

1 UNITED STATES DISTRICT COURT  
 2 EASTERN DISTRICT OF NEW YORK  
 3 ----- X  
 4 UNITED STATES OF AMERICA, : 18-CR-00681(WFK)  
 5 :  
 6 -against- : United States Courthouse  
 7 : Brooklyn, New York  
 8 :  
 9 : November 13, 2019  
 10 : 9:30 a.m.  
 11 :  
 12 JEAN BOUSTANI, :  
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TRANSCRIPT OF CRIMINAL CAUSE FOR TRIAL  
 BEFORE THE HONORABLE WILLIAM F. KUNTZ, II  
 UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S :

12 For the Government: RICHARD P. DONOGHUE, ESQ.  
 13 United States Attorney  
 14 Eastern District of New York  
 15 271 Cadman Plaza East  
 16 Brooklyn, New York 11201  
 17 BY: MARK E. BINI, ESQ.  
 18 HIRAL D. MEHTA, ESQ.  
 19 Assistant United States Attorneys  
 20 For the Defendant: DEPARTMENT OF JUSTICE  
 21 CRIMINAL DIVISION  
 22 1400 New York Avenue  
 23 Washington, D.C. 20001  
 24 BY: MARGARET MOESER, ESQ.  
 25 KATHERINE NIELSEN, ESQ.  
 Court Reporter: DENISE PARISI, RPR, CRR  
 Official Court Reporter  
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 Proceedings recorded by computerized stenography. Transcript  
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*Denise Parisi, RPR, CRR  
 Official Court Reporter*

1 computers have been busy, I've granted a number of orders this  
 2 morning with respect to the outstanding issues, motions in  
 3 limine, and other issues that were before us that's consumed a  
 4 portion of the morning time.

5 I think where we are now before we call in the jury  
 6 is we should complete our review of the proposed jury  
 7 instructions. I believe the open issue that the Government  
 8 wished to address had to deal with question of the Mozambique  
 9 statute at issue and whether it was or was not civil or  
 10 criminal in nature. There was some ambiguity about that the  
 11 other day.

12 The defense counsel indicated in their view it was  
 13 civil. The Government indicated in their view it was perhaps  
 14 civil and criminal. Analogous, I guess, to a certain  
 15 Securities and Exchange statutes and regulations here in the  
 16 United States.

17 So I guess I said that we would have clarity on that  
 18 point and I asked counsel to address it. So let me hear first  
 19 from the Government with respect to your understanding of the  
 20 particular statute at issue.

21 MS. NIELSEN: Your Honor, as we stated yesterday,  
 22 the Government understands from its expert that this statute  
 23 has both civil and criminal aspects. The Government has  
 24 provided to the Court and to defense counsel a certified  
 25 English translation of some of the portions of that law that

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1 (In open court; jury not present.)  
 2 (Defendant enters the courtroom.)  
 3 COURTROOM DEPUTY: Criminal cause for trial, United  
 4 States v. Boustani.  
 5 State your appearances, please.  
 6 MR. BINI: Mark Bini, Hiral Mehta, Margaret Moeser,  
 7 Lillian DiNardo, Katherine Nielsen, and Special Agent Angela  
 8 Tassone for the United States.  
 9 THE COURT: Good morning.  
 10 MR. BINI: Good morning, your Honor. You may be  
 11 seated. And you may be seated in the public as well.  
 12 MR. JACKSON: Randall Jackson on behalf of  
 13 Mr. Boustani.  
 14 Good morning, your Honor.  
 15 THE COURT: Good morning.  
 16 MR. SCHACHTER: Good morning, your Honor. Michael  
 17 Schachter on behalf of Mr. Boustani.  
 18 THE COURT: Good morning, Mr. Boustani, welcome  
 19 back.  
 20 MR. DISANTO: Phil DiSanto on behalf of  
 21 Mr. Boustani.  
 22 MR. MCLEOD: Ray McCleod on behalf of Mr. Boustani.  
 23 Good morning, your Honor.  
 24 THE COURT: You may be seated as well. Thank you  
 25 all for your patience. As counsel undoubtedly know because our

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1 have criminal terms of imprisonment and fines.  
 2 THE COURT: Up to two years, I believe.  
 3 MS. NIELSEN: Yes, Your Honor. There are several  
 4 provisions that have individual imprisonment and fine  
 5 provisions in that law.  
 6 THE COURT: So your position is that it is criminal.  
 7 MS. NIELSEN: Correct.  
 8 THE COURT: At least in part.  
 9 MS. NIELSEN: Correct.

10 THE COURT: Let me hear from defense counsel. What  
 11 is your having seen the statute.

12 MR. SCHACHTER: Your Honor, it is not criminal. And  
 13 if I may hand up just a couple things to the Court.

14 THE COURT: You don't have to hand them up, just  
 15 describe what your position is.

16 MR. SCHACHTER: Sure. The Government's translation,  
 17 first of all, the Court's jury instructions that the  
 18 Government had proposed references Article 40 of the Public  
 19 Probity Law of the Article 40 of Law 16, 2012. What the  
 20 Government is citing to the Court is a completely different  
 21 provision.

22 THE COURT: You think that provision differs,  
 23 though, it may be applicable in this case.

24 MR. SCHACHTER: I'm sorry, your Honor, let me try to  
 25 be clearer.

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1 The portion that they cite, and they ask the Court  
2 to rely on, in instructing the jury on Mozambique bribery is  
3 not a criminal statute.

4 THE COURT: Let me stop you right there. Do you  
5 agree with that characterization?

6 MS. NIELSEN: No, Your Honor. So I think that what  
7 counsel is trying to say is that the subdivision of this law  
8 that we have cited does not in and of itself contain a penalty  
9 provision, but that is not unusual even in U.S. laws where  
10 there are provisions of subpoints in any part of the USC code  
11 that we look at, not all of them contain an imprisonment term  
12 or a fine.

13 THE COURT: Let me ask this in a very old school,  
14 basic way.

15 If I violate this statute, can a policeman arrest  
16 me, and if I am convicted, can I be sent to prison or jail,  
17 yes or no? Yes or no? In your view.

18 MS. NIELSEN: For a violation of 16-2012 if you  
19 violate a part of it, yes.

20 THE COURT: What is your response?

21 MR. SCHACHTER: That's absolutely incorrect, your  
22 Honor.

23 The Public Probity Law lays out a whole bunch of  
24 things that it requires public officials in Mozambique. For  
25 example, a Duty of Decorum is laid out in Article 17. A Duty  
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1 this is an unusual, it is not an common way in American law to  
2 describe what would lead to a violation of the bribery laws of  
3 Mozambique.

4 MR. SCHACHTER: I'd also note that Judge Susano does  
5 not claim that this is a criminal statute. She says that it  
6 is a law that seems to describe, just like the Duty of  
7 Decorum, certain duties of public officials. It is not a  
8 criminal to statute. The Government notes a separate article,  
9 which is not being relied upon in the Court's jury  
10 instructions, which is a different statute dealing with  
11 different things which does have a criminal statute that does  
12 have a criminal penalty. That does not make Article 40 which  
13 the Government has urged the Court to rely upon a criminal  
14 statute.

15 Article 40 is no more a criminal statute than the  
16 Duty of Decorum or the Duty of Efficiency. It may be helpful,  
17 your Honor, if the Court wishes at some point, we have the  
18 translation of the entire Public Probity Law so the Court can  
19 see how Article 40, the one that the Government is urging,  
20 fits into just the rest of the duties that are laid out in  
21 this Mozambican Public Probity Law.

22 THE COURT: What is your response?

23 MS. NIELSEN: Your Honor, the Government has already  
24 provided in Exhibit F2, I believe, it's Government's filing  
25 2012 the part of the law 16-2012 that includes Article 40 that  
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1 of Efficiency is laid out in Article 2. This is all part of  
2 the same law and it just lays out a whole bunch of things that  
3 public officials are supposed to do.

4 If the public official violates, for example,  
5 Article 17, the Duty of Decorum or the Duty of Efficiency that  
6 is also a violation of the Public Probity Law.

7 THE COURT: What if the official takes bribes and  
8 kickbacks?

9 MR. SCHACHTER: That is not addressed by the Public  
10 Probity Law.

11 THE COURT: Is it addressed somewhere else?

12 MR. SCHACHTER: Correct. And the Court is  
13 instructing the jury on a different provision. This  
14 provision, Article 40 of law 16-2012 is just a citation to  
15 this Public Probity Law. Article 40 is no more a criminal  
16 provision than Article 17 which addresses the duty of decorum  
17 or the Duty of Efficiency in Article 2.

18 THE COURT: Okay. Let me ask the Government. What  
19 is your response to that argument?

20 MS. NIELSEN: As we noted in the filings to the  
21 Court, the citation that the Government uses to the law  
22 16-2012 and to the Article 40 in that law is designed to  
23 provide some guidance as to what is a violation of a duty,  
24 what is an unlawful act in relation to the other Mozambican  
25 laws that have been discussed in the jury instructions because  
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1 we've stated and yesterday provided some remaining provisions  
2 that indicate that this law also has criminal aspects.

3 THE COURT: I'm going to overrule the objection of  
4 the defense, but your objection is certainly noted for the  
5 record and preserved for public purposes.

6 Is there anything else that we need to address  
7 before we get to what has been described as Court 2 which is  
8 the notice of decision of verdict form that I've provided.

9 Any objection to that from the Government?

10 MR. BINI: No, Your Honor.

11 THE COURT: Any objection to that from the defense  
12 counsel? That's the form that says, "We have reached a  
13 verdict," and the foreperson of the jury will sign to and  
14 bring to out.

15 MR. JACKSON: No, Your Honor.

16 THE COURT: Okay. Now, with respect to Court 3  
17 which is the actual verdict form, any objection to that from  
18 the Government?

19 MR. BINI: No, Your Honor.

20 THE COURT: Any objection from defense counsel?

21 MR. JACKSON: No, Your Honor.

22 THE COURT: All right. So we've gotten those issues  
23 taken care of. Are there any other issues that you believe we  
24 need to address before we bring the jury in?

25 MR. BINI: Not from for the Government.

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1 THE COURT: Defense?  
 2 MR. JACKSON: Your Honor, may we speak to the Court  
 3 just very briefly? It will take ten seconds at the sidebar.  
 4 THE COURT: Really?  
 5 MR. JACKSON: I'm very sorry, Judge, I have to.  
 6 THE COURT: We can do the white noise machine again.  
 7 Sorry, ladies and gentlemen, and the public we are going to  
 8 assault your ears.  
 9 (Continued on the next page.)

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1 (In open court.)  
 2 THE COURT: We are ready to have the jury in.  
 3 (Jury exits courtroom at 11:39 a.m.)  
 4 THE COURT: Good morning, ladies and gentlemen.  
 5 Yes, it is still morning just barely. Thank you for your  
 6 patience.  
 7 So I've had a number of conferences with the lawyers  
 8 entered a number of orders which I suspect will move things  
 9 along. So, again, I appreciate your patience. Please be  
 10 seated and we will continue with the examination. Can we have  
 11 the witness brought forward and counsel back to the podium.  
 12 MR. MEHTA: Your Honor, we're going to read two  
 13 stipulations into the record first and then we'll have our  
 14 final exhibits and then close.  
 15 THE COURT: You may only do that if you pull the  
 16 microphone closer to you and remember Vader, not Chris Rock,  
 17 Annie Hall.  
 18 MR. MEHTA: Yes, Your Honor.  
 19 THE COURT: Thank you.  
 20 MR. MEHTA: Your Honor, may I?  
 21 THE COURT: You may.  
 22 MR. MEHTA: Thank you.  
 23 THE COURT: Make sure the microphone is on when  
 24 you're up there. It's a slightly different system.  
 25 MR. MEHTA: Your Honor, at this time, the Government

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1 (Sidebar conference held on the record in the  
 2 presence of the Court and counsel, out of the hearing of the  
 3 jury.)  
 4 MR. JACKSON: I was actually going to say we can do  
 5 this off the record if it's acceptable to Court.  
 6 THE COURT: I don't think so.  
 7 MR. JACKSON: Okay. The only thing I was going to  
 8 raise, Judge, and I don't want to -- I ate something this  
 9 morning is.  
 10 THE COURT: Has disagreed with you?  
 11 MR. JACKSON: I'm totally fine.  
 12 THE COURT: You may need a sudden break?  
 13 MR. JACKSON: Exactly, your Honor.  
 14 THE COURT: All you have to do is say, "May I have a  
 15 moment?" and the answer will be yes. That goes across the  
 16 board. Remember I am 69 years of age.  
 17 MR. JACKSON: Thank you, your Honor.  
 18 (Sidebar discussion concludes.)  
 19 (Continued on the next page.)

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1 will read and move to admit Government Exhibit 1902, which is  
 2 a stipulation between the parties.  
 3 THE COURT: Before you read it. Any objection to  
 4 the reading of 1902?  
 5 MR. JACKSON: No objection.  
 6 THE COURT: You may read it.  
 7 MR. MEHTA: Can we publish that for the jury as  
 8 well?  
 9 THE COURT: Move its admission.  
 10 MR. MEHTA: Yes, Your Honor. I move to admit  
 11 Government Exhibit 1902.  
 12 THE COURT: Any objection?  
 13 MR. JACKSON: No objection.  
 14 THE COURT: It's admitted. You may publish to the  
 15 jury.  
 16 (Government's Exhibit 1902 was received in evidence  
 17 as of this date.)  
 18 THE COURT: You might want to dim the lights,  
 19 Mr. Jackson, on this one.  
 20 MR. MEHTA: It is hereby stipulated and agreed by  
 21 and between the United States of America and the defendant,  
 22 Jean Boustani, through the undersigned counsel that if called  
 23 as a witness, Paul Parseghian, P-a-r-s-e-g-h-i-a-n, would  
 24 testify that:  
 25 (A) He is a managing director at PGIM, Inc.,

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1 Prudential, and Global Head of Operations and Systems,  
 2 PGIM Fixed Income.  
 3 (B) Government Exhibit 1127 is a record of trading  
 4 activity for Prudential Securities Group, Prudential, in the  
 5 securities Mematu, M-e-m-a-t-u, 6.305, 11 Sep. 2020 also  
 6 identified as XS0969351450 and known as the EMATUM LNP and,  
 7 Mozam, M-o-z-a-m, 10.500 18-Jan 2023 also identified as  
 8 XS1391003446 and XS13003529 and known as the "Mozambique Bond"  
 9 between October 2013 and September 2018.  
 10 (I) Each of the trades was conducted by a Prudential  
 11 employee who is located in New Jersey when conducting the  
 12 trades. The Prudential employee who conducted the trades  
 13 received the EMATUM offering circular and Mozambique teaser  
 14 from VTB Capital.  
 15 (2), Prudential conducted trades for certain  
 16 U.S.-based clients including, but not limited to, the Iowa  
 17 Public Employees Retirement System, EM Portfolio, the State of  
 18 Wisconsin Investment Board, the National Railroad Retirement  
 19 Investment Trust, and the Pension Benefit Guaranty  
 20 Corporation.  
 21 Prudential, through certain onshore investment  
 22 funds, invested money in the EMATUM LPN and Mozambique bond on  
 23 behalf of these U.S.-based clients in the secondary market.  
 24 After the EMATUM LPNs were exchanged for the  
 25 Mozambique bond, Prudential invested money in the Mozam bond  
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1 on behalf of certain U.S.-based clients such as the National  
 2 Railroad Retirement Investment Trust pursuant to Rule 144-A.  
 3 (4) As of September 11, 2018, Prudential, on behalf  
 4 of its clients, including U.S.-based clients investing with  
 5 onshore funds held Mozambique bonds valued at \$19,607,000 in  
 6 face value and \$16,326,022.96 in market value. Of this total,  
 7 Prudential held \$5,062,000 in face value and \$4,202,290 in  
 8 market value in the 144A securities through onshore  
 9 U.S. funds.  
 10 And if we could publish Exhibit 1127 in evidence.  
 11 THE COURT: The Court approves the stipulation and  
 12 will so order it. And, ladies and gentlemen of the jury, you  
 13 will be able to take it into the jury room if you want to see  
 14 it during the course of your deliberations.  
 15 Yes, sir. Next.  
 16 MR. MEHTA: Yes, Your Honor. Next, I move into  
 17 evidence Government Exhibit 1903.  
 18 THE COURT: Any objection to 1903?  
 19 MR. SCHACHTER: No objection.  
 20 THE COURT: It's admitted.  
 21 (Government's Exhibit 1903 was received in evidence  
 22 as of this date.)  
 23 THE COURT: You may publish it to the jury.  
 24 MR. MEHTA: It is hereby stipulated and agreed by  
 25 and between the United States of America and the defendant,  
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1 Jean Boustani, through the undersigned counsel that if called  
 2 as a witness, Kyle DiGangi, D-i-g-a-n-g-i, would testify that:  
 3 (A) He is Deputy Chief Compliance Officer and  
 4 Counsel at AllianceBernstein.  
 5 (B) Government Exhibit 610 is a record of trading  
 6 activity for AllianceBernstein in the securities Mematu,  
 7 6.305, 11 Sep. 2020 known as the EMATUM LPN. And Mozam  
 8 10.500, 18 Jan 2023 known as the "Mozambique bond." Together  
 9 the EMATUM securities between September 2013 and  
 10 November 2016.  
 11 (1) Each of the trades was conducted by an  
 12 AllianceBernstein employee who is located in New York when  
 13 conducting the trades.  
 14 (2) AllianceBernstein conducted trades for certain  
 15 U.S.-based clients including, but not limited to, onshore  
 16 United States-based investment funds and invested money in the  
 17 EMATUM securities on behalf of these U.S.-based clients in the  
 18 secondary market.  
 19 These U.S.-based clients include the Teachers  
 20 Retirement System of Louisiana, Sprint Retirement Pension  
 21 Plan, Citigroup Pension Plan, Central States Pension Fund, AB  
 22 Emerging Market Multi-Asset Fund, AB Emerging Markets  
 23 Multi-Asset Fixed Income. AB Global High Income Fund, and the  
 24 AllianceBernstein High Income Fund.  
 25 And if we could publish Exhibit 610 in evidence as  
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1 well for the jury.  
 2 THE COURT: Yes, you may. Without objection. It's  
 3 in evidence.  
 4 (Government's Exhibit 610 was received in evidence  
 5 as of this date.)  
 6 MR. MEHTA: And if we could scroll down to see the  
 7 total trading loss. \$22 million, approximately.  
 8 Your Honor, we will now call our next witness.  
 9 THE COURT: Thank you.  
 10 MS. MOESER: Good morning, your Honor. If I may,  
 11 we'd like to admit a few business records at this time and  
 12 then call our final witness.  
 13 THE COURT: All right. Any objection? We'll ask  
 14 for objections as you call out the numbers.  
 15 MS. MOESER: Thank you, your Honor. Government's  
 16 Exhibit 2.  
 17 THE COURT: Any objection?  
 18 MR. JACKSON: No objection, your Honor, your Honor.  
 19 THE COURT: Admitted.  
 20 (Government's Exhibit 2 was received in evidence as  
 21 of this date.)  
 22 MS. MOESER: Government Exhibit 11.  
 23 THE COURT: Objection?  
 24 MR. JACKSON: No objection.  
 25 THE COURT: Admitted.  
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1 (Government's Exhibit 11 was received in evidence  
 2 as of this date.)  
 3 MS. MOESER: Government's Exhibit 14.  
 4 THE COURT: Objection?  
 5 MR. JACKSON: No objection, your Honor.  
 6 THE COURT: Admitted.  
 7 (Government's Exhibit 14 was received in evidence  
 8 as of this date.)  
 9 MS. MOESER: Government Exhibit 15.  
 10 THE COURT: Objection?  
 11 MR. JACKSON: No objection, your Honor.  
 12 THE COURT: Admitted.  
 13 (Government's Exhibit 15 was received in evidence  
 14 as of this date.)  
 15 MS. MOESER: Government Exhibit 80.  
 16 THE COURT: Objection?  
 17 MR. JACKSON: No objection, your Honor.  
 18 THE COURT: Admitted.  
 19 (Government's Exhibit 80 was received in evidence  
 20 as of this date.)  
 21 MS. MOESER: Government Exhibit 203.  
 22 THE COURT: Objection?  
 23 MR. JACKSON: No objection.  
 24 THE COURT: Admitted.  
 25 (Government's Exhibit 203 was received in evidence  
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1 MS. MOESER: Government Exhibit 215-A.  
 2 THE COURT: Objection.  
 3 MR. JACKSON: No objection, your Honor.  
 4 THE COURT: Admitted.  
 5 (Government's Exhibit 215-A was received in  
 6 evidence as of this date.)  
 7 MS. MOESER: Government's Exhibit 225.  
 8 THE COURT: Objection?  
 9 MR. JACKSON: No objection, your Honor.  
 10 THE COURT: Admitted.  
 11 (Government's Exhibit 225 was received in evidence  
 12 as of this date.)  
 13 MS. MOESER: Government's Exhibit 247.  
 14 THE COURT: Objection?  
 15 MR. JACKSON: No objection.  
 16 THE COURT: Admitted.  
 17 (Government's Exhibit 247 was received in evidence  
 18 as of this date.)  
 19 MS. MOESER: Government's Exhibit 250.  
 20 THE COURT: Objection.  
 21 MR. JACKSON: No objection, your Honor.  
 22 THE COURT: Admitted.  
 23 (Government's Exhibit 250 was received in evidence  
 24 as of this date.)  
 25 MS. MOESER: Government's Exhibit 307.  
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1 as of this date.)  
 2 MS. MOESER: Government Exhibit 205.  
 3 THE COURT: Objection?  
 4 MR. JACKSON: No objection.  
 5 THE COURT: Admitted.  
 6 (Government's Exhibit 205 was received in evidence  
 7 as of this date.)  
 8 MS. MOESER: Government's Exhibit 210.  
 9 THE COURT: Objection?  
 10 MR. JACKSON: No objection.  
 11 THE COURT: Admitted.  
 12 (Government's Exhibit 210 was received in evidence  
 13 as of this date.)  
 14 MS. MOESER: Government Exhibit 213.  
 15 THE COURT: Objection?  
 16 MR. JACKSON: No objection.  
 17 THE COURT: Admitted.  
 18 (Government's Exhibit 213 was received in evidence  
 19 as of this date.)  
 20 MS. MOESER: Government Exhibit 214.  
 21 THE COURT: Objection?  
 22 MR. JACKSON: No objection.  
 23 THE COURT: Admitted.  
 24 (Government's Exhibit 214 was received in evidence  
 25 as of this date.)  
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1 THE COURT: Objection.  
 2 MR. JACKSON: No objection, your Honor.  
 3 THE COURT: Admitted.  
 4 (Government's Exhibit 307 was received in evidence  
 5 as of this date.)  
 6 MS. MOESER: Government's Exhibit 308.  
 7 THE COURT: Objection?  
 8 MR. JACKSON: No objection, your Honor.  
 9 THE COURT: Admitted.  
 10 (Government's Exhibit 308 was received in evidence  
 11 as of this date.)  
 12 MS. MOESER: Government's Exhibit 311.  
 13 THE COURT: Objection?  
 14 MR. JACKSON: No objection.  
 15 THE COURT: Admitted.  
 16 (Government's Exhibit 311 was received in evidence  
 17 as of this date.)  
 18 MS. MOESER: Government's Exhibit 312.  
 19 THE COURT: Objection?  
 20 MR. JACKSON: No objection.  
 21 THE COURT: Admitted.  
 22 (Government's Exhibit 312 was received in evidence  
 23 as of this date.)  
 24 MS. MOESER: Government's Exhibit 313.  
 25 THE COURT: Objection?  
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1 MR. JACKSON: No objection.  
 2 THE COURT: Admitted.  
 3 (Government's Exhibit 313 was received in evidence  
 4 as of this date.)  
 5 MS. MOESER: Government's Exhibit 2175.  
 6 THE COURT: Objection?  
 7 MR. JACKSON: Objection, your Honor.  
 8 MS. MOESER: Shall we continue the list?  
 9 THE COURT: If you still got more to go, yes, and  
 10 keep going and pull aside the ones which have objections and  
 11 we'll discuss them at sidebar.  
 12 Keep rolling.  
 13 MS. MOESER: Government's Exhibit 2197.  
 14 THE COURT: Objection.  
 15 MR. JACKSON: Objection, your Honor.  
 16 THE COURT: Sidebar.  
 17 MS. MOESER: Government Exhibit 2198.  
 18 THE COURT: Objection.  
 19 MR. JACKSON: Objection, your Honor.  
 20 THE COURT: Sidebar.  
 21 MS. MOESER: Government Exhibit 2433.  
 22 THE COURT: Objection?  
 23 MR. JACKSON: No objection.  
 24 THE COURT: Admitted.  
 25 (Government's Exhibit 2433 was received in evidence  
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1 MS. MOESER: Government's Exhibit 2732-B.  
 2 THE COURT: Objection?  
 3 MR. JACKSON: No objection.  
 4 THE COURT: Admitted.  
 5 (Government's Exhibit 2732-B was received in  
 6 evidence as of this date.)  
 7 MS. MOESER: Government Exhibit 2735.  
 8 THE COURT: Objection?  
 9 MR. JACKSON: No objection.  
 10 THE COURT: Admitted.  
 11 (Government's Exhibit 2735 was received in evidence  
 12 as of this date.)  
 13 MS. MOESER: Government Exhibit 2917.  
 14 THE COURT: Objection?  
 15 MR. JACKSON: No objection.  
 16 THE COURT: Admitted.  
 17 (Government's Exhibit 2917 was received in evidence  
 18 as of this date.)  
 19 MS. MOESER: Government's Exhibit 5085.  
 20 THE COURT: Objection?  
 21 MR. JACKSON: No objection, your Honor.  
 22 THE COURT: Admitted.  
 23 (Government's Exhibit 5085 was received in evidence  
 24 as of this date.)  
 25 MS. MOESER: Government's Exhibit 5085-A.  
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1 as of this date.)  
 2 MS. MOESER: 2433-A.  
 3 THE COURT: Objection.  
 4 MR. JACKSON: No objection.  
 5 THE COURT: Admitted.  
 6 (Government's Exhibit 2433-A was received in  
 7 evidence as of this date.)  
 8 MS. MOESER: 2502.  
 9 THE COURT: Objection?  
 10 MR. JACKSON: No.  
 11 THE COURT: Admitted.  
 12 (Government's Exhibit 2502 was received in evidence  
 13 as of this date.)  
 14 MS. MOESER: Government Exhibit 2732.  
 15 THE COURT: Objection?  
 16 MR. JACKSON: No objection, your Honor.  
 17 THE COURT: Admitted.  
 18 (Government's Exhibit 2732 was received in evidence  
 19 as of this date.)  
 20 MS. MOESER: Government's Exhibit 2732-A.  
 21 THE COURT: Objection?  
 22 MR. JACKSON: No objection, your Honor.  
 23 THE COURT: Admitted.  
 24 (Government's Exhibit 2732-A was received in  
 25 evidence as of this date.)  
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1 THE COURT: Objection?  
 2 MR. JACKSON: No objection.  
 3 THE COURT: Admitted.  
 4 (Government's Exhibit 5085-A was received in  
 5 evidence as of this date.)  
 6 MS. MOESER: Government Exhibit 5085-B.  
 7 THE COURT: Objection?  
 8 MR. JACKSON: No objection.  
 9 THE COURT: Admitted.  
 10 (Government's Exhibit 5085-B was received in  
 11 evidence as of this date.)  
 12 MS. MOESER: Government's Exhibit 5085-C.  
 13 THE COURT: Objection?  
 14 MR. JACKSON: No objection, your Honor.  
 15 THE COURT: Admitted.  
 16 (Government's Exhibit 5085-C was received in  
 17 evidence as of this date.)  
 18 MS. MOESER: Government's Exhibit 5085-D.  
 19 THE COURT: Objection?  
 20 MR. JACKSON: No objection, your Honor.  
 21 THE COURT: Admitted.  
 22 (Government's Exhibit 5085-D was received in  
 23 evidence as of this date.)  
 24 MS. MOESER: Government's Exhibit 5085-E.  
 25 THE COURT: Objection?  
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1 MR. JACKSON: No objection.  
 2 THE COURT: Admitted.  
 3 (Government's Exhibit 5085-E was received in  
 4 evidence as of this date.)  
 5 MS. MOESER: Government's Exhibit 5085-F.  
 6 THE COURT: Objection?  
 7 MR. JACKSON: No objection, your Honor.  
 8 THE COURT: Admitted.  
 9 (Government's Exhibit 5085-F was received in  
 10 evidence as of this date.)  
 11 MS. MOESER: Government's Exhibit 5174.  
 12 THE COURT: Objection?  
 13 MR. JACKSON: No objection, your Honor.  
 14 THE COURT: Admitted.  
 15 (Government's Exhibit 5174 was received in evidence  
 16 as of this date.)  
 17 MS. MOESER: And Government's Exhibit 5175.  
 18 THE COURT: Objection?  
 19 MR. JACKSON: No objection, your Honor.  
 20 THE COURT: Admitted.  
 21 (Government's Exhibit 5175 was received in evidence  
 22 as of this date.)  
 23 THE COURT: Now, do you want to deal with the  
 24 objected documents now, or do you want to proceed with the  
 25 jury now?

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1 We need to address these now before the next  
 2 witness? If that's what you want we'll address them. You  
 3 tell me.  
 4 MR. JACKSON: I suggest we deal with them at break.  
 5 THE COURT: Sorry, ladies and gentlemen, I got them  
 6 close. You know how it goes.  
 7 Sidebar.  
 8 MR. JACKSON: No, your Honor. I think if the  
 9 Government can go forward we can deal with this during one of  
 10 the jury's breaks, your Honor.  
 11 THE COURT: All right. Does that strike you since  
 12 you're the one examining the witness, I don't want to run into  
 13 the objection five minutes in so you tell me, Counsel.  
 14 MS. MOESER: That's satisfactory, your Honor.  
 15 THE COURT: So can we have a live witness now?  
 16 MS. MOESER: Your Honor, the Government calls  
 17 Special Agent Fatima Haque.  
 18 (Witness takes the witness stand.)  
 19 COURTROOM DEPUTY: Raise your right hand.  
 20 F A T I M A H A Q U E, called by the Government, having  
 21 been first duly sworn, was examined and testified as  
 22 follows:  
 23 THE WITNESS: I do.  
 24 THE COURT: Please be seated, Special Agent.  
 25 You've been in this courtroom, you know how this

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1 works, okay? Pull the microphone towards you. Speak clearly  
 2 and distinctly into it. State and spell your name, ensure  
 3 that little green light is on, and then counsel will inquire.  
 4 THE WITNESS: Fatima Haque. F-a-t-i-m-a.  
 5 H-a-q-u-e.  
 6 THE COURT: Thank you. You may inquire.  
 7 MS. MOESER: Thank you, your Honor.  
 8 DIRECT EXAMINATION  
 9 BY MS. MOESER:  
 10 Q Good morning, Special Agent Haque.  
 11 A Good morning.  
 12 MS. MOESER: At this time I'd like to admit a few  
 13 exhibits, not business record.  
 14 THE COURT: You said admit not omit?  
 15 MS. MOESER: Admit, your Honor.  
 16 THE COURT: I wanted to be clear.  
 17 Go ahead.  
 18 MS. MOESER: Yes, your Honor.  
 19 Government's Exhibit 1761-B through --  
 20 THE COURT: Any objection to that?  
 21 MR. JACKSON: Your Honor, we have no objection to B  
 22 through F.  
 23 THE COURT: Just give numbers straight.  
 24 MS. MOESER: 1761-B through 1761-F, your Honor.  
 25 THE COURT: Any objection?

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1 MR. JACKSON: No objection, your Honor.  
 2 THE COURT: Admitted.  
 3 (Government's Exhibit 1761-B through 1761-F was  
 4 received in evidence as of this date.)  
 5 THE COURT: You may publish those.  
 6 MS. MOESER: Government's Exhibit 3071.  
 7 THE COURT: Any objection?  
 8 MR. JACKSON: No objection, your Honor.  
 9 THE COURT: Admitted.  
 10 (Government's Exhibit 3071 was received in evidence  
 11 as of this date.)  
 12 MS. MOESER: Government's Exhibit 2516.  
 13 THE COURT: Objection?  
 14 MR. JACKSON: No objection.  
 15 THE COURT: Admitted.  
 16 (Government's Exhibit 2516 was received in evidence  
 17 as of this date.)  
 18 MS. MOESER: Government's Exhibit 2768.  
 19 THE COURT: Objection?  
 20 MR. JACKSON: No objection, your Honor.  
 21 THE COURT: Admitted.  
 22 (Government's Exhibit 2768 was received in evidence  
 23 as of this date.)  
 24 MS. MOESER: Government's Exhibit 2802 and 2802-A.  
 25 THE COURT: Objection?

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1 MR. JACKSON: No objection, your Honor.  
 2 THE COURT: Admitted.  
 3 (Government's Exhibit 2802 and 2802-A was received  
 4 in evidence as of this date.)  
 5 MS. MOESER: Government's Exhibit 2792 and 2792-A.  
 6 THE COURT: Objection?  
 7 MR. JACKSON: No objection, your Honor.  
 8 THE COURT: Admitted.  
 9 (Government's Exhibit 2792 and 2792-A was received  
 10 in evidence as of this date.)  
 11 MS. MOESER: Government's Exhibit 2879.  
 12 THE COURT: Any objection?  
 13 MR. JACKSON: No objection, your Honor.  
 14 THE COURT: Admitted.  
 15 (Government's Exhibit 2879 was received in evidence  
 16 as of this date.)  
 17 MS. MOESER: Government's Exhibit 2978-B.  
 18 THE COURT: Objection?  
 19 MR. JACKSON: We have an objection, your Honor.  
 20 THE COURT: You have an objection?  
 21 MR. JACKSON: Yes, Your Honor.  
 22 THE COURT: All right. Put it to the side. We'll  
 23 do a sidebar on that one.  
 24 Go ahead.  
 25 MS. MOESER: Government's Exhibit 3187.  
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1 THE COURT: Objection?  
 2 MR. JACKSON: No objection, your Honor.  
 3 THE COURT: Admitted.  
 4 (Government's Exhibit 3187 was received in evidence  
 5 as of this date.)  
 6 MS. MOESER: Government's Exhibit 3188.  
 7 THE COURT: Any objection?  
 8 MR. JACKSON: No objection, your Honor.  
 9 THE COURT: Admitted.  
 10 (Government's Exhibit 3188 was received in evidence  
 11 as of this date.)  
 12 MS. MOESER: Government's Exhibit 3216.  
 13 THE COURT: Objection?  
 14 MR. JACKSON: No objection, your Honor.  
 15 THE COURT: Admitted.  
 16 (Government's Exhibit 3216 was received in evidence  
 17 as of this date.)  
 18 MS. MOESER: Government's Exhibit 3216-A.  
 19 THE COURT: Objection?  
 20 MR. JACKSON: No objection.  
 21 THE COURT: Admitted.  
 22 (Government's Exhibit 3216-A was received in  
 23 evidence as of this date.)  
 24 MS. MOESER: Government's Exhibit 3217.  
 25 THE COURT: Objection?  
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1 MR. JACKSON: No objection, your Honor.  
 2 THE COURT: Admitted.  
 3 (Government's Exhibit 3217 was received in evidence  
 4 as of this date.)  
 5 MS. MOESER: Government's Exhibit 3218.  
 6 THE COURT: Objection?  
 7 MR. JACKSON: Objection, your Honor.  
 8 THE COURT: Sidebar on that one, okay.  
 9 Next.  
 10 MS. MOESER: Government's Exhibit 3211.  
 11 THE COURT: Any objection?  
 12 MR. JACKSON: Objection, your Honor.  
 13 THE COURT: Sidebar.  
 14 MS. MOESER: And Government's Exhibit 3212.  
 15 THE COURT: Objection?  
 16 MR. JACKSON: No objection, your Honor.  
 17 THE COURT: Admitted.  
 18 (Government's Exhibit 3212 was received in evidence  
 19 as of this date.)  
 20 THE COURT: Now, do you want to do the sidebar now  
 21 before you start with the special agent, or do we want to deal  
 22 with those documents before we have our break in about half an  
 23 hour.  
 24 MS. MOESER: Your Honor, we could deal with the  
 25 documents during the break.  
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1 THE COURT: All right.  
 2 MS. MOESER: Okay.  
 3 THE COURT: That's what we will do.  
 4 MS. MOESER: Thank you, your Honor.  
 5 DIRECT EXAMINATION  
 6 BY MS. MOESER:  
 7 Q Good morning, Special Agent Haque.  
 8 A Good morning.  
 9 Q Where do you work?  
 10 A The Federal Bureau of Investigation.  
 11 Q Is that sometimes called the FBI?  
 12 A It is.  
 13 Q How long have you work for the FBI?  
 14 A Approximately five years.  
 15 Q What's your title?  
 16 A Special Agent.  
 17 Q How long have you been a special agent?  
 18 A Approximately two years.  
 19 Q What did you do before you were a special agent at the  
 20 FBI?  
 21 A I worked in a support and analytical position in the  
 22 Cyber Division.  
 23 Q What's your educational background?  
 24 A I have a Bachelors in Cognitive Science and Psychology  
 25 from the University of Virginia and a Masters in Forensic  
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- 1 Psychology from John Jay College in New York.  
 2 Q What is the special agent at the FBI do?  
 3 A A special agent investigates federal crime.  
 4 Q When you became a special agent for the FBI, did you  
 5 receive any training?  
 6 A I did.  
 7 Q What kind of training?  
 8 A I received a five-month training down at Quantico,  
 9 Virginia and subsequent to that I received on-the-job online  
 10 and in-person training related to white collar investigations.  
 11 Q Are you assigned to a particular unit at the FBI?  
 12 A I am.  
 13 Q What unit?  
 14 A Securities Fraud and Money Laundering Squad.  
 15 Q Are you familiar with the investigation into the  
 16 defendant, Jean Boustani?  
 17 A I am.  
 18 Q Are you familiar with the Proindicus, EMATUM, and MAM  
 19 deals?  
 20 A Yes.  
 21 Q What role are you playing in the investigation?  
 22 A I am one of the case agents.  
 23 Q What's a case agent?  
 24 A Case agent is the agent assigned to a specific  
 25 investigation.

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- 1 A No.  
 2 Q Do you show witnesses interviews you've done with other  
 3 witnesses?  
 4 A We do not.  
 5 Q Do you tell them what other witnesses have said?  
 6 A No.  
 7 Q Do you show witnesses documents that they are not on?  
 8 A We do not.  
 9 Q Why not?  
 10 A Because we don't want witness testimony to be tainted by  
 11 the experience of other witnesses.  
 12 Q Have you also been present during this trial and heard  
 13 testimony of witnesses in this trial?  
 14 A I have.  
 15 Q So let's focus on the EMATUM project. Are you familiar  
 16 with the EMATUM Exchange?  
 17 A Yes.  
 18 Q What is it?  
 19 A It was the exchange of loan participation notes into  
 20 Eurobonds for EMATUM.  
 21 Q Are you familiar with the Road Show?  
 22 A Yes.  
 23 Q What is the Road Show?  
 24 A It was a meet -- it was a series of meetings between  
 25 investors and EMATUM and Mozambican officials and bankers.

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- 1 Q How long have you been working on the investigation as a  
 2 case agent?  
 3 A Approximately one and a half years.  
 4 Q Was the investigation already ongoing when you joined it?  
 5 A Yes.  
 6 Q As a case agent, how did you gather evidence in the  
 7 investigation?  
 8 A Through search warrants and subpoenas as well as  
 9 interviews.  
 10 Q Did you review records received in the investigation?  
 11 A Yes.  
 12 Q What kind of records?  
 13 A E-mails, bank records, and various business records.  
 14 Q Did there come a time when certain defendants pled  
 15 guilty?  
 16 A Yes.  
 17 Q Did you interview and gather evidence from them as well?  
 18 A I did.  
 19 Q When you interview witnesses, what do you do?  
 20 A We ask them questions about the investigation.  
 21 Q Do you record the interviews?  
 22 A No.  
 23 Q Do you take notes on the interviews?  
 24 A Yes.  
 25 Q Are those notes a verbatim transcript?

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- 1 Q Where did the road show take place?  
 2 A London and New York.  
 3 Q And when, approximately, when did the Road Show take  
 4 place?  
 5 A March of 2016.  
 6 MS. MOESER: Your Honor, at this time, I'd seek the  
 7 Court's permission to publish Government's Exhibit 1901 a  
 8 stipulation between the parties regarding certain travel.  
 9 THE COURT: Any objection to 1901?  
 10 MR. JACKSON: No, Your Honor.  
 11 THE COURT: Any objection to its admission?  
 12 MR. JACKSON: No, Your Honor.  
 13 THE COURT: It's admitted.  
 14 (Government's Exhibit 1901 was received in evidence  
 15 as of this date.)  
 16 THE COURT: You may publish.  
 17 Q Special Agent Haque, can you read Government  
 18 Exhibit 1901?  
 19 A It is hereby stipulated and agreed by and between the  
 20 United States of America and the defendant Jean Boustani,  
 21 through the undersigned counsel that:  
 22 1. Antonio do Rosario, Adriano Maleiane --  
 23 THE COURT: Vader.  
 24 THE WITNESS: I apologize.  
 25 THE COURT: Not Rock, not Wanda Sykes, Vader.

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1 A Adriano Maleiane and Adriano Ubisse traveled to John F.  
2 Kennedy Airport in the Eastern District of New York on  
3 March 14, 2016, and from John F. Kennedy Airport in the  
4 Eastern District of New York on March 16, 2016.

5 a. Government Exhibit 1834 shows that Antonio  
6 do Rosario (i) was a first class passenger on Flight BA183  
7 from London (Heathrow Airport) to New York (John F. Kennedy  
8 Airport on March 14, 2016) and (ii) flew from New York (John  
9 F. Kennedy Airport) to Johannesburg, South Africa on Flight  
10 SA204 on March 16, 2016.

11 Can you scroll up?

12 b. Government Exhibit 1836 Shows That Adriano  
13 Maleiane (i) was a First Class passenger on Flight BA183 from  
14 London (Heathrow Airport) to New York (John F. Kennedy  
15 Airport) on March 14, 2016. And (ii) flew from New York (John  
16 F. Kennedy Airport) to Johannesburg, South Africa on Flight  
17 SA204 on March 16, 2016.

18 c. Government Exhibit 1840 shows that Adriano Ubisse  
19 (i) was a Club World passenger on Flight BA183 from London  
20 (Heathrow Airport) to New York (John F. Kennedy Airport) on  
21 March 14, 2016. And (ii) flew from New York (John F. Kennedy  
22 Airport) to Johannesburg, South Africa on Flight SA204 on  
23 March 16, 2016.

24 MS. MOESER: Your Honor, may the record reflect the  
25 admission of Government's Exhibit 1834, 1836, and 1840 by

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1 that the Court took judicial notice of. An example might be  
2 an MTA schedule with respect to train lines. So we're not  
3 going to call in someone from the MTA. We waste a lot of  
4 your time, we don't want waste all your time. There are some  
5 things I will take judicial notice of. Not the core things  
6 but things that are relevant and will save some time. That's  
7 the background, I took judicial notice of this for what it's  
8 worth, okay? Remember whose taking notice of it, just me.

9 All right. You may publish.

10 MS. MOESER: Thank you, your Honor.

11 Ms. DiNardo, can you publish Government  
12 Exhibit 174-1, please? You can go to Page 2. Blow up the  
13 top.

14 EXAMINATION BY

15 MS. MOESER:

16 (Continuing.)

17 Q Special Agent Haque, what's Government Exhibit 174-1?

18 A This is a document from the Republic of Mozambique in  
19 Portuguese.

20 Q And can we publish Government's Exhibit 174-3,  
21 Ms. DiNardo. Can we go to the second page.

22 Special Agent Haque, what's 174-3?

23 A Certificate of translation.

24 Q And can we publish Government's Exhibit 174-2, please,  
25 Ms. DiNardo. And can we blow up the top.

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1 stipulation.

2 THE COURT: Any objection? Repeat the numbers  
3 again, please.

4 MS. MOESER: 1834, 1836, and 1840.

5 THE COURT: Any objection.

6 MR. JACKSON: No objection, your Honor.

7 THE COURT: Admitted.

8 (Government's Exhibit 1834, 1836, and 1840 was  
9 received in evidence as of this date.)

10 THE COURT: You may publish.

11 MS. MOESER: We don't need to publish them at this  
12 time, your Honor, they're reflected in the stipulation.

13 Thank you.

14 THE COURT: You're welcome.

15 MS. MOESER: Your Honor, at this time, I would seek  
16 to publish Government's Exhibit 174-1, 174-2, 174-3 which are  
17 three documents the Court took judicial not of on October 7th  
18 via ECF 250.

19 THE COURT: All right. I'm going to allow those to  
20 be published.

21 (Government's Exhibit 174-1, 174-2, 174-3 was  
22 received in evidence as of this date.)

23 Ladies and gentlemen of the jury, occasionally, the  
24 Court will take judicial notice of a document and you'll be  
25 allowed to see it. It's not anything other than something

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1 Special Agent Haque, what's Government's Exhibit  
2 174-2?

3 A Translation of the first document.

4 Q Ms. DiNardo, can we go to the last page, please. Can you  
5 blow up the top paragraph.

6 Special Agent Haque, can you please read the  
7 decision in Government's Exhibit 174-2?

8 A Therefore, the constitutional counsel declares the acts  
9 inherent in the loan contracted by EMATUM, S.A. and their  
10 respective sovereign guaranty granted by the government in  
11 2013 null and void with all its legal consequences.

12 Q Can you read the next sentence, please?

13 A Record notify and published it. So ordered.

14 Q Thank you. You can take that down, Ms. DiNardo.

15 THE COURT: What's the date? Go back to it for a  
16 second. Just note the date on the bottom of the document.

17 THE WITNESS: June 3, 2019. Maputo.

18 Q Special Agent Haque, did you prepare some summary  
19 exhibits in this case?

20 A I did.

21 Q Did you work on those with others?

22 A Yes. I work on them with the prosecution team.

23 Q Did you prepare multiple drafts of some of the summary  
24 exhibits?

25 A Yes.

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- 1 Q Why?
- 2 A As I worked on them, I wanted to clarify and add certain
- 3 things.
- 4 Q As part of this investigation, did the FBI identify the
- 5 defendant's personal e-mail address?
- 6 A Yes.
- 7 Q What kind of e-mail address was to?
- 8 A It was a G-Mail address.
- 9 Q How did the FBI identify the defendant's G-Mail address?
- 10 A Through his communication with Credit Suisse.
- 11 Q Did you obtain the defendant's G-Mail?
- 12 A Yes.
- 13 Q How?
- 14 A Through a court-issued search warrant.
- 15 Q Did you get information in addition to e-mails in
- 16 response to the court-issued search warrant on the defendant's
- 17 G-Mail?
- 18 A We did.
- 19 Q What other kinds of information did you receive?
- 20 A Messages from his Blackberry.
- 21 MS. MOESER: Your Honor, at this time, the
- 22 Government would seek to admit Government's Exhibit 1700.
- 23 THE COURT: Any objection.
- 24 MR. JACKSON: No objection, your Honor.
- 25 THE COURT: Admitted.

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- 1 MS. MOESER: And, your Honor, at this time I would
- 2 like to seek admission of Government's Exhibit 1701.
- 3 THE COURT: Any objection?
- 4 MR. JACKSON: Your Honor, can it be displayed
- 5 briefly?
- 6 THE COURT: Display to counsel and to the Court.
- 7 MR. JACKSON: No objection, your Honor.
- 8 THE COURT: Admitted.
- 9 (Government's Exhibit 1701 was received in evidence
- 10 as of this date.)
- 11 THE COURT: You may publish it to the jury.
- 12 Q Special Agent Haque, what's Government's Exhibit 1701?
- 13 A These are contacts that were saved in Jean Boustani's
- 14 G-Mail.
- 15 Q How did you receive these contacts?
- 16 A Through the same court-issued search warrant.
- 17 Q Are these all the contacts that you received through the
- 18 court-issued search warrant?
- 19 A No, they're a subset.
- 20 Q Roughly how many pages of contact information did you
- 21 receive?
- 22 A About 3,000.
- 23 Q Did the Blackberry messages and the contact information
- 24 have information that lined up with each other?
- 25 A Yes.

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- 1 (Government's Exhibit 1700 was received in evidence
- 2 as of this date.)
- 3 THE COURT: You may publish.
- 4 Q Special Agent Haque, what's Government's Exhibit 1700?
- 5 A These are messages from Jean Boustani's Blackberry.
- 6 Q How do you know that these are the defendant's Blackberry
- 7 messages?
- 8 THE COURT: Excuse me. Just as time passes what's a
- 9 Blackberry? I assume everybody knows but you never know.
- 10 Go ahead. What's a Blackberry.
- 11 THE WITNESS: It's a phone, your Honor.
- 12 THE COURT: Okay. Continue.
- 13 Q Special Agent Haque, how do you know that these are the
- 14 defendant's Blackberry messages?
- 15 A They were obtained as part of a search warrant for his
- 16 e-mail. Additionally there are messages that we found in the
- 17 return where the Jean Boustani sends his name and contact
- 18 information to other people and the e-mail that was listed in
- 19 those messages was his G-Mail and the phone number listed was
- 20 corroborated from other sources.
- 21 Q Are these all the Blackberry messages you received from
- 22 the search warrant?
- 23 A No, they're a subset.
- 24 Q About how many pages of messages did you receive?
- 25 A About 700.

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- 1 Q Are the Blackberry messages and contact information
- 2 voluminous?
- 3 A Yes.
- 4 Q Did you create a summary exhibit regarding the Blackberry
- 5 messages?
- 6 A I did.
- 7 Q Does that summary fairly and accurately represent the
- 8 information you reviewed?
- 9 A Yes.
- 10 MS. MOESER: Your Honor, at this time, I'd seek
- 11 admission of Government's Exhibit 1702.
- 12 THE COURT: Any objection?
- 13 MR. JACKSON: No objection, your Honor.
- 14 THE COURT: Admitted.
- 15 (Government's Exhibit 1702 was received in evidence
- 16 as of this date.)
- 17 THE COURT: You may publish.
- 18 Q Special Agent Haque, what's Government's Exhibit 1702?
- 19 A These are messages that from Government Exhibit 1700
- 20 along with the contacts and dates when they were sent.
- 21 Q So looking at the first line of Government's Exhibit
- 22 1702 --
- 23 Ms. DiNardo, can you put that side by side with
- 24 Government's Exhibit 1700. Can we blow up the left part of
- 25 the first line on 1702 and the second set of messages on 1700.

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1 Special Agent Haque, looking at the first line of  
 2 1702, how did you determine the "from" and "to" information?  
 3 A If the first line in the messages says, "Sent to," means  
 4 Jean Boustani sent that message to someone else. And if it  
 5 says, "Inbox," it means he received that message.  
 6 Q Can you indicate on the screen the information you're  
 7 talking about?  
 8 A (Indicating).  
 9 THE COURT: Counsel, we're starting to lose you a  
 10 little bit.  
 11 MS. MOESER: Yes, Your Honor. I'll keep my voice up  
 12 as your Honor always instructs.  
 13 THE COURT: Well, I try.  
 14 Go ahead.  
 15 MS. MOESER: Thank you, your Honor.  
 16 Q And so, for this message, Special Agent Haque, who sent  
 17 the message?  
 18 A It was sent by Jean Boustani.  
 19 Q And how did you determine the "To" information?  
 20 A I compared the phone number that's listed in the second  
 21 line here to Jean Boustani's contacts.  
 22 Q Ms. DiNardo, can we show Government Exhibit 1702 side by  
 23 side about Government Exhibit 1701.  
 24 And, Special Agent Haque -- that's sufficient,  
 25 Ms. DiNardo.

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1 DIRECT EXAMINATION (Continued)  
 2 BY MS. MOESER:  
 3 Q And what's the time zone that you're using in the date  
 4 and time section?  
 5 A Greenwich Mean Time.  
 6 Q What's Greenwich Mean Time?  
 7 A It's a universal time based in London, England.  
 8 MS. MOESER: Ms. DiNardo, can we just show  
 9 Government Exhibit 1702, please.  
 10 And can you go to the second page.  
 11 Can you look at the second to the last line,  
 12 Ms. DiNardo?  
 13 (Exhibit published.)  
 14 Q Special Agent Haque, can you describe the message  
 15 conveyed in the second to the last line of Government  
 16 Exhibit 1702?  
 17 A It's a message from Jean Boustani to someone who is saved  
 18 as AG in his contacts, and was sent on March 28th, 2016 at  
 19 9:31 p.m.  
 20 Q Who is AG?  
 21 A I believe AG refers to Armando Guebuza, the former  
 22 president of Mozambique.  
 23 Q What's the basis for your belief?  
 24 A I've seen other emails in which Armando Guebuza is  
 25 referred to as "papa", the way he is in this message by the

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1 Special Agent Haque, can you just indicate for the  
 2 jury the contact information that you matched up with the  
 3 phone number in Government's Exhibit 1701 the information that  
 4 you put into Government's Exhibit 1702?  
 5 A I added, I looked up who the phone number corresponded to  
 6 and added the name of the contact in parenthesis.  
 7 Q And, in this information, who was the contact? Who did  
 8 the phone number correspond to?  
 9 A AG.  
 10 Q Ms. DiNardo, can we show 1702 and 1700 side by side  
 11 again? If we can blow it up. Thank you. The same message in  
 12 second half of the first line, Ms. DiNardo.  
 13 Special Agent Haque, how did you determine the date  
 14 information in 1702?  
 15 A The third line listed in the message. Here is the way  
 16 Blackberry shows timestamps for when the message was sent.  
 17 And it showed in a UNIX Epoch Time Code and I used an online  
 18 converter to convert that to a date and time.  
 19 Q How did you determine that the online converter was  
 20 displaying an accurate date and time?  
 21 A There were other messages from Jean Boustani's Blackberry  
 22 that had a date listed in the content of the actual message  
 23 itself and I compared that date to the result from the  
 24 converter.  
 25 (Continued on the next page.)

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1 defendant.  
 2 Q And what's the message that the defendant sent to AG?  
 3 A Papa, for information I have succeeded in refinancing all  
 4 the projects and issuing a very successful international  
 5 Eurobond for Mozambique. So all is good. Always serving the  
 6 country you have wished and instructed, abraco.  
 7 Q What does "abraco" mean?  
 8 A I believe it means hug.  
 9 Q And what does "international Eurobond" refer to?  
 10 A The amount of exchange from loan participation notes to  
 11 eurobonds.  
 12 Q Had the bond exchange been announced at this time?  
 13 A Yes.  
 14 Q Was it completed at this time?  
 15 A No.  
 16 MS. MOESER: Looking at the next line up,  
 17 Ms. DiNardo.  
 18 Apologies, Ms. DiNardo, can you go to the line above  
 19 that.  
 20 (Exhibit published.)  
 21 Q Special Agent Haque, what's the message conveyed in this  
 22 line of Government Exhibit 1702?  
 23 A It's a message from Jean Boustani to someone who saved as  
 24 AG in his contacts and was sent on April 20th, 2016 at  
 25 3:15 p.m.

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1 Q And you don't need to read the entire message, but can  
 2 you summarize the message for the jury?  
 3 A It talks about a meeting with the -- between the  
 4 Mozambicans and the IMF.  
 5 Q And who attended for the Mozambicans?  
 6 A The PM, along with Antonio Carlos do Rosario and I saltina  
 7 Lucas.  
 8 Q And who is AG again?  
 9 A Armando Guebuza, the former president of Mozambique.  
 10 MS. MOESER: And, Ms. DiNardo, can you take this  
 11 down.  
 12 Q Did the defendant send this message to anyone else,  
 13 Special Agent Haque?  
 14 A Yes.  
 15 Q Who else did he send it to?  
 16 A He sent it to the one who is saved as Antonio Rosario 2  
 17 in his contacts.  
 18 Q Who do you believe Antidonor Rosario 2 to be?  
 19 A Antonio Carlos do Rosario.  
 20 Q The person referred to in the message?  
 21 A Yes.  
 22 MS. MOESER: And thanks, Ms. DiNardo. Can we go to  
 23 the first line on this page.  
 24 (Exhibit published.)  
 25 Q What's the message in the first line, Special Agent  
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1 April 21st, 2016 at 6:20 p.m.  
 2 Q Who's Markram Abboud?  
 3 A A banker at VTB.  
 4 Q And what's the message?  
 5 A The article came out in the WSJ. Any news as to when  
 6 they will issue press release?  
 7 Q Did Mr. Boustani respond?  
 8 MS. MOESER: You can take that down, Ms. DiNardo,  
 9 the message above?  
 10 THE COURT: What did you understand "WSJ" to be?  
 11 THE WITNESS: Wall Street Journal.  
 12 THE COURT: Go ahead.  
 13 Q Did Mr. Boustani respond?  
 14 A Yes.  
 15 Q What's the response?  
 16 A No news yet.  
 17 Q And looking at the first message in Government Exhibit  
 18 1702, which we reviewed previously, what's the message,  
 19 Special Agent Haque?  
 20 A It's a message from Jean Boustani to AG, and the message  
 21 says, Bom Dia Papa, and then there's a link.  
 22 Q What's the link to?  
 23 A It is an article that's talks about the IMF and IMF  
 24 meeting with Mozambique.  
 25 Q Are there other messages that you summarized on  
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1 Haque?  
 2 A It's a message from Jean Boustani to someone who is saved  
 3 as Antidonor Rosario 2 in his contacts sent on April 21st,  
 4 2016 at 9:17 a.m.  
 5 Q And can you read that message?  
 6 A Please make the joint statement with IMF today. All  
 7 banks in the planet are waiting for that.  
 8 MS. MOESER: You can take that down, Ms. DiNardo.  
 9 Q There's one message here. You see the message third from  
 10 the bottom, Special Agent Haque?  
 11 A Yes.  
 12 Q What's that message?  
 13 A It's a message from someone who is saved as Peter Kuhn in  
 14 Jean Boustani's contact to Jean Boustani sent on April 20th,  
 15 2016 at 1:50 p.m.  
 16 Q What's the message?  
 17 A Hi, John, the president of Mozambique is in Germany. Do  
 18 you accompany him? P.  
 19 MS. MOESER: And can we go to the first page,  
 20 Ms. DiNardo.  
 21 Looking at the message right in the middle of the  
 22 page, Ms. DiNardo. Yes.  
 23 Q Special Agent Haque, what's this message?  
 24 A It's a message from someone who is saved as Markram  
 25 Abboud in Jean Boustani's contact to Jean Boustani sent on  
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1 Government Exhibit 1702?  
 2 A Yes.  
 3 MS. MOESER: Your Honor, if I could ask Mr. Jackson  
 4 to pass the witness a binder.  
 5 THE COURT: Yes, please.  
 6 Could you describe the binder so opposing counsel  
 7 will know what it is?  
 8 MS. MOESER: Yes, Your Honor.  
 9 It is a binder of admitted exhibits in this case,  
 10 including wires, emails, and contract documents which Special  
 11 Agent Haque will describe.  
 12 THE COURT: Does it contain any documents that have  
 13 not been admitted?  
 14 MS. MOESER: It contains summary exhibits that  
 15 Special Agent Haque will testify about, Your Honor, for her  
 16 reference on the stand.  
 17 THE COURT: But they have not been admitted into  
 18 evidence, and she will not be reading them out loud to the  
 19 jury, and you will make sure that some documents that are not  
 20 in evidence are not side slipped into evidence.  
 21 I mean, you wouldn't do that, but in my 33 years of  
 22 practice, I would occasionally run into a lackingly lawyer who  
 23 inadvertently would do such a thing.  
 24 I know you wouldn't do it, and I know that these  
 25 sharp lawyers on the other side wouldn't let you do it, but  
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1 just be careful.  
 2 MS. MOESER: Of course not, Your Honor.  
 3 THE COURT: Thank you.  
 4 MS. MOESER: You're welcome.  
 5 THE COURT: All right, you can hand up the binder.  
 6 And just be specific in terms of the document that  
 7 you're referring to --  
 8 MS. MOESER: Of course.  
 9 THE COURT: -- for both the witness and counsel,  
 10 okay?  
 11 BY MS. MOESER:  
 12 Q Special Agent Haque, there's a binder in front of you.  
 13 Do you see it?  
 14 A I do.  
 15 Q What's in the binder?  
 16 THE COURT: Documents. Okay. We just acknowledge  
 17 that.  
 18 Q Special Agent Haque, have you reviewed the documents in  
 19 the binder?  
 20 A I have.  
 21 Q What types of documents are they?  
 22 A Bank records, wires, and emails.  
 23 Q Are they materials you received during the course of the  
 24 investigation?  
 25 A Yes.

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1 Q And they fairly and accurately represent the information  
 2 in the underlying emails, buyers, bank records and contracts  
 3 you reviewed?  
 4 A Yes.  
 5 MS. MOESER: Your Honor, at this time I'd like to  
 6 seek admission of Government Exhibit 1707.  
 7 THE COURT: Any objection to 1707?  
 8 It's summary, as I understand it.  
 9 MS. MOESER: Yes, Your Honor.  
 10 MR. JACKSON: No objection, Your Honor.  
 11 THE COURT: Admitted.  
 12 (Government Exhibit 1707, was received in evidence.)  
 13 (Exhibit published.)  
 14 Q Special Agent Haque, what's Government Exhibit 1707?  
 15 A It is a --  
 16 THE COURT: You're going to have to blow it up for  
 17 the jury. Maybe the witness can see it, but it's kind of  
 18 small.  
 19 MS. MOESER: Yes, Your Honor.  
 20 Can you blow up sort of the left half, Ms. DiNardo.  
 21 Q Special Agent Haque, what's Government Exhibit 1707?  
 22 A It's a timeline of the Proindicus, EMATUM, and MAM loans.  
 23 Q What does the top part show?  
 24 A It shows a schedule of the disbursement of funds -- I'm  
 25 sorry, it shows a schedule of the loan signing, and the date

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1 Q Are they materials that have been presented to the court  
 2 as exhibits?  
 3 A I believe so.  
 4 Q Did you create the summary exhibits based on these  
 5 materials?  
 6 A I did.  
 7 Q Are the materials voluminous?  
 8 A Yes.  
 9 Q Do your summaries fairly and accurately represent the  
 10 information that you reviewed in the documents within the  
 11 binder?  
 12 A Yes.  
 13 Q And are the exhibits that you reviewed listed on your  
 14 summary exhibits so that the jury will know what you have  
 15 referred to?  
 16 A Yes.  
 17 Q In the sleeve of the binder, in front of the binder, are  
 18 Government Exhibits 1704 through 1707.  
 19 Do you see those? They're sitting loose on the top  
 20 right there?  
 21 A Yes.  
 22 Q Do you recognize those exhibits?  
 23 A I do.  
 24 Q Are those the summary exhibits that you prepared?  
 25 A Yes.

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1 that it occurred.  
 2 Q And what does the bottom half show?  
 3 A It shows a schedule of the disbursement of funds.  
 4 Q And looking at the very bottom, does it show the total  
 5 amount raised?  
 6 A Yes.  
 7 Q And what's the total amount raised here?  
 8 A \$2 billion.  
 9 Q And can you identify the deals we're discussing for the  
 10 jury?  
 11 A Proindicus, EMATUM, and MAM.  
 12 Q And does it show the total amount sent to the Privinvest  
 13 entities?  
 14 A It does.  
 15 Q And does that show on the bottom of the chart?  
 16 A Yes.  
 17 Q What's the total amount sent to Privinvest entities?  
 18 A \$1.8 billion.  
 19 Q And on the bottom, the very bottom of this the exhibit --  
 20 MS. MOESER: Can you scroll down a little bit,  
 21 Ms. DiNardo. You can show just the half of that, Ms. DiNardo.  
 22 Q Is this the exhibit that you relied upon to create this  
 23 summary exhibit, Special Agent Haque?  
 24 A Yes.  
 25 MS. MOESER: And you can take that down.

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1 Can you show the right half the document,  
 2 Ms. DiNardo.  
 3 Q And looking over at the right half of the document,  
 4 Special Agent Haque, what does the right half show?  
 5 A It shows the change in the Proindicus facility, as well  
 6 as the EMATUM exchange. And on the bottom it shows the MAM,  
 7 EMATUM, and Proindicus defaults.  
 8 MS. MOESER: Your Honor, at this time I'd seek to  
 9 admit Government Exhibit 1706.  
 10 THE COURT: Any objection?  
 11 I take it that's another summary?  
 12 MS. MOESER: It is, Your Honor.  
 13 MR. JACKSON: No objection, Your Honor.  
 14 THE COURT: Admitted.  
 15 You may publish it.  
 16 (Exhibit published.)  
 17 (Government Exhibit 1706, was received in evidence.)  
 18 Q Special Agent Haque, what's Government Exhibit 1706?  
 19 A Trace payments from Privinvest entities to Andrew Pearse  
 20 and Surjan Singh.  
 21 Q And, again, are these exhibits you relied upon to create  
 22 this document listed somewhere in Government Exhibit 1706?  
 23 A Yes, on the bottom.  
 24 Q Great.  
 25 MS. MOESER: Ms. DiNardo, can you show what you had

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1 before, the left half?  
 2 Q What's the first date of -- what are the entries in the  
 3 sort of blue and green entries along the top of Government  
 4 Exhibit 1706?  
 5 A They show the dates of disbursement for these loans.  
 6 Q And who was making the disbursements?  
 7 A Credit Suisse and VTB Capital.  
 8 Q And who was receiving the disbursements?  
 9 A Privinvest.  
 10 Q And was it only Privinvest the company or other entities?  
 11 A Privinvest entities.  
 12 Q And looking at the first disbursement, what's the date  
 13 and the amount of first disbursement listed on the top left?  
 14 A March 21st, 2013. And the disbursement amount is  
 15 \$327.9 million.  
 16 Q And which project does that relate to?  
 17 A Proindicus.  
 18 Q What's the information along the bottom in the orange and  
 19 brown?  
 20 A Payments to Andrew Pearse and Surjan Singh from  
 21 Privinvest entities.  
 22 Q Focusing your attention on June 25th and June 26th, can  
 23 you describe to the jury what happened on June 25th and  
 24 June 26th, as displayed on this summary exhibit?  
 25 A On June 25th, 2013, there was a disbursement of

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1 \$90.19 million as part of a Proindicus upsize.  
 2 And on June 26th, 2013, Andrew Pearse received  
 3 \$1 million from Privinvest entities.  
 4 Q And looking towards the bottom middle of the chart,  
 5 what's the total amount in payments to Andrew Pearse.  
 6 MS. MOESER: Can you scroll to the right a little  
 7 bit, Ms. DiNardo?  
 8 Q Special Agent Haque, what's the total amount in payments  
 9 to Andrew Pearse?  
 10 A \$45 million.  
 11 Q And what's the total amount of payments to Surjan Singh?  
 12 A \$3.7 million.  
 13 MS. MOESER: You can take that down, Ms. DiNardo.  
 14 Can we just take down the whole top, so we see the  
 15 whole exhibit.  
 16 Q Special Agent Haque, all of the transactions that are  
 17 identified here, did each of these transactions go through  
 18 U.S. banks?  
 19 A Yes.  
 20 Q And showing you Government Exhibit 170 --  
 21 MS. MOESER: Your Honor, I seek to admit Government  
 22 Exhibits 1705, another summary exhibit.  
 23 THE COURT: Any objection to 1705?  
 24 MR. JACKSON: No objection, Your Honor.  
 25 THE COURT: Admitted.

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1 You may publish it.  
 2 (Exhibit published.)  
 3 (Government Exhibit 1705, was received in evidence.)  
 4 Q What's Government Exhibit 1705?  
 5 A It shows trace payments from Privinvest entities to  
 6 Manuel Chang, Isaltina Lucas, and Antonio do Rosario.  
 7 Q And, again, the entries on the top in the blue and green,  
 8 what are those entries?  
 9 A The disbursement of funds to Privinvest entities for  
 10 these loans.  
 11 Q And the entries on the bottom in purple and red and  
 12 orange, what are those entries?  
 13 A Payments from Privinvest entities to Antonio do Rosario,  
 14 Isaltina Lucas, and Manuel Chang.  
 15 Q Were these payments made to do Rosario, Lucas, and Chang  
 16 in their own names?  
 17 A They were not.  
 18 Q How did you identify these payments to be associated with  
 19 these individuals?  
 20 A Through a review of emails which identified certain  
 21 companies and other individuals being associated as the ones  
 22 receiving payments on -- for these three individuals.  
 23 MS. MOESER: Can we pull that back.  
 24 Q Drawing your attention, again, to June 25th.  
 25 Can you describe to the jury what's happening on

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- 1 June 25th in Government Exhibit 1705?  
 2 A On June 25th, 2013, there was a disbursement of  
 3 \$90.19 million to Privinvest entities.  
 4 And on June 25th, 2013, Antonio do Rosario received  
 5 \$1 million from Privinvest entities.  
 6 Q And how about between October 11th and October 23rd.  
 7 What's happening on this chart?  
 8 A On October 11th, there was disbursement of \$312.9 million  
 9 to Privinvest entities.  
 10 And subsequently Manuel Chang and Antonio do Rosario  
 11 received payments from Privinvest entities.  
 12 MS. MOESER: And can we scroll over to the right,  
 13 Ms. DiNardo.  
 14 Q And how about in the second half of May.  
 15 What's happening in the second half the May, Special  
 16 Agent Haque?  
 17 A There was a disbursement of \$406.5 million for MAM.  
 18 And subsequently Isaltina Lucas received a payment  
 19 of 976,000 from Privinvest entities.  
 20 MS. MOESER: Can we pull out on that, Ms. DiNardo.  
 21 Q And again, Special Agent Haque, is there somewhere on  
 22 this exhibit where you've listed all the documents you relied  
 23 upon to create this summary exhibit?  
 24 A Yes. On the bottom.  
 25 Q And what's the total amount to Chang, Lucas, and do

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- 1 A \$15 million.  
 2 Q And did you list the exhibits you relied on in Government  
 3 Exhibit 1704?  
 4 A Yes. At the bottom.  
 5 MS. MOESER: Your Honor, at this time I'd seek to  
 6 admit Government Exhibit 1703.  
 7 THE COURT: Any objection to 1703?  
 8 MR. JACKSON: No objection, Your Honor.  
 9 THE COURT: Admitted.  
 10 You may publish it.  
 11 (Government Exhibit 1703, was received in evidence.)  
 12 MS. MOESER: Ms. DiNardo, can you publish 1703 side  
 13 by side with Government Exhibit 2758?  
 14 (Exhibit published.)  
 15 MS. MOESER: Can you blow up the title of Government  
 16 Exhibit 1703.  
 17 Q Special Agent Haque, what is Government Exhibit 1703?  
 18 A It's a summary of records related to Government  
 19 Exhibit 2758, which is on the left.  
 20 MS. MOESER: Ms. DiNardo, can you blow up the first  
 21 section of 2758, and the left two or three columns of  
 22 Government Exhibit, the first line of Government Exhibit 1703.  
 23 (Exhibit published.)  
 24 MS. MOESER: Can we go a little bit bigger, maybe  
 25 fewer columns.

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- 1 Rosario?  
 2 A The total amount to Chang is \$5 million.  
 3 The total amount to Lucas is \$2.5 million.  
 4 And the total amount to do Rosario is \$12.3 million.  
 5 MS. MOESER: Can we pull that out, Ms. DiNardo.  
 6 Q Special Agent Haque, did all of the transactions listed  
 7 here go through United States banks?  
 8 A Yes.  
 9 MS. MOESER: And, Your Honor, at this time I seek to  
 10 admit Government Exhibits 1704, another summary exhibit?  
 11 THE COURT: Any objection to 1704?  
 12 MR. JACKSON: No objection, Your Honor.  
 13 THE COURT: Admitted.  
 14 You may publish it.  
 15 (Government Exhibit 1704, was received in evidence.)  
 16 Q Special Agent Haque, what's Government Exhibit 1704?  
 17 A It shows trace payments from Privinvest entities to Jean  
 18 Boustani.  
 19 Q And like the previous exhibits we've seen, does the top  
 20 information represent payments to Privinvest entities?  
 21 A Yes.  
 22 Q And what does the bottom half of the exhibit represent?  
 23 A Payments to Jean Boustani from Privinvest entities.  
 24 Q What's the total value of payments that you were able to  
 25 trace to Jean Boustani from Privinvest entities?

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- 1 Can everybody see that? It's pretty small.  
 2 Yeah, okay.  
 3 Let's -- I think you have it with the three columns,  
 4 Ms. DiNardo. Okay.  
 5 Q Special Agent Haque, let's start with the first line of  
 6 Government Exhibit 1703. And you have a hard copy in front of  
 7 you, if you need it.  
 8 What is represented in the middle column?  
 9 A The 60 refers to the line from the email that says: Less  
 10 60 still for A.  
 11 THE COURT: When you say "middle column", I think  
 12 she's calling your attention to that horizontal bar that says  
 13 "name, alias", and then something else on the right.  
 14 Is that what you were attempting to call her  
 15 attention to, counsel?  
 16 MS. MOESER: Yes, Your Honor. I'm sorry, it's the  
 17 middle column of the entire exhibit, but it was the last  
 18 column we were displaying in the blow-up mode.  
 19 Q So this last column here on the right, Special Agent  
 20 Haque.  
 21 Just so the record is clear, can you tell us what  
 22 the last column on the right, the title of the column and what  
 23 information is in that column?  
 24 A Yes. That column shows information from the April 8th,  
 25 2014 email from Jean Boustani to Naji Allam, which you see on

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1 the left here.

2 And that specific number "60", refers to the line:

3 Less 60 still for A from the email.

4 Q And what is "A" in Government Exhibit 2758?

5 A I believe A refers to Armando Ndambi Guebuza, the son of

6 the former president of Mozambique.

7 Q And is A listed anywhere in your summary exhibit, 1703?

8 A Yes. Under alias.

9 Q Is that the second column we're looking at here?

10 A Yes.

11 Q Can you identify -- how did you associate A with Armando

12 Ndambi Guebuza, the son of the president of Mozambique?

13 A Through a review of emails which showed the alias A being

14 used to refer to Armando Ndambi Guebuza by Jean Boustani.

15 MS. MOESER: And looking -- can we scroll to the

16 right, Ms. DiNardo.

17 We can take down the exhibit on the left side, if

18 that helps.

19 Q And looking at the -- what is the fifth column in the

20 document on the second column, the bottom blow-up part,

21 Special Agent Haque?

22 What is that column? What's the title of that

23 column and the information shown for the first line?

24 A Amount trace based on wires, emails, or bank

25 instructions. And the amount listed there is \$8,830,869.59.

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1 Government Exhibit 3187 in evidence.

2 (Exhibit published.)

3 MS. MOESER: Can you blow up the title?

4 Q What's Government Exhibit 3187, Special Agent Haque?

5 A It's an email to Armando Guebuza that includes

6 information about the Apple Creek Real Estate Trust Account.

7 Q Is that the same account that we saw on the first

8 document?

9 A Yes.

10 Q And have you reviewed wire records for Apple Creek Real

11 Estate?

12 A Yes.

13 MS. MOESER: One second, Your Honor.

14 (Pause.)

15 MS. MOESER: Ms. DiNardo, can you bring up

16 Government Exhibit 1201-F-8 already in evidence.

17 (Exhibit published.)

18 MS. MOESER: And if you can blow up the middle

19 section of the bottom part.

20 THE COURT: Any way to make it a little darker?

21 It's a little faint.

22 Q Special Agent Haque, what's the information in this wire

23 record?

24 A It's a payment to Apple Creek Real Estate Trust Account

25 op April 21st, 2014.

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1 THE COURT: How much?

2 THE WITNESS: Oh, 57 cents. I'm sorry.

3 A And 750,000 euro.

4 Q And how were you able to trace these amounts and

5 associate them with A?

6 A We associated them with A based on account information

7 that was forwarded in emails that associated the alias A with

8 the certain bank accounts.

9 And we traced the actual payments through the use of

10 wires and bank information.

11 MS. MOESER: Ms. DiNardo, can we bring up Government

12 Exhibit 2766 in evidence?

13 (Exhibit published.)

14 MS. MOESER: Can you blow it up so we can see the

15 little bottom message.

16 Q Special Agent Haque, what does Government Exhibit 2766

17 describe?

18 A The email shows Jean Boustani giving instructions for a

19 payment to A., and the bank account associated with it, which

20 is an Apple Creek Real Estate Trust Account.

21 Q What's the date of the email?

22 A April 16th, 2014.

23 Q What's the amount of the payment instructed?

24 A One.

25 MS. MOESER: And, Ms. DiNardo, can we show

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1 Q And it's the same account number that we saw in the

2 previous email we reviewed?

3 A It is.

4 MS. MOESER: And, Ms. DiNardo, can we go to the top

5 half of the information.

6 Q And, Special Agent Haque, what's the value of the

7 transfer?

8 A 1 million U.S. dollars.

9 Q And do you remember what the date was on the instruction

10 in Government Exhibit 2766?

11 A April 16th, 2014.

12 Q And what's the date of this payment to the Apple Creek

13 account?

14 A April 21st, 2014.

15 MS. MOESER: Ms. DiNardo, can we go back to

16 Government Exhibit 1703.

17 Can you blow up the first line again.

18 (Exhibit published.)

19 Q Special Agent Haque, I forgot to ask.

20 Can you describe the last column for the jury,

21 please?

22 A The last column lists government exhibits that are the

23 sources of this summary chart.

24 Q Were you able to trace -- was the FBI able to trace the

25 total 60 listed in Government Exhibit 2758 to A?

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1 A No.

2 Q What was your tracing -- what kinds of records was your

3 tracing based on?

4 A Predominately on U.S. bank records.

5 Q What sort of records are there -- are there records that

6 the FBI is not able to receive, or was not able to receive

7 here?

8 A Yes.

9 Q What types of records?

10 A It may be records that use a different currency, or in

11 this case, because a lot of these transfers were made using

12 companies or individuals that weren't in the name of the

13 individual receiving the payment, we may not have access to

14 those records.

15 Q Did you see other evidence in this case suggesting that

16 Armando Ndambi Guebuza received approximately \$60 million?

17 A Yes.

18 Q What the other evidence?

19 A We heard testimony from Andrew Pearse in which he said

20 Jean Boustani had told him that Armando Guebuza received

21 \$50 million. And we've seen a spreadsheet created by Naji

22 Allam that shows Armando Guebuza receiving approximately 50 to

23 \$60 million.

24 MS. MOESER: And, Ms. DiNardo, can we briefly show

25 Government Exhibit 3133 in evidence and 3133A in evidence.

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1 Jean Boustani.

2 Q I stand corrected. Thank you, Special Agent Haque.

3 Who sent the -- who did Jean Boustani send the AD

4 card to?

5 A Nguila Guidema.

6 THE COURT: Would you tell that four the reporter.

7 THE WITNESS: Yes, Your Honor.

8 N-G-U-I-L-A. G-U-I-D-E-M-A. Which is an alias we

9 have associated with Tiago Nhangumele.

10 A And he also sends it to Tiago Nhangumele.

11 THE COURT: Spell that, please.

12 THE WITNESS: T-I-A-G-O. N-H-A-N-G-U-M-E-L-E.

13 MS. MOESER: And going back to Government Exhibit.

14 Can we show Government Exhibit 1703 side by side

15 with 2758, Ms. DiNardo.

16 (Exhibit published.)

17 MS. MOESER: Can you blow up the list in 2758,

18 Ms. DiNardo.

19 Q Special Agent Haque, are there some entries on this list

20 that do not appear in Government Exhibit 1703?

21 A Yes.

22 Q Why is that?

23 A Because we were not able to trace payments to those

24 individuals.

25 MS. MOESER: And we can just do Government

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1 (Exhibit published.)

2 Q What's Government Exhibit 3133, Special Agent Haque?

3 A It's an email from Jean Boustani that attaches an AD

4 card.

5 MS. MOESER: And if you can go to the third page of

6 Government Exhibit 3133A, Ms. DiNardo.

7 (Exhibit published.)

8 Q And what's displayed on the third page of Government

9 Exhibit 3133A, Special Agent Haque?

10 A It's an employment permit for UAE.

11 Q Who is the employment permit for?

12 A Armando Ndambi Guebuza.

13 Q And what does it list as his profession?

14 A Hydraulic mechanic.

15 Q Who does it list as --

16 MS. MOESER: Can you move it down just a little bit,

17 Ms. DiNardo.

18 Q Who does it list as the sponsor?

19 A Logistics International SAL.

20 Q Did you recover any evidence in the investigation that

21 Armando Ndambi Guebuza was a hydraulic mechanic?

22 A No.

23 Q And who sent the employment -- the document to

24 Mr. Guebuza in Government Exhibit 3133?

25 A It doesn't look it goes to Mr. Guebuza, but it's sent by

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1 Exhibit 1703 now, Ms. DiNardo.

2 (Exhibit published.)

3 Q Looking at the second line of Government Exhibit 1703,

4 what's the second line of that Government Exhibit 1703 show,

5 Special Agent Haque?

6 A It shows payments traced to Teofilo Nhangumele, as well

7 as aliases and an amount from Government Exhibit 2758.

8 Q What was the amount in Government Exhibit 2758?

9 A 8.5.

10 Q And who was listed as receiving 8.5?

11 A Teo.

12 Q How did you associate Teo with Teofilo Nhangumele?

13 A Through a review of emails in which Teo is a nickname

14 used to refer to Teofilo by Jean Boustani.

15 Q And who's Teofilo Nhangumele?

16 A He was a representative of the office of the president of

17 Mozambique, and was a project manager for Proindicus.

18 Q How much were you able to trace to Teofilo Nhangumele?

19 A \$8.5 million.

20 MS. MOESER: And looking at the next line,

21 Ms. DiNardo.

22 Q What's under the next line of Government Exhibit 2703,

23 Special Agent Haque?

24 A Payments traced to Bruno Langa, as well as an amount that

25 was listed in the email.

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- 1 Q What was the amount listed in Government Exhibit 2758?  
 2 A 8.5.  
 3 Q And how much was the government able to trace to Bruno  
 4 Langa?  
 5 A \$8.5 million.  
 6 MS. MOESER: And going to the next line,  
 7 Ms. DiNardo.  
 8 Q What's this line of Government Exhibit 1703?  
 9 A Payments traced to Manuel Chang, as well as aliases, and  
 10 an amount that was listed in the email.  
 11 Q What was the amount listed in Government Exhibit 2758?  
 12 A Seven.  
 13 Q And what was the name that it was associated with?  
 14 A Chopstick.  
 15 Q And who is Manuel Chang?  
 16 A The former minister of finance of Mozambique.  
 17 Q How did you associate the nickname "Chopstick" with  
 18 Manuel Chang?  
 19 A Through a review of emails in which the name "Chopstick"  
 20 is used to refer to Manuel Chang by Jean Boustani.  
 21 Q And are there our nicknames used to Manuel Chang?  
 22 A Yes. Pantero.  
 23 MS. MOESER: Ms. DiNardo, can you bring up  
 24 Government Exhibit 5089.  
 25 (Exhibit published.)

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- 1 Agent Haque?  
 2 A Yes.  
 3 Q How much did the FBI trace?  
 4 A \$5 million.  
 5 MS. MOESER: Can we go back to Government  
 6 Exhibit 1703.  
 7 The next line. Can we go to the next line,  
 8 Ms. DiNardo.  
 9 Q What does the next line show, Special Agent Haque?  
 10 A It shows payments traced to Isaltina Lucas, along with  
 11 aliases, and an amount from the email.  
 12 Q What was the amount listed in the email?  
 13 A Three.  
 14 Q And what are the aliases you have identified for Isaltina  
 15 Lucas?  
 16 A 3 Beijos, Isalt, Esalt, Esaltina.  
 17 Q Who is Isaltina Lucas?  
 18 A The former deputy secretary of treasury of Mozambique.  
 19 Q And how much was the FBI able to trace to Isaltina Lucas?  
 20 A \$2,456,000.  
 21 MS. MOESER: And can we go to the next line,  
 22 Ms. DiNardo.  
 23 Q What's the next line show, Special Agent Haque?  
 24 A Payments traced to Antonio do Rosario, as well as  
 25 aliases, and an amount listed in an email.

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- 1 MS. MOESER: Can we blow up a couple more lines  
 2 down, Ms. DiNardo. Yes.  
 3 Q Special Agent Haque, what's Government Exhibit 5089 show?  
 4 A It shows a bank account for a payment of \$5 million for  
 5 Manuel Chang, who's referred to as "Pantero" here.  
 6 Q What -- does it show a bank account, or a company in the  
 7 middle of the exhibit?  
 8 A I'm sorry, it show as company.  
 9 Q What company is associated with Pantero?  
 10 A East International Incorporation.  
 11 Q And is there an amount listed for East International  
 12 Incorporated?  
 13 A \$5 million.  
 14 MS. MOESER: And, Ms. DiNardo, can you bring up  
 15 Government Exhibit 2729 in evidence?  
 16 (Exhibit published.)  
 17 Q What does Government Exhibit 2749 show, Special Agent  
 18 Haque?  
 19 A It lists an amount, five.  
 20 And associates the nickname Pantero with Chang.  
 21 MS. MOESER: And if we can show Government  
 22 Exhibit 1529, Ms. DiNardo.  
 23 (Exhibit published.)  
 24 MS. MOESER: Blow up the left half.  
 25 Q Did the FBI trace payments to East International, Special

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- 1 Q What was the amount listed in the email?  
 2 A Fifteen.  
 3 Q What was the name listed in the email?  
 4 A Ross.  
 5 Q What are the other aliases identified for Antonio do  
 6 Rosario?  
 7 A Marshal.  
 8 Q How much was the FBI able to trace to Antonio do Rosario?  
 9 A \$12 million -- \$12,371,000.  
 10 MS. MOESER: Looking at the next line, Ms. DiNardo.  
 11 The line after that, Ms. DiNardo.  
 12 Q Special Agent Haque, what does this line show?  
 13 A It shows payments traced to Gregorio Leao, as well as an  
 14 alias, and an amount listed in the email.  
 15 Q What was the amount listed in Government Exhibit 2758?  
 16 A Thirteen.  
 17 Q And who was it listed as associated with?  
 18 A DG.  
 19 Q How did you associate DG with Gregorio Leao?  
 20 A Through a review of emails that show payments going to  
 21 him, as well as emails where the director general is  
 22 mentioned, as well as interviews with witnesses.  
 23 Q Did the witnesses identify DG as the director general of  
 24 SISE?  
 25 A Yes.

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1 Q How much was the FBI able to trace to DG?  
 2 A \$8 million.  
 3 MS. MOESER: And can we go to the next and final  
 4 line, Ms. DiNardo.  
 5 Q What's shown on the last line, Special Agent Haque?  
 6 A Payments that were traced to an individual, as well as  
 7 the aliases we know them by, and the amount listed in the  
 8 email.  
 9 Q What was the amount listed in Government Exhibit 2758?  
 10 A Two.  
 11 Q And what were the aliases?  
 12 A N-U-Y, New Guy, Nys, New Man.  
 13 Q And what was the amount the FBI was able to trace?  
 14 A \$1 million.  
 15 Q Was the FBI able to identify who was referred to by these  
 16 aliases?  
 17 A We were not definitively able to identify the individual.  
 18 MS. MOESER: You can take that down, Ms. DiNardo.  
 19 THE COURT: And we can now definitively take our  
 20 break and our luncheon recess.  
 21 And we ask you, ladies and gentlemen, to be back at  
 22 2:15. It's a little bit before 1.  
 23 Please do not talk about the case yet. We'll try to  
 24 some of these documents during the break so we won't have to  
 25 have as many breaks, which were not admitted.

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1 (The following occurred at sidebar.)  
 2 THE COURT: Okay. First document.  
 3 MS. MOESER: Your Honor, the first document is 2175,  
 4 certified business record.  
 5 THE COURT: Let me take a look at it.  
 6 This is a document from Detelina Subeva to someone  
 7 named ralexander@africamatters.com. It shows a cc to Singh,  
 8 Surjan; subject 3 more names; and two more names mentioned,  
 9 Antonio do Rosario, and other individuals.  
 10 What's the objection to this document being admitted  
 11 from Ms. Subeva?  
 12 MR. JACKSON: Your Honor, we have three objections.  
 13 First is that this, Your Honor, we belief this  
 14 relates to the entire chapter around Africa Matters, which  
 15 Mr. Pearse made clear in his testimony has no relationship to  
 16 any criminal activity at this point. It was simply an error.  
 17 The way the document was originally put together,  
 18 it's not relevant to the actual criminal activity?  
 19 THE COURT: Why do you say it's not relevant?  
 20 Ms. Subeva has pled guilty, so why is this -- how can you tell  
 21 me this is not relevant to her guilt?  
 22 MR. JACKSON: Your Honor, I think it's not relevant  
 23 to Mr. Boustani's guilt for any crimes that he may have  
 24 committed.  
 25 THE COURT: The indictment alleges that this is a

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1 Again, do not talk about the case.  
 2 And do not talk about your testimony during the  
 3 break, okay?  
 4 THE WITNESS: Yes, Your Honor.  
 5 THE COURT: Thank you. We'll see you at 2:15,  
 6 ladies and gentlemen. Thank you.  
 7 (Jury exits the courtroom.)  
 8 THE COURT: Have a good lunch.  
 9 You may step down.  
 10 (The witness steps down.)  
 11 THE COURT: The jury has left the courtroom.  
 12 I'm going to ask counsel -- you may be seated,  
 13 ladies and gentlemen. I apologize.  
 14 I'm going to ask counsel if we're prepared to  
 15 address the questions with respect to the documents that were  
 16 objected to.  
 17 Do we need to do that at sidebar since the jury is  
 18 not here? You can tell me.  
 19 MS. MOESER: Your Honor, at sidebar we can hand you  
 20 the documents. That would be more convenient.  
 21 THE COURT: That's fine. We'll do it at sidebar.  
 22 White noise machine, please, and we'll have counsel  
 23 and the court reporter move over.  
 24 Counsel.  
 25 (Sidebar; continued on the next page.)

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1 conspiracy. It's a statement by one of the conspirators to  
 2 among others and other conspirators during the period of  
 3 conspiracy.  
 4 You don't represent Subeva. You don't represent  
 5 Singh. You're not in a position to know whether this advances  
 6 the conspiracy or not.  
 7 I'm going to overrule that basis.  
 8 What are the other basis?  
 9 MR. JACKSON: The other basis, Your Honor, is that  
 10 we think this is a document in that it is sent by Ms. Subeva  
 11 and it's received by Mr. Singh.  
 12 Mr. Singh was a witness. This document was  
 13 introduced. It becomes speculative in terms of what the  
 14 actual meaning is of the document, and at this point  
 15 introducing it then creates unnecessary confusion without an  
 16 opportunity for us to ask the witness.  
 17 THE COURT: You can call a witness. The government  
 18 will permit you to call Singh back, if you want to go that  
 19 route.  
 20 The government will permit you to call Subeva, if  
 21 you want to go that route. So that doesn't fly.  
 22 Go ahead. What else?  
 23 MR. JACKSON: That's it.  
 24 THE COURT: That's overruled.  
 25 Next?

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1 MS. MOESER: Your Honor, the Government's  
 2 Exhibit 2197 and 2198.  
 3 THE COURT: 2197 is from Helen English to Detelina  
 4 Subeva, with a cc to Singh, during the conspiracy period.  
 5 What's the objection to this?  
 6 MR. SCHACHTER: Your Honor, this relates to an  
 7 allegation in the indictment that there was an effort  
 8 circumvent to internal controls to something related to Africa  
 9 Matters in this report, which itself is hearsay within  
 10 hearsay.  
 11 THE COURT: So what?  
 12 MR. SCHACHTER: Mr. Pearse specifically testified  
 13 that this was not an act in furtherance of the conspiracy. He  
 14 testified that the government had simply gotten it wrong in  
 15 that allegation.  
 16 THE COURT: Good. Then call him. Seriously, call  
 17 him in your case.  
 18 If you want to continue to challenge that as  
 19 hearsay, if you want to go down that route, okay, you call him  
 20 back and you cross-examine.  
 21 You had him up there for a week, between the  
 22 government and you. This is during the conspiracy. Of course  
 23 it's coming in. Overruled.  
 24 What else you've got?  
 25 MS. MOESER: Your Honor, that is the only other

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1 Is that right, Mr. Jackson?  
 2 THE COURT: 3328 is from Pearse to Subeva during the  
 3 period of the conspiracy.  
 4 Really? What's the objection to that?  
 5 MR. JACKSON: We understand. We think that the  
 6 document is not clear what the relevance is.  
 7 THE COURT: It's during the conspiracy. It's from  
 8 an admitted conspirator to another admitted conspirator.  
 9 Feel free to call Pearse and Subeva back, if you  
 10 want to challenge them with respect to the document, but it's  
 11 coming in.  
 12 MR. JACKSON: Understood, Your Honor.  
 13 THE COURT: What else you got?  
 14 MS. MOESER: Your Honor, I'm sorry, the copies are  
 15 at my table.  
 16 THE COURT: Go get them, please.  
 17 MS. MOESER: Yes, Your Honor.  
 18 (Pause.)  
 19 MR. JACKSON: Thank you, Your Honor.  
 20 MS. MOESER: Your Honor --  
 21 THE COURT: Okay. Next one I've got here is GX3211  
 22 from Boustani to Pearse.  
 23 MS. MOESER: Your Honor, these are documents that  
 24 the defendant wrote on, and Your Honor overruled their  
 25 previous objection.

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1 objection --  
 2 THE COURT: That's GX2197, GX2198. That's the  
 3 attachment?  
 4 MS. MOESER: Yes, Your Honor.  
 5 MR. JACKSON: We understand the Court's position  
 6 with 2197, that's fine.  
 7 2198, the actual document is Africa Limited -- is  
 8 Africa Matters Limited report.  
 9 This, Your Honor, we submit, is just hearsay within  
 10 hearsay. This isn't any coconspirator's statement, it's a  
 11 report that was created on the basis of anonymous sources by  
 12 an outsourced company during the investigation.  
 13 THE COURT: It's not being offered for the truth of  
 14 the matter, it's something that was circulated among the  
 15 conspirators during the course of the conspiracy, and it's  
 16 coming in.  
 17 And if you want to attack it, fine. But it's  
 18 certainly not going to be excluded.  
 19 You're not offering it for the truth of the matter;  
 20 are you?  
 21 MS. MOESER: No, Your Honor.  
 22 THE COURT: Okay. It's in.  
 23 What's else you got?  
 24 MS. MOESER: I believe the only other objection was  
 25 3218.

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1 MR. JACKSON: We don't have new objections, Your  
 2 Honor --  
 3 THE COURT: Okay.  
 4 MR. JACKSON: -- we only --  
 5 THE COURT: Well, your record is preserved. You  
 6 don't have to renew.  
 7 But the one from Boustani to Pearse that says: But  
 8 the article is fucking CS big time.  
 9 I mean, you know, it's from the defendant to an  
 10 admitted conspirator during the period of the conspiracy. Of  
 11 course it's coming in. So 3211 is in.  
 12 And I see 3212 is Dominic Schultens to Pearse and  
 13 Boustani, and Subeva. IMF Cancels Mozambique Credit Meeting  
 14 Following Wall Street Journal Report.  
 15 MR. JACKSON: We didn't object to that, Your Honor.  
 16 THE COURT: Okay, I hope not.  
 17 Anything else?  
 18 MS. MOESER: I think that takes care of it, unless  
 19 there is something else on your list?  
 20 MR. JACKSON: Did we address 2978B?  
 21 MS. MOESER: 2978B, Your Honor --  
 22 THE COURT: You can have those back.  
 23 MS. MOESER: Thank you, Your Honor.  
 24 MR. JACKSON: I'm not sure that we have what  
 25 Ms. Moeser wants. Let me just explain.

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1 THE COURT: Can I see it?  
 2 MS. MOESER: Your Honor, I apologize, I do not have  
 3 a hard copy.  
 4 THE COURT: You can share?  
 5 MS. MOESER: I got it.  
 6 Thank you, Counsel.  
 7 THE COURT: You can do that with documents?  
 8 MS. MOESER: Apparently on this side.  
 9 MR. MEHTA: Not on the government's side.  
 10 THE COURT: I'm looking for 8-tracks.  
 11 MS. MOESER: And, Your Honor, just as Mr. Jackson is  
 12 pulling it up, this is an attachment to an exhibit that was  
 13 admitted through Andrew Burton, 2978, as well as 2978A, which  
 14 is another attachment. It conveys essentially the same  
 15 information as Government Exhibit 2978A.  
 16 THE COURT: What it is?  
 17 MS. MOESER: It is a summary of investor positions  
 18 at the time of Credit Suisse, at the time of the exchange, the  
 19 previous exchange.  
 20 THE COURT: So, it's somewhere between a business  
 21 record and what?  
 22 MS. MOESER: It is a certified business record, Your  
 23 Honor.  
 24 THE COURT: What's the objection?  
 25 MR. JACKSON: Hearsay, Your Honor.

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1 (In open court; jury not present.)  
 2 THE COURT: All right.  
 3 As I said before, we will be back from the luncheon  
 4 break at 2:10.  
 5 Thank you all very much. Enjoy your lunch.  
 6 MR. JACKSON: Thank you, Judge.  
 7 MS. MOESER: Thank you, Judge.  
 8 (A recess in the proceedings was taken.)  
 9 (Continued on next page.)

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1 THE COURT: Overruled. It's not being offered for  
 2 the truth of the matter asserted. It's a business record.  
 3 Anything else?  
 4 MR. JACKSON: No, Judge.  
 5 THE COURT: Okay. Anything else?  
 6 MS. MOESER: Nothing from the government. Thank  
 7 you, Judge.  
 8 THE COURT: Have a nice lunch.  
 9 Do you need to do anything else at the sidebar or in  
 10 open court?  
 11 MS. MOESER: Not from the government, Your Honor.  
 12 MR. MEHTA: What time back, Your Honor?  
 13 THE COURT: I told the jury 2:15, but you guys 2:10.  
 14 MR. MEHTA: Thank you, Judge.  
 15 THE COURT: Thank you.  
 16 (End of sidebar conference.)  
 17 (Continued on the next page.)

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1 AFTERNOON SESSION  
 2 (In open court; jury not present.)  
 3 THE COURTROOM DEPUTY: All rise. The Honorable  
 4 William F. Kuntz, II is now presiding.  
 5 THE COURT: Thank you.  
 6 We have the appearances. You may be seated.  
 7 We will have the defendant produced.  
 8 (Defendant enters the courtroom.)  
 9 THE COURT: Do we have any issues we need to address  
 10 before the jury is brought in?  
 11 MR. BINI: Not from the Government.  
 12 THE COURT: Defense?  
 13 MR. SCHACHTER: Your Honor, just briefly.  
 14 After the Government rests, we'll, of course, need  
 15 to make our Rule 29 arguments; however, we discussed with the  
 16 Government the possibility of instead of breaking up of the  
 17 flow of the day, perhaps we can just go to sidebar, briefly  
 18 make the motion, just very briefly at sidebar, and then at the  
 19 end of the day have any further discussion about the Rule 29  
 20 motions that the Court deems is appropriate. The Government  
 21 has agreed that that's both acceptable to them and also would  
 22 be sufficient for us to preserve all of our Rule 29 arguments  
 23 appropriately.  
 24 THE COURT: Is that acceptable to the Government?  
 25 MR. BINI: Yes, Your Honor.

*Denise Parisi, RPR, CRR*  
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1 THE COURT: That's certainly acceptable to the  
 2 Court.  
 3 Thank you.  
 4 MR. SCHACHTER: Thank you, Your Honor.  
 5 THE COURT: Anything else we need to address?  
 6 MR. BINI: Not from the Government.  
 7 MR. SCHACHTER: Nothing from the defense.  
 8 Thank you, Your Honor.  
 9 THE COURT: Why don't we have the witness take the  
 10 witness stand again.  
 11 And, Mr. Jackson, why don't you let the CSO know  
 12 we're ready for the jury.  
 13 THE COURTROOM DEPUTY: Yes, Judge.  
 14 (Witness resumes the stand.)  
 15 THE COURT: Welcome back, Special Agent.  
 16 THE WITNESS: Thank you.  
 17 (Pause.)  
 18 (Jury enters.)  
 19 THE COURT: Good afternoon, ladies and gentlemen of  
 20 the jury. Welcome back. I hope you had a nice lunch and we  
 21 appreciate your promptness. Please have a seat.  
 22 Thank you, ladies and gentlemen of the public.  
 23 Please be seated as well.  
 24 Special Agent, I'm going to ask you the question I  
 25 said I would when you returned.

*Denise Parisi, RPR, CRR*  
*Official Court Reporter*

1 Have you spoke with anyone about your testimony  
 2 during the luncheon recess?  
 3 THE WITNESS: I have not, Your Honor.  
 4 THE COURT: Counsel, you may continue your inquiry.  
 5 MS. MOESER: Thank you, Your Honor.  
 6 Good afternoon, everyone.  
 7 DIRECT EXAMINATION  
 8 BY MS. MOESER: (Continuing.)  
 9 Q Special Agent Haque, when we left off, we were discussing  
 10 Government's Exhibit 1703.  
 11 MS. MOESER: Can we display that, Ms. DiNardo?  
 12 (The above-referred to exhibit was published.)  
 13 Q Special Agent Haque, who sent all the payments in  
 14 Government's Exhibit 1703?  
 15 A All the payments were made by Privinvest entities.  
 16 MS. MOESER: And, Ms. DiNardo, can we go to  
 17 Government's Exhibit 2758?  
 18 Q Special Agent Haque --  
 19 MS. MOESER: Can you blow up the top section a  
 20 little bit more down? Yeah.  
 21 Q Who instructed all the payments in Government's  
 22 Exhibit 2758?  
 23 A Jean Boustani.  
 24 MS. MOESER: Can we go back to Government's  
 25 Exhibit 1703, Ms. DiNardo?

*Denise Parisi, RPR, CRR*  
*Official Court Reporter*

1 (The above-referred to exhibit was published.)  
 2 Q Special Agent Haque, did all the payments listed in  
 3 Government's Exhibit 1703 go through banks in the United  
 4 States?  
 5 A Yes.  
 6 Q With the exception of the Euro payments?  
 7 A Yes.  
 8 MS. MOESER: If I may have a moment, Your Honor?  
 9 THE COURT: You may.  
 10 (Pause.)  
 11 MS. MOESER: No further questions, Your Honor.  
 12 THE COURT: Your witness.  
 13 CROSS-EXAMINATION  
 14 BY MR. JACKSON:  
 15 Q Good afternoon, Special Agent Haque.  
 16 A Afternoon.  
 17 Q Now, Special Agent Haque, you've been with the FBI since  
 18 2018, you said?  
 19 A I've been with the FBI since 2014; I've been a Special  
 20 Agent since 2018.  
 21 Q I see.  
 22 And you've been involved with this case for over a  
 23 year, correct?  
 24 A Yes. About a year and a half.  
 25 Q And you participated in a number of different witness

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1 interviews?  
 2 A Yes.  
 3 Q You've reviewed a number of different documents, I think  
 4 you talked about?  
 5 A Yes.  
 6 Q You had met with the prosecutors here and other agents in  
 7 connection with the investigation on a bunch of different  
 8 occasions, correct?  
 9 A I have.  
 10 Q I'm correct that the summary charts that we talked about  
 11 during your direct examination, you didn't prepare those  
 12 alone, did you?  
 13 A I worked on those with the prosecution team.  
 14 Q Right. Those were primarily drafted by the prosecutors,  
 15 correct?  
 16 A That's not correct.  
 17 Q Okay.  
 18 There was input from the prosecutors as well as  
 19 input from you in those documents, right?  
 20 A We worked on them together, yes.  
 21 Q So the answer is yes, there was input from both of you in  
 22 the documents, Agent Haque?  
 23 THE COURT: I think the answer was "We worked on  
 24 them together." Why don't you ask another question.  
 25 Q So -- and, Agent Haque, in those documents, you talked

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1 about things, when you were preparing those documents, that  
2 you would include and things you would not include, correct?  
3 A We reviewed documents to include sources for support  
4 here.

5 Q Okay.

6 No, I understand, but my question is just, when you  
7 discuss what would go into the summary charts with the  
8 prosecutors, you discussed that there would be certain things  
9 that would be helpful, in your view, to include, and there's  
10 certain things that you did not want to include in those  
11 particular summary charts, right?

12 A We did not want to include things that we couldn't  
13 provide support for.

14 Q Okay.

15 Now, I'm correct that at the start of this  
16 investigation -- or at the start of your involvement in this  
17 investigation, you were involved in a number of discussions  
18 with the prosecutors about what charges could be potentially  
19 brought, right?

20 A I was not heavily involved in those discussions.

21 THE COURT: He didn't ask you if you were heavily  
22 involved; he asked if you were involved at all.

23 A To some extent, yes.

24 Q And at the start of the investigation, one of the  
25 discussions that you had with the prosecutors was that it was

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1 include all of the text message -- text messages from  
2 Mr. Boustani that you were able to identify during the course  
3 of the investigation?

4 A It does not.

5 Q You extracted them from the email, I think, was your  
6 testimony earlier, Agent Haque?

7 A We received the messages as part of an email search  
8 warrant.

9 Q Right.

10 And you were able to extract those messages in a  
11 format that you talked about before, right?

12 A Yes.

13 Q And the format didn't have the precise dates in that  
14 format on the text messages; am I correct, Agent Haque?

15 A No. They were in a Unix epoch format.

16 Q And Unix epoch is basically a method by which a computer  
17 can count down the number of seconds that have elapsed since a  
18 particular date in the 1970s, right?

19 A June 1st, I believe.

20 Q And do you know what year it is?

21 A 1970.

22 Q Okay. So it's all the seconds that have elapsed since  
23 June 1st, 1970, right?

24 A Yes.

25 Q And based on that -- the reason for that is you can then

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1 going to be difficult for you to figure out how to charge the  
2 case because what you primarily had was simply evidence of  
3 payments overseas, correct?

4 MS. MOESER: Objection, Your Honor.

5 THE COURT: Overruled.

6 A It's not correct.

7 Q Well, you discussed with the prosecutors the fact that  
8 the bulk of your evidence related to payments overseas,  
9 correct?

10 A It's not correct.

11 Q You discussed with the prosecutors that you could not  
12 charge Mr. Boustani with payments overseas because he was a  
13 foreign citizen, correct?

14 A That's not correct.

15 Q You discussed with the prosecutors that the fraud charges  
16 that you eventually came up with would be a novel application  
17 of this type of evidence, didn't you?

18 A No.

19 Q Okay.

20 MR. JACKSON: Now, can we turn to Government's  
21 Exhibit 1702?

22 Q This is the chart that you put together that you  
23 discussed with Ms. Moeser on direct examination.

24 A Yes.

25 Q And I'm correct, Agent Haque, that this chart does not

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1 using those seconds, have a uniform determination of what date  
2 you are dealing with no matter what the time zone, right?

3 A That's correct.

4 Q And all of the messages that you extracted had the kind  
5 of Unix stamp in them to indicate when they were from?

6 A Yes.

7 Q And then you had to plug them into a calculator online to  
8 turn out the dates, right?

9 A Yes.

10 Q You didn't have to, because you could have done the math,  
11 but it would be -- that's complicated math in seconds, right?

12 A Right.

13 Q Now, this starts at -- this -- this is done a little  
14 bit -- I guess it's done in reverse date order, right?

15 A Right. That's how they were listed in the document.

16 Q Okay. So where we see 4/23 at the top, this message is  
17 4/23, the one that says from Jean Boustani to AG Bom Dia Papa.  
18 This is the article you were talking about?

19 A Yes.

20 Q Okay.

21 And then as we go down, we are actually going  
22 backwards in time, right?

23 A That's correct.

24 Q And on the second page --

25 MR. JACKSON: If we can go to the second page.

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- 1 Q -- it goes further back in time, right?
- 2 A Yes.
- 3 Q And so the range of time that this includes --
- 4 MR. JACKSON: If we could pull back on that, please,
- 5 Mr. McLeod.
- 6 Q You are starting March 28, 2016, and you are going to
- 7 April 21st, 2016, correct?
- 8 A I believe it goes to April 23rd, 2016.
- 9 Q Oh, yes. I'm sorry. I'm correct -- I'm corrected.
- 10 April 23rd is right there at the top, right?
- 11 A Yes.
- 12 Q And there are messages that relate to this subject that
- 13 fall outside of this time period, correct?
- 14 A What do you mean by "the subject"?
- 15 MR. JACKSON: Well, I would like to offer a document
- 16 that we have marked as DX119.
- 17 THE COURT: Any objection to DX119?
- 18 (Pause.)
- 19 MS. MOESER: No objection, Your Honor.
- 20 THE COURT: Admitted. You may publish.
- 21 (Defendant's Exhibit DX119 received in evidence.)
- 22 (The above-referred to exhibit was published.)
- 23 BY MR. JACKSON:
- 24 Q Now, you see here this is a email that Mr. Boustani sends
- 25 to Mr. Do Rosario on April 24th, 2016.

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- 1 from Mr. Boustani, he says playful things in a lot of these
- 2 emails -- right? -- that you didn't necessarily find out any
- 3 meaning to, right?
- 4 A I'm not sure what you are referring to by that.
- 5 Q Okay.
- 6 So you see he says, "Is the number of 1 billion
- 7 included in the total number stated in the bond," correct?
- 8 A Yes. That's what that says.
- 9 Q And then you see Mr. Boustani writes to Mr. Do Rosario,
- 10 "If yes, it must be mentioned immediately to press to cool
- 11 down markets," correct?
- 12 A That's what that says.
- 13 Q And then he says, "If no, then surely the MoF has
- 14 misrepresented the numbers and then it is a serious issue,"
- 15 right?
- 16 A That's what that says, yes.
- 17 Q This is an email from Mr. Boustani that you were able to
- 18 obtain during the course of your investigation, right?
- 19 A I'm not sure.
- 20 Q Okay.
- 21 MR. JACKSON: Can we go to the bottom of that?
- 22 Q You recognize the Bates stamp there?
- 23 A I haven't seen that specific -- specific one, but I
- 24 recognize the Bates stamping.
- 25 Q Okay.

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- 1 A That's correct.
- 2 Q And in this -- this is the day after the messages in your
- 3 chart -- this is the day after the last message in your chart,
- 4 correct?
- 5 A Yes.
- 6 Q Okay. And so on that day afterwards what Mr. Boustani
- 7 says to Mr. Do Rosario is -- first he says, "mmmmm," right?
- 8 A Yes.
- 9 Q Do you know what "mmmmm" means?
- 10 A I think it's a time filler. A lot of people have nervous
- 11 tics.
- 12 Q Okay.
- 13 I'm just asking you if --
- 14 A I don't know.
- 15 Q -- during the course of the investigation, you were able
- 16 to figure out what "mmmmm" means.
- 17 A No.
- 18 Q So what happens is, Mr. Boustani says, "The only crucial
- 19 element for banks, public, bondholders, et cetera, is -- is
- 20 the number of 1 billion included in the total number stated in
- 21 the bond."
- 22 A I see that that's what it says.
- 23 Q Right.
- 24 I'm sorry, just to go back to the "mmmmm."
- 25 In the course of a lot of the emails that you saw

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- 1 MR. JACKSON: Let's take that down.
- 2 And can I -- I would like to offer DX120030.
- 3 THE COURT: Any objection?
- 4 MS. MOESER: Can we see it, Your Honor?
- 5 THE COURT: Publish it to your adversary and the
- 6 Court, please.
- 7 MS. MOESER: Is it a multipage document? If we can
- 8 get a hardcopy.
- 9 MR. JACKSON: It's one page.
- 10 Thank you.
- 11 MS. MOESER: No objection, Your Honor.
- 12 THE COURT: Admitted. You may publish.
- 13 (Defendant's Exhibit DX120030 received in evidence.)
- 14 (The above-referred to exhibit was published.)
- 15 MR. JACKSON: If we can just blow up the top of
- 16 that, please, Mr. McLeod.
- 17 BY MR. JACKSON:
- 18 Q So you see here this is a message --
- 19 MR. JACKSON: I'm sorry.
- 20 Your Honor, may we publish this?
- 21 THE COURT: Sure. It's in evidence. I said there's
- 22 no objection, so you may publish it, of course.
- 23 MR. JACKSON: Thank you very much, Judge.
- 24 (The above-referred to exhibit was published.)
- 25 BY MR. JACKSON:

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1 Q You can see here, Agent Haque, right, that this is a  
 2 message that Mr. Boustani is sending again, correct?  
 3 A Yes.  
 4 Q And he says, "Bom Dia Excellency, Rosario has a full  
 5 report for today's meeting."  
 6 Do you see that?  
 7 A Yes. That's what that says.  
 8 Q And then you see the part after that where it says,  
 9 "Allow me please to stress there is a political agenda behind  
 10 all what is happening since two years."  
 11 A That's what that says.  
 12 Q Then it says, "Instead of the Government working on  
 13 activating the projects to generate revenues, the  
 14 attention" --  
 15 THE COURT: Vader.  
 16 MR. JACKSON: Yes, of course, Your Honor. Trying to  
 17 channel the force.  
 18 THE COURT: I hear you.  
 19 BY MR. JACKSON:  
 20 Q -- "working on activating the projects to generate  
 21 revenues, the attention was diverted to destroy them."  
 22 Do you see that, Agent Haque?  
 23 A That's what that says.  
 24 Q And then it says, "A default means Mozambique under IMF  
 25 and World Bank control and a political tsunami taking over

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1 April 20th, 2016, according to that calculation from the Unix,  
 2 right?  
 3 A Yes.  
 4 Q And Mr. Boustani is talking about the fact that the IMF  
 5 chief met the prime minister together with Antonio Carlos  
 6 do Rosario -- Rosario and Isaltina Lucas, right?  
 7 A Yes.  
 8 Q And he says, "So soon a statement will be issued to clear  
 9 the facts and expose the truth," right?  
 10 A That's what it says, yes.  
 11 Q That's one of the messages that you identified that he  
 12 was sending in -- on April 20th, in 2016, right?  
 13 A Yes.  
 14 Q And he emphasizes, "I'm doing, as always, everything I  
 15 can for the interest of Mozambique as you have always  
 16 instructed. Will keep you posted. *Abraco.*"  
 17 Do you see that?  
 18 A Yes.  
 19 Q And that's -- that's a message that was on your chart of  
 20 these messages from Mr. Boustani, right?  
 21 A Yes.  
 22 Q Do you know who this message is to?  
 23 A I believe it's to Armando Guebuza.  
 24 MR. JACKSON: Okay. We can take that down, please.  
 25 Thank you, Mr. McLeod.

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1 Frelimo and the president, I can imagine who will benefit,"  
 2 right?  
 3 A That's what that says.  
 4 Q And then he says, "I'm sure you will save the country by  
 5 advising the president on what should be done."  
 6 A That's what that says.  
 7 Q And he says, "I'm at your service and the service of  
 8 Mozambique to boost its economy again. *Abraco.*"  
 9 A Yes. That's what that says.  
 10 Q And I think your testimony was you understood *abraco*  
 11 means hugs.  
 12 A I believe so.  
 13 Q Now, just going back --  
 14 MR. JACKSON: If we can go back to the document,  
 15 please, Mr. McLeod, GX1702 that was admitted.  
 16 Q There are a couple of messages in here I just want to  
 17 quickly ask you about that I don't think you discussed with  
 18 Ms. Moeser.  
 19 If we look at the second page of this and we go to  
 20 second from the -- I'm sorry, the -- just one second. The  
 21 message that you looked at --  
 22 MR. JACKSON: If we could blow that up again.  
 23 Q -- the message that you looked at on direct, and then  
 24 let's talk about this one.  
 25 You see here, this is a message on 4 -- at 4 -- on

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1 Q Now, you also went through Government's Exhibit 1703.  
 2 MR. JACKSON: Can we cull that up?  
 3 Q And this is the other summary -- one of the other summary  
 4 charts that you talked about on direct, correct, Agent Haque?  
 5 A Yes.  
 6 Q And Agent Haque, am I correct that what is happening here  
 7 is you have identified in this *name* column several people,  
 8 right?  
 9 A There are people listed under the *name* column, yes.  
 10 Q You would agree with me not all of these people are  
 11 Government officials, right?  
 12 A I believe Bruno Langa is not a Government official.  
 13 Q Right.  
 14 Bruno Langa, nothing in your investigation indicated  
 15 that he was a Government official, right?  
 16 A No.  
 17 Q You also had, as the very first name, Armando Ndambi  
 18 Guebuza, right?  
 19 A Yes.  
 20 Q And the title that you put next to him was *Son of a*  
 21 *Former President of Mozambique*, right?  
 22 A That's correct.  
 23 Q *Son of the Former President of Mozambique*, as far as you  
 24 are aware, is not an official title with the Mozambican  
 25 Government, is it?

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- 1 A I believe he had influence in the Government of  
2 Mozambique.
- 3 THE COURT: The question is, is it an official  
4 title, if you know. Yes, no, you don't know.
- 5 A No.
- 6 Q You also identified Teofilo Nhangumele and you wrote,  
7 "Office of the President Project Manager," right?
- 8 A Yes.
- 9 Q Now, you didn't come across any information from, like,  
10 an official Mozambican file that indicated that Teo Nhangumele  
11 worked in the office of the president in Mozambique, did you?
- 12 A That is how he was represented based on my review of  
13 evidence.
- 14 Q Okay. Let me just focus -- let me ask a better question.  
15 You haven't reviewed any Government documents from  
16 Mozambique that indicate that Teofilo Nhangumele actually  
17 worked for the Mozambican Government, have you?
- 18 A Not a Government document, no.
- 19 Q And, in fact, you obtained several different types of  
20 information during the course of the investigation that  
21 indicated that Mr. Nhangumele was not a Government official  
22 during the time period of the payments that you're focused on  
23 in this exhibit, correct?
- 24 A It's not correct.
- 25 Q Well --

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- 1 fact, work for the Government, isn't it?
- 2 A No.
- 3 Q Okay.
- 4 MR. JACKSON: Can we go to the top of the message  
5 and let's look at Mr. Boustani's reply and he says, "Brother,  
6 I know you don't represent GoM, my dear," right?
- 7 A That's what that says.
- 8 Q And he says, "We rely on you." If you look in the middle  
9 here --
- 10 MR. JACKSON: If we can highlight this middle part.
- 11 Q He says, "We have absolutely no problem to follow your  
12 guidance. We rely on you as our local partner to secure the  
13 project," right?
- 14 A That's what that says, yes.
- 15 Q Okay.
- 16 MR. JACKSON: We can take that down, Mr. McLeod.
- 17 Q You understand, these are communications where  
18 Mr. Boustani was talking to Mr. Nhangumele about the fact that  
19 he was being hired as a lobbyist, right?
- 20 A No.
- 21 Q Well, these are communications that were in the  
22 possession of DOJ, correct?
- 23 A I'm not sure.
- 24 Q Okay.
- 25 You are aware, as an agent who's been involved in

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- 1 MR. JACKSON: I would like to offer DX12031.
- 2 THE COURT: Any objection to DX12031?  
3 Show it to your adversary and the Court.  
4 (Pause.)
- 5 MS. MOESER: No objection, Your Honor.
- 6 THE COURT: Admitted. You may publish.  
7 (Defendant's Exhibit DX12031 received in evidence.)  
8 (The above-referred to exhibit was published.)
- 9 BY MR. JACKSON:
- 10 Q Can you see up at the -- you can see here this is an  
11 email from Mr. Nhangumele to Mr. Boustani, right?
- 12 A Yes.
- 13 Q And this is in 2012, right?
- 14 A Yes.
- 15 Q And what Mr. Nhangumele says is -- in the first full  
16 paragraph, he says, "Have you ever asked yourself who do we  
17 represent in this business," question mark, correct?
- 18 A That's what that says.
- 19 Q And then he says, "If you think we represent the GoM, why  
20 is it that you have not received a formal letter from the GoM?  
21 If you think we represent ADM, what has ADM done to ensure  
22 that we locked this deal? I'm talking to you as my brother."  
23 Do you see that?
- 24 A That's what that says, yes.
- 25 Q That's Mr. Nhangumele indicating that he does not, in

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- 1 these kinds of investigations, that the use of local agents or  
2 lobbyists by businesses in Mozambique is very common, correct?
- 3 A I don't know that.
- 4 Q Well, you certainly came across the fact that in the  
5 course of your investigation that a number of the corporations  
6 that operate in Mozambique -- foreign corporations -- use  
7 local agents, right?
- 8 A I don't know that.
- 9 MR. JACKSON: I would like to offer DX12032-A.
- 10 THE COURT: Any objection to 12 -- what's the  
11 number?
- 12 MR. JACKSON: Sorry, Judge. It's 12032-A.
- 13 THE COURT: Any objection?  
14 Publish it to the Court and to your adversary.
- 15 MS. MOESER: One moment, Your Honor.  
16 (Pause.)
- 17 MS. MOESER: Your Honor, is this a document attached  
18 to something, or is it just a loose document?
- 19 THE COURT: Are you offering one page, or are you  
20 offering more than one page, Counsel?
- 21 MR. JACKSON: I was just offering this page, Your  
22 Honor.
- 23 THE COURT: All right. So the offer is of 12032-A.  
24 Any objection?
- 25 MS. MOESER: No objection, Your Honor.

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1 THE COURT: Admitted. You may publish.  
 2 (Defendant's Exhibit 12032-A received in evidence.)  
 3 (The above-referred to exhibit was published.)  
 4 BY MR. JACKSON:  
 5 Q You can see here, this is Mr. Nhangumele's resume, right?  
 6 A It seems to be.  
 7 Q It says "curriculum vitae," right?  
 8 A Yes.  
 9 Q That's just another fancy Latin word for resume, right?  
 10 A Yes.  
 11 Q And you can see down --  
 12 MR. JACKSON: If we can zoom on the whole document.  
 13 Q You can see that this is a document that was in the  
 14 possession of DOJ, right? You can see that.  
 15 A There is a Bates stamp, yes.  
 16 Q And that Bates stamp indicates the DOJ produced that  
 17 document, right?  
 18 A Yes.  
 19 Q Now --  
 20 THE COURT: When you say "produced it," you mean  
 21 made it available in the course of the discovery process, not  
 22 created it, correct?  
 23 MR. JACKSON: Very helpful, Judge, yes.  
 24 THE COURT: Sometimes "produce" has different  
 25 meanings, so I just want to be clear.

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1 Q And then if we look at from 2009 to 2011, he had a role  
 2 during those years as the deputy director general and CFO the  
 3 ministry of youth and sports, right?  
 4 A That's what his curriculum vitae indicates, correct. It  
 5 also says, "Government of Mozambique."  
 6 Q Absolutely.  
 7 Government of Mozambique ministry of youth and  
 8 sports, right?  
 9 A Right.  
 10 Q And it says he was responsible for managing the corporate  
 11 side of the All Africa Games organizing committee, correct?  
 12 A That's what that says, yes.  
 13 Q You understand that has to do with youth football?  
 14 A I don't know.  
 15 Q You don't know whether the All Africa Games was a youth  
 16 soccer thing?  
 17 A I don't.  
 18 Q Okay.  
 19 But whatever the case may be, there's nothing about  
 20 the ministry of youth and sports in Mozambique that had  
 21 anything to do with this case that you know about, correct?  
 22 THE COURT: Not until now. I really -- I don't mean  
 23 to interpret in terms of can we get to the issues of the case,  
 24 but can we get to the issues of the case, please?  
 25 MR. JACKSON: I'm going to speed up, Judge.

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1 MR. JACKSON: Absolutely, Judge.  
 2 THE COURT: Go ahead.  
 3 BY MR. JACKSON:  
 4 Q This isn't a document DOJ created, right?  
 5 A No.  
 6 Q No.  
 7 You obtained a number of documents in your  
 8 investigation and then sometimes you produce them to make them  
 9 available in the case, right?  
 10 A Yes. We produce documents.  
 11 Q Okay.  
 12 And so here we have Mr. Nhangumele's curriculum  
 13 vitae and you can see he indicated on his own resume --  
 14 MR. JACKSON: If we can go down.  
 15 Q -- that from 2001 to 2008, he was working as a Government  
 16 and public relations manager, right?  
 17 A That's what that says, yes.  
 18 Q And he says, "This is a senior position in a management  
 19 structure as a BP Mozambique," right?  
 20 A Yes.  
 21 Q And he is talking about working in the promotion of the  
 22 corporate image and products of the organization, right?  
 23 A Yes.  
 24 Q You see that that's what's written there?  
 25 A The promotion of the corporate image.

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1 THE COURT: Thank you.  
 2 BY MR. JACKSON:  
 3 Q So the answer to that question is no, correct?  
 4 A I'm sorry, can you repeat the question?  
 5 Q You are not --  
 6 THE COURT: The answer was I don't know whether  
 7 soccer, football is involved.  
 8 Let's move it along.  
 9 MR. JACKSON: We are moving along, Judge.  
 10 THE COURT: Thank you.  
 11 BY MR. JACKSON:  
 12 Q And then after 2011, you see from 2012 to 2014, he  
 13 identifies himself as the country manager for PetroSA, right?  
 14 A That's what that says.  
 15 Q And that's a South African oil company.  
 16 A Yes.  
 17 Q And he's talking about Government relations, correct?  
 18 You see where it says "Government relations on behalf of  
 19 PetroSA"?  
 20 A Yes.  
 21 Q And then the last thing I will highlight on here is from  
 22 2014 to 2016, he's talking about his work for McDermott Marine  
 23 Construction, right?  
 24 A That's what that says.  
 25 Q Okay.

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1 MR. JACKSON: We can take that down Mr. McLeod.  
 2 Q It's also a fact that Mr. Nhangumele met with the FBI  
 3 during the course of your investigation, right?  
 4 A He did.  
 5 Q And he told you during that -- during that meeting that  
 6 he was not a part of the Mozambique Government, didn't he?  
 7 A He also told us that he used his power with the  
 8 Government --  
 9 Q Sir, sir -- ma'am, ma'am. I'm sorry.  
 10 THE COURT: See what happens? You know, you get  
 11 rattled. I understand.  
 12 MR. JACKSON: I deeply apologize.  
 13 THE COURT: That's okay. It happens. All right.  
 14 Let's back up. Put the question without the  
 15 pronoun.  
 16 MR. JACKSON: Yes, Judge.  
 17 THE COURT: Gender neutral. Go for it. How about  
 18 Special Agent?  
 19 MR. JACKSON: Special Agent. Always helpful, Judge.  
 20 BY MR. JACKSON:  
 21 Q Special Agent, yes or no, Mr. Nhangumele told you that he  
 22 was not a Government official when he met with the FBI. Yes  
 23 or no.  
 24 A Yes.  
 25 Q Now, one of the other things that you talked about during

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1 the course of your direct was what the IMF was aware of during  
 2 the course of these projects in Mozambique, correct?  
 3 MS. MOESER: Objection.  
 4 THE COURT: Overruled.  
 5 A I don't think I talked about that.  
 6 Q Okay.  
 7 Well, you talked about the IMF, right?  
 8 A In reference to the text messages, yes.  
 9 Q And it's a fact that you -- you sat through this entire  
 10 trial, correct?  
 11 A Yes.  
 12 Q And you are aware that there was testimony during the  
 13 trial that the debt numbers included in the disclosure that  
 14 we've been talking about that relate to the exchange offering  
 15 were accurate, correct?  
 16 A Can you refer me to certain testimony?  
 17 Q Sure.  
 18 MR. JACKSON: Can we cull up transcript 1330 and  
 19 look at lines 10 through 14?  
 20 Q And you see this is the testimony of Mr. Pearse, right?  
 21 A There's nothing on my screen.  
 22 MR. JACKSON: I'm sorry, Judge. Can we activate it  
 23 for the -- for everyone?  
 24 THE COURT: Any objection? This is testimony the  
 25 witness observed.

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1 MS. MOESER: No objection, Your Honor.  
 2 THE COURT: Okay. You can publish it.  
 3 MR. JACKSON: Thank you, Judge.  
 4 (The above-referred to exhibit was published.)  
 5 BY MR. JACKSON:  
 6 Q You see that? Mr. Pearse testified that he believed that  
 7 the overall debt numbers that were disclosed in the exchange  
 8 offer and circular were accurate, right?  
 9 A That's what he testified, yes.  
 10 Q It's also the case --  
 11 MR. JACKSON: We can take that down.  
 12 Q You also heard Mr. Burton say something similar to that,  
 13 right?  
 14 A Can you show me that testimony?  
 15 Q If you don't recall, it's fine.  
 16 But you are also aware that the IMF was completely  
 17 aware of Proindicus loan, right?  
 18 A No.  
 19 MR. JACKSON: I would like to offer DX10666.  
 20 THE COURT: There's that number again. All right.  
 21 Any objection or is it in evidence?  
 22 MS. MOESER: Can we blow up the top so I can see it  
 23 a little better, Your Honor?  
 24 THE COURT: Yes.  
 25 (Pause.)

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1 MS. MOESER: Objection, Your Honor.  
 2 THE COURT: 666 is out. Sustained.  
 3 MR. JACKSON: Okay.  
 4 BY MR. JACKSON:  
 5 Q Now, you also testified on direct examination about a --  
 6 a recent Constitutional Council decision relating to the  
 7 EMATUM loan.  
 8 Do you remember that?  
 9 A Yes.  
 10 Q And that's from this year, correct?  
 11 A Yes.  
 12 Q You are aware that that relates to the original EMATUM  
 13 LPNs and the guarantee that accompanied that, right?  
 14 A Yes.  
 15 Q And, at this point, all of the EMATUM LPNs are no longer  
 16 operative because there's been an exchange for Eurobonds,  
 17 right?  
 18 MS. MOESER: Objection, Your Honor.  
 19 THE COURT: If you know. Do you know?  
 20 A I know it was exchanged for Eurobonds, but the guarantee  
 21 still applied.  
 22 Q Okay.  
 23 But there are no more EMATUM LPNs; those original  
 24 EMATUM LPNs traded, right?  
 25 THE COURT: If you know.

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- 1 A I don't know.
- 2 Q You do know that the whole point of the exchange was to
- 3 exchange the LPNs for Eurobonds, correct?
- 4 A Yes.
- 5 Q And so what we're dealing with now is a Eurobond that has
- 6 been guaranteed separately by the Government of Mozambique,
- 7 correct?
- 8 A Yes. The Eurobond is guaranteed by Mozambique.
- 9 Q And so the Constitutional Council decision that you
- 10 talked about during your direct examination, it doesn't
- 11 directly relate to what investors are holding now, correct?
- 12 A No.
- 13 Q Okay. Now, you are aware that the loans that are at
- 14 issue in this case were published in what's called the
- 15 Bulletin of the Republic, right?
- 16 A I don't know.
- 17 Q Okay.
- 18 MR. JACKSON: I would like to offer DX12021 and
- 19 12021T, a translation of that document, Your Honor.
- 20 THE COURT: Any objection?
- 21 Show it to your adversary. I think we need to blow
- 22 it up in both instances so they can see it.
- 23 Any objection?
- 24 MS. MOESER: Can we have a hard copy?
- 25 MR. JACKSON: Yes, Your Honor. We are going to

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- 1 BY MR. JACKSON:
- 2 Q And this is a document that you were present for when we
- 3 looked at it earlier, right?
- 4 A I don't remember. I wasn't in here the whole time.
- 5 Q Can we go to 20 -- actually, can we -- can we go to
- 6 2024AT?
- 7 THE COURT: Is that in evidence?
- 8 MR. JACKSON: Yes, Your Honor.
- 9 THE COURT: Yes, you may publish it.
- 10 MR. JACKSON: Okay. Let's take this down. May I
- 11 confer with Mr. McLeod for a moment, Your Honor?
- 12 THE COURT: Of course.
- 13 (Pause.)
- 14 MR. JACKSON: Your Honor, I think there was a
- 15 mishearing and we put up for a moment the wrong document.
- 16 It's DX2024 in evidence.
- 17 THE COURT: Yes, you may publish it if it's in
- 18 evidence.
- 19 MR. JACKSON: Thank you.
- 20 (The above-referred to exhibit was published.)
- 21 BY MR. JACKSON:
- 22 Q So you see here DX2024, Agent Haque?
- 23 A I can't see the DX number, but --
- 24 Q You see the document that's on the screen.
- 25 A Yes.

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- 1 provide a hard copy as well.
- 2 (Pause.)
- 3 THE COURT: Would you blow up T on my screen,
- 4 please? It's too small to read.
- 5 MR. JACKSON: Yes, of course, Judge.
- 6 THE COURT: Thank you.
- 7 (Pause.)
- 8 MS. MOESER: Objection, Your Honor.
- 9 THE COURT: Sustained.
- 10 Next question.
- 11 (Pause.)
- 12 BY MR. JACKSON:
- 13 Q You are also aware that the loans that are at issue were
- 14 approved by the Bank of Mozambique, correct?
- 15 A I don't know.
- 16 MR. JACKSON: I would like to cull up in evidence
- 17 DX2024.
- 18 THE COURT: You may publish. It's in evidence.
- 19 MR. JACKSON: Thank you, Judge.
- 20 (The above-referred to exhibit was published.)
- 21 BY MR. JACKSON:
- 22 Q You see this?
- 23 THE COURT: You have to blow it up.
- 24 MR. JACKSON: Can we blow it up?
- 25 (Pause.)

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- 1 Q And you see that this is from the Bank of Mozambique.
- 2 A Yes.
- 3 Q And it says that the Bank of Mozambique authorizes us to
- 4 take out the loan, and it makes reference to Proindicus,
- 5 correct?
- 6 Do you see that? Do you see the reference to
- 7 Proindicus in the third bullet point?
- 8 THE COURT: Why don't you highlight it --
- 9 THE WITNESS: I see it.
- 10 THE COURT: -- to move it along.
- 11 Okay.
- 12 MR. JACKSON: Can we cull up DX2025AZ -- 2025AZ.
- 13 THE COURT: In evidence?
- 14 MR. JACKSON: Yes, Your Honor.
- 15 THE COURT: Go ahead.
- 16 MR. JACKSON: If we can below this up.
- 17 BY MR. JACKSON:
- 18 Q You see here, it's another authorization from the Bank of
- 19 Mozambique, but it relates to EMATUM, correct?
- 20 A I see the reference to EMATUM.
- 21 Q Right.
- 22 This is the Bank of Mozambique authorizing EMATUM --
- 23 the EMATUM loan, correct?
- 24 THE COURT: If you know.
- 25 A It seems to be.

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1 Q Thank you.  
 2 Now, you are also aware --  
 3 MR. JACKSON: We can that he down.  
 4 Q -- that legal opinions of Mozambican law firms found that  
 5 the Proindicus loan did not violate any Mozambican law, right?  
 6 A I don't know that.  
 7 MR. JACKSON: Your Honor, may we display in evidence  
 8 Government's Exhibit 551E?  
 9 THE COURT: You may publish.  
 10 MR. JACKSON: Thanks.  
 11 (The above-referred to exhibit was published.)  
 12 BY MR. JACKSON:  
 13 Q Do you see this?  
 14 A I see the document, yes.  
 15 Q Do you recognize what this law firm is here?  
 16 A No.  
 17 Q Okay. You've never heard of this law firm?  
 18 MR. JACKSON: Can we blow that up, just the top part  
 19 of that, please?  
 20 Q You've never heard of *Couto Graca Associados*.  
 21 A I have not.  
 22 Q You are not familiar what their role was in the  
 23 transactions at issue?  
 24 A No.  
 25 MR. JACKSON: Can we just go to section -- page 5

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1 Q Do you remember this document, Agent Haque?  
 2 A I do.  
 3 Q And this was -- again, you are familiar with Clifford  
 4 Chance the international law firm, right?  
 5 A Yes, I believe it's a magic circle firm.  
 6 Q Right.  
 7 There's no actual magic, though, right?  
 8 A Not that I'm aware of.  
 9 Q It's just a term.  
 10 THE COURT: Me neither.  
 11 Q And so Clifford Chance authorized -- this is a Clifford  
 12 Chance opinion letter that you understand made the  
 13 determination related to Proindicus that this was -- that all  
 14 the authorizations were sufficient, right?  
 15 A I'm not sure of the exact wording. If you could point  
 16 out -- point it out.  
 17 Q Well, this isn't a document that you studied either, is  
 18 it?  
 19 A Not extensively.  
 20 Q Okay.  
 21 MR. JACKSON: We can take that down.  
 22 Q Now, you're also aware, am I correct, Agent Haque, that  
 23 regardless of what -- first of all, in terms of -- just to  
 24 unpack this a little bit, you've never practiced law in  
 25 Mozambique, right?

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1 and go to Section 2.2?  
 2 Q You see here it says, "Except for the approval of the  
 3 Bank of Mozambique, which has already been obtained, no other  
 4 authorizations, approvals, and/or consents from any public  
 5 authorities, courts, or any other public entities are required  
 6 for the execution of the transaction documents by each of the  
 7 obligors."  
 8 Do you see that?  
 9 A I see that that's what it says. I'm not sure what  
 10 transaction document it refers to.  
 11 Q Okay.  
 12 This isn't a document that you have studied?  
 13 A No.  
 14 Q Okay.  
 15 MR. JACKSON: Let's look at section -- can we go to  
 16 page 9 very quickly? Let's look at Section 2.10.  
 17 Q You see it says, "No further acts, conditions or things  
 18 are required by laws of the Republic of Mozambique to be  
 19 done."  
 20 Do you see it says that there?  
 21 A That's what it says. I was just reading the whole thing.  
 22 Q Oh, yeah, no worries at all.  
 23 MR. JACKSON: Can we -- just, quickly, if you can  
 24 take that down, Mr. McLeod. Can we look at in evidence  
 25 GX551F?

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1 A I have not.  
 2 Q You are not a Mozambican lawyer.  
 3 A No.  
 4 Q You don't consider yourself an expert in Mozambican law.  
 5 A No.  
 6 Q And your understanding of what that Constitutional  
 7 Council of Mozambique decision means is really limited to the  
 8 face of the document, right?  
 9 MS. MOESER: Objection, Your Honor.  
 10 THE COURT: Sustained. It's way beyond the scope of  
 11 the direct. She's not a lawyer.  
 12 Are you a lawyer?  
 13 THE WITNESS: I am not.  
 14 THE COURT: Good.  
 15 Let's go.  
 16 BY MR. JACKSON:  
 17 Q You are aware that subsequent to that decision, the  
 18 Government of Mozambique has publicly stated that it intends  
 19 to appropriately deal with all these debts, correct?  
 20 A I'm not sure. If you could point me to something.  
 21 Q I'm just asking if you are aware.  
 22 A No.  
 23 Q You are aware that there has been a restructuring in  
 24 place and that investors and the Government of Mozambique have  
 25 reached agreements on that restructuring even as recently as

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- 1 during the course of this case, correct?
- 2 A I believe there's been a restructuring, yes.
- 3 Q And there have been agreements that have been reached by
- 4 the investors and the Government of Mozambique, correct?
- 5 A I'm not sure about the agreements.
- 6 Q You are aware that the EMATUM guarantee is governed by
- 7 English law, correct?
- 8 A I'm not sure.
- 9 Q Okay.
- 10 I just have a few more questions for you, Agent
- 11 Haque.
- 12 Putting aside the people who are listed on the
- 13 charts related to payments, during the course of your
- 14 investigation, you came across a number of different officials
- 15 in Mozambique who had involvement with these transactions that
- 16 you have not identified any evidence received payments,
- 17 correct?
- 18 A I'm sorry. Who are you referring to?
- 19 Q Well, for example, it's a fact, isn't it, that
- 20 Mr. Maleiane has been the minister of finance since 2015?
- 21 A I believe he's been the minister of finance since 2015,
- 22 yes.
- 23 Q He replaced Mr. Chang, right?
- 24 A Yes.
- 25 Q And you have not identified evidence of improper payments

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- 1 is the governor of the Bank of Mozambique, right?
- 2 MS. MOESER: Objection, Your Honor.
- 3 THE COURT: Overruled.
- 4 Are you familiar with that name?
- 5 Spell it for the court reporter, please.
- 6 MR. JACKSON: Yes, Your Honor.
- 7 BY MR. JACKSON:
- 8 Q That's G-O-V-E.
- 9 A No.
- 10 Q You have no idea who Mr. Gove is?
- 11 A I believe I've heard the name, but I'm not sure who that
- 12 is.
- 13 Q Okay.
- 14 Do you recognize him as the governor of the Bank of
- 15 Mozambique?
- 16 A I do not.
- 17 Q Regardless, you haven't identified any improper payments
- 18 from Prinvest to Mr. Gove, correct?
- 19 MS. MOESER: Objection, Your Honor.
- 20 THE COURT: Overruled.
- 21 If you can talk about it. It's an ongoing
- 22 investigation. Is there anything you know about Mr. Gove that
- 23 you can talk about in public?
- 24 THE WITNESS: No.
- 25 BY MR. JACKSON:

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- 1 from Prinvest to Mr. Maleiane, correct?
- 2 A I'm not sure.
- 3 Q Okay.
- 4 You're familiar with Mr. Adriano Ubisse?
- 5 THE COURT: Could you spell that?
- 6 MR. JACKSON: Yes, Your Honor.
- 7 BY MR. JACKSON:
- 8 Q That's A-D-R-I-A-N-O, last name, Ubisse, U-B-I-S-S-E,
- 9 correct?
- 10 A Yes.
- 11 Q And that's a national director of the treasury of
- 12 Mozambique, right?
- 13 A Yes.
- 14 Q And you know that he was involved in the Eurobond
- 15 exchange, correct?
- 16 A That's correct.
- 17 Q You know he attended the Eurobond road show?
- 18 A He did.
- 19 Q You haven't identified evidence of improper payments from
- 20 Prinvest to Mr. Ubisse, have you?
- 21 A I'm not sure.
- 22 Q As you sit here right now, you are not aware of any that
- 23 you can talk about at this moment, right?
- 24 A No.
- 25 Q And with regard to -- you are familiar with Mr. Gove who

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- 1 Q There's also a Parliament in Mozambique, correct?
- 2 A I believe so, yes.
- 3 Q There are many members in this Parliament, correct?
- 4 A I'm not sure how many members.
- 5 Q You are not sure how many people are involved?
- 6 A No.
- 7 Q But it's correct, right, that you certainly haven't
- 8 identified payments from Prinvest to all of the members of
- 9 the Mozambican Parliament, have you?
- 10 A I'm not sure who all of the members of Parliament are.
- 11 Q Okay.
- 12 THE COURT: How many more or few questions do you
- 13 have with this agent?
- 14 MR. JACKSON: I'm almost finished, Your Honor.
- 15 THE COURT: Yes, you are.
- 16 (Pause.)
- 17 MR. JACKSON: Thank you, Special Agent Haque.
- 18 I have no further questions, Your Honor.
- 19 THE COURT: Any redirect?
- 20 MS. MOESER: Very short, Your Honor.
- 21 THE COURT: Very short. Very brief. Very limited.
- 22 REDIRECT EXAMINATION
- 23 BY MS. MOESER:
- 24 MS. MOESER: Your Honor, if we may display
- 25 Government's Exhibits 2027 in evidence?

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1 THE COURT: You may.  
 2 (The above-referred to exhibit was published.)  
 3 MS. MOESER: Can we go to the last page,  
 4 Ms. DiNardo?  
 5 BY MS. MOESER:  
 6 Q Special Agent Haque, is Mr. Nhangumele referenced in this  
 7 email?  
 8 A Yes.  
 9 Q Who is this email from?  
 10 A Jean Boustani.  
 11 Q And what does it say that Mr. Mag medically does?  
 12 A Heads the team assigned to the EEZ project from the  
 13 office of HE the president.  
 14 MS. MOESER: We can take that down, Ms. DiNardo.  
 15 If we can look at Government's Exhibit 2024 in  
 16 evidence, and if we can go down, scroll down to the first  
 17 email. Sorry, if we can scroll up a little bit, Ms. DiNardo.  
 18 Up one more page.  
 19 (The above-referred to exhibit was published.)  
 20 Q Can you read this middle email here? Who is this middle  
 21 email from Special Agent Haque?  
 22 A Jean Boustani.  
 23 Q And who does it say to address the letter to?  
 24 A Armando Ndambi Guebuza.  
 25 Q And where does it say -- where does it say to address the

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1 letter to?  
 2 A Office of HE, The President of the Republic of  
 3 Mozambique.  
 4 Q And Special Agent Haque --  
 5 MS. MOESER: You can take that down, Ms. DiNardo.  
 6 Q You were asked a number of questions about Teofilo  
 7 Nhangumele.  
 8 A Yes.  
 9 Q Did Teofilo Nhangumele speak with the FBI?  
 10 A He did.  
 11 Q Did he admit to receiving money from Jean Boustani when  
 12 he spoke with the FBI?  
 13 A He did.  
 14 MS. MOESER: One moment, Your Honor.  
 15 THE COURT: Yes.  
 16 (Pause.)  
 17 (Continued on the following page.)  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

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1 REDIRECT EXAMINATION (Continued)  
 2 BY MS. MOESER:  
 3 Q Special Agent Haque, how much in total did the FBI trace  
 4 in payments to -- from Privinvest to Privinvest entities to  
 5 Andrew Pearse, Surjan Singh, and Mozambican officials,  
 6 roughly?  
 7 A Is it okay if I look at the documents here?  
 8 Q Of course.  
 9 (The witness is reviewing the document.)  
 10 THE COURT: While she's doing that, would you read  
 11 the question back, Madam Reporter, out loud so the agent has  
 12 it in mind. Keep your voice up.  
 13 (Whereupon, the record was read.)  
 14 A Approximately \$100 million.  
 15 Q And have you received evidence of other payments in the  
 16 evidence that you have reviewed?  
 17 A I have.  
 18 Q And what document is that?  
 19 THE COURT: What document reflects those payments is  
 20 what she is asking you?  
 21 A A spreadsheet created by Naji Allam.  
 22 Q Who is Naji Allam?  
 23 A The CFO of Privinvest.  
 24 MS. MOESER: One moment, Your Honor.  
 25 THE COURT: Yes.

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1 No further questions, Your Honor.  
 2 Special Agent, thank you.  
 3 You may step down.  
 4 Please call your next witness.  
 5 (The witness steps down.)  
 6 MR. BINI: One moment, Your Honor.  
 7 THE COURT: Of course.  
 8 MR. BINI: Your Honor, the government rests.  
 9 THE COURT: Ladies and gentlemen of the jury, so do  
 10 you for the next 15 minutes, a real 15 minutes.  
 11 Please do not talk about the case. I have some  
 12 business to do with the lawyers. Please go back to the  
 13 elegant jury room. Take next 15 minutes.  
 14 Don't wander too far. Do not talk about the case.  
 15 The case is not yet over. Thank you. See you in 15.  
 16 (Jury exits the courtroom.)  
 17 THE COURT: Thank you. You may be seated, ladies  
 18 and gentlemen.  
 19 We're in open court. The defendant is still  
 20 present. The jury is not present.  
 21 Do we have any motions?  
 22 MR. SCHACTER: Yes, Your Honor.  
 23 At this time, the defense moves for a judgment of  
 24 acquittal on the basis that the government has failed to prove  
 25 each and every element of the conspiracy to commit wire fraud,

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1 conspiracy to commit securities fraud, and conspiracy to  
2 commit money laundering.  
3 We also move on due process grounds for failure to  
4 prove the domestic violation of Section 1349, or 1343, or a  
5 violation of Section 1956(f) that occurred, in part, in the  
6 United States.

7 THE COURT: Any response from the government?

8 MR. BINI: Your Honor, the government has made more  
9 than a prima facie case that the defendant committed wire  
10 fraud conspiracy, securities fraud conspiracy, and money  
11 laundering conspiracy. And the government believes that this  
12 case should go to the jury.

13 THE COURT: Any response?

14 MR. SCHACTER: No, Your Honor.

15 We have further -- we can go through further  
16 grounds. We can either do that quickly now, Your Honor, or we  
17 can do it at the end of the day, whichever the Court prefers.

18 I believe the government has agreed that our  
19 arguments are preserved whether they're made now or at the end  
20 of the day, if that is acceptable to the Court.

21 THE COURT: You can make them now or you can make  
22 them later, it's up to you.

23 Do you want to make them now or you want to make  
24 them later?

25 MR. SCHACTER: May I have one moment?

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1 take a break.

2 MR. JACKSON: That's fine, Judge, we're ready to go.

3 THE COURT: Last chance?

4 MR. SCHACTER: We're okay.

5 (Pause.)

6 (Jury enters the courtroom.)

7 THE COURT: Welcome back, ladies and gentlemen of  
8 the jury. See, I really do now how to take a short break.

9 Please be seated.

10 Ladies and gentlemen of the public, please be seated  
11 as well.

12 The government has completed its case, and we're now  
13 on to the defense case.

14 You remember, as I told you in the beginning, the  
15 defense does not have to prove anything. The burden is always  
16 on the government to prove its case beyond a reasonable doubt  
17 in all respects.

18 I will give you your final jury charge at the end of  
19 the case, but the defense has elected to put on a case, and  
20 we're now going to hear from the first defense witness.

21 So, counsel, please call your first defense witness.

22 MR. JACKSON: Your Honor, we call Special Agent  
23 Tassone.

24 THE COURT: Okay, please have the special agent come  
25 forward and be sworn in.

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1 THE COURT: Of course.

2 (Pause.)

3 MR. SCHACTER: I think, if it's acceptable to the  
4 Court, and as long as our arguments are preserved, we would  
5 prefer to do at the end of the day so we don't take up the any  
6 of the jury's time.

7 THE COURT: What's the government's response to  
8 that?

9 MR. BINI: It's fine with the government, Your  
10 Honor.

11 THE COURT: Okay.

12 The argument is preserved.

13 The motion is denied. You can renew it at the end  
14 of the day.

15 MR. SCHACTER: Thank you, Your Honor.

16 THE COURT: Thank you.

17 MR. BINI: Thank you, Judge.

18 THE COURT: Anything else we need to talk about  
19 before we bring the jury back in?

20 MR. BINI: Not from the government.

21 MR. SCHACTER: Not from the defense, Your Honor.

22 THE COURT: Okay, Mr. Jackson.

23 (Pause.)

24 MR. SCHACTER: Are we starting now?

25 THE COURT: That was the idea, unless you want to

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1 (Witness takes the witness stand.)

2 ANGELA TASSONE, called as a witness, having been  
3 first duly sworn/affirmed, was examined and testified as  
4 follows:

5 THE COURTROOM DEPUTY: Do you solely swear or affirm  
6 the answers you are about to give to the Court, will be the  
7 truth, the whole truth, and nothing but the truth so help you  
8 God?

9 THE WITNESS: I do.

10 THE COURT: Please be seated, Special Agent. I'm  
11 going to ask you to spell your name. State your name and  
12 spell it clearly.

13 Pull the microphone towards you. It looks like it's  
14 a snake, it's not, it won't bite you. Make sure the green  
15 light's on.

16 Please state your name, spell it, and then counsel  
17 will inquire.

18 THE WITNESS: Angela Tassone. A-N-G-E-L-A.  
19 T-A-S-S-O-N-E.

20 THE COURT: Thank you.

21 You may inquire, counsel.

22 MR. JACKSON: Thank you, Your Honor.

23 DIRECT EXAMINATION

24 BY MR. JACKSON:

25 Q Good afternoon, Special Agent Tassone.

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1 A Good afternoon.  
 2 Q Now, Special Agent Tassone, you participated in certain  
 3 meetings with various cooperating witnesses in this case,  
 4 correct?  
 5 A Correct.  
 6 Q Those cooperating witnesses included Surjan Singh?  
 7 A Yes.  
 8 Q And it included Andrew Pearse?  
 9 A Yes.  
 10 Q And it included Detelina Subeva?  
 11 A Yes.  
 12 Q In your meeting with Mr. Singh on August 1st, 2019,  
 13 Mr. Singh told you that he had discussed working in some  
 14 capacity at Palomar, correct?  
 15 A No.  
 16 Q Well, you wrote in your notes related to that meeting:  
 17 Discussed working in some capacity at Palomar; didn't you?  
 18 A Yes.  
 19 Q Okay. And you were referring to a conversation -- those  
 20 were notes of a conversation you were having with Mr. Singh,  
 21 correct?  
 22 A Correct.  
 23 Q Okay.  
 24 It's also the case that in one of your meetings with  
 25 Mr. Pearse, Mr. Pearse told you that Mr. Singh had initiated a

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1 for a meeting, you participate and review them, correct?  
 2 A I didn't review these notes. I reviewed a memo of the  
 3 meeting.  
 4 Q Okay. So you reviewed the memo of the meeting that comes  
 5 after the notes, right?  
 6 A Correct.  
 7 Q And you were present for the meeting with Mr. Pearse,  
 8 correct?  
 9 A Correct.  
 10 Q And you recall that the notes indicated that if Singh  
 11 helped facilitate the deal with Priv, he would get a  
 12 percentage. And then you indicated Singh initiated the  
 13 discussion, correct?  
 14 A It says that Andrew Pearse --  
 15 THE WITNESS: Sorry, I'm not going to read it.  
 16 THE COURT: Hang on. Hang on. Hang on.  
 17 THE WITNESS: Sorry.  
 18 THE COURT: Chill. You're an agent, not a judge.  
 19 So the question you've been asked is whether or not,  
 20 in effect, this refreshes your recollection about a topic.  
 21 So now you're not allowed to read these notes into  
 22 evidence, because they're not in evidence.  
 23 So why don't you ask the witness the question if  
 24 this refreshes her recollection about a topic so we don't get  
 25 caught up in what I refer to as the Judge Forest issue about

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1 discussion about him getting a percentage of a deal with  
 2 Privinvest.  
 3 A Mr. Pearse told us that Mr. Singh initiated a discussion  
 4 with him. He did not say he discussed -- he initiated the  
 5 discussion about the percentage of the deal.  
 6 Q Right. You wrote in your notes, correct: During team  
 7 building trip, AP made it clear that if Singh helped  
 8 facilitate deal with Priv, he would get a percentage, correct?  
 9 A I didn't take notes at that meeting, but if you would  
 10 like to show me them.  
 11 Q I'd like to show you a document --  
 12 MR. JACKSON: May I have one moment, Your Honor?  
 13 THE COURT: Of course.  
 14 (Pause.)  
 15 MR. JACKSON: Your Honor, can we just call up on the  
 16 screen 3500AP-1, just for the witness, the Court and  
 17 counsel --  
 18 THE COURT: Yes.  
 19 MR. JACKSON: -- AP-1-A?  
 20 THE COURT: You may do that for the Court and  
 21 counsel, and the witness. It's not in evidence.  
 22 MR. JACKSON: And can we go to page 17.  
 23 Can we blow up the bottom of that, Mr. Mcleod.  
 24 Thank you.  
 25 Q Now, Agent Tassone, even when you don't write the notes

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1 you know what.  
 2 MR. JACKSON: Of course, Judge.  
 3 BY MR. JACKSON:  
 4 Q Does this refresh your recollection that Mr. Singh -- I'm  
 5 sorry, Mr. Pearse indicated that Mr. Singh had initiated the  
 6 discussion immediately after telling you about Mr. Singh being  
 7 offered -- about the -- immediately after the discussion with  
 8 Mr. Singh taking a percentage?  
 9 THE COURT: Hang on. Read the question back.  
 10 MR. JACKSON: I will rephrase the question.  
 11 THE COURT: No, I want to have the question read  
 12 back.  
 13 (Whereupon, the record was read.)  
 14 THE COURT: Withdraw that question, and put a  
 15 cleaner question.  
 16 MR. JACKSON: Thank you, Judge.  
 17 Q Does this refresh your recollection that Mr. Pearse told  
 18 you Singh initiated the discussion immediately after telling  
 19 you about a conversation between him and Mr. Singh about him  
 20 getting a percentage?  
 21 THE COURT: Yes or no? Yes, it does or; no, it  
 22 doesn't?  
 23 A No.  
 24 THE COURT: Next question.  
 25 MR. JACKSON: May I have a moment, Your Honor?

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1 THE COURT: You may.  
 2 (Pause.)  
 3 BY MR. JACKSON:  
 4 Q You did not take notes at the meeting we've been talking  
 5 about are?  
 6 A Not at Mr. Pearse's first meeting, no.  
 7 Q Okay. Who took notes at that meeting?  
 8 A Special Agent Haque.  
 9 MR. JACKSON: Thank you very much, Agent Tassone.  
 10 THE COURT: Any cross?  
 11 MR. JACKSON: No further questions.  
 12 MR. MEHTA: Very brief, Your Honor.  
 13 THE COURT: Better be.  
 14 CROSS-EXAMINATION  
 15 BY MR. MEHTA:  
 16 Q Good afternoon.  
 17 A Good afternoon.  
 18 Q You recall being asked about notes that you took about  
 19 Mr. Singh and Palomar?  
 20 Do you recall that?  
 21 A Yes.  
 22 Q Agent Tassone, can you tell the jury why you took those  
 23 notes?  
 24 A Yes.  
 25 Mr. Singh was shown a document related to Palomar,  
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1 and then was asked questions about whether or not he was  
 2 involved in a trip to Lichtenstein.  
 3 Mr. Singh indicated that he briefly discussed at  
 4 points in time being involved in a fund. I do not recall  
 5 whether or not at that meeting Mr. Singh said the fund was  
 6 Palomar or not.  
 7 Subsequently, he told us it was a fund. He never  
 8 specifically said that it was Palomar.  
 9 MR. MEHTA: That's it, Your Honor.  
 10 THE COURT: Any redirect?  
 11 MR. JACKSON: Very briefly.  
 12 THE COURT: Very brief. That was a pretty brief  
 13 cross.  
 14 I'm not going to allow redirect beyond the scope of  
 15 the cross.  
 16 REDIRECT EXAMINATION  
 17 BY MR. JACKSON:  
 18 Q Agent Tassone, yes or no, he never told you specifically  
 19 that it was not Palomar?  
 20 THE COURT: Who is "he", I'm sorry?  
 21 MR. JACKSON: I'm sorry.  
 22 Q Mr. Singh never specifically told you that it was not  
 23 Palomar, correct?  
 24 A When?  
 25 Q During the meeting that you were just discussing with  
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1 Mr. Mehta.  
 2 A During that meeting, I do not recall, either way, whether  
 3 he said Palomar or not. It's written in my notes because the  
 4 email is about Palomar.  
 5 MR. JACKSON: Thank you. No further questions, Your  
 6 Honor.  
 7 THE COURT: You may step down, special agent. Thank  
 8 you.  
 9 Next witness.  
 10 (The witness steps down.)  
 11 MR. JACKSON: Your Honor, we call Peter Kuhn.  
 12 THE COURT: Please come forward and be sworn.  
 13 Please come forward and be sworn by my courtroom  
 14 deputy.  
 15 Raise your right hand when you get to the witness  
 16 box.  
 17 (Witness takes the witness stand.)  
 18 P E T E R M A R T I N K U H N, called as a witness, having  
 19 been first duly sworn/affirmed, was examined and testified as  
 20 follows:  
 21 THE COURTROOM DEPUTY: You do solemnly swear or  
 22 affirm that the answers you are about to give the Court will  
 23 be the truth, the whole truth and nothing but the truth, so  
 24 help you God?  
 25 THE WITNESS: I do.  
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1 THE COURT: I didn't hear what you said.  
 2 THE WITNESS: I do so approve.  
 3 THE COURT: Why don't you give the oath again, and  
 4 let's have an answer that says either "yes, I do," or "no, I  
 5 don't".  
 6 The courts are funny about that up in the Appellate  
 7 Court.  
 8 So give the oath, again, Mr. Jackson.  
 9 THE COURTROOM DEPUTY: You do solemnly swear or  
 10 affirm the answers you are about to give to the Court will be  
 11 the truth, the whole truth, and nothing but the truth, so help  
 12 you God?  
 13 THE WITNESS: Yes, I do.  
 14 THE COURT: Thank you, sir. Please be seated.  
 15 State your name, sir, and spell it.  
 16 Pull this microphone in front of you close to you.  
 17 It looks like a snake, but it won't bite you.  
 18 State your name, spell it, keep your voice up.  
 19 THE WITNESS: Okay. My name is Peter Martin Kuhn.  
 20 P-E-T-E-R. Martin, M-A-R-T-I-N. And Kuhn, K-U-H-N.  
 21 THE COURT: Thank you.  
 22 You may inquire, counsel.  
 23 MR. JACKSON: Thank you very much, Judge.  
 24 DIRECT EXAMINATION  
 25 BY MR. JACKSON:  
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- 1 Q Good afternoon, Mr. Kuhn.  
 2 A Good afternoon.  
 3 Q Mr. Kuhn, where did you grow up?  
 4 A I grew up in Germany, Southwest Germany, in Palatinate.  
 5 THE COURT REPORTER: I'm sorry.  
 6 THE COURT: Spell your town.  
 7 THE WITNESS: Okay.  
 8 A Southwest Germany Palatinate. It's P-L --  
 9 P-A-L-A-D-I-N-E, A-T-E.  
 10 Q And did you -- first, is German your first language,  
 11 Mr. Kuhn?  
 12 A Yes, German is my first language.  
 13 Q Do you speak other languages?  
 14 A A little bit of French, and English, and I learned a  
 15 little Latin in school.  
 16 Q Did you go to school in that part of Germany growing up?  
 17 A Yes, I -- actually The Palatinate is a state in Germany.  
 18 And the village I grew up is called Ruelzheim.  
 19 THE COURT: Would you spell that?  
 20 THE WITNESS: Yes. Ruelzheim, it's  
 21 R-U-E-L-Z-H-E-I-M.  
 22 Q And what kind of village is that?  
 23 A That's a small village, about 5,000 inhabitants. It's in  
 24 a rural countryside. A lot of farmers. And, yeah, that's it.  
 25 Q Did you go to high school there?

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- 1 A Yes, I did it during my naval time.  
 2 Q I'm sorry, you were saying?  
 3 A No, I wanted to point out it was part of the training to  
 4 become an officer in the German Navy.  
 5 Q Just to flash forward a little bit.  
 6 What was the highest rank that you reached in the  
 7 German Navy?  
 8 A During my active time, I was a lieutenant. And after my  
 9 naval time, I'm still in the Navy Reserve, and I'm a fully  
 10 captain now.  
 11 Q So you're a full captain in the Reserves now?  
 12 A Yes, correct.  
 13 Q So can you just tell us a little bit, very quickly, about  
 14 the education that you did during the time that you initially  
 15 joined the German Navy?  
 16 Can you just tell us a little bit about that?  
 17 A I did the normal officer's training. I sailed on board  
 18 of our sailing ship, Gorch Fock.  
 19 THE COURT: Could you spell that, please.  
 20 THE WITNESS: Okay. It's G-O-R-C-H. And new word,  
 21 F-O-C-K.  
 22 THE COURT: And what year did you join the Navy, so  
 23 we have a time frame?  
 24 THE WITNESS: When? It was in 1976.  
 25 THE COURT: 1976.

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- 1 A No, I couldn't go to high school in this village. I had  
 2 to go to Germersheim.  
 3 THE COURT: Would you spell that.  
 4 THE WITNESS: Okay, Germersheim. It's G-E-R-M-E-R-S  
 5 and H-E-I-M.  
 6 Q Is it called high school in Germany?  
 7 A No, it's called gymnasium -- gymnasium we called it.  
 8 It's like gymnasium.  
 9 THE COURT: You don't have to spell that.  
 10 MR. JACKSON: Thank you, Judge.  
 11 THE COURT: Can we move this along?  
 12 MR. JACKSON: I promise you, no more German towns, I  
 13 promise, Judge.  
 14 THE COURT: Thank you. I appreciate that.  
 15 Q After you graduated from the gymnasium, what did you do,  
 16 Mr. Kuhn?  
 17 A I joined the German Navy.  
 18 Q Why did you join the Navy?  
 19 A In these days it offered us a very good opportunity to  
 20 get a third class education.  
 21 I wanted to move off my village. I wanted to see  
 22 the world, and it was very similar to the U.S., join the Navy,  
 23 see the world. That was my intention basically.  
 24 Q Did you do an academic course of study at the same time  
 25 that you joined the Navy?

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- 1 Okay, go ahead, please.  
 2 MR. JACKSON: Thank you, Judge.  
 3 BY MR. JACKSON:  
 4 Q So what kinds of things -- you were essentially in  
 5 college at the same time that you were in the German Navy  
 6 originally, correct?  
 7 A We don't call that college, it's a university. The  
 8 German Armed Forces created --  
 9 THE COURT REPORTER: I'm sorry?  
 10 THE COURT: The German Armed Forces during the Cold  
 11 War created the university.  
 12 Q Did you end up getting a degree?  
 13 A Yes. I'm an engineer. Degreed engineering.  
 14 Q What did you get -- that's an engineering degree,  
 15 essentially?  
 16 A Right.  
 17 Q When did you get that engineering degree?  
 18 A I got that in Munich, the University of the Bundeswehr in  
 19 Munich. And --  
 20 THE COURT: I think the question was when, sir.  
 21 THE WITNESS: Oh, when?  
 22 That was in 1982.  
 23 MR. JACKSON: And, Your Honor, if it pleases the  
 24 Court, I might be able to speed things along by just assuring  
 25 the Court and the court reporter that I will give a full list

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1 of --

2 THE COURT: Sorry about that.

3 See, if I were the decision maker, and I could, but

4 you have the jury here, and they have to decide the facts.

5 MR. JACKSON: Fair enough, Judge.

6 THE COURT: If you are going to go through the

7 German towns, and the education they've got to know the

8 spelling, the court reporter has got to get it.

9 If this were a civil deposition, that would be cool;

10 or a bench trial, that would be fine, but they are the finders

11 of fact, so...

12 MR. JACKSON: Of course, Judge.

13 THE COURT: Herein lies the problem.

14 Q Okay. Did you have any particular goal you were working

15 towards when you first started that course of study?

16 A Yes, I wanted to become a pilot in the Navy.

17 Q And why were you trying to become a pilot?

18 A I was young, it was adventurous, and I was interested in

19 the technical things.

20 Q Did you train to become a pilot?

21 A Yes.

22 Q Can you just describe what you did in the course of that

23 training?

24 A Yes, I did the basic flying training in Germany.

25 After that, I was sent to a course in the U.S., in

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1 A I was married before, yeah.

2 Q Are you married now?

3 A I'm still married.

4 Q Okay. And you've been with your wife for -- since that

5 time, since the '80s?

6 A No, I was divorced in between.

7 Now, I have my second wife.

8 THE COURT: I tried to warn you.

9 MR. JACKSON: There's no words, Judge.

10 THE COURT: I tried to warn you.

11 All right. "Top Gun" let's go.

12 Q Now, let me just focus you in on the time period that you

13 were in the Navy after you did that training.

14 Did you, in fact, become a pilot?

15 A No, actually not.

16 Q Why not?

17 A During this technical training I mentioned, I did one of

18 the flights, and then the Commission decided maybe it's not

19 the right job for me.

20 Q Okay. So what did you do instead?

21 A I became an engineering officer in the German Navy, one

22 of the flying air programs.

23 Q And what kind of things were you doing in that role?

24 A I was responsible at the end for some of the works shops

25 with the avionics and electronics of the aircraft. And I was

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1 Mather Air Force Base in California.

2 I did my undergraduate Naval experience for my

3 silver wings.

4 And after that, I did the advanced technical

5 training it was called.

6 Q You mentioned going to California.

7 What the year was that?

8 A That was in 1984.

9 Q And can you just explain, as a member of the German Navy,

10 why you were going to California at that point?

11 A It was quite common. We had a very good relationship

12 with the U.S. Armed Forces, and a lot of the flights was done

13 in the U.S.

14 Q Was that flight training out there like the movie "Top

15 Gun"?

16 A No. Maybe a little bit, but...

17 THE COURT: Don't ask him about any Beach Boys.

18 You have to keep this to: Join the Navy. He went

19 to California. He was a young man. We get it, all right?

20 Okay. I am now, but I wasn't always old.

21 BY MR. JACKSON:

22 Q By the way, during those years did you get married,

23 Mr. Kuhn?

24 A Sorry.

25 Q During those years, did you get married?

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1 having about 100 personnel in these workshops. Was

2 maintaining the aircraft and preparing them for their

3 missions.

4 Once in a while, we did some deployment to other

5 airfields, and I headed these deployments.

6 And I was in the technical role. I was the training

7 officer for the squadron over there.

8 Q Did you work on ships during your time as an active duty

9 person in the German Navy?

10 A After that, nothing more. After my flight training, not

11 any more.

12 Q And what was the total number of years that you were in

13 the Navy on active duty?

14 A Thirteen years.

15 Q When did that end?

16 A That ended in 1989.

17 Q What did you do after that?

18 A After that, I work in different shops relating to

19 military or manufacturing military equipment. Yeah.

20 Q Okay, I want to talk about the years between you leaving

21 the Navy and 2012.

22 Just a very brief summary, what were you doing?

23 A Yeah, mainly I was working in project management and

24 sales for companies like ATLAS ELEKTRONIK dealing with

25 underwater weapons. They worked in underwater weapons. ATLAS

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- 1 ELEKTRONIK, they worked in underwater acoustics.  
 2 I also worked for SAM Electronics, S-A-M  
 3 Electronics. They worked in the outfitting of ships. They  
 4 did all the stuff necessary to operate the ship  
 5 electronically-wise.  
 6 Q And when you talk about underwater electronics, what are  
 7 you talking about?  
 8 A Underwater acoustics.  
 9 I mean, normal electromagnetic waves, they do not  
 10 work under water.  
 11 What you do is you need sonar systems, and then use  
 12 acoustics to transmit the information you want to transmit.  
 13 Q And in the course of that work, what kind of -- what kind  
 14 of engineering did that different work involve over those  
 15 years?  
 16 A Almost everything what I've learned before: Mechanics,  
 17 electrics, electronics, thermal dynamics, hydrodynamics, yeah.  
 18 I think.  
 19 Q At some point did you meet a man named Akram Safa?  
 20 A Yes.  
 21 Q How did you meet Mr. Safa, Akram Safa?  
 22 A I was working for ATLAS with these underwater acoustics  
 23 company, and we received a fax to provide three underwater  
 24 telephones for a company called EMD in Abu Dhabi.  
 25 And I checked in the internet this company and found

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- 1 into the other companies that are related to that?  
 2 A Yeah. Mr. Safa owns a couple of shipyards, and Nobiskrug  
 3 is one of the shipyards he owns.  
 4 It was a first one he acquired in Germany. Later on  
 5 he acquired another one called HDW Kiel GmbH.  
 6 And later a third one called Lindenau.  
 7 Q At some point did you become involved in a project  
 8 involving Mozambique?  
 9 A Yes.  
 10 Q How did you begin working on that?  
 11 A When I started to work for Nobiskrug, I was -- I received  
 12 once a call from Mr. Safa asking me to come to Abu Dhabi.  
 13 And, yeah, I -- of course, I traveled to Abu Dhabi,  
 14 and I was asked to review some information about a called EEZ  
 15 monitoring and protection system.  
 16 Q Now you said "EE zed". Is "zed" a way people say "Z" in  
 17 Europe?  
 18 A That's correct, yeah. I did it the wrong way. It's EEZ.  
 19 Q What does "EEZ" stand for?  
 20 A EEZ stands for exclusive economic zone.  
 21 Q What is your understanding of what the project was?  
 22 A My understanding was that we are providing some  
 23 equipment, a suite of equipment, so when the EEZ, and for if  
 24 there is something wrong, we want to send out ships to check  
 25 out what's going on there.

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- 1 out they build diver delivery vehicles. These are open -- how  
 2 to say that -- transporter for divers. They have to wear  
 3 masks, and they are exposed to the water.  
 4 And in such vehicles, our underwater telephones  
 5 couldn't be operated. So I was wondering about that. And  
 6 during one of my trips to Abu Dhabi, I tried to meet this  
 7 Mr. Safa. And we found out that the fax was not initiated by  
 8 his company.  
 9 Q At some point did you begin working for a company that  
 10 was owned by Mr. Iskandar Safa that Mr. Akram Safa was  
 11 involved in?  
 12 A Yes. I was starting to work for Mr. Safa in 2012.  
 13 Q Can you just tell me how that happened?  
 14 A Yeah. I was working in these days for SAM Electronics.  
 15 And as I mentioned, SAM Electronics provided all the electric  
 16 stuff for ships.  
 17 Mr. Safa owned a shipyard in Germany called  
 18 Nobiskrug. And I tried to get involved in their shipbuilding  
 19 stuff. And once of a sudden he -- the management asked me to  
 20 work -- whether I would like to work for Mr. Safa.  
 21 Q What was the first job you were hired to do in connection  
 22 with that work?  
 23 A I was hired as a director naval ships for Nobiskrug.  
 24 Q You mentioned Nobiskrug.  
 25 Can you just explain very briefly how Nobiskrug fits

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- 1 Q What did you do next?  
 2 A I was appointed as the project manager for part of  
 3 these -- for all of the EEZ protection monitoring and  
 4 protection system.  
 5 Q Who made you the project manager?  
 6 A Mr. Safa.  
 7 Q And what did you do after you were appointed the project  
 8 manager?  
 9 A When I was appointed, then I traveled to Mozambique. And  
 10 we had our first kickoff meeting. And we tried to set up the  
 11 procedures how we are going to implement the project.  
 12 Q When was that first meeting?  
 13 A The first meeting was in early 2013. I think in April.  
 14 Q How did you get to Mozambique? Did you fly down there?  
 15 A Yes.  
 16 Q Okay. How long is that trip?  
 17 A It's about 12 hours.  
 18 Q And did you have to connect somewhere?  
 19 A Sometimes I'm flying through Addis Ababa. It's in --  
 20 it's the capital of Ethiopia.  
 21 Q When you got to Mozambique, what happened?  
 22 A In Mozambique, the first meeting we had, I was there with  
 23 Mr. Jean Boustani, and I think there was -- it was many shown,  
 24 and we presented the project.  
 25 We met the guys on the customer side who wanted to

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1 set up the system, and we just discussed how we will implement  
 2 that. What would be the task for us. For them. So we -- we  
 3 talked about the working packages we had. And, yeah.  
 4 Q I'm sorry, were you finished?  
 5 A That's it, yeah.  
 6 Q You mentioned Mr. Boustani.  
 7 Do you see Mr. Boustani here today?  
 8 A Yes, I see him.  
 9 Q Okay. That's -- can you identify what he has on?  
 10 A Yes. He's sitting in the middle between these two  
 11 gentlemen with the ties.  
 12 Q When you got there, did you meet with the Mozambican  
 13 officials?  
 14 A Yes. We met the Mozambicans.  
 15 Q Who are some of the Mozambicans you met with?  
 16 A We met with Mr. Metlaba. Mr. Metlaba was introduced to  
 17 us as the general manager of a company called Proindicus,  
 18 which was going to operate the system we wanted to implement.  
 19 Q Did you meet with anyone else?  
 20 A Yes. There was also Mr. Gopo, and Mr. Ngale, and I think  
 21 a translator, I forgot the name.  
 22 Q Why was the translator necessary?  
 23 A Most of the people they don't like to speak in English  
 24 there. And my Portuguese -- I don't speak Portuguese, so we  
 25 needed.

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1 Q And can you just tell us where you work in terms of the  
 2 physical location where you work?  
 3 A In these days, I was working, as I said for Nobiskrug.  
 4 But mainly I worked in Abu Dhabi and in Mozambique.  
 5 Q Are there any shipyards that are operated by the  
 6 Privinvest companies?  
 7 A Yes. There are a couple of shipyards.  
 8 Q Where are they located?  
 9 A The very first one is located in Cherbourg, in the  
 10 northwest corner of France called CMN.  
 11 Then there's a ship -- there are the three shipyards  
 12 in Germany around Kiel.  
 13 There's one shipyard in Abu Dhabi called Abu Dhabi  
 14 MAR.  
 15 And that part -- I think part of the shipyard --  
 16 belong in these days also to Privinvest.  
 17 MR. JACKSON: Your Honor, at this time I would like  
 18 to offer a map, which is marked as DX9216.  
 19 THE COURT: Any objection?  
 20 MR. BINI: No objection, Your Honor.  
 21 THE COURT: No objection.  
 22 Admitted.  
 23 You may publish it.  
 24 MR. JACKSON: Thank you, Judge.  
 25 (Defense Exhibit 9216, was received in evidence.)

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1 Q You understand a few words in Portuguese?  
 2 A Yes. A few, yeah.  
 3 Q And so by the way, what kind of building were you meeting  
 4 with them in?  
 5 A The building was a converted I think a villa. It was  
 6 converted into an office building.  
 7 Q And so what essentially, a brief summary, did you discuss  
 8 during the meeting?  
 9 A What we discussed were the project: what we are going to  
 10 do, and what we expected them to do so that can we implement  
 11 the system.  
 12 Q And what did the Mozambicans express to you during the  
 13 course of the meeting?  
 14 A They were very keen to set up the project, and they told  
 15 us they can do almost everything what we -- what we asked them  
 16 to do. So it seemed to me that they were really interested in  
 17 the project.  
 18 Q Now, you mentioned earlier, I just want to back up a  
 19 little bit.  
 20 At this time, you had been formally hired by, you  
 21 said, Nobiskrug?  
 22 A Correct.  
 23 Q And there are several other companies in the Privinvest  
 24 group of companies, correct?  
 25 A Yes, correct.

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1 (Exhibit published.)  
 2 Q So what are we looking at here? Can you explain that to  
 3 us please, Mr. Kuhn?  
 4 A It's an aerial view of the facilities in Germany, of  
 5 Kiel. In these day, it was called ADM, Abu Dhabi MAR,  
 6 Germany. Nowadays it's called Germany Navy Yard, Kiel.  
 7 MR. JACKSON: Is there a page 5 of this document?  
 8 I'm not sure.  
 9 It's one page? Okay. We'll come back to that.  
 10 I want to offer a document, which is marked as  
 11 DX9000.  
 12 THE COURT: Any objection?  
 13 MR. BINI: No objection, Your Honor.  
 14 THE COURT: Admitted.  
 15 You may publish it.  
 16 MR. JACKSON: Thank you, Judge.  
 17 (Defense Exhibit 9000, was received in evidence.)  
 18 (Exhibit published.)  
 19 Q Mr. Kuhn, what are we looking at here?  
 20 A It's the same shipyard, again, and the work flow is  
 21 depicted in here with some smaller picture on that.  
 22 Q What do you mean by "work flow"?  
 23 A When you start to build a ship, at the beginning you only  
 24 have some steel blades. And the outcome of the shipyard is  
 25 our ship. And in between the steps to get a ship depicted in

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1 this drawing or in this picture.  
 2 Q You mentioned "steel blades". What is that?  
 3 A A steel blade is a -- a normal blade of steel about --  
 4 for shipbuilding it's about 1.5 to 3 centimeters thick. And  
 5 the length is about 6 to -- 6 meters times 2, to 3 meters.  
 6 Q I just want to quickly run through these steps here.  
 7 Can you just explain in a brief summary fashion what  
 8 happens at step one?  
 9 A In step one you see -- at the end, yes, over there you  
 10 see the storage for the steel blades are laying. Then these  
 11 blades are getting into this workshop. And in the workshop  
 12 they are cut into pieces.  
 13 Q What about at step two?  
 14 A In step two, these pieces are centered to sections and  
 15 blocks.  
 16 I mean at the beginning, you only have flat pieces  
 17 of things. Then they are put together, welded together to  
 18 form a section.  
 19 Q What about at step three?  
 20 A In step three, these sections are mainly sandblasted and  
 21 coated with color and protection.  
 22 Q What is meant by "major outfitting" in step four?  
 23 A Major outfitting means when you have build the sections  
 24 together, you start with the main equipment, like the engines.  
 25 They are put into the ship's hull. And then you continue to

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1 border of any other country?  
 2 A I think.  
 3 Q This is in Germany, correct?  
 4 A Yes, correct.  
 5 Q Is it near the border of any other country?  
 6 A It's not so far away from Denmark. And it's directly at  
 7 the -- at the coastline of the Baltic, Baltic Sea. And, yeah.  
 8 MR. JACKSON: Your Honor, I'd like to offer DX9052.  
 9 THE COURT: Any objection to 9052?  
 10 MR. BINI: Objection.  
 11 THE COURT: All right, let's have a sidebar.  
 12 (Continued on the next page.)  
 13 (Sidebar conference.)  
 14

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1 build up the ship.  
 2 Q The next step, five?  
 3 A In step five, assembly means you put or you close the  
 4 whole ship and you already finish that.  
 5 Q Finally, step six?  
 6 A In step six, you do the final assembly, final outfitting,  
 7 like small electronic parts, furniture, what else you need,  
 8 fenders, you name it.  
 9 And then we do tests and trials with the ship.  
 10 MR. JACKSON: Your Honor --  
 11 Q I'm sorry.  
 12 A Before it is given or handed over to the customer.  
 13 MR. JACKSON: Your Honor, I like to offer DX9051.  
 14 THE COURT: Any objection to DX9051?  
 15 MR. BINI: No objection.  
 16 THE COURT: Admitted.  
 17 You may publish it.  
 18 (Defense Exhibit 9051, was received in evidence.)  
 19 (Exhibit published.)  
 20 Q What is depicted here, Mr. Kuhn?  
 21 A It's the same shipyard, and it's -- you see the big  
 22 portal crane we have over there. It's lifting up to 900 tons.  
 23 And you see the dry dock, which is about 425 meters long,  
 24 90 meters wide. It's one of the biggest docks in the Baltic.  
 25 Q By the way is this German naval yards located near the

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1 (The following occurred at sidebar.)  
 2 THE COURT: What is this a picture of?  
 3 MR. JACKSON: It's a picture of the cutting some of  
 4 the steel blades that are used for manufacturing the boat,  
 5 Your Honor.  
 6 THE COURT: What's the objection?  
 7 MR. BINI: The objection is the relevance. We think  
 8 that -- no objection if he wants to put some pictures in, but  
 9 we do think he should get to Proindicus and Mozambique.  
 10 That's the purpose of the witness.  
 11 THE COURT: I'm going to overrule the objection.  
 12 But I think you're the one, Mr. Jackson, you  
 13 mentioned the concept of moving things along. You might be  
 14 guided by that and not talk about the aviator California girl,  
 15 okay.  
 16 MR. JACKSON: I promise, Judge.  
 17 THE COURT: I'm overruling the objection.  
 18 Thank you.  
 19 (End of sidebar conference.)  
 20 (Continued on the next page.)  
 21  
 22  
 23  
 24  
 25

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1 THE COURT: The objection is overruled. You may  
 2 publish.  
 3 The document is in evidence.  
 4 (Government's Exhibit 9052 was received in evidence  
 5 as of this date.)  
 6 MR. JACKSON: Thank you, Judge.  
 7 EXAMINATION BY  
 8 MR. JACKSON:  
 9 (Continuing.)  
 10 Q Now, Mr. Kuhn, what is depicted here?  
 11 A What is here is the worker welding some steel plates in  
 12 one of our shipyards.  
 13 Q About how many workers are in the German naval yard  
 14 shipyard?  
 15 A In German naval yard itself it's about 400.  
 16 Q And how many employees in total does Privinvest have?  
 17 A In total, I would say about -- Privinvest altogether?  
 18 Q Yes.  
 19 A I don't know the figure exactly, an exact figure. I  
 20 don't know.  
 21 Q What figure do you know in terms of the number of  
 22 employees?  
 23 A In Germany, we have about 1,500.  
 24 MR. JACKSON: And can we quickly, I would like to  
 25 off DX-9049?

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1 THE WITNESS: P-l-a-s-m-a.  
 2 Q What does this do, Mr. Kuhn?  
 3 A It cuts steel plates electronically. In former times,  
 4 you have had these cutting devices and now this one is done in  
 5 a different way with very hot gases.  
 6 Q What does a machine like this cost?  
 7 A Some hundred thousands to millions, yes.  
 8 THE COURT: Sounds like a "Goldfinger" movie. Can  
 9 we move on?  
 10 Q Turning back to the Mozambican projects, Mr. Kuhn, after  
 11 your meeting in the spring of 2013, what was the next step  
 12 that you took?  
 13 A We, as I said, we arranged the workshare. Then I  
 14 initiated internal work orders in our company and I started to  
 15 subcontractors for the companies assisting us.  
 16 Q Okay. And over the course of 2013, how many times did  
 17 you travel to Mozambique?  
 18 A I think ten times. 10, 11 times, yes.  
 19 Q In summary, what were you doing during those trips?  
 20 A I checked out whether we proceeded in country. We needed  
 21 to arrange the sites where we wanted to erect our system. We  
 22 needed to appoint some employees. Yes, what else? We needed  
 23 to -- to get things running and done.  
 24 Q What was your understanding of the project that was being  
 25 set up as you moved through 2013?

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1 THE COURT: Any objection to 9049?  
 2 MR. BINI: No objection, your Honor.  
 3 THE COURT: You may publish. It's admitted.  
 4 (Defendant's Exhibit 9049 was marked in evidence as  
 5 of this date.)  
 6 Q What is depicted here, Mr. Kuhn?  
 7 A It's showing the assembly of two sections of ships.  
 8 Q Okay.  
 9 MR. JACKSON: I would like to offer 9054.  
 10 THE COURT: Any objection to 9054? Show it to your  
 11 adversary and the Court, please.  
 12 MR. BINI: No objection.  
 13 THE COURT: Admitted.  
 14 (Defendant's Exhibit 9054 was marked in evidence as  
 15 of this date.)  
 16 THE COURT: You may publish.  
 17  
 18 Q What's depicted here, Mr. Kuhn?  
 19 A That's one of the engines where we cut the steel plates  
 20 into pieces.  
 21 Q What is this device that's being utilized?  
 22 A It's a plasma cutting machine.  
 23 THE COURT: A what?  
 24 THE WITNESS: Plasma.  
 25 THE COURT: Spell that, please.

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1 A It seemed very good. Everybody was more or less  
 2 enthusiastic about that and it looked like that we are  
 3 proceeding, yeah.  
 4 Q What was the purpose of the project as you understood it?  
 5 A The purpose of the project was to create a situation, an  
 6 advanced stage of the EEZ. And further on, it was meant to  
 7 generate money out of that knowledge in the means that they  
 8 wanted to provide security for the investors in country.  
 9 Q Now, during the course of your trips to Mozambique, did  
 10 you stay in communication with Mr. Boustani?  
 11 A Yes.  
 12 Q What was your understanding of Mr. Boustani's role in  
 13 connection with the Proindicus project?  
 14 A I think he was the statesman for us initiating the  
 15 project or getting the contract. And my role was on the  
 16 opposite, the implementation of the project technically wise.  
 17 And I tried to harmonize with him so we're still on the same  
 18 track with what he had sold, yeah.  
 19 Q Was Mr. Boustani ever your boss?  
 20 A No.  
 21 Q At some point, was a technical description of the project  
 22 put together?  
 23 A Yes.  
 24 Q And in summary --  
 25 MR. JACKSON: Well, actually, I would like to offer

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1 a document. That's DX-7126.  
 2 THE COURT: Any objection to DX-7126?  
 3 MR. BINI: No objection, your Honor.  
 4 THE COURT: Admitted. You may publish.  
 5 (Defendant's Exhibit DX-7126 was marked in evidence  
 6 as of this date.)  
 7 Q Thank you. If we can just take a look here. What is  
 8 this, Mr. Kuhn?  
 9 A That's the technical project description.  
 10 Q Now, you see to says made by M. Arposy who is Mr. Arposy?  
 11 A Arposy was a consultant for Mr. Safa and he brought up --  
 12 he made the very first document of that.  
 13 Q Okay. And then you see it says it was checked by you?  
 14 A Yes.  
 15 Q Okay. And it was approved by a person named  
 16 Mr. Valentin?  
 17 A Mr. Valentin what was the head of after Abu Dhabi Mal,  
 18 the shipyard in Abu Dhabi.  
 19 Q Go to Page 4. You see where it case overview.  
 20 MR. JACKSON: Mr. Mr. McLeod, can we blow that up?  
 21 Q There are several bullets points here, Mr. Kuhn, but can  
 22 you just explain in this second bullet point -- well,  
 23 actually, this first bullet point. What is being discussed in  
 24 the technical project description here?  
 25 A Yes. We described in here that we wanted to cover the  
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1 coastal waters of Mozambique up to 30 nautical miles and based  
 2 on coastal radar stations. And the positions had to be  
 3 decided on. We didn't do that beforehand. We wanted to  
 4 arrange with the customer, which was Proindicus, where we set  
 5 up these coastal radar sites.  
 6 Q Okay. I wanted to come back to that. But at point three  
 7 here it says interception and intervention capabilities all  
 8 over the EEZ using OPV and fast interceptor boats. Can you  
 9 explain what that meant?  
 10 A The EEZ ranges out to 200 nautical miles off the coast.  
 11 With the coastal radar stations you cannot look so far. And  
 12 what we tried to do was to extend the range of the radar by  
 13 using the OPVs with an air radar. We wanted to combine all  
 14 the radar signals we got into one big picture. And with these  
 15 fast interceptor boats, we wanted to intercept any illegal  
 16 action.  
 17 Q What is an OPV?  
 18 A It's an offshore patrol vessel.  
 19 Q And then there's several other points in this overview  
 20 section; correct?  
 21 A Yes.  
 22 Q Can we turn to Page 7?  
 23 MR. JACKSON: And can we just blow up the top part  
 24 of that Mr. McLeod.  
 25 What is depicted in Figure 2 here?  
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1 A That's a map of Mozambique and its suggested distribution  
 2 of these coastal survey sites.  
 3 Q Why does it suggest distribution in various points on the  
 4 coastline? Why not have one big one in the middle of the  
 5 coastline?  
 6 A As I said before, the radar is not ranging so far. Radar  
 7 signals depend on line of sight. You cannot look further than  
 8 the line of sight. That means you are limited to the horizon  
 9 and depending on how high I install the radar system, the  
 10 further you can look out.  
 11 Q Okay. We can take this down, please, Mr. McLeod.  
 12 Did your company ultimately end up reaching a  
 13 contract with Proindicus?  
 14 A Yes.  
 15 MR. JACKSON: Can we briefly display already in  
 16 evidence, your Honor, GX-2.  
 17 THE COURT: Yes.  
 18 Q Is this a contract, Mr. Kuhn?  
 19 A I would say so, yeah.  
 20 Q Just explain essentially what did Privinvest agree to  
 21 provide in the contract?  
 22 A We provided -- we said that we are going to provide all  
 23 the equipment for EEZ monitoring and protection system and we  
 24 wanted to operate it for the first three years and we wanted  
 25 to train the personnel to use the system and, yeah.  
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1 Q In summary, what was the equipment that you agreed to  
 2 provide?  
 3 A There was some changes made over the run of the project.  
 4 In summary, we provided 18 coastal survey stations, all the  
 5 equipment for one headquarters, and the equipment for a  
 6 training site. We provided three OPVs and three WP18s which  
 7 is a similar to it's a smaller OPV and we provided sort DV15  
 8 which are the interceptors.  
 9 Q Were all these items actually provided to Mozambique?  
 10 A Yes, everything was provided.  
 11 Q Now, this project, was it designed to be what's called a  
 12 turn key project?  
 13 A Yes.  
 14 Q What does that mean?  
 15 A That means we provide everything. All the physical  
 16 assets. We provide training and we prepare the people to  
 17 operate the system when we are gone.  
 18 MR. JACKSON: Your Honor I would like to offer  
 19 DX-7088.  
 20 THE COURT: Any objection to DX-7088 published to  
 21 counsel and the Court, please.  
 22 MR. BINI: No objection.  
 23 THE COURT: Admitted.  
 24 (Defendant's Exhibit DX-7088 was marked in evidence  
 25 as of this date.)  
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1 THE COURT: You may publish.  
 2 Q What are we looking at here, Mr. Kuhn?  
 3 MR. JACKSON: I'm sorry let's activate it so the  
 4 jury can see it.  
 5 Thank you.  
 6 A Yes. These pictures are taken at the company where we  
 7 build the planes within the scope of supply, we supplied six  
 8 light maritime patrol aircraft and this picture was taken  
 9 during the training of the Mozambique staff in Germany.  
 10 Q Okay. And you are sending an e-mail in some of these  
 11 pictures to someone named Mr. Gopo and to someone named  
 12 Samarate Silvio Cibini?  
 13 Who are these people?  
 14 A Mr. Samarate was the secretary of Mr. Gopo. And she  
 15 wanted to know what's going on during the training because she  
 16 got some claims, some claims from the trainees in Germany.  
 17 Q Can we flip through these photos a little bit? And you  
 18 see that's one of the photos in your e-mail?  
 19 A Yes.  
 20 Q Can we keep going?  
 21 A Oh, yes. These are the people during the training  
 22 session. You see they are working on the engine of the plane.  
 23 This is the whole crew of the trainees. That's one of the  
 24 aircraft we supplied.  
 25 Q Okay. And where did this training take place? In what  
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1 THE COURT: You may publish.  
 2 Q Mr. Kuhn, what are we looking at here in 9026?  
 3 A Yes this is a picture taken during one of our survey  
 4 tours. We looked in the country where we can set up the radar  
 5 sites, and what we found out was there was already a system  
 6 existing 30 years ago, but everything was dismantled during  
 7 the civil war in Mozambique. And this site was suggested by  
 8 Proindicus to erect the new masts next to that.  
 9 Q When you said that this was a destroyed site, what are  
 10 you talking about?  
 11 A I mean, there was no equipment at all in this building.  
 12 You could see they had cables, the copper tables were taken  
 13 off the walls. There were no windows in the holes. Yeah, it  
 14 was just it was all destroyed.  
 15 Q What was your understanding of how this was destroyed?  
 16 A Mainly, I think it was destroyed during the civil war and  
 17 people made money out of the equipment. They robbed the  
 18 equipment and sold it.  
 19 MR. JACKSON: I would like to offer DX-9027?  
 20 THE COURT: Any objection to 9027?  
 21 MR. BINI: No objection.  
 22 THE COURT: You may publish.  
 23 MR. JACKSON: Thank you.  
 24 (Defendant's Exhibit DX-9027 was marked in evidence  
 25 as of this date.)  
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1 country did it take place in?  
 2 A It took place in Germany.  
 3 MR. JACKSON: Can we -- I would like to offer  
 4 DX-9075?  
 5 THE COURT: Publish to your adversary and to the  
 6 Court.  
 7 MR. BINI: No objection.  
 8 THE COURT: Admitted.  
 9 (Defendant's Exhibit DX-9075 was marked in evidence  
 10 as of this date.)  
 11 THE COURT: You may published to jury.  
 12 Q Mr. Kuhn what is depicted in this photo?  
 13 A That was the first delivery of the first batch of the  
 14 planes we are going to provide and it depicts myself and the  
 15 staff of the company manufacturing the planes.  
 16 Q Which one is you?  
 17 A The very right one, yes. Probably was very light plane.  
 18 Q Now, you mentioned the radar stations that were created.  
 19 MR. JACKSON: I would like to offer what is marked  
 20 as DX-9026.  
 21 THE COURT: Any objection to DX-9026.  
 22 MR. BINI: No objection.  
 23 THE COURT: Admitted.  
 24 (Defendant's Exhibit DX-9026 was marked in evidence  
 25 as of this date.)  
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1 Q Mr. Kuhn, quickly, what is this a picture of?  
 2 A This picture was taken off one of our erected masts down  
 3 to the ground and it depicts one of these buildings they have  
 4 left over after the destruction or the demolition.  
 5 Q So you were -- who took this picture?  
 6 A I think I took this picture and, yeah.  
 7 Q And you're taking it from one of the masts that you  
 8 erected of this destroyed radar site?  
 9 A Yes, correct.  
 10 MR. JACKSON: Okay. I would like to offer DX-9003.  
 11 THE COURT: Any objection to DX-9003?  
 12 MR. BINI: No objection.  
 13 THE COURT: Admitted.  
 14 (Defendant's Exhibit DX-9003 was marked in evidence  
 15 as of this date.)  
 16 THE COURT: You may publish.  
 17 Q What is this, Mr. Kuhn?  
 18 A That's one of our radar sites.  
 19 Q And what is this tower? Can you explain to the jury what  
 20 this is?  
 21 A This mast -- we erected so high masts that we just get  
 22 the radar to high above ground so that we have a longer view  
 23 into the sea. All these sensors had been on top of the masts.  
 24 The electronics had been installed in the container and you  
 25 see the container on the bottom of the mast. You also see a  
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1 satellite dish. With the satellite dish, we transferred or  
 2 transmitted all the data we got from this mast into the  
 3 central command site where they were assembled into one  
 4 picture.

5 MR. JACKSON: I would like to take a closer look at  
 6 the container can we offer, your Honor, DX-9004?

7 THE COURT: Any objection to DX-9004.

8 MR. BINI: No objection.

9 THE COURT: Admitted.

10 (Defendant's Exhibit DX-9004 was marked in evidence  
 11 as of this date.)

12 THE COURT: You may publish.

13 MR. JACKSON: Thank you, Judge.

14 Q What is depicted here Mr. Kuhn?

15 A That's one of these containers. We use the standard ISO  
 16 20-foot containers. We installed all the electronics inside.  
 17 We split the container in the middle. In the rear end, where  
 18 you have the standard doors of a container, we installed an  
 19 emergency power generator. In the, let's say, in the office  
 20 or in the observation room, we installed the electronics for  
 21 the mast.

22 MR. JACKSON: And I would like to take a quick look  
 23 at DX-9005.

24 We can offer that, your Honor.

25 THE COURT: Any objection?

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1 on the tables, you see one of the workstations. We have two  
 2 workstations in each container consisting of a computer and  
 3 two monitors.

4 Q Now, you installed -- you ultimately ended up installing  
 5 radar stations like this along the coastline of Mozambique?

6 A Yes. We started to do that, yeah.

7 Q And so, let me just ask you, during the course of

8 installing all of these radar stations, did you encounter any  
 9 challenges in terms of installing them?

10 A Yes. The first challenge we had was to find the right  
 11 places. The next one was to get the allowance to install our  
 12 radar stations.

13 Q Did you encounter any challenges in terms of the weather?

14 A That as well. Most of the roads in Mozambique are not  
 15 made of concrete, they are still dirt roads. And whenever it  
 16 rains heavily, the roads are almost disappearing and small  
 17 rivers can get real floods.

18 MR. JACKSON: Your Honor, I would like to offer four  
 19 exhibits and display them quickly. DX-9039, DX-9040, DX-9041,  
 20 and DX-9043.

21 THE COURT: Display them to your adversary and see  
 22 if they have any objections.

23 MR. BINI: No objection.

24 THE COURT: Admitted.

25 You may publish.

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1 MR. BINI: No objection.

2 THE COURT: Admitted.

3 You may publish.

4 (Defendant's Exhibit DX-9005 was marked in evidence  
 5 as of this date.)

6 Q Who took this picture, Mr. Kuhn?

7 A I took this picture.

8 Q What is this a picture of?

9 A This is one of the radar stations in Beira. It shows the  
 10 warning lights of the mast, and in the background you may see  
 11 a reserve for Chinese workers.

12 Q And the last one of the container can we look at DX-9002?

13 MR. JACKSON: If we can offer that, your Honor.

14 THE COURT: Objections?

15 MR. BINI: No objection.

16 THE COURT: Admitted.

17 Publish.

18 (Defendant's Exhibit DX-9002 was marked in evidence  
 19 as of this date.)

20 Q What is this, Mr. Kuhn?

21 A That's the observation room in the container. You saw in  
 22 the former picture we have a window so that you get also  
 23 visual sight, then we have the electronics in the background  
 24 in one cabinet. We do have steering electronics for the  
 25 emergency power generator next to this cabinet. And you see

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1 (Defendant's Exhibit DX-9039, DX-9040, DX-9041, and  
 2 DX-9043 was marked in evidence as of this date.)

3 Q Let's look at DX-9039. What is depict here, Mr. Kuhn?

4 A That's one of the roads which was overflowed. And  
 5 afterwards, the road just disappeared.

6 Q Can we go to 9040. What is depicted here, Mr. Kuhn?

7 A That one was a detour. The bridge disappeared after the  
 8 floods and some people helped us to, yeah, that we could cross  
 9 the remaining river over there.

10 Q Why were these people helping you?

11 A Mozambicans are very nice people.

12 Q Can we go to DX-9041.

13 A It's also during these floods what you see is one small  
 14 river. You see the bridge of this river, you see the sideway  
 15 next to the guy who is carrying the bicycle. And normally,  
 16 the river is below that little bridge. And now, it was so  
 17 high that it almost overflowed the street.

18 Q 9043. What's depicted here, Mr. Kuhn?

19 A This one was done after, I think, in 2015. In the end of  
 20 2015, the he old rivals between RENAMO and FRELIIMO, these are  
 21 the two parties in Mozambique, grew up again and I think it  
 22 was an ambush on one of these transport trucks.

23 Q And what happened in the course of the ambush?

24 A During this, the driver was shot dead and the equipment,  
 25 I think on -- I don't know what really happened but I only

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1 know that the driver was shot dead.  
 2 Q Was that a truck that belonged to one of your suppliers?  
 3 A It belonged to one of the transport companies we worked  
 4 with.  
 5 Q Okay. And did that have an impact, did that incident  
 6 have an impact on your ability to efficiently move through the  
 7 project?  
 8 A Yes. In these days, there were some warnings given by  
 9 the Ministry of the Exterior in Germany and in most of  
 10 European countries not to travel in Mozambique anymore. So it  
 11 was hard to find workers who wanted to do that. We requested  
 12 from Proindicus additional support, additional security staff,  
 13 and we had to pay a little bit more for the transport. It was  
 14 difficult to find people who wanted to transport our  
 15 equipment.  
 16 Q Were you present --  
 17 MR. JACKSON: We can take that down, Mr. McLeod.  
 18 Q Were you present when any of the boats were delivered in  
 19 Mozambique?  
 20 A Yes, it was.  
 21 Q What were the models of the first boats that were  
 22 delivered?  
 23 A The first boats were the DV15 the interceptors.  
 24 Q I want to show you a photograph that is marked as  
 25 DX-9032.

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1 DX-9034.  
 2 THE COURT: Any objection?  
 3 MR. BINI: No objection.  
 4 THE COURT: Admitted.  
 5 (Defendant's Exhibit DX-9034 was marked in evidence  
 6 as of this date.)  
 7 Q What's depicted here, Mr. Kuhn?  
 8 A These are the boats we had delivered to Mozambique to  
 9 Pemba, which is in the north of Mozambique.  
 10 THE COURT: What?  
 11 THE WITNESS: Pemba.  
 12 THE COURT: Spell that, please.  
 13 THE WITNESS: P-e-m-b-a.  
 14 THE COURT: You may continue.  
 15 MR. JACKSON: Thank you, your Honor.  
 16 Q And why are they up on these trucks? What's happening  
 17 here?  
 18 A Yes. In Pemba, we faced a very high tide and the pier  
 19 over there is not meant to moor boats of this size. So what  
 20 we did was we unloaded the boats from the transport ship,  
 21 loaded them on the trucks, and moved them into the naval  
 22 station there.  
 23 MR. JACKSON: Your Honor, I would like to offer  
 24 DX-9035.  
 25 THE COURT: Any objection?

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1 MR. JACKSON: Actually I want to offer that, your  
 2 Honor.  
 3 THE COURT: Any objection?  
 4 MR. BINI: No objection.  
 5 THE COURT: Admitted.  
 6 You may publish.  
 7 (Defendant's Exhibit DX-9032 was marked in evidence  
 8 as of this date.)  
 9 Q What are we looking at here, Mr. Kuhn?  
 10 A This one was, this picture was taken in Cherbourg.  
 11 THE COURT: Spell that.  
 12 THE WITNESS: Yes. C-h-e-r-b-o-u-r-g.  
 13 THE COURT: Please continue.  
 14 Q What is happening in this photograph?  
 15 A It is during the handover or the final inspection of the  
 16 boats in Cherbourg. The boats were prepared to be delivered  
 17 to Mozambique, and the Mozambican delegation came to Cherbourg  
 18 to see the boats and afterwards they were sent to Mozambique.  
 19 Q Is that you in the photo?  
 20 A Yes, it's also me.  
 21 Q And what was the reaction of the Mozambican officials  
 22 that came to this handover?  
 23 A They were very happy about the boats. You could see  
 24 that.  
 25 MR. JACKSON: Your Honor, I would like to offer

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1 MR. BINI: No objection.  
 2 THE COURT: Admitted.  
 3 You may publish.  
 4 (Defendant's Exhibit DX-9035 was marked in evidence  
 5 as of this date.)  
 6 Q Is this another one of the DV15s?  
 7 A Yes.  
 8 Q Why is it up on these stilts instead of in the water?  
 9 A Yes. What we do is you have, once in a while, you have  
 10 to maintain the boats. You have to clean them. The waters  
 11 these waters in the Indian Ocean are very aggressive. So you  
 12 have to clean the boats from mussels and this is done on land.  
 13 And it's quite common to put them out of the water for such  
 14 work.  
 15 MR. JACKSON: I would like to offer DX-9037?  
 16 THE COURT: Any objection.  
 17 MR. BINI: No objection.  
 18 THE COURT: Admitted.  
 19 You may publish.  
 20 (Defendant's Exhibit DX-9037 was marked in evidence  
 21 as of this date.)  
 22 MR. JACKSON: Thank you, Judge.  
 23 Q What's depicted here Mr. Kuhn?  
 24 A These are the boats, the DV15s laying next to the pier.  
 25 What we did was we sent a floating pier and then we attached

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1 to this floating pier the DV15. So floating piers appears  
 2 which rises and sinks with the tides of the water.  
 3 Q In total, how many DV15s were delivered?  
 4 A We delivered 36 in total.  
 5 Q Did Prinvest do any training on those boats?  
 6 A Yes, we did.  
 7 Q Can you describe briefly what the training entailed?  
 8 A We tried to train the trainers. We expected to get some  
 9 personnel with some experience in sailing. What we figured  
 10 out was they were not trained before. Then we extended our  
 11 training a couple of times but what we did was we trained them  
 12 in piloting the boats and maintaining the boats properly.  
 13 MR. JACKSON: I would like to offer a document  
 14 marked as DX-9055?  
 15 THE COURT: Any objection?  
 16 MR. BINI: No objection.  
 17 THE COURT: Admitted.  
 18 You may publish.  
 19 (Defendant's Exhibit DX-9055 was marked in evidence  
 20 as of this date.)  
 21 Q What is this, what's depicted here, Mr. Kuhn?  
 22 A That's one of the OPVs called HSI 32.  
 23 Q Now, what was the purpose of this OPV in terms of the  
 24 project?  
 25 A What we tried to do, what we did with these boats or what  
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1 we do with the boats is we extend the range of the radar  
 2 sites. There are radars on board of the boats. They can stay  
 3 about one week at sea. And when the coastal radar stations or  
 4 the range of the coastal radar stations stop, we send out  
 5 these boats to patrol along this range of the coastal  
 6 stations.  
 7 Q Why did there need to be these boats in addition to the  
 8 DV15s?  
 9 A The DV15s were meant to quickly intercept any action.  
 10 They are much smaller, they cannot stay very long at sea.  
 11 They are more than 50 knots fast. So the idea or the whole  
 12 concept was such that we used some boats for the surveillance  
 13 and others for the interception if anything goes wrong.  
 14 MR. JACKSON: I would like to offer DX -- three  
 15 exhibits, your Honor, and just quickly flip through them.  
 16 DX-9056, 9057, and 9058.  
 17 THE COURT: Any objection.  
 18 MR. BINI: If I could just see them quickly.  
 19 THE COURT: 56 is up. Any objection?  
 20 MR. BINI: No objection.  
 21 THE COURT: 57?  
 22 MR. BINI: No objection.  
 23 THE COURT: 58?  
 24 MR. BINI: No objection.  
 25 THE COURT: You may publish.  
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1 (Defendant's Exhibit DX-9056, 9057, and 9058 was  
 2 marked in evidence as of this date.)  
 3 MR. JACKSON: Thank you, your Honor.  
 4 Q And if we look at 56 and then 57?  
 5 A HSI 32.  
 6 Q And then 58. These are all the HSI32 boats?  
 7 A Yes.  
 8 MR. JACKSON: I would like to offer DX-9059?  
 9 THE COURT: Any objection?  
 10 MR. BINI: No objection.  
 11 THE COURT: Admitted.  
 12 (Defendant's Exhibit DX-9059 was marked in evidence  
 13 as of this date.)  
 14 Q What's depicted here, Mr. Kuhn?  
 15 A Just a moment.  
 16 MR. JACKSON: Your Honor, may we publish this?  
 17 THE COURT: Yes.  
 18 MR. JACKSON: Thanks.  
 19 A Yes, that's one of the -- that's the cockpit of the  
 20 HSI39, the bridge. And in the background, you see the pier in  
 21 Pemba.  
 22 MR. JACKSON: I would like to offer DX-9063?  
 23 THE COURT: Any objection?  
 24 MR. BINI: No objection.  
 25 THE COURT: Admitted.  
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1 (Defendant's Exhibit DX-9063 was marked in evidence  
 2 as of this date.)  
 3 THE COURT: Publish.  
 4 Q What is depicted here, Mr. Kuhn?  
 5 A That is the kitchen on board the HSI 32.  
 6 Q Why does this boat have a kitchen?  
 7 A The boat can stay up to one week at sea and you have to  
 8 feed the sailors on board.  
 9 MR. JACKSON: I would like to offer DX-9064?  
 10 THE COURT: Any objection?  
 11 MR. BINI: No objection.  
 12 THE COURT: Admitted.  
 13 (Defendant's Exhibit DX-9064 was marked in evidence  
 14 as of this date.)  
 15 THE COURT: You may publish.  
 16 Q What's depicted here, Mr. Kuhn.  
 17 A That's the engine room of the HSI 32. It's one of the  
 18 main engines. It had two engines on board.  
 19 MR. JACKSON: And, at this time, your Honor, I would  
 20 like to offer DX-9068?  
 21 THE COURT: Show it to the Court and counsel.  
 22 MR. BINI: No objection.  
 23 THE COURT: Admitted.  
 24 You may publish.  
 25 (Defendant's Exhibit DX-9068 was marked in evidence  
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1 as of this date.)  
 2 Q What is depicted here Mr. Kuhn?  
 3 A In 2014, we did a demonstration of our deliveries for the  
 4 public in Mozambique. And the Mozambican authorities, they  
 5 erected a tribute. And what you see there is the president of  
 6 Mozambique and some of the chief of staff and the army chief.

7 THE COURT: Do you know the names of the people in  
 8 the pictures?

9 THE WITNESS: I only know Mr. Guebuza as the  
 10 president.

11 THE COURT: Touch the screen. Which one is he?

12 THE WITNESS: (Indicating) Right here.

13 THE COURT: That's the president?

14 THE WITNESS: Yes.

15 THE COURT: Okay. Go ahead.

16 MR. JACKSON: Thank you, Judge.

17 Q And what was happening on this day, Mr. Kuhn?

18 A What we did was we erected a showroom in front of the  
 19 naval headquarters. We put two boats on a static display, an  
 20 his, sorry, DV15 and WP18. And we made also a dynamic  
 21 display. Together with the navy, we arranged kind of a show  
 22 for the public. We demonstrated how the ships would operate,  
 23 how they would engage pirate activities or illegal fishing.

24 Q Did the public come out to this?

25 A Yes.

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1 of more than 70 knots, which is about 130 kilometers per hour  
 2 which is very fast for a boat.

3 Q Why was that necessary in the context of this project?

4 A In Mozambique, some international oil companies, oil and  
 5 gas companies, invested, wanted to invest lots of money for  
 6 offshore installations. And you cannot have all -- you cannot  
 7 have always boats around circling around these installations.  
 8 So the idea was if we detect something, we send out very fast  
 9 boats which will always be faster than pirates and then we  
 10 catch them.

11 Q How many of these WP18s were delivered?

12 A Three were delivered.

13 Q Was it your understanding from conversations during the  
 14 course of this project that piracy was a major problem at this  
 15 time?

16 A It was a major problem. In 2008, NATO and the European  
 17 Union started a mission called Atlanta which involved European  
 18 navies who sent frigates into the area for protecting the  
 19 civil sailing traffic.

20 MR. JACKSON: Your Honor, I would like to offer a  
 21 video which is marked as DX-9181.

22 THE COURT: How long is the video?

23 MR. JACKSON: It's short. We'll be able to  
 24 complete --

25 THE COURT: How long is the video? Don't tell me

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1 Q Okay. Where was the public while this was happening?

2 A It was along the coastline of Maputo. The whole event  
 3 was in front of the naval headquarters which is next to the  
 4 coastline of Maputo.

5 Q But was there any coverage of this on the news in  
 6 Mozambique?

7 A Yes. The whole event was broadcasted on TV in a very  
 8 long report. About one hour, I think.

9 MR. JACKSON: Your Honor, I would like to offer  
 10 DX-9067.

11 THE COURT: Any objection to DX9067.

12 MR. BINI: No objection.

13 THE COURT: Admitted.

14 You may publish.

15 (Defendant's Exhibit DX-9067 was marked in evidence  
 16 as of this date.)

17 MR. JACKSON: Thank you, Judge.

18 Q What is depicted here, Mr. Kuhn?

19 A Yes. That's one of these exercises we demonstrated. You  
 20 see two WP18s crossing each other. And what we did there was  
 21 we demonstrated the maneuverability and the speeds of the  
 22 boats.

23 Q What was the point, what was the purpose of the WP18  
 24 craft in the Proindicus project?

25 A These were very, very fast interceptors. We get speeds

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1 how much.

2 MR. JACKSON: It's about a minute and a half long if  
 3 that.

4 THE COURT: All right. Any objection?

5 MR. BINI: Your Honor, I've never seen it.

6 THE COURT: We're going to adjourn for the day,  
 7 ladies and gentlemen. We may or may not have a video tomorrow  
 8 morning. The Government will have an opportunity to see to  
 9 see it. If they have any objection, I'll make rulings with  
 10 respect to the video after we see it out your presence.

11 Do not talk about the case.

12 Sir, do not talk about your testimony with anyone  
 13 when you step off the witness stand, you will be our first  
 14 witness tomorrow morning at 9:30.

15 Have a good evening, ladies and gentlemen, and we're  
 16 adjourned for the day.

17 (Jury exits courtroom at 4:55 p.m.)

18 THE COURT: You may step down, sir, thank you.

19 (Witness leaves the witness stand.)

20 THE COURT: You may sit down, ladies and gentlemen  
 21 in the public.

22 All right. Why don't we since we're on the record  
 23 and you can step back, sir. Hang on, I'm talking.

24 Since we have everyone here, why don't we have the  
 25 video shown right now so the Government can see if they have

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1 any objection to it and then we'll address the other issues  
2 that we talked about before.  
3 So why don't you just show the video. We've got it  
4 operative and the Government can tell us since their seen it  
5 before.

6 MR. JACKSON: Your Honor, I'm sorry to interrupt  
7 before. I just wanted to ask if the Court could Mr. Kuhn of  
8 its regular instructions before he leaves.

9 THE COURT: I already did.

10 MR. JACKSON: Okay.

11 THE COURT: Don't talk to anybody about your  
12 testimony.

13 Okay. Roll the videotape. Any audio with this or  
14 just video?

15 MR. JACKSON: Just video.

16 (Video file played in open court.)

17 (Video file concludes)

18 MR. JACKSON: I believe that completes the video.

19 THE COURT: What is the name of the exhibit.

20 MR. JACKSON: 9181, your Honor.

21 THE COURT: Any objection to 9181 coming into  
22 evidence?

23 MR. BINI: No objection, your Honor.

24 THE COURT: All right. Fine. So tomorrow morning  
25 we'll start off with that for the jury.

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1 reasonably foreseeable wire. The Government has failed to  
2 prove that the use of U.S. wires was a core component of any  
3 scheme to defraud.

4 The Government has failed to prove that the alleged  
5 conspirators entered into the alleged conspiracy while on  
6 U.S. soil and has failed to prove venue because they failed to  
7 show an overt act to defraud investors that took place in the  
8 Eastern District of New York.

9 The Government has also failed to prove each of the  
10 elements of conspiracy to commit securities fraud beyond a  
11 reasonable doubt. The following are some of the ways that the  
12 Government has failed.

13 THE COURT: Vader. He see the court reporter  
14 shaking her head.

15 MR. SCHACHTER: The following are some of the ways  
16 the Government has failed to sustain its burden.

17 The Government has failed to prove that any  
18 misrepresentation was made in connection with a purchase of  
19 the loan participation notes and exchange of those notes in  
20 the Eurobond exchange. The Government has failed to prove in  
21 an any misrepresentation was material to investors.

22 The Government has failed to prove that Mr. Boustani  
23 conspired to make misrepresentations to investors in  
24 connection with a domestic securities transaction.

25 The Government has failed to prove that Mr. Boustani  
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1 (Defendant's Exhibit DX-9181 was marked in evidence  
2 as of this date.)

3 THE COURT: Okay. Now, you wanted to continue the  
4 arguments with respect to the motion to dismiss at the end of  
5 the Government's case.

6 MR. SCHACHTER: Yes, Your Honor. Thank you.

7 So, your Honor, the Government has failed to prove  
8 each of the elements of conspiracy to commit.

9 THE COURT: I'm going to ask you to Vader. It's  
10 5:00 o'clock and I know you're reading and that's fine but  
11 slow it down just for the sake of the court reporter.

12 MR. SCHACHTER: Yes, Your Honor.

13 The Government has failed to prove each of the  
14 elements of conspiracy to commit wire fraud beyond a  
15 reasonable doubt. The following are some of the ways that the  
16 Government has failed to sustain its burden.

17 The Government has failed to prove that Mr. Boustani  
18 sought to obtain any money or property from investors. The  
19 Government has failed to prove that Mr. Boustani conspired to  
20 cause material misrepresentation or half-truth to be made to  
21 investors and has failed to establish any duty to disclose by  
22 Mr. Boustani. The Government has failed to prove materiality  
23 of any alleged false statements. The Government has failed to  
24 prove the requisite mens rea for that offense.

25 In addition, the Government has failed to prove any  
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1 agreed to use any means or instrumentalities of transportation  
2 for communication in interstate commerce in furtherance of a  
3 scheme to defraud investors.

4 The Government has failed to prove that Mr. Boustani  
5 joined a conspiracy to defraud investors knowingly, willfully,  
6 and with intent to deceive investors, for the purpose of  
7 inducing them to buy LPNs and to vote in favor of the Eurobond  
8 exchange.

9 The Government has failed to prove that Mr. Boustani  
10 or any of his co-conspirators committed an covert act in  
11 furtherance of a conspiracy to defraud investors in connection  
12 with the issuance of the LPNs or the Eurobond exchange.

13 The Government has presented no proof that he  
14 engaged in domestic conduct that is violative of a substantive  
15 provision of a securities fraud conspiracy statute.

16 The Government has failed to prove each of the  
17 elements of conspiracy to commit money laundering beyond a  
18 reasonable doubt.

19 (Continued on the next page.)

20  
21  
22  
23  
24  
25  
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1 MR. SCHACHTER: The Government has failed to prove  
2 each of the elements of conspiracy to commit money laundering  
3 beyond a reasonable doubt.

4 The following are some of the ways that the  
5 Government has failed to sustain its burden.

6 The Government has failed to prove that Mr. Boustani  
7 conspired to transport, transfer, or transmit money or a  
8 monetary instrument from a place in the United States to or  
9 through a place outside the United States or to a place in the  
10 United States from or through a place outside the United  
11 States.

12 The Government has failed to prove that Mr. Boustani  
13 conspired to commit money laundering to promote or conceal the  
14 proceeds of a wire fraud conspiracy, a securities fraud  
15 conspiracy, a violation of Mozambican antibribery law, or a  
16 violation of the anti-circumvention or antibribery provisions  
17 of the FCPA.

18 The Government has failed to prove that Mr. Boustani  
19 initiated a transfer of funds from the United States or that  
20 Mr. Boustani concluded a transfer of funds in the United  
21 States or that he otherwise participated in initiating or  
22 concluding a transfer of funds in the United States.

23 The Government has failed to prove that  
24 Mr. Boustani's aim in connection with any money laundering  
25 conspiracy was to cause harm inside the United States or to

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1 intent to defraud, the Court could send this to the jury based  
2 solely on the testimony of Andrew Pearse and surgeon Singh,  
3 and to that the Government would point the Court to the trial  
4 transcript at 261 through 275 and 2753 through 2757.

5 Both men testified the defendant paid them millions  
6 of dollars in kickbacks and unlawful payments to defraud  
7 international investors including investors in the United  
8 States and that their kickbacks were not disclosed to those  
9 investors.

10 They testified they were paid to get the largest  
11 loans possible for the defendant and to get them approved and  
12 sold to international investors.

13 Andrew Pearse also testified the defendant told him  
14 that at least 50 million was paid to the son of the president  
15 of Mozambique in connection with the deals, and that's several  
16 times in the transcript at 275, lines 5 to 12.

17 The conspirators lied to the banks involved --  
18 Credit Suisse and VTB -- and lied to and defrauded third-party  
19 investors, including United States victims, ICE Canyon, Morgan  
20 Stanley, AllianceBernstein, NWI, and the people of Mozambique  
21 who are guarantors on approximately 2 billion in loans.

22 THE COURT: \$2 billion in loans.

23 MR. BINI: Yes, Your Honor, \$2 billion in loans.

24 THE COURT: Go ahead.

25 MR. BINI: The defendant admitted in his opening

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1 U.S. citizens or interests.

2 Finally, the Government has failed to prove venue in  
3 the Eastern District of New York by a preponderance of the  
4 evidence. The following are some of the ways that the  
5 Government has failed to sustain its burden.

6 The Government has failed to show any overt act in  
7 furtherance of either the wire fraud or securities fraud  
8 conspiracy that occurred within the Eastern District of  
9 New York or that they have failed to meet their burden of  
10 proving venue under 1956.

11 Your Honor, those are additional -- some of the  
12 additional grounds of our motion.

13 THE COURT: Anything else?

14 MR. SCHACHTER: No, Your Honor.

15 THE COURT: From the Government? Your response.

16 MR. BINI: Your Honor, with respect to the first  
17 count, the Government has put in a great deal of evidence the  
18 defendant was part of a conspiracy to commit wire fraud,  
19 including that there was a scheme to defraud investors and  
20 potential investors in the Proindicus, EMATUM, and MAM loans  
21 and the EMATUM exchanged bond; that the defendant participated  
22 with the intent to defraud and the defendant and his  
23 co-conspirators used United States wires in furtherance of the  
24 scheme.

25 As to the agreement, the scheme to defraud and the

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1 statement that he paid millions of dollars in payments to  
2 Mozambican officials. I believe the defendant said he was --  
3 that he -- if that was what this case was about, it would be a  
4 short trial. The Government has proved that and much more.  
5 Government has --

6 THE COURT: He didn't say it; his lawyers said it.

7 MR. BINI: His lawyers said it. I apologize.

8 THE COURT: That's okay.

9 MR. BINI: The Government has put in bank records  
10 corroborating that -- corroborating payments to both Pearse  
11 and Surjan Singh of approximately \$50 million.

12 The Government has also put in an April 18, 2014,  
13 email from the defendant where he outlines \$125 million in  
14 payments to Mozambicans, including multiple high-level  
15 officials -- and that's Government's Exhibit 2758 -- a  
16 spreadsheet from the CFO and --

17 THE COURT: Vader. Vader.

18 MR. BINI: Sorry.

19 THE COURT: A spreadsheet from?

20 MR. BINI: The CFO of Privinvest, Najib Allam, which  
21 meticulously details bribes and kickbacks for each deal,  
22 including Proindicus, EMATUM, and MAM.

23 In total, the Government has presented evidence that  
24 more than 200 million was diverted from the --

25 THE COURT: 200 million --

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1 MR. BINI: -- dollars was diverted from the  
2 Proindicus, EMATUM, and MAM loans to pay bribes and kickbacks.

3 The Government has also put in, besides a great deal  
4 of tracing evidence in 1201 through 1201A through H and  
5 Government's Exhibits 1519 through 1531, the Government has  
6 put in a great deal of evidence that Privinvest paid the key  
7 signatories to all of the loan agreements: Surjan Singh;  
8 Andrew Pearse; Manuel Chang, as the Minister of Finance in  
9 Mozambique; Antonio do Rosario; and Eugenio Matlaba, who  
10 signed on behalf of Proindicus, EMATUM, and MAM to the loan  
11 agreements at issue.

12 The Government has put in a great deal of evidence  
13 of extensive use of United States wires as part of the scheme  
14 including but not limited to, first, email, Bloomberg, and  
15 other means of communication the defendant -- the defendant's  
16 co-conspirators emailed and sent that contained false  
17 statements, including the false loan agreements notes that  
18 lied about the use of proceeds in the payments of bribes and  
19 kickbacks; false offering circulars and a false contract  
20 signed by the defendant claiming that Privinvest would not pay  
21 Mozambican officials. One copy of that is Government's  
22 Exhibit 551B. Another copy of it is Government's Exhibit 2,  
23 which Mr. Kuhn was testifying about earlier.

24 Second, the Government has shown the movement of  
25 \$2 billion in loan funds through New York City bank accounts

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1 the United States virtually all through New York City bank  
2 accounts mean that the funds to travel to the island of  
3 Manhattan traveled through the territorial waters surrounding  
4 the island of Manhattan which belonged to both the Eastern  
5 District of New York and the Southern District of New York.  
6 Fourth, the 200 million in bribes and kickbacks,  
7 which, again, traveled through the EDNY.

8 Your Honor, as to securities fraud conspiracy, the  
9 Government believes the evidence I've outlined would apply to  
10 that count as well. I would note that we've had multiple  
11 investors who testified that these fraudulent statements were  
12 material to them.

13 The Government has also put in a great deal of  
14 evidence of domestic securities transaction including the  
15 commitment from the United States by approximately 60 million  
16 from NWI, approximately 70 million from AllianceBernstein,  
17 approximately 6 million from Morgan Stanley, and 11 million  
18 from ICE Canyon. In connection with the exchange, the  
19 Government put in evidence from Andrew Burton that  
20 approximately \$133 million was held in U.S. hands following  
21 the exchange.

22 With respect to money laundering conspiracy, Your  
23 Honor, the Government believes that the wire fraud and money  
24 laundering -- excuse me, the wire fraud and securities fraud  
25 SUAs are well proven; that the financial transactions that

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1 with respect to the funds from VTB for the Proindicus upsize,  
2 the \$350 million in the EMATUM deal and for MAM. All of it  
3 came from VTB's Deutschce Bank account in New York City.

4 Third, the movement of approximately 200 million --  
5 200 million in bribes and kickbacks through United States bank  
6 accounts.

7 Fourth, the investment of fraud funds in the United  
8 States, including in a company in Colorado that Andrew Pearse  
9 invested fraud funds in.

10 Fifth, email sent by the co-conspirator, Andrew  
11 Pearse, from New York City in furtherance of the scheme.

12 As to venue -- and these overt acts, I think, would  
13 apply for all three conspiracies -- overt acts including  
14 travel by Andrew Pearse to New York City via -- or out of JFK  
15 Airport in 2014, and in October 2014 a meeting with Surjan  
16 Singh where they discussed one of the Proindicus upsizes, a  
17 uncharged overt act in furtherance of the conspiracy, and  
18 that's at Government's Exhibit 3159, travel records related to  
19 that.

20 Travel by Mozambican co-conspirators, including  
21 Antonio do Rosario to John F. Kennedy airport in connection  
22 with the EMATUM exchange in 2016, and that's noted in a  
23 stipulation, Government's Exhibit 1901 received this morning.

24 Those are the first two bases.

25 Third, 2 billion in loan funds that traveled through

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1 I've described are the basis for both concealment and  
2 promotional money laundering.

3 I would just note with respect to concealment money  
4 laundering that the -- some of the evidence that Trial  
5 Attorney Moeser went through today with Special Agent Haque  
6 goes specifically to concealment money laundering. Examples  
7 all of the various fake companies used by Mozambican  
8 co-conspirators to receive funds, and all of these financial  
9 transactions were designed to promote the scheme, meaning the  
10 promotional element. They all traveled through the United  
11 States.

12 As to violation of Mozambican antibribery, the  
13 Government has presented detailed evidence of many millions of  
14 dollars to Mozambican officials -- meaning that.

15 As to circumvention, Your Honor, the Government has  
16 shown that the part of the conspiracy was designed to overcome  
17 the controls of Credit Suisse in order to get these loans  
18 approved.

19 And as to SCPA antibribery, as I briefly detailed  
20 yesterday, Your Honor, the SCPA antibribery SUA has also been  
21 proven, Your Honor, and should go to the jury as a specified  
22 unlawful activity as to money laundering because the  
23 Government has put in a great deal of evidence of payments to  
24 public officials in Mozambique and that the bankers knew or  
25 should have known of those. And, in addition, alternatively,

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1 that the defendant was acting as an agent for Credit Suisse in  
2 negotiating the key loans that are at issue here, and,  
3 therefore, his actions would also form the basis of an FCPA  
4 charge as to the Credit Suisse loans, Proindicus, and EMATUM.

5 THE COURT: Any response from defense counsel?

6 MR. SCHACHTER: No, Your Honor.

7 THE COURT: Federal Rule of Criminal Procedure 29  
8 provides where there is a motion for judgment of acquittal,  
9 (A) before submission to the jury, after the Government closes  
10 its evidence or after the close of all the evidence, the Court  
11 on the defendant's motion must enter a judgment of acquittal  
12 of any offense for which the evidence is insufficient to  
13 sustain a conviction.

14 The Court may, on its own, consider whether the  
15 evidence is insufficient to sustain a conviction. If the  
16 Court denies a motion for a judgment of acquittal at the close  
17 of the Government's evidence, the defendant may offer evidence  
18 without having reserved the right to do so. In this case, the  
19 Government has established clearly and overwhelmingly the  
20 basis for this case going to the jury.

21 For all the reasons the Government has stated, the  
22 motion of the defendant is denied in all respects.

23 Anything else?

24 MR. BINI: Not for the Government.

25 THE COURT: For the defense?

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1 MR. SCHACHTER: Not for the defense.

2 Thank you, Your Honor.

3 THE COURT: Thank you. Have a good evening,  
4 everyone. See you tomorrow at 9:30 a.m.

5 MS. MOESER: Thank you.

6 MR. JACKSON: Thank you.

7 MS. MOESER: Thank you, Your Honor.

8 MR. BINI: Thank you, Your Honor.

9 (Matter adjourned to November 14, 2019, 9:30 a.m.)

10 oooOooo

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