

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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4 UNITED STATES OF AMERICA, : 18-CR-681(WFK)
5 Plaintiff, :
6 -against- : United States Courthouse
7 JEAN BOUSTANI, : Brooklyn, New York
8 Defendant. : December 2, 2019
9 : 10:00 o'clock a.m.

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TRANSCRIPT OF TRIAL
BEFORE THE HONORABLE WILLIAM F. KUNTZ, II
UNITED STATES DISTRICT JUDGE, and a jury.

APPEARANCES:

12 For the Government: RICHARD P. DONOGHUE
13 United States Attorney
14 BY: MARK E. BINI
15 Assistant United States Attorney
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Brooklyn, New York

16 DEPARTMENT OF JUSTICE
17 CRIMINAL DIVISION
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Washington, D.C. 20001
18 BY: MARGARET MOESER, ESQ.
19 KATHERINE NIELSEN, ESQ.

20 For the Defendant: WILLKIE FARR & GALLAGHER LLP
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23 BY: RANDALL W. JACKSON, ESQ.
MICHAEL S. SCHACHTER, ESQ.
CASEY E. DONNELLY, ESQ.
PHILIP F. DISANTO, ESQ.
RAYMOND MCLEOD, ESQ.

24 Court Reporter: Charleane M. Heading
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25 Proceedings recorded by mechanical stenography, transcript produced by computer-aided transcription.

1 (In open court; defendant and jury not present.)

2 THE COURT: Good morning, everyone. I hope everyone
3 had a nice Thanksgiving break.

4 We are here in the continued trial of United States
5 of America versus Mr. Boustani. We'll have Mr. Boustani out
6 in a moment, but why don't we take appearances now.

7 MR. BINI: Mark Bini for the United States and I'm
8 joined by trial attorney Kathleen Nielson, paralegal Lillian
9 DiNardo, Special Agents Angela Tassone and Fatinia Haque.
10 AUSA Hiral Mehta is at the doctor but will be here later,
11 Your Honor.

12 THE COURT: Good morning. Please be seated.
13 Ladies and gentlemen of the public may be seated as
14 well.

15 Good morning.

16 MR. JACKSON: Randall Jackson on behalf of
17 Mr. Boustani. Good morning, Your Honor.

18 THE COURT: Good morning, sir. Please be seated.

19 MR. SCHACHTER: Good morning, Your Honor. Michael
20 Schachter on behalf of Mr. Boustani.

21 THE COURT: Good morning. Please be seated.

22 MS. DONNELLY: Good morning, Your Honor. Casey
23 Donnelly on behalf of Mr. Boustani.

24 THE COURT: Good morning. Please be seated.

25 MR. DISANTO: Good morning, Your Honor. Phil

1 Disanto on behalf of Mr. Boustani.

2 THE COURT: Good morning. Please be seated.

3 MR. McLEOD: Good morning, Your Honor. Ray McLeod
4 on behalf of Mr. Boustani.

5 THE COURT: We need to get Mr. Boustani here. Do we
6 need to call down to let the Marshals know to bring him up?
7 Has that been done?

8 MR. BINI: I'd be glad to go downstairs.

9 MR. JACKSON: We haven't seen him yet.

10 THE COURT: You haven't seen him today at all?

11 MR. JACKSON: I think sometimes Mr. Jackson contacts
12 them.

13 THE COURT: Okay. Well, he is going to be here in a
14 moment so we'll have him make that call when he gets here.

15 While we are waiting, I can give you what has been
16 marked as Court Exhibit No. 18 in evidence which is a request
17 for additional documents requested by the jury. I'm going to
18 read it out loud for the record. You will have copies. My
19 law clerks are handing it to you. Obviously, it's just been
20 handed out this morning and, obviously, you'll talk with your
21 client about the response of defense counsel. Perhaps you
22 should get working documents together for Mr. Boustani to
23 review.

24 Court Exhibit 18 reads as follows.

25 Additional documents requested by the jury:

1 Testimony of Jean Boustani that details who all the
2 "budgets" were assigned to (Defense examination).

3 Next. E-mails showing invoices for the projects
4 associated to the "business ventures" for those individuals
5 (Mozambican officials).

6 The next item is: Testimony of Malene McMahon.

7 Next. Testimony of Robert Pepitone.

8 Next. Testimony of Timothy Coffey. Signed by the
9 jury foreperson, Mr. David Howard.

10 Subject to the views of counsel, I will send in to
11 the jury Court Exhibit 18A which reads as follows.

12 In response to the jury's note marked as Court
13 Exhibit 18, the Court advises we have attached the documents
14 you requested. To the extent any of the requested documents
15 are not yet attached, the Court advises it will attach them
16 promptly. So ordered, signed by me and dated today.

17 So what I would like you, Counsel, to do is pull
18 together the documents in the first tranche that you
19 absolutely agree on so we can get that back to the jury almost
20 immediately and then with respect to anything where there's a
21 dispute, you'll point out the disparity positions and I will
22 rule and then we will send back those other materials.

23 So with that being said, let's get Mr. Boustani up
24 here.

25 Mr. Jackson, if you will call down for the Marshals.

1 Counsel, why don't you start pulling the documents
2 together. Defense counsel, you will have an opportunity
3 obviously to consult with your client before anything gets
4 sent into the jury room.

5 This is, as I said, Court Exhibit 18, the jury note.
6 Court Exhibit 18A is the response that I will send in with the
7 documents.

8 MR. BINI: Thank you, Your Honor.

9 THE COURT: Thank you.

10 MR. SCHACHTER: Your Honor, the testimony will be
11 the easiest and we can pull that together in moments so we'll
12 have that to send back. The others will require a little bit
13 more work but the testimony we'll have in minutes.

14 THE COURT: Okay. I appreciate that. Thank you.
15 I'm sure the jury will as well.

16 And this should go without saying but I will say it.
17 Obviously, to the extent that there were any sidebars or
18 instructions to strike or disregard material, those portions
19 of the testimony should not be included in what goes back to
20 the jury, but that's a matter of agreement between the parties
21 and if you can't agree on something, then I'll obviously rule
22 with respect to that.

23 MR. SCHACHTER: Yes, Your Honor.

24 THE COURT: That's the reason I try to avoid, going
25 through, having to go back and do a lot of scissors-and-paste

1 work when we get to this sort of the process.

2 MR. SCHACHTER: Absolutely, Judge. We redacted
3 almost the entire trial before deliberations started.

4 THE COURT: Good. I appreciate that.

5 MR. BINI: We did the same, Your Honor.

6 THE COURT: Thank you.

7 (Pause.)

8 THE COURT: I'm going to send in now Court
9 Exhibit 18A which I read to you, Counsel, which I will now
10 give you copies of accompanying the initial documents that
11 we're sending in.

12 So here is Exhibit 18A and here's copies for counsel
13 of what I read, keep one for us, into the record. Okay?
14 Thank you.

15 (Pause.)

16 (Defendant present.)

17 THE COURT: Welcome back, Mr. Boustani. I hope you
18 had a nice Thanksgiving.

19 THE DEFENDANT: Thank you.

20 THE COURT: The record should reflect Mr. Boustani
21 is present.

22 Mr. Boustani, your counsel and prosecution and I
23 have just gotten a note from the jury. There's a copy for you
24 there. It's been marked Court Exhibit 18 and I will read it
25 out loud to you although you've got it in front of you as

1 well.

2 Court Exhibit 18 says as follows.

3 Additional documents requested by the jury:

4 Testimony of Jean Boustani that details who all the
5 "budgets" were assigned to (defense examination).

6 E-mails showing invoices for the projects associated
7 with the "business ventures" for those individuals (Mozambican
8 officials.)

9 Testimony of Malene McMahon.

10 Testimony of Robert Pepitone.

11 Testimony of Timothy Coffey.

12 And so my note in to the jury, Court Exhibit 18A,
13 reads: In response to the jury's note marked as Court
14 Exhibit 18, the Court advises we have attached the documents
15 you requested. To the extent any of the requested documents
16 are not yet attached, the Court advises it will attach them
17 promptly.

18 Your attorneys and the government have been
19 conferring as to what documents should go in.

20 What have you agreed on so far, Mr. Schachter?

21 MR. SCHACHTER: The three final items. The
22 testimony of Mr. McMahon --

23 THE COURT: Use the microphone, please.

24 MR. SCHACHTER: I apologize.

25 The testimony of Mr. McMahon, Mr. Pepitone and

1 Mr. Coffey have been assembled and have gone into the jury
2 room.

3 THE COURT: So they got that, Mr. Boustani, and
4 that's gone into the jury room.

5 With respect to the others, counsel will confer with
6 you and the government and we'll put together what's agreed
7 to. If there is any disagreement to what should go in, the
8 parties will state their respective positions and then I'll
9 rule and we'll get back to them, but as I indicated to you
10 last week or two weeks ago, rather, before we adjourned and as
11 you saw, juries tend to like to get documents sooner rather
12 than later because they're now in the process of deliberating.
13 So I'm sure we'll do the best that we can. Thank you.

14 I just wanted to bring you up to date, sir.

15 THE DEFENDANT: Thank you. Thank you, Your Honor.

16 THE COURT: Of course.

17 (Pause.)

18 THE COURT: Back on the record.

19 We received another note from the jurors which we're
20 going to stamp as Government Exhibit 19.

21 Can I have it, Mr. Jackson?

22 I will read it out loud and then we'll make copies.

23 Because the jurors know they all have to be present to
24 actually deliberate, they asked that one of the jurors is
25 delayed and they've asked if we can have someone call Juror

1 Number Eight who still hasn't arrived to make sure he's okay
2 or she's okay.

3 What we typically do in this instance, to keep the
4 court security officer out of it and deputy out of it, we'll
5 have the jury office call and see if there's some problem that
6 the juror is having and then the court security officer will
7 get the report from the jury office and then they'll let us
8 know what the status is. The jurors, obviously, come in at
9 various times, but they know they are to deliberate as a body.

10 So if that is acceptable, we'll just have the court
11 jury office make that call.

12 Mr. Jackson, would you let them do that?

13 Then I'll let you know what I find out, hopefully,
14 by the time they make the call, they will be here.

15 MR. JACKSON: Thank you, Judge.

16 MR. BINI: Thank you, Judge.

17 THE COURT: Is that all right with both sides?

18 MR. BINI: Yes, Your Honor.

19 MR. SCHACHTER: Yes Your Honor.

20 THE COURT: That's what we typically do.

21 Okay. Thank you.

22 (Pause.)

23 THE COURT: Back on the record.

24 We have what is Court Exhibit 19A in evidence which
25 says as follows.

1 In response to the jury's note marked as Court
2 Exhibit 19, the Court advises the Court's jury office will
3 call Juror Number Eight. So ordered.

4 I'm going to send this back to the jury so they know
5 what we're doing.

6 (Pause.)

7 THE COURT: Back on the record.

8 I am informed by the jury office that the juror is
9 on his way.

10 MR. SCHACHTER: Thank you, Judge.

11 MR. BINI: Thanks, Judge.

12 THE COURT: You're welcome.

13 (Pause.)

14 THE COURT: Back on the record.

15 I am sending into the jury Government Exhibit 19B
16 which just states that the juror is on his way, so the jurors
17 know he's on the way.

18 MR. BINI: Thank you, Your Honor.

19 THE COURT: Thank you.

20 (Court is in recess awaiting verdict of the jury.)

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1 (In open court; jury not present.)

2 THE COURT: Back on the record.

3 Do you want to state on the record what additional
4 materials you've agreed on pursuant to the earlier request?

5 MR. SCHACHTER: Yes, Your Honor. The government and
6 we have gone over the testimony of Mr. Boustani that details
7 who all the budgets were assigned to, defense examination, and
8 we've assembled that and it's ready to go back to the jury.

9 THE COURT: Thank you. That's what my law clerk is
10 going to give to the court security officer and present to the
11 jury.

12 MR. SCHACHTER: And then we have one other item
13 which is a request for e-mails and we're working on that and
14 we should have it together soon.

15 THE COURT: Thank you, sir.

16 (Pause.)

17 THE COURT: Back on the record.

18 Would you describe the exhibits, please,
19 Mr. Schachter?

20 MR. SCHACHTER: Yes, Your Honor. These are --

21 THE COURT: Please use the microphone just for the
22 court reporter, please.

23 And this is by agreement with the government,
24 Mr. Bini?

25 MR. BINI: Your Honor, these are the ones we agree

1 to. We're looking at some additional ones that Mr. Schachter
2 wants a chance to review.

3 THE COURT: Let's talk about the ones you agree to.

4 MR. BINI: Yes.

5 THE COURT: So we can get it to the jury.

6 MR. SCHACHTER: These e-mails show "invoices for the
7 projects associated to the 'business ventures' for those
8 individuals" that was requested by the government. We may
9 still have additional ones, but these are the ones the parties
10 agree to.

11 THE COURT: The ones that you've agreed to, give
12 them to my law clerk and she can hand them to the CSO who will
13 hand them to the jury.

14 Continue working.

15 MR. BINI: Thank you, Judge.

16 MR. SCHACHTER: Thank you, Judge.

17 (Pause.)

18 THE COURT: Do you think about ten more minutes of
19 review?

20 MR. BINI: Yes, Your Honor. We're almost done.

21 THE COURT: Okay. I'll be back in ten minutes.

22 (Court is in recess awaiting verdict of the jury.)

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1 (In open court; jury not present.)

2 THE COURT: Back on the record.

3 The CSO informs me that Juror Number Eight has
4 arrived.

5 MR. BINI: Thank you, Your Honor.

6 THE COURT: Let me know when you're ready to send in
7 the balance of the documentation.

8 MR. BINI: Your Honor, I've handed some additional
9 documents to defense counsel which I think they're reviewing.

10 THE COURT: Okay.

11 (Pause.)

12 THE COURT: We are back on the record.

13 With respect to the earlier juror request for
14 documents, where are we?

15 MR. BINI: Your Honor, there's two additional
16 exhibits that both parties agree should go back.

17 THE COURT: Okay. Which two are those? Let's have
18 those first.

19 MR. BINI: GX 2466 and 2466A.

20 THE COURT: Okay. Those are agreed to, yes?

21 MR. SCHACHTER: Yes, Your Honor.

22 THE COURT: Okay. Let's have the law clerks take
23 those to the court security officer and bring those back.

24 MR. BINI: And I believe GX 2340.

25 MR. SCHACHTER: Yes, Your Honor.

1 THE COURT: So those will go in right away.

2 MR. BINI: Thank you, Your Honor.

3 MR. SCHACHTER: Thank you, Your Honor.

4 MR. BINI: Then we have a series of e-mails which
5 reference invoices and discuss invoices but as I understand,
6 defense counsel objects to their admission because they don't
7 actually attach invoices.

8 THE COURT: Let's stop right there. All the
9 documents we're talking about are documents that are in
10 evidence, correct?

11 MR. BINI: Yes, Your Honor.

12 THE COURT: That's agreed that they're in evidence.

13 MR. SCHACHTER: Yes, Your Honor.

14 THE COURT: Is there any reason not to let the jury
15 see these documents which have been received in evidence other
16 than it is possible to read their request as not perhaps
17 precisely requesting the documents?

18 MR. SCHACHTER: Yes, Your Honor. Our objection is
19 as follows.

20 THE COURT: Okay.

21 MR. SCHACHTER: When the Court, we believe, it's our
22 concern, the Court sends in documents that are not responsive
23 to the jury's request, that it may be taken by the jury as
24 emphasizing a piece of evidence that somehow they may not know
25 what the process is that's going on here and they believe that

1 it is the Court's effort to emphasize a certain piece of
2 evidence.

3 THE COURT: Okay. I'm perfectly prepared to, to the
4 extent that there's a cache of documents that are in evidence
5 that one side or the other would like to see in as possibly
6 responsive, is say to the jurors: These documents are
7 possibly responsive to your request. The Court takes no
8 position with respect to whether they are or are not
9 responsive to your request, but since they may be possibly
10 responsive to your request, they are in evidence and you've
11 seen them before, they're going back.

12 In other words, just make it very clear that the
13 Court is completely agnostic with respect to the documents
14 going in in this particular tranche.

15 I don't want to put my finger on the scale one way
16 or another by saying the government wants these in, the
17 defense wants these in, the government wants these out, the
18 defense wants these out, but, rather, to say with respect to
19 this tranche of documents, these are documents that might or
20 might not be responsive to your request, the Court is sending
21 them in just in a super abundance of caution so that you get
22 everything that you may have asked for but the Court certainly
23 takes no position as to whether or not you need these
24 particular documents, something along those lines, perhaps a
25 little or a great deal more articulate because my law clerks

1 will do the drafting of what that says but that's the
2 sentiment.

3 I don't want the jurors to feel that they're being
4 steered by what is sent in, but I also know that on those
5 occasions, as a less experienced judge, when I tried to hit
6 the rifle shot with respect to sending it in, I'd get a note
7 back saying, What's wrong with you, don't you know we wanted
8 the broader brush. So to send in the broader brush, to make
9 it clear for this tranche, it's value neutral from the Court.

10 Does that dissuade your concerns?

11 MR. SCHACHTER: Your Honor, it's extremely helpful.
12 We do believe with respect to the, I think, ten exhibits that
13 the government identified, that they are in no way responsive
14 to the very specific request which is, "E-Mails showing
15 invoices for the projects associated to the business ventures
16 for those individuals."

17 Our request, Your Honor, would be, given the fact
18 that we're not talking about many exhibits, that the Court
19 just -- and they're each short e-mails, it would be our
20 request that the Court look at those exhibits.

21 THE COURT: All right.

22 Mr. Bini, with respect to the ones that are being
23 objected to, what is your view? We'll take them seriatim with
24 respect to why they should be submitted.

25 MR. BINI: Your Honor, the GX 2758 references

1 invoices and we believe it's an e-mail that relates to showing
2 invoices for the projects.

3 THE COURT: All right. Next?

4 MR. BINI: 2749 --

5 MR. SCHACHTER: Your Honor, would it be helpful to
6 put the exhibits on the screen?

7 THE COURT: I really want to get a sense. Here's my
8 view. If we're fighting about whether or not they should be
9 admitted into evidence, that's one thing. They're in evidence
10 and my view and the Circuit's view is the jury can see
11 everything in evidence so there's no -- we've crossed that
12 Rubicon. So the question is is there some reason it would be
13 inappropriate at this juncture for the jurors to have the
14 documents sent back.

15 So, for example, if one side or the other were now
16 trying to get demonstratives in to the jury room when we told
17 them that they were not going to have demonstratives in the
18 jury room, I would rule that demonstratives are not going in
19 to the jury room because that was the ruling during trial, we
20 can see it during trial but not now, but my view, essentially,
21 is with respect to documents that are in evidence, that they
22 have a right to see, unless there is some reason not to see
23 them, they will see them if they're at all responsive.

24 To the extent that either side has a concern that by
25 sending them in, the Court is somehow sending a signal with

1 respect to those documents, I am prepared to make it clear
2 that with respect to any given subset, the Court takes
3 absolutely no view with respect to whether this is what the
4 jury needed to see, but these are documents that are in
5 evidence and that might very well be responsive to their
6 request so here they are.

7 MR. SCHACHTER: I understand. With respect to some
8 of these e-mails, Your Honor, I think it's really a matter of
9 these are e-mails that the government wants to have the jury
10 focus on and in no way show an invoice. So our request is
11 that the Court, if the Court is willing, take a look at these
12 exhibits.

13 THE COURT: I'll look at them. Go ahead.

14 MR. BINI: 2868 is an e-mail which at the bottom,
15 shows a number of PDFs which the government believes refers to
16 invoices.

17 THE COURT: Can you put them either electronically
18 or the ELMO so I can see them so I know what we're talking
19 about?

20 MR. BINI: Yes, Your Honor.

21 If we can start with Government's Exhibit 2758.

22 MR. DISANTO: Your Honor, we have them ready to go.
23 We can pull them up on the screen.

24 THE COURT: Whatever is easier.

25 MR. BINI: Just give us a minute.

1 THE COURT: So you're starting with 2868? No.
2 2758.

3 MR. BINI: We'll use our laptop.

4 THE COURT: Put up the one you want me to focus on
5 first.

6 MR. BINI: Yes.

7 Ms. DiNardo, if you can go to 2758 and go to page
8 two.

9 Your Honor, 2758 is an e-mail with the subject line
10 "Re Invoice" and then it goes on and discusses invoice for
11 Isaltina Lucas.

12 THE COURT: All right. I don't see any reason why
13 this document, which is in evidence and it's sent from
14 Mr. Allam to Mr. Boustani, Subject: Re Invoice, should not be
15 sent in to the jury. It's in evidence.

16 Again, with that value neutral cover order, I'm
17 prepared to send it. So to the extent that that's an
18 objection, I'm overruling it with respect to that document.

19 What's the next document?

20 MR. BINI: 2768, Your Honor.

21 THE COURT: Let me see that, please. Can you blow
22 it up a little bit.

23 So this is a letter from or an e-mail from
24 Mr. Boustani to Mr. Manuel Jorge. The caption, after the five
25 M's, refers to Pantero papers and talks about various

1 breakouts of numbers below that.

2 Can I see the number, please? Just pull it up a
3 little bit more. Can I see the exhibit number? Yes.

4 This is Government Exhibit 2868 which is in
5 evidence. I don't see any reason not to send that in. Your
6 objection is noted and I will send it in with the plain
7 vanilla cover.

8 What is the next one?

9 MR. BINI: The next exhibit is 2753.

10 Ms. DiNardo, if you can go to the second page which
11 shows attachment invoice 73.

12 THE COURT: Blow that up, please, so it's more
13 legible? Thank you.

14 All right.

15 MR. BINI: If you can show the Judge, it then gets
16 forwarded to Mr. Boustani.

17 THE COURT: All right. Is there any question that
18 this exhibit which is in evidence was forwarded at least
19 according to the documents to Mr. Boustani?

20 MR. SCHACHTER: No, Your Honor. Our objection is
21 only that we don't believe it shows an invoice for a project
22 as is requested by the jurors' notes.

23 THE COURT: Okay. I'm going to overrule the
24 objection but it's going to go in with a plain vanilla
25 statement. So that's going to go in. It's already in

1 evidence.

2 What is the next one?

3 MR. BINI: Government Exhibit 5093.

4 THE COURT: All right. That's to Mr. Boustani from
5 Mr. Allam, October 22, 2013. It refers to invoices. That's
6 the document we're talking about?

7 MR. BINI: Yes, Your Honor.

8 THE COURT: All right. I'm going to overrule the
9 objection. It's already in evidence. It's going to go in to
10 the jury with the plain vanilla cover language.

11 What the next one?

12 MR. BINI: Government Exhibits 2613 and 2613A.

13 If you can side by side those, Ms. DiNardo.

14 THE COURT: Yes.

15 MR. SCHACHTER: And with respect to this document,
16 Your Honor, there's nothing on this that shows an invoice and
17 so it's our view that in no way is it responsive to the
18 jurors' question.

19 THE COURT: Please use the microphone.

20 MR. SCHACHTER: I apologize, Your Honor.

21 There's nothing on this document which reflects an
22 invoice. The jurors' note reflects e-mails showing invoices
23 and this is not an e-mail that shows an invoice.

24 THE COURT: What is your response to the objection
25 that there are no invoices, there are numbers but there are no

1 invoices?

2 MR. BINI: Your Honor, the government believes in
3 the exhibits that have gone back, there are references to
4 invoices for some of these entities including Walid
5 Construcoes and Lifo International.

6 THE COURT: But with respect to these documents,
7 there's no references to invoices, is there?

8 MR. BINI: There's no reference.

9 THE COURT: All right. I'm going to sustain the
10 objection. It is not responsive to what they requested. So
11 this one is not going in to the jury. If they want it,
12 they'll request it with some greater specificity.

13 What else?

14 MR. BINI: Government Exhibit 2518.

15 THE COURT: Can we have that pulled up, 2518?

16 MR. BINI: Yes.

17 THE COURT: Just blow it up a little bit.

18 All right. This is from Mr. Boustani to Mr. Allam.

19 The caption is "Re Bank Detail."

20 Is there a reference to invoices in this -- yes,
21 there is.

22 MR. BINI: Yes.

23 THE COURT: "Iskandar is insisting on having the
24 invoices."

25 I am going to allow this to go in with the same

1 plain vanilla caption. So the objection to it going in to the
2 jury is overruled. It's in evidence.

3 Next?

4 MR. BINI: Government's Exhibit 5093. Here,
5 Mr. Allam is saying on the first page, "These are new invoices
6 to be paid or invoices for the old payments."

7 THE COURT: Well, again, it's sent to Mr. Boustani.
8 It refers to invoices. It's in evidence.

9 MR. SCHACHTER: The jury already has it, Your Honor.

10 THE COURT: They already have it?

11 MR. SCHACHTER: We identified this as one that
12 should go back.

13 THE COURT: All right. Have they got it in toto or
14 have they got it as a subset?

15 MR. BINI: Your Honor, I think they had the invoice,
16 an earlier version of the e-mail with the attachment.

17 THE COURT: I'll send this in with the same plain
18 vanilla. If they get it twice, they'll just blame the judge
19 for being typically feebleminded.

20 Next?

21 MR. BINI: 2743.

22 THE COURT: May I see that, please, and blow it up,
23 please.

24 MR. BINI: The bottom, Ms. DiNardo.

25 "I need an invoice, please, based on their

1 activities."

2 THE COURT: Again, it makes reference to invoice.
3 It's sent from Mr. Boustani to Mr. Antonio Do Rosario. It's
4 coming in with the same plain vanilla cover. It is already in
5 evidence so I will send it back to the jury. It does make
6 reference to invoices.

7 Anything else?

8 MR. BINI: That's it for the government.

9 THE COURT: Anything from defense?

10 MR. SCHACHTER: No, Your Honor. Thank you.

11 THE COURT: All right.

12 Would you pull the documents that we agreed are
13 going in? I just don't want to have any mistakes. So pull a
14 set and confer with the ones I've agreed to go in. I think
15 there is only one that I excluded that didn't make reference
16 to an invoice and had the list of numbers. So why don't you
17 just pull a set together.

18 MR. SCHACHTER: Thank you, Your Honor.

19 THE COURT: Thank you.

20 Does this complete the response to the earlier jury
21 request for documents?

22 MR. BINI: Yes, Your Honor.

23 MR. SCHACHTER: Yes, it does.

24 (Pause.)

25 THE COURT: The language of Court Exhibit 18B reads

1 as follows.

2 In response to Court Exhibit 18, and with respect to
3 your request for "e-mails showing invoices for the projects
4 associated with the 'business ventures' for those individuals
5 (Mozambican officials), the Court advises it has attached all
6 those documents in evidence that may be responsive to this
7 request and takes no view with respect to whether the jury
8 needs to see this entire subset of documents.

9 Is that acceptable language to both sides?

10 MR. BINI: Yes, Your Honor.

11 MR. SCHACHTER: Yes, Your Honor.

12 THE COURT: So that's what we will do.

13 You have the documents in the set for my law clerk
14 to take back to the CSO who will give it to the jury?

15 MR. BINI: Yes, Your Honor.

16 THE COURT: Okay. Would you hand them up to my law
17 clerk who will give them to the CSO and they will go in to the
18 jury. I am going to give you copies of Court Exhibit 18B
19 which I have just read out loud for your files.

20 Again, just so the record is clear, the documents
21 that have been sent in are all documents that were received in
22 evidence during the course of the trial.

23 (Court is in recess awaiting verdict of the jury.)

24

25

1 (In open court; jury not present.)

2 THE COURT: All right. I have received the
3 following note. Back on the record.

4 Judge Kuntz, we, the jury, have reached a unanimous
5 verdict.

6 The foreperson of the jury has signed that verdict
7 sheet and will bring that verdict sheet with him or her into
8 the courtroom marked as Court Exhibit 3A. It will be
9 announced in court when they are brought back by the court
10 security officer.

11 Shall I have the jury brought back in?

12 MR. BINI: Yes, Your Honor.

13 MR. SCHACHTER: Yes, Your Honor.

14 THE COURT: All right. Tell the court security
15 officer to bring the jury back.

16 (Jury enters at 12:30 p.m.)

17 THE COURT: Welcome back, ladies and gentlemen of
18 the jury. I hope you all had a good Thanksgiving.

19 I understand that we have a verdict. Is that the
20 truth, Mr. Jury Foreman?

21 THE JURY FOREPERSON: Yes.

22 THE COURT: Okay. I'd like you to read the verdict
23 out loud and you will hand it to me and after you've read it
24 out loud, I will poll the jury, but read it out loud and take
25 your time, sir.

1 THE JURY FOREPERSON: Yes, sir.

2 We, the jury, in the above-captioned case hereby
3 unanimately render the following verdict.

4 Count One, conspiracy to commit wire fraud: Not
5 guilty.

6 Count Two, conspiracy to commit securities fraud:
7 Not guilty.

8 Count Four, conspiracy to commit money laundering:
9 Not guilty.

10 THE COURT: Thank you.

11 Would you please, Mr. Jackson, would you please get
12 the form from the jury foreperson and I will now poll the
13 jury. Thank you.

14 Juror Number One, with respect to Count One,
15 conspiracy to commit wire fraud, what is your verdict, guilty
16 or not guilty?

17 JUROR NUMBER ONE: Not guilty.

18 THE COURT: Number Two?

19 JUROR NUMBER TWO: Not guilty.

20 THE COURT: Number Three?

21 JUROR NUMBER THREE: Not guilty.

22 THE COURT: Number Four?

23 JUROR NUMBER FOUR: Not guilty.

24 THE COURT: Number Five?

25 JUROR NUMBER FIVE: Not guilty.

1 THE COURT: Number Six?

2 JUROR NUMBER SIX: Not guilty.

3 THE COURT: Number Seven?

4 JUROR NUMBER SEVEN: Not guilty.

5 THE COURT: Number Eight?

6 JUROR NUMBER EIGHT: Not guilty.

7 THE COURT: Number Nine?

8 JUROR NUMBER NINE: Not guilty.

9 THE COURT: Number Ten?

10 JUROR NUMBER TEN: Not guilty.

11 THE COURT: Number Eleven?

12 JUROR NUMBER ELEVEN: Not guilty.

13 THE COURT: Number Twelve?

14 Juror Number Twelve: Not guilty.

15 THE COURT: With respect to Count Two, conspiracy to
16 commit securities fraud, Juror Number One, what is your
17 verdict?

18 JUROR NUMBER ONE: Not guilty.

19 THE COURT: Number Two?

20 JUROR NUMBER TWO: Not guilty.

21 THE COURT: Number Three?

22 JUROR NUMBER THREE: Not guilty.

23 THE COURT: Number Four?

24 JUROR NUMBER FOUR: Not guilty.

25 THE COURT: Number Five?

1 JUROR NUMBER FIVE: Not guilty.

2 THE COURT: Number Six?

3 JUROR NUMBER SIX: Not guilty.

4 THE COURT: Number Seven?

5 JUROR NUMBER SEVEN: Not guilty.

6 THE COURT: Number Eight?

7 JUROR NUMBER EIGHT: Not guilty.

8 THE COURT: Number Nine?

9 JUROR NUMBER NINE: Not guilty.

10 THE COURT: Number Ten?

11 JUROR NUMBER TEN: Not guilty.

12 THE COURT: Number Eleven?

13 JUROR NUMBER ELEVEN: Not guilty.

14 THE COURT: Juror Number 12?

15 JUROR NUMBER TWELVE: Not guilty.

16 THE COURT: And, finally, Count Four, conspiracy to
17 commit money laundering, what is your verdict?

18 JUROR NUMBER ONE: Not guilty.

19 THE COURT: Number Two?

20 JUROR NUMBER TWO: Not guilty.

21 THE COURT: Number Three?

22 JUROR NUMBER THREE: Not guilty.

23 THE COURT: Number Four?

24 JUROR NUMBER FOUR: Not guilty.

25 THE COURT: Number Five?

1 JUROR NUMBER FIVE: Not guilty.

2 THE COURT: Number Six?

3 JUROR NUMBER SIX: Not guilty.

4 THE COURT: Number Seven?

5 JUROR NUMBER SEVEN: Not guilty.

6 THE COURT: Number Eight?

7 JUROR NUMBER EIGHT: Not guilty.

8 THE COURT: Number Nine?

9 JUROR NUMBER NINE: Not guilty.

10 THE COURT: Number Ten?

11 JUROR NUMBER TEN: Not guilty.

12 THE COURT: Number Eleven?

13 JUROR NUMBER ELEVEN: Not guilty.

14 THE COURT: Number Twelve?

15 JUROR NUMBER TWELVE: Not guilty.

16 THE COURT: Thank you.

17 Ladies and gentlemen of the jury, I told you in the
18 beginning that this would be no passing matter for you and for
19 the parties. I told you it would take six weeks. It look a
20 little bit more than six weeks, that's my fault, but you were
21 patient, you were locked in, you were attentive.

22 You are what make this system work. There is no
23 justice without juries. We judges, we lawyers, we parties
24 cannot do it without you and without the attention. I know
25 each of you, as I said at the beginning, had places you would

1 rather be, things you would rather be doing and, yet, I hope
2 that you realize the incredible value that you give to all
3 American citizens, the parties before you, to the lawyers, to
4 the parties and to the public for your service.

5 I am honored to have served as your judge in this
6 case. I want you to know that all of the judges in the
7 Eastern District respect and value what you have done and I
8 hope that you, when you are asked about your jury service,
9 will say, yes, it took us out of our normal comfort zone and
10 out of our routines, but I hope you will say it was worth it
11 because you helped to fashion those wise restraints that make
12 men and women free.

13 All the lawyers thank you. All the parties thank
14 you. The government, Mr. Boustani and I want you to know
15 something. There are those that would say in a criminal
16 trial, you have winners and losers. As a trial judge, let me
17 tell you that's not true. We are all winners in the American
18 system whatever your verdict when it is a just and thorough
19 verdict which is what you have done here.

20 So I bless you. I thank you. God bless you and God
21 bless the United States of America. You are discharged with
22 the thanks of the Court. You can go back to the second floor
23 and turn in your jury badges and head home.

24 You are now discharged with the gratitude of all
25 concerned. So thank you.

1 You are free to go. Thank you.

2 THE DEFENDANT: Thank you.

3 (Jury exits at 12:36 p.m.)

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

5 Are there any comments from either side?

6 MR. BINI: No, Your Honor.

7 MR. JACKSON: Your Honor, again, we want to thank
8 the Court for its administration of this trial. We want to
9 thank the government for its collegiality. We deeply
10 appreciate the work of all of your staff as well. We know how
11 hard all of them worked on this long and difficult trial.

12 That's it, Your Honor.

13 THE COURT: All right. I am going to ask the
14 lawyers to stay in place. I am going to give you copies of
15 the two documents that we have just had and I'm going to ask
16 you to stay while we get that done. That's Court Exhibit 3A,
17 the verdict sheet, and Court Exhibit 2A, the verdict read
18 sheet.

19 I also want to thank the alternates for their
20 service. They may have left but I wanted to thank them as
21 well because without them, we can't do this as well. So I
22 thank them.

23 All right.

24 MR. SCHACHTER: Your Honor?

25 THE COURT: Yes.

1 MR. SCHACHTER: Just very briefly, we also just
2 wanted to echo the Court's thanks to the jury.

3 Mr. Boustani wanted to briefly address the Court if
4 it's acceptable.

5 THE COURT: He may do that.
6 You can remain seated. It's okay.

7 THE DEFENDANT: Your Honor, first of all, I
8 apologize for being emotional a little bit. It wasn't easy
9 for me after 11 months in jail.

10 What I want to say, first of all, is that it has
11 been an honor knowing you and I would like to thank you for
12 all your time, dedication and all your fair judgment
13 throughout this trial.

14 I would like also to thank all of the clerks, all of
15 the team, all the court members, one by one. It was an honor.
16 Thank you so much. And I'm very grateful for everything.
17 Thank you.

18 THE COURT: Well, this is our system, ladies and
19 gentlemen. This is our system.

20 MR. JACKSON: Your Honor, we don't have anything
21 else. Thank you.

22 THE COURT: Well, I think we have to wait for the
23 acquittal form. I think your client would like to have that
24 unless you prefer not to.

25 MR. JACKSON: No, we'll take that, Judge.

1 THE COURT: I think you would like to have that and
2 we also, as I said, we'll have copies made of the announcement
3 of verdict and verdict form for you as well.

4 MR. SCHACHTER: Thank you, Your Honor.

5 (Pause.)

6 THE COURT: I have what we'll mark Court Exhibit 20
7 in evidence, the judgment of acquittal, which I will sign and
8 give you copies. It's captioned: United States of America
9 versus Jean Boustani, Judgment of Acquittal. The defendant
10 was found not guilty. It is ordered that the defendant is
11 acquitted, discharged and any bond exonerated. I'm signing it
12 as the District Court Judge.

13 Can we have this stamped and copies made, please.
14 This is Court Exhibit 20.

15 Thank you.

16 (Pause.)

17 MR. BINI: Your Honor, while we're waiting for that,
18 I would -- thanks again to the Court for all the Court's time,
19 and I just wanted to make sure that there was no Court
20 prohibition on the government reaching out to jurors just to
21 learn if we can, what we can do better in future trial
22 presentations, to learn what we can from this case.

23 THE COURT: There is no Court prohibition in this
24 case against you doing that. This was not an anonymous jury
25 or protected jury in that sense so I don't think you have any

1 concerns. I think it would be nice to give them a little,
2 since it's a holiday week, give them a little time to reflect
3 before reaching out to them if you wish to do that
4 appropriately. I will just tell you --

5 Yes, you can give copies. Give the original to our
6 Mr. Jackson, the Court Deputy.

7 I will just tell you that many years ago, I was a
8 partner in a law firm. When we went from being a relatively
9 small partnership to being a much larger partnership, we moved
10 from a system where every partner was given a number to
11 allocate for year end compensation and you would write a
12 number next to the name of your partners including yourself.
13 The top three and the bottom three were knocked out and it was
14 a blended average and whether you were senior partner with
15 lots of points or a junior partner with not so many points,
16 that was your number. But in addition, in addition, you could
17 also write anonymous comments about your partners circulated
18 to the whole partnership. And, of course, you'd get 30 or 40
19 comments and of 30, 27 would be glowing and two would be
20 constructively positive and then there would be the one that
21 you would remember, taken to your grave.

22 So at some point, we were so large we went to sort
23 of traditional compensation structures and one of the founding
24 partners said: I put in an ideal system where you could make
25 your anonymous comments and the comments go back to that. One

1 of the under partners who usually sided with the older
 2 partners said: I don't think I want to do that, I don't think
 3 I want to drill down and find out what was behind the number.
 4 And the founding partner said: Well, why not? He said:
 5 Well, it's kind of like when my first wife left me. I didn't
 6 mind so much that she left me but I was very unhappy when she
 7 told me precisely why.

8 So you want to ask and get beyond the number that
 9 you were given in the compensation committee? You may do that
 10 but sometimes it's just best to let the number speak for
 11 itself but that was just about money on Wall Street.

12 Okay. Is there anything else we need to talk about,
 13 either side?

14 MR. BINI: Not from the government.

15 MR. SCHACHTER: No, Your Honor. Thank you.

16 THE COURT: Okay. I do believe we're adjourned.

17 Thank you.

18 (Matter concluded.)

19

20

21

22 I certify that the foregoing is a correct transcript from the
 23 record of proceedings in the above-entitled matter.

24 /s/ Charleane M. Heading

December 2, 2019

25 _____
 CHARLEANE M. HEADING

 DATE