you involved in any of those selection decisions?

10 A. No.

11 Q. Ms. Fritz asked you about your knowledge of the contents of  
12 some of the materials on the phone.

13 Do you remember that?

14 A. Yes.

15 Q. Do you remember her asking about some of the articles that  
16 were on there?

17 A. Yes.

18 Q. She didn't show you any of those articles, right?

19 A. No.

20 Q. Do you know whether those are real articles?

21 A. No.

22 Q. Do you have any knowledge of the content of those articles?

23 A. I vaguely remember the title of one of them, but I don't  
24 remember much beyond that.

25 Q. Do you know whether or not the content in those articles



HC48BRE2

Santos - Recross

1 are true or not?

2 A. No.

3 Q. Do you have any knowledge about whether those are even real  
4 articles or could they be forged?

5 MS. FRITZ: Oh -- what I meant is objection.

6 THE COURT: You can answer.

7 A. No.

8 Q. No what?

9 A. I don't know if they are real or not.

10 MR. ROOS: No further questions.

11 MS. FRITZ: Your Honor, I would like to mark and enter  
12 into evidence two of the articles on the phone, but I would  
13 need a moment to make a copy of these exhibits.

14 MR. ROOS: Objection to testimony.

15 MS. FRITZ: It was just a suggestion.

16 MR. ROOS: She is testifying to what she is holding in  
17 her hand, which is not in evidence.

18 THE COURT: She is referring to the articles.

19 In any event, don't do that. You should just give  
20 them numbers.

21 MS. FRITZ: Your Honor, it will take a moment for us.

22 These will be Defense GT and GU.

23 RECROSS EXAMINATION

24 BY MS. FRITZ:

25 Q. Mr. Santos, I would like to show you what has been marked

HC48BRE2

Santos - Recross

1 for identification as Defense GT and GU and I am going to ask  
2 you, do you recall seeing those among the things that were  
3 present in the images on the phone?

4 A. I remember seeing this specific image.

5 Q. OK.

6 A. I don't recall this one.

7 THE COURT: Which is which? Use the numbers.

8 THE WITNESS: These aren't marked.

9 Excuse me. I can't make out this handwriting.

10 That's the one I recognize.

11 THE COURT: This is GU, I guess.

12 You recognize GU, you don't recognize GT?

13 THE WITNESS: Correct.

14 Q. Taking a look at GT, does that appear to be an image that  
15 you extracted from the phone and provided to the government?

16 A. I don't recall seeing this image, but I can describe what  
17 it is.

18 THE COURT: Don't describe what it is. The question  
19 was, do you recall seeing it.

20 THE WITNESS: No, I don't remember seeing this.

21 MS. FRITZ: I offer into evidence GU.

22 MR. ROOS: Objection. He doesn't recall seeing it.

23 MS. FRITZ: Then I said the wrong one. Whichever.

24 THE COURT: GU he recognized.

25 MR. ROOS: OK. No objection.

HC48BRE2

Santos - Recross

1 THE COURT: Any objection to GU?

2 MR. ROOS: Hearsay to the extent it's being offered  
3 for its truth; otherwise no objection.

4 THE COURT: I don't know why it's being offered  
5 candidly.

6 You have no objection to it coming in but not for the  
7 truth.

8 MR. ROOS: We have a hearsay objection. There may  
9 also be a relevance objection.

10 THE COURT: Is there or is there not? Are you  
11 objecting or not objecting?

12 MR. ROOS: I don't have a copy of it.

13 THE COURT: Take a look at it.

14 MR. ROOS: Your Honor, we object. It's hearsay if  
15 it's being offered for the truth. We object on relevance  
16 grounds, and also the exhibit itself is unreadable.

17 THE COURT: I don't see any reason for this to come  
18 in. So sustained.

19 Next question.

20 MS. FRITZ: Nothing further.

21 THE COURT: Any redirect?

22 MR. ROOS: No.

23 THE COURT: You can step down.

24 (Witness excused)

25 THE COURT: Next witness.

HC48BRE2

Borrison - Direct

1 MR. ROOS: The government calls Janell Borrison.

2 JANELL BORRISON,

3 called as a witness by the government,

4 having been duly sworn, testified as follows:

5 THE COURT: Can you state your name and spell your  
6 name for the record.

7 THE WITNESS: Janell Borrison, J-A-N-E-L-L,  
8 B-O-R-R-I-S-O-N.

9 DIRECT EXAMINATION

10 BY MR. ROOS:

11 Q. Good morning. Where do you work?

12 A. I work for the Social Security Administration, Office of  
13 the Inspector General.

14 Q. How long have you worked there?

15 A. About ten years.

16 Q. What are your duties and responsibilities in your current  
17 position?

18 A. I investigate fraud waste and abuse regarding Social  
19 Securities benefits programs and Social Security number misuse.

20 Q. Are you familiar with the process by which a person obtains  
21 a Social Security number?

22 A. Yes, I am.

23 Q. Can you please describe for the jury the ways a person  
24 obtains a Social Security number?

25 A. A person can fill out a Social Security number application

HC48BRE2

Borrison - Direct

1 and submit it to a Social Security office, or they can go  
2 directly to a Social Security office and speak with a Social  
3 Security representative providing the information to them  
4 directly.

5 Q. What happens after a person submits an application and  
6 provides the information?

7 A. The information is processed and that person will receive a  
8 Social Security card through the mail.

9 Q. Where is that Social Security card mailed?

10 A. It's mailed to the address the applicant provides at the  
11 time of the application being submitted.

12 Q. Can a person who is not born in the United States obtain a  
13 Social Security number card and number?

14 A. Yes, they can.

15 Q. What types of documents does a noncitizen have to provide  
16 to obtain a Social Security number?

17 A. If they are not a U.S. citizen, they would supply their  
18 foreign passport with a visa and current U.S. immigration  
19 documents, such as an I-94, which is an arrive and departure  
20 record, a green card, work authorization forms, documents such  
21 as that.

22 Q. Why are identification documents like visas necessary  
23 during this process?

24 A. To prove your identity and also your status in the U.S.

25 Q. Before testifying today did you have an opportunity to

HC48BRE2

Borrison - Direct

1 review certain Social Security Administration records and  
2 documents to prepare for your testimony?

3 A. Yes, I did.

4 Q. I show you now for identification -- so this is not for the  
5 jury -- what has been marked as Government Exhibit 45.

6 The font is a little small so I will bring you a copy.

7 Ms. Borrison, do you recognize this document?

8 A. Yes.

9 Q. What is this document?

10 A. This is a Social Security number for Raheem Jefferson  
11 Brennerman.

12 Q. Have you seen this application before?

13 A. Yes.

14 Q. Are records like this regularly made and maintained by the  
15 Social Security Administration?

16 A. Yes, they are.

17 Q. Was this record made at or around the time the information  
18 was supplied?

19 A. Yes.

20 Q. How do you know that?

21 A. From the date on the bottom that was entered by the Social  
22 Security representative.

23 Q. How has this record been stored since that time?

24 A. In Social Security's computer databases.

25 MR. ROOS: Government offers 45.

HC48BRE2

Borrison - Direct

1 MS. FRITZ: Voir dire, your Honor?

2 THE COURT: I am not sure for what purpose. Do you  
3 object to this or not?

4 MS. FRITZ: If I may just ask a couple of questions, I  
5 think it will be clear.

6 MR. ROOS: There is cross.

7 THE COURT: If there is an objection that can be  
8 qualified by voir dire, that's fine, but it's not a preview of  
9 a cross.

10 MS. FRITZ: I have leveled an objection to this. The  
11 government is aware of this and, yes, I would like to ask --

12 THE COURT: So you're objecting to it?

13 MS. FRITZ: Yes, I am.

14 THE COURT: Overruled. The exhibit is received.

15 (Government's Exhibit 45 received in evidence.)

16 MR. ROOS: Can you publish this to the jury, Ms.  
17 Fetman.

18 A. I'm sorry?

19 Q. Ms. Borrison, please take a look at the top of this  
20 document.

21 MR. ROOS: Ms. Fetman, if you would zoom in on the top  
22 where it says "Retrieved Enumeration Detail Printout" down to  
23 this first line.

24 Ms. Borrison, take a look at the top of this document.  
25 Who was the applicant for the Social Security number here?

HC48BRE2

Borrison - Direct

1 A. Raheem Jefferson Brennerman.

2 Q. Who filed the application?

3 A. Raheem Jefferson Brennerman.

4 Q. Where do you see that on the document?

5 A. Where it says "in-person interview," and there is a "Y"  
6 indicating yes.

7 Q. Address as provided by the applicant?

8 A. 245 Park Avenue, 24th floor, New York, New York 10167.

9 Q. What citizenship does the application say the applicant  
10 has?

11 A. Lawful alien, allowed to work.

12 Q. Where do you see that?

13 A. Next to citizenship.

14 Now, Ms. Fetman, can you zoom out from this and please  
15 highlight the next section where it says "Proof of Identity."

16 Q. Ms. Borrison, what proof of legal status in the United  
17 States did the applicant provide?

18 A. His foreign passport and an I-94 arrival/departure record.

19 Q. Do you see where it says "admission class or status?"

20 A. Yes.

21 Q. What does it say there?

22 A. An L-1 visa.

23 Q. Now looking back at the top of this document, the address  
24 you read, 245 Park Avenue, do you have an understanding whether  
25 this is a home or business?



HC48BRE2

Borrison - Direct

1 A. I'm not aware.

2 Q. Generally, is there a practice as to what type of address  
3 should be listed on a visa application?

4 A. On a visa application?

5 Q. I'm sorry. On a Social Security Administration  
6 application.

7 A. It would be a location where the individual who is applying  
8 would either reside or have some affiliation with since the  
9 Social Security cards are mailed. So they would need to  
10 retrieve the cards once they are mailed.

11 Q. I am showing you what is in evidence as Government Exhibit  
12 11.

13 Ms. Borrison, can you open up what I have handed you,  
14 Government Exhibit 11.

15 What is it?

16 A. This is Mr. Brennerman's passport.

17 Q. What is the number on the passport?

18 A. 508212253.

19 Q. Looking at Government Exhibit 45, what is the number on the  
20 passport that was used to apply for the Social Security card?

21 A. 508212253.

22 Q. How do those numbers compare?

23 A. They are the same number.

24 Q. Now, flip to about the fourth page in the document.

25 THE COURT: Fourth page in the passport?

HC48BRE2

Borrison - Direct

1 MR. ROOS: In the passport she is holding.

2 Q. Did you find it?

3 A. Yes.

4 Q. What's there?

5 A. Mr. Brennerman's visa.

6 Q. What is the name on the visa?

7 A. Raheem Jefferson Brennerman.

8 Q. What type of visa it?

9 A. An L-1 visa.

10 Q. What class or status of visa was used to get the Social  
11 Security card number?

12 A. An L-1 visa.

13 Q. Was the defendant issued a Social Security card number?

14 A. Yes, he was.

15 Q. I show you what is in evidence as Government Exhibit 12.

16 What is this?

17 A. A Social Security card.

18 Q. Is there a name on the card?

19 A. Raheem Jefferson Brennerman.

20 Q. How about a number?

21 A. Would you like me to read the number?

22 Q. How about the last four digits.

23 A. 2470.

24 Q. How does the number on the card compare to the number on  
25 Government Exhibit 45?

HC48BRE2

Borrison - Direct

1 A. It's the same number.

2 Q. Now, when Mr. Brennerman was issued -- let me first ask,  
3 when was Mr. Brennerman issued a Social Security number?

4 A. December 10, 2012.

5 MR. ROOS: Now, Ms. Fetman, can you zoom in on the  
6 last section of Government Exhibit 45.

7 Q. Ms. Borrison, do you see where it says "FO code?"

8 A. Yes.

9 Q. What does that stand?

10 A. That is the field office code for the Social Security  
11 office that handled the application.

12 Q. What field office does that code correspond to?

13 A. This is an office on William Street in Manhattan, New York.

14 Q. Where was the Social Security card mailed in this case?

15 A. It was mailed to the address the applicant provided, 245  
16 Park Avenue, 24th floor, New York, New York 10167.

17 Q. You referenced an interview. Does the application indicate  
18 where that took place?

19 A. It would be at the field office that handled this  
20 application, that processed the application.

21 Q. And that was in Manhattan, New York.

22 A. That was on William Street in Manhattan, New York, correct.

23 MR. ROOS: No further questions.

24 THE COURT: Cross-examination.

25 MS. FRITZ: Yes. Thank you.

HC48BRE2

Borrison - Cross

1 CROSS-EXAMINATION

2 BY MS. FRITZ:

3 Q. Good morning Ms. Borrison. I am Maranda Fritz. I  
4 represent Mr. Brennerman. Just a few questions.

5 You indicated early on in your direct examination by  
6 Mr. Roos, I believe you identified the document that we are  
7 looking at, Government Exhibit 45, as an application.

8 Do you recall describing it that way?

9 A. Correct.

10 Q. If we could just take a look at it. This is a printout, a  
11 computer printout, correct?

12 A. Correct.

13 Q. So in the traditional sense of someone filling out an  
14 application, that's not what this is?

15 A. No. It's not a handwritten application.

16 Q. In fact, it's called a Retrieved Enumeration Detail  
17 Printout, correct?

18 A. Yes.

19 Q. This was something that was printed out from Social  
20 Security that includes information that was provided by an  
21 applicant?

22 A. Correct.

23 Q. You indicated that the applicant presented a passport,  
24 508212253, is that correct?

25 A. Yes.

HC48BRE2

Borrison - Cross

1 Q. Do you know whether that's a passport issued by the UK?

2 A. By the United Kingdom, yes.

3 Q. And you indicated that the applicant also spoke with  
4 someone with respect to the information contained in here?

5 A. Yes.

6 Q. And the applicant presented evidence that he had obtained  
7 an L-1 visa, is that correct?

8 A. Yes.

9 MS. FRITZ: That's it. Nothing further.

10 THE COURT: Any redirect?

11 MR. ROOS: No.

12 THE COURT: You can step down.

13 Thank you, Ms. Borrison.

14 (Witness excused)

15 THE COURT: Next witness.

16 MS. SASSOON: Helen Memar.

17 HELEN MEMAR,

18 called as a witness by the government,

19 having been duly sworn, testified as follows:

20 THE COURT: If you could state your name and spell  
21 your name for the record.

22 THE WITNESS: Helen Memar, H-E-L-E-N, M-E-M-A-R.

23 THE COURT: Ms. Memar, keep your voice up nice and  
24 loud.

25 You may proceed, Ms. Sassoon.

HC48BRE2

Memar - Direct

1 DIRECT EXAMINATION

2 BY MS. SASSOON:

3 Q. Good morning, Ms. Memar.

4 A. Good morning.

5 Q. Where do you live?

6 A. Las Vegas, Nevada.

7 Q. Where do you work?

8 A. I'm a mobile notary for A1 Document Services.

9 Q. How long have you been a mobile notary?

10 A. Five years.

11 Q. What does that mean to be a mobile notary?

12 A. A mobile notary, if someone needs a notarization done, they  
13 can call up and you will come to them to get the notarization  
14 done. They don't have to leave their home or wherever they  
15 want to meet.

16 Q. What does it mean to do a notarization?

17 A. When you're notarizing a document, you're verifying the  
18 identity of the person who is signing the documents to make  
19 sure that that is the one who is supposed to be signing.

20 Q. When you notarize something, how do you typically indicate  
21 you have notarized on it the document?

22 A. When you go to notarize someone, first you're going to  
23 check their ID, and then when you actually write it in your  
24 book, you have a notary log, then when you notarize the  
25 document itself, you're going to sign it, that you witnessed

HC48BRE2

Memar - Direct

1 it, and then you will put your stamp.

2 Q. Did there come a time when you met Raheem Brennerman?

3 A. Yes.

4 Q. Approximately when was that?

5 A. November 2013.

6 Q. What were the circumstances?

7 A. He had called our office to get a notarization done.

8 Q. Where did you go?

9 A. I went to the Mandarin Oriental in Las Vegas.

10 Q. I would like to show you Government Exhibit 1-5, which is  
11 already in evidence.

12 MS. SASSOON: Please display it for the jury.

13 Q. Looking at the first page, this is a Blacksands Pacific  
14 loan agreement dated as of October 25, 2013.

15 Let's turn to page 6.

16 Do you recognize this?

17 A. Yes.

18 Q. What do you recognize this as?

19 A. This is definitely something that I signed and I stamped.

20 Q. Is that your stamp on the left side of the page?

21 A. Yes, it is.

22 Q. Zooming back out, what signature or signatures does your  
23 notary stamp correspond to?

24 A. My stamp corresponds to the Raheem Brennerman.

25 Q. When you notarized this, who was there?

HC48BRE2

Memar - Cross

1 A. Raheem J. Brennerman was the only one there.

2 Q. Looking above that, just to be clear, was a person named  
3 Michael Sloanes there too?

4 A. No.

5 MS. SASSOON: No further questions.

6 THE COURT: Cross-examination.

7 MS. FRITZ: Thank you, your Honor.

8 CROSS EXAMINATION

9 BY MS. FRITZ:

10 Q. Good morning Ms. Memar. My name is Maranda Fritz.

11 You met with Mr. Brennerman in Las Vegas on many  
12 different occasions, correct?

13 A. No.

14 Q. Have you previously spoken with the government in relation  
15 to this matter?

16 A. When you say government --

17 Q. Any of these folks at this table.

18 A. I was asked to come here.

19 Q. But before you were asked to come here, did you talk to  
20 folks from the Department of Justice who asked you a series of  
21 questions about your notarizations for Mr. Brennerman?

22 A. I've only done a notarization one time for Mr. Brennerman.

23 Q. Do you have any recollection of telling Mr. Ellard and  
24 others that -- maybe it wasn't you -- that A1 Document Services  
25 has done many different document notarizations?



HC48BRE2

Memar - Cross

1 A. Yes. Yes. The company, different notaries.

2 Q. So different individuals had dealt with Mr. Brennerman in  
3 Las Vegas?

4 A. Yes.

5 Q. Do you know approximately how many instances there were?

6 A. I have no idea.

7 Q. So in one of those instances you went over to the hotel and  
8 notarized the signature?

9 A. Correct.

10 Q. When you did that, you would have had information that was  
11 then written into your book?

12 A. Yes.

13 Q. With respect to that process, correct?

14 A. That's correct.

15 Q. What is the information that goes into your book?

16 A. Normally it would be a driver's license, unless the person  
17 didn't have one. So you would write in their name, the  
18 driver's license number, their address, all of that, when it's  
19 issued, when it expires. You would also put in what type of  
20 notarization you did, and generally they would sign and they  
21 would actually do a thumbprint.

22 Q. In your book?

23 A. Yes.

24 Q. If there was more than one individual that was present with  
25 a notarization, that would be reflected in your book?

HC48BRE2

Memar - Cross

1 A. Correct.

2 Q. Were you able to provide a copy of the book entries  
3 relating to this notarization?

4 A. OK. Normally I would be able to, but I had a house fire in  
5 2015 and my house burned down to the foundation. So I do not  
6 have my book to show.

7 However, after I do a notarization, I also do, for the  
8 tax purposes, I have a gas mileage log and also I want to make  
9 sure I get paid correctly too. So I keep track of everything I  
10 have done. And I did send a copy of the gas log that shows  
11 that I went to the -- well, shows where I went on that date,  
12 who I notarized for, and the fees that would have been owed to  
13 me and gas mileage.

14 If there was another person, I would have put both  
15 names on that as well.

16 The only reason that I have that log still is because  
17 actually when the end of the year came, I didn't know how to do  
18 Excel, so I asked my boss to put a new year in for me, for  
19 2014, so she had a copy. Otherwise, I wouldn't have had that  
20 information either.

21 Q. So that reflects your visit to the Mandarin that day?

22 A. Yes.

23 MS. FRITZ: If we could pull up 1-5.

24 Q. Page 6 of that document is the page where there are two  
25 signature blocks, correct?

HC48BRE2

Memar - Cross

1 A. Yes.

2 Q. Ordinarily, where there are two signature blocks and a  
3 notarization at the bottom, does that ordinarily reflect  
4 notarizing of the signatures above?

5 A. Well, to me this shows that I notarized the signature on  
6 the bottom because it's right across from that signature. I  
7 would have wrote that I was doing both names had I signed both  
8 people.

9 Q. Where would you have written that?

10 A. I would have written it -- underneath where it says "County  
11 of Clark," I would have written it in.

12 Q. Have you ever written in things below County of Clark with  
13 respect to your notarization of signatures on a page?

14 A. Yes.

15 Q. What would you write in?

16 A. You could write in that it was acknowledged or it was sworn  
17 to. You can put notarial language in there.

18 Q. But as it stands, what we have is the signatures of the two  
19 individuals and then your notarization below it. OK.

20 When did the government first contact you about this?

21 A. I think it was about a couple of weeks ago.

22 Q. OK. Do you recall who contacted you?

23 A. Mr. Ellard.

24 Q. How many notarizations have you done in between the time of  
25 this years ago and sitting here today?

HC48BRE2

Memar - Redirect

1 A. Probably hundreds.

2 Q. OK. So Mr. Ellard called and asked you about this  
3 particular notarization?

4 A. Yes.

5 Q. You were able to recall this particular event years ago?

6 A. Well, let me just explain. Normally 98 percent of the work  
7 I do is refinance documents, reverse mortgages, first-time  
8 homebuyers. Very rarely do I do private signings like this  
9 one. So I actually did remember that -- something this big  
10 must have been, I was thinking, at the City Center because I  
11 did go to the Cosmopolitan, the Mandarin Oriental a few of  
12 times. So it stuck out. It's not a normal thing I do.

13 Q. Do you recall meeting and dealing with Mr. Brennerman that  
14 day?

15 A. Yes.

16 MS. FRITZ: Nothing further. Thank you.

17 THE COURT: Any redirect?

18 MS. SASSOON: Brief.

19 REDIRECT EXAMINATION

20 BY MS. SASSOON:

21 Q. Let's keep 1-5 up on the screen, please, page 6.

22 Do you recall on cross-examination Ms. Fritz asked you  
23 whether if you were notarizing both signatures you would have  
24 indicated that in some fashion?

25 A. Yes.

HC48BRE2

Memar - Redirect

1 Q. Can you describe what you have written underneath your  
2 stamp had this been a notarization for both signatures?

3 A. Yes. I would have just said that this has been  
4 acknowledged before me, Helen Memar, notary public, by, and the  
5 two names would have been there.

6 Q. I would like to show you what has been marked for  
7 identification only as Government Exhibit 1000.

8 Ms. Memar, do you recognize this?

9 A. Yes.

10 Q. What is it?

11 A. This is my gas mileage and record of notarizations that I  
12 keep in the computer.

13 MS. SASSOON: The government offers Exhibit 1000.

14 THE COURT: Any objection? Have you seen it?

15 MS. FRITZ: I do have it.

16 No objection.

17 THE COURT: So Government Exhibit 1000 is received.

18 Show the jury.

19 (Government's Exhibit 1000 received in evidence)

20 BY MS. SASSOON:

21 Q. Can you walk us through who is reflected in this record?

22 A. Yes. The first thing I put down is the signing date, which  
23 says November 20, 2013. The last name of the borrower, which  
24 is Brennerman. Usually there is a PO number if it's for a  
25 company, but it was just for a person, so it says private.

HC48BRE2

Memar - Redirect

1           The mileage start, which was 101,812, and the mileage  
2           end, 101,850. So the total mileage was 38 miles. And the  
3           value of the fees was \$20, but the moneys due is 40 because  
4           there is also a \$20 fee for traveling. And then I was paid  
5           \$40.

6           Q. If you were notarizing a document for more than one person,  
7           would you list all of the names under borrower's last name?

8           A. Yes.

9           MS. SASSOON: No further questions.

10          THE COURT: Recross?

11          MS. FRITZ: Nothing further.

12          THE COURT: Thank you very much. You may step down.

13          (Witness excused)

14          THE COURT: Next witness.

15          MR. SOBELMAN: The government calls James Lewis.

16          JAMES LEWIS

17               called as a witness by the Government,

18               having been duly sworn, testified as follows:

19               THE COURT: State your name and spell your name for  
20               the record.

21               THE WITNESS: James Lewis, J-A-M-E-S, L-E-W-I-S.

22               THE COURT: Mr. Lewis, much louder. It's a cavernous  
23               courtroom. So stay close to the mic, but don't trail off at  
24               the end.

25               Go ahead.

HC48BRE2

Lewis - Direct

1 DIRECT EXAMINATION

2 BY MR. SOBELMAN:

3 Q. Good morning.

4 A. Good morning.

5 Q. Where do you work?

6 A. I work for Citibank in Buffalo.

7 Q. For approximately how long have you worked at Citibank?

8 A. I have been there for 12 years.

9 Q. What is your position with Citibank?

10 A. I am vice president of global payment operations.

11 Q. Approximately how many employees do you manage?

12 A. Around 30.

13 Q. Are you familiar with wire transfers?

14 A. Yes.

15 Q. As part of your role as vice president of global payment  
16 operations, do you deal with wire transfers?

17 A. Every day.

18 Q. What is a wire transfer?

19 A. It's an electronic movement of cash.

20 Q. Generally, how do wire transfers work?

21 A. Somebody would have to initiate with their bank that they  
22 want funds moved to some other bank or a beneficiary, family  
23 friend.

24 MR. SOBELMAN: Ms. Fetman, please display for the  
25 witness what are marked for identification Government Exhibit

HC48BRE2

Lewis - Direct

1 534 and 535.

2 Q. Mr. Lewis, do you recognize these?

3 A. Yes.

4 Q. What are they?

5 A. These are records that are held by Citibank for every wire  
6 that comes through.

7 Q. Have you reviewed these particular records previously?

8 A. Yes.

9 Q. Are records like these made by Citibank for absolutely  
10 every wire transfer it sends or received?

11 A. Yes.

12 Q. Are they kept in a database by Citibank?

13 A. That's correct.

14 Q. Are these two records true and accurate copies of wire  
15 transfer records maintained by Citibank?

16 A. Yes.

17 MR. SOBELMAN: Government offers 534 and 535.

18 MS. FRITZ: No objection.

19 THE COURT: Government Exhibits 534 and 535 are  
20 received.

21 (Government's Exhibits 534 and 535 received in  
22 evidence)

23 MR. SOBELMAN: Ms. Fetman, would you please display  
24 what are now Government Exhibits 534 and 535.

25 BY MR. SOBELMAN:



HC48BRE2

Lewis - Direct

1 Q. Mr. Lewis, generally what does this show?

2 A. This shows that \$4.4 million was transferred on December 3,  
3 2013.

4 Q. Let's take a look at some of that information.

5 MR. SOBELMAN: If you can highlight the top left  
6 quadrant.

7 Q. What does "transaction" mean?

8 A. That's the date the transaction went complete.

9 Q. Can you say what the date is listed here?

10 A. December 3, 2013.

11 Q. What does "FTN in time" mean?

12 A. FTN means the fund transfer network and that's us receiving  
13 the instructions at 10:29 a.m.

14 MR. SOBELMAN: Ms. Fetman, let's take a look at the  
15 top right quadrant.

16 Actually, you can include the status line above that.

17 Q. What does "status: final" mean?

18 A. That's just showing the transaction is complete.

19 Q. Here under debit amount and credit amount, the amounts  
20 listed are \$4.4 million. What do those amounts mean?

21 A. It means the funds were sent by a party and they were  
22 debited for them, and the credit was the final beneficiary  
23 receiving the funds.

24 Q. Just to be clear, \$4.4 million came out of one bank account  
25 and then \$4.4 million was deposited in another bank?

HC48BRE2

Lewis - Direct

1 A. Correct.

2 MR. SOBELMAN: Ms. Fetman, let's turn to the next page  
3 and please highlight the top half.

4 Q. From what bank did the money come from in this particular  
5 wire transfer?

6 A. JP Morgan Chase in New York.

7 Q. Does that mean the account it came from was held in New  
8 York, New York?

9 A. It could be. I can't tell off of this screen.

10 Q. Just to be clear, this is the bank that the money came  
11 from, correct?

12 A. Correct.

13 Q. It was JP Morgan Chase Bank in New York, New York?

14 A. Correct.

15 Q. What bank account was the money sent to?

16 A. It was sent to an account Blacksands Pacific Alpha Blue,  
17 LLC, and that's in Texas.

18 Q. Is that a Citibank account?

19 A. That's correct.

20 MR. SOBELMAN: Let's take a look at the next page.

21 Ms. Fetman, if you can highlight the top half.

22 Q. This part is a little difficult to follow. Maybe you can  
23 help us walk us through it.

24 Looking at this page, can you tell who initiated the  
25 wire transfer?

HC48BRE2

Lewis - Direct

1 A. ICBC London initiated the wire through their bank JP Morgan  
2 Chase in New York.

3 Q. How do you know that?

4 A. You will see up at the top the sender, third line, sender  
5 is JP Morgan Chase, and on the previous page we saw that was in  
6 New York. And the line beginning with 512 is the originator.  
7 They asked to have the funds transferred.

8 Q. After ICBC London requested the transfer, where was the  
9 money sent from?

10 A. So it was sent from that account, ICBC, which is 40095192,  
11 which could be held on JP Morgan Chase's books in New York, and  
12 was sent to Citibank New York. Line 221 shows the receiver,  
13 Citibank.

14 Q. Where was the money ultimately deposited?

15 A. Just like the previous page, line 422, the beneficiary was  
16 deposited into that account number, Blacksands Pacific Alpha  
17 Blue, LLC.

18 Q. Where was that bank account located?

19 A. In Texas.

20 Q. Just to be clear, money came on behalf of ICBC to JP Morgan  
21 New York, and then to Citibank New York, and then ultimately  
22 ended up in Citibank Texas, is that right?

23 A. That's correct.

24 Q. When we are talking about New York both for JP Morgan and  
25 Citibank, are we talking about Manhattan?

HC48BRE2

Lewis - Direct

1 A. Correct.

2 Q. By the way, is Citibank insured by the FDIC?

3 A. Yes.

4 MR. SOBELMAN: Ms. Fetman, can you please display what  
5 is in evidence as Government Exhibit 535.

6 Let's take one step back and look at 534 again.

7 If we highlight the top left quadrant.

8 Q. It says "in source CHIPS. Can you explain what CHIPS is?

9 A. CHIPS is another way that people can send electronic wire  
10 transfers and send funds. CHIPS stands for clearing house  
11 interbank payments system.

12 Q. Is Citibank a member of that system?

13 A. Yes.

14 Q. Is JP Morgan a member of that system?

15 A. Yes.

16 Q. When wires come through internationally through Citibank in  
17 the CHIPS system, are they routed for a particular place?

18 A. Everything that comes through Citibank U.S. goes through  
19 CITIUS33, which is 111 Wall Street.

20 Q. In Manhattan, New York?

21 A. Yes.

22 Q. Just to be clear, every one of those CHIPS payments comes  
23 through Manhattan?

24 A. Correct.

25 Q. Including this one?

HC48BRE2

Lewis - Direct

1 A. Correct.

2 Q. Let's take a look at Government Exhibit 535.

3 MR. SOBELMAN: If you can highlight the top left part  
4 of the page.

5 Q. What is the transaction date on this one?

6 A. December 3, 2013.

7 Q. And in source here it says CDEX. What is that?

8 A. It's CitiDirect. It's our own platform that the clients  
9 use.

10 THE COURT: CitiDirect?

11 THE WITNESS: CitiDirect, yes.

12 Q. Is that similar to the CHIPS system?

13 A. It's an in-house platform for clients where they can go  
14 initiate or start their wires without having to call the bank  
15 or go into the bank if they wanted to.

16 Q. What time was this wire transfer received?

17 A. This was received at 1452, which is 2:52 p.m.

18 Q. Is this the same day as the prior wire transfer we looked  
19 at?

20 A. Yes.

21 Q. Roughly four and a half hours later?

22 A. Yes.

23 MR. SOBELMAN: Ms. Fetman, if you can highlight the  
24 top right quadrant now, including the status.

25 Q. Here is says "status final." Can you remind us what that

HC48BRE2

Lewis - Direct

1 means?

2 A. It means the wire is complete.

3 Q. Here it lists 1.445 million for both debit amount and  
4 credit amount. What do those amounts mean?

5 A. One bank account was debited for that amount, sent the  
6 money out of that account, and the other one received the  
7 funds.

8 Q. Let's take a look at the next page.

9 MR. SOBELMAN: You can highlight the top half of the  
10 page, please.

11 Q. From what bank did the money come from?

12 A. Citibank Texas.

13 Q. To be clear, that means the account is located in Texas, is  
14 that right?

15 A. Correct.

16 Q. To what bank account was the money sent to?

17 A. It was sent to another account on Citi's books in New York  
18 for Raheem J. Brennerman.

19 Q. When you say "New York," do you mean Manhattan?

20 A. Yes.

21 Q. Let's take a look at the final page of the document.

22 MR. SOBELMAN: Highlight the top half of the page.

23 Q. In looking at this page, can you tell who initiated the  
24 wire transfer?

25 A. Blacksands Pacific Alpha initiated the wire through

HC48BRE2

Lewis - Cross

1 Citibank Texas.

2 Q. Does this show where the money was sent from?

3 A. Did you say sent from?

4 Q. Yes.

5 A. It was sent from their bank account, Blacksands'.

6 Q. OK. Where is it sent to?

7 A. Line 57 shows Citibank New York.

8 THE COURT: Line 57?

9 THE WITNESS: You will see -- there we go.

10 MR. SOBELMAN: No further questions.

11 THE COURT: Cross.

12 MS. FRITZ: Yes. Thank you.

13 CROSS EXAMINATION

14 BY MS. FRITZ:

15 Q. Hi there, Mr. Lewis.

16 A. Hi.

17 Q. My name is Maranda Fritz and I represent Raheem Brennerman.

18 I just need to try to clarify a few things.

19 This particular transaction where we are seeing money  
20 moving, do you know where the transaction was initiated?

21 MR. SOBELMAN: Objection. Vague.

22 THE COURT: Do you understand what she means by  
23 initiated?

24 MR. SOBELMAN: My objection is it's not clear which  
25 transaction Ms. Fritz is referencing.

HC48BRE2

Lewis - Cross

1 THE COURT: In your view there are two different  
2 transactions here?

3 THE WITNESS: Correct.

4 Q. Let me try again.

5 You have talked about a transfer of \$4.4 million,  
6 correct?

7 A. Correct.

8 Q. And you have shown us some records having to do with  
9 Citibank, correct?

10 A. Correct.

11 Q. And JP Morgan, correct? Correct?

12 A. The records were just Citibank, not JP Morgan.

13 Q. That's fine.

14 Where did this transfer come from? Whose \$4.4 million  
15 was it?

16 A. ICBC sent funds, initiated the funds through JP Morgan  
17 Chase New York.

18 Q. And ICBC is located in London, correct?

19 A. I don't --

20 THE COURT: If you don't know.

21 A. I don't know that.

22 Q. On the document that was, I believe, 535, you were shown  
23 who the sender was. I believe if we can pull that up, it shows  
24 the address of the sender.

25 MS. FRITZ: 534 I am told. Sorry. Or I can show the



HC48BRE2

Lewis - Cross

1 witness.

2 THE COURT: 534?

3 MS. FRITZ: Just one second, Judge.

4 Mr. Sobelman, can you confirm the exhibit number for  
5 the document that's on the screen right now.

6 534, page 3.

7 Q. So if we can look at that page. If we could look at the  
8 sender information. If you could just read the information  
9 regarding who it was who was transferring this money.

10 A. 512 shows ICBC London Ltd. London Ltd., 81 King Street,  
11 United Kingdom.

12 Q. It's actually ICBC London PLC, right?

13 A. There's two listed there.

14 Q. OK. So you're looking at the one further down.

15 What is the difference between the listing that I was  
16 looking at, the first one that says ICBC London PLC, and the  
17 one that's further down?

18 A. It says the originator bank information and that's the  
19 originator information.

20 Q. The one that's next to the 502, that tells us who is  
21 sending the money, and then 512 tells us what bank is sending  
22 the money?

23 A. Correct.

24 Q. So what we see from this is, the funds that we are talking  
25 about here were sent from ICBC London, a bank, correct?

HC48BRE2

Lewis - Cross

1 A. According to this, yes.

2 Q. And the funds, as we have seen, were going to a bank  
3 account called Blacksands Alpha Blue in Texas, correct?

4 A. Final beneficiary, yes.

5 Q. Now, somewhere in between, as I understand it from your  
6 testimony, funds end up New York, correct?

7 A. Correct.

8 Q. Now, when Mr. Sobelman asked you that question about  
9 whether the funds were actually located in New York, or existed  
10 in New York, you indicated you can't tell.

11 Do you recall that?

12 A. I don't remember.

13 Q. OK. So if you could just explain the reason why a bank in  
14 London sending money to a Citibank account in Houston, why  
15 these funds move through, if they do, the New York area?

16 A. I can't answer how JP Morgan Chase New York got the funds  
17 because I don't have their paperwork. But it was sent to JP  
18 Morgan Chase, who then further credited it on to Citibank New  
19 York, who furthered it on to our customer in Texas.

20 Q. Do you have any idea whether any of that was requested by  
21 or known by the individual who is receiving the money?

22 A. I would not know that.

23 Q. Do you have any idea whether the sending bank actually was  
24 specifically and deliberately engaging in whatever those  
25 transfers are that occur in between?

HC48BRE2

Lewis - Cross

1 A. I would not know that.

2 Q. Do the funds that are coming from ICBC London to JP Morgan  
3 Chase, do you know where those funds reside? Do they actually  
4 come to New York?

5 A. I don't know what you're asking there.

6 Q. It's a kind of an artificial question because it's a wire  
7 transfer, right?

8 A. Yes.

9 Q. There is no money that is actually moving from London and  
10 then landing here in New York, correct? It's a wire transfer?

11 A. Correct.

12 Q. The only time the funds exist is they are in a bank account  
13 in London and then ultimately they are deposited into a bank  
14 account in Texas, correct?

15 A. Correct.

16 Q. So what we have seen here are sort of wire transfers that  
17 occur somewhere in between?

18 A. Well, this is one wire transfer. I don't know that there  
19 are many. This is one and the funds in New York are debited  
20 from JP Morgan Chase.

21 Q. Again, do you know where those funds were held?

22 A. I don't have JP Morgan's information.

23 Q. And with respect to Citibank, Citibank served as the entity  
24 that was receiving this deposit, correct?

25 A. Correct.

HC48BRE2

Lewis - Cross

1 Q. No funds were being disbursed from Citibank's own accounts,  
2 correct?

3 A. Correct.

4 Q. And so the funds then land in this account in Houston,  
5 Texas, correct?

6 A. Correct.

7 MS. FRITZ: Nothing further.

8 THE COURT: Redirect?

9 MR. SOBELMAN: No, your Honor.

10 THE COURT: You can step down. Thank you.

11 (Witness excused)

12 THE COURT: Why don't we take our morning break now  
13 and we will pick up again in 10 to 15 minutes.

14 Don't discuss the case. Take your books with you, and  
15 we will see you in a minute.

16 All rise for the jury.

17 (Jury exits courtroom)

18 (Continued on next page)

HC48BRE2

Lewis - Cross

1 THE COURT: Let's just take stock now. We can do this  
2 again at lunch. How are we doing? How many more witnesses?  
3 What is the ETA on the government's concluding its case?

4 MR. SOBELMAN: We have approximately nine more  
5 witnesses. We are moving pretty quickly. Only a couple of  
6 them will take a significant amount of time. I think we are in  
7 the same place we were this morning, either sometime today or  
8 first half of tomorrow.

9 THE COURT: Who is next as a witness?

10 MR. SOBELMAN: Barry Kane.

11 THE COURT: How long?

12 MR. SOBELMAN: Very short.

13 THE COURT: After that?

14 MR. SOBELMAN: After that we are looking at Thomas  
15 Kiernan.

16 THE COURT: How long is he?

17 MR. SOBELMAN: A little longer than Mr. Kane, but not  
18 very long.

19 THE COURT: And then?

20 MR. SOBELMAN: Barry Gonzalez, also fairly short,  
21 followed by Michael Thompson.

22 THE COURT: Is that going to take us through lunch?

23 MR. SOBELMAN: I imagine it will.

24 THE COURT: If they are pretty short, it's only 11:30  
25 now.

HC48BRE2

Lewis - Cross

1 MR. SOBELMAN: We have more if you want me to  
2 continue.

3 THE COURT: I am just trying to figure out who is on  
4 the horizon.

5 So let's see where we are at the lunch hour.

6 You guys can take a break.

7 (Recess)

8 (Continued on next page)

HC4KBRE3

1 (In open court; jury not present)

2 THE COURT: Let's get the jury.

3 Actually, in doing the charge, the government, in one  
4 of their recent submissions, indicated that they wanted me to  
5 instruct the jury on two separate definitions of bank fraud  
6 under the statute. So I wanted to know, is that still the  
7 case, or are you going with just one?

8 MR. LANDSMAN-ROOS: Based on what we just heard, I  
9 think that's appropriate.

10 THE COURT: You think what?

11 MR. LANDSMAN-ROOS: That's appropriate, to instruct  
12 both definitions based on the testimony we just heard.

13 THE COURT: I'm not sure what the testimony has to do  
14 with it, but you want both.

15 MS. FRITZ: And, obviously, we object.

16 THE COURT: Okay. Let's get the jury.

17 (Continued on next page)

18

19

20

21

22

23

24

25

HC4KBRE3

Kane - Direct

1 (Jury present)

2 THE COURT: At this time the government will its next  
3 witness.

4 MR. SOBELMAN: The government calls Barry Kane.

5 THE COURT: Okay. Mr. Kane, would you please stand  
6 and raise your right hand.

7 BARRY KANE,

8 called as a witness by the Government,

9 having been duly sworn, testified as follows:

10 THE COURT: Please have a seat. State your name and  
11 spell your name for the record.

12 THE WITNESS: Sure. Barry Kane, B-a-r-r-y K-a-n-e.

13 THE COURT: Mr. Kane, just keep your voice up nice and  
14 loud.

15 You may proceed, Mr. Sobelman.

16 DIRECT EXAMINATION

17 BY MR. SOBELMAN:

18 Q. Good morning, Mr. Kane.

19 A. Good morning.

20 Q. What organization do you work for?

21 A. I work for Columbia University in the City of New York.

22 Q. For approximately how long have you worked for Columbia  
23 University?

24 A. It will be seven years this January.

25 Q. What is your position with Columbia University?



HC4KBRE3

Kane - Direct

1 A. It's associate vice president and university registrar.

2 Q. What are your duties and responsibilities as the university  
3 registrar for Columbia University?

4 A. It's a broad portfolio. In general, supporting the  
5 administrative and academic needs of the teaching faculty and  
6 all of our students, and with particular emphasis on the  
7 maintenance of all academic records.

8 Q. How many employees do you manage?

9 A. About 25.

10 Q. What kinds of records does your office maintain?

11 A. We maintain all enrollment, as well as all degree records.

12 Q. In what form are those records maintained?

13 A. The older ones, prior to the advent of computers, are  
14 paper, and then the more recent ones are electronic.

15 Q. Let's take a look at a couple of documents that are already  
16 in evidence.

17 MR. SOBELMAN: Ms. Fetman, could you please display  
18 what's in evidence as Government Exhibit 1-67.

19 Q. And if we look at the top, this is an email from the  
20 defendant to Julian Madgett dated May 16, 2013, and there are a  
21 few attachments to the email. Let's take a look at one of the  
22 attachments, which is Government Exhibit 1-67C.

23 MR. SOBELMAN: Ms. Fetman, if you could please turn to  
24 the fifth page of this document. And if you could highlight  
25 the portion of the second paragraph that reads, "prior to

HC4KBRE3

Kane - Direct

1 returning to New York to attend Columbia University in New York  
2 to study for Master's in finance."

3 Let's take a look at one other email. Ms. Fetman,  
4 could you please display what's in evidence as Government  
5 Exhibit 1-64. And if you could go to the fourth page of this  
6 document.

7 BY MR. SOBELMAN:

8 Q. Looking at the bottom half of the page, this is an email  
9 from the defendant to Scott Stout dated May 15th, 2013.

10 MR. SOBELMAN: Ms. Fetman, if could you go to the next  
11 page and highlight the portion in the middle of the page that  
12 reads, "prior to returning to New York for a Master's degree in  
13 finance from Columbia University."

14 Q. Mr. Kane, does Columbia University have a Master's in  
15 finance program?

16 A. No, no program with that particular name.

17 Q. Does Columbia University have any Master's degree programs  
18 related to finance?

19 A. Yes.

20 Q. What are those?

21 A. One is offered through the School of Engineering that is a  
22 Master of Science in -- Master of Science in financial  
23 engineering.

24 Q. Is there any other degrees that are in the finance area  
25 that Columbia offers?

HC4KBRE3

Kane - Direct

1 A. There is one other in the Graduate School of Arts and  
2 Sciences that is a Master of Arts in mathematical finance.  
3 Mathematics and finance.

4 Q. If an individual received either of those degrees, would  
5 the office of the registrar have a record for that person?

6 A. Yes.

7 Q. If an individual simply registered for a class in one of  
8 those programs, but did not receive a degree, would the office  
9 of the registrar have a record for that person?

10 A. Yes.

11 Q. In fact, did the office of the registrar have a record for  
12 any person who registered for any class at Columbia or received  
13 any degree from Columbia?

14 A. Yes. If there was an official registration, even for one  
15 day, we would have a record of that.

16 Q. Are those records able to be searched for a particular  
17 name?

18 A. Yes.

19 Q. Mr. Kane, were you asked to take any steps to evaluate  
20 whether Raheem Brennerman earned a degree or attended classes  
21 at Columbia University?

22 A. Yes, we were.

23 Q. What steps did you take?

24 A. We searched our entire electronic database, both enrollment  
25 and degree.

HC4KBRE3

Kane - Direct

1 Q. When did you conduct that search?

2 A. Recently.

3 Q. What were the results of your search for Raheem Brennerman?

4 A. There were no records associated with that name.

5 Q. Were you also asked to search for those records for the  
6 name Jefferson Brennerman?

7 A. Yes.

8 Q. What were the results of that search?

9 A. There were no records associated with that name.

10 Q. Were you also asked to search for those records for the  
11 name Raheem Soetan?

12 A. Yes.

13 Q. And what were the results of that search?

14 A. There were no records with that name.

15 Q. Were you also asked to search those records for the name  
16 Ayodeji Soetan?

17 A. Yes.

18 Q. What were the results of that search?

19 A. There were no records with that name.

20 Q. Are those records also able to be searched for a particular  
21 Social Security number?

22 A. Yes.

23 MR. SOBELMAN: I just want to grab an exhibit.

24 Q. I'm going to be displaying what's in evidence as Government  
25 Exhibit 12.

HC4KBRE3

Kane - Cross

1 Mr. Kane, were you asked to search for an individual  
2 with the Social Security number 335-67-2270?

3 THE COURT: 355.

4 MR. SOBELMAN: Sorry, your Honor.

5 Q. 355-67-2270?

6 A. Yes, we were.

7 Q. What were the results of that search?

8 A. There were no records attached to that Social Security  
9 number.

10 Q. Just to be clear, if a person with one of the four names I  
11 listed or the Social Security number that's on the screen right  
12 now registered for any classes or earned any degree from  
13 Columbia University, would that have appeared in your search?

14 A. Yes, it would.

15 MR. SOBELMAN: No further questions.

16 THE COURT: Okay. Cross-examination?

17 MR. STEINWASCHER: Yes, your Honor, very briefly.

18 CROSS-EXAMINATION

19 BY MR. STEINWASCHER:

20 Q. I guess it's still good morning, Mr. Kane. My name is  
21 Brian Steinwascher. I represent, along with my colleagues,  
22 Mr. Brennerman.

23 Let me ask: Does Columbia have any association with  
24 the London School of Economics?

25 A. We do, yes.

HC4KBRE3

Kiernan - direct

1 Q. Is there a program offered by the London School of  
2 Economics that permits students to attend classes at Columbia?

3 A. There is a joint program, yes.

4 Q. Do you know what type of program that is?

5 A. It's offered through our business school, so it would have  
6 to do with business administration.

7 Q. And in that program, the student is registered through the  
8 London School of Economics?

9 A. It depends on the year and the program.

10 Q. But they could be?

11 A. Yes. But we would have a record of that.

12 MR. STEINWASCHER: Thank you, your Honor.

13 THE COURT: Okay. Any redirect?

14 MR. SOBELMAN: No, your Honor.

15 THE COURT: Okay.

16 Thank you, Mr. Kane. You may step down.

17 THE WITNESS: Thank you.

18 (Witness excused)

19 THE COURT: Next witness.

20 MR. SOBELMAN: The government calls Thomas Kiernan.

21 THOMAS KIERNAN,

22 called as a witness by the Government,

23 having been duly sworn, testified as follows:

24 THE COURT: Could you move a little closer to that  
25 microphone?

HC4KBRE3

Kiernan - Direct

1 THE WITNESS: Sure.

2 THE COURT: And state your name and spell your name  
3 for the record.

4 THE WITNESS: Thomas Kiernan, K-i-e-r-n-a-n.

5 THE COURT: All right. Mr. Kiernan, I guess it's noon  
6 on the nose.

7 So, go ahead, Mr. Sobelman.

8 DIRECT EXAMINATION

9 BY MR. SOBELMAN:

10 Q. Good afternoon, Mr. Kiernan.

11 A. Good afternoon.

12 Q. What's your educational background?

13 A. I have a computer science degree from St. John's  
14 University.

15 Q. What organization did you work for after graduating from  
16 St. John's University?

17 A. I worked for the Federal Bureau of Investigation, FBI.

18 Q. How long did you work at the FBI?

19 A. 23 years.

20 Q. What positions did you hold at the FBI?

21 A. I started as an ITS, information technology specialist, and  
22 then became a computer scientist.

23 Q. What were your duties and responsibilities as a computer  
24 scientist with the FBI?

25 A. I worked for the New York office's cyber division, where I

HC4KBRE3

Kiernan - Direct

1 did cyber investigations. That included laptop, media,  
2 forensics.

3 Q. What does forensics mean in the context of electronic  
4 devices?

5 A. Sure.

6 Computer analysis. So we take images of drives,  
7 analyze the drives, review the drives.

8 Q. What organization do you work for now?

9 A. I currently work for BRG, Berkeley Research Group.

10 Q. What kind of organization is BRG?

11 A. A consulting firm.

12 Q. Do you work at a particular department at BRG?

13 A. I do.

14 Q. What is that department?

15 A. I work for the cyber group at BRG. Cyber practice.

16 Q. Approximately how long have you worked at BRG?

17 A. Two years.

18 Q. What position do you hold there?

19 A. Associate director.

20 Q. What are your duties and responsibilities as an associate  
21 director with BRG?

22 A. Again, we do computer analysis, computer intrusions.

23 Q. In total, for approximately how many years have you worked  
24 in computer analysis?

25 A. About 25 years.



HC4KBRE3

Kiernan - Direct

1 Q. In total, approximately how many computers and other  
2 electronic devices have you examined during your career?

3 A. Oh, hundreds.

4 MR. SOBELMAN: Your Honor, I ask that Mr. Kiernan be  
5 deemed qualified as an expert in computer analysis.

6 THE COURT: Any objection?

7 MS. FRITZ: No.

8 THE COURT: Okay.

9 So Mr. Kiernan is deemed an expert in computer  
10 analysis.

11 BY MR. SOBELMAN:

12 Q. Mr. Kiernan, generally, what are the steps you take to  
13 analyze an electronic device?

14 A. Sure.

15 After receiving the device, after it's inventoried,  
16 we'll take that device and make a forensic image of it. So,  
17 basically a perfect clone of what we are actually looking at,  
18 so we can put the original away and then review the image  
19 that's created.

20 Q. I'm now approaching you with what's been marked as  
21 Government Exhibit 1.

22 A. Sure.

23 MR. SOBELMAN: Ms. Fetman, if you could put up on the  
24 monitor Government Exhibit 600. And if you could highlight  
25 paragraph 2.

HC4KBRE3

Kiernan - Direct

1 BY MR. SOBELMAN:

2 Q. Mr. Kiernan, do you recognize this exhibit?

3 A. I do.

4 Q. Just to reference what's on the screen, this reads, "The  
5 stipulation which was entered previously reads: Government  
6 Exhibit 1 is a Sony VAIO laptop that was seized from the  
7 Brennerman apartment on April 19, 2017."

8 Mr. Kiernan, what do you recognize this item to be?

9 A. A Sony laptop.

10 Q. Did you have an opportunity to analyze this laptop?

11 A. I did.

12 Q. How did you go about analyzing it?

13 A. Again, after receiving the image of it, I was able to use  
14 forensic tools to analyze and review the machine.

15 Q. By "forensic tools," do you mean pieces of software?

16 A. Yes.

17 Q. You don't mean physical tools?

18 A. No. Software tools to actually look through the image that  
19 was created.

20 Q. Were you able to determine whether there were any user  
21 profiles associated with the computer?

22 A. I was.

23 Q. Was there a user profile by the name of Mike Kelly?

24 A. No.

25 Q. Was there a user profile by the name of Michael Sloanes?

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Kiernan - Direct

1 A. No.

2 Q. Was there a user profile in the name of Annisa Rodriguez?

3 A. No.

4 Q. Was there a user profile in the name of Lisa Charles?

5 A. No.

6 Q. How many active user profiles were on the computer?

7 A. One.

8 Q. What was that profile called?

9 A. Owner.

10 Q. In the course of your analysis, were you able to determine  
11 whether any email accounts were accessed from this computer?

12 A. I was.

13 Q. And how were you able to determine that?

14 A. Again, doing some keyword searches, came across email  
15 addresses. The addresses were associated with user -- email  
16 user accounts that were on the laptop.

17 Q. Did any of those email accounts end in  
18 @blacksandspacific.com?

19 A. Yes.

20 Q. Was there any particular program set up on the laptop to  
21 access those accounts?

22 A. There was.

23 Q. What was that program?

24 A. Windows Live Mail, which is a client software. It's kind  
25 of like Outlook, if you ever used Outlook, that allows you to

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Kiernan - Direct

1 log into your mail server, pull down your mail to your local  
2 machine, where you can create mail, delete mail, read mail,  
3 draft mail.

4 Q. Is it similar to logging into a Gmail account online?

5 A. No.

6 Q. Could you explain the difference?

7 A. Sure.

8 So, Gmail is Web-based. When you log into your Gmail,  
9 you'll go to the Web and log into your account. With the  
10 Windows Live Mail setup, it still reaches out, but it pulls  
11 your contents down to your local machine, where you can, again,  
12 view them.

13 Q. When you say "pull down," you mean it saves copies of  
14 emails that are sent and received onto the computer itself; is  
15 that right?

16 A. Yes.

17 Q. Were you asked to conduct an analysis of the  
18 @blacksandspacific.com email accounts?

19 A. I was.

20 Q. In total, approximately how many emails were there on that  
21 laptop in the @blacksandspacific.com email accounts?

22 A. Thousands of emails.

23 Q. What was the approximate time range of those emails?

24 A. 2010 to 2017.

25 Q. Were you able to determine how those emails got onto the

HC4KBRE3

Kiernan - Direct

1 computer?

2 A. No.

3 Q. Could you just explain again how Windows Live Mail works?

4 A. Sure.

5 MS. FRITZ: Objection; asked and answered.

6 THE COURT: You're just going to explain it again?

7 Can you do it in a sentence?

8 THE WITNESS: Sure.

9 THE COURT: Okay. Go ahead.

10 THE WITNESS: Logs in and pulls the email down.

11 BY THE WITNESS:

12 Q. And in order for that email to get onto the computer, would  
13 one have to enter a user name and a password for that account?

14 A. Yes.

15 Q. Were you able to determine which @blacksandspecific.com  
16 email accounts were accessed on that laptop?

17 A. I was.

18 Q. And when the user -- withdrawn.

19 Was the account R. Brennerman accessed from this  
20 computer?

21 A. Yes.

22 Q. Was the account A. Rodriguez accessed from this computer?

23 MS. FRITZ: Objection to the leading, your Honor.

24 THE COURT: Sustained.

25 Go ahead.

HC4KBRE3

Kiernan - Direct

1 BY MR. SOBELMAN:

2 Q. Do you recall the email accounts that were accessed from  
3 this computer?

4 A. I do.

5 Q. Could you list, to the best of your recollection, which  
6 @blacksandspacific.com accounts were accessed from this  
7 computer?

8 A. Sure. Rbrennerman@blacksands.com,  
9 arodriguez@blacksands.com, msloanes@blacksands.com, mkelly, I  
10 believe, @blacksands.com.

11 Q. To be clear, was Windows Live set up on the computer for  
12 each of these accounts?

13 A. Yes.

14 Q. Were you able to determine the exact dates when each of  
15 these email accounts was accessed on the computer?

16 A. No, I was not.

17 Q. Why not?

18 A. When you log into your email or you access your email,  
19 those records are stored up at your provider's account,  
20 usually. Well, not usually, that's where they're stored. So I  
21 did not have access to get those and look at that data.

22 Q. So, to be clear, that data is not on the laptop?

23 A. It's not.

24 Q. In conducting your analysis, were you able to determine  
25 whether there were any emails between the four email accounts I

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Kiernan - Direct

1 referenced earlier?

2 A. I was.

3 Q. Were there any emails on the computer just between the R.  
4 Brennerman account and the M. Sloanes email account?

5 A. No.

6 Q. Were there any emails on the computer just between the R.  
7 Brennerman email account and the A. Rodriguez email account?

8 A. No.

9 Q. Were there any emails on the computer just between the R.  
10 Brennerman email account and the M. Kelly email account?

11 A. No.

12 Q. Now showing you what's marked for identification as  
13 Government Exhibit 2.

14 MR. SOBELMAN: Ms. Fetman, if, on the monitor, you  
15 could highlight the paragraph 3 in Government Exhibit 600,  
16 which reads: "Government Exhibit 2 is a Porsche design  
17 external hard drive that was seized from the Brennerman  
18 apartment on April 19, 2017."

19 Q. Mr. Kiernan, do you recognize Government Exhibit 2?

20 A. I do.

21 Q. What is it?

22 A. An external drive.

23 Q. Did you have the opportunity to analyze this drive?

24 A. I did.

25 Q. Could you explain external drive, generally what is that?

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Kiernan - Direct

1 A. A drive outside of your main computer that you stored data  
2 on.

3 Q. Generally, what does this hard drive contain?

4 A. Backups.

5 Q. What do you mean by "backups"?

6 A. Copies of files that aren't from the original machine that  
7 were moved over by the user to this secondary drive.

8 Q. Do the backups include Web histories?

9 A. They did.

10 Q. What is a Web history?

11 A. It's the places that you visited. So, again, to make your  
12 experience quicker when you're on the Web, you have a history  
13 of the files -- the sites that you have been to, so in Windows,  
14 it's stored, so next time you go to the site, you have -- it  
15 populates faster.

16 MR. SOBELMAN: Ms. Fetman, if you could just show the  
17 witness what's been marked as Government Exhibit 426.

18 Q. Mr. Kiernan, do you recognize this document?

19 A. I do.

20 Q. What is it?

21 A. Files downloaded from the Web.

22 Q. Where did you find this document?

23 A. On our -- on the external drive.

24 Q. Is this a fair and accurate copy of a document that was  
25 contained on the hard drive?



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Kiernan - Direct

1 A. It is.

2 MR. SOBELMAN: Your Honor, the government offers  
3 Government Exhibit 426.

4 MS. FRITZ: No objection.

5 THE COURT: Government Exhibit 426 is received.

6 (Government's Exhibit 426 received in evidence)

7 MR. SOBELMAN: Ms. Fetman, could you please display  
8 Government Exhibit 426 for the jury. And if you could just  
9 kind of flip through the pages briefly. If you're not able to,  
10 I can move on.

11 THE COURT: Is it on the jury's screen? Do you have  
12 it?

13 JURY MEMBERS: Yes.

14 THE COURT: Is that the size of it?

15 MR. SOBELMAN: We can come back to that.

16 BY MR. SOBELMAN:

17 Q. Were you able to determine how the user obtained this file?

18 A. Downloaded from browsing it.

19 Q. What kind of website was it from?

20 A. Morgan Stanley website.

21 Q. Were you able to determine the date or approximate date it  
22 was accessed?

23 A. November 2012.

24 Q. Does the hard drive contain any emails?

25 A. Yes, it did.

HC4KBRE3

Kiernan - Direct

1 Q. Were you able to determine whether the hard drive contains  
2 any emails sent from or to email addresses ending in  
3 @blacksandspacific.com?

4 A. I was.

5 Q. Were you asked to conduct an analysis of those emails?

6 A. I was.

7 Q. In total, approximately how many emails sent to or from an  
8 @blacksandspacific email address were on this hard drive?

9 A. Thousands.

10 Q. What was the approximate time range of those emails?

11 A. Again, 2010 to 2017.

12 Q. In conducting your analysis, were you able to determine  
13 whether there were any emails on the hard drive just between  
14 the R. Brennerman email account and the A. Rodriguez email  
15 account?

16 A. Yes.

17 Q. Were there any?

18 A. No.

19 Q. Are there any emails on the hard drive just between the R.  
20 Brennerman email account and the M. Sloanes email account?

21 A. No.

22 Q. Are there any emails on the hard drive just between the R.  
23 Brennerman email account and the M. Kelly email account?

24 A. No.

25 MR. SOBELMAN: No further questions.

HC4KBRE3

Kiernan - Cross

1 THE COURT: Okay. Cross-examination?

2 MS. FRITZ: Thank you, your Honor.

3 CROSS-EXAMINATION

4 BY MS. FRITZ:

5 Q. Mr. Kiernan, just starting where Mr. Sobelman left off, he  
6 was just asking you a number of questions about the hard drive.  
7 Do you recall that?

8 A. External hard drive?

9 Q. Yes.

10 A. Yes.

11 Q. And the questions were the same as the ones he asked you  
12 about the computer, correct, in terms of the number of emails  
13 and what was there?

14 A. Yes.

15 Q. Didn't you tell us earlier that the hard drive was a copy  
16 of what was on the computer?

17 A. External drive?

18 Q. Yes.

19 A. Yes, it contains a backup of it.

20 Q. So, when Mr. Sobelman was asking you those questions, it is  
21 the same data that you had already looked at on the computer,  
22 correct?

23 A. I can't say a hundred percent because I'm sure there were  
24 files on one that weren't the same as the other.

25 Q. Okay. But it appears to essentially be a copy of the

HC4KBRE3

Kiernan - Cross

1 material contained on the laptop itself?

2 A. Basically.

3 Q. Okay.

4 A. It's not everything. Again, it's just a backup of what was  
5 on the original.

6 THE COURT: Just so I'm clear, a person -- not  
7 Mr. Brennerman, any person would get a backup to -- would get  
8 that -- what are we calling that?

9 THE WITNESS: External drive.

10 THE COURT: -- an external drive to back up their old  
11 documents, so they don't clutter up a new computer?

12 THE WITNESS: Correct.

13 THE COURT: Okay.

14 BY MS. FRITZ:

15 Q. Mr. Kiernan, do you know whether that was the case, that  
16 this was historical data that didn't exist on the laptop?

17 A. I don't know if it was on the laptop. I just know that  
18 some of the files were, some weren't.

19 Q. Do you know the percentage of files that were on the hard  
20 drive that weren't on the laptop?

21 A. No.

22 Q. Do you know whether this is an external hard drive that  
23 somebody used to periodically back up their machine because  
24 that's considered good practice?

25 A. I can't state for sure. That's the only reason that was

HC4KBRE3

Kiernan - Cross

1 there.

2 THE COURT: But that's why people get these?

3 THE WITNESS: That's why they do, correct.

4 BY MS. FRITZ:

5 Q. Now, I want to go back to -- forget the hard drive, okay?

6 I want to go back to the laptop itself.

7 You said that you conducted an analysis with respect  
8 to information that was retrieved or extracted from the laptop,  
9 correct?

10 A. Correct.

11 Q. The information that you were using for your analysis, was  
12 it the sum total of that which had existed on the laptop?

13 A. I don't think I understand that. Can you ask that again?

14 I'm sorry.

15 Q. Okay. The analysis that you conducted --

16 A. Right.

17 Q. -- were you using, when you conducted that analysis,  
18 everything that existed on the laptop, or had someone sliced  
19 and diced data that you would then be able to see?

20 A. Oh. Everything. So, everything.

21 Q. Everything?

22 A. Yes.

23 Q. Every email that was on there was part of your analysis,  
24 correct?

25 A. Correct.

HC4KBRE3

Kiernan - Cross

1 Q. Every document that was on there was part of your analysis?

2 A. Yes.

3 Q. Let's go on.

4 I just want to talk about the sheer volume of that  
5 material. I know you said a couple of times that there were  
6 thousands of emails that existed. Can you quantify that for  
7 the jury? Can you tell us bytes, gigas, teras, whatever?

8 A. External drive is two terabytes.

9 Q. It's -- okay.

10 A. If that helps.

11 Q. Two terabytes is a whole lot of data, correct?

12 A. Yeah.

13 Q. Is there any way that you can just describe for the jury  
14 how much data is two terabytes of data?

15 A. It's everything you see in front of you, all this paper.

16 Q. Oh, it's way more than that, right? It would fill the  
17 whole courtroom, wouldn't it?

18 A. That's something I can't quantify.

19 Q. Let me try it this way. How many gigabytes is a terabyte?

20 A. Thousands.

21 Q. And so how many -- so, a terabyte is a thousand gigabytes?

22 A. Yes.

23 Q. So this was two terabytes worth of data that existed just  
24 looking at the hard drive, correct?

25 A. Correct.

HC4KBRE3

Kiernan - Cross

1 Q. Can you just generally categorize for us the kind of  
2 material that existed on there?

3 A. Documents, emails, spreadsheets, PDFs, operating system  
4 files.

5 Q. Okay. Is it correct that you located on that computer  
6 roughly 30,000 different documents?

7 A. I don't have a number for you.

8 Q. All right. Have you previously spoken with the government  
9 in connection with this case?

10 A. Previously --

11 Q. Have you been communicating with the government?

12 A. Yes.

13 Q. And for how long a period have you been communicating with  
14 the government in relation to this case?

15 A. Six months, I guess.

16 Q. Your firm -- which is called Berkeley, correct?

17 A. Correct.

18 Q. Your firm was hired to do the work that you're talking  
19 about here in the courtroom, correct?

20 A. That's correct.

21 Q. So you don't work for the government, correct?

22 A. Correct.

23 Q. The government has to come, and it hires Berkeley, and it  
24 pays you guys money to do whatever you're doing?

25 A. Yes.

HC4KBRE3

Kiernan - Cross

1 Q. Any idea, by the way, ballpark, how much it costs to do  
2 what you did?

3 A. No.

4 Q. Okay. So you were among the people at Berkeley that was  
5 hired by the government in order to participate in this  
6 analysis, as you put it, correct?

7 A. Correct.

8 Q. And during the course of your work with the government, you  
9 have been communicating with, among others, Mr. Roos and  
10 Mr. Sobelman, correct?

11 A. Mr. Sobelman, yes. I mean, I don't know everybody else on  
12 the list but, yes.

13 Q. And did you advise those gentlemen at some point back in  
14 May that you had located approximately 30,000 documents on the  
15 computer?

16 A. I don't recall.

17 MS. FRITZ: If we could just show the witness  
18 3504-001.

19 Q. Can you take a look at that, Mr. Kiernan, and tell me if  
20 that refreshes your recollection that you have identified  
21 approximately 30,000 documents?

22 A. Yes, it does.

23 Q. Does that refer to email-type documents or document-type  
24 documents?

25 A. It would be -- well, that's a good question. It would be



HC4KBRE3

Kiernan - Cross

1 documents, meaning Excel -- most often the OfficeSuite of  
2 documents.

3 Q. So that would include Word documents, PDF-type documents,  
4 Excel documents?

5 A. Correct.

6 Q. But that wouldn't include all of the emails, which are a  
7 different kind of file?

8 A. It wouldn't.

9 Q. Okay. And 30,000 documents, by the way, doesn't mean  
10 30,000 pages, right?

11 A. Correct.

12 Q. 30,000 documents, each one of those 30,000 documents could  
13 have any number of pages within it, correct?

14 A. Absolutely, yes.

15 Q. Did you also determine that you had found on the computer  
16 blacksandspecific.com emails for the time period 1999 to 2017?

17 A. I don't recall.

18 MS. FRITZ: If we could take a look at 3504-18.

19 Q. And while Dwayne is doing that, do you have a recollection  
20 of Mr. Sobelman asking you a question, and you saying that the  
21 Blacksands Pacific emails were for the period 2010 to 2017?

22 A. Yes.

23 Q. Now, if you could take a look at this.

24 MS. FRITZ: This is not 18, is it? 3504-18.

25 Your Honor, if I may, if I could just show this to the

HC4KBRE3

Kiernan - Cross

1 witness?

2 THE COURT: All right. Show it to Mr. Sobelman.

3 MS. FRITZ: Sure.

4 BY MS. FRITZ:

5 Q. The one that's coming up electronically has that same  
6 marking, but different content.

7 A. Thank you.

8 Q. Okay?

9 A. Yep.

10 Q. Does that refresh your recollection with respect to whether  
11 the blacksandspecific.com emails covered a time range of 1999  
12 to 2017?

13 A. It does.

14 Q. Okay. Now, when you took a look at this computer, were you  
15 able to identify a folder structure on the computer?

16 THE COURT: A folder structure?

17 MS. FRITZ: Correct.

18 THE WITNESS: That's your question?

19 Q. That is my question.

20 A. I'm sorry. Yes.

21 Q. Was it a very clearly laid out folder structure?

22 THE COURT: Is there a reason why this is up?

23 MS. FRITZ: I don't know.

24 THE COURT: Let's take that down.

25 THE WITNESS: I'm sorry, can you repeat that?

HC4KBRE3

Kiernan - Cross

1 BY MS. FRITZ:

2 Q. Was it a very clear, organized folder structure on the  
3 computer?

4 A. Compared to?

5 Q. Compared to mine.

6 A. Everyone has folders. There's nothing I can say that says,  
7 yes, that this is a structured -- everyone uses their hard  
8 drives differently.

9 Q. Were you able to -- or did you see a folder structure that  
10 laid out a series of corporate names, and then within that,  
11 projects or issues associated with that corporate entity?

12 A. Yes.

13 Q. And you just said -- very, very briefly, can you just  
14 explain how that folder structure comes to exist on the  
15 computer? Very briefly.

16 A. The user creates them.

17 Q. That was --

18 A. Pretty brief, right?

19 THE COURT: I didn't hear what you said.

20 THE WITNESS: I'm sorry. The user creates the folder  
21 structure.

22 THE COURT: The user creates them?

23 THE WITNESS: Yeah.

24 THE COURT: Okay.

HC4KBRE3

Kiernan - Cross

1 BY MS. FRITZ:

2 Q. So, now, if we could take a look at Defendant's Exhibit EH.  
3 You know what, let's go, I'm sorry, to EJ first.

4 A. Got it.

5 Q. When you were looking at the computer, did you actually  
6 create screenshots that are reflections of, or images of, the  
7 folder structure that existed on the computer?

8 A. Yes, I did.

9 Q. The screenshots that you created, do those have, across the  
10 bottom, an identification of the path that you're on that  
11 reflects this folder's structure?

12 A. The bottom -- what you're pointing out, the bottom reflects  
13 what's in that right pane on the file list. So, the directory  
14 is the bottom, and then on the right pane, that file lists the  
15 files that are in that structure.

16 Q. And these were created by you during the course of your  
17 work in relation to that Sony laptop in front of you, correct?

18 A. The screenshots were.

19 Q. Yes.

20 A. Yes.

21 Q. And these are accurate pictures of the folder structure  
22 that exists on that Sony laptop?

23 A. Yes.

24 MS. FRITZ: Okay. I offer into evidence EJ.

25 THE COURT: Any objection?

HC4KBRE3

Kiernan - Cross

1 MR. SOBELMAN: No objection.

2 THE COURT: All right. Defense Exhibit EJ is  
3 received.

4 (Defendant's Exhibit EJ received in evidence)

5 MS. FRITZ: So it goes to the jury.

6 THE COURT: This is from a laptop?

7 THE WITNESS: Laptop.

8 THE COURT: Or the image of the laptop?

9 THE WITNESS: Image of the laptop, yes.

10 BY MS. FRITZ:

11 Q. If you could just walk us through, what is it that we're  
12 looking at in the left-hand column, and then just explain for  
13 us what's on the right side?

14 A. Sure.

15 The left-hand column is where the folder structure is  
16 if you're looking at your hard drive, and you are clicking on  
17 different folders. In this case, it's users, owners,  
18 documents, Blacksands Pacific oil and gas --

19 Q. Wait, slow down, slow down. Oh, you're dropping -- so,  
20 you're going to owner and then documents?

21 A. Correct. User's owner's documents. My apologies.

22 Q. And within documents, you find a series of folders,  
23 correct?

24 A. That's correct.

25 Q. And that includes the Blacksands Pacific oil and gas

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Kiernan - Cross

1 folder, correct?

2 A. Yes.

3 Q. And if we look down, that would include BLV real estate  
4 folder, correct?

5 A. BL --

6 Q. Yes, because I'm not --

7 A. Yeah, I see --

8 Q. Is that correct?

9 A. I don't see it.

10 Q. What I did was I skipped the subfolders, so I went from  
11 Blacksands Pacific oil and gas to the next folder. Does that  
12 make sense?

13 A. No.

14 Q. Okay. The Blacksands Pacific oil and gas folder has a  
15 bunch of subfolders in it?

16 A. Yes, it does.

17 Q. And on this particular screenshot, that Blacksands Pacific  
18 oil and gas is open, so that the folders are visible?

19 A. Correct. The subfolders are visible under Blacksands, yes.

20 Q. Right. If we go down to the next main folder, BLV Group,  
21 real estate -- do you see that?

22 A. I do.

23 Q. -- there's a little plus sign next to it, correct?

24 A. Yes.

25 Q. And what does that signify?

HC4KBRE3

Kiernan - Cross

1 A. There's subdirectories under it.

2 Q. But those -- for this particular screenshot, those are not  
3 open?

4 A. Correct.

5 Q. And then if we go to the next one, it's BLV operating  
6 companies; is that correct?

7 A. It is.

8 Q. And the same thing, next to that signifies that if we  
9 clicked on that, we'd see subfolders under that?

10 A. Yes.

11 Q. If we continue down, by the way, if you go to below  
12 "Downloads," do you see the word "Dropbox"?

13 A. Yes.

14 Q. And there are three folders there all with the word  
15 "Dropbox," correct?

16 A. Yes.

17 Q. Each -- two of those, likewise, have a signifier that  
18 there's material within that folder, correct?

19 A. Yes.

20 Q. And could you just briefly explain for the jury, what is  
21 Dropbox?

22 A. A file-sharing service.

23 Q. So material is uploaded by one individual, so that it can  
24 then be reviewed by other individuals who have access; is that  
25 correct?

HC4KBRE3

Kiernan - Cross

1 A. Whoever has access to it.

2 Q. Okay. Now, taking that out, I want to go back up to the  
3 Blacksands Pacific oil and gas folder. Within that folder, we  
4 have various subfolders that include -- the first one is  
5 agreements, correct?

6 A. Yes.

7 Q. And so within that one, again -- oh, thank you. Within  
8 that one, we see that there are -- the plus sign on the left,  
9 does that mean that there are documents within that folder, or  
10 does it mean that there are subfolders within that folder or  
11 either one?

12 A. Either one.

13 Q. So we know that there's material within that folder,  
14 correct?

15 A. Correct.

16 Q. And then we continue down, for example, we see energy  
17 trading and marketing, correct?

18 A. Yes.

19 Q. And we've got material that exists within that folder,  
20 correct?

21 A. Yes.

22 Q. And then we go down to oil and gas assets - blocks. Do you  
23 see that?

24 A. Yes.

25 Q. If we zoom out, and if we look at the bottom, if you look



HC4KBRE3

Kiernan - Cross

1 at the indicator, can you identify for us what appears on the  
2 right-hand side?

3 A. The contents of the oil\_gas assets - blocks folder.

4 (Continued on next page)

HC48BRE4

Kiernan - Cross

1 Q. And there is no magic to that. It just so happens that  
2 when you took this screenshot, that was the subfolder, the  
3 contents of which you were displaying?

4 A. Correct.

5 Q. So within that, we have things like agreements for Africa  
6 farming. Do you know how to pronounce that? Does that refer  
7 to the Ivory Coast?

8 A. I don't know.

9 Q. Then we have got Gaffney Cline proposal at the top, right?

10 A. Yes.

11 Q. If he then go back to the main listing, there are other  
12 categories -- partnership agreement, vendor list -- correct?

13 A. Yes.

14 Q. So would you describe this as a very carefully organized,  
15 clear folder structure that is found in this computer?

16 A. It's just folders. Again, I couldn't describe what someone  
17 has to make these folders. I don't know the thought process  
18 into it. They are just folders on the computer.

19 Q. But you do know that in order to have a structure like  
20 this, one has to have established each of those folders,  
21 correct?

22 A. Correct.

23 Q. Created them and name them with the various topics or  
24 projects, correct?

25 A. Name them any way you want, but yes.

HC48BRE4

Kiernan - Cross

1 Q. And then populated them with documents that relate to those  
2 particular topics, correct?

3 MR. SOBELMAN: Objection.

4 THE COURT: Whether they relate to the particular  
5 topics?

6 Do you have any way of knowing?

7 THE WITNESS: I have no idea.

8 Q. Do you have any knowledge of whether this computer, by the  
9 way, was seized from Mr. Brennerman's apartment?

10 A. I don't.

11 Q. As opposed to being simply requested and handed off by him?

12 A. No.

13 Q. There was also on this computer tons of financial analysis.  
14 Do you recall that?

15 A. No.

16 Q. Do you recall having identified and reviewed with the  
17 government various folders and sub-folders containing lots and  
18 lots of financial analysis?

19 A. I don't. No, I don't.

20 Q. You don't recall going through that with the government?

21 A. Not with the government.

22 Q. Creating charts for the government of that data?

23 A. No.

24 THE COURT: Keep your voice up nice and loud.

25 Q. If we can take a look at Defense Exhibit EI.

HC48BRE4

Kiernan - Cross

1 Is this another screenshot of the folder structure as  
2 well as additional materials that were found on the laptop?

3 MS. FRITZ: This should not be for the jury.

4 Q. Is this another screenshot?

5 A. Yes.

6 Q. Does this accurately reflect the contents of the laptop,  
7 the folder structure of the laptop that you analyzed?

8 A. Yes.

9 MS. FRITZ: I offer into evidence Defendant's EI.

10 THE COURT: Any objection?

11 MR. SOBELMAN: No objection.

12 THE COURT: Defendant's EI is received.

13 (Defendant's Exhibit EI received in evidence)

14 Q. OK. Now, having seen this screenshot, is this something  
15 that you actually created?

16 A. The screenshot, yes.

17 Q. This was part of the analysis that you did in relation to  
18 the computer?

19 A. Yes.

20 Q. And this was part of the analysis that you provided to the  
21 government and went over with the government, correct?

22 A. The screenshot, yes.

23 Q. The screenshot, meaning that you had identified these  
24 materials as existing on the laptop, correct?

25 A. These files were on the laptop, yes.

HC48BRE4

Kiernan - Cross

1 Q. And this was a matter that was discussed as between you and  
2 the prosecution, correct?

3 A. Yes.

4 Q. Now, can you explain how this folder structure that we are  
5 looking at here compares to the one that we looked at just a  
6 moment ago?

7 A. Again, just folders and documents. I can't explain the  
8 difference between --

9 Q. Here is what I am getting at. Under documents, three lines  
10 down it says "Blacksands Pacific Oil and Gas." Do you see  
11 that?

12 A. Yes.

13 Q. The one that we looked at a moment ago, that folder was  
14 open, is that correct?

15 A. Yes.

16 Q. But the other folder is closed?

17 A. Correct.

18 Q. Now, this one has that folder closed and what folder open?

19 A. Profile corporate structure.

20 Q. Under profile corporate structure it says -- can you just  
21 explain that folder structure for me? Because it looks like  
22 there is sub and then sub and then sub.

23 A. That seems correct. Yes, that is correct. It's a primary  
24 folder with sub-folders underneath it.

25 Q. And this references, for example, Blacksands Pacific

HC48BRE4

Kiernan - Cross

1 expenses, correct?

2 A. Those names, yes.

3 Q. And there is a whole folder -- OK. And that one clearly  
4 has things within it, correct?

5 A. Yes.

6 Q. It also references Blacksands Pacific Nigeria, correct, and  
7 material within there?

8 THE COURT: Correct?

9 A. Yes.

10 Q. Now, if we go back, I just want to take a look very quickly  
11 at what was on the right.

12 What is contained on the right-hand side?

13 A. The financial statements folder.

14 Q. Under Blacksands Pacific, the folder that says "financial  
15 statements" on this picture has a negative sign next to it  
16 instead of a positive sign, correct?

17 A. Yes.

18 Q. And that's an indicator that this is the particular folder  
19 that's open?

20 A. Yes.

21 Q. And we also know that because it says so across the bottom?

22 A. Correct.

23 Q. So these are documents that existed within that folder?

24 A. Yes.

25 MS. FRITZ: That's it. Nothing further.

HC48BRE4

Kiernan - Redirect

1 Thank you very much.

2 THE COURT: Any redirect?

3 MR. SOBELMAN: Yes, your Honor, briefly.

4 REDIRECT EXAMINATION

5 BY MR. SOBELMAN:

6 Q. Mr. Kiernan, do you recall being asked by Ms. Fritz about  
7 whether there were things within certain folders?

8 A. Yes.

9 Q. And I believe you indicated that the plus next to them  
10 meant that there were certain things within the folders?

11 A. Items within the folders.

12 Q. When you say "items," does that simply mean there are  
13 folders or does that indicate that there are actually  
14 substantive documents?

15 A. It could be folders or documents.

16 Q. You don't know whether any of the folders she asked you  
17 about actually have documents in them?

18 A. No.

19 MR. SOBELMAN: No further questions.

20 THE COURT: Any recross?

21 MS. FRITZ: No.

22 THE COURT: Thank you very much. You can step down.  
23 (Witness excused)

24 THE COURT: Next witness.

25 MR. SOBELMAN: The government calls Barry Gonzalez.

HC48BRE4

Gonzalez - Direct

1 BARRY GONZALEZ,

2 called as a witness by the government,

3 having been duly sworn, testified as follows:

4 THE COURT: State your name and spell your name for  
5 the record.

6 THE WITNESS: Barry Gonzalez, B-A-R-R-Y,  
7 G-O-N-Z-A-L-E-Z.

8 THE COURT: Mr. Gonzalez, just keep your voice up nice  
9 and loud.

10 DIRECT EXAMINATION

11 BY MR. SOBELMAN:

12 Q. Good afternoon, Mr. Gonzalez.

13 A. Good afternoon.

14 Q. Where do you work?

15 A. FDIC, Federal Deposit Insurance Corporation.

16 Q. For approximately how long have you worked at the FDIC?

17 A. 31 years.

18 Q. What is your position with the FDIC?

19 A. Commissioned bank examiner.

20 Q. What are your duties and responsibilities as a commissioned  
21 bank examiner?

22 A. Review and analyze the financial condition of a bank, as  
23 well as assess the bank's compliance with applicable laws,  
24 regulations, rules and statutes.

25 Q. Does the FDIC provide deposit insurance?



HC48BRE4

Gonzalez - Direct

1 A. Yes, it does.

2 Q. What is deposit insurance?

3 A. We insure depositors' accounts up to the maximum amount  
4 allowable by the Federal Deposit Insurance Act.

5 Q. What is the purpose of deposit insurance?

6 A. In case the bank fails, the FDIC makes good on depositors'  
7 accounts.

8 Q. Does the FDIC keep records which banks are insured by the  
9 FDIC?

10 A. Yes.

11 Q. What types of records?

12 A. Certificate of deposit insurance.

13 Q. Are there also databases that keep information?

14 A. Yes.

15 Q. Are those databases electronic?

16 A. Yes.

17 Q. I am now going to show you four exhibits, Government  
18 Exhibits 530, 531, 532 and 533. Please take a look at those.

19 Do you recognize these?

20 A. Yes.

21 Q. What are they?

22 A. These are certificate of deposit insurance.

23 Q. Are certificates like these made by the FDIC for every bank  
24 the FDIC insures?

25 A. Yes.

HC48BRE4

Gonzalez - Direct

1 Q. Are they kept on file by the FDIC?

2 A. Yes.

3 Q. Are they created by FDIC employees who have knowledge of  
4 whether an institution is FDIC insured?

5 A. Yes.

6 Q. Are these four exhibits true and accurate copies of  
7 certificates issued by the FDIC?

8 A. Yes.

9 MR. SOBELMAN: The government offers Government  
10 Exhibit 530, 531, 532 and 533.

11 THE COURT: Any objection?

12 MR. STEINWASCHER: No objection.

13 THE COURT: Government Exhibits 530 through 533 are  
14 received.

15 (Government's Exhibits 530, 531, 532 and 533 received  
16 in evidence)

17 MR. SOBELMAN: Ms. Fetman, can you display what is now  
18 in evidence as Government Exhibit 532.

19 Q. Mr. Gonzalez, can you describe what this exhibit shows?

20 A. Certificate of deposit insurance for Morgan Stanley Bank  
21 National Association.

22 Q. What date was this issued?

23 A. September 23, 2008.

24 MR. SOBELMAN: Ms. Fetman, would you please put this  
25 side by side with Government Exhibit 529, which is in evidence.

HC48BRE4

Gonzalez - Direct

1 529 is a bank statement for Morgan Stanley issued to  
2 Raheem Brennerman, dated January 31, 2013.

3 Ms. Fetman, can you please turn to the fourth page of  
4 529.

5 Can you please highlight the section below "cash  
6 deposits and money market funds."

7 It's still fairly small, but I will read a portion of  
8 it.

9 This shows \$200,000.88 held at Morgan Stanley Bank NA.

10 Q. Mr. Gonzalez, what does NA mean?

11 A. National Association.

12 Q. Then there is a pound or hash symbol after that. And if  
13 you look a couple of lines lower, it has that symbol again and  
14 it says, "Bank deposits are at either (1) Morgan Stanley Bank  
15 NA and Morgan Stanley Bank Private Bank National Association,  
16 or (2) Citibank NA, each a national bank FDIC member and an  
17 affiliate of Morgan Stanley Smith Barney LLC."

18 Mr. Gonzalez, was Morgan Stanley Bank insured by the  
19 FDIC in 2012 and 2013?

20 A. Yes.

21 Q. How do you know that?

22 A. I checked with the certificate number to our electronic  
23 database and confirmed it.

24 MR. SOBELMAN: Ms. Fetman, can you now put up  
25 Government Exhibit 530 and leave up 529.

HC48BRE4

Gonzalez - Direct

1 Q. Was Morgan Stanley Private Bank insured by the FDIC in 2012  
2 and 2013?

3 A. Yes.

4 Q. How do you know that?

5 A. I verified it with our electronic database using the  
6 certificate number.

7 MR. SOBELMAN: Ms. Fetman, can you please display  
8 Government Exhibit 531 next to Government Exhibit 529.

9 Q. Was Citibank insured by the FDIC in 2012 and 2013?

10 A. Yes.

11 Q. How do you know that?

12 A. I verified it with the electronic database using the  
13 certificate number.

14 MR. SOBELMAN: Ms. Fetman, can you please display what  
15 is in evidence as Government Exhibit 534.

16 I am sorry. Just that.

17 Could you please highlight on the second page what is  
18 listed under debit party, JP Morgan Chase Bank, New York, New  
19 York 10004.

20 Now, next to that, can you please display what is in  
21 evidence as Government Exhibit 533.

22 Q. Mr. Gonzalez, was JP Morgan Chase insured by the FDIC in  
23 2012 and 2013?

24 A. Yes.

25 Q. How do you know that?

HC48BRE4

Gonzalez - Cross

1 A. I verified it using the electronic database with the  
2 certificate number.

3 MR. SOBELMAN: No further questions.

4 THE COURT: Cross-examination.

5 CROSS-EXAMINATION

6 BY MR. STEINWASCHER:

7 Q. Good afternoon, Mr. Gonzalez. My name is Brian  
8 Steinwascher, and I am here representing Mr. Brennerman.

9 You testified just a few minutes ago that the FDIC  
10 insures depository accounts, is that correct?

11 A. Yes.

12 Q. Does it insure any other types of accounts?

13 A. No.

14 Q. Does it insure corporate financing transactions?

15 A. No.

16 Q. So it wouldn't insure debt transactions for financing  
17 sought by a corporation?

18 A. I'm not sure I understand the question.

19 MR. STEINWASCHER: I will withdraw it.

20 Q. Does it insure securities accounts?

21 A. No.

22 Q. Does it insure any type of investment account?

23 A. No.

24 Q. Does it basically only insure what we know as checking and  
25 savings accounts?

HC48BRE4

Gonzalez - Cross

1 A. Deposit accounts.

2 Q. Now, we looked at several exhibits that Mr. Sobelman put up  
3 on the screen that reflected certificates of the FDIC  
4 pertaining to Morgan Stanley, is that correct?

5 A. Yes.

6 Q. I believe it was Exhibits 530 and 532.

7 Do I have the numbers right?

8 A. Yes.

9 Q. Now, the FDIC insures only that entity listed on that  
10 certificate, correct?

11 A. Yes.

12 Q. So are you aware that Morgan Stanley is a large  
13 corporation?

14 A. Yes.

15 Q. That Morgan Stanley has different business lines and  
16 different -- withdraw that.

17 Are you familiar with Morgan Stanley, the fact that it  
18 has an investment bank?

19 A. No.

20 Q. Are you not familiar with that because it's not insured by  
21 the FDIC?

22 A. I need a certificate number in order for me to validate  
23 that.

24 Q. Were you asked to run searches for all Morgan Stanley  
25 insured accounts with the FDIC for today?

HC48BRE4

Gonzalez - Cross

1 A. To confirm four institutions.

2 Q. So it's safe to say that the only entities that have the  
3 name Morgan Stanley in them are reflected on those two  
4 certificates?

5 A. I'm not sure I understand the question.

6 Q. That was a little confusing.

7 As far as the FDIC is concerned, the only two Morgan  
8 Stanley entities that you're aware of that bear the name Morgan  
9 Stanley in them are reflected in those two certificates, 530  
10 and 532?

11 A. I don't know.

12 Q. Are there other -- withdrawn.

13 I guess my question is, if there is a Morgan Stanley  
14 entity that doesn't hold depository accounts, would the FDIC  
15 insure it?

16 A. I'm not sure I am understanding the question.

17 Q. Maybe I can rephrase it. I don't have to use Morgan  
18 Stanley.

19 If there is a bank, right, but it doesn't have any  
20 depository accounts for its customers, would the FDIC be  
21 involved with that bank in any way?

22 MR. SOBELMAN: Objection.

23 THE COURT: You can answer it. Go ahead.

24 A. It would have to file for deposit insurance, and we would  
25 have to opine on the application, on whether we approve it or

HC48BRE4

Gonzalez - Cross

1 don't.

2 Q. If it had no depository accounts, would there be any reason  
3 for it to need FDIC insurance?

4 A. I'm not certain.

5 Q. Does FDIC insurance cover anything else other than  
6 depository accounts?

7 A. No.

8 Q. So if there is a company that has many different  
9 sub-entities, some of those that hold depository accounts and  
10 some of those that don't, a financial institution I should say,  
11 it's safe to say the FDIC would only offer insurance to those  
12 portions of the company that handle depository accounts?

13 A. You kind of lost me. Can you repeat that?

14 Q. If there is a financial institution that has one division  
15 that covers investments and another division that covers  
16 depository accounts, would the FDIC insure the division that  
17 covers investment banking?

18 A. If it does not have a certificate of deposit insurance it  
19 would not.

20 Q. If it had no depository accounts, there was no reason for  
21 that institution to seek a certificate of insurance?

22 A. I can't opine on what someone would want to do, in terms of  
23 seeking insurance or not seeking insurance.

24 Q. Well, there would be nothing for the FDIC to insure in that  
25 instance, is that correct?



HC48BRE4

Gonzalez - Cross

1 MR. SOBELMAN: Objection.

2 THE COURT: Sustained.

3 Move on.

4 MR. STEINWASCHER: Can we go to Exhibit 529.

5 Can I ask the government's indulgence. I don't think  
6 we have an electronic version of this. The same page that Mr.  
7 Sobelman showed the witness, page 4.

8 Thank you. I appreciate that.

9 Q. Mr. Gonzalez, you looked at this with Mr. Sobelman a few  
10 minutes ago, correct?

11 A. Yes.

12 Q. I think he directed you to the kind of italicized text,  
13 almost toward the bottom of the page under "cash deposits and  
14 money market funds," correct?

15 A. Yes.

16 Q. Then he put up on the screen next to this statement the two  
17 certificates of insurance from the FDIC that pertain to Morgan  
18 Stanley Bank NA and Morgan Stanley Private Bank National  
19 Association, correct?

20 A. Yes.

21 Q. Morgan Stanley Bank NA and Morgan Stanley Private Bank  
22 National Association, are those the same entity?

23 A. The same entity as what?

24 Q. As each other.

25 A. No. They have distinct certificate numbers.

HC48BRE4

Gonzalez - Cross

1 Q. OK. I am not sure it's reflected on this page, but maybe  
2 on the first page of this exhibit.

3 You see at the bottom here, on the bottom left, there  
4 is an italicized text that reads "Morgan Stanley Smith Barney  
5 LLC"?

6 A. It's hard for me to see.

7 Q. Do you see that text now?

8 A. Yes.

9 Q. Are you aware if Morgan Stanley Smith Barney LLC is insured  
10 by the FDIC?

11 A. I'm not aware of that.

12 Q. Did you conduct any search to confirm that?

13 A. No.

14 Q. The rest of this text, it has "member SIPC." Do you see  
15 that?

16 A. Yes.

17 Q. Are you familiar with that acronym SIPC?

18 A. I'm not familiar with that acronym.

19 Q. Does that, as far as you know, pertain to the FDIC in any  
20 way?

21 A. No.

22 Q. Does the FDIC insure banks outside of the United States?

23 A. No.

24 Q. So if there is a bank located in London, in the United  
25 Kingdom, that would not be covered by the FDIC?

HC48BRE4

Gonzalez - Cross

1 A. Not without a certificate of deposit insurance.

2 Q. I just want to clear this up. Your answer to my previous  
3 question was the FDIC does not insure banks outside of the  
4 United States.

5 A. A foreign bank?

6 Q. Correct.

7 A. No.

8 Q. So if there is a foreign bank located in London, even if it  
9 held depository accounts, the FDIC could not insure it, is that  
10 correct?

11 A. That is correct.

12 Q. I apologize for this. I want to go back to one point.

13 Those two Morgan Stanley banks that we looked at,  
14 those two entities that had certificates of insurance with the  
15 FDIC, if an entity is a subsidiary of a parent in a financial  
16 institution, does the fact that the subsidiary is FDIC insured  
17 also mean that the parent is FDIC insured?

18 A. Can you repeat that? I'm not sure I understand.

19 Q. Does FDIC insurance for a financial institution, which is a  
20 subsidiary of another financial institution, so the FDIC has  
21 issued a certificate to that subsidiary, does that certificate  
22 somehow also cover the parent corporation?

23 A. No.

24 Q. So the parent entity would need a separate certificate of  
25 insurance?

HC48BRE4

1 A. Yes.

2 Q. The same thing for an affiliate within a company or  
3 affiliates between companies, each entity would require a  
4 separate certificate of insurance in order to be FDIC insured?

5 A. That is correct.

6 MR. STEINWASCHER: We are just about approaching lunch  
7 and I am done with this witness.

8 THE COURT: Any redirect?

9 MR. SOBELMAN: No, your Honor.

10 THE COURT: Why don't we break then. We will pick up  
11 at 2.

12 Don't discuss the case and bring your books with you  
13 into the jury room, but don't take them outside of the jury  
14 room. Have a good lunch.

15 All rise for the jury, please.

16 (Jury exits courtroom)

17 THE COURT: You can step down. Thank you very much,  
18 Mr. Gonzalez.

19 Have a seat. Let's talk about what we have left and  
20 an ETA.

21 MR. ROOS: We have six witnesses remaining, two of  
22 them are on the longer side and the other ones are about the  
23 length that some of these shorter witnesses have been today.  
24 And we also have three stipulations to read into the record at  
25 some point. We can do it right after lunch.

HC48BRE4

1 THE COURT: So we might finish today.

2 MR. ROOS: Our sense is that we will either finish  
3 today or the last witness, which will be a longer one, we will  
4 either start tomorrow morning or carry us into tomorrow  
5 morning.

6 THE COURT: All right.

7 Then, Ms. Fritz, are you planning on putting on a case  
8 at this point?

9 MS. FRITZ: That decision is still being made.

10 THE COURT: With respect to any witnesses at all or  
11 just with respect to Mr. Brennerman?

12 MS. FRITZ: With respect to Mr. Brennerman.

13 Now, we do have a couple of issues that we still are,  
14 I think, ironing out, having to do with, for example, the I-129  
15 petition. But I think we have got those sort of resolved, so I  
16 don't think there would be any other need to call document  
17 custodians.

18 THE COURT: Let's see where we are after the break  
19 this afternoon.

20 Anything else we should chat about now before we break  
21 for lunch?

22 MR. ROOS: Nothing else from the government.

23 THE COURT: Let's take a break. I will see you a  
24 little before 2. Thank you.

25 (Luncheon recess)

HC48BRE4

Walkup - Direct

AFTERNOON SESSION

2:00 p.m.

THE COURT: Let's get the jury.

All rise for the jury.

(Jury present)

THE COURT: Government is going to call its next witness.

MR. SOBELMAN: The government calls Gardner Walkup.

GARDNER WALKUP,

called as a witness by the government,

having been duly sworn, testified as follows:

THE COURT: State your name and spell your name for the record.

THE WITNESS: My name is Gardner Walkup, that's G-A-R-D-N-E-R, last name is W-A-L-K-U-P.

THE COURT: Go ahead, Mr. Sobelman.

DIRECT EXAMINATION

BY MR. SOBELMAN:

Q. Mr. Walkup, would you pull the microphone close to you.

Good afternoon, Mr. Walkup.

A. Good afternoon.

Q. What organization do you work for?

A. I work for Berkeley Research Group, BRG.

Q. What is BRG?

A. It's a consulting firm.

HC48BRE4

Walkup - Direct

1 Q. What is your position with BRG?

2 A. I'm a managing director.

3 Q. What your duties and responsibilities as a managing  
4 director with BRG?

5 A. So I have mainly two. Firstly is with regards to business  
6 development, and secondly, that's providing consulting services  
7 for my clients.

8 Q. What types of consulting services do you provide?

9 A. There's two types. One is what we call advisory services,  
10 and this is providing management consulting to clients. And  
11 the other is in dispute matters, providing expert testimony  
12 work.

13 Q. Do you focus on a particular industry?

14 A. I do.

15 Q. What industry?

16 A. Generally, energy, but with a specific focus in oil and  
17 gas.

18 Q. Are you being paid in connection with this case?

19 A. I am.

20 Q. What is your hourly rate?

21 A. It's \$725 an hour.

22 Q. Does that rate vary at all depending on the outcome of this  
23 case?

24 A. No, it does not.

25 Q. Let's take a step back. Can you describe your educational

HC48BRE4

Walkup - Direct

1 background?

2 A. I have an undergraduate degree in chemical engineering from  
3 the University of California, Davis, and I have a master's in  
4 petroleum engineering from Stanford University.

5 Q. What is petroleum engineering?

6 A. Petroleum engineering is the study and practice of  
7 extracting hydrocarbons, hydrocarbons being oil or natural gas,  
8 and extracting those from the subsurface and bringing them up  
9 and delivering them to market.

10 Q. What is the subsurface?

11 A. Hydrocarbons are found typically underground, and so when I  
12 say subsurface, I mean where they are located, deep  
13 underground.

14 Q. Generally, what types of jobs have you had since earning  
15 your degrees in chemical and petroleum engineering?

16 A. After leaving Stanford, I joined Chevron, where I worked in  
17 their upstream research organization, which was in the LA, Los  
18 Angeles area. I was there for about five years. I then took  
19 an operations job in Indonesia, in Sumatra, where I lived for  
20 about five years, and worked as a senior reservoir engineer on  
21 a large oil field in Indonesia. I came back to the United  
22 States and worked in New Orleans as the senior petroleum  
23 engineer for a large exploration project offshore in the Gulf  
24 of Mexico.

25 Q. What types of jobs have you had since then?



HC48BRE4

Walkup - Direct

1 A. After that period of time, I left Chevron and got into  
2 management consulting and have worked at a number of consulting  
3 firms, small, big ones, providing advice to oil and gas  
4 companies, making investments in upstream oil and gas projects.

5 Q. What do you mean by upstream?

6 A. Upstream is that part of the business that has to do with  
7 the exploration and production of hydrocarbons.

8 Q. Have you previously testified as an expert on the oil and  
9 gas industry?

10 A. Yes, I have.

11 Q. Approximately how many times?

12 A. Five times.

13 Q. Have you ever testified for the defense?

14 A. So most of the work I do is in international arbitrations.  
15 So in those cases, there are claimants and respondents, and I  
16 have worked for both sides of those.

17 Q. Where have you testified?

18 A. In New Orleans, London, Paris, New York, and Washington,  
19 D.C.

20 MR. SOBELMAN: The government requests that Mr. Walkup  
21 be deemed an expert in the oil and gas industry.

22 THE COURT: Any objection?

23 MR. WALLER: No objection.

24 THE COURT: Mr. Walkup is recognized as an expert in  
25 the oil and gas industry.

HC48BRE4

Walkup - Direct

1 Q. Mr. Walkup, are you familiar with leases for oil production  
2 operations?

3 A. Yes.

4 Q. What does it mean to have a lease for an oil production  
5 operation?

6 A. So the lease gives you the right to conduct an oil field,  
7 oil operations, exploration, development or production of the  
8 actual hydrocarbon.

9 Q. Were you asked to research whether Raheem Brennerman leased  
10 any oil production operations in the United States?

11 A. Yes, I was.

12 Q. What types of research did you do?

13 A. So, really, the type of research took three different  
14 forms. One, I have access to databases of all the leases in  
15 the United States, because those are part of the regulatory  
16 requirements that the government has that information and  
17 commercial companies sweep that into databases. That was the  
18 first piece of research I did. The second piece of the  
19 research I did was I reviewed the technical literature around  
20 different assets and different plays. And the third element  
21 was looking within the general business literature that's  
22 available publicly.

23 Q. What do you mean by technical literature?

24 A. Available to the upstream oil and gas business is really  
25 very technical. There is a lot of information that is shared

HC48BRE4

Walkup - Direct

1 between companies at a technical level, in case studies, about  
2 how operations are run, how new technologies are employed, and  
3 that's the technical literature that I referred to.

4 Q. What do you mean by business literature in your third  
5 category?

6 A. The business literature has to do -- I searched that,  
7 firstly, through the Internet, and it has to do -- what I focus  
8 on are the legacy of particular businesses or particular assets  
9 in different places in the world.

10 Q. What do you mean by the legacy of a particular business or  
11 asset?

12 A. So the life cycle of an asset follows a pretty natural  
13 progression. It starts with exploration, and then it goes  
14 through a period of what we call delineation, where the  
15 companies are trying to decide how big it is and what they  
16 might do with it. Then it goes into development, and then it  
17 goes into production. And at each of those main steps, there  
18 is usually a good bit of information that is shared, and you  
19 can find out about those properties in that way.

20 Q. For Raheem Brennerman, what were the results of your  
21 research?

22 A. I didn't find any indications of their owning any leases.

23 Q. Were you asked to research whether Jefferson Brennerman  
24 leased any oil production operations in the United States?

25 A. Yes, I did.

HC48BRE4

Walkup - Direct

1 Q. What were the results of your research?

2 A. Similar. I didn't find any indication that they owned any.

3 Q. Were you asked to research whether Raheem Soetan leased any  
4 oil production operations in the United States?

5 A. Yes.

6 Q. What were the results of your research?

7 A. The same.

8 Q. Were you asked to research whether Ayodeji Soetan leased  
9 any oil production operations in the United States?

10 A. Yes, I was asked.

11 Q. What were the results of your research?

12 A. No indication that they owned any leases.

13 Q. Do oil production operations sometimes have operators who  
14 do not hold the lease?

15 A. It's possible, but it's pretty uncommon.

16 Q. What does it mean to be the operator of an oil production  
17 operation?

18 A. So most oil and gas properties have multiple owners, they  
19 all have some share of that property, and they elect one of  
20 them to be the operator of that property, and that operator  
21 then conducts all the operations at the different life cycles  
22 of the process.

23 Q. Were you asked to research whether Raheem Brennerman  
24 operated any oil production operations in the United States?

25 A. Yes.

HC48BRE4

Walkup - Direct

1 Q. What were the results of that research?

2 A. I found no indications that they were operators.

3 Q. What type of research did you do to reach that conclusion?

4 A. The same kind of research that I referred to before.

5 Q. Were you asked to research whether Jefferson Brennerman  
6 operated any oil production operations in the United States?

7 A. Yes.

8 Q. What were the results of your research?

9 A. I found no indication that they were operators in the  
10 United States.

11 Q. Were you asked to research whether Raheem Soetan operated  
12 any oil production operations in the United States?

13 A. Yes.

14 Q. What were the results of your research?

15 A. Again, no indication that I could find that they were  
16 operators.

17 Q. Were you asked to research whether Ayodeji Soetan operated  
18 any oil production operations in the United States?

19 A. Yes.

20 Q. What were the results of your research?

21 A. Similar to your other question, I could not find any  
22 evidence that they were operators.

23 Q. Mr. Walkup, were you asked to conduct similar research for  
24 a group of corporations?

25 A. Yes.

HC48BRE4

Walkup - Direct

1 MR. SOBELMAN: Ms. Fetman, could you please display  
2 Government Exhibit 1-1B.

3 Can we flip to page 9, please.

4 Q. Mr. Walkup, did your research include all the company names  
5 listed here?

6 A. Yes.

7 MR. SOBELMAN: Ms. Fetman, could you please put up  
8 page 9 of Government Exhibit 1-58A.

9 Q. Did your research also include all the company names listed  
10 here?

11 A. Yes.

12 Q. For the remainder of my questions, I am going to refer to  
13 all of the companies listed on these two pages that I just  
14 showed you as the Blacksands companies.

15 Were you asked to research whether the Blacksands  
16 companies leased any oil production operations in the United  
17 States?

18 A. Yes.

19 Q. What were the results of your research?

20 A. I could not find any evidence that they did.

21 Q. Were you asked to research whether the Blacksands companies  
22 operated any oil production operations in the United States?

23 A. Yes.

24 Q. What were the results of your research?

25 A. I could find no indication that they were operators.

HC48BRE4

Walkup - Direct

1 Q. Are you familiar with how oil production operations are  
2 financed?

3 A. Yes, I am.

4 Q. What are the main types of financing?

5 A. There's really three kinds of ways people finance oil field  
6 operations. The first and most common is self-funding. You  
7 use your own money, and that's the most common way big oil  
8 companies will pursue and fund and finance their operations.

9 The second -- another common way is with what is  
10 called reserves-based lending, and this is where banks loan  
11 money based on the particular reserves that are part of  
12 whatever transaction that they are involved in. That's more  
13 common for smaller companies.

14 Another becoming a more common way is through private  
15 equity funding of operations.

16 Q. Let's focus on the second one you mentioned, reserves-based  
17 lending.

18 Can you briefly describe a typical reserves-based  
19 lending deal or arrangement?

20 MR. WALLER: Objection.

21 THE COURT: Overruled.

22 You can answer. Are you familiar with how it works in  
23 the oil and gas industry?

24 THE WITNESS: It's pretty common, and I am familiar  
25 with the general elements of it. I am not a banker, but I am

HC48BRE4

Walkup - Direct

1 familiar with the nature of the deals.

2 THE COURT: Go ahead. You can answer it.

3 A. Could you repeat the question? I'm sorry.

4 Q. Of course. Would you please describe a typical  
5 reserves-based lending deal or transaction?

6 A. So the reserves-based lending deals that I am aware of  
7 have -- the key feature of them is that there will be some  
8 reserves, and these are going to be proved reserves, that are  
9 used as the collateral for the loan. And I am very specific in  
10 using the term "reserves." Reserves is a very technical  
11 subject within petroleum engineering. And proved reserves are  
12 a very special kind of reserves that have very small  
13 uncertainty around their ability to be produced. And so  
14 reserves-based lending has to do with that high of a quality  
15 asset that has very little uncertainty associated with them.

16 Q. What are the risks, if any, associated with reserves-based  
17 lending?

18 A. So in the oil and gas industry there's many risks, but we  
19 tend to put them into two buckets. The first bucket is our  
20 technical risks, and they have to do with the ability to get  
21 the oil and gas out of the ground.

22 The second group of risks have to do with commercial  
23 risks, and have to do with things like title to the property,  
24 regulatory risks. Commercial risks can also include things  
25 like the ability to get the product to the market and any



HC48BRE4

Walkup - Direct

1 possible disruptions to getting it to the market. It's also  
2 what we call aboveground risks, to separate it from the  
3 technical risks, which tend to be belowground risks.

4 Q. In reserves-based lending, in your opinion, how are a  
5 borrower's revenues relevant in the context of reserves-based  
6 lending?

7 A. So in the commercial risk, the capability of the company to  
8 execute the operations necessary to produce safely those  
9 hydrocarbons is a real key feature to any of the deals. Oil  
10 field operations are not easy and they are dangerous. So you  
11 need to have the strong capabilities to do this. So the prior  
12 revenues, prior production even I guess, demonstrates your  
13 capacity as a operator to do these things well, and that would  
14 be important to the lending process.

15 Q. How are a borrower's other assets relevant in the context  
16 of reserves-based lending?

17 MR. WALLER: Objection. He is not an expert in  
18 finance. We are getting far afield.

19 THE COURT: I think it's true he is not an expert in  
20 finance.

21 Are you familiar with how borrowers go about assessing  
22 risk and determining whether and how to go about borrowing or  
23 lending?

24 THE WITNESS: So I can speak to some of the risks that  
25 they consider. I am not sure I understood the question as it

HC48BRE4

Walkup - Direct

1 was asked.

2 THE COURT: The question was, how are a borrower's  
3 other assets relevant in the context of reserves-based lending?

4 Do you know the answer to that question, based on your  
5 experience in the industry?

6 THE WITNESS: I would probably say that was a broader  
7 question than I think I can answer.

8 THE COURT: So don't answer that.

9 Next question.

10 Q. How is a borrower's management team and their experience  
11 relevant in the context of reserves-based lending?

12 MR. WALLER: Same objection.

13 THE COURT: I guess it's the same question.

14 Are you comfortable answering that question?

15 THE WITNESS: That one I am comfortable dealing with.  
16 I think it's similar to the previous question I already  
17 answered.

18 THE COURT: Which question you previously answered?

19 THE WITNESS: The one that asked about the history of  
20 a company. And I responded the company's ability to actually  
21 produce, having the technical capabilities, having the  
22 management capabilities would be important to understanding the  
23 commercial risks.

24 THE COURT: So the question about the borrower's  
25 assets being relevant you felt able to answer that. That was

HC48BRE4

Walkup - Direct

1 the one you answered before, a borrower's assets versus a  
2 borrower's management team and experience versus --

3 MR. SOBELMAN: Your Honor, for clarification, I  
4 believe Mr. Walkup answered my question concerning a borrower's  
5 revenues, and on that he may have touched the question that I  
6 am now asking, but it's a slightly different question.

7 THE COURT: So the question now is what, a borrower's  
8 management team?

9 MR. SOBELMAN: Correct. And their experience, whether  
10 they are relevant, and if so, how, in the context of  
11 reserves-based lending.

12 THE COURT: Are you an expert in reserves-based  
13 lending?

14 THE WITNESS: I am familiar with reserves-based  
15 lending.

16 THE COURT: You have been qualified as an expert in  
17 the oil and gas industry. Is reserves-based lending just a  
18 subset of the oil and gas industry, or do you have that kind of  
19 expertise? That's my question.

20 THE WITNESS: I believe that, yes, there are important  
21 elements to reserves-based lending for which petroleum  
22 engineers are the key inputs for reserves-based lending.

23 THE COURT: Have you been involved in reserves-based  
24 lending in your professional capacities?

25 THE WITNESS: I have never gotten reserves-based

HC48BRE4

Walkup - Direct

1 lending in any of the operations that I have been personally  
2 involved in.

3 THE COURT: Have you consulted on reserves-based  
4 lending?

5 THE WITNESS: Not that I am aware that the results of  
6 my work were used in reserves-based lending. I have had people  
7 report to me who have been involved in putting together  
8 technical reserves for reserves-based lending.

9 THE COURT: Sustained.

10 Q. Let's look at some documents.

11 MR. SOBELMAN: Ms. Fetman, can you please display what  
12 is in evidence as Government Exhibit 1-58.

13 If you could highlight the header.

14 This is an e-mail from the defendant to Scott Stout,  
15 dated January 15, 2013.

16 Let's take a look at one of the attachments -- sorry,  
17 the attachment to this e-mail, which is Government Exhibit  
18 1-58A.

19 If you could you please turn to the third page and  
20 highlight the first sentence. It begins "during the next  
21 year."

22 This reads, "During the next year, four new projects  
23 in onshore United States, Canada, and shallow water West Africa  
24 are expected to come on stream, among which the incremental  
25 peak production in the Williston Basin project is expected to

HC48BRE4

Walkup - Direct

1 reach around 35,000 barrels per day in 2015."

2 BY MR. SOBELMAN:

3 Q. Mr. Walkup, what is the Williston Basin?

4 A. The Williston Basin is a highly prolific oil-producing  
5 area, it's large, but most of it is in North Dakota.

6 Q. How do you know that?

7 A. I have worked in Williston Basin.

8 Q. Were you asked to research whether Raheem Brennerman,  
9 Jefferson Brennerman, Raheem Soetan, or Ayodeji Soetan ever  
10 leased part of this oil field?

11 A. Yes.

12 Q. What were the results of your research?

13 A. No indication that they had.

14 Q. Were you asked to research whether Raheem Brennerman,  
15 Jefferson Brennerman, Raheem Soetan, or Ayodeji Soetan ever  
16 operated part of this oil field?

17 A. Yes.

18 Q. What were the results of your research?

19 A. I found no indication that they were operators in this  
20 field.

21 Q. Were you asked to research whether Blacksands companies  
22 ever leased part of this oil field?

23 A. Yes.

24 Q. What were the results of your research?

25 A. I found no evidence that they did.

HC48BRE4

Walkup - Direct

1 Q. Were you asked to research whether the Blacksands companies  
2 ever operated part of this oil field?

3 A. Yes, I did.

4 Q. What were the results of your research?

5 A. I found no evidence that they operated there.

6 Q. Could you please explain what 35,000 barrels per day means?

7 A. So a barrel of oil is the standard measurement of volume in  
8 the oil and gas industry. It's actually 42 gallons. So 35,000  
9 barrels is a significant amount of production per day.

10 Q. In 2013, approximately how much would that have been worth?

11 A. So in 2013, the price of oil varied between 85 and \$100.  
12 So that would have been worth three and a half, let's say three  
13 to three and a half million dollars a day.

14 Q. What would an operation of that size look like?

15 A. In the Williston Basin, this is going to require likely  
16 hundreds of wells and a significant organization to support a  
17 fairly high level of activity, by which I mean is constantly  
18 drilling wells, so you will need a field office, you will need  
19 a staff, just to sustain that level of operations.

20 MR. SOBELMAN: Ms. Fetman, could you turn to page 7 of  
21 this document.

22 If you could highlight the bullet point on the left  
23 side that begins "39 plus."

24 Q. Mr. Walkup, in the oil and gas industry, what does 39 plus  
25 lease or licenses mean?

HC48BRE4

Walkup - Direct

1 A. So if you have a lease or if you have a license, then you  
2 have the right to conduct operations; the exploration  
3 operations could be production operations.

4 So I interpret this, from an industry perspective, as  
5 saying they own 39 leases or licenses.

6 Q. What is the difference between a lease and a license?

7 A. The terms can be used interchangeably commonly. In the  
8 United States, we have leases. Outside the United States, it's  
9 common to have licenses. But both of them, in general, give  
10 you the ability to perform those operations.

11 Q. Were you asked to research whether Raheem Brennerman,  
12 Jefferson Brennerman, Raheem Soetan, or Ayodeji Soetan had any  
13 leases or oil production operations?

14 A. Yes.

15 Q. What were the results of your research?

16 A. I found no indication that they had any leases.

17 Q. Were you asked to research whether the Blacksands companies  
18 had any leases for oil production operations?

19 A. Yes.

20 Q. What were the results of your research?

21 A. I found no evidence that they held any licenses.

22 Q. I'm sorry. I asked about leases.

23 A. Neither leases nor licenses.

24 Q. And does that go for both the individuals I mentioned and  
25 the companies?

HC48BRE4

Walkup - Direct

1 A. Yes.

2 MR. SOBELMAN: Ms. Fetman, please display what is in  
3 evidence as Government Exhibit 1-67.

4 If you could please highlight the header.

5 This is an e-mail from the defendant to Julian  
6 Madgett, dated May 16, 2013. It has three attachments.

7 Let's take a look at the first attachment, which is  
8 Government Exhibit 1-67A.

9 (Continued on next page)



HC4KBRE5

Walkup - Direct

1 MR. SOBELMAN: Ms. Fetman, could you please turn to  
2 the first page. Could you please highlight where it begins  
3 122.62. Thank you.

4 BY MR. SOBELMAN:

5 Q. This reads: "122.62 million BOE proved reserves and in  
6 excess of 1.6 billion BOE prospective reserves."

7 Mr. Walkup, what does "BOE" mean?

8 A. So BOE stands for barrels of oil equivalent. It's a means  
9 of taking a reserves base that's made up of oil and natural gas  
10 and communicating that in a single number. So you convert the  
11 gas, based on its energy content, to be equal to oil. And so  
12 BOE is -- that's how you come up and determine the BOEs of  
13 somebody's reserves base.

14 Q. What are "proved reserves"?

15 A. So, proved reserves are -- reserves are a measurement of  
16 oil that is expected to be produced. Proved reserves is that  
17 segment of the reserves that has the highest confidence of  
18 being produced. And to qualify as proved reserves, you have to  
19 essentially have zero commercial risk and have greater than a  
20 90 percent confidence on the technical risk that those volumes  
21 will be produced.

22 Q. In 2013, approximately how much would 122.62 million BOE  
23 proved reserves have been worth?

24 A. So, there's always a range because it depends on where the  
25 reserves are, but it tends to range between 10 and 20 dollars,

HC4KBRE5

Walkup - Direct

1 and that would have certainly been the case. It might have  
2 even been higher than that in 2013 because the prices were  
3 higher in 2013. So, at \$15 of BOE, this would be close to  
4 \$2 billion.

5 Q. What are prospective reserves?

6 A. It's a little difficult to respond because the words  
7 prospective and reserves really don't go together. Reserves  
8 are for something that's been discovered. A prospective  
9 resource is an exploration potential. So, to say something is  
10 prospective and reserves is not actually industry language, nor  
11 is it the official reserves language.

12 But a prospective resource is an area where there's  
13 the potential, but nobody's drilled wells to prove that it's  
14 there yet.

15 MR. SOBELMAN: Let's take a look at another one of the  
16 attachments to the same email from the defendant to Julian  
17 Madgett. Ms. Fetman, if you could please display what's in  
18 evidence as Government Exhibit 1-67-C. If you could please  
19 turn to the sixth page. If you can highlight the second  
20 sentence of the first paragraph. It begins, "oil, natural gas  
21 and NGL."

22 Q. This reads, starting with the second sentence: "Oil,  
23 natural gas and NGL assets in the Gulf of Mexico shallow water  
24 currently in production with exploration activities. To  
25 increase the proved reserves and production, the North Dakota

HC4KBRE5

Walkup - Direct

1 Bakken asset in Williston Basin currently undergoing drilling  
2 and development activities with near-term production, and the  
3 California Monterey shale asset currently in the advanced  
4 exploration phase." I'm going to stop there.

5 Mr. Walkup, what does "California Monterey shale"  
6 mean?

7 A. So the California Monterey shale is a type of rock that  
8 holds considerable oil resources. It's spread over a lot of  
9 Southern California.

10 Q. Were you asked to research whether Raheem Brennerman,  
11 Jefferson Brennerman, Raheem Soetan, or Ayodeji Soetan leased  
12 any part of the California Monterey shale?

13 A. Yes, I was.

14 Q. And what were the results of your research?

15 A. I found no indication that they did.

16 Q. Were you asked to research whether Raheem Brennerman,  
17 Jefferson Brennerman, Raheem Soetan, or Ayodeji Soetan operated  
18 any oil production operations on the California Monterey shale?

19 A. Yes.

20 Q. What were the results of your research?

21 A. I didn't find any evidence that they were operators.

22 Q. Were you asked to research whether the Blacksands companies  
23 leased any part of the California Monterey shale?

24 A. Yes.

25 Q. What were the results of your research?

HC4KBRE5

Walkup - Direct

1 A. I found no indication that they had any leases in this  
2 area.

3 Q. Were you asked to research whether the Blacksands companies  
4 operated any oil production operations on the California  
5 Monterey shale?

6 A. Yes.

7 Q. What were the results of your research?

8 A. I found no evidence that they were operators.

9 MR. SOBELMAN: Ms. Fetman, if we could zoom back out.  
10 And if you could please highlight the second paragraph on this  
11 page.

12 Q. Mr. Walkup, could you please explain what this paragraph  
13 means?

14 A. This is dealing with oil sands. Oil sands are another kind  
15 of hydrocarbon deposit, usually in North America, found in  
16 Canada, in the provinces of Alberta and Saskatchewan, and this  
17 is stating that they have close to 100 million barrels of  
18 proved reserves -- that's, again, that category, very high  
19 confidence -- and that that asset is currently producing  
20 3,000 barrels a day.

21 Q. What would an operation of that size look like?

22 A. The production per well in oil sands is relatively low  
23 because these are very difficult wells to operate -- I mean to  
24 flow. So first off, you'd have to have a lot of production  
25 wells. 3,000? It depends on where in their life, but, again,

HC4KBRE5

Walkup - Direct

1 at some point, you've had probably greater than a hundred  
2 wells.

3 Additionally, oil sands don't flow by themselves, they  
4 need to be heated up by injecting steam to get them to flow,  
5 and so you'd have to have a significant aboveground industry  
6 infrastructure to produce that steam and get it into the oil  
7 field to inject.

8 Q. If Raheem Brennerman, Jefferson Brennerman, Raheem Soetan,  
9 or Ayodeji Soetan leased this quantity of proved reserves in  
10 that area, would you have expected your research to find that?

11 A. Yes, I would have.

12 Q. Did your research find any indication of that?

13 A. No, it did not.

14 Q. If the Blacksands companies leased that amount of proved  
15 reserves in this area, would you have expected your research to  
16 find that?

17 A. Yes.

18 MR. WALLER: Objection.

19 THE COURT: Wait, there's an objection.

20 Overruled.

21 You did answer. You did answer, you said no?

22 THE WITNESS: I said --

23 THE COURT: Would you have expected your research to  
24 find that? Yes, you would have expected that. Okay.

HC4KBRE5

Walkup - Direct

1 BY MR. SOBELMAN:

2 Q. Did your research find any indication of that?

3 A. No, it did not.

4 MR. SOBELMAN: Ms. Fetman, let's turn to the following  
5 page. And if you could please highlight the third paragraph.

6 Q. This says: "The group strategy is to finalize the sale of  
7 19 percent interest following the conclusion of the acquisition  
8 of the California Cat Canyon asset and the 35 percent interest  
9 in the ConocoPhillips Nigeria assets," and it goes on.

10 What does "ConocoPhillips Nigeria assets" mean?

11 A. So ConocoPhillips is a large oil producer globally, they  
12 work across the globe. They had a fairly long-producing  
13 history in Nigeria, and in 2012, they indicated they wanted to  
14 sell those assets.

15 Q. Did they sell those assets?

16 A. They did.

17 Q. To whom did they sell them?

18 A. I don't remember the name of the company right now, but it  
19 was an indigenous Nigerian firm.

20 Q. Were you asked is to research whether Raheem Brennerman,  
21 Jefferson Brennerman, Raheem Soetan, or Ayodeji Soetan acquired  
22 these ConocoPhillips Nigeria assets?

23 A. Yes.

24 Q. What were the results of your research?

25 A. There was no indication in any of the research I did that

HC4KBRE5

Walkup - Direct

1 they acquired any of these assets.

2 Q. Were you asked to research whether the Blacksands companies  
3 acquired these ConocoPhillips Nigeria assets?

4 A. Yes.

5 Q. What were the results of your research?

6 A. That they -- I found no indication that they were involved  
7 in any acquisition of these assets.

8 Q. Were you asked to research whether Raheem Brennerman,  
9 Jefferson Brennerman, Raheem Soetan, or Ayodeji Soetan operated  
10 these ConocoPhillips Nigeria assets?

11 A. Yes.

12 Q. What were the results of your research?

13 A. There was no evidence that they were operators of these  
14 assets.

15 Q. Were you asked to research whether the Blacksands companies  
16 operated these ConocoPhillips Nigeria assets?

17 A. Yes.

18 Q. What were the results of your research?

19 A. I have no evidence that they did.

20 MR. SOBELMAN: Ms. Fetman, could you please display  
21 what's in evidence as Government Exhibit 1-1. If you can  
22 highlight the header.

23 Q. This is an email from the defendant to Julian Madgett,  
24 dated June 20, 2011. It has two attachments. Let's take a  
25 look at one of them.

HC4KBRE5

Walkup - Direct

1 MR. SOBELMAN: Ms. Fetman, if you could please display  
2 what's in evidence as Government Exhibit 1-1-B. Ms. Fetman, if  
3 you could please turn to page 3. And highlight the second  
4 paragraph.

5 Q. This reads in part: "Our operations include the trading  
6 and marketing of petroleum and petroleum products, in addition  
7 to our core exploration and production operations."

8 In the oil and gas industry, what does the trading and  
9 marketing of petroleum and petroleum products mean?

10 A. So, most commonly, it acts as sort of the midstream or a  
11 middle phase where you take oil from the upstream, and you have  
12 to get oil to customers. And the trading and marketing groups  
13 will be responsible for moving that physical product to -- from  
14 one -- from the supplier to the people who need it.

15 Q. In the way these terms are used in the oil and gas  
16 industry, could this mean just a person sitting with their  
17 laptop and trading petroleum commodities?

18 A. That's not the understanding that I have as an industry  
19 participant of what trading and marketing is.

20 MR. SOBELMAN: Ms. Fetman, could we go to page 5 of  
21 this document, please. If you could please highlight the  
22 sentence that begins "in excess."

23 Q. This reads: "In excess of 5 million acres of combined  
24 proven and prospective acreage."

25 Mr. Walkup, what is acreage?



HC4KBRE5

Walkup - Direct

1 A. So, when we -- when you have a lease, it's of a certain  
2 size, and it's of so many acres, an acre being a measure of  
3 surface area. So, the acreage is the size of your lease  
4 position. And this is saying that their lease position is  
5 5 million acres.

6 Q. Could you please describe how large 5 million acres is?

7 A. 5 million acres is very large. In a common sense, it's  
8 bigger than the State of Connecticut, but in an oil and gas  
9 sense, if you take in the federal waters of the Gulf of Mexico,  
10 which is a very large producing area. The total acreage  
11 lease -- under lease right now is about 15 million acres. So  
12 this would be about a third of the entire Gulf of Mexico  
13 business in federal waters.

14 Q. If Raheem Brennerman, Jefferson Brennerman, Raheem Soetan,  
15 or Ayodeji Soetan leased that amount of acreage, would you have  
16 expected your research to find that?

17 MR. WALLER: Objection.

18 THE COURT: Overruled.

19 You can answer.

20 THE WITNESS: Yeah, I would have expected to have  
21 identified that.

22 BY MR. SOBELMAN:

23 Q. Did your research find any indication of that?

24 A. No, it did not.

25 Q. If the Blacksands entities leased that amount of acreage,

HC4KBRE5

Walkup - Direct

1 would you have expected your research to find that?

2 A. Yes.

3 Q. Did your research find any indication of that?

4 A. No.

5 Q. If Raheem Brennerman, Jefferson Brennerman, Raheem Soetan,  
6 or Ayodeji Soetan operated that amount of acreage, would you  
7 have expected your research to find that?

8 A. Yes.

9 Q. Did your research find any indication of that?

10 A. No.

11 Q. If the Blacksands entities or companies operated that  
12 amount of acreage, would you have expected your research to  
13 find that?

14 A. Yes.

15 Q. Did your research find any indication of that?

16 A. No.

17 MR. SOBELMAN: Ms. Fetman, please highlight the next  
18 sentence, which begins "189.15."

19 Q. This reads: "189.15 MMBOE of proven reserves and in excess  
20 of 2,092.5 MMBOE of prospective reserves."

21 Mr. Walkup, what is "MMBOE"?

22 A. So, the BOE part is the barrels of oil equivalent we spoke  
23 about earlier. The MM means million, so it would be million  
24 barrels of oil equivalent.

25 Q. So, to be clear, the early part of this, 189.15 million

HC4KBRE5

Walkup - Direct

1 barrels of oil equivalent, and later in the sentence, it's  
2 2,092,500,000 barrels of oil equivalent; is that right?

3 A. That's correct.

4 Q. In 2013, approximately how much would 189 million barrels  
5 of proved oil equivalent reserves have been worth?

6 A. Again, it can vary, but, as a rule of thumb, that would  
7 have been worth over a couple -- over \$2 billion.

8 Q. If Raheem Brennerman, Jefferson Brennerman, Raheem Soetan,  
9 or Ayodeji Soetan leased oil production operations with  
10 189 million barrels of proved reserves, would you have expected  
11 your research to find that?

12 A. Yes.

13 Q. Did your research find any indication of that?

14 A. No.

15 Q. If the Blacksands companies leased oil production  
16 operations with 189 million barrels of proved reserves, would  
17 you have expected your research to find that?

18 A. Yes.

19 Q. Did your research find any indication of that?

20 A. No.

21 Q. If Raheem Brennerman, Jefferson Brennerman, Raheem Soetan,  
22 or Ayodeji Soetan operated oil production operations with  
23 189 million barrels of proved reserves, would you have expected  
24 your research to find that?

25 A. Yes.

HC4KBRE5

Walkup - Direct

1 Q. Did your research find any indication of that?

2 A. No.

3 Q. If the Blacksands companies operated oil production  
4 operations with 189 million barrels of proved reserves, would  
5 you have expected your research to find that?

6 A. Yes.

7 Q. Did your research find any indication of that?

8 A. No.

9 MR. SOBELMAN: Ms. Fetman, can we please turn to page  
10 11 of this document.

11 Q. Mr. Walkup, are you familiar with Torrance Field in  
12 California?

13 A. Yes.

14 Q. What is it?

15 A. It's an oil field in Southern California, in Los Angeles  
16 area.

17 Q. How do you know that?

18 A. I've worked in the Los Angeles area, the L.A. Basin, on a  
19 number of fields. I haven't worked on this field, but I've  
20 worked on adjacent fields to here.

21 Q. In the oil and gas industry, what does working interest  
22 mean?

23 A. So, it's common in oil and gas that there are multiple  
24 parties that own assets, and so your working interest is the  
25 percentage ownership of the asset that you own.

HC4KBRE5

Walkup - Direct

1 Q. So, just to be clear, here it says, "Working Interest:  
2 50 percent." What do you understand that to mean?

3 A. That this company owns 50 percent of the Torrance Field  
4 asset.

5 Q. Were you asked to research whether Raheem Brennerman,  
6 Jefferson Brennerman, Raheem Soetan, or Ayodeji Soetan had any  
7 oil leases in Torrance Field?

8 A. Yes.

9 Q. What were the results of your research?

10 A. I didn't find any leases in this field that they owned.

11 Q. Were you asked to research whether the Blacksands companies  
12 had any oil leases in the Torrance Field?

13 A. Yes.

14 Q. What were the results of your research?

15 A. The same, I didn't find any indication.

16 Q. Were you asked to research whether Raheem Brennerman,  
17 Jefferson Brennerman, Raheem Soetan, or Ayodeji Soetan operated  
18 any oil production operations in the Torrance Field?

19 A. Yes.

20 Q. What were the results of your research?

21 A. I didn't find any indication that they did.

22 Q. Were you asked to research whether the Blacksands companies  
23 operated any oil production operations in the Torrance Field?

24 A. Yes.

25 Q. What were the results of your research?

HC4KBRE5

Walkup - Direct

1 A. I found no indication of operations.

2 MR. SOBELMAN: Ms. Fetman, let's turn to page 14 of  
3 this document.

4 Q. Mr. Walkup, are you familiar with White Pine County,  
5 Nevada?

6 A. Yes.

7 Q. What is it?

8 A. It's a county in Nevada that has exploration potential.

9 Q. How do you know that?

10 A. In my research, I had not worked in this area myself, but I  
11 was able to identify the activity in this area.

12 MR. WALLER: Objection; move to strike.

13 THE COURT: Overruled. Go ahead.

14 Q. What is the working interest listed here?

15 A. 50 percent.

16 Q. Were you asked to research whether Raheem Brennerman,  
17 Jefferson Brennerman, Raheem Soetan, or Ayodeji Soetan had any  
18 leases in White Pine County?

19 A. Yes.

20 Q. What were the results of your research?

21 A. I didn't find any indication that they had leases here.

22 Q. Were you asked to research whether the Blacksands companies  
23 had any oil leases in White Pine County?

24 A. Yes.

25 Q. What were the results of your research?

HC4KBRE5

Walkup - Direct

1 A. I found no evidence that they did.

2 Q. Were you asked to research whether Raheem Brennerman,  
3 Jefferson Brennerman, Raheem Soetan, or Ayodeji Soetan operated  
4 any oil production operations in White Pine County?

5 A. Yes.

6 Q. What were the results of your research?

7 A. I found no evidence that they did.

8 Q. Were you asked to research whether the Blacksands companies  
9 operated any oil production operations in White Pine County?

10 A. Yes, I did.

11 Q. What were the results of your research?

12 A. I found no evidence that they did.

13 MR. SOBELMAN: Ms. Fetman, could we please turn to  
14 page 17 of this document.

15 Q. Mr. Walkup, are you familiar with Bakersfield, California?

16 A. Yes, I am.

17 Q. What is it?

18 A. Bakersfield is not only just a city in California, but it's  
19 one of the most prolific oil-producing regions in all of  
20 California.

21 Q. How do you know that?

22 A. I've worked in a number of Bakerfield's -- fields in and  
23 around Bakersfield.

24 Q. Were you asked to research whether Raheem Brennerman,  
25 Jefferson Brennerman, Raheem Soetan, or Ayodeji Soetan had any

HC4KBRE5

Walkup - Direct

1 oil leases in Bakersfield, California?

2 A. Yes.

3 Q. What was the results of your research?

4 A. I didn't find any indication that they had any.

5 Q. Were you asked to research whether the Blacksands companies  
6 had any oil leases in Bakersfield, California?

7 A. Yes.

8 Q. What were the results of your research?

9 A. I didn't find any evidence that they had any leases.

10 Q. Were you asked to research whether Raheem Brennerman,  
11 Jefferson Brennerman, Raheem Soetan, or Ayodeji Soetan operated  
12 any oil production operations in Bakersfield, California?

13 A. Yes.

14 Q. What were the results of your research?

15 A. No indications that they operated.

16 Q. Were you asked to research whether the Blacksands companies  
17 operated any oil production operations in Bakersfield,  
18 California?

19 A. Yes.

20 Q. What were the results of your research?

21 A. I didn't find any indications that they operated.

22 MR. SOBELMAN: Ms. Fetman, let's turn to page 19 of  
23 this document.

24 Q. Mr. Walkup, are you familiar with the Halton oil sands,  
25 Saskatchewan?



HC4KBRE5

Walkup - Direct

1 A. I'm familiar with the oil sands in Saskatchewan, but I am  
2 not familiar with a project called Halton.

3 Q. Were you asked to research whether there is a project  
4 called Halton?

5 A. Yes.

6 Q. What were the results of your research?

7 A. I didn't find a project by that name.

8 Q. Where is Saskatchewan?

9 A. Saskatchewan is in Canada. It is one of the provinces that  
10 borders the United States.

11 Q. Here, what working interest is listed for this oil asset?

12 A. 50 percent.

13 Q. Were you asked to research whether Raheem Brennerman,  
14 Jefferson Brennerman, Raheem Soetan, or Ayodeji Soetan had any  
15 oil leases in Saskatchewan?

16 A. Yes.

17 Q. What were the results of your research?

18 A. I didn't find any indication they had leases in  
19 Saskatchewan.

20 Q. Were you asked to research whether the Blacksands companies  
21 had any oil leases in Saskatchewan?

22 A. Yes.

23 Q. What were the results of your research?

24 A. I found -- I could not find any leases that they owned.

25 Q. Were you asked to research whether Raheem Brennerman,

HC4KBRE5

Walkup - Direct

1 Jefferson Brennerman, Raheem Soetan, or Ayodeji Soetan operated  
2 any oil production operations in Saskatchewan?

3 A. Yes.

4 Q. What were the results of your research?

5 A. I could find no indication that they were operators in this  
6 area.

7 Q. Were you asked to research whether the Blacksands companies  
8 operated any oil production operations in Saskatchewan?

9 A. Yes.

10 Q. What were the results of your research?

11 A. I could not find any indication that they were operators in  
12 Saskatchewan.

13 MR. SOBELMAN: Ms. Fetman, can you please turn to page  
14 21 of this document.

15 Q. Mr. Walkup, are you familiar with Oil Mining Lease 13?

16 A. Yes.

17 Q. What is it?

18 A. It's a lease in Nigeria, so named by the government who  
19 parcels out all the different leases.

20 Q. What is this next to it, Qua Ibo Marginal Field?

21 A. My understanding is that's a more vernacular name for the  
22 project on OML -- for the Oil Mining Lease 13.

23 Q. How did you learn about Oil Mining Lease 13?

24 A. This, I learned about through my research. I've worked in  
25 Nigeria in a number of OMLs, but not this one, but, again, the

HC4KBRE5

Walkup - Direct

1 ones I've worked at are around this one.

2 Q. What's the working interest that's listed here?

3 A. 50 percent.

4 Q. Were you asked to research whether Raheem Brennerman,  
5 Jefferson Brennerman, Raheem Soetan, or Ayodeji Soetan had any  
6 ownership interest in Oil Mining Lease 13?

7 A. Yes.

8 Q. What were the results of your research?

9 A. I found no indication that they had any ownership interest  
10 in OML 13.

11 Q. Were you asked to research whether the Blacksands companies  
12 had any ownership interest in Oil Mining Lease 13?

13 A. Yes.

14 Q. What were the results of your research?

15 A. I couldn't find any evidence that they had any interest in  
16 this lease.

17 Q. Were you asked to research whether Raheem Brennerman,  
18 Jefferson Brennerman, Raheem Soetan, or Ayodeji Soetan operated  
19 any oil production operations where Oil Mining Lease 13 is  
20 located?

21 A. Yes.

22 Q. What were the results of your research?

23 A. I found no indication that they were operators in OML 13.

24 Q. Were you asked to research whether the Blacksands companies  
25 operated any oil production operations where Oil Mining

HC4KBRE5

Walkup - Direct

1 Lease 13 is located?

2 A. Yes.

3 Q. What were the results of your research?

4 A. I found no evidence that they were operators.

5 MR. SOBELMAN: Ms. Fetman, could we please turn to  
6 page 24. And could you please highlight the first of the three  
7 listings on this page that reads "Utah/Wyoming asset, United  
8 States."

9 Q. Mr. Walkup, were you asked to try to identify Utah/Wyoming  
10 asset based on the information provided here?

11 A. Yes.

12 Q. Were you able to identify it?

13 A. I was not able to identify it, given this information.

14 Q. Why not?

15 A. It's just not precise enough to identify where -- in Utah  
16 and Wyoming, there are tens of thousands of wells and dozens  
17 and dozens of fields. I just wasn't able to identify where  
18 this was.

19 Q. Were you asked to research whether Raheem Brennerman,  
20 Jefferson Brennerman, Raheem Soetan, or Ayodeji Soetan had an  
21 oil lease in Utah?

22 MR. WALLER: Objection.

23 THE COURT: Overruled.

24 THE WITNESS: Yes.

25 Q. What were the results of your research?

HC4KBRE5

Walkup - Direct

1 A. I could not find that they owned any leases in any fields  
2 in Utah.

3 Q. Were you asked to research whether the Blacksands companies  
4 had an oil lease in Utah?

5 A. I'm sorry, could you ask that question again?

6 Q. Were you asked to research whether the Blacksands companies  
7 had an oil lease in Utah?

8 A. Yes.

9 Q. What were the results of your research?

10 A. I found no indication that they had any leases in Utah.

11 Q. Were you asked to research whether Raheem Brennerman,  
12 Jefferson Brennerman, Raheem Soetan, or Ayodeji Soetan operated  
13 any oil production operations in Utah?

14 A. Yes.

15 Q. What were the results of your research?

16 A. I found no indication that they had operated in Utah.

17 Q. Were you asked to research whether the Blacksands companies  
18 operated any oil production operations in Utah?

19 A. Yes.

20 Q. What were the results of your research?

21 A. I found no indication that they operated in Utah.

22 Q. Were you asked to research whether Raheem Brennerman,  
23 Jefferson Brennerman, Raheem Soetan, or Ayodeji Soetan had an  
24 oil lease in Wyoming?

25 A. Yes.

HC4KBRE5

Walkup - Direct

1 Q. What were the results of your research?

2 A. I found no indication that they did.

3 Q. Were you asked to research whether the Blacksands companies  
4 had an oil lease in Wyoming?

5 A. Yes.

6 Q. What were the results of your research?

7 A. I found no indication that they did.

8 Q. Were you asked to research whether Raheem Brennerman,  
9 Jefferson Brennerman, Raheem Soetan, or Ayodeji Soetan operated  
10 any oil production operations in Wyoming?

11 A. Yes.

12 Q. What were the results of your research?

13 A. I could find nowhere where they operated.

14 Q. Were you asked to research whether the Blacksands companies  
15 operated any oil production operations in Wyoming?

16 A. Yes.

17 Q. What were the results of your research?

18 A. I couldn't find any place where they operated in Wyoming.

19 MR. SOBELMAN: Ms. Fetman, could you please highlight  
20 the second listing on this page.

21 Q. Mr. Walkup, are you familiar with Ororo field, OML 95,  
22 Nigeria?

23 A. Yes.

24 Q. What is it?

25 A. It's another lease in Nigeria with production on it.

HC4KBRE5

Walkup - Direct

1 Q. How do you know that?

2 A. Well -- I'm sorry?

3 Q. How do you know that?

4 A. Because it's an OML, it's gone through discovery already.

5 It's an oil mineral lease as opposed to an oil prospecting

6 lease, so just by its name, I know that there's been activity

7 on it, and so that's the indication.

8 I should be -- to be more precise, OML means that

9 there has been a discovery. It doesn't necessarily mean

10 there's production. It could be soon to happen, but it has

11 been discovered.

12 Q. Were you asked to research whether Raheem Brennerman,

13 Jefferson Brennerman, Raheem Soetan, or Ayodeji Soetan had an

14 oil lease or operated any oil production operations in Ororo

15 field?

16 A. Yes.

17 Q. What were the results of your research?

18 A. I didn't find any evidence that they did.

19 Q. Were you asked to conduct that same research regarding the

20 Blacksands companies?

21 A. Yes.

22 Q. What were the results of your research?

23 A. The same results.

24 MR. SOBELMAN: Ms. Fetman, could you highlight the

25 third listing on this page.

HC4KBRE5

Walkup - Direct

1 Q. Mr. Walkup, are you familiar with Oil Block OPL 2012?

2 A. Yes.

3 Q. What is it?

4 A. Again, it's a lease, and because it's an OPL, it's in  
5 prospecting mode, so it's yet to have established commercial  
6 reserves.

7 Q. What's the working interest listed here for Oil Block  
8 OPL 2012?

9 A. 60 percent.

10 Q. Were you asked to research whether Raheem Brennerman,  
11 Jefferson Brennerman, Raheem Soetan, or Ayodeji Soetan had an  
12 oil lease or operated oil production operations for Oil Block  
13 OPL 2012?

14 A. Yes.

15 Q. What were the results of your research?

16 A. I didn't find any indication that they did.

17 Q. Were you asked to research whether the Blacksands companies  
18 had the same things?

19 A. Yes.

20 Q. And what were the results of your research?

21 A. It was the same result, I could not find any evidence that  
22 they did.

23 MR. SOBELMAN: Ms. Fetman, could you please turn to  
24 page 25.

25 Q. Mr. Walkup, are you familiar with PetroQuest Seychelles?



HC4KBRE5

Walkup - Direct

1 A. Yes.

2 Q. What is it?

3 A. So this is another area -- in the Seychelles, there are a  
4 string of islands off of East Africa in the Indian Ocean, and  
5 so this is a region, it indicates here, made up of 35 blocks.  
6 Each block would likely be -- frequently a block is also then,  
7 ultimately in the future, will be a lease. But, at this point,  
8 this is preleasing, and you've just got blocks and prospects,  
9 as I understand it from this slide.

10 Q. What's the working interest that's listed here?

11 A. 50 percent.

12 Q. Were you asked to research whether Raheem Brennerman,  
13 Jefferson Brennerman, Raheem Soetan, or Ayodeji Soetan had an  
14 oil lease or oil production operations in PetroQuest  
15 Seychelles?

16 A. Yes.

17 Q. What were the results of your research?

18 A. I found no indication that they did.

19 Q. Were you asked to conduct similar research concerning the  
20 Blacksands companies?

21 A. Yes.

22 Q. And what were the results of your research?

23 A. I could find no indication that they had any lease or  
24 operations.

25 MR. SOBELMAN: No further questions.

HC4KBRE5

Walkup - Cross

1 THE COURT: Okay. Cross-examination.

2 CROSS-EXAMINATION

3 BY MR. WALLER:

4 Q. Good afternoon, Mr. Walkup.

5 A. Good afternoon.

6 MR. WALLER: Give me one second.

7 Q. You testified that to do the searches that the government  
8 asked you to do, you did three types of research, right? You  
9 accessed databases?

10 A. Yes.

11 Q. What kind of database was it that you -- what kind of  
12 databases were that you were accessing?

13 A. They're provided by a firm called Drillinginfo, which is a  
14 commercial provider of these databases.

15 Q. So, they host the database; is that what it is?

16 What is Drillinginfo? Is it a private company?

17 A. It's a private company.

18 Q. How do they get their information?

19 A. They collect it from the different state governments, who  
20 have this information.

21 Q. When is the owner of an oil field required to disclose a  
22 lease?

23 A. It varies state by state.

24 Q. So, you said that every lease in the United States would be  
25 in this database?

HC4KBRE5

Walkup - Cross

1 A. Every -- that's its purpose, yes.

2 Q. But not every lease in the United States is required to be  
3 disclosed, correct?

4 A. My understanding is, if the lease is for operations, then,  
5 yes, it needs to be disclosed.

6 Q. In every state?

7 A. In every state, to the best of my knowledge.

8 Q. So you assumed, though, when you accessed the database, if  
9 you didn't see a lease that was provided to a Blacksands  
10 company, that it didn't exist?

11 A. That -- when you say it didn't exist, do you mean that they  
12 didn't -- they didn't own the lease?

13 Q. Correct.

14 A. I'm trying to understand your question. I'm sorry.

15 Q. Correct.

16 A. Then, yes, that's how I interpreted it.

17 Q. Okay. Because you're making an assumption that every lease  
18 in the United States has been provided to this company called  
19 Drillinginfo for their database?

20 A. Correct.

21 Q. Are there types of leases that you would not expect to find  
22 in the database?

23 A. By -- no, there's -- I'm not sure I know what you mean by  
24 "types of leases."

25 Q. Are there different types of leases?

HC4KBRE5

Walkup - Cross

1 A. There can be different forms state by state of leasing  
2 because the laws are controlled by the states.

3 Q. What types -- what are the different types that you might  
4 contemplate? What are the different types of leases that there  
5 might be?

6 A. So, there might be -- the important ones that I am familiar  
7 with are those that provide you the right to explore, produce,  
8 and by produce, that means drilling wells.

9 Q. Now, what about just exploration, is that required by all  
10 states to be disclosed?

11 A. I don't -- I don't have that --

12 Q. A lease that gives the right to a company to explore, would  
13 that be required by all states to be disclosed?

14 A. If the exploration were to require the drilling of a well,  
15 my understanding is yes. Not all exploration requires the  
16 drilling of a well.

17 Q. Correct. So, if there's just a right to do exploration  
18 that doesn't require the drilling of a well, then it would not  
19 be required to be disclosed?

20 A. I don't have that knowledge.

21 Q. So then, again, there are some leases that might not be in  
22 this database?

23 A. I'm not -- I don't know if those leases exist -- that that  
24 type of lease exists, so I don't know if -- since I don't know  
25 if it exists, I don't know if it's not in the database.

HC4KBRE5

Walkup - Cross

1 Q. What about an operation agreement, like -- what about a  
2 joint venture agreement between two companies, what type of  
3 mandatory disclosure is that, that those agreements be  
4 disclosed?

5 A. A joint venture agreement is actually quite uncommon in the  
6 United States.

7 Q. Okay. But my question is: If there's a joint venture  
8 agreement between two companies, would that be in the database?

9 A. No.

10 Q. Okay. And a joint venture agreement is an agreement to  
11 work together with -- between two companies, correct, jointly?

12 A. Again, the agreements between parties in the United States,  
13 that I'm familiar with, are not joint venture agreements.

14 Q. All of those -- the last exhibit that you were looking at  
15 with the various assets that were listed, do you recall that,  
16 the one that you did at the end of your direct testimony?

17 A. Yes.

18 Q. So, Mr. Sobelman went through a whole bunch of different  
19 assets, some in the United States, some in Canada, some in  
20 Nigeria. Those were all -- what those stated were that  
21 Blacksands had a joint venture agreement with another company,  
22 correct?

23 A. That's what they stated.

24 Q. But if there were joint venture agreements between  
25 Blacksands and various different companies, those would not be

HC4KBRE5

Walkup - Cross

1 in the database, correct?

2 A. The joint venture agreements would not be in the database.

3 Q. Now, the second type of research you said you did was you  
4 reviewed technical literature?

5 A. Correct.

6 Q. What does that mean?

7 A. For a number of the assets that were named -- so, for  
8 example, the Torrance Field. There are a number of technical  
9 papers, technical case studies, about fields like the Torrance  
10 Field, and I reviewed those that I could find on the fields  
11 that were mentioned. It is very common practice. So that's  
12 the technical literature that I referred to.

13 Q. Does that means -- are these trade magazines, or is it just  
14 Google?

15 A. No. There are a number of professional organizations - the  
16 Society of Petroleum Engineers, there's associations for  
17 geologists, and for geophysicists, and other professional  
18 organizations in oil and gas. They've all cooperated to put  
19 all of their technical papers in a single location, so that the  
20 community -- the technical community can search them.

21 Q. When you're searching the technical literature, though,  
22 you're looking for technical data like reserves, things like  
23 that?

24 A. What I was looking for were the specific assets that were  
25 mentioned.

HC4KBRE5

Walkup - Cross

1 Q. The specific assets. And what aspect of those assets?

2 A. I didn't limit my search to any specific aspects of the  
3 assets. I just really searched the assets to see what  
4 technical literature was available.

5 Q. But that wouldn't reveal, necessarily, if there were  
6 leases, correct? You're talking about the specifications and  
7 the reserves for the asset?

8 A. So, the case studies for the assets will include the  
9 ownership of those assets, not just the operator, but who  
10 actually owns them. That would be the group of people who --  
11 if there's a JV, it would include all the members of the JV.

12 Q. The third type of research you did was general business  
13 literature. Now, is that just basic Googling?

14 A. Yes.

15 Q. So you just went on the Internet looking for information?

16 A. Using my knowledge of the terms that are common in the  
17 industry and the other information that I have general  
18 knowledge of in many of these areas.

19 Q. For operator, you said that most companies have multiple  
20 owners, but one of them generally acts as the operator, right?

21 A. I think I meant -- if I said most companies have multiple  
22 owners, I meant to say that most assets, most oil fields, or  
23 most projects have multiple owners --

24 Q. Right.

25 A. -- not companies.

HC4KBRE5

Walkup - Cross

1 Q. Right. So the oil field asset has multiple owners, and,  
2 generally, one of them acts as the operator, right?

3 A. That's the most common arrangement.

4 Q. So, there could be certainly arrangements where there's a  
5 joint venture agreement between two companies, and one of those  
6 companies will act as the operator, correct?

7 Both parties -- let me withdraw it.

8 There are certainly situations where there was  
9 multiple companies that have a working interest in an asset,  
10 but one of them will be the operator, will actually do the  
11 operation, correct?

12 A. Yes, that's correct.

13 Q. And aren't there also situations where two parties can be  
14 referred to as joint operators, but then they also, between  
15 them, have an operating agreement where one of them is going to  
16 actually do the operations?

17 A. That's common.

18 Q. That's common, right?

19 So the fact that a party is listed on a lease or in a  
20 joint venture agreement as a joint operator doesn't necessarily  
21 mean that they are going to be doing the actual operations,  
22 correct?

23 A. Oh, I'm sorry, can we -- that was -- can you repeat that,  
24 please?

25 Q. Is it possible that two companies have a joint venture



HC4KBRE5

Walkup - Cross

1 agreement and are referred to as joint operators, but between  
2 them, they have an operating agreement where one of them is  
3 going to do the actual operations?

4 A. Joint -- I'm pausing because the term "joint operators" is  
5 not really a term of art that I'm familiar with. They're  
6 joint -- so, when we -- I'm just not that familiar with that  
7 term, but it is correct that there are multiple owners,  
8 multiple interest owners, and one of them will be the operator.

9 Q. But the term "joint operator" doesn't have any specific  
10 meaning to you? Like industry --

11 A. Not with a sufficiently high confidence. I could guess at  
12 its meaning, but I don't want to.

13 Q. Do companies that have an interest in an oil field  
14 oftentimes hire a consulting company to do -- to run the  
15 operations or assist them with operations?

16 A. It's possible. It's done. It's not common.

17 Q. Have you heard of a company called InterAct?

18 THE COURT: Have you?

19 THE WITNESS: Not to the top of my mind.

20 Q. So you don't whether or not InterAct is a consultant who  
21 specializes, among other things, in operating oil fields or  
22 assisting in the operation of oil fields?

23 A. I am aware that there are companies who do that, but  
24 whether InterAct is one of them is not something I can remember  
25 right now.

HC4KBRE5

Walkup - Cross

1 Q. Are you familiar with oil fields in California called Cat  
2 Canyon -- an oil field in California called Cat Canyon?

3 A. Yes.

4 Q. Did you research Cat Canyon?

5 A. Yes.

6 Q. Is Cat Canyon a real oil field?

7 A. Yes.

8 Q. Who owns Cat Canyon?

9 A. Multiple people have interests in Cat Canyon.

10 Q. Can you name who they are?

11 A. ERC owns some of Cat Canyon.

12 Q. Is it ERG?

13 A. ERG, thank you.

14 There is a joint venture of Shell and Exxon that owns  
15 part of Cat Canyon. There are some smaller operators as well.

16 Q. Are you aware that ERG, in 2015, went bankrupt?

17 A. Yes.

18 Q. So they're not still an owner of Cat Canyon?

19 A. There is -- I think I did check. This is -- I know they  
20 went through bankruptcy, and they're outside of bankruptcy, and  
21 that there is an entity called ERG currently operating in Cat  
22 Canyon.

23 Q. Did you ever speak to anyone at ERG about the asset?

24 A. In the con -- no, not that I'm aware of. Maybe sometime in  
25 the past, I've talked to somebody from ERG, but not having

HC4KBRE5

Walkup - Cross

1 anything to do with this matter.

2 Q. Did you do any technical research in the trade magazines  
3 you discussed about Cat Canyon?

4 A. Yes.

5 Q. Cat Canyon is a real oil field, right?

6 A. Yes.

7 Q. Has proven reserves?

8 A. Yes.

9 Q. Is that the reserves that are the high standard, proven?

10 A. Yes.

11 Q. So it has proven reserves?

12 A. My understanding is that it does, yes.

13 Q. And it has the capability of producing oil?

14 A. Yes.

15 Q. You mentioned, also, earlier about reserves-based lending.  
16 One of the things you said was that there are technical risks,  
17 and that's the ability to get the oil out of the ground, and  
18 commercial risks, correct?

19 A. That's a common grouping of risks.

20 Q. And the commercial risks, what would be a commercial risk?

21 A. A common commercial risk is whether you have the -- a  
22 proper regulatory approval to execute the operations that are  
23 planned.

24 Q. When you say commercial risks, though, are you talking  
25 about a risk to the company that has an interest in the asset?

HC4KBRE5

Walkup - Cross

1 A. Technical risks also impact the owners. It just -- they're  
2 grouped this way to discriminate between what's -- you know,  
3 what has to do with the physics of being able to extract soil  
4 from the subsurface to general business risks that have -- that  
5 impact the operations.

6 Q. Now, you testified about a whole bunch of different areas  
7 or oil fields. One of them was Williston Basin, right?

8 A. Yes.

9 Q. You said that was a high-producing area in North Dakota?

10 A. Mainly in North Dakota. It covers other areas as well.

11 Q. But it's a big area, right? It's not a specific oil field  
12 or a specific asset?

13 A. It's a big area, with multiple fields.

14 Q. So, how many fields would you say are in the Williston  
15 Basin?

16 A. It would be a guess at this moment. I don't know.

17 Q. More than a hundred?

18 A. That would surprise me.

19 Q. What's your best estimate? Less than -- more than 50?

20 MR. SOBELMAN: Objection. He already said he doesn't  
21 know, your Honor.

22 THE COURT: Well, he can ask. He can explore it.

23 Go ahead. More than 50?

24 THE WITNESS: I would -- it's possible it's more than  
25 50. That sounds a little high to me. I know there's more than

HC4KBRE5

Walkup - Cross

1 three. Certainly in the -- I wouldn't be all surprised if it  
2 was -- if you said it was 20 or more.

3 BY MR. WALLER:

4 Q. Now, were you able to ascertain, in your research, who owns  
5 all the wells in Williston Basin?

6 A. I have access to that information.

7 Q. But did you look to see who the owners were?

8 A. Of the leases, the wells, and the -- yes, I looked within  
9 who the operators were on the production wells. And I looked  
10 to see who the -- whoever -- on the leases, there's the leasee  
11 and the lessor, so it was the lessor, the person who acquired  
12 the lease, I looked at those names as well.

13 Q. I think you said oftentimes there could be multiple leases  
14 for a particular field?

15 A. Oh, within a field, there will be many leases. In the  
16 United States, the oil rights are owned by frequently the --  
17 are owned by private people, not the government, and so there  
18 can be thousands of leases in a field.

19 Q. And you're saying that every one of those would be in the  
20 database that you were searching?

21 A. Yes.

22 Q. Every one?

23 A. Within practical limits, every one. I anticipate that this  
24 is the list of all the leases in the Williston Basin.

25 Q. Are there scenarios where a company signs a lease or has an

HC4KBRE5

Walkup - Cross

1 agreement to do exploration, but it's contingent on some factor  
2 like financing?

3 A. I'm not aware of that arrangement. You --

4 Q. So anytime that there's a leases, that it's been -- how  
5 much does a lease typically cost?

6 A. It varies widely from area to area. So, it can -- a lease  
7 has multiple payments, I can tell you that. There's usually an  
8 upfront payment, in cash, and then there are terms set that  
9 give the person who owns the mineral rights payment over time  
10 if, in fact, production occurs. But the terms can vary widely,  
11 the upfront payment can vary widely.

12 Q. Okay. Now, you talked about the Torrance Field?

13 A. Yes.

14 Q. And the exhibit that you were shown by Mr. Sobelman said  
15 that Blacksands had a 50 percent working interest in the  
16 Torrance Oil Field, right? Is that right?

17 A. Yes.

18 Q. Now, it said on that exhibit that Blacksands had a joint  
19 venture agreement with another company, right?

20 A. My recollection is it said something about a JV.

21 MR. WALLER: Can we pull up 1-1-B.

22 Q. So this is what we were talking about before that I was  
23 just asking you about. This says that Blacksands has a working  
24 interest of 50 percent, correct?

25 A. Yes.

HC4KBRE5

Walkup - Cross

1 Q. And it has a JV partner with Oil and Gas Technology Fund  
2 Incorporated, right?

3 THE COURT: Right? Is that what it says on the  
4 document?

5 THE WITNESS: Can you point to me where -- oh, it says  
6 JV partner, yeah. I see that it says Oil and Gas Technology  
7 Fund is the JV partner.

8 BY MR. WALLER:

9 Q. Right. That would indicate to you that Blacksands had a  
10 joint venture agreement with Oil and Gas Technology Fund Inc.,  
11 correct?

12 A. That's a little further than I would interpret this.

13 Q. Well, what does JV partner mean to you?

14 A. I mentioned this briefly before. JVs are actually not very  
15 common in the United States. In fact, they're pretty rare.  
16 But the terminology JV is used. What's the appropriate  
17 relationship is one of a nonoperating working interest party  
18 governed by a joint operating agreement, and that's, by far,  
19 the more common.

20 So I wouldn't actually interpret this as saying that  
21 they have a JV agreement. I would -- because that's just very  
22 rare. I would think that they were following a more standard  
23 approach.

24 Q. What's the more standard agreement that you're talking  
25 about?

HC4KBRE5

Walkup - Cross

1 A. It's a -- the agreement is one of being a nonoperating  
2 working interest party.

3 Q. What does that mean?

4 A. That means you own the asset together, but you don't have  
5 any -- as from an industry perspective, not a lawyer, you don't  
6 have any fiduciary responsibilities to the other party. In a  
7 JV, you have a much different arrangement with returns in the  
8 governance of the joint assets because this is common in the --  
9 outside the United States, in places like Nigeria, where they  
10 do set up a JV.

11 THE COURT: Wait, you said judiciary responsibilities  
12 or fiduciary?

13 THE WITNESS: Fiduciary.

14 THE COURT: Fiduciary?

15 THE WITNESS: Fiduciary. So it's to the common good,  
16 and you don't have that requirement. I'm telling you as  
17 somebody who's worked and has an understanding of this  
18 agreement, but not as a lawyer.

19 But the way these agreements, the way that these --  
20 and we even call them partnerships, right, but they're  
21 definitely not partnerships. The way it works in the United  
22 States is very different than it is outside the United States.

23 BY MR. WALLER:

24 Q. So your -- what this would mean to you, most likely, is  
25 that Blacksands had an agreement with Oil and Gas Technology



HC4KBRE5

Walkup - Cross

1 Fund Inc. for a 50 percent working interest, but that one of  
2 the parties most likely would have been responsible for  
3 operating the field?

4 A. If by agreement, you mean a signed -- not a signed joint  
5 operating agreement, yes.

6 Q. That's what the JV partner means to you?

7 A. When I see it in the United States, yes.

8 Q. Now, that's different than a lease agreement?

9 A. Yes.

10 Q. So, you said before that the database that you were -- the  
11 database that you were accessing does not list JV, joint  
12 venture, agreements, right?

13 A. I said that.

14 Q. So, if there was a joint venture agreement between  
15 Blacksands and Oil and Gas Technology Fund Inc., that would not  
16 be in the database, correct?

17 A. The joint -- the nonoperating -- the joint operating  
18 agreement is not something I would expect to see in the  
19 database.

20 Q. And that's -- this, you said, is not a lease agreement,  
21 this is a joint venture agreement, what we're talking about  
22 here in this Torrance Field?

23 THE COURT: Is that correct?

24 THE WITNESS: That line, the JV partner part of it.

25 THE COURT: Okay.

HC4KBRE5

Walkup - Cross

1 THE WITNESS: And the working interest part of it,  
2 yeah. Yes.

3 BY MR. WALLER:

4 Q. And that's what's being represented -- that's your  
5 understanding of what's being represented here, correct?

6 A. My understanding of what's being represented here with  
7 regards to the first two lines is that there is a  
8 nonoperating -- there's a joint operating agreement, which has  
9 been established between OGTF, Oil and Gas Technology Fund, and  
10 Blacksands Pacific here on the bottom.

11 Q. Now, did you ever call Oil and Gas Technology Fund to see  
12 whether or not they owned the field -- whether they owned the  
13 field?

14 A. Whether they owned -- the field is a gigantic field, so no  
15 one company would own the whole field. The question -- so I  
16 wouldn't expect them to own the field.

17 Q. But they might own a piece of the field?

18 A. Correct.

19 Q. Did you ever call them or contact Oil and Gas Technology  
20 Fund to inquire as to whether or not they had a joint venture  
21 agreement with Blacksands?

22 A. No.

23 Q. Or whether or not they owned a piece of the Torrance Field?

24 A. I did not call them.

25 Q. Or contact them in any other way?

HC4KBRE5

Walkup - Cross

1 A. Or contact them in any way.

2 MR. WALLER: Can we go to page 14.

3 Q. So, this is for White Pine County, right?

4 A. Yes.

5 Q. Now, again, this indicates -- the representation here, is  
6 it your understanding that Blacksands is saying that it has a  
7 JV, joint venture, agreement, again with Oil and Gas Technology  
8 Fund, for a 50 percent working interest in White Pine?

9 A. My interpretation of this is, again, that they likely have  
10 a joint operating agreement with Oil and Gas Technology Fund  
11 because of the JV partner issue we just spoke about, and that  
12 their share within that agreement is 50 percent.

13 Q. And "their share" means that they would share in the  
14 revenue of any oil produced by that asset, correct?

15 A. That's my understanding of -- and it's industry standard --  
16 of what working interest means.

17 Q. It doesn't say here that Blacksands leased from Oil and Gas  
18 Technology Fund to explore that asset, right?

19 A. No, I would not interpret this as saying that Blacksands  
20 leased from Oil and Gas Technology Fund.

21 Q. Right. That they have a working interest where they shared  
22 in the revenue, and one of the partners, maybe Oil and Gas  
23 Technology Fund, would operate the field?

24 A. I wouldn't -- that would be really far in the future. This  
25 is an exploration activity that's described on this page. So,

HC4KBRE5

Walkup - Cross

1 with the exception that I would interpret this as they would  
2 share in the costs of 50 percent for this exploration activity.  
3 This is an exploration activity.

4 Q. And, again, this would not -- this is not a lease -- this  
5 is not a representation that this is a lease, so it would not  
6 be in the database that you consulted?

7 A. No. This one is pretty clear that it is a lease.

8 (Continued on next page)

HC48BRE6

Walkup - Cross

1 Q. Where does it say that?

2 A. Federal oil lease of 1280 acres expiring in 2020. That  
3 means it had to have been in the federal oil lease auction in  
4 2010.

5 Q. That doesn't mean that Blacksands had a lease --

6 MR. SOBELMAN: Objection, your Honor.

7 THE COURT: Let him ask the question.

8 Q. That doesn't mean that Blacksands had a lease from Oil and  
9 Gas Technology Fund?

10 THE COURT: What doesn't mean that?

11 MR. WALLER: What the witness just talked about with  
12 the federal oil lease.

13 A. I am concerned that the way the question is articulated it  
14 would be confusing. When you jointly own an asset, the person  
15 who comes into that agreement doesn't lease from the other  
16 person, you together own the lease. So it would be -- what I  
17 would understand this to be is that there's one lease, it comes  
18 from the federal government, they own it 50/50. That's how I  
19 would interpret this. But when you're a partner, and I use  
20 that term loosely, when you're a non-operating working interest  
21 party, there has to be a lease. You don't lease it from the  
22 other party, or you don't lease it from the operator; you lease  
23 it from whoever owned the mineral rights in the first place.

24 Q. But the lease could be between Oil and Gas Technology Fund  
25 and the government, right?

HC48BRE6

Walkup - Cross

1 A. It could be, but it's not, because they were so specific  
2 here I could look up the auction and the results of the  
3 auction.

4 THE COURT: You could or you did?

5 THE WITNESS: I did.

6 Q. So does Oil and Gas Technology Fund have a lease?

7 A. Not one of 1280 acres expiring in 2020.

8 Q. Do they have a lease?

9 A. Do they have any leases?

10 Q. For White Pine County?

11 A. Not that's consistent with these attributes.

12 Q. Again, what is being represented here is it's a working  
13 interest of 50 percent in a joint venture agreement between  
14 Blacksands and Oil and Gas Technology Fund.

15 MR. SOBELMAN: Objection. We have been over this a  
16 couple of times.

17 MR. WALLER: I will move on.

18 THE COURT: I was going to overrule the objection.

19 Do you want to withdraw it and move on or do you want  
20 him to answer the question?

21 Q. Do you know the question?

22 A. Yes. I don't view this as a joint venture agreement. I  
23 view it in the context of a joint operating agreement.

24 Q. Right. Again, that's a shared working interest in the  
25 asset, right; a sharing of the revenue, right?

HC48BRE6

Walkup - Cross

1 A. Yes.

2 Q. And that one of the partners to the agreement would the  
3 operator of the field?

4 A. That's the usual situation.

5 Q. OK.

6 THE COURT: But you said you checked and Oil and Gas  
7 Technology Fund, Inc. doesn't have such a lease, is that what  
8 you said.

9 THE WITNESS: That's what I said. That meets these  
10 attributes of 1280 acres that expires in 2020.

11 Q. Does it have a lease for White Pine County?

12 A. I can't answer that right now. I don't remember.

13 Q. You just remember that it doesn't have a lease with these  
14 specifications?

15 A. That's right. I downloaded all the leases that were part  
16 of that sale, and I looked for the 1280 acres spacing, and  
17 there's only two of them, and Oil and Gas Technology Fund  
18 wasn't either one of those.

19 Q. Now, in terms of assets that are outside the United States,  
20 the database that you were consulting would not -- leases in  
21 Canada or Nigeria would not be in the database, correct?

22 A. That's correct.

23 Q. So all the research that you did for a Canadian asset or  
24 Nigerian asset or any other foreign asset was just basically  
25 Googling?

HC48BRE6

Walkup - Cross

1 A. Well, it was -- I split it into -- it was searching.

2 Q. Searching on Google?

3 A. For the business literature, but not for the technical  
4 literature. The technical literature, I use the access to the  
5 database, the technical database, that is called One Petro,  
6 which I access through the Society of Petroleum Engineers' Web  
7 site.

8 Q. Now, would you agree that it's more difficult to find  
9 information about assets in Nigeria, for example?

10 A. Not necessarily.

11 Q. Would you agree there is less transparency in arrangements  
12 in Nigeria?

13 A. No, not necessarily.

14 Q. Would you agree it's hard to obtain production data from  
15 Nigeria?

16 A. Production data?

17 Q. Yes.

18 A. So by that I interpret the barrels of oil per day and  
19 allocated to a specific well or project or OML. Yes, that is  
20 harder to get.

21 Q. Now, when you do a search in your database, what is the  
22 time frame that you search?

23 A. On most of the searches I didn't limit it to any time  
24 frame.

25 Q. So you went back -- there is no time frame whatsoever?



HC48BRE6

Walkup - Cross

1 THE COURT: Answer the question. There is no time  
2 frame whatsoever? Yes, no?

3 A. On some of the searches I did restrict the time frame,  
4 because, for example, in the ConocoPhillips asset sale, I knew  
5 when they were selling it so I wanted to zero in on the sale  
6 process of ConocoPhillips' assets. So that one I would have  
7 constrained, but that was the minority of the searches that I  
8 did where I constrained any kind of time.

9 Q. If a company has a lease and then it relinquishes the lease  
10 or it sells it to another company, it would no longer be in the  
11 database?

12 A. Are we talking about U.S. wells or U.S. leases again?

13 Q. Yes.

14 A. That will be a multiple -- leases you will find in the  
15 record have multiple -- leases have a specific term, usually  
16 three years, and if you don't start producing you lose the  
17 lease, so then you have to re-lease. And people will also give  
18 up leases, and then they get re-leased. So you will see the  
19 sequence of leasing activity.

20 Q. Will you see the whole history of them?

21 A. Yes.

22 Q. Can you explain what a strategic alliance agreement is?

23 A. So an SAA, a strategic alliance agreement, is, my  
24 understanding, a term of art in Nigeria specific, I think it's  
25 Nigerian, and I have not worked directly with these. I have

HC48BRE6

Walkup - Cross

1 learned of this through my research. So I have a general  
2 understanding of it, not a detailed understanding.

3 Q. What is your understanding of a strategic alliance  
4 agreement?

5 A. The strategic alliance agreements occurred as a result of  
6 the government of Nigeria desiring the oil and gas industry to  
7 have a greater participation by indigenous firms. So upon the  
8 ending of certain leases that large non-Nigerian companies,  
9 like Shell, had -- in Nigeria, when Shell owns a lease, the  
10 national oil company of Nigeria will also own a lease. I am  
11 just using Shell as an example because they did give up one of  
12 their leases that led to a number of assets that this SAA thing  
13 was relevant for.

14 So when Shell's 20-year term was up, they didn't want  
15 to participate in those leases anymore. And so my  
16 understanding was that the -- but the national oil company  
17 still retained their ownership, and to get money to develop  
18 those, they would bring in companies to help fund further and  
19 continue development of those leases, and they brought those in  
20 through these SAAs. But there was a desire to ensure that, my  
21 understanding, that those were indigenous Nigerian firms, to  
22 increase the local participation in their industry.

23 Q. Are you familiar with a company called Atlantic Energy?

24 A. Only through --

25 MR. SOBELMAN: Objection.

HC48BRE6

Walkup - Cross

1 THE COURT: Let's take an afternoon break and we can  
2 chat about that on our time.

3 Ladies and gentlemen, there should be snacks and stuff  
4 for you back there. We will see you in about ten minutes or  
5 so. We will go to 5:30 today as usual.

6 All rise for the jury.

7 (Jury exits courtroom)

8 (Continued on next page)

HC48BRE6

Walkup - Cross

1 THE COURT: You can step down. Thanks, Mr. Walkup.  
2 In ten minutes or so be back.

3 (Witness exits courtroom)

4 THE COURT: The objection is what, beyond the scope?

5 MR. SOBELMAN: Yes, your Honor. This particularly  
6 pertains specifically to a topic which the government  
7 previously agreed not to introduce evidence of because the  
8 defendants objected to it. It's related to the Britannia-U  
9 fraud that the government agreed not to put in after the  
10 defense objected to that evidence being admitted. They also  
11 tried to get this topic in with James Hagemeyer and your Honor  
12 sustained an objection as well.

13 THE COURT: To beyond the scope?

14 MR. SOBELMAN: Correct.

15 THE COURT: Mr. Waller, what is the response to that?

16 MR. WALLER: Atlantic Energy is a company, I believe,  
17 that Mr. Brennerman acquired and owned interest in various  
18 Nigerian assets.

19 THE COURT: All right. Why is it not beyond the  
20 scope?

21 MR. WALLER: The issue is his knowledge of the assets  
22 that Blacksands had, oil assets. He is saying he found no  
23 assets. I was going to ask him if he knew anything about those  
24 assets.

25 MR. SOBELMAN: Your Honor, this is clearly beyond the

HC48BRE6

Walkup - Cross

1 scope. It pertains directly to the topic which the defense  
2 pushed pretrial for us to keep out of the trial.

3 THE COURT: It is opening the door to that. So do you  
4 want it all back in?

5 MR. SOBELMAN: Your Honor, we think at this point it's  
6 simply beyond the scope, and it would prejudice the government  
7 to allow the defense to get into this with one of our last  
8 witnesses on cross-examination, when at their request we had  
9 excluded exhibits and witness testimony from this trial of this  
10 very topic.

11 THE COURT: Mr. Waller, you're being accused of a  
12 sandbag here. So what is the response to that?

13 MR. WALLER: I will just withdraw it.

14 THE COURT: OK. Anything else we need to cover before  
15 we take a break?

16 How much more do you have, Mr. Waller?

17 MR. WALLER: Not much, maybe ten minutes.

18 THE COURT: Then maybe a little bit of redirect.

19 Then what, or who?

20 MR. SOBELMAN: Next is Ronald Fitzpatrick.

21 THE COURT: How long a witness is that?

22 MR. SOBELMAN: Short. And we are going to read a few  
23 stipulations before that, which will take a few minutes.

24 After Fitzpatrick is Thomas Bolus from the IRS. It  
25 may take us to the end of the day. If not, we have Lisa

HC48BRE6

Walkup - Cross

1 Charles.

2 THE COURT: Is she long or short?

3 MR. SOBELMAN: Also fairly short.

4 THE COURT: Let's see where we are. See you in about  
5 ten minutes.

6 (Recess)

7 THE COURT: Let's get the jury.

8 All rise for the jury.

9 (Continued on next page)

HC48BRE6

Walkup - Cross

1 (Jury present)

2 GARDNER WALKUP, resumed.

3 THE COURT: We are going to resume the  
4 cross-examination of Mr. Walkup by Mr. Waller.

5 Mr. Waller, you may proceed.

6 BY MR. WALLER:

7 Q. Mr. Walkup, just a few more questions.

8 OPL 2012, you testified about it on direct, right?

9 A. Yes, I did.

10 Q. You're aware that OPL 2012 was a strategic alliance  
11 agreement?

12 A. I think I remember that.

13 Q. The SAAs are not necessarily recorded, correct?

14 A. I would be surprised if that were the case.

15 Q. You would be surprised if they were recorded or not  
16 recorded?

17 A. If they were not recorded.

18 Q. So you believe you would be able to access all Nigerian  
19 SAAs on the Internet?

20 A. I believe so because -- yes, I believe so, because they are  
21 actually pretty highly contested at the moment.

22 Q. But each one is actually recorded, you think?

23 A. I'm pretty confident that they are. There have been some  
24 considerable disputes within Nigeria as to whether or not the  
25 SAAs had contributed the full funds that they were required to

HC48BRE6

Walkup - Cross

1 have contributed, and so there has been in the industry  
2 literature discussions about SAAs. And so I would be surprised  
3 if there were SAAs that were not public.

4 Q. Do you know where they are recorded?

5 A. In a legal sense, I do not know where they are legally  
6 recorded.

7 Q. Do you know if that's something that is a public record for  
8 someone to find by Googling it?

9 A. Again, I think that the SAAs would be public information,  
10 certainly known by NNPC, the national oil company of Nigeria.

11 Q. I am talking about known to general members of the public.

12 A. I think -- I think I am repeating myself by saying I  
13 believe they would be made public. They were a success story  
14 by NNPC, certainly at the beginning.

15 Q. You were shown an exhibit that was literature from  
16 Blacksands that said that they had in excess of 5 million acres  
17 in the Gulf, something to that effect. Do you recall that?  
18 And you testified about that?

19 A. Yes.

20 Q. And you said that 5 million acres constitutes about half of  
21 the entire Gulf, right?

22 A. I said it was a third of the current leased properties in  
23 the federal waters of the Gulf of Mexico, predominantly what is  
24 called deepwater.

25 Q. So you're saying that you believe that there are only 15



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Walkup - Cross

1 million acres in the Gulf for -- maybe you can explain that  
2 again.

3 A. I am not saying there is only 15 million acres in the Gulf  
4 of Mexico; the Gulf of Mexico is much larger than that.

5 Q. It's about 160 million acres, right?

6 A. I wouldn't know. I haven't researched that.

7 What is on the EIA, which is the government energy  
8 information agency, provides all the leases in the federal  
9 waters of the Gulf of Mexico, and it's about 15 million acres.  
10 So one third -- 5 million is about one third of the 15 million  
11 acres.

12 Q. Isn't it true that just in this October and November the  
13 government granted a 77 million acre lease in the Gulf of  
14 Mexico?

15 A. I am not familiar with a 77 million acre lease in the Gulf  
16 of Mexico.

17 Q. Are you saying that wouldn't be possible?

18 A. No. The Gulf of Mexico is, as we just said, bigger than 77  
19 million acres.

20 Q. If the government granted a 77 million acre exploration  
21 lease, then the available acreage to be explored for leases is  
22 far greater than 15 million, correct?

23 A. The acreage to be explored in the Gulf of Mexico is much  
24 larger. The acreage of the deepwater leases in the Gulf of  
25 Mexico right now is the 15 million acres identified in the EIA

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Walkup - Cross

1 report; that's where I got that number.

2 Q. How many times did you meet with the government to prepare  
3 for your testimony?

4 A. I met with them physically?

5 Q. Yes.

6 A. Three times.

7 Q. Were there other times on the phone?

8 A. Three times.

9 Q. Three and three?

10 A. Yes.

11 Q. During the course of any of your meetings with the  
12 government, did they show you any leases between Blacksands and  
13 any other companies?

14 A. No.

15 Q. Did they show you any joint venture agreements between  
16 Blacksands and any other company?

17 A. No.

18 Q. Or operating agreements?

19 A. No.

20 Q. Did they show you any agreements between Blacksands and  
21 OGTF, which is Oil and Gas Technology Fund, right?

22 A. I saw none.

23 Q. What about any agreements between Blacksands and Highland  
24 Capital?

25 A. I did not see any.

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1 Q. Have you ever had any communications with OGTF, which is  
2 Oil and Gas Technology Fund, or Highland Capital?

3 A. No.

4 Q. So, basically, your testimony is that you did many, many  
5 searches for Blacksands corporations, or variations of  
6 Blacksands corporations and Mr. Brennerman and various names  
7 associated with him, correct? And your testimony is that you  
8 did not find any evidence of leases held by him or any  
9 operation agreements, is that right? That's basically what  
10 your testimony is?

11 A. I think my testimony was that, in addition, I said that I  
12 would have expected to have found it, given the magnitude of  
13 the acreage production specific to particular projects, you  
14 know, Cat Canyon has a long record, Nigerian offshore leases  
15 and onshore leases have a long record. So it isn't that I just  
16 didn't find it. I would have expected to have found it given  
17 the magnitude of the reserves and production.

18 Q. But you don't know for sure that any of those agreements  
19 exist?

20 A. Which agreements are you referring to?

21 Q. Any agreements between, for example, Blacksands and Oil and  
22 Gas Technology Fund?

23 A. I haven't seen any of those.

24 MR. WALLER: Thank you. Nothing further.

25 THE COURT: Redirect?

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1 MR. SOBELMAN: No, your Honor.

2 THE COURT: Thank you very much, Mr. Walkup. You can  
3 step down.

4 (Witness excused)

5 THE COURT: Next witness.

6 MR. SOBELMAN: At this time, the government would like  
7 to read a couple of stipulations.

8 MR. ROOS: The first is a stipulation marked  
9 Government Exhibit 601, which reads at the end of it:

10 It is further stipulated and agreed that the  
11 stipulation may be received into evidence.

12 The government offers stipulation 601.

13 THE COURT: OK. You're not going to read it?

14 MR. ROOS: Once it's received, I want to publish it to  
15 the jury.

16 THE COURT: 601 is, by stipulation, admissible in  
17 evidence, so the Court receives it.

18 (Government's Exhibit 601 received in evidence)

19 THE COURT: Go ahead.

20 MR. ROOS: The stipulation reads, the parties agree  
21 that:

22 1. Government Exhibits 200 to 206 are true and  
23 accurate copies of business records that were created and  
24 maintained by Christian Louboutin, that were made at or near  
25 the time of their creation by, or from information transmitted

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1 by, a person with knowledge of the matters set forth in the  
2 records, and were kept in the course of a regularly conducted  
3 activity of Christian Louboutin as a regular practice of that  
4 activity.

5 2. Government Exhibit 213 are true and accurate  
6 copies of business records that were created and maintained by  
7 Tom Ford, that were made at or near the time of their creation  
8 by, or from information transmitted by, a person with knowledge  
9 of the matters set forth in the records, and were kept in the  
10 course of a regularly conducted activity of Tom Ford as a  
11 regular practice of that activity.

12 3. Government Exhibit 207 is a true and accurate copy  
13 of business records that were created and maintained by Vicci  
14 Fine Jewelry, that were made at or near the time of their  
15 creation by, or from information transmitted by, a person with  
16 knowledge of the matters set forth in the records, and were  
17 kept in the course of a regularly conducted activity of Vicci  
18 Fine Jewelry as a regular practice of that activity.

19 4. Government Exhibit 210 is a true and accurate copy  
20 of business records that were created and maintained by Hermes  
21 of Paris, Inc., that were made at or near the time of their  
22 creation by, or from information transmitted by, a person with  
23 knowledge of the matters set forth in the records, and were  
24 kept in the course of a regularly conducted activity of Hermes  
25 of Paris, Inc. as a regular practice of that activity.

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1           5. Government Exhibits 400 to 402 and 404 are true  
2 and accurate copies of business records that were created and  
3 maintained by Regus, that were made at or near the time of  
4 their creation by, or from information transmitted by, a person  
5 with knowledge of the matters set forth in the records, and  
6 were kept in the course of the regularly conducted activity of  
7 Regus as regular practice of that activity.

8           It's signed by the parties.

9           The government offers 200 to 206, 213, 207, 210, 400  
10 to 402 and 404.

11           THE COURT: So Government Exhibits 200 to 207, 210,  
12 213, 400 to 402 and 404 are received.

13           (Government's Exhibits 200 to 207, 210, 213, 400 to  
14 402 and 404 received in evidence)

15           THE COURT: You have got a witness or are you reading  
16 more stips?

17           MR. ROOS: More stips.

18           Government Exhibit 603 reads at the end:

19           It is further stipulated and agreed that this  
20 stipulation may be received in evidence.

21           The government offers 603.

22           THE COURT: 603 is received.

23           (Government's Exhibit 603 received in evidence)

24           MR. ROOS: I am happy to read the stipulation, but  
25 with the Court's permission, we can just publish it and then I

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1 will offer the exhibits that are in the stipulation.

2 THE COURT: All right.

3 MR. ROOS: The government offers Exhibits 209, 211,  
4 212.

5 THE COURT: Government Exhibits 209, 211 and 212 are  
6 also received.

7 (Government's Exhibits 209, 211 and 212 received in  
8 evidence)

9 MR. ROOS: Next, Government 604 reads at the end:

10 It is stipulated and agreed that this stipulation may  
11 be received in evidence.

12 THE COURT: 604 is received.

13 (Government's Exhibit 604 received in evidence)

14 MR. ROOS: Ms. Fetman, would you please publish this  
15 to the jury.

16 The government now offers Government Exhibits 460 to  
17 479, 495 to 513, 487 to 494, 522.

18 THE COURT: So it's really 460 to 479, 487 to 513, and  
19 522, right?

20 MR. ROOS: Yes, your Honor.

21 THE COURT: Those are received.

22 (Government's Exhibits 460 to 479, 487 to 513, and 522  
23 received in evidence)

24 MR. ROOS: Lastly, Government Exhibit 606, which at  
25 the end indicates the parties stipulate and agree the

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1 stipulation may be entered into evidence.

2 THE COURT: 606 is received.

3 (Government's Exhibit received in evidence)

4 MR. ROOS: May we publish this to the jury?

5 THE COURT: Yes.

6 MR. ROOS: My apologies. This one is a new addition  
7 so I don't think you have a copy, your Honor.

8 The stipulation indicates that the parties agree, if  
9 called to testify, a representative of the United States  
10 Citizenship and Immigration Services would testify as follows:

11 1. Government Exhibit 51B is a true and accurate copy  
12 of documents provided by The Blacksands Pacific Group, Inc. to  
13 United States Citizenship and Immigration Services in support  
14 of the I-129 petition marked as Government Exhibit 51.

15 2. The representative of the United States  
16 Citizenship and Immigration Services does not know if the  
17 information contained in Government Exhibit 51B is truthful or  
18 accurate. The witness also does not know whether the documents  
19 contained in Government Exhibit 51B are genuine, and if they  
20 are, what they purport to be.

21 It's signed by the parties.

22 THE COURT: So you're offering 51 and 51B?

23 MR. ROOS: 51B.

24 THE COURT: Just 51B. All right.

25 (Government's Exhibit 51B received in evidence)



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Fitzpatrick - Direct

1 THE COURT: That's it for the stips?

2 MR. ROOS: Yes.

3 THE COURT: Now you're going to call another witness?

4 MS. SASSOON: Yes. Ronald Fitzpatrick.

5 RONALD FITZPATRICK,

6 called as a witness by the government,

7 having been duly sworn, testified as follows:

8 THE COURT: State your name and spell your name for  
9 the record.

10 THE WITNESS: Ronald Bruce Fitzpatrick II,  
11 R-O-N-A-L-D, B-R-U-C-E, F-I-T-Z-P-A-T-R-I-C-K.

12 THE COURT: Mr. Fitzpatrick, keep your voice up nice  
13 and loud.

14 Go ahead, Ms. Sassoon.

15 DIRECT EXAMINATION

16 BY MS. SASSOON:

17 Q. Good afternoon, Mr. Fitzpatrick.

18 A. Good afternoon.

19 Q. Where do you work?

20 A. I work for Regus Management Group.

21 Q. How long have you been working there?

22 A. I'd say about six years, since 2011.

23 Q. What is Regus?

24 A. Regus provides office solutions for people, basically,  
25 small businesses, large businesses, anybody who needs a place

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Fitzpatrick - Direct

1 to work, we provide phone services, Internet services. It's  
2 basically a business center.

3 Q. What are some of the types of contracts that Regus offers?

4 A. We have mailbox plus contracts, where clients are able to  
5 use our address for business purposes. We have telephone and  
6 answering services, where rather than just take the address, we  
7 provide clients with a phone number, in which case they could  
8 use that number for business purposes. We'd answer the phone  
9 calls and transfer them wherever they needed to go.

10 Q. What else beyond a mailbox service or a phone answering  
11 service?

12 A. We also have the virtual office options, which are  
13 literally a combination of both the mailbox and the telephone  
14 answering services.

15 Q. Does that virtual office agreement include the ability to  
16 use any physical space that Regus owns?

17 A. The virtual office agreements come as a virtual office and  
18 virtual office plus. The virtual office agreement comes with  
19 two days a month of standard day office usage. The virtual  
20 office plus option comes with five days a month.

21 Q. What is an in-house agreement, is that something that Regus  
22 offers?

23 A. Yes. That's for clients who wish to take full-time space  
24 as opposed to just virtual space, meaning they would have 24/7  
25 access to the center. We provide them with keys to the office,

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1 access cards to the building. They would be full tenants.

2 Q. What is the benefit of the Regus business model for  
3 clients?

4 A. It provides a convenient place for people to go when they  
5 don't necessarily want to work out of a coffee shop, some  
6 clients want to work in a quiet environment where they can get  
7 enough work done, make phone calls and whatnot, so Regus  
8 provides that.

9 Q. How does the monthly pricing of a virtual office agreement,  
10 for example, compare to leasing a permanent space for an  
11 office.

12 A. It depends on which location you're signing up at, but  
13 generally office agreements are much more expensive than  
14 virtual office agreements.

15 Q. Where does Regus have offices?

16 A. Currently, they have got about 3,000 locations worldwide.

17 Q. Where is the Regus office at which you work?

18 A. I work at the 245 Park Avenue location. That's in  
19 Manhattan, between 46th and 47th on Park.

20 Q. Around how many clients does this particular Regus office  
21 have?

22 A. In-house, I'd say at least 20. If you add on the virtual  
23 clients, that's probably another 100.

24 Q. Based on your experience, what is the significance, if any,  
25 of the 245 Park Avenue, Manhattan address?

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Fitzpatrick - Direct

1 A. It's a prestigious address.

2 MR. WALLER: Objection.

3 THE COURT: Overruled.

4 You can answer.

5 A. The 245 Park Avenue address, from my experience, tends to  
6 be more of a prestigious address. In the time that I worked  
7 there, I have learned our building has the presidential  
8 railroad underneath, and people tend to like having a Park  
9 Avenue business address to do business with.

10 Q. What is your title at Regus?

11 A. I am currently the community manager.

12 Q. What are your responsibilities as the community manager?

13 A. I'm pretty much the point of contact for all in-house and  
14 virtual office clients. If they have any questions, I am the  
15 first person that they come to, in which case if I can't answer  
16 them, then I field it out to my supervisors. I assist in  
17 handling mail for clients, answering phone calls for clients,  
18 basically all types of admin services, down to copying,  
19 printing and scanning.

20 Q. Have you held any other positions at Regus?

21 A. Yes. When I started with the company in 2011, I was a  
22 community associate. I think they called them client service  
23 representatives back then. Right now the term is community  
24 associate.

25 Q. What were your responsibilities in that role?

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Fitzpatrick - Direct

1 A. Predominantly just mail handling. I'd do a little bit of  
2 phone answering here and there, but I was stationed primarily  
3 in the mailroom at 245 Park Avenue.

4 Q. When were you promoted to your current role?

5 A. About a year or so ago.

6 Q. During your time at Regus, did you come into contact with  
7 Raheem Brennerman?

8 A. Yes, I did.

9 Q. When was that?

10 A. It was a few times over the course of my time at Regus.

11 Q. What was the nature of your relationship with Mr.  
12 Brennerman?

13 A. Just like every other virtual office client, we would  
14 handle phone calls, we would accept mail for him, notify him of  
15 any specialty packages, and he would let us know if he wanted  
16 us to hold them or forward them to him directly.

17 Q. Was there a particular business associated with Mr.  
18 Brennerman's Regus account at 245 Park Avenue?

19 A. Yes. That was BLV Realty organization.

20 Q. Did you ever meet him in person?

21 A. I have met with him a couple of times before.

22 Q. In what context?

23 A. He would come in, utilizing the center, whether or not he  
24 needed to make phone calls or picking up his mail, if he had  
25 any and we hadn't forwarded it at the time. Beyond that,

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1 nothing else.

2 Q. As far as you can remember, did you ever receive mail for  
3 Mr. Brennerman's BLV account addressed to any other person?

4 A. To any other person, no.

5 Q. Where did you forward this mail that came in for Mr.  
6 Brennerman?

7 A. Generally, he had them all going to a Las Vegas address.  
8 It was a hotel. I can't remember the name.

9 Q. Did you ever receive calls from BLV for anyone else other  
10 than Mr. Brennerman?

11 A. No.

12 Q. Was the mail that came for Mr. Brennerman ever addressed to  
13 a company other than BLV?

14 A. Technically we are not allowed to accept mail addressed to  
15 different companies. However, in my time there, I had seen  
16 mail come in under a Blacksands company name, in which case we  
17 would notify Mr. Brennerman that we would not be able to accept  
18 mail under this company name since his 245 Park Avenue account  
19 was with BLV Realty.

20 MS. SASSOON: Ms. Fetman, can you please display to  
21 the jury Government Exhibit 402, which is in evidence.

22 Q. Do you recognize what is up on your screen there?

23 A. Yes, I do. This is a Regus virtual office agreement.

24 Q. How do you recognize it?

25 A. It's actually from my center. It's for the 245 Park Avenue

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Fitzpatrick - Direct

1 location. This is when we had the 24th and 39th floors in that  
2 building. Currently, we just have the 39th floor.

3 Q. Zooming in on the agreement date at the top, what is the  
4 date on this agreement?

5 A. August 15, 2008.

6 Q. Let's take a look at the two boxes below that. Who is this  
7 agreement between?

8 A. So this is between the Regus Center at 245 Park Avenue and  
9 BLV Realty Corporation at 432 Park Avenue South, in New York.

10 Q. Looking at the bottom, who signed this agreement on behalf  
11 of BLV Realty?

12 A. Raheem Brennerman.

13 Q. Zooming back out, does this contract specify what type of  
14 Regus agreement this is?

15 A. Yes. This is a standard virtual office agreement.

16 Q. What is the cost per month specified for this virtual  
17 office agreement?

18 A. \$375 per month.

19 Q. Is that the entire cost per month for the services of a  
20 virtual office agreement?

21 A. Yes.

22 Q. Turning to the second page, do you recognize this page?

23 A. Yes. These are the terms and conditions for a Regus  
24 agreement.

25 MS. SASSOON: Ms. Fetman, can you please zoom in on

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Fitzpatrick - Direct

1 the paragraph "product definition," which is on the upper  
2 left-hand side.

3 Q. What is the purpose of this section of the terms and  
4 conditions?

5 A. It offers some details to the client of the types of  
6 agreements that Regus offers and gives them a little bit of  
7 information as far as what each one provides.

8 Q. Take a look at 1.3, virtual office and virtual office plus.

9 Can you summarize what this type of agreement would  
10 contain?

11 A. So virtual office and virtual office plus is a combination  
12 of both mailbox plus and telephone answering service, in which  
13 case we would accept mail for clients, notify them of any sort  
14 of specialty delivery items -- couriers, FedEx, UPS and  
15 whatnot -- and they would inform us as to whether or not they  
16 want us to hold those documents or items or forward them to  
17 whatever address they request.

18 The telephone answering option here also allows the  
19 client to have a phone number provided by Regus, in which case  
20 that phone number would be answered by Regus staff and  
21 forwarded over to a cell phone, if they prefer, or to a voice  
22 mail box that Regus provides.

23 Q. What does it say in the second half of 1.3 about physical  
24 office usage?

25 A. The virtual office and virtual office plus agreements each



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Fitzpatrick - Direct

1 provide a set number of days per month for the client to come  
2 in and utilize a private office for business purposes. The  
3 virtual office option offers two days a month of private day  
4 office usage, and the virtual office plus option offers five  
5 days a month.

6 Q. Which type of contract was this, virtual office or virtual  
7 office plus?

8 A. Virtual office.

9 Q. That would mean two days of physical office space a month?

10 A. Correct.

11 Q. Does this agreement allow Mr. Brennerman or BLV to use a  
12 Regus physical office on a daily basis?

13 A. It does not, no.

14 Q. Under this agreement would Mr. Brennerman be allowed to  
15 keep any belongings overnight inside a Regus office?

16 A. No.

17 Q. Let's go back to the first page of this document.

18 I would like to put it side by side with Government  
19 Exhibit 1-57A, which is also in evidence.

20 Now, zooming in, we will see that at the top of this  
21 document it says, "Morgan Stanley Smith Barney. Kindly provide  
22 all personal information."

23 Now, let's zoom in on the name and address at the top  
24 of this document.

25 Can you read that for us?

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Fitzpatrick - Direct

1 A. Full name is Raheem Jefferson Brennerman, address at 245  
2 Park Avenue, 39th floor, New York, New York 10167.

3 (Continued on next page)  
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HC4KBRE7

Fitzpatrick - Direct

1 BY MS. SASSOON:

2 Q. Do you recognize that address?

3 A. Yes. That's my work address.

4 Q. Were clients of Regus at 245 Park Avenue allowed to rent  
5 residential space on the 39th floor --

6 A. No.

7 Q. -- of the office?

8 A. They were not, no.

9 Q. Would a contract allow a client to represent 245 Park  
10 Avenue as a residential address?

11 A. It would not, no.

12 MS. SASSOON: Ms. Fetman, please show only the witness  
13 what has been marked for identification as Government Exhibit  
14 403.

15 Q. Do you recognize this?

16 A. I do. This is a floor plan for the 39th floor for Regus at  
17 245 Park.

18 Q. Is that a true and accurate copy of that floor plan?

19 A. Yes, it is.

20 Q. Will it aid in your testimony today?

21 A. It will.

22 MS. SASSOON: The government offers Exhibit 403.

23 THE COURT: Any objection?

24 MR. WALLER: No objection.

25 THE COURT: All right. So Government Exhibit 403 is

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Fitzpatrick - Direct

1 received.

2 (Government's Exhibit 403 received in evidence)

3 MS. SASSOON: I'd like to display it now for the jury,  
4 please.

5 BY MS. SASSOON:

6 Q. Does this floor plan on your screen represent the entire  
7 Regus office space at 245 Park Avenue?

8 A. Currently, yes.

9 Q. Was that always the case?

10 A. No. We used to have the 24th floor as well.

11 Q. How does the layout of the 24th floor compare to this  
12 layout?

13 A. It's a similar layout. It had a reception area in front of  
14 the main elevator bank. It had several conference rooms on the  
15 floor along with various offices. So, it was very similar.

16 Q. Using this floor plan as an aid, can you describe the  
17 layout of the 39th floor?

18 A. So, we have our reception area kind of right in the middle  
19 there, directly in front of the main elevator lobby here. To  
20 the -- I guess would be my left is our large boardroom, which  
21 seats about 12 people. To the right, we have our business  
22 lounge area, along with two smaller conference rooms, each  
23 which would seat four people. From there, you can kind of make  
24 your way out to the various offices on the floor.

25 Q. How many individual offices are there on the 39th floor?

HC4KBRE7

Fitzpatrick - Direct

1 A. A little over a hundred.

2 Q. Where did you typically spend the workday?

3 A. My main post is right at reception.

4 Q. At reception, would you see clients coming in an office  
5 floor?

6 A. I would, yes.

7 Q. Is that generally where you have been based in your years  
8 at Regus?

9 A. With the exception of when I started, yes, I would --  
10 again, I was in the mailroom initially when I started with the  
11 company, but, yes, when we kind of transitioned everything up  
12 to the 39, I was at reception.

13 Q. Around how many times in your time working at Regus did see  
14 Mr. Brennerman walk in or out of the office?

15 A. Maybe five times.

16 Q. In your experience, did Mr. Brennerman ever arrive or leave  
17 with anyone else at the Regus?

18 A. Not that I can recall, no.

19 Q. In your experience, did any other BLV employee ever use the  
20 Regus office space?

21 A. Not that I can recall, no.

22 Q. Turning back to the individual offices, on average, about  
23 how big is each office?

24 A. I'd say the average office spans about 100 to 150 square  
25 feet.

HC4KBRE7

Fitzpatrick - Direct

1 Q. What is provided to a client in each of these individual  
2 offices?

3 A. A standard furniture, depending on how many desks it's  
4 supposed to be set up for. They have a set number of desks,  
5 phone, ethernet cable for Internet access, and basic  
6 decorations, you know, picture, lamp, whatnot.

7 Q. Are clients able to personally decorate their office space?

8 A. Only if they have a full-time agreement with Regus.

9 Q. For those clients like Mr. Brennerman with a virtual office  
10 agreement of providing two days of physical space a month, on  
11 those days, how many offices would it entitle that person to  
12 use?

13 A. One office.

14 Q. As far as you are aware, did Mr. Brennerman ever pay extra  
15 to use additional physical space?

16 A. Not that I can recall, no.

17 MS. SASSOON: Ms. Fetman, can you please display  
18 Government Exhibit 1-59-A, which is in evidence.

19 Q. Had you ever seen this document before I showed it to you?

20 A. No. No, I haven't.

21 Q. You'll see on the first page, it says, "Blacksands  
22 Pacific."

23 Do you recognize that name?

24 A. Just on the misdelivered mail to 245 Park Avenue.

25 Q. Let's turn to page 8. This says "Blacksands Pacific

HC4KBRE7

Fitzpatrick - Direct

1 Overview" at the top. Do you see where it says "Trading  
2 Offices" toward the bottom of the page?

3 A. Yes, I do.

4 MS. SASSOON: Let's zoom in on those two addresses.

5 Q. Can you please read the first address?

6 A. 11601 Wilshire Boulevard, Suite 500, Los Angeles,  
7 California. The zip code is 90025.

8 Q. Do you recognize that address?

9 A. I believe that's a Regus location.

10 Q. Let's put this exhibit side by side with Exhibit 401, which  
11 is in evidence.

12 Do you recognize Exhibit 401?

13 A. Yes. This is another online virtual office agreement.

14 Q. Who is this office agreement between?

15 A. This is between the Regus Center at 11601 Wilshire  
16 Boulevard in Los Angeles, California, and the Blacksands  
17 Pacific Energy Corporation at 2711 Centerville Road in  
18 Wilmington, Delaware.

19 Q. What is the email address provided for the client on this  
20 Regus contract?

21 A. Rbrennerman@blacksandspacific.com.

22 Q. As far as you are aware, do the terms and conditions of  
23 virtual office agreements vary across United States Regus  
24 locations?

25 A. No. They're standard, I believe.

HC4KBRE7

Fitzpatrick - Direct

1 Q. Looking back at the left side of the screen, can you please  
2 read the second address listed there?

3 A. 9595 Six Pines Drive, Suite 8210, The Woodlands, Texas.  
4 The zip code is 77380.

5 Q. Do you recognize that address?

6 A. I believe that's also a Regus location.

7 MS. SASSOON: Let's put up on the right-hand side,  
8 Government Exhibit 404, which is in evidence.

9 Q. Do you recognize this document?

10 A. Yes. This is another online virtual office agreement.

11 Q. Who is this agreement between?

12 A. This is between the Regus center at 9595 Six Pines in The  
13 Woodlands, Texas, and Blacksands Energy -- Blacksands Pacific  
14 Energy Corporation at 325 North End Avenue in New York.

15 MS. SASSOON: Let's put up next Government Exhibit  
16 1-57-A, page 2. We can put that up on the whole screen.

17 Q. Looking at the top, this is a Morgan Stanley Smith Barney  
18 document. Can you please read the name and address at the top  
19 of this document?

20 A. Sure. The full name is Jefferson III Holdings LLC, address  
21 is 3960 Howard Hughes Parkway, Suite 500, Las Vegas, Nevada.  
22 89169 is the zip code.

23 Q. Do you recognize this address?

24 A. I don't, actually.

25 MS. SASSOON: Well, let's put up Government Exhibit



HC4KBRE7

Fitzpatrick - Direct

1 400.

2 Q. Do you recognize this document on the right-hand side?

3 A. I do. It's another virtual office agreement.

4 Q. Can you please read what address -- what Regus address is  
5 on the left-hand side?

6 A. It's Regus center at 3960 Howard Hughes Parkway, Suite 500,  
7 in Las Vegas, Nevada. Zip code is 89169.

8 Q. How does that address compare to the address we saw in the  
9 document on the left?

10 A. It looks to be exactly the same.

11 Q. Zooming back out on the document on the right-hand side,  
12 can you please read what virtual office type agreement it is  
13 that's at the center of the page?

14 A. Sure. This is a standard Mailbox Plus agreement.

15 Q. How does that compare to the virtual office agreement?

16 A. This would not provide a client with any days -- any free  
17 days allotted to him for use at the center. This also would  
18 not provide him with a phone number as well. It only  
19 handles -- it only covers mail handling.

20 Q. Based on your understanding of the various agreements that  
21 Mr. Brennerman had with Regus, did he ever have a Regus office  
22 with a permanent physical space?

23 A. Based on this, no.

24 Q. Based on your understanding of the various agreements we  
25 have looked at and Mr. Brennerman had with Regus, did he ever

HC4KBRE7

Fitzpatrick - Cross

1 have a staff or employees with a permanent physical presence at  
2 a Regus office location?

3 A. No.

4 MS. SASSOON: No further questions.

5 THE COURT: Cross-examination, Mr. Waller?

6 CROSS-EXAMINATION

7 BY MR. WALLER:

8 Q. Good afternoon, Mr. Fitzpatrick.

9 A. Good afternoon.

10 Q. Regus is a publicly traded corporation, right?

11 A. Yes.

12 Q. It's a multinational corporation?

13 A. Yes, it is.

14 Q. It has about \$2 billion in revenue every year?

15 A. I wouldn't know the exact figure on that, but it sounds  
16 about right.

17 Q. Is it a billion dollar company?

18 A. I would believe so, yes.

19 Q. Now, Regus is in the business of providing alternatives to  
20 traditional office space, right?

21 A. Correct.

22 Q. And there are benefits of having a virtual office space?

23 A. Yes.

24 Q. It provides flexibility to a company --

25 A. Yes, it does.

HC4KBRE7

Fitzpatrick - Cross

1 Q. -- right?

2 It allows a company to establish a presence in any  
3 market, right?

4 A. Yes.

5 Q. In fact, isn't that something that's promoted on Regus'  
6 website?

7 A. I believe so, yes.

8 Q. And it's also less costly to have a virtual office, right?

9 A. Yes.

10 Q. And more efficient?

11 A. In comparison to having a full office, yes.

12 Q. Yes. You don't have to manage and operate a traditional  
13 office, correct?

14 A. Correct.

15 Q. How many companies did you say used the Regus office space  
16 in New York?

17 A. In New York or at my center alone?

18 Q. How many offices are in New York?

19 A. I'd say about 40.

20 Q. Okay. So at your location?

21 A. At my location, about 20 in-house clients. If you add in  
22 the virtual office clients, I'd say that tacks on about another  
23 hundred.

24 Q. Some of those are large companies?

25 A. Yes.

HC4KBRE7

Fitzpatrick - Cross

1 Q. What types of companies?

2 A. All types. We have law firms, we have financial  
3 institutions, hedge funds. It really spans the gamut.

4 Q. Would you expect that if a company rents a Regus office,  
5 whether it's virtual or in-house, that they would use that  
6 address on their own website as their office address?

7 A. As their office address, yes.

8 Q. That's expected, that that's the address that the company  
9 is going is to use, is the Regus office, correct?

10 A. Correct.

11 Q. You said you're aware that Regus -- that Mr. Brennerman  
12 signed leases for Texas, California, and Las Vegas?

13 A. Based on the documents here, yes.

14 Q. The prices that were shown, \$375 a month for a virtual  
15 office, that was in 2008, right?

16 A. Uh-huh.

17 Q. Has the price gone up since then?

18 A. It has, yes.

19 Q. If a person has a virtual office that allows them two days  
20 of actual office space per month, are they able to call and  
21 say, I'd like to use -- I've used my two days, I'd like more  
22 space and more time in the office for an additional fee?

23 A. They are able to request that, yes.

24 Q. So, the person -- someone or a company that has a virtual  
25 office space has flexibility to use it more than two days if

HC4KBRE7

Fitzpatrick - Cross

1 they just pay extra money, correct?

2 A. Correct, if they pay extra.

3 Q. And Regus is very flexible about that?

4 A. Yes.

5 Q. There are conference rooms available if someone in a  
6 company wanted to meet with a client?

7 A. Yes, there are.

8 Q. And there's desks available to do work, right?

9 A. Of course, yes.

10 Q. The purpose of Regus is not to allow companies a fraudulent  
11 way to represent themselves, is it?

12 A. No. No, it's not.

13 MR. WALLER: Thank you. I have nothing further.

14 THE COURT: Okay. Any redirect?

15 MS. SASSOON: No, your Honor.

16 THE COURT: Okay. You can step down. Thank you very  
17 much, Mr. Fitzpatrick.

18 THE WITNESS: No problem.

19 (Witness excused)

20 THE COURT: Next witness?

21 MR. LANDSMAN-ROOS: The government calls Thomas Bolus.  
22 THOMAS BOLUS,

23 called as a witness by the Government,

24 having been duly sworn, testified as follows:

25 THE COURT: Please state your name and spell your name

HC4KBRE7

Bolus - direct

1 for the record.

2 THE WITNESS: Thomas Bolus, B-o-l-u-s.

3 THE COURT: Okay. Mr. Bolus, you don't have to eat  
4 the mic, but just probably about four inches would do it.  
5 Right there, I think, is where --

6 THE WITNESS: Thank you.

7 THE COURT: Good. Thank you.

8 Go ahead, Mr. Roos.

9 DIRECT EXAMINATION

10 BY MR. LANDSMAN-ROOS:

11 Q. Good afternoon, Mr. Bolus.

12 A. Good afternoon, sir.

13 Q. Where do you work?

14 A. I work at the Internal Revenue Service Criminal  
15 Investigation Division in Scranton, Pennsylvania.

16 Q. What's your title there?

17 A. I am a court witness coordinator.

18 Q. How long have you worked at the IRS?

19 A. For 13 years.

20 Q. What are your duties and responsibilities in your current  
21 position?

22 A. Well, as a court witness coordinator, I represent the  
23 commissioner of the Internal Revenue Service in his custodial  
24 duties as the record custodian for trials. So I gather,  
25 retrieve, download, and prepare certifications of true original

HC4KBRE7

Bolus - direct

1 copies of tax documents to bring in those copies to be  
2 introduced as evidence in federal criminal trials.

3 Q. Now, are companies required to file taxes with the IRS?

4 A. Yes, they are.

5 Q. What types of tax filings must a company file?

6 A. Well, a corporation can file an 1120 Form, which is a  
7 corporate United States tax form. Partnerships can file a Form  
8 1065, which would be a partnership between multiple people or  
9 two people. And then there's the FUTA Form, there's a Form  
10 940, which is a Federal Unemployment Tax Act form, which is  
11 required to be filed yearly, annually, for a company to show  
12 any unemployment that may have been paid. And there's also a  
13 quarterly tax return for the company and/or corporation to show  
14 their quarterly income and submit payment vouchers along the  
15 way, so they don't get hit at the end of the year with one big  
16 payment, and that's a Form 941.

17 Q. How frequently must a Form 1120 be filed?

18 A. They're filed annually.

19 Q. I'm showing you what's in evidence as Government Exhibit  
20 157-A. Do you see that document on your screen?

21 A. Yes, I do.

22 MR. LANDSMAN-ROOS: Ms. Fetman, will you zoom in on  
23 the top portion of the document, the top half.

24 A. I'm sorry, your question, sir?

25 Q. I was asking the paralegal to zoom in.

HC4KBRE7

Bolus - direct

1 Now, Mr. Bolus, do you see on your screen where it  
2 says "Estimated Annual Compensation"?

3 A. Yes, I do.

4 Q. What's the estimated annual compensation on this document?

5 A. \$720,000 base salary.

6 Q. By the way, had you seen this document before I showed it  
7 to you at some point?

8 A. No.

9 Q. Now, based on your training and experience with the IRS, do  
10 you know whether a person with an annual salary of \$720,000 is  
11 required to file a tax return?

12 A. Yes, they would be.

13 MR. LANDSMAN-ROOS: Okay. You can take that document  
14 down. And can you put up what's in evidence as Government  
15 Exhibit 1-2-A. And, Ms. Fetman, will you take us to page 6 of  
16 this document.

17 Q. Mr. Bolus, before I showed you this document, had you seen  
18 it?

19 A. No, I had not.

20 Q. Do you see on the screen where it says "Net Income  
21 Revenues"?

22 A. Yes, I do.

23 Q. And you see above it, there are three zeros?

24 A. Yes.

25 Q. Now, what does this document say net income revenues are?



HC4KBRE7

Bolus - direct

1 A. \$87,337,000.

2 MR. LANDSMAN-ROOS: Ms. Fetman, if you could zoom out.

3 Q. And, Mr. Bolus, do you see at the bottom of the screen  
4 where it says "Pretax Profits"?

5 A. Yes, I do.

6 Q. And what are the pretax profits that are listed?

7 A. 26,959,000.

8 Q. Now, based on your training and experience with the IRS, do  
9 you know whether a company with approximately \$26,959,000 in  
10 pretax profit is required to make a tax filing?

11 A. Yes, they would be.

12 Q. Before testifying today, did you have the opportunity to  
13 review certain IRS records and documents to prepare for your  
14 testimony?

15 A. I did. As part of the ex parte order from the United  
16 States Attorney for the Southern District of New York to the  
17 Internal Revenue Service to request disclosure of certain tax  
18 documents.

19 Q. So let me ask you about what you just said. First of all,  
20 what is an ex parte order?

21 A. Well, an ex parte order is a direction to the Internal  
22 Revenue Service to disclose tax information, which we normally  
23 don't do because of privacy and personal identifying  
24 information. And it directs the Internal Revenue Service to  
25 disclose for a particular information that may be relevant to a

HC4KBRE7

Bolus - direct

1 trial.

2 Q. And what party makes the request?

3 A. So the U.S. Attorney's Office would make the request to the  
4 Disclosure Office of the Internal Revenue Service.

5 Q. And then what happens after that?

6 A. The Disclosure Office would then research and gather  
7 information that was requested, that particular information  
8 just in the scope of that request, and then provide that  
9 information further to the U.S. Attorney's Office.

10 Q. Have you reviewed the records that were collected by the  
11 Disclosure Office?

12 A. Yes, I did.

13 Q. I'm showing you what's marked for identification as  
14 Government Exhibit 31.

15 MR. LANDSMAN-ROOS: This is not for the jury.

16 Q. Mr. Bolus, do you recognize this document?

17 A. Yes, I do.

18 Q. And what is it?

19 A. So this document was prepared by the U.S. Attorney's Office  
20 to -- basically reconciliation or a comparison of the documents  
21 that the IRS Disclosure Office provided to the U.S. Attorney's  
22 Office.

23 Q. Let me ask you a few questions about it.

24 The documents that were provided by the IRS to the  
25 U.S. Attorney's Office, were they made and maintained by the

HC4KBRE7

Bolus - direct

1 IRS in its regular operations?

2 A. Yes, they are.

3 Q. Does the IRS keep the information asked about by the U.S.  
4 Attorney's Office in its regular activities?

5 A. Yes.

6 Q. Are those records voluminous?

7 A. Yes, they are.

8 Q. Have you reviewed the information in Government Exhibit 31?

9 A. Yes, I have.

10 Q. Have you been able to verify whether it correctly and  
11 accurately reflects the information in the IRS records that you  
12 looked at?

13 A. I did verify it, and it is correct.

14 MR. LANDSMAN-ROOS: The government offers Exhibit 31  
15 pursuant to Rule 1006.

16 THE COURT: Any objection?

17 MS. FRITZ: No, no objection.

18 THE COURT: Okay. Government Exhibit 31 is received.

19 (Government's Exhibit 31 received in evidence)

20 MR. LANDSMAN-ROOS: May we publish it to the jury?

21 THE COURT: Yes.

22 BY MR. LANDSMAN-ROOS:

23 Q. Now, Mr. Bolus, I'm going to ask you some questions about  
24 this chart. First, what years did you review tax records for?

25 A. From 2012 through to 2016.

HC4KBRE7

Bolus - direct

1 Q. And when you say through 2016, up to what point in 2016?

2 A. So January 1st of 2012 through December 31st of 2016.

3 Q. At this point, does the IRS have records for the year 2017?

4 A. Not yet.

5 Q. Now, do you see the company names that are listed on this  
6 chart?

7 A. I do.

8 Q. Let's start at the top one. Did the Blacksands Pacific  
9 Group, Inc. file any taxes from 2012 to 2016?

10 A. No.

11 THE COURT: Can I ask a question: What's the  
12 significance of a red X as opposed to the letters N-O? You  
13 write no in some columns, you write a red X in other columns.  
14 Do they mean the same thing?

15 THE WITNESS: That's correct, it's a no.

16 THE COURT: So red X means no.

17 Okay. Go ahead.

18 BY MR. LANDSMAN-ROOS:

19 Q. Now, Mr. Bolus, Blacksands Pacific Group, did it pay any  
20 taxes?

21 A. No, there's no record of it.

22 Q. And looking at the next three columns, during this time  
23 period, did it file any Form 1120s?

24 A. No.

25 Q. What about any Form 941s or 940s?

HC4KBRE7

Bolus - direct

1 A. No, they did not.

2 Q. Based on your review, is that true for all of the other  
3 Blacksands Pacific entities listed here?

4 A. Yes, it is.

5 Q. For the entire time period?

6 A. Yes.

7 Q. What about Jefferson III Holdings?

8 A. And for Jefferson III Holdings LLC, also.

9 Q. Now, if a company didn't make any profit in a year, would  
10 it be required to file a tax return?

11 A. Yes, they would.

12 Q. Why is that?

13 A. Because there's liabilities and assets that a company needs  
14 to report.

15 Q. What if a company only had contractors, would it need to  
16 file one of these Form 941s or 940s?

17 A. Yes, they would.

18 Q. Why is that?

19 A. Because they would be submitting Form 1099s on the  
20 contractors.

21 Q. I'm showing you now what's in evidence --

22 MR. LANDSMAN-ROOS: And can we publish it to the jury.

23 Q. -- Government Exhibit 58.

24 Mr. Bolus, do you see at the top here, it says it's a  
25 letter, it's dated August 15, 2014?

HC4KBRE7

Bolus - direct

1 A. Yes, I do.

2 Q. It's addressed to U.S. Department of Homeland Security,  
3 U.S. Citizenship and Immigration Services. Do you see that?

4 A. Yes, I do.

5 Q. Mr. Bolus, before I showed you this document in preparation  
6 for your testimony, had you ever seen it?

7 A. I had not.

8 Q. Let me hand you a copy. I'd just ask you to flip through  
9 it.

10 MR. LANDSMAN-ROOS: Ms. Fetman, if you'd flip, for the  
11 jury, through the pages of the document.

12 Q. And, Mr. Bolus, let me know when you've had a chance to  
13 look through it.

14 Okay. I want to direct your attention to the first  
15 exhibit attachment to this letter. And let's look at page 6.  
16 Do you see where it says 941 at the top?

17 A. Yes, I do.

18 Q. What's a Form 941?

19 A. So this is a quarterly employer's tax form.

20 Q. Why is this filed?

21 A. This is filed quarterly so that the employers can tell the  
22 IRS what taxes they paid, or for employment. And it also gives  
23 them a chance to submit a voucher of payment along the way.

24 Q. In this particular Form 941, what entity does it say the  
25 form is for?

HC4KBRE7

Bolus - direct

1 A. So this is for the Blacksands Pacific Group, Inc., 11601  
2 Wilshire Boulevard, Suite 500, Los Angeles, California 90025.

3 Q. Is this form signed? You can go to the next page.

4 A. Yes, it is.

5 Q. Who is it signed by?

6 A. To the right of the signature, it says Raheem J.  
7 Brennerman, CEO.

8 Q. Have you reviewed the tax filings and records related to  
9 the Blacksands Pacific Group, Inc.?

10 A. Yes, I have.

11 Q. Did the Blacksands Pacific Group, Inc. ever file a Form  
12 941?

13 A. There is no record of it with the IRS records.

14 Q. Let's talk about Raheem Brennerman. First, if a person is  
15 paid by a company, do they receive a tax form?

16 A. Yes, they would.

17 Q. And what form is that?

18 A. They could receive a W-2 or a 1099 form.

19 Q. What determines if a person received a W-2 or a 1099 form?

20 A. If a person is a regular employee of that corporation or  
21 that company, they would receive a W-2. If they're a  
22 contracted or seasonal or temporary employee, they would  
23 receive a Form 1099.

24 MR. LANDSMAN-ROOS: Now, Ms. Fetman, if you could take  
25 us to the eighth page of this exhibit.

HC4KBRE7

Bolus - direct

1 Q. Do you see that, Mr. Bolus?

2 A. Yes, I do.

3 Q. And what type of form is this?

4 A. So this is a Form W-2 wage and tax statement.

5 Q. And who is the W-2 form for?

6 A. This is issued by the Blacksands Pacific Group, Inc. to  
7 Raheem J. Brennerman for the tax year 2013.

8 Q. Did you have a chance to review tax records or records in  
9 the IRS's possession relating to the Blacksands Pacific  
10 Group, Inc. and Raheem J. Brennerman?

11 A. Yes, I did.

12 Q. Did the Blacksands Pacific Group, Inc. ever file this W-2?

13 A. No. That was never received by the IRS.

14 Q. What about Raheem J. Brennerman, did he ever file this W-2?

15 A. No, he did not.

16 Q. Let's look at Exhibit 31 again.

17 MR. LANDSMAN-ROOS: Ms. Fetman, can you put that up on  
18 the screen.

19 Q. Mr. Bolus, did the IRS conduct a search relating to Raheem  
20 Brennerman and also that Social Security number that's listed  
21 there?

22 A. Yes, they did.

23 Q. From 2012 to 2016, did Raheem Brennerman ever pay any  
24 taxes?

25 A. There is no record of it.



HC4KBRE7

Bolus - Cross

1 Q. And did he ever file any tax forms?

2 A. No, he did not.

3 MR. LANDSMAN-ROOS: No further questions.

4 THE COURT: Okay. Any cross?

5 MS. FRITZ: Yes. Thank you.

6 CROSS-EXAMINATION

7 BY MS. FRITZ:

8 Q. Good afternoon, Mr. Bolus.

9 A. Good afternoon, yes, ma'am.

10 Q. In connection with the review that you undertook in this  
11 case, did you determine whether or not Raheem Brennerman is  
12 actually a citizen of the U.K.?

13 A. I did not.

14 Q. There was nothing that you saw that alerted you to the fact  
15 that he is not a U.S. citizen?

16 A. The records that I saw indicate that he has a Social  
17 Security number, and those -- and that he does have a tax  
18 module open with the IRS but no tax filings.

19 Q. Okay. If an individual is actually a resident of the U.K.,  
20 do you have any knowledge of what, if any, filings were done  
21 where they live?

22 A. I would not have knowledge of that.

23 Q. Let me ask you a different question.

24 MS. FRITZ: If we could put up Government Exhibit 31.

25 Q. On here, there are a couple of companies listed. Alpha

HC4KBRE7

Bolus - Redirect

1 Blue LLC is one of them. Do you see that?

2 A. With Blacksands Alpha blue?

3 Q. Yes.

4 A. Yes.

5 Q. If a company -- not with respect to a filing, but if a  
6 company has received a loan, does that loan create a tax  
7 obligation? Putting aside the filing obligation, does it  
8 create an obligation to pay taxes?

9 A. The loan itself would not.

10 MS. FRITZ: That's it. Thank you.

11 THE COURT: Okay. Any redirect?

12 MR. LANDSMAN-ROOS: Redirect.

13 REDIRECT EXAMINATION

14 BY MR. LANDSMAN-ROOS:

15 Q. Mr. Bolus, if a person is a citizen or resident of another  
16 country but makes income in the United States, are they  
17 required to file taxes?

18 A. Yes, they would be.

19 MR. LANDSMAN-ROOS: No further questions.

20 THE COURT: Nothing?

21 Mr. Bolus, you can step down. Thank you. Give those  
22 papers back to Mr. Roos.

23 THE WITNESS: I'm excused, sir?

24 THE COURT: You're excused, yes. Thank you very much.

25 THE WITNESS: Thank you very much.

HC4KBRE7

Charles - Direct

1 THE COURT: You want to stay longer?

2 (Witness excused)

3 THE COURT: Next witness?

4 MS. SASSOON: Lisa Charles.

5 LISA CHARLES,

6 called as a witness by the Government,

7 having been duly sworn, testified as follows:

8 THE COURT: State your name and spell your name for  
9 the record.

10 THE WITNESS: Lisa Charles L-i-s-a, C-h-a-r-l-e-s.

11 THE COURT: Ms. Charles, just keep your voice up nice  
12 and loud.

13 Ms. Sassoon, you may proceed.

14 DIRECT EXAMINATION

15 BY MS. SASSOON:

16 Q. Good afternoon, Ms. Charles. Do you know Raheem  
17 Brennerman?

18 A. I do know Raheem Brennerman.

19 Q. How would you describe your relationship with him?

20 A. It originally started out as a hopeful relationship, but it  
21 went towards more of a friendship.

22 Q. How did you meet him?

23 A. A dating site.

24 Q. Around when was that?

25 A. 2011.

HC4KBRE7

Charles - Direct

1 Q. Where did you live at the time that you met Mr. Brennerman  
2 on this site?

3 A. Richmond Hill, Queens.

4 Q. Where did he live at the time, if you know?

5 A. It was between California, London, and New York.

6 Q. After you met online, did you keep in touch?

7 A. I did we did.

8 Q. In what way?

9 A. Emails, phone calls, and meeting each other.

10 Q. As you were getting to know Mr. Brennerman, what, if  
11 anything, did he tell you about where he was from?

12 MS. FRITZ: Objection.

13 THE COURT: Overruled.

14 A. He told me he was from originally Park Avenue, New York.

15 Q. What, if anything, did he tell you about his educational  
16 background?

17 A. He originally went to Columbia University and then London  
18 School of Finance.

19 Q. Did he tell you anything about what he did for a living?

20 A. He told me that he did oil, real estate and gas.

21 Q. Did he explain to you what his role was in that sector?

22 A. That he was the CEO.

23 Q. What are some of the things that he told you about his  
24 company?

25 MS. FRITZ: Objection; can we get any kind of time

HC4KBRE7

Charles - Direct

1 frame reference anything?

2 THE COURT: You said you met him in 2011?

3 THE WITNESS: Correct.

4 THE COURT: How long did you speak with him?

5 THE WITNESS: Until March 2017.

6 THE COURT: Okay, so a long time. So, maybe we should  
7 specify a time period. Go ahead.

8 BY MS. SASSOON:

9 Q. As you were getting to know him in 2011-2012, what are some  
10 of the things he told you about his company?

11 A. A few things that he told me about the company? Let's see.  
12 I'm trying to think about this. I know that they were supposed  
13 to be moving to New York. He was moving from Texas to -- well,  
14 I had several locations of his company -- California, Texas,  
15 London -- and that they were going to be moving all of the  
16 employees to the New York office that he was building.

17 Q. Did he tell you the name of this company?

18 A. It was black -- I forget BLV and Blacksands.

19 Q. As you were getting to know him, did he tell you anything  
20 about how he became involved in the oil and gas business?

21 A. His paternal grandfather got him involved.

22 Q. You mentioned something about moving his employees. Did he  
23 give you a sense of how many employees he had?

24 A. Well, he mentioned that -- we had a conversation about  
25 Christmas holiday parties once, and also we had conversated

HC4KBRE7

Charles - Direct

1 about gym, gym membership for his employees.

2 Q. What kind of impression did that give you of how many  
3 employees there was?

4 MS. FRITZ: Objection.

5 A. That it was a larger --

6 THE COURT: Did he ever say how many employees?

7 THE WITNESS: Not exactly.

8 THE COURT: Okay. Go ahead next question.

9 Q. I think you mentioned that there came a time when you met  
10 Mr. Brennerman in person. Do you remember around when that  
11 was?

12 A. That would have been -- let's see, December 2011.

13 Q. Where did you meet?

14 A. We met at the Time Warner building.

15 Q. In what city?

16 A. In New York.

17 Q. After that, how often were you in touch with  
18 Mr. Brennerman?

19 A. We pretty much spoke every day.

20 Q. What times of day would you talk?

21 A. It would be all -- around, all day long, texting, hey,  
22 what's up, how you doing.

23 Q. When you spoke on the phone, did he ever indicate to you  
24 that he was at his office?

25 A. No.

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Charles - Direct

1 Q. What was he usually doing when you spoke on the phone?

2 MS. FRITZ: Objection; your Honor, this is very vague,  
3 and, objection, relevance.

4 THE COURT: Was he usually doing one thing when you  
5 called him on the phone?

6 THE WITNESS: Usually watching TV.

7 THE COURT: All right. So most of the time when you  
8 called, he was watching TV; that's what you're saying? Okay.

9 BY MS. SASSOON:

10 Q. How many times would you estimate you've seen  
11 Mr. Brennerman in person?

12 A. About five times; five, six times.

13 Q. When is the last time that you spoke to him?

14 A. I would say March.

15 Q. Around March?

16 A. March or April.

17 THE COURT: Of this year?

18 THE WITNESS: Of this year.

19 Q. Do you remember what you talked about that last time you  
20 spoke?

21 MS. FRITZ: Objection.

22 THE COURT: Overruled.

23 You can answer the subject, you can state the subject  
24 that you spoke about.

25 THE WITNESS: Okay.

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Charles - Direct

1 Well, we spoke about several things, because he was  
2 having health issues and his mother was having health issues  
3 and I didn't hear from him for a couple of weeks before that,  
4 and I was concerned and I asked him what's going on. And then  
5 he started talking about those issues, and then he started  
6 saying that he was having court situations, where he had this  
7 large bill of 5 mil to pay, and it stressed him out.

8 Q. Just to make sure I heard, how much was the bill?

9 A. It was 5 mil.

10 Q. When you say mil?

11 A. Million.

12 Q. Did he explain to you the source of that bill or what was  
13 going on with it?

14 A. There was -- no, he did not explain to me what it was, but  
15 I kind of like shrugged it off because, in my head, I'm like,  
16 you have money, what's the big deal, why is this bothering you  
17 so much?

18 Q. Did he say that it was bothering him?

19 A. I can tell -- yeah, it was bothering him. It was bothering  
20 him, like, to the point where he was, like, you know what -- he  
21 was so stressed out, that he was, like, I feel like just  
22 turning in my passports and leaving.

23 Q. Did he say where he wanted to leave from or to?

24 A. No.

25 Q. Did he say whether he wanted you to come with him?



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Charles - Direct

1 MS. FRITZ: Objection, your Honor. I don't know --

2 THE COURT: Sustained as to the last one.

3 Go ahead next question.

4 Q. Where do you work now?

5 A. Barclays Bank.

6 Q. What do you do there?

7 A. I'm a project assistant.

8 Q. Do you remember where you worked around the time that you  
9 met Mr. Brennerman?

10 A. Guardian Life Insurance.

11 Q. Have you ever worked for Mr. Brennerman?

12 A. Never.

13 Q. Did you ever work at Blacksands Pacific?

14 A. I have never.

15 Q. Did you ever work at a company called BLV Realty?

16 A. I have not.

17 Q. Did you ever discuss with Mr. Brennerman going to work for  
18 him?

19 A. He mentioned it. He asked me to name how much I would need  
20 to work for him.

21 Q. Did you?

22 A. No, I didn't.

23 Q. Did he describe to you what kind of job he was offering  
24 you?

25 A. Basically, he was -- he explained to me that he just needed

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Charles - Direct

1 someone to travel with him for when he's entertaining his  
2 clients or clients' wives or his prospects' wives.

3 Q. Did you ever accept a job offer from him?

4 A. I have never.

5 Q. Did he ever pay you a salary?

6 A. Never.

7 Q. Did he ever gift to you any money?

8 A. No.

9 MS. SASSOON: Ms. Fetman, I'd like to show the witness  
10 Government Exhibit 1-33, which is in evidence.

11 Q. Prior to my showing you this document that's on your  
12 screen, had you ever seen it before?

13 A. No, I have not.

14 Q. Let's take a look at the bottom email, which is from M.  
15 Kelly to Scott Wood and Larry Smith on September 23rd, 2012.  
16 Can you read the first two lines of this email right beneath  
17 that?

18 A. "Further to the correspondence with Mr. Smith below, we may  
19 be interested to acquire up to 50 percent in the asset for  
20 approximately 295 million to 325 mil."

21 Q. Let's turn to the next page and zoom in on the signature  
22 block of this email. Can you read that for me, please?

23 A. "Written by Ms. L. Charles, executive assistant, on behalf  
24 of Mr. M. Kelly, Blacksands Pacific."

25 Q. Did you write this email?

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Charles - Direct

1 A. I did not.

2 Q. Did you send this email?

3 A. I did not.

4 Q. Did you ever work as an executive assistant for Mike Kelly  
5 at Blacksands?

6 A. I never.

7 Q. Did Mr. Brennerman ever ask you to work as an executive  
8 assistant for Mike Kelly?

9 A. Never.

10 Q. Have you ever met Mike Kelly?

11 A. Never.

12 Q. Had you ever heard of him before you saw this email?

13 A. No.

14 MS. SASSOON: Ms. Fetman, please show the jury and the  
15 witness Government Exhibit 1-35, which is in evidence.

16 Q. Prior to my showing you that document, had you seen it  
17 before?

18 A. No, I have not.

19 MS. SASSOON: Let's zoom in at the top.

20 Q. This is a letter dated August 20th, 2015, addressed to  
21 Peter A. Aderinwale. Can you please read the first paragraph  
22 of this letter?

23 A. "We confirm your discretionary compensation bonus at  
24 \$850,000 as your share of the total compensation bonus  
25 available to your team for the Atlantic Energy Acquisition

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Charles - Direct

Transaction."

MS. SASSOON: Let's zoom in on the signature block.

Q. Can you read that for me?

A. "Dated August 20, 2015, California USA, Lisa Charles, employee benefits, business/business operations group."

MS. SASSOON: Let's zoom out. Right beneath that it says, "Blacksands Pacific Energy Corporation."

Q. Did you write this letter?

A. I did not.

Q. Have you ever heard of Peter Aderinwale before you saw this letter?

A. I have not.

Q. Did you ever work in the employee benefits business operations group --

A. No.

Q. -- of Blacksands?

A. No, I have not.

MS. SASSOON: Ms. Fetman, please display Government Exhibit 1-36, which is in evidence.

Q. Before I showed you this document, had you seen this document before?

A. No, I had not.

Q. This is a letter dated December 1, 2012, addressed to the U.K. border agency referencing Mr. Peter Abiodun Aderinwale.

MS. SASSOON: Let's zoom in on the first paragraph.

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Charles - Direct

1 Q. It says, "We, Blacksands Pacific International Limited, are  
2 acting on behalf of Mr. Peter Aderinwale and Ms. Cidalia Maria  
3 de Deus Varela. We are very interested in employing  
4 Mr. Aderinwale as chief country project officer for our African  
5 operations managed from the London office. We are an  
6 international oil and gas corporation with over \$4.7 billion in  
7 assets and expanding daily crude oil production. We have  
8 undertaken the position to assist both Mr. Peter Aderinwale and  
9 Ms. Cidalia Maria de Deus Varela with their residency card  
10 application, which will enable Mr. Aderinwale to settle in the  
11 United Kingdom and become eligible to work in the United  
12 Kingdom."

13 Did you write that?

14 A. No, I did not.

15 Q. Let's turn to the next page of this letter. Let's look at  
16 the signature block. This says Mr. L. Charles, Blacksands  
17 Pacific Energy Corporation.

18 Did you write this letter?

19 A. Did not.

20 Q. Let's look now at Government Exhibit 1-37, which is in  
21 evidence. Prior to my showing you this document, had you seen  
22 it before?

23 A. I had not seen it.

24 Q. This is a letter dated December 29th, 2016, on BLV Realty  
25 Organization letterhead. You'll see at the top it says Lisa D.

HC4KBRE7

Charles - Direct

1 Charles, human resources department. Beneath the date, it says  
2 Ayodeji Raheem Soetan, legal and compliance, California office.

3 And I will read the first paragraph of this letter,  
4 "Dear Mr. Soetan: In compliance with your employment  
5 compensation, we confirm your 2016 annual cash incentive of  
6 \$798,000, which includes your guaranteed annual cash incentive  
7 of \$400,000 and the discretionary annual cash incentive of  
8 \$398,000."

9 Let's take a look at the signature block of this  
10 letter. It says, "Lisa Charles, employee compensation and  
11 incentives, human resources department, BLV Realty  
12 organization."

13 Did you ever work at BLV Realty?

14 A. I have never.

15 Q. Is that your signature?

16 A. That is not my signature.

17 Q. Did you write this letter?

18 A. I did not.

19 Q. Before you saw this letter, had you ever heard of Ayodeji  
20 Raheem Soetan?

21 A. No, I had not.

22 Q. You'll see at the bottom it says BLV Realty Organization,  
23 245 Park Avenue, floor 39. Had you ever been there?

24 A. No, I have not.

25 Q. One more document to show you: This is Government Exhibit

HC4KBRE7

Charles - Direct

1 1-5. This is in evidence. This is a loan agreement,  
2 Blacksands Pacific, dated October 25, 2013, between Blacksands  
3 Pacific Alpha Blue LLC and the Blacksands Pacific Group, Inc.

4 Let's go now to page 10 of this document. Prior to my  
5 showing you this document, had you seen it before?

6 A. No, I have not.

7 Q. This is a letter October 28th, 2013, and I will read the  
8 first paragraph. "We confirm, on behalf of the Blacksands  
9 Pacific Group ('the company' or 'lender') that all conditions  
10 precedent pursuant to the loan agreement between Blacksands  
11 Pacific Alpha Blue LLC, as borrower, and the Blacksands Pacific  
12 Group, Inc., as lender, has been satisfied."

13 MS. SASSOON: Now, let's zoom in on the signature  
14 here.

15 Q. What does the signature block say?

16 A. Lisa E. Charles.

17 THE COURT: Could you say that louder? Sorry.

18 THE WITNESS: Ms. L.E. Charles.

19 Q. Can you read the three lines beneath that as well?

20 A. "Treasury/accounting and tax group, Blacksands Pacific  
21 Energy Corporation, Inc. on behalf of the Blacksands Pacific  
22 Group, Inc."

23 Q. The signature there, is it your signature?

24 A. That is not my signature.

25 Q. Did you ever work in the treasury, accounting and tax group

HC4KBRE7

Charles - Cross

1 at Blacksands?

2 A. I did not.

3 Q. I've shown you a number of documents today with a variation  
4 on Lisa Charles -- L. Charles, Mr. L. Charles -- and a variety  
5 of positions on them. Before your preparation for testimony in  
6 this case, were you aware of the existence of any of these  
7 documents?

8 A. No, I was not.

9 Q. Did you ever give Mr. Brennerman permission to send  
10 correspondence in your name?

11 A. I did not.

12 Q. Did he ever tell you that he sent business correspondence  
13 in your name?

14 A. He did not tell me.

15 MS. SASSOON: No further questions.

16 THE COURT: Okay. Cross-examination?

17 MS. FRITZ: Thank you.

18 CROSS-EXAMINATION

19 BY MS. FRITZ:

20 Q. Hello, Ms. Charles.

21 A. Hello.

22 Q. My name is Maranda Fritz. We actually spoke yesterday, I  
23 think, right?

24 A. Right.

25 Q. And yesterday I called, I asked if you were willing to



HC4KBRE7

Charles - Cross

1 speak with me; and you weren't?

2 A. That's my Sunday.

3 Q. Other than that, you and I have never spoken, correct?

4 A. Correct.

5 Q. But just to put this in sort of a timeline, you met  
6 Mr. Brennerman in 2011 and you maintained a friendship with him  
7 year after year after year, all the way until March or April of  
8 this year, correct?

9 A. Correct. Correct.

10 Q. You can say -- okay.

11 Back when you first met Raheem, one of your initial  
12 sort of dates or times that you spent with him was a 24-hour  
13 trip to London, correct?

14 A. Correct.

15 Q. And did you see where Mr. Brennerman was living in London?

16 A. I did.

17 Q. Was that nice?

18 A. Yeah. It's Knightsbridge; it's nice.

19 Q. And Mr. Brennerman paid for all of the expenses to fly you  
20 over to London, correct?

21 A. Correct.

22 Q. Now, this was in 2011; am I right?

23 A. Yes.

24 Q. And during that period, 2011 and 2012, were there other  
25 instances where he paid for your travel, for example?

HC4KBRE7

Charles - Cross

1 A. No.

2 Q. Were there any instances in which he gave you gifts?

3 A. No.

4 Q. Back to the 2011: This was years before Mr. Brennerman  
5 ever told you that this issue existed with respect to a bank  
6 loan, right?

7 A. Never told me.

8 Q. Well, you mentioned that earlier this year he was upset  
9 about a loan?

10 A. Okay, that loan, yes. I thought you were talking about  
11 something else.

12 Q. So this kind of thing of flying you to London and showing  
13 you where he lived, that was years prior to any issue with  
14 respect to that loan, correct?

15 A. Correct. Correct.

16 Q. Back in the 2011 period, you dealt with his assistant  
17 Annisa; is that correct?

18 A. Correct.

19 Q. And you dealt with her in terms of travel, things like  
20 that?

21 A. Just travel, yeah.

22 Q. Let me ask you also: You were asked by Ms. Sassoon where  
23 you worked during the period 2012 and 2013. Do you recall  
24 that?

25 A. 2011, she asked.

HC4KBRE7

Charles - Cross

1 Q. Okay. And what was your answer to that question?

2 A. Guardian Life Insurance.

3 Q. So I just want to be clear: During the period 2012 and  
4 2013, where did you work?

5 A. I did a lot of temporary work, so I can't really, off the  
6 top of my head, remember.

7 Q. Okay. For example, if we could pull up 1-36. This was an  
8 exhibit that was shown to you a few minutes ago. And the date  
9 on this document is December 2012. And this is a document that  
10 was shown to you by Ms. Sassoon, and the signature line has  
11 some variation on L. or Lisa Charles. Do you recall that?

12 A. Can you show me the signature line?

13 Q. Okay?

14 A. Mr. L. Charles.

15 Q. Okay. As of August of 2012, you were no longer working at  
16 Guardian Life Insurance, correct?

17 A. Correct.

18 Q. And for the next year or so, is it correct that you really  
19 had your own company?

20 A. That's incorrect.

21 Q. Did you work for a company called United Business Media?

22 A. Yes, I did.

23 Q. And at that company, did you provide temporary assistance  
24 to executives in connection with their correspondence, their  
25 travel, things like that?

HC4KBRE7

Charles - Cross

1 A. Yes, I did.

2 Q. For example, part of your job for this entire period, 2012  
3 and 2013, was maintaining daily calendars and meeting  
4 schedules; is that correct?

5 A. Correct.

6 Q. Answering correspondence and dealing with correspondence;  
7 is that correct?

8 A. I was the executive assistant, so that's what they always  
9 do, that's basically what we do.

10 Q. You were doing this sort of on a temporary basis; is that  
11 correct?

12 A. Correct; full-time temp position, from 8:30 to 6:00,  
13 7:00 o'clock.

14 Q. Okay. And going to Exhibit 1-5, and if we go to the -- oh,  
15 sorry, this is a document that's dated October of 2013. During  
16 this same period of time, 2012 and 2013, were you in the  
17 business of providing sort of executive assistant services to  
18 executives?

19 A. Yes, I was.

20 Q. Same period of time?

21 A. Yes, I was.

22 Q. But --

23 A. To legitimate executives.

24 Q. Yeah, well, sure. And at any time when you were dealing  
25 with Raheem Brennerman, did you decide that he was not a

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Charles - Cross

1 legitimate --

2 A. While I was dealing with him? No, because I mean, we  
3 didn't really speak about his --

4 Q. So now --

5 THE COURT: Wait. You didn't speak about his what?

6 THE WITNESS: I didn't speak about what exactly he was  
7 doing until -- now that I know that he's not legitimate, that's  
8 the reason why he said that.

9 MS. FRITZ: Objection; move to strike.

10 THE COURT: Just answer the question.

HC4KBRE7

Charles - Cross

1 BY MS. FRITZ:

2 Q. Now, this is what I wanted to talk about. As of March 17  
3 of this year, you were still friends with Mr. Brennerman,  
4 correct?

5 A. Correct.

6 Q. Okay. But now, a few months later, you come in here and  
7 you're saying, oh, maybe after all of those years, that he's  
8 not legit? That's what you just said, correct?

9 MS. SASSOON: Objection.

10 THE COURT: Overruled.

11 You can answer. Is that what you're saying?

12 THE WITNESS: Well, as of what I know now, that's what  
13 I'm saying. I thought we already struck that.

14 MS. FRITZ: Okay. Unstrike.

15 BY MS. FRITZ:

16 Q. So now, you're saying as of what you know now.

17 How many times have you dealt with one of the folks at  
18 this table?

19 A. Maybe twice.

20 Q. And when did they first contact you?

21 A. Maybe September.

22 Q. Okay. And how much time have you spent with them?

23 A. Not long. Maybe altogether half an hour, hour.

24 Q. Have they provided you with information regarding some of  
25 the things that they are saying with respect to Mr. Brennerman?

HC4KBRE7

Charles - Cross

1 A. The only things that I've seen is what you -- you're  
2 pulling up yourself.

3 Q. Okay. But for six years, dealing with him and talking with  
4 him about his company -- and you said to Ms. Sassoon, oh, yes,  
5 we talked about his company, his oil and gas business, you were  
6 at his home in London, correct?

7 A. Correct.

8 Q. -- for six years, you did not view Mr. Brennerman as  
9 anything other than a business executive?

10 A. I viewed him for what he told me he was.

11 Q. But you spent time with him, right?

12 A. Six times in, what, six or seven years.

13 Q. And communicated continuously, messaging back and forth,  
14 phone calls, all of that?

15 A. Correct.

16 Q. So, with all of that contact, at no time did you view him  
17 as anything other than someone that you wanted to continue to  
18 be friends with?

19 A. Correct.

20 MS. FRITZ: Nothing further.

21 THE COURT: Okay.

22 Redirect?

23 MS. SASSOON: Very quick.

24 (Continued on next page)

HC4KBRE7

Charles - Redirect

1 REDIRECT EXAMINATION

2 BY MS. SASSOON:

3 Q. Ms. Charles, can you remind me about how many times you met  
4 Mr. Brennerman in person?

5 A. About six times. Maybe even less.

6 Q. Do you remember Ms. Fritz asked you, during  
7 cross-examination, about the period of time you were doing  
8 temporary work?

9 A. Yes.

10 Q. That was as an executive assistant?

11 A. Correct.

12 Q. At any point during that period, did Mr. Brennerman hire  
13 you --

14 A. No.

15 Q. -- as an executive assistant?

16 A. No.

17 Q. Did he ever ask you to help with any temp work?

18 A. Never.

19 Q. Ms. Fritz asked you about your view of Mr. Brennerman as a  
20 legitimate business executive. I'd like to ask you, how, if at  
21 all, did learning that Mr. Brennerman used your name without  
22 your permission affect your view of his legitimacy as a  
23 business executive?

24 A. How it affected my views? I'm just offended that he would  
25 use my name, just -- that's it. Like, you know, I work in



HC4KBRE7

Charles - Recross

1 finance myself, and I was a little worried that this would  
2 affect me at my job.

3 MS. SASSOON: No further questions.

4 THE COURT: Anything? Okay.

5 MS. FRITZ: Yes, a couple of follow-ups.

6 RECROSS EXAMINATION

7 BY MS. FRITZ:

8 Q. So you got a phone call -- you're just minding your own  
9 business, right, and you get a phone call from who representing  
10 the Department -- who contacted you from this group here?

11 A. Justin did.

12 Q. Okay. So Justin is someone that you have dealt with a  
13 number of times?

14 MS. SASSOON: Objection; beyond the scope.

15 THE COURT: Overruled.

16 You can answer.

17 A. Twice.

18 Q. So, Justin, when he contacts you, does he say, I'm working  
19 for the Department of Justice?

20 A. Correct.

21 Q. And did he explain that he was calling in relation to a  
22 case against Raheem Brennerman?

23 A. Yes, he did.

24 Q. And has that ever happened to you before, that someone that  
25 you know is actually now being pursued by the U.S. Government?

HC4KBRE7

Charles - Recross

1 Has that ever happened to you before?

2 A. No.

3 Q. And so now they want to talk to you about things that they  
4 say you did, right?

5 A. No. That's what -- that's not what happened.

6 Q. They want to interview you, and suddenly they show you  
7 things that have your name on them, right?

8 A. Correct.

9 Q. And you say, I had nothing to do with that?

10 A. Absolutely.

11 MS. FRITZ: Okay. Nothing further.

12 THE COURT: Okay. Nothing?

13 MS. SASSOON: Nothing, your Honor.

14 THE COURT: All right. Do you have the next witness?

15 MS. SASSOON: It's now 5:30.

16 THE COURT: I know that. Do you have a next witness?

17 MS. SASSOON: Oh.

18 MR. LANDSMAN-ROOS: Our next witness is Howard  
19 Berkowitz.

20 THE COURT: All right. So, sit there.

21 Ladies and gentlemen, I'm going to do this: I'm going  
22 to excuse you now. Go back to the jury room. I'm going to  
23 talk to the lawyers just about scheduling, because we may do a  
24 slightly different schedule tomorrow. So don't leave, but it  
25 will be two minutes before I come back and just tell you when

HC4KBRE7

Charles - Recross

1 to come back tomorrow. Okay? Great. Thank you.

2 All rise.

3 Don't discuss the case. Leave your books in the jury  
4 room, but don't leave until Mr. Kazam comes back and tells you  
5 what the deal is for tomorrow.

6 (Continued on next page)

HC4KBRE7

1 (Jury not present)

2 THE COURT: Ms. Charles, you can step down. Thank  
3 you.

4 (Witness excused)

5 THE COURT: The government has one witness left?

6 MR. LANDSMAN-ROOS: Your Honor, we have two witnesses.  
7 One is someone from the DMV, which would be about a  
8 ten-minute-long direct, if that. And we've discussed a  
9 stipulation, so we may be able to remove him.

10 The other one is Howard Berkowitz. My direct will be  
11 over an hour.

12 THE COURT: So we have over an hour to go tomorrow.  
13 And then we don't know if the defense is putting on a case at  
14 this point? Or do you know at this point?

15 MS. FRITZ: I can't say with certainty, but what I can  
16 say is that he is a bit of a monkey wrench because, your Honor,  
17 as I think I made clear, we are continuing the conversation  
18 with respect to a defense case, but today I was handed a  
19 subpoena that says that if Mr. Brennerman is going to testify,  
20 he would have to produce one day prior to his testimony a  
21 lengthy list of documents.

22 THE COURT: Well, anyway, I'm just trying to figure  
23 out what I'm telling the jury about tomorrow. It sounds like  
24 we're going to sum up tomorrow, right?

25 MS. FRITZ: Your Honor, as I just indicated, I cannot

HC4KBRE7

1 say that. Mr. Brennerman has not and is not prepared to tell  
2 you that he's made that decision.

3 THE COURT: Okay.

4 (Continued on next page)

HC48BRE8

1 THE COURT: So I am just going to wait and then  
2 tomorrow I will give you guys an extra day if he decides he is  
3 not going to?

4 If he doesn't testify, we are going to go into  
5 summations, right?

6 MS. FRITZ: Yes.

7 THE COURT: And if he does testify, then we will have  
8 testimony. If there is a dispute about this subpoena, then we  
9 will talk about that. But I am just saying we may have  
10 summations tomorrow, in which case we will need to do a charge  
11 conference tomorrow. So do we do that between 9 and 10 and  
12 have the jury come at 10, and that way we are sort of covered  
13 the rest of the day?

14 MR. ROOS: That's our preference.

15 THE COURT: Do you have any objection to that, Ms.  
16 Fritz?

17 MS. FRITZ: I would ask that we start at 9:30, but  
18 other than that, no.

19 THE COURT: I don't want to waste a day with him. If  
20 we are going to have summations and a charge and an hour of  
21 testimony, I think it could get tight in the afternoon. That's  
22 my reason for starting at 9.

23 MS. FRITZ: Understood.

24 THE COURT: So I am just going to send Mr. Kazam back  
25 to tell them to come tomorrow at 10. Does anybody have any

HC48BRE8

1 objection to just having him tell them to be ready to go at 10?

2 MS. FRITZ: No objection.

3 MR. ROOS: No.

4 THE COURT: Then I will tonight send you the charge,  
5 which we can chat about for an hour, and then you will have an  
6 idea what we are shooting at for summations. Then we will see  
7 how the testimony goes tomorrow.

8 I don't know if we need to talk about the subpoena or  
9 not. I don't know anything about it. This is the first I am  
10 hearing it.

11 MS. FRITZ: Your Honor, here's the issue. It is a  
12 virtual impossibility, obviously, for there to be compliance  
13 with this subpoena. Mr. Brennerman is incarcerated. The  
14 government is in possession of every single byte or megabyte or  
15 terabyte of data. It just feels as if this is intended to try  
16 to prevent testimony, as if the government wants to  
17 cross-examine him and say, well, we demanded that you give us  
18 this material and you didn't.

19 So I don't know. To me, it interferes with our  
20 ability to make a decision as to whether he would testify,  
21 particularly given the fact that it would have to occur  
22 tomorrow.

23 THE COURT: What are you asking me to do?

24 MS. FRITZ: Quash it.

25 THE COURT: You're asking me to quash the subpoena? I

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1 haven't even seen the subpoena. You can hand it up, but send  
2 me a letter tonight attaching the subpoena and telling me the  
3 bases for quashing.

4 Government, you're standing by the subpoena, you're  
5 not backing off of the subpoena?

6 MS. SASSOON: We will see what the arguments are and  
7 we will respond to them, but we are certainly not intending to  
8 interfere with Mr. Brennerman's right to testify.

9 MS. FRITZ: Your Honor, there is nothing fancy about  
10 this. My argument is I am getting it today. We all knew the  
11 schedule that we were operating under. It makes it a virtual  
12 impossibility. The government, I think, knew that. And the  
13 government has had the ability, if they wanted to ever issue a  
14 subpoena like this, to do it before today. So I am not making  
15 any fancy arguments. Those are my arguments for seeking to  
16 have this thing quashed so that this doesn't interfere with our  
17 ability to make a decision.

18 THE COURT: All right. I would like to see some  
19 authority. I will look at it myself. But go ahead, you or Mr.  
20 Waller, divide it up as you think best, but I would like to see  
21 the subpoena and I would like to just get a sense of what the  
22 arguments are.

23 MS. FRITZ: OK.

24 THE COURT: Anything else we should chat about today?

25 MS. SASSOON: Nothing from the government.



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1 THE COURT: So I will see you tomorrow and then we  
2 will see where things land. 9:00 for the charge conference.  
3 Thanks.

4 (Adjourned to December 5, 2017, at 9:00 a.m.)  
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## DEFENDANT EXHIBITS

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