

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 14, 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 :

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 13 United States Attorney
 14 Eastern District of New York
 15 271 Cadman Plaza East
 16 Brooklyn, New York 11201
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 21 CRIMINAL DIVISION
 22 1400 New York Avenue
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 24 BY: MARGARET MOESER, ESQ.
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 Court Reporter: DENISE PARISI, RPR, CRR
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 Proceedings recorded by computerized stenography. Transcript
 produced by Computer-aided Transcription.

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Official Court Reporter

1 MR. DISANTO: Good morning, Your Honor.
 2 Phil Disanto on behalf of Mr. Boustani.
 3 THE COURT: Good morning. Please be seated.
 4 MR. MCLEOD: Good morning, Your Honor.
 5 Ray McLeod on behalf of Mr. Boustani.
 6 THE COURT: Good morning. Please be seated.
 7 All right. Do we have any preliminary issues to
 8 address before we bring in the jury in the presence of the
 9 defendant?
 10 From the Government?
 11 MR. BINI: Briefly, Your Honor.
 12 Defense counsel provided a 71-page report for their
 13 expert, Dr. Hinman -- I believe that was on Tuesday -- and
 14 last night we received a 41-page either demonstrative exhibit
 15 or report from Dr. Okongwu, another testifying expert, and
 16 we're told that Admiral Bryant will also be submitting either
 17 some sort of PowerPoint or report and --
 18 THE COURT: Have you had a chance to review the
 19 PowerPoint?
 20 MR. BINI: We have not.
 21 THE COURT: Why haven't you provided the PowerPoint
 22 to the Government to see if they have any objections?
 23 MR. JACKSON: Your Honor, we are providing it to
 24 them today.
 25 THE COURT: I said why have you not prior to this

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1 (In open court; jury not present.)
 2 (Defendant enters the courtroom.)
 3 THE COURTROOM DEPUTY: All rise. The Honorable
 4 William F. Kuntz, II is now presiding.
 5 Criminal cause for trial, Docket No. 18-CR-681, USA
 6 versus Boustani.
 7 Counsel, please state your appearances for the
 8 record.
 9 MR. BINI: Mark Bini, Hiral Mehta, Margaret Moeser,
 10 Katherine Nielsen, and Special Agent Angela Tissone will be
 11 right in, along with Lillian DiNardo.
 12 Good morning, Your Honor.
 13 THE COURT: Good morning, sir. You may be seated.
 14 Ladies and gentlemen of the public, you may be
 15 seated as well.
 16 Good morning.
 17 MR. JACKSON: Good morning, Your Honor.
 18 Randall Jackson on behalf of Mr. Boustani.
 19 THE COURT: Good morning. You may be seated.
 20 MR. SCHACHTER: Good morning, Your Honor.
 21 Michael Schachter on behalf of Mr. Boustani.
 22 THE COURT: Good morning, sir. You may be seated.
 23 Good morning, Mr. Boustani.
 24 THE DEFENDANT: Good morning.
 25 THE COURT: Welcome back. You may be seated.

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1 moment provided it to them pursuant to the rules that I've
 2 directed parties to proceed on in presenting their case?
 3 MR. JACKSON: Your Honor, it's a demonstrative. We
 4 have not -- we just are in the process of completing it now,
 5 so as -- I advised Mr. Bini we just completed it. We are
 6 sending it to them immediately upon completion.
 7 THE COURT: All right. Well, it's not coming in,
 8 even as a demonstrative, until I hear from the other side as
 9 to whether or not they have any objections to it or not; and I
 10 don't understand why five weeks into this trial demonstratives
 11 from experts are popping up at the last minute when you've got
 12 distinguished and experienced Wall Street counsel representing
 13 the defendant. There's no reason for this to be happening;
 14 this shouldn't be a surprise.
 15 What else do we have that's popped out at the last
 16 minute, Mr. Bini?
 17 MR. BINI: That's it for the Government. We just
 18 have the concerns that Your Honor raised.
 19 THE COURT: All right. Look, give it to the other
 20 side -- Mr. Jackson and Mr. Schachter -- have them review it,
 21 and if they don't have a problem with it, they'll let me know;
 22 and if they do have a problem with it, we will argue about
 23 that outside of the presence of the jury and I will rule.
 24 But honestly, I don't understand why this should be
 25 happening in any case, let alone a case of this magnitude in

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1 the midst of the defense case. Experts are paid to write
2 reports, to review testimony. If they have demonstratives,
3 they need -- and you know this; I'm preaching to the choir --
4 they don't just wake up at 4:00 a.m. one day cobbling together
5 a demonstrative of 71 pages and give it to the lawyers; it's
6 just not the way it's done. And unfortunately for you guys, I
7 practiced law on Wall Street for 33 years, so I know it's not
8 the way it's done, and I know you know it's not the way it's
9 done.

10 So it's just not appropriate and I'm not going to
11 say anymore about that. Get it to them. I will hear from the
12 Government presumably sometime after the luncheon break with
13 respect to the demonstratives and the reports.

14 Is there anything other than the demonstratives that
15 you've identified and the reports that you intend to introduce
16 on the defense case?

17 MR. JACKSON: No, Your Honor. We provided
18 everything else that we intend to introduce, Your Honor.

19 THE COURT: All right.

20 So, Mr. Bini, you and your team should review this
21 and let the Court know in the course of the day, or if you
22 have to review it overnight, tomorrow morning, as to whether
23 or not you have any objections, and if you do, I will rule on
24 them.

25 I think it would be appropriate to share the

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1 THE COURT: All right.

2 Anything else before the jury comes in?

3 MR. BINI: Not from the Government.

4 THE COURT: From defense?

5 MR. JACKSON: Very briefly, Judge.

6 I've conferred with Mr. Bini, and for the remaining
7 exhibits for Mr. Kuhn, at the start I'm just going to go
8 through a list. We've agreed that the remaining exhibits are
9 admissible, so I will just go through the list so we can move
10 more quickly through it.

11 THE COURT: I appreciate that.

12 I take it you are going to start with the film?

13 MR. JACKSON: Yes, Your Honor.

14 THE COURT: Okay.

15 Anything else?

16 MR. JACKSON: No, Your Honor.

17 THE COURT: All right.

18 Mr. Jackson, would you let the CSO know and bring in
19 the jury?

20 MR. JACKSON: Your Honor, may I place Mr. Kuhn back
21 on the witness stand?

22 THE COURT: Yes. Absolutely.

23 (Witness reassumes the stand.)

24 THE COURT: We are bringing in the jury, so you can
25 just stand in the box until they come in.

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1 demonstratives, especially the PowerPoints, with the Court so
2 that my intrepid law clerks, who actually know how to work
3 PowerPoint, can help the Court review it so that when you come
4 in to argue about it, if you do argue about it, I will have
5 been advantaged to have seen it as well, because otherwise you
6 will have created PowerPoints, the Government may object, and
7 then you'll say, okay, Judge, rule, and I'll go, what's a
8 PowerPoint, and I will turn to my law clerks and they will
9 have to turn it on and then we'll have to waste two hours
10 while I review it.

11 So why don't you just take advantage of the fact
12 that I have no life and that I'm up 24/7 on this case and get
13 it to me so I can review it like a bat between 2:00 a.m. and
14 4:00 a.m.

15 MR. JACKSON: That's excellent, Your Honor. We will
16 provide the Court -- if it's acceptable, we will send to your
17 law clerks PDFs of each of the PowerPoints. If we send the
18 PowerPoints themselves --

19 THE COURT: No, no. I don't know what PowerPoints
20 are; I don't know what PDFs are; I don't know what thumb
21 drives are; I barely know what a computer is, but my law
22 clerks are cutting edge; state of the art; great legal minds;
23 and very, very tech savvy, so send it and they will get it to
24 a point where even I can review it. Okay?

25 MR. JACKSON: Thank you, Judge.

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1 (Pause.)

2 (Jury enters.)

3 THE COURT: Good morning, ladies and gentlemen of
4 the jury.

5 Again, thank you for your promptness. Welcome back.
6 Please be seated.

7 While you were out -- you can be seated ladies and
8 gentlemen as well. While you were out, we made some good
9 progress with respect to documents that are going to be
10 offered, including the film clip that was mentioned when we
11 adjourned yesterday -- please be seated, sir, thank you -- and
12 hopefully you will see the benefits of the time that you were
13 not in the jury box while I was conferring with counsel and we
14 were doing, as I said my Texas partners used to say, a little
15 business.

16 P E T E R K U H N,

17 called as a witness, having been previously duly
18 sworn/affirmed, was examined and testified as
19 follows:

20 DIRECT EXAMINATION

21 BY MR. JACKSON:

22 THE COURT: All right. So, sir, I'm going to begin
23 by asking you, have you spoken with anyone about your
24 testimony since leaving the witness stand?

25 THE WITNESS: No, I didn't.

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1 THE COURT: Thank you, sir.
 2 All right. You have some motions to make with
 3 respect to exhibits, including the video.
 4 MR. JACKSON: Yes, Your Honor. Thank you.
 5 Your Honor, at this time, I would like to offer the
 6 following exhibits: DX7026, DX7027, DX7027A, DX7097, DX7099,
 7 DX7111, and 7111A. DX9007, DX9118, DX9009, DX9012, DX9028,
 8 DX9036, DX9041, DX9046, DX9050, DX9053, DX9060, DX9062,
 9 DX9066, DX9069, DX9070, DX9074, DX9076, DX9077, DX9078,
 10 DX9079, DX9168, DX9169, DX9170, DX9214, and finally, Your
 11 Honor, DX9215.

12 THE COURT: All right.
 13 I'm going to ask the court reporter to keep your
 14 voice up to read back those exhibit numbers and begin with the
 15 statement on line 24 from Mr. Jackson, "Yes, Your Honor.
 16 Thank you. Your Honor, at this time I would like to offer the
 17 following exhibits." And why don't you read out what you've
 18 got down so that the prosecutors can again hear it and we can
 19 see if they have any objections to any of these documents and
 20 we don't quibble later about what documents were listed and
 21 what is in the record.

22 So Madam Reporter, keep your voice up, please.
 23 You're on. Beginning on line 24 of the realtime.

24 (Record read.)

25 THE COURT: All right. Any objection to any of

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1 MR. JACKSON: Yes, Your Honor.
 2 THE COURT: Okay. Roll tape.
 3 MR. JACKSON: Thank you.
 4 Please, Mr. McLeod.
 5 Your Honor, may we dim the lights?
 6 THE COURT: Yes. Mr. Jackson, would you?
 7 And the number again on this exhibit, sir?
 8 MR. JACKSON: Your Honor, this is DX9181.
 9 THE COURT: Thank you.
 10 And there is no audio on this tape, ladies and
 11 gentlemen; it's just the visual. That's what counsel has
 12 informed me.

13 (The above-referred to exhibit was published.)

14 (Video played.)

15 (Video paused.)

16 MR. JACKSON: Thank you, Mr. McLeod.

17 BY MR. JACKSON:

18 Q Now, Mr. Kuhn, what were we just looking at there in
 19 9181?

20 A We mentioned yesterday that -- this static and dynamic
 21 display during the National Day of Mozambique in 2014, and
 22 this is the footage out of this presentation.

23 Q Which of the boats was depicted?

24 A You saw in the background the fishing vessels or some of
 25 the fishing vessels. You saw the DV15 that was the most

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1 those exhibits, Mr. Bini?
 2 MR. BINI: Your Honor, I would note that when Madam
 3 Reporter read out the exhibit after 9007, I believe she said
 4 9118, while as I think Mr. Jackson was offering 9008.

5 MR. JACKSON: That's correct, Your Honor.

6 THE COURT: What is the correct number? What should
 7 be stricken and what should be inserted?

8 MR. JACKSON: Your Honor, I referenced DX9008 and I
 9 think it was misrecorded [sic] as 9118.

10 THE COURT: All right.

11 Madam Reporter, you have the correction now as
 12 stated.

13 So as stated, any objection to those exhibits?

14 MR. BINI: No, Your Honor.

15 THE COURT: All right. They are all admitted,
 16 ladies and gentlemen.

17 (Defense Exhibits DX7026, DX7027, DX7027A, DX7097,
 18 DX7099, DX7111 and -7111A, DX9007, DX9008, DX9009, DX9012,
 19 DX9028, DX9036, DX9041, DX9046, DX9050, DX9053, DX9060,
 20 DX9062, DX9066, DX9069, DX9070, DX9074, DX9076, DX9077,
 21 DX9078, DX9079, DX9168, DX9169, DX9170, DX9214, and DX9215
 22 received in evidence.)

23 THE COURT: So, Mr. Jackson, you may publish. Your
 24 colleagues may publish those exhibits that are in evidence.

25 And we begin with the videotape. Yes?

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1 prominent in the foreground, and they are both rubber -- it's
 2 rubber -- how you call it?

3 Q Are you saying raft?

4 A Inflated.

5 Q Raft? Like a rubber raft?

6 A Raft, yeah. Rubber raft.

7 Q And, Mr. Kuhn, could you just explain for the jury what
 8 the purpose was of the demonstration of what the DV15 was
 9 doing with relationship to the rubber raft?

10 A We made a kind of exercise and demonstrated how they
 11 would hunt pirate boats and this rubber boat was meant to be a
 12 pirate and we wanted to demonstrate our maneuverability of the
 13 DV15.

14 Q Who was piloting the DV15 in that demonstration?

15 A The boats were piloted by Mozambican people who were
 16 trained in Pemba, P-E-M-B-A. It's a city in Mozambique.

17 Q Pemba is one of the cities that you worked in in
 18 Mozambique?

19 A Correct.

20 Q Who did the training of the Mozambicans that were
 21 piloting the boats?

22 A It was done by us.

23 Q Now, just to unpack just briefly, the DV15 boats that
 24 we've looked at, you said there were 36 that were delivered in
 25 connection with Proindicus?

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1 A Correct.

2 Q How many people were involved at a shipyard in the

3 construction of a boat like the DV15?

4 A I mean, if the construction plans -- the engineering

5 plans have been done for the construction itself, I would say

6 30 to 40 people per boat.

7 Q And approximately how much time can it take to construct

8 the DV15-type boat?

9 A The only or the solely the construction itself, I would

10 say three months -- three months.

11 Q What kinds of things, in brief summary, go into that

12 construction?

13 A What you first do is you have the mold, and in the mold

14 you construct the hull of the boat. After that, you put in

15 all the stuff. You start with the engine normally, then you

16 do the electronics, the navigation system, and all the other

17 electric supplies.

18 Q Does that process have to be done in precision?

19 A Yes, correct.

20 Q Why do you say that?

21 A Because there's a lot of stress on the ships' hull

22 because they are very fast, so they have to be manufactured in

23 a certain very special process, otherwise they would break if

24 you operate them.

25 MR. JACKSON: Now, can we display, please,

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1 A My main contact was at the beginning, Mr. Matlaba,

2 M-A-T-L-A-B-A, and after about one year, he was replaced by

3 Mr. Gopo, G-O-P-O.

4 Q What was your working relationship like with Mr. Matlaba?

5 A It was very good. I had a very, I would say, personal

6 relationship -- good personal relationship with him. He was a

7 very nice man, interested in music, so he brought me once to a

8 concert in Maputo and he was very open-minded. I think it was

9 a good relationship, yeah.

10 Q How was the music?

11 A Oh, it was very good. It was African jazz. I like that.

12 Q And in terms of his level of -- Mr. Matlaba's level of

13 attention to the projects, how did you observe that?

14 A I think he was very much interested in the project. He

15 came, I think, from the Army, he was a colonel, so he was

16 introduced to me as the colonel, and, yeah, he was very

17 dedicated to bringing this system up and, yeah, to make money

18 out of the system.

19 Q And then after Mr. Matlaba, was your relationship -- did

20 you interact with Mr. Gopo?

21 A It was also very good, but it was a little bit, I would

22 say, cooler. It was not so -- so intense with Mr. Gopo.

23 Yeah, that's it.

24 Q Now, did you ever work with your counterparts in

25 Mozambique to try to develop marketing projects for --

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1 Mr. McLeod, 9069?

2 Q What's depicted here, Mr. Kuhn?

3 A During this present -- presentation, we have all the

4 Mozambican Navy in a parade and these are some of the soldiers

5 preparing for the parade.

6 Q Were there, like, musicians and such in the parade?

7 A Yes. You see some of the musicians to the left in the

8 picture.

9 MR. JACKSON: Mr. McLeod, can we display 9070?

10 (The above-referred to exhibit was published.)

11 Q What is depicted here, Mr. Kuhn?

12 A That's me in front of the showroom we erected for this

13 presentation.

14 Q What do you mean by "showroom"?

15 A I mentioned that we had a static display and the dynamic

16 display; and for the static display, we erected a room, a

17 little hut, and inside that we had models of the ships, we had

18 models of the system we are going to erect, and we presented a

19 video in there.

20 Q Was the public able to come look at the static display

21 you were hosting there?

22 A Yes. It was right in front of the naval headquarters and

23 was open to the public.

24 Q Now, Mr. Kuhn, who was your main contact during the

25 development of the Proindicus project with the Mozambicans?

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1 A Yes, I did.

2 Q -- Proindicus?

3 A Yes, I did.

4 Q What do you mean by that?

5 A The whole system was meant to provide security services

6 for foreign -- foreign companies who wanted to invest in

7 Mozambique, and I prepared some presentations for them, gave

8 some hints how to do that. We even hired a guy from France to

9 assist these marketing efforts and we brought them in contact

10 with other companies doing security services, and, yeah, we

11 supported them in getting into this market.

12 Q Why did you do that?

13 A We want to make the whole thing a success. We thought

14 the whole project could be the initiation of a new field of

15 business for us, so we supported it very much.

16 MR. JACKSON: At this time, I would like to display

17 DX7026.

18 THE COURT: In evidence. You may display it.

19 MR. JACKSON: Thank you, Your Honor.

20 (The above-referred to exhibit was published.)

21 BY MR. JACKSON:

22 Q Mr. Kuhn, what are we looking at here?

23 A It is a fax from Mr. Jean Boustani to Eugenio Matlaba.

24 Q And the text -- are you one of the people who is cc'd on

25 this?

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- 1 A Yes. That's me.
- 2 Q And this is November 13th, 2013?
- 3 A Yes.
- 4 Q I think you said it's a fax. By that, do you mean an
- 5 email?
- 6 A Yeah.
- 7 Q So it says, "Brother Eugenio, please send us asap the
- 8 outlines of the project with ENI."
- 9 What was your understanding of what Mr. Boustani was
- 10 referring to there?
- 11 A ENI was one of the companies who intended to invest
- 12 heavily in the north of Mozambique. They wanted to install
- 13 offshore installations to drill for gas and to supply gas; and
- 14 ENI was spending money for security services, and we wanted to
- 15 make a project out of that and try to assist them.
- 16 Q When you say "try to assist them," who do you mean by
- 17 "them"?
- 18 A "Them," I mean Proindicus.
- 19 Q And why was it important to -- for you and Privinvest to
- 20 try to assist Proindicus with this kind of marketing?
- 21 A As I said, we wanted to make the project a success and it
- 22 should be a money generate -- generation for the company --
- 23 for Proindicus.
- 24 Q You see that Mr. Boustani made reference to the fact
- 25 that -- made reference to the idea of preparing a presentation

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- 1 that it wouldn't get stuck in email?
- 2 A Correct, yeah.
- 3 MR. JACKSON: May we display 7027A?
- 4 THE COURT: You may.
- 5 MR. JACKSON: Thank you, Judge.
- 6 (The above-referred to exhibit was published.)
- 7 BY MR. JACKSON:
- 8 Q What is this?
- 9 A That's the title page of the presentation I prepared, and
- 10 it's saying that Proindicus will service or will provide
- 11 protection security for foreign installations.
- 12 MR. JACKSON: Can we go to the second page of this,
- 13 please?
- 14 Q And here -- were these objectives that you had discussed
- 15 with the Mozambicans in relationship to the project?
- 16 A Yes, correct.
- 17 Q You see there it references transnational crime, piracy,
- 18 human trafficking, illegal fishing?
- 19 A Yeah.
- 20 Q And the map on the right, what is that a map of?
- 21 A That's a map of Mozambique. You see in the -- right in
- 22 the middle you see Mozambique mainly, and to the right you see
- 23 Madagascar and you see the Mozambican channel in the middle.
- 24 MR. JACKSON: Can we go to page 4 of this document?
- 25 Q Here you see where we are talking about the EEC there's a

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- 1 and said, "We need maps, please, with the scale measurements."
- 2 What was your understanding of what the reason was he needed
- 3 maps with the scale measurements?
- 4 A During this time, we haven't erected our radar
- 5 surveillance sites -- the radar stations.
- 6 MR. JACKSON: Radar surveillance sites, I believe.
- 7 A Yeah.
- 8 And when we knew where they ENI wanted to install
- 9 their -- yeah, their drilling machines, we wanted to position
- 10 the stations in the vicinity to that so we could survey the
- 11 installations, and with that we wanted to protect them, yeah.
- 12 MR. JACKSON: May we display DX727 in evidence?
- 13 THE COURT: Yes, you may.
- 14 MR. JACKSON: 7027.
- 15 (The above-referred to exhibit was published.)
- 16 BY MR. JACKSON:
- 17 Q Now, you see here, Mr. Kuhn, is this an email you sent to
- 18 Mr. Matlaba?
- 19 A Yes, correct.
- 20 Q And in brief summary, what were you sending in this
- 21 email?
- 22 A I prepared a presentation for Mr. Matlaba, and I
- 23 discussed that with showing to Safa, and when both agreed, I
- 24 send it out to Mr. Matlaba so he could use that.
- 25 Q Did you send it in PDF in a couple of different pieces so

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- 1 line in the water. What does that line represent?
- 2 A That's the border of the limits of the EEC.
- 3 Q Why is that the border?
- 4 A The EEC belongs with a legal point of view to Mozambique,
- 5 and Mozambique is a allowed to make use out of that --
- 6 economic use out of that.
- 7 MR. JACKSON: Can we go to the next page?
- 8 Q Are these images related to the satellite surveillance?
- 9 A Correct.
- 10 MR. JACKSON: And if we can just go to page 8,
- 11 Mr. McLeod.
- 12 Q What is depicted on this page?
- 13 A On this page we depicted the cites where we wanted to
- 14 erect radar surveillance sites, the stations, yeah.
- 15 Q Why, Mr. Kuhn, for this marketing presentation to present
- 16 to the gas companies did you have this star emphasizing higher
- 17 density in the north?
- 18 A Yeah, the companies searching for gas, they worked in the
- 19 north of Mozambique called Ruvuma, R-O -- sorry --
- 20 R-U-V-U-M-A, Ruvuma.
- 21 MR. JACKSON: Can we go to page 10 of this document?
- 22 Q On this page, were you explaining in the proposal why the
- 23 airplane surveillance that was designed for Proindicus would
- 24 be useful here?
- 25 A Yes, correct.

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- 1 Q The second bullet point talks about short takeoff and
 2 landing less than 300 meters. Why is that a future that was
 3 important?
 4 A Because the airfields, they have -- the airfields are not
 5 so large, so we needed a short take off and landing.
 6 MR. JACKSON: And lastly, can we just take a look at
 7 page 15?
 8 Q What's depicted on this page, Mr. Kuhn?
 9 A It's an additional concept. Our main concept saw that we
 10 added -- or that we could add additional rate of five -- or
 11 additional sensor systems into the overall system, so it's --
 12 the system can grow up; and one idea could be if the
 13 installations, like the platforms, are too far out of the
 14 coast, we could install another sensor onboard of these -- of
 15 these platforms.
 16 Q Is the platform that is depicted here on the right, is
 17 that the kind of platform that ENI and Anadarko were setting
 18 up in the Ruvuma basin?
 19 A That's what we expected they would do.
 20 Q This is basically what the type of oil rig or gas rig
 21 looks like in that part of the world?
 22 A Yes, correct.
 23 THE COURT: You have to wait for counsel to complete
 24 the question to respond, otherwise if you talk over one
 25 another it's difficult for the reporter, so just make sure

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- 1 EMATUM?
 2 A Yes, I saw.
 3 Q What kind of boats?
 4 A I saw the first batch of boats delivered, the
 5 longliners -- five longliners. They were deployed to Maputo.
 6 MR. JACKSON: May we display DX9012?
 7 THE COURT: Yes, you may.
 8 MR. JACKSON: Thank you, Judge.
 9 (The above-referred to exhibit was published.)
 10 BY MR. JACKSON:
 11 Q What is depicted here, Mr. Kuhn?
 12 A These are three of these longliners.
 13 MR. JACKSON: And I would like to display a very
 14 short video DX9215.
 15 THE COURT: Without objection, it's admitted.
 16 (The above-referred to exhibit was published.)
 17 (Video played.)
 18 (Video paused.)
 19 MR. JACKSON: And can we display DX9214 also?
 20 THE COURT: Yes.
 21 MR. JACKSON: Thank you, Judge.
 22 (The above-referred to exhibit was published.)
 23 (Video played.)
 24 (Video paused.)
 25 BY MR. JACKSON:

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- 1 he's completed the question, sir, and then you can respond.
 2 Okay?
 3 THE WITNESS: Yes, Your Honor.
 4 THE COURT: Thank you, sir.
 5 Go ahead.
 6 MR. JACKSON: Thank you, Judge.
 7 BY MR. JACKSON:
 8 Q Now, Mr. Kuhn, did Prinvest have plans to try to sell
 9 similar packages to this one in other countries?
 10 A Yes.
 11 Q What do you mean by that?
 12 A We tried to market the concept in different other African
 13 countries. We had been to Mozambique, to Senegal, to Togo,
 14 and some other countries.
 15 Q Were you hoping that the project would be a success in
 16 terms of being able to promote further sales?
 17 A Yes.
 18 Q Now, are you also familiar with the project called
 19 EMATUM?
 20 A I know a little bit about it.
 21 Q Someone else was one of the project managers on that one,
 22 right?
 23 A Correct.
 24 Q You described seeing some of the longliner boats.
 25 Did you see boats delivered in Mozambique related to

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- 1 Q Mr. Kuhn, is it your understanding these are videos of
 2 the Mozambicans actually using the EMATUM longliners?
 3 A Yes.
 4 Q Now, when you see the tuna being pulled out of the water,
 5 is that related -- is that the understanding of what the --
 6 actually, withdrawn.
 7 Is it your understanding what the longliners do that
 8 they actually use the line to hook the tuna and to pull them
 9 out in the way it's depicted?
 10 A Yes.
 11 Q Now, how long did the Proindicus project, or your
 12 involvement in the Proindicus, run until?
 13 A Three years and two months, I think.
 14 Q Over the course of that time, how many times,
 15 approximately, did you travel down to Mozambique?
 16 A In total, about 30 times.
 17 Q We talked about some of the problems that you encountered
 18 during the middle of the project.
 19 At some point during the later parts of the project,
 20 did you encounter particular problems in terms of the delivery
 21 of the goods and services connected with the project?
 22 A Not with the deliveries. We take the deliveries, but
 23 with the distribution and with the erection of the size.
 24 Q What was your understanding of what was the cause of the
 25 problems?

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- 1 A One cause of problems seem to be the new rumbles in
2 Mozambique. There are two parties -- two political parties,
3 and the opposition, they started fighting against the
4 Government again, so that caused some problems; and, overall,
5 it seemed that Proindicus needed to withdraw some of the
6 personnel due to military exercises.
7 Q I want to come back to that briefly, but are you also
8 familiar with the decline in oil prices that took place around
9 that time?
10 A Yes.
11 Q Did that have any impact on your abilities to develop the
12 Proindicus project?
13 A Yes, because the -- the investments of the international
14 investors in Mozambique were delayed.
15 Q So actually I would like to direct your attention to --
16 well, first of all, did you try to work with your Mozambican
17 colleagues on working through all these problems?
18 A Yes, we did.
19 Q I would like to direct your attention to a document
20 marked as DX7090 in evidence.
21 MR. JACKSON: If we may display it, Your Honor.
22 THE COURT: You may.
23 (The above-referred to exhibit was published.)
24 BY MR. JACKSON:
25 Q Do you see this email, Mr. Kuhn?

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- 1 MR. JACKSON: Thank you, Judge.
2 May we display DX7090A?
3 THE COURT: Yes, you may.
4 (The above-referred to exhibit was published.)
5 BY MR. JACKSON:
6 Q Is this a letter that you sent, Mr. Kuhn?
7 A Yes.
8 THE COURT: Blow it up a little bit more. It's
9 still hard to read for the jury. Thank you.
10 Go ahead.
11 Q Can you just explain what you were communicating in this
12 letter, Mr. Kuhn?
13 A I reported about the setup of one of these radar sites,
14 or a couple of -- of the radar surveillance station. I
15 mention here that everything was working well in these sites
16 and that the communication with the central command site is
17 working properly.
18 Q What are you talking about in the first sub bullet point
19 where you say, "An external electricity supply to sites is
20 either nonexistent or too unstable to supply" --
21 THE COURT: Vader.
22 MR. JACKSON: Yes, Your Honor.
23 BY MR. JACKSON:
24 Q -- "continuously with the specified power settings"?
25 A Yes. Nevertheless, also the sites work properly. We had

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- 1 A Yes.
2 Q Is this an email from you to Mr. Rosario and Mr. Gopo?
3 A Yes, correct.
4 Q What are you talking about in this email?
5 A I made regular reports and this one was regarding the
6 on-site acceptance test of some of our installations, and I
7 put in the attachment, I summarized the problems we had.
8 MR. JACKSON: You can take that down.
9 MR. BINI: Your Honor, I have no objection to that
10 being in evidence, but it wasn't in evidence.
11 THE COURT: Why don't you move it in evidence.
12 And, again, please try to be careful to only show
13 the jury documents that have been admitted in evidence; or if
14 you haven't admitted it yet, offer it; or if you are not sure,
15 ask.
16 MR. JACKSON: Yes, Your Honor. I apologize for my
17 confusion.
18 We would like to offer DX7090 and -7090A.
19 THE COURT: Any objection?
20 MR. BINI: No objection, Your Honor.
21 THE COURT: Admitted.
22 (Defense Exhibits DX7090 and -7090A received in
23 evidence.)
24 THE COURT: You may and you have published, but
25 let's not have it happen again.

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- 1 problems with external electricity. In some places where we
2 erected the radar stations, we haven't had public electricity,
3 so we use our internal emergency power supply to operate the
4 system, but that was not meant to do it permanently.
5 Q Did you try to pressure your Mozambican colleagues to
6 move more quickly?
7 A Yes, a couple of times.
8 MR. JACKSON: We can take that down, Mr. McLeod.
9 Q Now, I would like to ask you, did there come a time when
10 German and American military attachés contacted you?
11 A Yes.
12 Q And what was the essence of those communications?
13 A I met with the chairman and the Dutch military actually
14 in Maputo. They both came from South Africa for a visit to
15 Maputo, and I was introduced to them, invited them to -- to
16 the central command and control site in Maputo. They saw that
17 and they were very impressed what the -- what we erected
18 there.
19 Q I would like to show you what's in evidence as DX7097.
20 THE COURT: You may publish.
21 MR. JACKSON: Thank you, Judge.
22 (The above-referred to exhibit was published.)
23 MR. JACKSON: Thank you.
24 BY MR. JACKSON:
25 Q Mr. Kuhn, what -- in this message you are writing to

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1 Mr. Gopo and Mr. Rosario about these contacts that you had
2 from the German military, and you write that the Americans are
3 interested in your system.
4 A Yeah. I was informed by the German military actually
5 that the American military attaché wanted to see what we had
6 done so far in Mozambique and he wanted to visit one of the
7 radar sites.

8 MR. JACKSON: Can we take a look at DX7099?

9 THE COURT: You may publish.

10 MR. JACKSON: Thank you, Your Honor.

11 (The above-referred to exhibit was published.)

12 BY MR. JACKSON:

13 Q And then here the -- there is -- this is an email from
14 whom, Mr. Kuhn?

15 A This email is from the German military attaché in South
16 Africa to Antonio do Rosario. When -- this first email we saw
17 before, I was informed by Mr. Rosario that the military
18 attaché should -- should directly approach him --
19 Mr. Rosario -- and I mentioned -- or I informed him about that
20 and then he sent this email.

21 Q There's a person cc'd named Kristofer Kvam and it says
22 kvamk@state. Who is that?

23 A That's the military attaché of the United States in --
24 also military attaché of United States in Maputo.

25 Q Did you end up speaking to Mr. Kvam about the project?

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1 DIRECT EXAMINATION (Continued)

2 BY MR. JACKSON:

3 Q Was he interested in seeing your system?

4 A Yes, he was.

5 Q By the way, did you communicate with John and Mr. Safa
6 about these contents?

7 A I told them, yes.

8 Q Now --

9 MR. JACKSON: We can take that down, please,
10 Mr. Mcleod.

11 Q Generally speaking, during the time that you were working
12 on these projects as they were going on, did the security
13 situation deteriorate?

14 A Yes.

15 MR. JACKSON: Can you display DX7111.

16 THE COURT: Yes, you may display it, it's in
17 evidence.

18 (Exhibit published.)

19 MR. JACKSON: Thank you, Judge.

20 Q What is this email, Mr. Kuhn?

21 A I have to see the attached letter, but I think it's
22 regarding the security problems we faced in Mozambique.

23 MR. JACKSON: Mr. Mcleod, can you display the
24 attachment, DX7111-A.

25 (Exhibit published.)

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1 A Yes, I did.

2 Q What was the essence of the conversation?

3 A He mentioned to me that he is erecting a similar system
4 in -- within the scope of the code of conduct of Addis Ababa.

5 THE COURT: Addis Ababa, as we would say here in
6 Brooklyn.

7 A Okay.

8 That was the intent -- that was international United
9 Nations program to erect or to set up a system for the -- for
10 safeguarding the civilian sea traffic in the Indian Ocean, and
11 Mr. Kvam was responsible to set up different -- certain sensor
12 sites in Mozambique, but he mentioned to me that it was very
13 difficult, he worked directly with the Navy, and the Navy was
14 not very helpful to him, so we both exchanged our problems.

15 (Continued on the following page.)

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1 MR. JACKSON: And if you can blow that up so it's
2 visible for the jury and for Mr. Kuhn. Thank you.

3 Q The first line here where you write: We are extremely
4 concerned about the current security situation in Mozambique,
5 given the recent armed attacks on vehicles, reported
6 fatalities, and foreign travel advice.

7 What were you talking about, Mr. Kuhn?

8 A We learned in the middle to the end of 2015 that there
9 were a lot of attaches to all types of transportation means in
10 Mozambique, and our teams, they had to travel to the different
11 sites where we erected the radar systems.

12 And I mentioned that to Mr. Rosario and Mr. Gopo,
13 and that they are very concerned that our people could be
14 attacked as well, and we asked for additional safeguarding
15 systems, and our personnel.

16 Q You say in the second paragraph, you make some references
17 to the safety and security of your personnel.

18 Why was that something that you wanted to discuss
19 with him?

20 A Because our personnel was starting to -- they didn't want
21 to work any more in these dangerous areas without any support
22 from the -- from Proindicus or from the government of
23 Mozambique for their protection.

24 MR. JACKSON: We can take that down, Mr. Mcleod.

25 Q Mr. Kuhn, when did you finish your work in Mozambique?

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- 1 A In 2016.
 2 Q During the time that you were working there, were you
 3 working hard on trying to make this project successful?
 4 A Yes, very hard.
 5 MR. JACKSON: I have no further questions, Your
 6 Honor. Thank you.
 7 THE COURT: Your witness.
 8 MR. BINI: Good morning.
 9 THE JURY: Good morning.
 10 CROSS-EXAMINATION
 11 BY MR. BINI:
 12 Q Good morning, Mr. Kuhn.
 13 A Good morning.
 14 Q Mr. Kuhn, if I ask you a question and it's not clear, can
 15 you just tell me?
 16 A Yes.
 17 Q Thank you very much.
 18 Mr. Kuhn, you're an employee of Prinvest, right?
 19 A Actually, my contract is with the German Navy Yard in
 20 Kiel.
 21 Q Is that Nobiskrug?
 22 A That was before that.
 23 Q Okay. And you've been employed with that company in the
 24 Prinvest family since 2012?
 25 A Correct.

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- 1 and Proindicus, right?
 2 A Correct.
 3 MR. BINI: If we can go to page 5, Roman numeral
 4 VII.
 5 You can blow up the price that's the price,
 6 Ms. Dinardo?
 7 Q And the original contract was for \$366 million in goods
 8 and services; isn't that right, sir?
 9 A That's right.
 10 Q And over time, Prinvest sold additional equipment to
 11 Proindicus; is that correct?
 12 A Yes.
 13 MR. BINI: And if we go to Clause M on page 9.
 14 We can blow that up for the witness, Clause M, as in
 15 Mary.
 16 Q That's titled "Remuneration to Third Parties," right?
 17 A Right.
 18 Q And can you read that to the jury, Mr. Kuhn?
 19 A Yes.
 20 The contractor, as well as customer, represents and
 21 warrants that it and no person interested or connected with it
 22 has not and shall not offer, pay or propose to pay money, or
 23 to give anything of value, directly or indirectly, to any
 24 civil servant or any other person holding a governmental
 25 position.

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- 1 Q Okay. And they pay your salary?
 2 A Yes.
 3 Q And, Mr. Kuhn, before you came to work for the Prinvest
 4 family of companies, you spent part of your career in the
 5 German Navy, right?
 6 A Yes, correct.
 7 Q And you've worked in quasi-military roles for much of
 8 your career; is that right, sir?
 9 A Yes.
 10 THE COURT: You have to say "yes" or "no".
 11 THE WITNESS: Thank you. Yes.
 12 Q And, Mr. Kuhn, you would never knowingly pay bribes to
 13 Mozambican government officials, right?
 14 A I didn't pay any bribes.
 15 Q And you never paid bribes to Antonio do Rosario, right?
 16 A No, I didn't.
 17 Q And you would never knowingly pay bribes to Credit Suisse
 18 bankers who were approving the loans for these deals, right?
 19 A Right.
 20 Q And, Mr. Kuhn, defense counsel asked you about Government
 21 Exhibit 2.
 22 MR. BINI: If we can show that.
 23 THE COURT: It's in evidence, you may publish it.
 24 (Exhibit published.)
 25 Q And that's the procurement contract between Prinvest

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- 1 Q And that means you can't pay bribes, right?
 2 A Yes.
 3 Q It's clear.
 4 A Yeah.
 5 MR. BINI: And if we go to page 12 of 12 of this
 6 contract.
 7 (Exhibit published.)
 8 THE COURT: Can you blow it up more, please. It's a
 9 little tough to read it.
 10 Q What's the date of the contract, sir?
 11 A January 18th, 2013.
 12 Q And who is it signed by?
 13 A I can't see the first one, but I see the name of Jean
 14 Boustani.
 15 Q Now, you weren't involved in negotiating the contract,
 16 right?
 17 A Right.
 18 Q That would be the defendant's job, right?
 19 A Right.
 20 Q And you weren't involved in the getting the financing for
 21 this project, right?
 22 A I was not involved in the financing.
 23 Q That was the defendant's job as well, right?
 24 A That was my understanding.
 25 MR. BINI: You can take that down.

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- 1 Q And, sir, are you aware that after this January 18th,
2 2013 procurement contract we looked at, at some point
3 Proindicus got approval from a bank for a syndicated loan?
4 A I was not aware of that.
5 Q And is that because the financing would be the
6 defendant's job?
7 A Correct.
8 Q And he would interact with the bankers to get the
9 financing?
10 A That was my understanding.
11 Q But you are aware that after this point, Proindicus got
12 additional increases in loans in order to purchase additional
13 equipment?
14 A I wasn't aware of that.
15 Q Are you aware that Privinvest sold increasing equipment
16 to Proindicus?
17 A I was aware. Yes, of course.
18 Q And there were a number of change orders that increased
19 the amount of equipment; is that right, sir?
20 A That's right.
21 Q Are you familiar with those documents?
22 A Some of them, yes.
23 Q Okay. I can show you 3068A.
24 THE COURT: It's in evidence, you may publish it.
25 (Exhibit published.)

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- 1 A Yes, I see. Yes.
2 Q He who signed for Privinvest?
3 A Jean Boustani.
4 MR. BINI: You can take this down.
5 Q And Proindicus didn't generate any real revenue in 2013,
6 right?
7 A That -- I think -- I don't recall that. But I think so,
8 yeah.
9 Q Based upon your observations from your 30 trips to
10 Mozambique in this time period, is it fair to say that
11 Proindicus was not generating any revenue in 2013?
12 A It's quite fair to say so.
13 Q And is it also fair to say that it wasn't generating
14 revenue in 2014?
15 A Yeah.
16 Q And it wasn't generating revenue in 2015, right?
17 A Not that I know of.
18 Q Okay. And you concluded your work with Proindicus in
19 about 2016; is that right, sir?
20 A Yes, that's right.
21 Q And it's still, unfortunately, it's not generating any
22 revenue, right?
23 A Most probably, yeah.
24 Q Was that your observation?
25 A I didn't look into the books of Proindicus. My role was

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- 1 MR. BINI: And if we can just blow that up.
2 Q Is this a change order, for example, sir?
3 A Yes.
4 MR. BINI: And if we go to 3068B.
5 (Exhibit published.)
6 Q Is this another change order?
7 A Yes.
8 MR. BINI: If we go to 3068C.
9 (Exhibit published.)
10 Q Is that another change order, sir?
11 A It says so, yeah.
12 Q Okay. Well, were you familiar with these from your work
13 on this project, sir?
14 A I can't recall all of them. I worked on some of the
15 change orders. But some were -- I think some were done by
16 somebody else.
17 Q And the person who would negotiate these was the
18 defendant Jean Boustani, right?
19 A I think so, yeah.
20 Q And if we look to the last page of change order four, for
21 example --
22 (Exhibit published.)
23 Q -- do you see that that's signed by Eugenio Matlaba?
24 A Yes, I see that.
25 Q And Antonio do Rosario? If you can make it out?

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- 1 just to provide systems from Privinvest.
2 Q Okay. And you've been to the harbor in Maputo a number
3 of times; is that right?
4 A Yes, that's right.
5 Q And you had testified on direct regarding seeing the
6 fishing boats fro EMATUM, right?
7 A Yes, I saw them; yeah.
8 Q And is that where the DV15 Interceptors were as well?
9 A Some of them, yeah.
10 Q Okay. And when you went there, is it fair to say that
11 the boats for EMATUM were usually not fishing?
12 A That's fair to say so.
13 But you have to consider that the -- there's a
14 season for fishing tuna, and you're only allowed to fish tuna
15 two months a year.
16 Q Well, Mr. Kuhn, my question is, did you see that the
17 fishing boats were usually not fishing in EMATUM?
18 A Yes.
19 Q And by the way, do you have a background in fishing
20 boats?
21 A A little bit.
22 Q Okay.
23 MR. BINI: And, Your Honor, at this time the
24 government would seek to admit Government Exhibit 1601A.
25 THE COURT: Any objection to 1601A?

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1 Please show it to the Court as well your adversary.
 2 MR. JACKSON: No objection, Your Honor.
 3 THE COURT: Admitted.
 4 You may publish it.
 5 (Government Exhibit 1601A, was received in
 6 evidence.)
 7 (Exhibit published.)
 8 Q And is this -- sir, do you recognize this picture as a
 9 picture of boats in the Maputo harbor?
 10 A Yes, correct.
 11 Q Are these the fishing boats, the Longliners?
 12 A These are the Longliners.
 13 MR. BINI: You can go to the next, picture.
 14 THE COURT: Sir, move the microphone with you as you
 15 look at the pictures.
 16 THE WITNESS: Okay.
 17 THE COURT: Twist it all the way, around like this
 18 (indicating).
 19 THE WITNESS: Thank you.
 20 THE COURT: Go ahead.
 21 MR. BINI: And can you go to the next photo.
 22 Q These are again, fishing boats; is that right, sir?
 23 A Yes.
 24 THE COURT: Thank you. Go ahead.
 25 MR. BINI: And go to the next photo.

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1 MR. BINI: Go to the next photo.
 2 Q Is this also a picture of a number of Interceptors, the
 3 DV15s, again, not in the water, right, sir?
 4 A Right.
 5 MR. BINI: You can take those down.
 6 Q And are you aware, sir, that while Proindicus made
 7 certain loan payments for a period of time, those were paid by
 8 the government of Mozambique, not by Proindicus; is that
 9 right, sir?
 10 A I'm not aware of that. I don't know that.
 11 Q Okay. But you are aware, that in approximately March
 12 2017, Proindicus defaulted on its loan obligations, right?
 13 A I heard about that.
 14 Q And that means it stopped making loan payments, right?
 15 A I'm not involved in this whole payment thing.
 16 Q Okay. And you weren't involved in the bribe scheme
 17 either, right?
 18 A Correct.
 19 Q Okay. And you wouldn't do that, right?
 20 A No.
 21 Q Okay. And by the way, you know that EMATUM, the fishing
 22 company, that made some loan payments for a period of time,
 23 right?
 24 A As I said, I'm not involved in this whole payment thing.
 25 Q Okay. Were you aware that EMATUM, like Proindicus,

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1 Q What are these, sir?
 2 A These are the WP-18 Interceptor boats which we being
 3 provided for Proindicus.
 4 Q And they are not in the water, right?
 5 A They are not in the water at the moment.
 6 MR. BINI: Go to the next picture.
 7 This is another picture of the harbor.
 8 Q Do you see the fishing boats here?
 9 A I see the fishing boats, yeah.
 10 Q Do they appear to be rusty?
 11 A It looks like they are rusty, yeah.
 12 Q And they were steel boats, right?
 13 A Yes, correct.
 14 MR. BINI: Okay. If we go to the next photo.
 15 Q Is this another picture of the fishing boat in the
 16 harbor?
 17 A Yes.
 18 MR. BINI: We can go to the next photo.
 19 Q Is this another picture of a DV15?
 20 A Yes.
 21 Q Not in the water, right?
 22 A Right.
 23 MR. BINI: Go to the next picture.
 24 Q Is this another picture of DV15s not in the water, right?
 25 A Right.

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1 generated virtually no revenue?
 2 A As I said, I am not involved in this whole payment thing.
 3 Q Okay. Are you aware, though, that at some point EMATUM
 4 defaulted as well?
 5 A I heard about that. Or read about that, yeah.
 6 Q It was in the news, right?
 7 A Correct. Yeah.
 8 Q And that was in approximately April of 2016, right?
 9 A I cannot recall that.
 10 Q But do you recall around the time that you stopped doing
 11 work with Proindicus, it became an international news event?
 12 A Yes.
 13 Q And that was because there was something called the
 14 "hidden loan scandal"; is that right, sir?
 15 A I heard about that, yeah.
 16 Q And that was because for the first time in April 2016,
 17 The Wall Street Journal reported the Proindicus/MAM loans,
 18 right?
 19 MR. JACKSON: Objection.
 20 THE COURT: Overruled.
 21 If you know. Do you know the answer to that
 22 question?
 23 A I don't know whether The Wall Street Journal was the
 24 first one.
 25 Q You know it was in the news media at that time in

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1 April 2016?
 2 A Most -- I think I know that, yeah.
 3 Q Okay. And you're aware that after that came out, the
 4 International Monetary Fund temporarily suspended its loan
 5 program in Mozambique, right?
 6 A I heard about that, yeah.
 7 Q You know Mozambique's one the poorest countries in the
 8 world, right?
 9 MR. JACKSON: Objection.
 10 THE COURT: Overruled.
 11 A Yes, I know.
 12 Q And you're aware that after the IMF pulled out, donor
 13 countries also suspended loan programs for Mozambique, right?
 14 A I heard about that, yeah.
 15 Q And that caused a recession in the country of Mozambique;
 16 isn't that right?
 17 MR. JACKSON: Objection.
 18 THE COURT: Overruled.
 19 A I read about that as well, yeah.
 20 Q Okay. And are you aware, sir, that at some point the
 21 international audit and forensic company Kroll was hired to
 22 audit Proindicus?
 23 A I heard about that as well, yeah.
 24 Q And did you also hear that they were hired to audit all
 25 three of the projects that Privinvest had been involved in in

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1 A I cannot remember the numbers. I cannot recall them,
 2 yeah.
 3 Q You recall it was hundreds of millions of dollars?
 4 MR. JACKSON: Objection.
 5 THE COURT: Overruled.
 6 What's your answer?
 7 A Yes.
 8 THE COURT: Go ahead.
 9 MR. BINI: Your Honor, at this time the government
 10 would seek to admit Government Exhibit 4004, 4005, 4006, 4007,
 11 and 4008.
 12 THE COURT: Show them to your adversary, see if they
 13 have any objection.
 14 We'll take them seriatim.
 15 2004 is the first one.
 16 Any objection to 4004?
 17 MR. JACKSON: Just one moment, Your Honor.
 18 (Pause.)
 19 MR. JACKSON: No objection, Your Honor.
 20 THE COURT: Admitted.
 21 What's the next number, sir.
 22 (Government Exhibit 4004, was received in evidence.)
 23 MR. BINI: 4005.
 24 THE COURT: Any objection to 4005?
 25 MR. JACKSON: No objection.

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1 Mozambique?
 2 A I was not so much interested in the other programs. I
 3 focused on my program and realized what I had to do.
 4 Q But you were aware that Kroll did an audit on behalf of
 5 donor countries, including Sweden, of Proindicus, EMATUM, and
 6 MAM; is that right, Mr. Kuhn?
 7 A I heard about this Kroll report, yeah.
 8 Q Okay. And as part of that audit, you're aware that Kroll
 9 requested documents from Privinvest, right?
 10 A No, I don't know that.
 11 Q Well, do you know if they asked for documents regarding
 12 the Proindicus project that you worked on?
 13 A No, I don't know about that.
 14 Q Well, you're familiar with the report itself, right?
 15 A I heard about that, yeah.
 16 Q And you know that as part of the audit, Kroll valued the
 17 boats for Proindicus, right?
 18 A Yes, I think so; yeah.
 19 Q And it valued the boats for EMATUM, right?
 20 A I think so, yeah.
 21 Q And you're aware that Kroll valued those boats as being
 22 worth \$700 million less than what was charged by Privinvest?
 23 MR. JACKSON: Objection.
 24 THE COURT: Overruled.
 25 If you know. Are you aware?

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1 THE COURT: Admitted.
 2 You may publish.
 3 Next?
 4 (Government Exhibit 4005, was received in evidence.)
 5 MR. BINI: 4006.
 6 THE COURT: Any objection?
 7 MR. JACKSON: No objection.
 8 THE COURT: Admitted.
 9 You it may published.
 10 Next?
 11 (Government Exhibit 4006, was received in evidence.)
 12 MR. BINI: 4007.
 13 THE COURT: Any objection?
 14 MR. JACKSON: No objection.
 15 THE COURT: Admitted.
 16 You may publish.
 17 (Government Exhibit 4007, was received in evidence.)
 18 MR. BINI: 4008.
 19 THE COURT: Any objection?
 20 MR. JACKSON: No objection.
 21 THE COURT: Admitted.
 22 You may publish.
 23 (Government Exhibit 4008, was received in evidence.)
 24 Q Sir, are you aware that Privinvest provided invoices for
 25 Proindicus to Kroll?

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1 A No.

2 Q Do you recognize these invoices nonetheless, sir, from

3 your work at Proindicus?

4 A No.

5 Q You never saw the invoices?

6 A No. I was not involved in the invoicing.

7 Q Okay. Does this appear to be an invoice -- if we go to

8 the top -- from Prinvest Shipbuilding?

9 MR. JACKSON: Objection.

10 THE COURT: If you know.

11 A I don't know. It says so, so...

12 Q Did you ever see invoices in your work?

13 A No, I never seen invoices in my work.

14 Q Okay. You would agree with me, sir, that this one has an

15 unit price of \$7.2 million; is that right?

16 A That was -- it's written like that, yeah.

17 Q Do you recall from your review of the Kroll report that

18 Kroll valued these boats at \$2 million each?

19 MR. JACKSON: Objection.

20 THE COURT: Overruled.

21 A I didn't study the Kroll report in detail.

22 Q But you're aware that Kroll valued these DV15s at

23 millions of dollars less than this invoice?

24 A I don't understand how they can value these boats without

25 seeing them.

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1 A In 2015.

2 Q When?

3 A In France.

4 Q Okay. Did you ever see them in Mozambique, sir?

5 A No.

6 Q Okay. And when you saw them at France, that was at CMN;

7 is that right?

8 A Yes, that's right.

9 Q And CMN is a company owned by Prinvest that built

10 ships, right?

11 A Right.

12 Q And you're aware that there was wide reporting that the

13 contract on the EMATUM ships only cost CMN \$200 million; is

14 that right, sir?

15 MR. JACKSON: Objection.

16 THE COURT: Overruled.

17 Do you know?

18 A No, I don't know that.

19 Q Okay. And, Mr. Kuhn, do you know about refrigeration

20 techniques for tuna fishing vessels?

21 A I heard about that, yeah.

22 Q But is that your area of expertise, sir?

23 A No. I wouldn't say so.

24 Q And fair to say that Prinvest and Abu Dhabi MAR

25 typically build super yachts, right?

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1 Q By the way --

2 MR. BINI: You can take that down.

3 Q But, Mr. Kuhn, you understand they valued them for

4 millions of dollars less, right?

5 A That was what said, yeah.

6 Q Okay. You're aware that Kroll's investigation went on

7 for months, right?

8 A Right.

9 Q And by the way, when you looked at those pictures before

10 regarding the harbor in Maputo, on your 30 trips to Mozambique

11 for 2016, did you ever see any OCEAN EAGLE trimarans in the

12 water?

13 A Only at the end. Not in the 2013.

14 Q Not in 2014, right?

15 A Not in 2014.

16 Q Not in 2015, correct?

17 A Correct.

18 2016 they were.

19 Q When in 2016, sir?

20 A I'm not aware of the OCEAN EAGLES, because they belonged

21 to a contract of, I think, EMATUM.

22 Q Did you actually lay eyes on them?

23 Did you see them, I'm sorry?

24 A I saw them, yeah.

25 Q When was that approximately, sir?

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1 A That's one of the business that they have, yeah.

2 Q One of the other main business units you have is building

3 naval ships, right?

4 A That's also right, yes.

5 Q But building fishing boats was not typical for Abu Dhabi

6 MAR, right?

7 A Abu Dhabi MAR didn't build fishing vessels, that's right.

8 Q And it --

9 A May I add something?

10 Before it's typical for CMN. They did that before.

11 Q And are you aware if CMN was expert at the refrigeration

12 requirements for sushi?

13 A I'm -- I know about that. But that's not my -- my

14 expertise. It was not my contract, my responsibility.

15 MR. BINI: Your Honor, may I have a moment.

16 THE COURT: You may.

17 (Pause.)

18 Q Mr. Kuhn, how was your salary paid? In what currency, if

19 I can ask?

20 A Right now it's paid in euro.

21 Q Has that been consistent in the case since you've been

22 working in the Prinvest family of companies?

23 A No.

24 At one time it was paid in dollar.

25 Q When did it change?

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- 1 A When I got contract from Privinvest in Abu Dhabi.
 2 Q What year was that, approximately?
 3 A That was in 2017.
 4 Q I'm sorry, 2017 it changed over to euros?
 5 A Yes, because I changed my position from Nobiskrug, from
 6 German Navy Yard to Privinvest in Abu Dhabi.
 7 Q Okay.
 8 MR. BINI: Thank you so much for your time, and safe
 9 journey home.
 10 THE WITNESS: Thank you.
 11 THE COURT: Any redirect?
 12 MR. JACKSON: Very briefly, Judge.
 13 REDIRECT EXAMINATION
 14 BY MR. JACKSON:
 15 Q Now, Mr. Kuhn, you were asked a bunch of questions about
 16 various -- about various financing arrangements.
 17 Did you have any involvement in that, was that part
 18 of your role?
 19 A No, certainly not.
 20 Q You were also asked about -- you were also shown a bunch
 21 of photos of boats that were not in the water.
 22 Do you remember that a moment ago?
 23 A Yes, I remember that.
 24 Q Do you know what the dates are of any of those photos
 25 that were just shown to you?

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- 1 were actually delivered to Mozambique?
 2 A Yes. That's my understanding.
 3 Q And can we --
 4 MR. JACKSON: We can take this down.
 5 Q There was some questions posed to you about the causes of
 6 a recession in Mozambique.
 7 Are you an economist, sir?
 8 A No, I'm not.
 9 Q Do you understand what the macroeconomic reasons were for
 10 any problems in the Mozambican economy?
 11 A No.
 12 The only knowledge I have was from the newspapers.
 13 Q And during the time that you were working on the
 14 Privinvest -- that you were working on these projects, were
 15 you working diligently to make the project successful?
 16 A Yes.
 17 Q Did you see other Privinvest employees and
 18 sub-contractors working to make these projects successful?
 19 A Yes, all of them.
 20 Q Did anyone, anyone at the company, ever suggest to you
 21 that the actual success of these projects was not in any way
 22 important?
 23 A No.
 24 MR. JACKSON: Can we display DX7099.
 25 THE COURT: It's in evidence, you may publish it.

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- 1 A I think it was all on the same date. I took some of them
 2 when the boats arrived in Maputo in the country. I made some
 3 pictures to see whether they were damaged, and they -- the
 4 boats were all first set on ground on the pier to evaluate
 5 them and take to the water later.
 6 Q And did you actually see boats that were purchased by
 7 Privinvest in the water?
 8 A Yes.
 9 THE COURT: You have to wait until your counsel
 10 finishes the question.
 11 So, Madam Reporter, would you read the question
 12 back, and the answer, if you got it, and then we'll go on.
 13 Read the question, please. Keep your voice up.
 14 (Whereupon, the record was read.)
 15 THE COURT: Next question.
 16 MR. JACKSON: Can we display DX9066?
 17 THE COURT: In evidence, yes?
 18 MR. JACKSON: Yes, Your Honor.
 19 Q What's depicted here, Mr. Kuhn?
 20 A That's an HSI 32. And in the background is the OCEAN
 21 EAGLE.
 22 Q The smaller boat there?
 23 A Yes.
 24 Q In the back. Okay.
 25 And is it your understanding that the OCEAN EAGLES

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- 1 MR. JACKSON: Yes, Your Honor.
 2 (Exhibit published.)
 3 Q And you see here, Mr. Kuhn, where it says: We the
 4 defense attaches from France, the Netherlands, the United
 5 States, and myself from Germany, kindly request a visit to
 6 radar site.
 7 Do you see that?
 8 MR. BINI: Objection.
 9 THE COURT: Overruled. It's in evidence.
 10 Do you see it is the question.
 11 A Yes, I've seen it.
 12 THE COURT: Okay, he sees it. Next question.
 13 Q Can you just read the very last sentence of this
 14 document, Mr. Kuhn, where it says "furthermore"?
 15 THE COURT: That's not the very last sentence.
 16 Q I'm sorry, the very last sentence of this paragraph,
 17 "furthermore".
 18 A Yeah, it says: Furthermore, taking into account the huge
 19 investment, and here also the foreign investments in the field
 20 of energy facilities and the respective operating personnel,
 21 these radar sites are of extraordinary value.
 22 MR. JACKSON: No further questions, Your Honor.
 23 THE COURT: Thank you. You may step down, sir.
 24 THE WITNESS: Thank you very much.
 25 (The witness steps down.)

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1 THE COURT: Next witness, please.
 2 MR. JACKSON: Your Honor, the defense calls Tim
 3 Coffey.
 4 THE COURT: Please have the witness brought forward
 5 to be sworn right after we take a 15-minute comfort break.
 6 All right, ladies and gentlemen of the jury, do not
 7 talk about the case yet, 15 minutes, then we'll have the next
 8 witness then we will have our lunch. Thank you.
 9 (Jury exits the courtroom.)
 10 THE COURT: You may be seated, ladies and gentlemen.
 11 The jury has left the courtroom.
 12 Do we have any procedural issues to address in the
 13 presence of the defendant and outside the presence of the
 14 jury?
 15 MR. BINI: Not from the government, Your Honor.
 16 THE COURT: For the defense, Your Honor?
 17 MR. JACKSON: No, Your Honor.
 18 THE COURT: Thank you.
 19 Let's proceed to our break.
 20 (A recess was taken at 12:23 p.m.)
 21 (Continued on next page.)

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1 THE WITNESS: Yes.
 2 THE COURT: Be seated, sir. I'll ask you to pull
 3 that microphone in front of you. Speak clearly and directly
 4 into it. State your name, spell it, and then counsel will
 5 inquire.
 6 THE WITNESS: My name is Timothy T-I-M-O-T-H-Y, last
 7 name is Coffey, C-O-F-F-E-Y.
 8 THE COURT: Counsel, you may inquire.
 9 MR. SCHACHTER: Thank you, your Honor.
 10 T I M O T H Y C O F F E Y,
 11 called as a witness, having been first duly
 12 sworn/affirmed, was examined and testified as
 13 follows:
 14 DIRECT EXAMINATION
 15 BY MR. SCHACHTER:
 16 Q Good afternoon, Mr. Coffey. Sir, can you please tell the
 17 jury what you do for a living?
 18 A I work for JP Morgan Chase.
 19 Q What do you do?
 20 A Vice president in the wire operations department.
 21 Q How long have you been involved in some way, shape or
 22 form with wire transfers at JP Morgan Chase?
 23 A Since 1988.
 24 Q In your role, in your experience have you become familiar
 25 with how wire transfers are processed at JP Morgan Chase?

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1 (In open court; jury not present.)
 2 THE COURTROOM DEPUTY: All Rise.
 3 THE COURT: Thank you. We have the appearances.
 4 You may be seated.
 5 The defendant is being produced. Do we have any
 6 issues to address before we bring in the jury and have the
 7 next witness called?
 8 MR. BINI: Not from the Government.
 9 MR. JACKSON: No, your Honor.
 10 (Defendant enters.)
 11 THE COURT: Welcome back, Mr. Boustani.
 12 Let's bring the jury in first then we'll have the
 13 witness come forward and Mr. Jackson will swear him in.
 14 (Jury enters the courtroom.)
 15 THE COURT: Welcome back ladies and gentlemen of the
 16 jury. Thank you for your promptness. Please be seated.
 17 And we're now going to have a new witness called.
 18 MR. SCHACHTER: Your Honor, the defense calls
 19 Timothy Coffey.
 20 THE COURT: Have the witness come forward to be
 21 sworn.
 22 COURTROOM DEPUTY: Raise your right hand.
 23 Do you solemnly swear or affirm the answers you're
 24 about to give to the Court will be the truth, the whole truth,
 25 and nothing but the truth so help you God?

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1 A Yes. My years in the bank have been spent with the
 2 initiation of wires, the investigation of wires, the
 3 through-put of wires as they move through the applications,
 4 and presently right now I'm in the wire fraud space.
 5 Q Can you tell us what percentage of wire transfers are
 6 handled automatically at JP Morgan Chase without any need for
 7 any human intervention?
 8 A 98 percent.
 9 Q And do those wire transfers, automated wire transfers,
 10 involve servers and computer equipment?
 11 A They do.
 12 Q Are any of the servers that are involved in processing
 13 wire transfers at JP Morgan located in the State of New York?
 14 A They are not.
 15 Q Now, you mentioned 98 percent of the wire transfers are
 16 handled in an automated fashion, that leaves 2 percent. Can
 17 you explain why it is in 2 percent of the circumstances a wire
 18 transfer may necessitate some kind of human involvement?
 19 A Sure. If a payment instruction comes into the bank, and
 20 the payment application is due to artificial intelligent is to
 21 unable to decipher what the intent of the wire was, it will
 22 kick out some sort of operator intervention to massage the
 23 transaction.
 24 Q To the extent that it requires such massaging, where are
 25 the masseuses at JP Morgan located?

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1 A Florida, India and Philippines.
 2 Q Were any of the humans that would be involved in a wire
 3 transfer located in New York state?
 4 A No.
 5 MR. SCHACHTER: Your Honor, may I publish what is in
 6 evidence as 1201A1?
 7 THE COURT: You may.
 8 MR. SCHACHTER: If we can blow it up, thank you.
 9 BY MR. SCHACHTER:
 10 Q Sir, do you recognize this to be a document that involves
 11 a wire transfer that bears the name JP Morgan Chase bank for
 12 Metro Tech Center, Brooklyn, New York. Do you see that?
 13 A I do.
 14 Q Just to situate the jury, I'll highlight some the
 15 portions of the document. Do you see where it says ordering
 16 customer?
 17 Then it also lists below that the name, First Gulf
 18 Bank in Abu Dhabi and Privinvest Ship Building. And it also
 19 in addition to listing JP Morgan Chase, it also lists Abu
 20 Dhabi Commercial Bank and the name Andrew Pearse. Do you see
 21 that? Are you able to make that out on the screen?
 22 A Yes.
 23 Q Great. And so are you able to say what role, if any, JP
 24 Morgan has in connection with this transaction?
 25 A JP Morgan Chase is the recipient bank in this transaction

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1 A That's correct.
 2 Q Is Bank of New York the correspondent bank for First Gulf
 3 Bank?
 4 A That is correct.
 5 Q Did anything relating to this wire transfer in fact
 6 happen at Four Metro Tech Center in Brooklyn, New York?
 7 A No, it did not.
 8 Q What, sir, is the only actual transfer of money that is
 9 reflected in this document?
 10 A The movement of funds here is the Bank of New York paying
 11 funds to the clearing house of the Federal Reserve for further
 12 credit to JP Morgan Chase.
 13 Q Is that a transfer of money from Bank of New York in the
 14 United States through the Federal Reserve in the United States
 15 to an account at JP Morgan Chase in the United States?
 16 A That is correct.
 17 Q Does this document reflect a transfer of money from Abu
 18 Dhabi to the United States?
 19 A No, it does not.
 20 Q Does this document reflect a transfer of money from the
 21 United States to Abu Dhabi?
 22 A No, it does not.
 23 Q I'd like to show you two additional documents that are
 24 already in evidence.
 25 Your Honor, may I publish Government's Exhibit

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1 to pay funds for the credit to our client Abu Dhabi Commercial
 2 Bank.
 3 Q When you say the JP Morgan's client is Abu Dhabi
 4 Commercial Bank, what does that mean?
 5 A They maintain an account with JP Morgan case for U.S.
 6 dollars.
 7 Q Meaning Abu Dhabi Commercial Bank has a bank account that
 8 happens to be at JP Morgan Chase that holds U.S. dollars; is
 9 that correct?
 10 A That's correct.
 11 Q Mr. McLeod, can we highlight further down on this
 12 document so we can see in the entire thing, lower, left-hand
 13 corner.
 14 Do you see where it shows that this document has the
 15 name Bank of New York Mellon, do you see that, BNY Mellon?
 16 A I do.
 17 Q Can you go back to the top of the document, Mr. McLeod?
 18 Do you know that Bank of New York Mellon that they
 19 had a client called First Gulf Bank?
 20 A Correct.
 21 Q And is this a relationship that's called correspondent
 22 banking? Is that a term that means anything to you?
 23 A Yes, it does.
 24 Q Is JP Morgan the corresponding bank for Abu Dhabi
 25 Commercial Bank?

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1 1201B2?
 2 THE COURT: You may.
 3 Q Do you see, sir, that this contains much of the same
 4 information as the last exhibit, except a different ultimate
 5 beneficiary here, Surjan Singh?
 6 A Yes.
 7 Q And would your answers to my questions be the same to
 8 this document?
 9 A Exactly the same.
 10 MR. SCHACHTER: Also in evidence Government Exhibit
 11 1201C2, may I publish that, your Honor?
 12 THE COURT: You may.
 13 Q Here do you see, sir, again it's all the same names of
 14 entities, but here the only difference is the ultimate
 15 beneficiary is Jean Boustani. Do you see that?
 16 A That's correct.
 17 Q Would your answers to my questions regarding transfers be
 18 the same?
 19 A Yes, sir.
 20 MR. SCHACHTER: No further questions. Thank you.
 21 THE COURT: Your witness.
 22 CROSS EXAMINATION
 23 BY MS. MOESER:
 24 Q Good morning, Mr. Coffey.
 25 A Good morning. How are you?

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- 1 Q Fine. How are you?
- 2 A Good.
- 3 Q Defense counsel asked you a number of questions about a
- 4 couple of documents. Were those JP Morgan Chase documents?
- 5 A No, they were not.
- 6 Q Had you seen those documents before?
- 7 A I had not; until I was brought into this trial I had not
- 8 seen them.
- 9 Q Thank you. Can we bring up Government's Exhibit 1301
- 10 please. Can we go to the Andrew Pearse tab please,
- 11 Ms. DiNardo?
- 12 Mr. Coffey, is this a JP Morgan Chase document?
- 13 A Yes, it is.
- 14 Q I believe you were shown a transfer on April 23, is this
- 15 first line here that same transfer of JP Morgan Chase records?
- 16 A Yes, correct.
- 17 Q Is this an international wire JP Morgan Chase?
- 18 A We deem it an international wire based upon the
- 19 identifiers of the parties involved.
- 20 Q Is this a CHIPS transfer?
- 21 A This an incoming CHIPS deposit.
- 22 Q Can you tell the jury what CHIPS is?
- 23 A CHIPS is Clearing House Internet Payment System. A
- 24 clearing house is an entity where two parties, in this case
- 25 Bank of New York and JP Morgan Chase, where they don't

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- 1 Q For the same transaction you were just viewing?
- 2 A I would have to see that again, sorry.
- 3 Q Could you bring up 1201-B-2, Ms. DiNardo, for a moment?
- 4 Can you blow it up?
- 5 A Yes, that's referencing the same transaction, sorry.
- 6 Q That's okay.
- 7 Can we go back to 1301, Ms. DiNardo?
- 8 Is this another international wire transfer,
- 9 Mr. Coffey?
- 10 A This is an international wire transfer, incoming CHIPS
- 11 deposit.
- 12 Q Incoming CHIPS deposit, is that processed through the
- 13 clearing house?
- 14 A That's correct.
- 15 Q If the clearing house servers are located in New York
- 16 City, is this transaction processed through New York City?
- 17 A If the servers were located in New York at the time --
- 18 THE COURT: Woah, woah. I have a saying here,
- 19 channel your inner Darth Vader and not your inner Woody Allen
- 20 Chris Rock, Wanda Sykes, or Andy Hall. You have just gotten
- 21 past Darth Vader and into the ladder category. Slow it down,
- 22 sir.
- 23 THE WITNESS: I was trying to get out of here
- 24 without that happening.
- 25 THE COURT: Sorry, almost did. I should have warned

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- 1 maintain an account with each other they utilize the clearing
- 2 house to pay each other.
- 3 Q And can we bring up 3500-BP-2, Ms. DiNardo?
- 4 THE COURT: In evidence, you may publish.
- 5 BY MS. MOESER:
- 6 Q Mr. Coffey, you don't work for the clearing house, right?
- 7 A I do not.
- 8 Q But if the clearing house had its servers in New York
- 9 City on April 23, 2013, would that payment we saw have gone
- 10 through New York City?
- 11 A Using the same logic of our two servers not being in New
- 12 York City; therefore, the path is outside the city. If the
- 13 clearing house servers were located in New York City, I would
- 14 use the same logic and say yes, it goes through the city.
- 15 Q 1201-B-2, blow up to see the date on the top. Can we
- 16 bring up 12 --
- 17 Mr. Coffey, do you see the date November 27, 2013?
- 18 A I can see that, yes.
- 19 Q Can we bring up 1301, Ms. DiNardo? Go to the Surjan
- 20 Singh tab, please.
- 21 Mr. Coffey, the fourth line down, do you see that?
- 22 A I do.
- 23 Q Is that the same transaction here in the JP Morgan Chase
- 24 records?
- 25 A That is the JP Morgan Chase record, yes.

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- 1 you about that.
- 2 Go ahead.
- 3 THE WITNESS: Could you ask the question again?
- 4 Q The question was, Mr. Coffey, if the clearing house had
- 5 its servers in New York City at the time of this transaction,
- 6 would this transaction have been processed through New York
- 7 City?
- 8 A If the servers were located in New York, yes, it would be
- 9 through New York City.
- 10 Q I think that you said to defense counsel that JP Morgan
- 11 servers are located outside the State of New York, right?
- 12 A Both servers are located outside of New York state.
- 13 Q So if the clearing house's servers are in New York state
- 14 and JP Morgan are outside of New York state, would this be a
- 15 transaction in interstate commerce?
- 16 A From a JP Morgan Chase standpoint, every transaction is
- 17 an interstate transaction because they are written out to both
- 18 servers at the exact same time. They were written out to one
- 19 state and at the same time to another state.
- 20 Q So JP Morgan servers are in two different states and the
- 21 same time both servers process the transaction?
- 22 A That's correct.
- 23 Q Pull up 1201C2, Ms. DiNardo. Blow it up so we can see it
- 24 better.
- 25 Do you see the date on this one, Mr. Coffey?

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1 A I do, July 7, 2013.
 2 Q Do you see the amount?
 3 A Looks like a million dollars.
 4 Q Scroll down to see the beneficiary, Ms. DiNardo.
 5 Do you see the beneficiary there?
 6 A I do.
 7 Q And can you actually see the ordering customer? Who is
 8 that in this payment, Mr. Coffey?
 9 A Privinvest Ship Building.
 10 Q Where are they located?
 11 A Abu Dhabi.
 12 Q Ms. DiNardo, can we go to Government's Exhibit 1301
 13 please, to the Privinvest Shipment Building tab.
 14 And if we scroll down, do you see that transaction I
 15 believe it was November 27 -- I confess, I already forgot.
 16 A July 7.
 17 Q Thank you so much. Is this the same transaction?
 18 THE COURT: Don't talk over each other; it's not a
 19 cocktail party.
 20 MS. MOESER: Apologize, your Honor.
 21 Q Is this the same transaction that we just looked at,
 22 Mr. Coffey?
 23 A That is.
 24 Q And is this an international wire transfer?
 25 A This is an international wire transfer based upon the

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1 THE WITNESS: Yes.
 2 THE COURT: Be seated. Sir, I'll ask you to move
 3 the microphone in front of you. State your name, spell it,
 4 and then counsel will inquire.
 5 THE WITNESS: My name Johan Valentijn, J-O-H-A-N,
 6 V-A-L-E-N-T-I-J-N.
 7 THE COURT: You may inquire, counsel.
 8 MR. SCHACHTER: Thank you.
 9 J O H A N V A L E N T I J N,
 10 called as a witness, having been first duly
 11 sworn/affirmed, was examined and testified as
 12 follows:
 13 DIRECT EXAMINATION
 14 BY MR. SCHACHTER:
 15 Q Good afternoon, Mr. Valentijn. Sir, can you please tell
 16 the jury what do you do for a living?
 17 A Sorry I didn't hear.
 18 THE COURT: What do you do for a living.
 19 A Sorry. I'm naval architect and marine engineer and ship
 20 builder and manager.
 21 Q Can you tell us what is a naval architect, what does that
 22 mean?
 23 A A naval architect is a person that designs vessels, can
 24 be any type of vessel. And design the shapes and structures,
 25 and the seaworthiness, the stability, the weights, and the

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1 identifies.
 2 Q Is this a CHIPS payment?
 3 A This is an incoming CHIPS deposit.
 4 Q Again, if the CHIPS servers are located in New York City,
 5 is this a transaction that is processed through interstate
 6 commerce through New York City?
 7 A If that was the case with the clearing house servers,
 8 yes.
 9 MS. MOESER: May I have a moment, your Honor?
 10 THE COURT: You may.
 11 MS. MOESER: No further questions.
 12 THE COURT: Redirect?
 13 MR. SCHACHTER: We have no further questions.
 14 THE COURT: You may step down, sir. Thank you very
 15 much.
 16 (Whereupon, the witness was excused.)
 17 THE COURT: Call your next witness.
 18 MR. SCHACHTER: The defense calls Johan Valentijn.
 19 THE COURT: Have the witness come forward to be
 20 sworn.
 21 (Witness takes the stand.)
 22 COURTROOM DEPUTY: Raise your right hand. You do
 23 solemnly swear or affirm the answers you're about to give to
 24 the Court will be the truth, the whole truth, and nothing but
 25 the truth so help you God?

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1 powering requirements. And then to make it a complete vessel
 2 you have to design all the mechanical systems, the propulsion
 3 systems, electrical systems, et cetera, to make the vessel
 4 work just like a car.
 5 Q What company do you work for?
 6 A I work for Privinvest in Abu Dhabi.
 7 Q How long have you worked for Privinvest or one of its
 8 related companies?
 9 A I work for Privinvest since the beginning of 2007.
 10 Q Can you describe Privinvest's business in say 2013 and
 11 what was built, any shipyard?
 12 A In 2013 Privinvest owned one shipyard in France, called
 13 the CMN.
 14 It owns three shipyards in Germany. One is called
 15 Nobiskrug, N-O-B-I-S-K-R-U-G. The second one is a company
 16 called German Naval Shipyards. The third one is called
 17 Lindenau, L-I-N-D-E-N-A-U.
 18 It also owns a company called Isherwoods in England,
 19 I-S-H-E-R-W-O-O-D-S.
 20 Further we own a company called Atlantic Shipyards
 21 in Greece.
 22 And finally, we own shipyard called Abu Dhabi MAR in
 23 Abu Dhabi.
 24 Q What kind of ships were manufactured at each of those
 25 places?

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1 A CMN in France, we were building naval vessels, et cetera;
 2 as well as fishing vessels and utility vessels.
 3 In Germany we built mostly luxury yachts, about
 4 200 feet and above. At German Naval Shipyards, naval vessels,
 5 patrol boats, Corvettes, et cetera.
 6 Lindenau was a repair yard, actually repair, not
 7 only but repair mostly commercial vessels like freighters and
 8 utility tankers, tug boats.
 9 I sherwoods in England, that was a company we
 10 developed training sessions for maintenance and all the stuff
 11 for it, and the training of physical people for the vessels.
 12 In Greece we constructed submarines, high-technology
 13 submarines.
 14 And in Abu Dhabi we started with, first of all,
 15 taking old freighters and converting into luxury yacht. Next
 16 to that, we built several different type of patrol vessels.
 17 We did maintenance on all the vessels for the local sheiks.
 18 Q You mentioned the construction of naval vessels. What
 19 are some of Navys that Prinvest supplies ships for?
 20 A Prinvest supplies to approximately 40 Navys around the
 21 world. I can't tell them all, but I'll mention a few:
 22 France, Germany, Greece, Egypt, Libya, Morocco, Malaysia, the
 23 United Arab Emirates, Yemen, Saudi Arabia, Tunisia, Malaysia,
 24 many more.
 25 Q Does Prinvest have any operations in the United States?

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1 Q You came to America for what purpose?
 2 A I felt America, like I still do today, is the country of
 3 opportunity, so I wanted to be here, and I'm still here.
 4 Q What did you do when you moved to America?
 5 A I work for a company called Sparkman Stephens in New York
 6 City and at that time.
 7 THE COURT: Spell that.
 8 A S-P-A-R-K-M-A-N, S-T-E-P-H-E-N-S.
 9 THE COURT: Thank you. Continue.
 10 A I worked for this company, which was one of the foremost
 11 yacht designers in the world. And I was very lucky to get a
 12 job there as an apprentice to start learning the trade of
 13 designing yachts.
 14 Q How long were you at Sparkman Stephens?
 15 A I worked there for approximately four-and-a-half years.
 16 Q Then can you describe to the jury generally what other
 17 experience did you have in the ship building industry before
 18 coming to Prinvest?
 19 A I did many things in my life. I design first, actually
 20 build them as well, after I left Sparkman Stephens designed
 21 America's Cup vessels. Besides design them, I also, because
 22 ship building is my blood, I set up ship building places to
 23 build those vessels. After that, I set up some building
 24 factories in the U.S. And then I have to think a little bit,
 25 I work for a company in the Mid West called Burger Boat.

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1 A Not to my knowledge.
 2 Q You mentioned a shipyard called Abu Dhabi MAR, do you
 3 know who owned Abu Dhabi MAR?
 4 A Abu Dhabi MAR was owned by two different entities. One
 5 was called Logistics International, they owned part of it, and
 6 Logistics was owned by Prinvest. The other partner was Al
 7 Bateen Investment, owned by Sheikh Hamdan Bin Zayed, one of
 8 the rulers of Abu Dhabi.
 9 Q With you spell Sheikh Hamdan Bin Zayed?
 10 A H-A-M-D-A-N, then B-I-N, Z-A-Y-E-D.
 11 Q Can you tell us when you first started working on ships?
 12 A I was born 70 seven years ago inside of a shipyard, so
 13 it's been 70 years.
 14 Q Where was that?
 15 A I was born in Holland, where I lived my first many years
 16 of my life, where I got my education.
 17 Q Did you receive any formal education in the ship
 18 building?
 19 A I went to college in Holland where I studied naval
 20 architecture and engineering. I received a Bachelor's degree
 21 of science in Holland for naval architect.
 22 Q What was your first job in ship building?
 23 A My first job after college I worked for a design company
 24 to design luxury yachts in Holland. And I did that for about
 25 six months to the earn enough money to come to America.

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1 THE COURT: Spell that.
 2 A B-U-R-G-E-R Boat Company. And they were building luxury
 3 yachts. I actually was the production manager there.
 4 After that I went to Morocco. In Morocco I took a
 5 small shipyard owned by a Swiss person that he was kind of
 6 losing money so he wanted me to fix the place and make it
 7 better; and I did.
 8 After that I did I don't remember everything I did,
 9 but I did a couple of smaller things, then ended up at CMN in
 10 France.
 11 Q You mentioned that part of your experience was working on
 12 America's Cup Yachts. Can you describe to jury, what is the
 13 America's Cup?
 14 A America's cup was the pinnacle of yacht design, and still
 15 is as a matter of fact. It is the race for the top of the,
 16 for the America's Cup.
 17 It was first raced in England. A small Schooner
 18 called the America brought to England. And the British had a
 19 big fleet of yachts and challenged the yacht around the island
 20 for a race.
 21 The Queen was at the finish line and the first yacht
 22 was the America. The Queen asked who is second. So they
 23 said, Your Highness, there is no second, America defeated by
 24 so much.
 25 Then it became a professional cup that sailed mostly

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1 in Rhode Island. Everybody around the world would challenge
 2 to win the cup. It was not lost until 1983.
 3 Q When you did first come to work for Privinvest or one of
 4 its related companies?
 5 A I started working for Privinvest in January 2007, CMN in
 6 France.
 7 Q Did there come a time after you started working with CMN
 8 in France that you were tasked with designing a shipyard from
 9 scratch?
 10 A After I worked there for several months one of the
 11 directors of Privinvest was named Boulos Hanhach, and he asked
 12 me to come to Abu Dhabi and for a special project.
 13 So I took a flight to Abu Dhabi for the weekend.
 14 Met Mr. Safa. He showed me a picture of a old Dutch
 15 freighter. He showed me pictures of a modified freight turned
 16 into a luxury yacht and asked me if I could do that. Me, who
 17 likes a challenge, said of course I can, so I did.
 18 First step was trying to understand what needed to
 19 be done. There was two ship yards in the United Arab
 20 Emirates, one in Abu Dhabi and one in Dubai. I looked at both
 21 shipyards, and I decided it was not fitted for what we need to
 22 do. So I asked if I can build our own shipyard. They said,
 23 sure go ahead.
 24 So I got a piece of land in the harbor, brought the
 25 vessel, and started assembling people and equipment, et

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1 different items and areas. In this case it was a steel hull.
 2 We had to have a steel fabrication department. We also built
 3 a super structure built out of composite materials. So we
 4 have to have a composite shop to fabricate smaller components
 5 and how to assemble it and put it together. Then you have
 6 mechanicals, engines, air conditioning, et cetera. So we had
 7 to set up mechanical shops to deal with all the mechanics. It
 8 air conditions, pumps propulsion system. Electrical, we had
 9 to set up electrical department to deal with all the
 10 electrical equipment and develop it so it can work. And then
 11 you have a paint department. As you have seen, most of the
 12 yachts are beautifully shiny, that takes time and energy. We
 13 need to get the people, personnel, to make the paint job
 14 beautiful.
 15 Because there is no electricity on the side we also
 16 had to have a facility organization to take care of electrical
 17 power. We had to have generators in this place to take care
 18 of heavy power, big compressors, to make sure we have air.
 19 And we had water to make sure that if there is a fire that we
 20 can take care of the fire.
 21 So the facility's organization, then the
 22 organization of building the ship; yes, very complex area
 23 expertise.
 24 Q Mr. Valentijn, I'd like to direct your attention to June
 25 of 2013. Did you at that time meet a deligation from

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1 cetera.
 2 In the meantime we got a better location as well and
 3 we built that simultaneously to get a bigger shipyard. In
 4 about a year-and-a-half to two years we went from just me to a
 5 full-fledged shipyard and about 1,500 people.
 6 Q That shipyard, did that become Abu Dhabi MAR?
 7 A That shipyard became Abu Dhabi MAR where we did the
 8 vessel for Sheikh Hamdan Bin Zayed, as well as building some
 9 of the Navy vessels.
 10 Q To give us a sense of scale, that vessel that you're
 11 describing built for Sheikh Hamdan Bin Zayed, how big was it?
 12 A It was 465 feet long, a couple of football fields, I
 13 think. It was at that time the fifth largest yacht in the
 14 world. It was a very important for the Sheikh to have one of
 15 the largest yachts in the world, so we made it to the fifth
 16 largest.
 17 Q How long did it take to build that shipyard, Abu Dhabi
 18 MAR, in Abu Dhabi from when you started?
 19 A When we started, in reality it took us about a
 20 year-and-a-half to two years. But simultaneously building the
 21 shipyard we were working on the ship. We did not wait until
 22 it was finished, but we worked on the ship and shipyard at the
 23 same time.
 24 Q What is involved in building a shipyard?
 25 A Building a shipyard, the vessel, it consists of many

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1 Mozambique?
 2 A Yes.
 3 Q Where was that meeting?
 4 A President of Mozambique came to Abu Dhabi MAR, visited
 5 quite a lot of different people. And we showed him the
 6 shipyard. We showed him how we had started from nothing, from
 7 a piece of sand basically, to a real shipyard.
 8 And we showed him the vessels that we are building
 9 at that time, the DV15 and his 18s. As well as some others,
 10 we had some big catamarans as well that we showed that we made
 11 a model ship for and other purposes.
 12 Q You mentioned a couple of ships that Privinvest was
 13 describing to the president of Mozambique during that visit;
 14 is that correct?
 15 A That's correct.
 16 Q One of them was the DV15?
 17 A Right.
 18 MR. SCHACHTER: Your Honor, may we publish in
 19 evidence Defendant's exhibit 9032?
 20 THE COURT: You may publish.
 21 Q Do you recognize this to be a photo of a DV15?
 22 A This is a DV15.
 23 Q And are you able to see -- what, if anything, about the
 24 DV15 made it well-suited for monitoring the coastal waters of
 25 Mozambique?

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1 A The DV15 is about 50 feet long and it is ideal for
 2 coastal patrol, so closer to shore for harbor patrols, et
 3 cetera. And the coast is very long, you need quite a lot of
 4 boats there. It's ideally not to go on miles away from shore,
 5 but to stay 20, 30 miles from the coast line.
 6 Q And what can you tell us about how fast it goes or how
 7 maneuverable it is?
 8 A About 50 miles per hour. And it maneuvers very highly,
 9 but also has a great ability for search and rescue. You can
 10 trim it to, trim means four-and-a-half to different angles for
 11 the sea conditions. It's an ideal vessel for patrolling and
 12 for doing anything with shipping other vessels, et cetera.
 13 Q Has Privinvest sold the DV15 to the Navys of the
 14 countries other than Mozambique?
 15 A Yes.
 16 Q For example what Navys?
 17 A We have sold it to the United Arab Emirates, to the
 18 Yemen, to Qatar, and to Angola, and to Mozambique.
 19 Q Are you familiar with a ship his 32?
 20 A Yes, I am.
 21 MR. SCHACHTER: Your Honor, may we publish 9055
 22 Defendant's exhibit?
 23 THE COURT: You may publish.
 24 Q Do you recognize the vessel that is in this photograph?
 25 A Yes, that's an his 32.

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1 Q Are you familiar with the ship called the Ocean Eagle?
 2 A Yes, I am.
 3 MR. SCHACHTER: Your Honor, we'll offer Defendant's
 4 exhibit 9085.
 5 THE COURT: Any objection?
 6 MS. NIELSEN: No objection, your Honor.
 7 THE COURT: Admitted. You may publish.
 8 (Defense Exhibit 9085 received in evidence.)
 9 BY MR. SCHACHTER:
 10 Q Do you recognize this photo? What is this?
 11 A This is the Ocean Eagle 43, yes.
 12 Q Can you describe it for the jury?
 13 A The Ocean Eagle is a primer type of vessel made for very
 14 long ranges and very long times to be able to stay offshore.
 15 It has a, by having a single, middle hull it is very narrow,
 16 low recesses, very low power, and can stay offshore for five,
 17 six weeks at a time.
 18 And for patrolling, so it can patrol at the outer
 19 edges of the economic zone, so 200 miles out. Because it has
 20 a drone capability as well, you can extend the area of
 21 protection and policing by even more by set up the drone once
 22 in a while during the day.
 23 Crew of 12 person as well. It can have high speed.
 24 But also very, very suited for staying long term on the
 25 vessel. Normally when you have a single hull vessel in the

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1 Q Did Privinvest provide his 32s to Mozambique?
 2 A Yes, we provided three vessels.
 3 Q What, if anything, about the his 32 made it well-suited
 4 for monitoring Mozambique's coast line?
 5 A At about 106 feet long, good to go further offshore,
 6 longer distances up to the economic zone, two and half miles
 7 away and do patrolling and security protection for the coast,
 8 but also for illegal fishing, for any other protection you
 9 want to do, and sea and rescue. If vessels get into troubles
 10 it, they can go there in a very fast way. The vessel goes
 11 about 50 knots as well, very maneuverable, and safe to operate
 12 for people.
 13 Q How is the his 32 different from the DV15?
 14 A First of all, twice as long and it has a longer bow.
 15 More crew, 12 people in the crew; while the DV15 has only four
 16 people in the crew. And it can take, in the case of emergency
 17 for sea and rescue, can take as much as 40, 50 people on the
 18 vessel as well.
 19 It has more gun capabilities for protection. It has
 20 bigger guns to shoot, if you need to shoot. It's not my
 21 favorite, by the way.
 22 Q Has Privinvest built the -- has Privinvest sold the his
 23 32 to Navys of other countries?
 24 A Yes. We have sold to total I think 58 other vessels
 25 other than Mozambique.

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1 ocean way it rolls a lot. This one, with a trimaran it will
 2 roll less, more stable platform, and comfortable for people to
 3 stay for a longer period of time.
 4 Q I want to ask you questions about some things that you
 5 just said. You mentioned a drone capability, what is a drone
 6 and how is that used for surveillance?
 7 A A drone in this case is a small helicopter, unmanned
 8 helicopter, go up in the sky, has cameras on it and other
 9 sensing equipment to survey at the height of three, 400 feet,
 10 500 feet or a thousand feet, to surveillance longer distance
 11 on the ocean.
 12 Q Did Privinvest provide Ocean Eagle vessels to the country
 13 of Mozambique?
 14 A We provided each vessel with one drone.
 15 MR. SCHACHTER: At this time we'd like to show a
 16 video, Defendant's exhibit 9180, which I've discussed with the
 17 Government.
 18 THE COURT: Any objection to 9180 being admitted
 19 into evidence.
 20 MS. NIELSEN: No objection.
 21 THE COURT: It is admitted. You may publish to the
 22 jury and the witness.
 23 (Defense Exhibit 9180 received in evidence.)
 24 MR. SCHACHTER: Can we dim the lights, your Honor?
 25 THE COURT: You may. Thank you.

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1 (Video played.)
 2 MR. SCHACHTER: Can we turn the lights back up?
 3 THE COURT: Yes.
 4 Q You recognize that to be a marketing video of the Ocean
 5 Eagle?
 6 A Yes.
 7 Q Are you able to highlight for the jury anything that we
 8 saw on that video that speaks of the Ocean Eagle's
 9 capabilities that make it particularly well-suited for the
 10 waters off of Mozambique?
 11 A This video was made a sea state five. Sea state five
 12 means very, very rough waters. They normally don't take your
 13 boats out on the Long Island Sound. This is in the Indian
 14 Ocean, you get rough seas. You can have conditions like this
 15 quite often and quite frequently.
 16 First of all, you have the long ocean waves, but any
 17 wave will put the waves on top of that. The Ocean Eagle
 18 showed you that it can cut through the waves. Essentially the
 19 bows are sharp; instead of going up, the bows go straight into
 20 the waves.
 21 What makes it convenient and it is also less
 22 dangerous, there are vessels of this type that have been
 23 designed in the past and that actually when they go into waves
 24 like this they can flip backwards because of the pounding of
 25 the bow. And we have designed this vessel to have extremely

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1 DIRECT EXAMINATION
 2 BY MR. SCHACHTER: (Continued.)
 3 Q Now, we'll get to this more in a few moments, but did
 4 there come a point in time where you spent a fair amount of
 5 time in Mozambique?
 6 A Sorry, I don't understand the question.
 7 Q Did there come a point in time where you, yourself, spent
 8 a fair amount of time in Mozambique?
 9 A I spent quite a lot of time there over the couple of
 10 years we did the contract, yes.
 11 Q And did you see the Ocean Eagle vessels in Mozambique?
 12 A I saw the Ocean Eagle vessel in Mozambique, and also I've
 13 been on the Ocean Eagle vessel in Mozambique as well.
 14 Q All right. Let's now turn to the WP18.
 15 MR. SCHACHTER: And, Your Honor, may we publish
 16 Defense Exhibit 9169 in evidence?
 17 THE COURT: Yes.
 18 (The above-referred to exhibit was published.)
 19 BY MR. SCHACHTER:
 20 Q Can you describe this vessel, the W -- was this also a
 21 vessel that was provided to Mozambique?
 22 A Yes. We provided three of those vessels and so WP18 and
 23 18 meters is 60 feet long in this case.
 24 Q It's 60 feet long is --
 25 A Sixty feet long.

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1 sharp bow, to be comfortable, to be able to operate. Normally
 2 you don't go necessarily 28 miles like the video in this kind
 3 of conditions, but in cases due to search and rescue for
 4 example or an emergency of some other kind or somebody is
 5 attacking the oil and gas, the vessels can get to location
 6 very fast no matter what the weather conditions are.
 7 Q These vessels are designed for a patrol that is out at
 8 sea for approximately how long?
 9 A For four to six weeks they can be out at sea to patrol.
 10 And have all the complements for the crew to be comfortable.
 11 Q Why is the stability of the vessel necessary if a patrol
 12 is going to be out for that period of time?
 13 A What it is, the side hulls that you see, the center hull
 14 and side hulls give stability that makes it roll less when
 15 you're in the ocean. So the vessel still moves a little bit,
 16 but not like a single hull. A single hull goes like that and
 17 becomes very uncomfortable after a period of time.
 18 (Continued on next page.)
 19
 20
 21
 22
 23
 24
 25

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1 I'm so sorry.
 2 Q Can you describe to the jury, what is the WP18 and what
 3 about it made it, if at all, well suited for patrolling in
 4 Mozambique's waters?
 5 A The WP18 is a very special strike craft that is -- has an
 6 interceptor to go out and catch the bad guys, as I say.
 7 It has gun capabilities. There's a tower that can
 8 raise up to a tower that they have in the middle of the vessel
 9 that actually when you are running, you don't see the guns,
 10 but when you need the guns, upon pushing the button, the lid
 11 pulls up and the guns go up.
 12 It can have missiles on the vessel, grenade
 13 launchers on the vessels. We even developed a torpedo system
 14 on the vessel. That's part of -- sorry -- torpedo and grenade
 15 launchers and grenade launchers, yeah, and missiles, yes.
 16 And what is good for Mozambique is because it has
 17 very sharp bow, similar as the Ocean Eagle, and interestingly
 18 enough, those two vessels were developed simultaneously by two
 19 different design teams, and each one came up with very similar
 20 ways that we need to cut through the waves, and the
 21 wave-cutting ability of this vessel is identical like we just
 22 see on the Ocean Eagle video, and this is a very valuable
 23 item.
 24 Next of all, it's an extremely fast vessel, it can
 25 go 75 miles an hour, which is very fast on the water, and when

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1 you go -- I've been on the vessel, actually. When you go
 2 through waves about six or eight feet tall or high and you go
 3 through the waves at 65 knots going in, on the other side you
 4 come out at 63 knots. You only lose two knots. It's
 5 incredibly fast and incredibly exciting, too, by the way.

6 The advantage is, you can, again get very quickly to
 7 areas that are identified as problem areas so you can do the
 8 protection, you can do interception, et cetera.

9 And they are all tied to the whole surveillance
 10 system that we have with the radar stations, with aircraft
 11 patrolling, the satellite, pictures from satellite. All of
 12 those items tie together as security and surveillance system
 13 for the coast of Mozambique.

14 THE WITNESS: Am I going too fast for you? Sorry.

15 Q What, if anything, can you describe about the radar
 16 profile of this vessel?

17 A Sorry, I didn't hear the question.

18 Q What, if anything, can you describe about the radar
 19 profile of this vessel?

20 A This vessel is very, very low -- it's less than 6 feet
 21 above the water -- and at 6 feet, the regular radar is hard to
 22 detect it; and if you, for example, are at 500 feet away --
 23 not 500 feet, 500 meters -- so say 500 yards away, you won't
 24 be able to see the vessel because it's very low profile.

25 It also is protected against the radar infrared

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1 45 minutes in there, which is a very long time, and he wanted
 2 to know every single detail of everything that was in the
 3 showroom, the supply of everything we were doing to supply
 4 from all different contracts in Mozambique.

5 Q Did you travel to Mozambique in July of 2013?

6 A Yes, I did.

7 Q And what was the purpose of your trip at that point in
 8 time in July of 2013?

9 A In July 2013, I was asked to go to Maputo and see what
 10 other possibilities there are to make Mozambique more
 11 self-sustainable and provide a more -- options to make money.

12 Q In what area?

13 A My expertise is the maritime area. I looked at
 14 everything in the maritime area, so I look for abilities to
 15 add for the security, one, first of all. But also Mozambique
 16 has a very long coastline that has a lot of illegal fishing
 17 going on, so I'm looking for how can you make money for the
 18 people with illegal fishing, and the philosophy that existed
 19 at the time that we saw, you can charge the people for fishing
 20 in your waters -- make money, yes -- and also, you can, by
 21 setting up a flag state or a very strong authority to license
 22 people to be in your waters or to have them under your own
 23 control.

24 It's like the car, actually. You know, you have a
 25 car in New York, you cannot take -- you can take the car to

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1 systems as well, so it is a very low signature for anybody to
 2 detect the vessel, and this is very big advantage for -- in
 3 warfare and other problems and areas.

4 Q You mentioned some of the capabilities of adding a
 5 variety of weapons onto this vessel, but to be clear, when
 6 Privinvest provided WP18s to Mozambique, did it simply have
 7 those capabilities, or did it also include weapons?

8 A No. In the contract, we are not allowed to supply the
 9 weapons, and so all of the vessels we supply without weapons,
 10 but all them can be fitted out by the customer when they need
 11 to do it later on to be supplied for weapons.

12 Q Did there come a time when you spoke again with the
 13 president of Mozambique, but this time in Maputo?

14 A I don't think I spoke to the president of Mozambique in
 15 Maputo, no.

16 Q Maybe I'm wrong about the city.

17 Was there a point in time where you were present in
 18 a showroom in Mozambique?

19 A We had built a showroom for Mozambique for National Day
 20 in 2014. We developed a whole showroom in Abu Dhabi, as a
 21 matter of fact, and shipped it to Mozambique. It was National
 22 Day, the president was in, a lot of other dignitaries. I
 23 personally was not there, but I was told later by my people
 24 that the president went into the showroom and with his
 25 people -- only his people, not our people -- he spent

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1 another state, but then you have to reregister your car into
 2 the next state, and so I had to do that when I moved from Long
 3 Island to Wisconsin, but the fact is you can do the same with
 4 vessel. You can say okay, you can come into my waters, but if
 5 you are longer than certain period in my waters, then you have
 6 to register under my flag or under my authority, so -- and by
 7 doing that, you can charge fees, you can charge all kinds of
 8 fees for that, to control, and then you can control your
 9 fishing waters, you can control your coast.

10 There's also traffic between -- coming around South
 11 Africa going north to Somalia to -- to -- to the Gulf
 12 countries and all of the vessels that go north, they come
 13 through the channel between Madagascar and Mozambique, but
 14 they come along the coast of Mozambique because of the
 15 currents, so they stay very close to the coast.

16 It's like, I'm sure you still have it, but I used to
 17 drive from Long Island to New York a lot on the Connecticut
 18 Turnpike and I had to pay tolls. You can do exactly the same
 19 with this. You say okay, you go through my waters, and by the
 20 way, I want the toll, I want money for that, and it's very
 21 easy to set up.

22 THE COURT: I think we are getting a little far
 23 afield of the question. I don't mind a bit of narrative
 24 response, but I think if you go back, the question was -- you
 25 mentioned some of the capabilities of adding a variety of

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1 weapons onto this vessel. But to be clear, when Privinvest
 2 provided weapons to Mozambique, did it simply have the
 3 capabilities. You said no. And you went on to say, did there
 4 come a time when you spoke again with the president of
 5 Mozambique. I don't think I spoke to him. Maybe I'm wrong
 6 about the city. You said you weren't at the meeting. And the
 7 last question you were asked when you began the narrative was,
 8 in what area, and that was about three pages ago.

9 So I think that suggests that this is a good time to
 10 break for lunch.

11 How much longer do you have with this witness?

12 MR. SCHACHTER: Your Honor, I think about half an
 13 hour.

14 THE COURT: Well, we'll see you ladies and gentlemen
 15 at three o'clock. Have a nice lunch. Do not talk about the
 16 case.

17 Sir, do not talk with anyone about the case during
 18 the lunch break, and we will see you here back at 3:00 where
 19 we will continue with the direct examination.

20 Thank you.

21 (Jury exits.)

22 THE COURT: You may step down, sir.

23 Thank you.

24 (Witness excused.)

25 THE COURT: We will see you back at three o'clock.

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1 everyone gets lost in Brooklyn, but nobody gets that lost, and
 2 it's a very famous confusion trademark case.

3 I think we're -- you are not going to get confused
 4 between Wolfie's in Brooklyn and Wolfie's in Florida. It's
 5 even further than the docks of Mozambique to the Hamptons.

6 All right. Is there anything else we need to talk
 7 about before we have our lunch break?

8 MR. SCHACHTER: Your Honor, I guess I would ask the
 9 Court, would the Court -- would it be acceptable if I spoke to
 10 the witness just about that?

11 THE COURT: I think the way you can handle it if you
 12 want to handle it, and I prefer you not to speak with him
 13 about it, is just to gently after he talks about the
 14 Mozambique piece and starts driving down the I-95 route, you
 15 might say, thank you, but why don't we focus. I would rather
 16 have you interrupt him than have the Government interrupt the
 17 answer on the grounds that it's narrative.

18 Some witnesses tend to tell stories. Some judges
 19 even tend to tell stories. You are not in a position to
 20 interrupt the judges as freely as you might like to, but he
 21 really can, I think, be focused. And if you find that he's
 22 going a bit far afield, you, as the presenter of this witness,
 23 can, I think, more appropriately suggest that he focuses his
 24 answer. Obviously the Government can jump in at some point,
 25 and obviously if it goes on and you start losing the attention

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1 You may be seated, ladies and gentlemen.

2 I realize that as the witness leaves the courtroom
 3 there is a thin line between an allowable amount of narrative
 4 follow-on in answering a question and pure narrative, and I
 5 realize that the Government has not objected to the narrative
 6 answers to pretty straight forward questions, and I don't want
 7 to be too intrusive of a witness's answer that is responsive
 8 to a question.

9 That being said, it might be appropriate with this
 10 witness, given his pension for narratives, to ask questions
 11 that are designed to elicit more focused responses because I
 12 don't like it when lawyers interrupt witness's answers because
 13 they're venturing into narrative beyond the scope of the
 14 questions. I think lawyers should be allowed to try their
 15 cases as they see fit, but I also think it's important to not
 16 let the narrative take over because you do have a jury that
 17 knows what the question was, and when you start moving from
 18 Mozambique to your driving from Long Island, I think you
 19 perhaps have gone somewhat afield.

20 There was a great state court judge who years ago
 21 used to teach in the BARBRI course and there was a case
 22 involving confusion of trademarks, and there was a Wolfie's in
 23 Brooklyn and a Wolfie's in Florida and the question was
 24 whether or not there would be confusion, and in holding that
 25 there was not confusion of the trademark, the Court held, and

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1 of the jury, I can refocus him, but, again, I prefer not to
 2 have the Government do it and I would prefer not to do it, but
 3 witnesses vary. And as I said, there's a line, but somewhere
 4 between Wolfie's of Brooklyn and Wolfie's of Florida and
 5 Mozambique and the Hamptons, I think we ought to get back to
 6 the issues of the case.

7 So that's all I'll say by way of observation and
 8 hopefully you can, as experienced counsel, focus him a bit
 9 more.

10 MR. SCHACHTER: I will take care of it.

11 THE COURT: Thank you.

12 Anything else from the Government?

13 MR. BINI: Your Honor, I wanted to note, Mr. Jackson
 14 gave me a copy of the Admiral Bryant report.

15 THE COURT: Can you just keep your voice up a little
 16 bit?

17 MR. BINI: Yes, Your Honor.

18 THE COURT: Thank you.

19 Go ahead.

20 MR BINI: That Mr. Jackson gave me a copy of the
 21 Admiral Bryant report, which is 82 pages, and I just wanted to
 22 make sure that the Court got it because I think after I have a
 23 chance to look at it during lunch, I do think at some point --
 24 I don't want to slow down the trial day, perhaps at the end of
 25 the day, if we could raise a number of issues that we see

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1 after we digest it.
 2 THE COURT: Have you submitted it to the Court
 3 either on ECF or hard copy, Mr. Jackson?
 4 MR. JACKSON: I'm sorry, Judge, no. We have it teed
 5 up to send an email to you as soon as we walk out.
 6 THE COURT: Why don't you send it to the other
 7 Mr. Jackson and he will print it out or forward it to my law
 8 clerks and to me in chambers and we will look at it during the
 9 lunch break and perhaps towards the end of the afternoon we
 10 will be in a position to listen to arguments with it as our
 11 focus.
 12 MR. MEHTA: Your Honor, we also have concerns about
 13 the 71-page Hinman report that was given to us a couple days
 14 ago.
 15 THE COURT: Was that sent to the Court?
 16 I think we have that.
 17 Yes? No? Did you forward that to us? This was an
 18 attachment to the Mozambique law expert?
 19 MR. MEHTA: No, Your Honor. This is a separate
 20 report that was given to us on Tuesday night.
 21 THE COURT: Okay.
 22 Has that been sent to the Court?
 23 MR. SCHACHTER: I don't believe so, Your Honor, but
 24 we will send it to the Court as well.
 25 THE COURT: Why don't you send that as well and

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1 Thank you.
 2 We'll see you at three o'clock.
 3 MR. JACKSON: Thank you, Judge.
 4 (A recess in the proceedings was taken.)
 5 (Continued on the following page.)
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1 we'll look at it.
 2 Whoa, whoa, whoa. One at a time.
 3 MR. SCHACHTER: I stand corrected, Your Honor.
 4 MR. DISANTO: No, Your Honor, there are --
 5 THE COURT: Please use the microphone. I'm sorry.
 6 MR. DISANTO: There are three decks that we provided
 7 to the Government. We will provide all three copies to the
 8 Court.
 9 THE COURT: Is your microphone on?
 10 MR. DISANTO: It is.
 11 THE COURT: All right. Pull it toward you. Pull is
 12 closer to you and that way I'll hear you.
 13 Go ahead. Say it again.
 14 MR. DISANTO: Your Honor, there are three slide
 15 decks that the Government has received and we can provide all
 16 three of those to the Court.
 17 THE COURT: Please do that as soon as possible so
 18 that we can read them.
 19 All right?
 20 Anything else?
 21 MR. SCHACHTER: Nothing for the defense.
 22 Thank you, Your Honor.
 23 THE COURT: Anything from the Government?
 24 MR. MEHTA: No, Your Honor.
 25 THE COURT: All right.

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1 AFTERNOON SESSION
 2 (Time noted: 3:17 p.m.)
 3 (In open court; Jury not present.)
 4 THE COURTROOM DEPUTY: All rise.
 5 The Honorable Judge Kuntz presiding.
 6 THE COURT: Thank you. We have the appearances.
 7 You may be seated.
 8 The defendant is being produced.
 9 (Defendant enters the courtroom.)
 10 MR. SCHACHTER: Should we get the witness, Your
 11 Honor?
 12 THE COURT: Before we get the witness back, we have
 13 received the documents, and I think the way we should proceed
 14 is if you have the opportunity overnight to agree to a portion
 15 of the documents being admitted, the demonstrative or what the
 16 parties had preferred, if you don't agree, feel free to submit
 17 your respective motions *in limine* any time between 11 p.m.
 18 midnight tonight, 4 a.m. As I said I have no life, I'll read
 19 them when they come in.
 20 And if you can't agree, I'll rule with respect to
 21 the portions that you can't agree on when we're together in
 22 the morning, as I've done before with your motions *in limine*,
 23 and then you will know what's in or what's out.
 24 I'm not saying that you have to agree. I'm not
 25 saying that you should agree. I'm just saying I'm giving you

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1 the opportunity to agree with respect to some or all of those
2 submissions rather than trying to do it collectively at the
3 end of the day today.

4 So I think I would just let you know that since you
5 all are good taxpayers, this space is your space, this space
6 is my space to paraphrase, so at the end of the day today,
7 you're free to stay here and use this space if you want to
8 talk.

9 I'm sure that the marshals will have a tough point
10 and they need to take the defendant back to his current
11 address. I'm sure they'll let Mr. Boustani stay for half an
12 hour or so, if that's of use to you at the end of the day, and
13 you'll have time to discuss with him what you might or might
14 not be willing to compromise on when you make your
15 submissions.

16 So I think that's the better way to proceed, and
17 that way we will not cut into the time with the jury.

18 So hopefully that's acceptable, and if it's not,
19 tell it to my friends on the 17th Floor.

20 Okay, now shall we get the witness back in, unless
21 there is anything else we need to address?

22 MR. BINI: Your Honor, the only thing I was going to
23 raise is that after this witness is done, I believe the next
24 witness is Miss McMahon. We had some issues as to her, but we
25 can raise those, if there's a break.

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1 A Yes.

2 Q And approximately when was that?

3 A I think it was in 2014 or -- around 2014.

4 Q And did that come to be known as the MAM project?

5 A Yes.

6 Q And MAM, does that stand for Mozambique Asset Management?

7 A That's correct.

8 Q And what was that company, MAM?

9 A MAM was supposed to manage the shipyards and bases and
10 keep maintenance for all the varied assets. And provide
11 trading, provide transfer technology. And to train and mobile
12 maintenance services.

13 Q Mr. Valentijn, what I'd like you to do is just -- were
14 there multiple components of the MAM project that Prinvest
15 provided to Mozambique?

16 A Okay, I'll repeat, because that's what I meant to say.

17 So we provided the shipyard. We provided the
18 maintenance of the bases. We provided the mobile maintenance
19 base. We provided transfer technology. We provided training.
20 And we provided two years of spare parts for all vessels we
21 supplied.

22 Q Okay, and just very briefly, if you can -- I'd just like
23 you to describe each of those components.

24 So first you mentioned a shipyard?

25 A Yes, correct.

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1 THE COURT: Why don't we do that.

2 MR. BINI: Thank you, Your Honor.

3 THE COURT: Okay, let's bring the witness back in.

4 And, Mr. Jackson, would you bring the jury back.

5 (The witness resumes the stand.)

6 (Jury enters the courtroom.)

7 THE COURT: Good afternoon, again, ladies and
8 gentlemen of the jury. Again, thank you for your promptness.

9 We appreciate it. Please be seated.

10 You may be seated in the public as well.

11 Sir, as I said I would, I will ask you: Have you
12 spoken with anyone about your testimony during the break?

13 THE WITNESS: No, Your Honor.

14 THE COURT: Thank you, sir.

15 All right. Please continue. And I'm sure we're
16 going to get focused questions and focused answers. Go ahead.

17 MR. SCHACHTER: Thank you, Your Honor.

18 Good afternoon, ladies and gentlemen.

19 THE JURY: Good afternoon.

20 DIRECT EXAMINATION (Continued)

21 BY MR. SCHACHTER:

22 Q Good afternoon, Mr. Valentijn.

23 Sir, did there come a time when you were tasked with
24 putting together a project to develop a shipyard in
25 Mozambique?

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1 Q And very briefly, what was that -- what was provided?

2 Was that provided?

3 A Yes. We eventually got access to a shipyard in Maputo
4 that we actually refurbished and set up to be a proper
5 operating shipyard.

6 Q And there was also a maintenance base; is that correct?

7 A There was also a maintenance base as well.

8 Q And where was that constructed?

9 A The maintenance base was constructed in Pemba, P-E-M-B-A,
10 which was in north Mozambique.

11 Q And what kind of -- you mentioned training. Just very
12 briefly what kind of training was provided?

13 A We provided training for vessel operators, or for
14 high-speed vessels. And we also provided training for the
15 maintenance and eventually for shipbuilding.

16 Q And you mentioned transfer of technology.

17 What is that and why is that important?

18 A Transfer of technology provides the client to be able to
19 build the ships. It provides all engineering information. It
20 provides proprietary technology. And also when we start to
21 do, after we provide people to coach them and to help them to
22 get started.

23 Q And did Prinvest provide each of those components?

24 A Yes, we provided all the components.

25 Q What was the original timeline by which Prinvest

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1 intended to complete that work?
 2 A We are having a two-year contract, 34 months.
 3 Q Now, in order to meet that timeline, what, if anything,
 4 was that Mozambican company required to provide to Prinvest?
 5 A MAM was supposed to provide the sites for the shipyard,
 6 site for the maintenance base, and location for the training.
 7 Q And were there delays associated with getting access to
 8 those sites?
 9 A Yes. It took a long time to get access to any one of the
 10 sites.
 11 The final site actually took almost two years of
 12 waiting before we got it. I think finally got it.
 13 Q And during the time that there were delays in getting
 14 access to the site to build the shipyard, what was Prinvest
 15 doing?
 16 A We had people in the country already waiting. Some
 17 people waited there for almost 14 months before they can do
 18 anything.
 19 But we were trying to push as hard as we can to work
 20 with MAM and the organizations to try to get access to the
 21 places, and to try to solve the issues, et cetera.
 22 Q I should ask. Had the security situation in Mozambique
 23 changed since you started on this project in 2014?
 24 A Yes, security initially was not too bad. But after about
 25 one year being there, there was a war in the middle of the

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1 MS. NIELSEN: No objection, Your Honor.
 2 THE COURT: Admitted.
 3 You may publish it.
 4 (Defense Exhibit 8016, was received in evidence.)
 5 (Exhibit published.)
 6 Q Mr. Valentijn, do you see towards the bottom of the page
 7 you were writing an email to Mr. Rosario on August the 1st of
 8 2015? Are you able to see that?
 9 A Yes, I see that.
 10 Q And it's -- does that discuss generally concern over
 11 delays in getting permits to provide access to the Pemba
 12 operating base?
 13 A That's correct.
 14 Q And then I'd like to direct your attention to
 15 Mr. Boustani's email at the top.
 16 He directs this email to you; is that correct?
 17 A That's correct.
 18 Q And then he writes: Indeed, the delays in MAM project
 19 because of the internal politics where state-owned companies
 20 in Mozambique are involved are costing Prinvest a fortune.
 21 Do you see that?
 22 A Yes, I see that.
 23 Q And what did you understand Mr. Boustani to mean when he
 24 referred to internal politics that were costing Prinvest a
 25 fortune?

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1 country, and that means became Pemba and Maputo you could not
 2 travel by road, unless you go by convoy with military
 3 protection.
 4 And eventually the situation got much worse, both in
 5 Maputo and Pemba that we developed a complete evacuation plan
 6 for our people, including satellite phone and escape routes,
 7 et cetera to be able to get out of the country. We never used
 8 it, but we were prepared.
 9 And the last six months or five months of the
 10 project, I did not go any more to Mozambique because there was
 11 a lot of kidnappings and killing happening, and I was a
 12 high-profile person so it was decided by our management that I
 13 should not go back to Mozambique.
 14 Q I want to ask you about Mr. Boustani's role.
 15 What was Mr. Boustani's role in the MAM project?
 16 A Mr. Boustani was the one that sold the project and
 17 followup with the customer at times. And then I was
 18 responsible for executing it. But his role was really selling
 19 the project.
 20 Q And did you in any way report to Mr. Boustani?
 21 A I did not to report to Mr. Boustani. Also I see him
 22 sometime, but there was no report to Mr. Boustani.
 23 MR. SCHACHTER: Your Honor, we'll offer Defense
 24 Exhibit 8016.
 25 THE COURT: Any objection?

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1 A That means that the internal in the country, there were
 2 different parties that were fighting the fact that MAM was
 3 doing projects, and they were fighting to not provide access
 4 to different places. That's the way I understood that.
 5 Q So you understood there were political issues that
 6 delayed access to the properties?
 7 A Political issue because I learned later that the shipyard
 8 we eventually got was controlled by the ministry of defense,
 9 and then some private people that were also connected to the
 10 government so they controlled that part, and they didn't want
 11 to give up the shipyard.
 12 Q And was that shipyard that you were renovating as part of
 13 the project?
 14 A Eventually we got the shipyard and renovated for the
 15 project, yes.
 16 Q And then Mr. Boustani writes: Let's see if the politics
 17 in Mozambique will be fixed for the sake of the economy of
 18 Mozambique.
 19 What do you understand that to mean?
 20 A The way I read that, I'm sure that Mr. Boustani meant it,
 21 he was very concerned that by not getting the project off the
 22 ground, that Mozambique would actually lose by not getting the
 23 project moving, and basically lose money because no one
 24 employed, no shipbuilding, no nothing.
 25 Q Ultimately --

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1 MR. SCHACHTER: I'd like to offer, Your Honor,
 2 Defense Exhibit 8015.
 3 THE COURT: Any objection?
 4 MS. NIELSEN: No objection, Your Honor.
 5 THE COURT: Admitted.
 6 Publish.
 7 (Defense Exhibit 8015, was received in evidence.)
 8 (Exhibit published.)
 9 Q Is this an email that you sent, Mr. Valentijn?
 10 A Yes, I did.
 11 Q And who did you -- who are you writing to? Who is
 12 Salvador Mula, M-U-L-A?
 13 A Mr. Salvador Mula was initially the technical director of
 14 MAM, and eventually I challenged him to help to get the
 15 shipyard in Maputo going, and he came up to the task and he
 16 worked very hard to do that, and I wanted to thank him for
 17 that.
 18 Q You wrote in the second paragraph: I want to thank you
 19 for all your great efforts and working with Tim and our team
 20 to make this project a success. You now have a very nice
 21 shipyard to start operations. I only wish we had the shipyard
 22 one year earlier as promised so MAM would be making money now,
 23 but that's politics and water under the bridge.
 24 What did you mean by that?
 25 A I meant that we would have gotten the shipyard at the

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1 time of the contract started, that there would have been
 2 operational for at least a year or more, and we actually could
 3 make money for MAM.
 4 Q Now, I'd like to show you some photos.
 5 First you said that one of the things that you
 6 provided was a mobile maintenance vessel.
 7 Is that what you said?
 8 A That's correct.
 9 MR. SCHACHTER: Your Honor, we'll offer Defense
 10 Exhibit 9001.
 11 THE COURT: Any objection?
 12 Publish it to the Court and counsel.
 13 MS. NIELSEN: Thank you.
 14 No objection.
 15 THE COURT: Admitted.
 16 You may publish it.
 17 (Defense Exhibit 9001, was received in evidence.)
 18 (Exhibit published.)
 19 Q Is that the vessel that Prinvest provided?
 20 A Yes, that's correct.
 21 Q And can you just describe, what is a mobile maintenance
 22 vessel? What purpose did it serve in this project?
 23 A The purpose of the vessel was that you can go and bring
 24 vessels on top of the vessel. This ship had, we also called a
 25 heavy lift ship. And they have cranes, and you can pick up

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1 like the DV15s, or the WP-18s, or also the HSI's and bring them
 2 on board the vessel, and then work on them to do maintenance
 3 or repairs, et cetera.
 4 MR. SCHACHTER: All right. I'd like to now show you
 5 photos which, Your Honor, we'll offer Defense Exhibits 9151,
 6 9153, 9154, 9157, 9160, and 9164.
 7 THE COURT: Any objection?
 8 Can I have the court reporter read the exhibits
 9 back?
 10 Why don't you do that, Madam Reporter, read the
 11 exhibits out loud that were called off so the government can
 12 check, make sure that, A, they were taken down the way they
 13 were stated; and, B, that they don't have any objection. So
 14 keep your voice up please.
 15 (Whereupon, the record was read.)
 16 THE COURT: Any objection?
 17 MS. NIELSEN: Your Honor, if we could see them.
 18 MR. SCHACHTER: Your Honor, it might be easier for
 19 the government table if I do them one by one.
 20 THE COURT: All right. 9151 is the first one?
 21 MR. SCHACHTER: Yes, sir.
 22 THE COURT: Any objection to 9151?
 23 MS. NIELSEN: No, Your Honor.
 24 THE COURT: Admitted.
 25 (Defense Exhibit 9151, was received in evidence.)

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1 THE COURT: What's the next one?
 2 No, no, just go through them and then you'll have
 3 them in.
 4 9153?
 5 MR. SCHACHTER: Yes, Your Honor.
 6 THE COURT: Any objection?
 7 MS. NIELSEN: No, Your Honor.
 8 THE COURT: Admitted.
 9 (Defense Exhibit 9153, was received in evidence.)
 10 THE COURT: Next. 9154?
 11 Any objection?
 12 MS. NIELSEN: No objection.
 13 THE COURT: Admitted.
 14 (Defense Exhibit 9154, was received in evidence.)
 15 THE COURT: 9157. Any objection?
 16 MS. NIELSEN: No objection.
 17 THE COURT: Admitted.
 18 (Defense Exhibit 9157, was received in evidence.)
 19 THE COURT: 9160. Any objection?
 20 MS. NIELSEN: No objection.
 21 THE COURT: Admitted.
 22 (Defense Exhibit 9160, was received in evidence.)
 23 THE COURT: 9164. Any objection?
 24 MS. NIELSEN: No objection.
 25 THE COURT: Admitted.

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1 (Defense Exhibit 9164, was received in evidence.)
 2 MR. SCHACHTER: Thank you.
 3 THE COURT: You're welcome.
 4 That's how I used to do it, but I'm old school.
 5 MR. SCHACHTER: Now, Mr. Valentijn, I'm going to
 6 show you -- I'm just go through those exhibits, and then I'll
 7 just ask you if you can if in general terms describe what it
 8 is that we looked at.
 9 First we'll publish, Your Honor, with the Court's
 10 permission 9151.
 11 THE COURT: Yes.
 12 (Exhibit published.)
 13 BY MR. SCHACHTER:
 14 Q And then -- why don't we take this one.
 15 What is shown in 9151?
 16 A This shows part of the shipyard in Maputo with all the
 17 garbage that was behind there.
 18 Q So was this before Privinvest did the work?
 19 THE COURT: You can't talk over each other. It's
 20 still not a cocktail party.
 21 Put your question, pause, and then answer, otherwise
 22 the record will be a complete mess.
 23 Put the question again, pause, and then answer.
 24 Question.
 25 Q Is this what the land looked like before Privinvest

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1 Exhibit 9139.
 2 THE COURT: Any objection to 9139?
 3 MS. NIELSEN: No objection, Your Honor.
 4 THE COURT: Next document?
 5 If you have a series, let's run them through, and
 6 then you can show them.
 7 MR. SCHACHTER: Sure. Your Honor, we'll offer
 8 Defense Exhibit 9141.
 9 THE COURT: Any objection to 9141?
 10 MS. NIELSEN: No objection.
 11 (Defense Exhibit 9141, was received in evidence.)
 12 MR. SCHACHTER: 9142?
 13 THE COURT: Any objection?
 14 MS. NIELSEN: No, Your Honor.
 15 THE COURT: Admitted.
 16 (Defense Exhibit 9142, was received in evidence.)
 17 MR. SCHACHTER: 9143.
 18 THE COURT: Any objection?
 19 MS. NIELSEN: No, Your Honor.
 20 THE COURT: Admitted.
 21 (Defense Exhibit 9143, was received in evidence.)
 22 MR. SCHACHTER: 9144.
 23 THE COURT: Any objection?
 24 MS. NIELSEN: No objection.
 25 THE COURT: Admitted.

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1 renovated the shipyard?
 2 A That's correct.
 3 THE COURT: Next.
 4 MR. SCHACHTER: 9153, Your Honor. May I publish
 5 that?
 6 THE COURT: Yes.
 7 (Exhibit published.)
 8 MR. SCHACHTER: 9154. May I publish that?
 9 THE COURT: Yes.
 10 (Exhibit published.)
 11 MR. SCHACHTER: 9157.
 12 THE COURT: Yes.
 13 (Exhibit published.)
 14 MR. SCHACHTER: 9160.
 15 THE COURT: Yes.
 16 (Exhibit published.)
 17 MR. SCHACHTER: And 9164.
 18 THE COURT: Yes.
 19 (Exhibit published.)
 20 Q Mr. Valentijn, just in very general terms, what are these
 21 all photos of that we just looked at?
 22 A These are photos of the various workshops and areas on
 23 the shipyard just to show what disarray the shipyard was.
 24 MR. SCHACHTER: And then I'd like to show you some
 25 additional photos. I'm going to -- we'll offer Defense

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1 (Defense Exhibit 9144, was received in evidence.)
 2 MR. SCHACHTER: 9146.
 3 THE COURT: Any objection?
 4 MS. NIELSEN: No objection.
 5 THE COURT: Admitted.
 6 (Defense Exhibit 9146, was received in evidence.)
 7 MR. SCHACHTER: 9149.
 8 THE COURT: Any objection?
 9 Why don't you blow it up so they can see it.
 10 9149, is that what you asked about?
 11 MS. NIELSEN: Do you have a picture?
 12 THE COURT: Something else popped up.
 13 So 9149, is that the document we're talking about,
 14 sir?
 15 MR. SCHACHTER: Yes, sir.
 16 THE COURT: All right. Admitted.
 17 (Defense Exhibit 9149, was received in evidence.)
 18 MR. SCHACHTER: 9136.
 19 THE COURT: Objection?
 20 MS. NIELSEN: No objection.
 21 THE COURT: Admitted.
 22 (Defense Exhibit 9136, was received in evidence.)
 23 MR. SCHACHTER: 9137.
 24 THE COURT: Objection?
 25 MS. NIELSEN: No objection.

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1 THE COURT: Admitted.
 2 (Defense Exhibit 9137, was received in evidence.)
 3 BY MR. SCHACHTER:
 4 MR. SCHACHTER: All right, Mr. Valentijn, we'll
 5 start with the Defense Exhibit 9139.
 6 May we publish it, Your Honor?
 7 THE COURT: You may publish all that series. It's
 8 been admitted to the jury. You don't have to ask permission
 9 to publish it.
 10 (Exhibit published.)
 11 BY MR. SCHACHTER:
 12 Q And is this a photograph of the shipyard after
 13 Prinvest's work renovating it?
 14 A That's correct.
 15 Q Showing defense exhibit -- and just what, very briefly,
 16 is shown in this photograph?
 17 A This shows in the foreground the graving dock.
 18 A graving dock is a well that a ship floats into to
 19 try dry dock it. And workshops in the background.
 20 MR. SCHACHTER: And, Your Honor, may we publish
 21 9141?
 22 THE COURT: I keep telling you, once it's in, you
 23 don't have to ask permission to publish it again, just do it.
 24 Just call the number, it's in evidence. Say 914, whatever, in
 25 evidence, bang, publish it.

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1 It's another picture of the renovated shipyard?
 2 (Exhibit published.)
 3 A This is also part of the shipyard. This is more to the
 4 right-hand side. There's a slipway. And we also renovated.
 5 Q 9136?
 6 (Exhibit published.)
 7 A This is a renovated cafeteria that we built when there
 8 was nothing but only garbage there before.
 9 Q And finally, 9137?
 10 (Exhibit published.)
 11 A This is the training room that we built for training the
 12 mechanical and the technical people.
 13 MR. SCHACHTER: You can take that down, Mr. Mcleod.
 14 Q And was part of the delivery of the project also the
 15 renovation of a naval school?
 16 A Yes, we did. Yes.
 17 MR. SCHACHTER: Your Honor, we'll offer 9121,
 18 Defense Exhibit 9121?
 19 THE COURT: Any objection?
 20 Publish it to them, to me and the jury -- not the
 21 jury, to opposing counsel first. 9121?
 22 MR. SCHACHTER: Yes, Your Honor.
 23 THE COURT: Any objection?
 24 MS. NIELSEN: No objection.
 25 THE COURT: Admitted.

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1 MR. SCHACHTER: I'll do it.
 2 (Exhibit published.)
 3 THE COURT: Okay.
 4 Q Showing you 9141, Mr. Valentijn, what's this?
 5 A This is the workshop that we renovated.
 6 Q And 9142?
 7 (Exhibit published.)
 8 A This is part of the workshop we renovated, the machine
 9 shop.
 10 Q 9143?
 11 (Exhibit published.)
 12 A It's also workshop that we renovated.
 13 Q 9144?
 14 (Exhibit published.)
 15 A This is an overall picture of the shipyard, yes.
 16 Again, seeing the graving dock and seeing the
 17 various buildings in the foreground, as well as in the
 18 background.
 19 Q 9146.
 20 (Exhibit published.)
 21 A Similar picture.
 22 Again, we see better picture of the graving dock
 23 here. And you see the building that we put up on the other
 24 side of the graving dock.
 25 Q 9149?

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1 (Defense Exhibit 9121, was received in evidence.)
 2 MR. SCHACHTER: Defense Exhibit 9123.
 3 THE COURT: Any objection?
 4 MS. NIELSEN: No objection.
 5 THE COURT: Admitted.
 6 (Defense Exhibit 9123, was received in evidence.)
 7 MR. SCHACHTER: And Defense Exhibit 9124.
 8 THE COURT: Any objection?
 9 MS. NIELSEN: No objection.
 10 THE COURT: Admitted.
 11 You may publish them all.
 12 (Defense Exhibit 9124, was received in evidence.)
 13 MR. SCHACHTER: Mr. Valentijn, I'm going to show
 14 first of all three, and then you can just tell what we looked
 15 at.
 16 So first showing the jury Defense Exhibit 9121.
 17 And then 9123.
 18 And then 9124.
 19 Q In very general terms, Mr. Valentijn, can you describe
 20 what we are looking at?
 21 A This is the buildings that were in the naval school that
 22 we actually -- some of them are classrooms and some of them
 23 are areas where we renovate to be able to work.
 24 MR. SCHACHTER: And, Your Honor, you'll now offer
 25 Defense Exhibit 9107?

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1 THE COURT: Any objection to 9107?
 2 MS. NIELSEN: No objection.
 3 THE COURT: Admitted.
 4 (Defense Exhibit 9107, was received in evidence.)
 5 MR. SCHACHTER: 9115.
 6 THE COURT: Any objection?
 7 MS. NIELSEN: No objection.
 8 THE COURT: Admitted.
 9 (Defense Exhibit 9115, was received in evidence.)
 10 MR. SCHACHTER: And 9117.
 11 THE COURT: Any objection?
 12 MS. NIELSEN: No objection.
 13 THE COURT: Admitted.
 14 (Defense Exhibit 9117, was received in evidence.)
 15 Q So why don't I show you --
 16 MR. SCHACHTER: Your Honor, may I publish all three?
 17 9107 for the jury.
 18 And then 9115.
 19 And then Defense Exhibit 9117.
 20 (Exhibit published.)
 21 Q And, Mr. Valentijn, can you describe what we just looked
 22 at?
 23 A One picture is the naval school, the entrance, that we
 24 modified and make it presentable.
 25 And all the other ones are the training modules,

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1 MR. SCHACHTER: 9104.
 2 THE COURT: Any objection?
 3 MS. NIELSEN: No objection.
 4 THE COURT: Admitted.
 5 (Defense Exhibit 9104, was received in evidence.)
 6 MR. SCHACHTER: And 9105.
 7 THE COURT: Any objection?
 8 MS. NIELSEN: No objection.
 9 THE COURT: Admitted.
 10 (Defense Exhibit 9105, was received in evidence.)
 11 MR. SCHACHTER: All right, looking first at -- can
 12 we publish Defense Exhibit 9101.
 13 (Exhibit published.)
 14 Q Mr. Valentijn, what are we looking at here?
 15 A This is the site of the future Pemba maintenance base.
 16 That's what it looked like before we started it.
 17 MR. SCHACHTER: And we'll also show you 9103.
 18 9104.
 19 9105.
 20 (Exhibits published.)
 21 Q And what were these photograph these of?
 22 A All these pictures shows how the area for the future
 23 naval maintenance base were before we started renovating.
 24 MR. SCHACHTER: And, Your Honor, now we'll offer
 25 Defense Exhibit 9088.

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1 simulators, that you have for learning how to drive the
 2 vessels on the shore.
 3 We provided quite a lot of stations so we can have
 4 different students race the boats together, or run the boats
 5 together, and see each other on the screens.
 6 Q And did Privinvest provide training at this facility?
 7 A Yes, we did.
 8 Q And then we'll -- I'll direct you to the maintenance base
 9 that you described Privinvest constructed.
 10 What was the location for that?
 11 A Sorry, I didn't understand your question.
 12 Q Where, in what city in Mozambique was the maintenance
 13 base constructed?
 14 A That was in Pemba.
 15 MR. SCHACHTER: Your Honor, we'll offer Defense
 16 Exhibit 9101.
 17 THE COURT: Any objection?
 18 MS. NIELSEN: No objection.
 19 THE COURT: Admitted.
 20 (Defense Exhibit 9101, was received in evidence.)
 21 MR. SCHACHTER: 9103?
 22 THE COURT: Any objection?
 23 MS. NIELSEN: No objection.
 24 THE COURT: Admitted.
 25 (Defense Exhibit 9103, was received in evidence.)

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1 THE COURT: Any objection?
 2 MS. NIELSEN: No objection.
 3 THE COURT: Admitted.
 4 (Defense Exhibit 9088, was received in evidence.)
 5 MR. SCHACHTER: 9095.
 6 THE COURT: Any objection?
 7 MS. NIELSEN: No objection.
 8 THE COURT: Admitted.
 9 (Defense Exhibit 9095, was received in evidence.)
 10 MR. SCHACHTER: 9087.
 11 THE COURT: Any objection?
 12 MS. NIELSEN: No objection.
 13 THE COURT: Admitted.
 14 (Defense Exhibit 9087, was received in evidence.)
 15 MR. SCHACHTER: 9090.
 16 THE COURT: Any objection?
 17 MS. NIELSEN: No objection.
 18 THE COURT: Admitted.
 19 (Defense Exhibit 9090, was received in evidence.)
 20 MR. SCHACHTER: And 9089.
 21 THE COURT: Any objection?
 22 MS. NIELSEN: No objection.
 23 THE COURT: Admitted.
 24 (Defense Exhibit 9089, was received in evidence.)
 25 (Exhibit published.)

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1 Q All right. Mr. Valentijn, I show you Defense Exhibit
 2 9088 to start with.
 3 And can you describe to the jury what's being shown
 4 in this photograph?
 5 A This shows a complete renovated base.
 6 We build a seawall so we can get a level ground.
 7 And we put up the building so we can put the vessel inside for
 8 maintenance when it's bad weather.
 9 All the workshops to the upper part of the picture,
 10 we all modified and renovated them so they become workable,
 11 including warehousing.
 12 And on the left-lower side, we built a ramp, what we
 13 call a shiplift. It's a ramp that we can have trailers that
 14 we build to take vessels like 15-meter or 18-meter vessel out
 15 of the water.
 16 (Exhibit published.)
 17 Q And I'll show you 9095.
 18 What's shown in this photograph?
 19 A It show you outside of where the base is. It shows a
 20 commercial pier.
 21 And the commercial pier, we installed a number of
 22 pontoons where you can moor the vessels, so operations, like
 23 the 15-meter and the 18-meter and the his, the OCEAN EAGLES.
 24 And it was a fully-operating base that had a fuel
 25 source and electric power and everything else to be able to

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1 CROSS-EXAMINATION
 2 BY MS. NIELSEN:
 3 Q Good afternoon.
 4 A Good afternoon.
 5 Q Mr. Valentijn, I believe you testified that you are an
 6 employee of Privinvest; is that correct?
 7 A That is correct.
 8 Q And you've been with Privinvest for approximately 12
 9 years; is that right?
 10 A Say again?
 11 Q Approximately 12 years, you've been with them?
 12 THE COURT: How long have you work for Privinvest?
 13 THE WITNESS: Oh, I'm sorry.
 14 THE COURT: How long have you work for Privinvest?
 15 THE WITNESS: I've worked to Privinvest for 12
 16 years.
 17 THE COURT: Next question.
 18 Q And I believe you testified you worked for Abu Dhabi MAR
 19 as well; is that correct?
 20 A That's correct.
 21 Q And Abu Dhabi MAR is owned by Logistics International?
 22 A Abu Dhabi MAR is owned by Logistics International, that's
 23 correct.
 24 Q And Logistics International is also owned by Privinvest,
 25 correct?

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1 maintain the vessels.
 2 (Exhibit published.)
 3 Q And I'll show you 9087, Defense Exhibit 9087.
 4 What's shown here?
 5 A This is the modified workshop, and it shows a young
 6 apprentice that was very a great person that became a
 7 superstar. He was a very good young man that had a great
 8 attitude and showed that he was willing to learn a lot.
 9 (Exhibit published.)
 10 Q Defense Exhibit 9090.
 11 What's shown here?
 12 A This is a building we built up out of containers that on
 13 the bottom floor was warehousing and stocking of parts and
 14 pieces. The upper parts were offices.
 15 And in between the containers, we were able to work
 16 on maintenance of the vessels.
 17 (Exhibit published.)
 18 Q And lastly, Defense Exhibit 9089.
 19 Is this another photo of the renovated operating
 20 base?
 21 A That's exactly what it is, yes.
 22 MR. SCHACHTER: I have no further questions.
 23 Thank you very much, Mr. Valentijn.
 24 THE COURT: Any examination for this witness?
 25 MS. NIELSEN: Yes, Your Honor.

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1 A Sorry, I'm a --
 2 THE COURT: Is Logistics International also owned by
 3 Privinvest?
 4 THE WITNESS: Yes.
 5 THE COURT: There you go.
 6 THE WITNESS: Thank you.
 7 THE COURT: You're welcome.
 8 Q And Mr. Valentijn, Privinvest pays your salary, correct?
 9 A That is correct.
 10 Q And the owner of Privinvest is Iskandar Safa; is that
 11 correct?
 12 A Yes, that's correct.
 13 Q And I believe you testified that you also work with the
 14 defendant, Jean Boustani?
 15 A Yes.
 16 Q And Jean Boustani also works for Privinvest, correct?
 17 A That is correct.
 18 Q And your job at Privinvest is to build shipyards; is that
 19 right?
 20 A My job is to build shipyards and to execute projects,
 21 yes.
 22 Q And that was the job that you performed on the Mozambique
 23 deals that you were involved in with Privinvest, correct?
 24 A Yes.
 25 Q So that was your role on the Proindicus contract; is that

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- 1 right?
- 2 A I was only involved in the MAM contract.
- 3 Q In the MAM contract.
- 4 And did the MAM contract deal with some of the
- 5 aspects of the Proindicus deal?
- 6 A Aspects of what?
- 7 Q Did the MAM contract that you were working on, have any
- 8 role to play in the Proindicus project?
- 9 A MAM maintained the vessels for Proindicus.
- 10 Q And was the same true for the vessels from the EMATUM
- 11 project?
- 12 A That's correct.
- 13 Q Now, there were some problems maintaining those vessels
- 14 for the EMATUM project, correct?
- 15 A I'm not aware of the problems.
- 16 Q Did Proindicus generate enough revenue to have the
- 17 maintenance done on the ships?
- 18 A I don't know what Proindicus did. I know that MAM only
- 19 provided the maintenance that was going to be required.
- 20 Q So you're not aware that Proindicus didn't raise any
- 21 revenue?
- 22 A I don't know, no.
- 23 Q Now, you weren't the Prinvest employee who was
- 24 responsible for negotiating these projects with the government
- 25 of Mozambique, correct?

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- 1 didn't have a problem knowing he was a defendant earlier,
- 2 right?
- 3 THE WITNESS: Yes.
- 4 THE COURT: Okay. So don't have a problem knowing
- 5 that Boustani is a defendant now.
- 6 Let's go. Come on. Keep your voice up and answer
- 7 the question truthfully. Let's go.
- 8 THE WITNESS: I can't answer --
- 9 THE COURT: You answer the question truthfully.
- 10 Keep your voice up.
- 11 You know Boustani is the defendant. Let's go.
- 12 Q And you would also agree that Mr. Boustani, the
- 13 defendant, was the primary point of contact for Prinvest in
- 14 dealing with the banks for the financing on the MAM project,
- 15 correct?
- 16 A That's what I understand.
- 17 Q Now, you know that Prinvest received approximately
- 18 \$500 million in bank financing from VTB bank under the MAM
- 19 contract, correct?
- 20 A I don't know all the details, but I read something in the
- 21 newspaper.
- 22 Q And do you know that those funds were guaranteed by
- 23 government of Mozambique, correct?
- 24 A I'm sorry, you don't speak very clear.
- 25 THE COURT: Read the question back, Madam Reporter.

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- 1 A I don't understand the question.
- 2 THE COURT: Read the question back, Madam Reporter.
- 3 Keep your voice up.
- 4 (Whereupon, the record was read.)
- 5 A No, I was not responsible for negotiating contracts.
- 6 THE COURT: Next question.
- 7 Q So you were also not responsible for the -- negotiating
- 8 the financing for the MAM projects with Credit Suisse or with
- 9 VTB, correct?
- 10 A I had nothing to do with anything of the contracts or the
- 11 financing.
- 12 Q And you would agree that the defendant was
- 13 Prinvest's --
- 14 THE COURT REPORTER: I'm sorry?
- 15 THE COURT: You would agree that the defendant was
- 16 the primary point of contact with?
- 17 Take it from there. Keep your voice up.
- 18 Q With the negotiation of the contracts with the government
- 19 of Mozambique?
- 20 A You mean Mr. Boustani, you're talking about?
- 21 Q I do mean Mr. Boustani, yes.
- 22 THE COURT: You know Mr. Boustani is the defendant
- 23 in this case, right?
- 24 THE WITNESS: Yes, I do.
- 25 THE COURT: They referred to him previously. You

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- 1 Keep your voice up, counsel.
- 2 Madam Reporter, read it out loud. This witness is
- 3 having trouble understanding questions that are being put on
- 4 cross. That happens sometimes.
- 5 Go ahead. Madam Reporter, read it out loud.
- 6 (Whereupon, the record was read.)
- 7 THE COURT: Do you know that, sir?
- 8 THE WITNESS: No, I don't.
- 9 THE COURT: Next question.
- 10 Q So you testified that you were only responsible for
- 11 creating the shipyard in Mozambique under the MAM project,
- 12 correct?
- 13 A Yes, correct.
- 14 Q And so you're familiar with the purpose of the MAM
- 15 project, correct?
- 16 A I was responsible for the MAM project execution, yes.
- 17 Q So you're aware of the services that Proindicus was
- 18 contracted to perform for the government of Mozambique under
- 19 that contract, correct?
- 20 A I had nothing to do with Proindicus, I was only
- 21 responsible for MAM.
- 22 Q I'm sorry, let me rephrase.
- 23 You're familiar with the purpose of the MAM project
- 24 and the contractual requirement of the MAM project?
- 25 A I had to execute the contract of the MAM project only.

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1 MS. NIELSEN: Your Honor, the government moves to
 2 admit Government Exhibit 317.
 3 THE COURT: Any objection to Government 317?
 4 MR. SCHACHTER: No objection.
 5 THE COURT: Admitted.
 6 You may publish.
 7 (Government Exhibit 317, was received in evidence.)
 8 (Exhibit published.)
 9 MS. NIELSEN: Ms. Dinardo, can you bring up that
 10 part of the page?
 11 Q Mr. Valentijn, can you see this?
 12 A I can see that, yes.
 13 Q Do you know what this is?
 14 A I can read what it says, but I'm not familiar with this
 15 document.
 16 Q This is the contract between Privinvest Shipbuilding and
 17 Mozambique Asset Management, or MAM, correct?
 18 A I can see what it says, but I'm not aware of it. I've
 19 never seen it before.
 20 Q Is that what it says?
 21 A It says --
 22 THE COURT: It says what it says.
 23 Have you seen this document before?
 24 THE WITNESS: No, I have not seen it.
 25 THE COURT: Do you know what it is?

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1 paragraph. Thank you.
 2 (Exhibit published.)
 3 Q Mr. Valentijn, do you see that this section is called
 4 "Remuneration to Third Parties and Export License"?
 5 THE COURT: Did you see that; yes or no?
 6 THE WITNESS: Yes, I see that; yes.
 7 Q And you see it reads in the first paragraph: The
 8 contractor, as well as the customer, represents and warrants
 9 that it, and no person interested or connected with it, has
 10 not and shall not offer, pay, or propose to pay money, or to
 11 give anything of value, directly or indirectly, to any civil
 12 servant, or any other person holding a government position or
 13 who is otherwise prohibited from receiving any such money or
 14 thing of value.
 15 Do you see that?
 16 A I can read all of that, yes.
 17 MS. NIELSEN: Ms. Dinardo, will you take us to
 18 page 17, please.
 19 (Exhibit published.)
 20 Q And, Mr. Valentijn, do you see who signed for Privinvest
 21 Shipbuilding?
 22 A I see that Mr. Boustani signed that, yes.
 23 Q And do you see that Antonio do Rosario signed on behalf
 24 of Mozambique Asset Management above that?
 25 A I can see Mr. Rosario signed it, yes.

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1 THE WITNESS: I can read what it says.
 2 THE COURT: I know you can read what it says.
 3 Do you know what it is?
 4 THE WITNESS: I don't know.
 5 THE COURT: Okay, let's go.
 6 MS. NIELSEN: Ms. Dinardo, if we can look at the
 7 second page, please?
 8 (Exhibit published.)
 9 Q If I can direct your attention to number five.
 10 Do you see that the customer listed in this document
 11 is Mozambique Asset Management, or MAM?
 12 THE COURT: Do you see that; yes or no?
 13 THE WITNESS: Yes, I see that.
 14 THE COURT: Next question.
 15 MS. NIELSEN: Ms. Dinardo, if you can blow up number
 16 six, please.
 17 (Exhibit published.)
 18 Q And do you see that the contractor is Privinvest
 19 Shipbuilding Investments?
 20 THE COURT: Do you see that?
 21 THE WITNESS: Yes, I see that.
 22 THE COURT: Next question.
 23 MS. NIELSEN: Ms. Dinardo, if you can take us to
 24 page 14, please.
 25 And if you can go down to Section J, and the first

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1 MS. NIELSEN: Thank you, Ms. Dinardo, you can take
 2 that down.
 3 Q Now, Mr. Valentijn, you interacted with Mr. Do Rosario
 4 when you worked on MAM, right?
 5 A I met Mr. Rosario, yes.
 6 Q And you know that Mr. Do Rosario was the chairman and CEO
 7 of MAM?
 8 A That's correct.
 9 Q And you know that he was also a director of Proindicus
 10 and EMATUM?
 11 A Yes, I'm aware of that.
 12 Q And you're also aware that he was a member of the State
 13 Information Services of Mozambique, or SISE, correct?
 14 A I've heard that, yes.
 15 Q Now, you would agree that Mr. Do Rosario also worked for
 16 the defendant, correct?
 17 A Yes.
 18 Q And that he also worked with Mr. Safa?
 19 A I'm not sure if he worked directly with Mr. Safa, but I
 20 know he worked with Mr. Boustani.
 21 Q And, in fact, Mr. Do Rosario expressed to you that he,
 22 the defendant, and Mr. Safa were really a team on the
 23 Mozambique transaction that Privinvest was part of, correct?
 24 A I do not know those re -- those relationships.
 25 MS. NIELSEN: At this point the government moves to

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1 admit Government Exhibit 4014.
 2 THE COURT: Any objection?
 3 MR. SCHACHTER: What was that again?
 4 THE COURT: Publish it to counsel and the Court.
 5 (Continued on next page.)
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1 The Government moves to admit 4013.
 2 THE COURT: Publish it to your adversary and the
 3 Court.
 4 Any objection?
 5 MR. SCHACHTER: No objection.
 6 THE COURT: Admitted. You may publish.
 7 (Government's Exhibit 4013 marked in evidence.)
 8 BY MS. NIELSEN:
 9 Q If could you blow up the second e-mail on the first page.
 10 Mr. Valentijn, can you see this e-mail is from you?
 11 A I see the e-mail that I wrote, yes.
 12 Q It's to Antonio Carlos do Rosario?
 13 A It is to Mr. Do Rosario, correct.
 14 Q Dated February 11, 2016?
 15 A Correct.
 16 Q In this e-mail do you see that you are asking -- it
 17 appears that you are complaining to Mr. Do Rosario about MAM's
 18 failure to procure access and control of the Somonav Shipyard;
 19 is that right?
 20 A That's correct.
 21 Q You're also indicating to him that he is not being
 22 responsive to your requests for information; is that correct?
 23 A That is correct.
 24 Q Ms. DiNardo, if you could scroll up to the next e-mail in
 25 the chain.

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1 (Continuing.)
 2 MR. SCHACHTER: May we see the rest of it?
 3 MS. NIELSEN: Ms. DiNardo, could you scroll down?
 4 MR. SCHACHTER: No objection, your Honor.
 5 THE COURT: Admitted. You may publish to the jury.
 6 (Defense Exhibit 4014 received in evidence.)
 7 BY MS. NIELSEN:
 8 Q If you could blow up the second e-mail in the middle of
 9 the page.
 10 Mr. Valentijn, do you see this e-mail is from
 11 Antonio do Rosario?
 12 A I see it, yes.
 13 Q And do you see your name on here?
 14 A I'm sorry?
 15 THE COURT: Do you see your name on there?
 16 A Yes, I see my name.
 17 Q Do you see Mr. Do Rosario addressed this letter to you,
 18 "Dear Johan;" is that correct?
 19 A Yes.
 20 Q And do you see in the middle of this paragraph where he
 21 says, where Mr. Do Rosario says, "I regret that at your level
 22 you haven't yet managed to become a one and only team as I and
 23 Jean, including Mr. Safa I believe, have managed to become"?
 24 A I can see that.
 25 MS. NIELSEN: Thank you, can you take this down.

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1 Mr. Valentijn, do you see that this e-mail is from
 2 Mr. Boustani?
 3 A I see that, yes.
 4 Q It's to Mr. Boustani and from Antonio do Rosario?
 5 A From Mr. Do Rosario to Mr. Boustani, correct.
 6 Q Do you see that he says, "Mmm, what is your advice on how
 7 to handle this"?
 8 A I see that, yes.
 9 Q You're not on this e-mail, are you?
 10 A No.
 11 MS. NIELSEN: The Government moves to admit
 12 Government Exhibit 4010.
 13 THE COURT: Any objection? Publish it to your
 14 adversary and the Court.
 15 MR. SCHACHTER: Objection. Yes, your Honor, we have
 16 an objection.
 17 THE COURT: You have an objection.
 18 MR. SCHACHTER: Yes.
 19 THE COURT: All right, sidebar.
 20 (Sidebar.)
 21 (Continued on next page.)
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1 (Sidebar conference held on the record out of the
2 hearing of the jury.)
3 THE COURT: 4010, what is the objection?
4 MR. SCHACHTER: Your Honor, Mr. Valentijn is not on
5 this communication so I don't think it's an appropriate
6 witness to inquire about whatever the contents are of this
7 communication that he's never seen before.
8 THE COURT: Why are you asking Mr. Valentijn who is
9 in fact shown at the bottom of the document an e-mail from
10 Subeva -- why are you objecting to the document? Bottom of
11 page 5261 there is a e-mail from Subeva to this witness Cced
12 to Boustani and Pearse and Schultens, what is the objection
13 since he's on that?

14 MR. SCHACHTER: I apologize. When it was shown on
15 the screen it was only the top part.

16 THE COURT: Are you withdrawing your objection?

17 MR. SCHACHTER: We have no objection to the
18 Government inquiring Mr. Valentijn about the contents of the
19 communication that he received.

20 THE COURT: What about the rest of the document?

21 MR. SCHACHTER: Not to the admission, but inquiring
22 of Mr. Valentijn who never seen that before.

23 THE COURT: The document is admitted. Then counsel
24 can ask questions, you can object, and I'll rule.

25 The objection to the Government exhibit coming in is

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1 (In open court.)
2 THE COURT: The objection is overruled. The
3 document is in.
4 You may continue, counsel.
5 BY MS. NIELSEN:
6 Q Ms. DiNardo, if you could blow up the bottom half of the
7 first page please.

8 On the bottom of this document, Mr. Valentijn, do
9 you see this is, this is an e-mail sent by Lina Subeva?

10 A I see that.

11 Q Do you know who Subeva is?

12 A Yes, I do know.

13 Q She works for Palomar; is that correct?

14 A She was from Credit Suisse, I thought.

15 THE COURT: Don't mumble.

16 A She's from Credit Suisse, the vendors.

17 Q Do you also know that she works for Palomar?

18 A I'm not aware of all of those details.

19 THE COURT: Do you see on the document it says
20 linasubeva@PLMR.com? Do you see that?

21 THE WITNESS: I do.

22 THE COURT: Do you know what PLMR stands for?

23 THE WITNESS: I assume right now Palomar.

24 THE COURT: Have you ever heard of Palomar before
25 now?

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1 overruled because in fact Valentijn on the document.
2 Before you object, take the time to look at the
3 entirety of the document. And if counsel hasn't shown it to
4 you on the screen -- and in this high tech world in which you
5 live, but I'm resisting -- take the extra moment to read the
6 entirety of the document and see if you have an objection to
7 it all. Away we go.

8 MS. NIELSEN: I will be asking questions --

9 THE COURT: You won. Just be quiet and take your
10 victory.

11 (End of sidebar conference.)

12 (Continued on the next page.)

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1 THE WITNESS: Yes, I have.

2 THE COURT: Did you know that this Ms. Subeva worked
3 for Palomar at some before? You did not know that before this
4 moment?

5 THE WITNESS: I'm not aware of all those things.

6 THE COURT: Before this moment did you know there
7 came a time that Ms. Subeva worked at Palomar?

8 THE WITNESS: There might have been a time that she
9 became part of Palomar.

10 THE COURT: Did you know that?

11 THE WITNESS: I probably heard of it, but I'm not
12 quite sure.

13 THE COURT: You heard before this moment that
14 perhaps she worked for Palomar?

15 THE WITNESS: Yes, that's correct.

16 THE COURT: Go ahead.

17 MS. NIELSEN: Thank you, your Honor.

18 BY MS. NIELSEN:

19 Q This e-mail is sent to you; is that correct?

20 A Directed to me, yes.

21 Q Date is April 9, 2016?

22 A Correct.

23 Q Ms. DiNardo, scroll to the second page.

24 Mr. Valentijn, if you see in the second paragraph

25 Ms. Subeva says, "In the interest of time we wanted to confirm

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1 to you ahead of our meeting that we received a formal mandate
 2 to work on the restructuring on the MAM debt. The MAM debt
 3 has a very large payment coming up shortly so we have huge
 4 time pressures to deliver to the banks all information they
 5 require as quickly as possible." Do you see that?
 6 A I see that, yes.
 7 Q Ms. DiNardo, if we could go back to the first page to the
 8 second e-mail up from the bottom.
 9 Mr. Valentijn, do you see the response from
 10 Mr. Boustani, the defendant?
 11 A I see that, yes.
 12 Q Do you see that he says, "Please Lina, we don't need to
 13 communicate information about MAM financing to anybody. So
 14 the discussion with Johan need to be short and straight to the
 15 point. Technical and ideas to develop business. Please
 16 financing of the projects are confidential issues."
 17 A I see that, yes.
 18 Q Thank you, Ms. DiNardo -- sorry, Ms. DiNardo scroll up to
 19 the very top of this e-mail.
 20 Do you see the top of this e-mail chain, the e-mail
 21 from again from Mr. Boustani?
 22 A I see that, yes.
 23 Q And do you see that he says, "MAM has a very large coming
 24 up shortly. We received a formal mandate to work on
 25 restructuring MAM. No need for these please"?

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1 BY MS. NIELSEN:
 2 Q Ms. DiNardo, if we could go to the third page please.
 3 Mr. Valentijn, do you see the beginning e-mail in
 4 this e-mail chain is from the defendant Gean Boustani?
 5 A I see nothing on my screen here.
 6 THE COURT: Admitted. Publish it.
 7 A Okay.
 8 Q Do you see that, Mr. Valentijn, now?
 9 A I see highlighted Mr. Boustani, yes.
 10 Q He sent an e-mail August 4, 2014, correct?
 11 THE COURT: It says 24.
 12 Q Sorry.
 13 THE COURT: August 24, 2014. Go ahead.
 14 A I see that, yes.
 15 Q Do you see the message sent to Raja Zneidi?
 16 A Yes.
 17 Q Do you know who that is?
 18 A He works in our Abu Dhabi office.
 19 THE COURT: When you say our Abu Dhabi office, which
 20 entity?
 21 THE WITNESS: From Abu Dhabi march.
 22 THE COURT: Go ahead.
 23 Q You see down in the body of the e-mail where Mr. Gene
 24 Boustani indicates Armando Guebuza first class Maputo a Nice,
 25 do you see that?

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1 A I see all that, yes.
 2 Q Thank you, Ms. DiNardo.
 3 At that time you were working on the MAM project,
 4 correct?
 5 A I was working on the MAM project, yes.
 6 Q Mr. Valentijn, you're familiar with someone named Armando
 7 Ndambi Guebuza, correct?
 8 A Armando?
 9 Q Ndambi Guebuza.
 10 A Yes, the son of the president.
 11 Q You know that the defendant knew Mr. Guebuza, correct?
 12 A That's correct.
 13 Q And you know that the defendant has arranged for
 14 Mr. Guebuza to fly to Nice, France in 2014, correct?
 15 A Could you repeat it please?
 16 THE COURT: Read it back, Madam Reporter.
 17 (Whereupon, the record was read.)
 18 A I don't know all about that.
 19 MS. NIELSEN: Your Honor, the Government moves to
 20 admit Government's Exhibit 4012.
 21 THE COURT: Any objection? Publish it to the Court
 22 and your adversary.
 23 MR. SCHACHTER: No objection.
 24 THE COURT: Admitted. You may publish.
 25 (Government's Exhibit 4012 marked in evidence.)

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1 A I see that, yes.
 2 Q Ms. DiNardo, scroll up to the bottom e-mail on the second
 3 page.
 4 Mr. Valentijn, do you see Ms. Zneidi asks for a
 5 first class ticket for Armando Guebuza?
 6 A Yes.
 7 Q From Maputo to Nice?
 8 A Correct.
 9 Q On August 28, 2014?
 10 A That's what it says, yes.
 11 Q From Nice to Maputo after three weeks?
 12 A That's what I notice.
 13 Q Ms. DiNardo, scroll up again please. Bottom of the first
 14 page, sorry.
 15 Mr. Valentijn, do you see the response to
 16 Ms. Zneidi? Do you see this is a response to Raja Zneidi?
 17 A That's correct, yes.
 18 Q And the response is, "Dear Madam Raja, as per your
 19 request the booking is available as details below." There is
 20 an indication of a flight booking for Armando Ndambi Guebuza,
 21 correct?
 22 A I see all that, yes.
 23 Q Do you see on the bottom it says, "Please note that there
 24 is no first class available on 28 August, the flight is fully
 25 booked"?

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1 A Yes, I notice that.
 2 Q Did you notice the top that he has been booked in
 3 business class?
 4 A Sorry?
 5 Q Do you notice on the top of this e-mail that he was
 6 booked in business class?
 7 A Business class, yes.
 8 Q Ms. DiNardo, scroll up please to the next e-mail. Do you
 9 see Valentijn on this e-mail from Raja Zneidi?
 10 A I notice my name on it, yes.
 11 Q You see your name is in the to. And Ms. DiNardo scroll
 12 to the very top.
 13 A He says, "Why was Johan copied," because I don't know why
 14 I was copied. I had nothing to do with that.
 15 Q Thank you, Ms. DiNardo, you can take that down.
 16 Mr. Valentijn, you testified on direct that you had
 17 sailed on the trimarans or the Ocean Eagles in Mozambique?
 18 A Yes.
 19 Q When was that?
 20 A We had an opening day in Pemba base in August of 2016.
 21 And at that time we made demonstration on the Ocean Eagle and
 22 the his 32 and DV 15s with Minister of Defense and Admiral of
 23 Navy, and other authorities, including Antonio do Rosario.
 24 Q Mr. Valentijn, are you aware that MAM ultimately
 25 defaulted on its loan payments in early 2016?

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1 adversary.
 2 MS. NIELSEN: No objection.
 3 THE COURT: Admitted. Publish.
 4 (Defense Exhibit 9219 received in evidence.)
 5 Q Mr. Valentijn I'm showing you a Google maps image from --
 6 THE COURT: This looks like something from Mars.
 7 MS. NIELSEN: Your Honor, there is an objection
 8 to --
 9 THE COURT: What is this document -- have you
 10 objected to this document? What is this? Is this what you
 11 just showed?
 12 MS. NIELSEN: The Government --
 13 THE COURT: Hang on. Is there an objection?
 14 Take it down, Mr. Jackson.
 15 Is there an objection to 9219?
 16 MS. NIELSEN: Yes, your Honor.
 17 THE COURT: All right, let's have a sidebar and see
 18 what this thing is.
 19 Sorry, ladies and gentlemen of the jury.
 20 (Continued on the next page.)
 21 (Sidebar conference.)
 22
 23
 24
 25

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1 A I do not know anything about payments.
 2 MS. NIELSEN: Your Honor, may I have a moment?
 3 THE COURT: You may.
 4 MS. NIELSEN: No further questions.
 5 THE COURT: Any redirect?
 6 MR. SCHACHTER: Very briefly, your Honor.
 7 REDIRECT EXAMINATION
 8 BY MR. SCHACHTER:
 9 Q Mr. Valentijn, do you wear a hearing aid?
 10 A Yes, I do.
 11 Q Does that make it difficult for you to hear certain
 12 pitches?
 13 A I have a problem sometimes with low voices to hear, yes.
 14 THE COURT: Especially on cross. Let's go. I
 15 noticed a distinct difference, maybe keep it turned on for
 16 cross as well as direct.
 17 Keep going.
 18 Q The prosecutor asked you about whether or not about being
 19 on the Ocean Eagles in 2016?
 20 A That's correct.
 21 MR. SCHACHTER: Your Honor, we'll offer Defendant's
 22 exhibit -- may have a moment, your Honor?
 23 THE COURT: You may.
 24 MR. SCHACHTER: 9219, your Honor.
 25 THE COURT: Any objection to 9219? Show it to your

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1 THE COURT: May I see the document, please?
 2 MR. SCHACHTER: One moment, your Honor. Your Honor,
 3 we don't have a hard copy.
 4 THE COURT: I want to see the document. No one has
 5 the document, then show it to me electronically.
 6 MR. SCHACHTER: Yes, your Honor. Your Honor --
 7 THE COURT: I want to see the document. Somebody
 8 bring me the document.
 9 MR. SCHACHTER: It's being e-mailed to me.
 10 Your Honor, this is a Google maps image showing the
 11 Ocean Eagles in the base of Mozambique.
 12 THE COURT: And is there an objection to this
 13 document coming in to the jury?
 14 MS. NIELSEN: There is no objection to the document.
 15 However, there is an objection to counsel testifying about
 16 things that are not shown on the document or about -- he's
 17 testifying as to the date --
 18 THE COURT: Don't talk over the judge. She only
 19 takes down what I'm saying.
 20 Is there an objection to the admission of this
 21 document, yes or no?
 22 MR. BINI: Yes.
 23 THE COURT: What is the objection to the document?
 24 MS. NIELSEN: The objection to the document is that
 25 it is unclear what it is.

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1 THE COURT: Other than the unclear --
 2 What is it?
 3 MR. SCHACHTER: It's a Google maps image, your
 4 Honor, of the Ocean Eagles in Mozambique.
 5 THE COURT: Taken at what time, do you know?
 6 MR. DiSANTO: Google maps does not time stamp.
 7 THE COURT: A year, century?
 8 MR. DiSANTO: This was taken in September 2019, so
 9 as of two months ago. As far as when --
 10 THE COURT: Wait a minute. You're offering a
 11 document showing what the Ocean Eagles looked like two months
 12 ago? Is that what this is?
 13 MR. DiSANTO: Your Honor --
 14 THE COURT: That's not coming in. That's the
 15 ruling.
 16 (End of sidebar conference.)
 17 (Continued on the next page.)

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1 BY MR. SCHACHTER:
 2 Q Ms. Nielsen asked you questions about the financing of
 3 the MAM project, also the contract in the MAM contract. Do
 4 you remember those questions?
 5 A I remember the questions, yes.
 6 Q Did your role have anything to do with the financing or
 7 the drafting of the contract?
 8 A I had nothing to do with anything that had to do with
 9 drafting the contract or anything to do with the financing,
 10 nothing.
 11 Q What was your role in connection with the MAM project?
 12 A Simply to go to Mozambique and execute the project.
 13 Q Sir, did you work to make the project a success?
 14 A I would say the project was a huge success and we did
 15 everything that we promised to do.
 16 MR. SCHACHTER: No further questions.
 17 THE COURT: Goodbye. You're done. Thank you.
 18 Please step down.
 19 (Whereupon, the witness was excused.)
 20 THE COURT: Call your next witness.
 21 MS. DONNELLY: The defense calls Malene McMahon.
 22 MS. MOESER: We have a concern to raise concerning
 23 the testimony.
 24 THE COURT: Ladies and gentlemen of the jury, it's
 25 about 4:20 p.m. We're going to take a 15-minute break to deal

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1 (In open court.)
 2 THE COURT: The document has been objected to. The
 3 document is not coming into evidence.
 4 It's as if it never existed. It's gone from your
 5 minds, ladies and gentlemen of the jury, strike it from your
 6 mind.
 7 The standard charge I give typically is if I tell
 8 you don't think about say rhinoceros, every one of you are
 9 thinking about a rhinoceros.
 10 So you're wondering what is that thing that I told
 11 to you disregard. I'll say this, it was something that had to
 12 do with Google maps taken a couple of months ago, not during
 13 the period at issue in this trial. All right. So for that
 14 reason, I would have kept it out and I am keeping it out.
 15 If it were something taken by Google maps during the
 16 time at issue in this case, I might or might not have a
 17 different ruling.
 18 I don't want there to be any mystery. It was not an
 19 X Files Scully. It did look a little odd, that's why I'm
 20 keeping it out because of what it was and when it was taken.
 21 My bad, you never should have seen it.
 22 In my final charge you'll hear the word rhinoceros,
 23 forget about the rhinoceros.
 24 Next question.
 25 MR. SCHACHTER: Yes, your Honor.

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1 with the concerns at the sidebar.
 2 Do not talk about the rhinoceros. Do not talk about
 3 anything to do with the case. We'll see you in 15 minutes.
 4 We'll continue our tradition of hard stop 5:00 p.m.
 5 Thank you very much.
 6 (Jury exits the courtroom.)
 7 THE COURT: You may be seated.
 8 The jury has left the courtroom.
 9 The defendant is still present. We're still on the
 10 record.
 11 What are the concerns with the witness?
 12 MS. MOESER: Your Honor, the Government understands
 13 that the next witness is Malene McMahon.
 14 THE COURT: Spell that.
 15 MS. MOESER: M-A-L-E-N-E, M-C-M-A-H-O-N.
 16 THE COURT: What is the concern that the Government
 17 has?
 18 Is this witness listed as someone who might be
 19 called at trial.
 20 MS. MOESER: She was, your Honor.
 21 THE COURT: What is the concern?
 22 MS. MOESER: We understand that the defense intends
 23 to designate her as an expert. We do not know what her
 24 opinion is or what the bases of her opinion will be.
 25 We have a two-page Power Point, I believe a

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1 demonstrative, your Honor, and we would like the defense to
2 tell us her opinion so we could properly cross-examine her and
3 voir dire her.

4 THE COURT: Stop right there.

5 First of all, she was listed as an expert witness.

6 MS. MOESER: She was, your Honor.

7 THE COURT: In what field?

8 MS. MOESER: Your Honor, the defense notice says
9 she's an expert who will testify about global international
10 payment networks and the U.S. correspondent banking system.

11 THE COURT: Let me turn to the defendant.

12 Do you have a CV for this witness that you could
13 hand up to the Court so you can tell me what her expertise is,
14 and why you're offering her as a witness, and whether she's
15 been qualified as a witness in any other judicial proceedings
16 state or federal or arbitrations in the world?

17 MR. SCHACHTER: Yes, your Honor. I believe this was
18 a subject of motion practice before the Court --

19 THE COURT: I don't remember it. And so I'm hearing
20 this objection now either -- did I rule on this earlier?

21 MR. SCHACHTER: Yes, your Honor.

22 THE COURT: What was the ruling?

23 MR. SCHACHTER: That her testimony would be
24 admitted.

25 THE COURT: As an expert?

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1 THE COURT: Which is?

2 MR. SCHACHTER: She's going to testify about
3 correspondent banking and payment systems. That's what she's
4 going to be discussing. It's going to be a very short
5 witness, 15 minutes of testimony.

6 THE COURT: It's not about the length but about the
7 quality. One man's shorts, another man's long.

8 I'm asking you, what is she going to testify about
9 and what is it that gives the Government pause?

10 Let me put it back to the Government. What is the
11 problem with her testimony allowing you to voir dire if she
12 qualifies as an expert or doesn't, and then you can
13 cross-examine her. You have a report? You don't have a
14 report?

15 MS. MOESER: We have a two-page slide show, your
16 Honor, which I believe is a demonstrative.

17 THE COURT: Have you reviewed this?

18 MS. MOESER: I have, your Honor.

19 THE COURT: Do you have objections to it? Yes or
20 no?

21 MS. MOESER: Yes, your Honor.

22 THE COURT: You have objections to it, okay. Here
23 is what we're going to do. It's 4:30, I haven't seen this
24 demonstrative, have I?

25 MS. MOESER: It was sent to your clerk.

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1 MR. SCHACHTER: Yes, your Honor.

2 THE COURT: Is that true?

3 MS. MOESER: Your Honor, the Government --

4 THE COURT: Is that true?

5 MS. MOESER: Yes, your Honor.

6 THE COURT: You're renewing your earlier objection
7 which I ruled on?

8 MS. MOESER: Yes, your Honor.

9 THE COURT: Tell me why I was wrong. I love to hear
10 why I was wrong.

11 MS. MOESER: Your Honor, we have received -- we
12 asked for further disclosures from the defendant. We received
13 limited further disclosures. Those disclosures do not make
14 clear Ms. McMahon's opinion or the bases for her opinion.

15 THE COURT: If we're going to have a proffer or voir
16 dire of this proposed expert, tell me what your concerns are
17 again, Government.

18 MS. MOESER: Your Honor, our concern is that it is
19 not clear from the materials we received what Ms. McMahon's
20 opinion is.

21 THE COURT: Stop there. What is her opinion? If I
22 allow her to testify as an expert, what will her opinion be
23 with respect to, and what will it be?

24 MR. SCHACHTER: Her testimony will be exactly what
25 was disclosed in advance of trial.

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1 THE COURT: Five minutes ago?

2 MS. MOESER: This afternoon.

3 THE COURT: I haven't seen it. Surprisingly, I've
4 been trying a case, this case. And if you have Power Point
5 demonstrative to go with an expert, I think it's incumbent
6 upon the party -- that's your defense counsel -- to get it to
7 the Court to review. If they are going to objections to it,
8 spoiler alert, the Government has been known to object to last
9 minute Power Points presented to them in the middle of a
10 trial. It's one thing for me to say by virtue of education,
11 background, experience that a person months ago will be
12 allowed to come forward as an expert. But when you cobble
13 together demonstratives and fire them out to the Court in the
14 middle of the trial and it garners an objection, I have to
15 take the time to look at it.

16 So I'm not going to allow to you call her now.

17 I will look at the proposed demonstrative overnight.
18 I will look at the submission that both sides will make in
19 favor of and against allowing the witness to testify, and the
20 demonstrative, and I will rule.

21 And I will give you a ruling before we start
22 tomorrow, at or about 9:30 in the morning, so you will know
23 whether she's coming on or not. So not today, maybe tomorrow.

24 Who is your next witness? If you don't have one,
25 we'll adjourn for the day. Defense counsel?

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1 MR. SCHACHTER: May we have a moment to confer, your
 2 Honor?
 3 THE COURT: Of course.
 4 MR. JACKSON: We don't have another witness, your
 5 Honor.
 6 THE COURT: All right. We're going to bring the
 7 jury back and adjourn for the day.
 8 You're going to get everything that you need me to
 9 look at overnight by way of demonstrative, area of testimony
 10 with respect to this witness, 71-page reports, some other
 11 experts and their partial objections to, so that tomorrow
 12 morning you'll have rulings or you'll have agreements as we
 13 start at 9:30. That's how we're going to proceed.
 14 Mr. Jackson, get the jury back in please.
 15 I renew my offer to stay as long as you like, the
 16 taxpayers paid for this lovely space.
 17 Mr. Boustani can stay for the Marshals to take him
 18 back because we're adjourning earlier, so you gentlemen will
 19 not be much later than 5:00 o'clock. Whatever time you have
 20 to take him back you'll take him back.
 21 I'll go back and work on my other 499 cases in
 22 chambers, and yours.
 23 So we're clear, does the Court now have all of the
 24 documents that I need to review and make rulings with respect
 25 to motion in limine for the witnesses that will be presented

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1 THE COURT: Both of my cases that I won. Okay
 2 anything else with respect to documents, experts?
 3 MR. JACKSON: Your Honor, I was --
 4 THE COURT: You can sit down, Mr. Jackson, and
 5 please use the microphone.
 6 MR. JACKSON: Of course, Judge.
 7 Your Honor, I was just going to hand to Mr. Jackson
 8 and Ms. Lee courtesy copies of the documents that we e-mailed
 9 earlier this afternoon that Mr. Schachter mentioned, if that
 10 is acceptable.
 11 THE COURT: That's fine. You can give those to my
 12 law clerk.
 13 MR. JACKSON: To be clear, your Honor, I want to
 14 make clear, the Defendant's exhibit 11200 is the two-page
 15 document, and the next page is 11200-A, that's the two-page
 16 demonstrative that is associated with Ms. McMahon. It doesn't
 17 have her name on it.
 18 The other documents I believe -- two of the other
 19 documents have the name of the witnesses associated --
 20 THE COURT: Hang on.
 21 (Jury enters the courtroom.)
 22 THE COURT: Thank you for being back. Don't sit
 23 down because we have another rhinoceros issue to deal with;
 24 that means that we're going to adjourn a little bit earlier
 25 today. The lawyers, however, will not be going anywhere for

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1 tomorrow, reports, demonstratives, ouija boards, whatever it
 2 is that you intend to bring forward? Or is there something
 3 else that you need to send to my clerks? If there is, send it
 4 please.
 5 MR. SCHACHTER: Your Honor, you have everything.
 6 However, we have hard copies if that's easier for the Court.
 7 THE COURT: Hard copies are fine, electronic is
 8 fine. Just make sure that they are marked so the Government
 9 knows what it is I'm reviewing.
 10 MR. MEHTA: Your Honor, there is another expert
 11 Mr. Falipa, for which we received no demonstratives or
 12 reports.
 13 THE COURT: Is he going to testify?
 14 MR. SCHACHTER: Your Honor, at the same time that
 15 your Honor ruled on Ms. McMahon, your Honor ruled, subsequent
 16 to that, you ruled against Mr. Falipa and precluded him. He's
 17 not being recalled.
 18 THE COURT: Do you want me to revisit that?
 19 MR. MEHTA: No, your Honor.
 20 THE COURT: I didn't think so. Why don't you take
 21 your victory and leave.
 22 I lost a lot of cases, but I didn't lose them after
 23 the judge ruled in my favor. I usually said, thank you, your
 24 Honor, and ran out of the courtroom.
 25 MR. MEHTA: Thank you, your Honor.

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1 quite sometime.
 2 We are adjourned for the day. We'll see you
 3 tomorrow morning at 9:30 a.m. We'll hash out some issues and
 4 we will see you tomorrow morning 9:30 a.m.
 5 Do not talk about the case. Have a good, relaxing
 6 night. See you tomorrow.
 7 (Jury exits the courtroom.)
 8 THE COURT: The jury has left the courtroom. Please
 9 be seated. The defendant is still present. So I think what
 10 makes the most sense is for counsel to use this time to
 11 confer. My law clerks and courtroom deputy and I will leave
 12 you the space. We'll adjourn for the day.
 13 And to the extent that you can work some things out
 14 here, fine; if you want to go back to your respective offices,
 15 confidentiality, that's fine. We have the advantage of having
 16 the defendant present with you to talk with him over the next
 17 half hour or so and then he'll return to his regular space.
 18 I just think that we really need to be focused with
 19 respect to getting efficient testimony, as Mr. Randall Jackson
 20 urged us earlier in the case. This is one way to do it.
 21 I'm not going to revisit earlier rulings. But if
 22 we're going to have documents that I haven't had a chance to
 23 review and that the other side hasn't had a chance to review,
 24 trial by ambush, alas, I use to do it, is no longer really
 25 allowed.

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1 MR. JACKSON: Thank you, Judge.
 2 THE COURT: Anything else we need to talk about
 3 before we adjourn for the evening?
 4 MR. SCHACHTER: Your Honor, I know that we certainly
 5 have done our best to bury the Court in so many motions and
 6 the Court --
 7 THE COURT: I live to serve. I have no life, so
 8 motions I'm fine with. But I can't be here conducting the
 9 trial and having documents flowing in at the same time. Much
 10 to the relief of my colleagues in on bench, I haven't been
 11 able to clone Judge William Kuntz yet. Don't push me.
 12 MR. SCHACHTER: The rulings come so quickly it seems
 13 there must be multiple of you.
 14 THE COURT: I'm sure my colleagues are pleased there
 15 is only one of me to deal with.
 16 MR. SCHACHTER: Any way, to the extent it's helpful
 17 to the Court's, the Court's ruling on Ms. McMahan and other
 18 experts is ECF 267.
 19 THE COURT: My law clerks have already gotten to it
 20 and there will be no problem about what we previously ruled.
 21 Again, the best surprise is no surprise. I'm the Holiday Inn
 22 of trial judges. Surprises, however, as in horror movies are
 23 really good.
 24 Anything else?
 25 MR. BINI: Not from the Government.

Rivka Teich, CSR, RPR, RMR, FCRR
Official Court Reporter

1 THE COURT: We're adjourned for the day.
 2 See you tomorrow.
 3 (Proceedings adjourned at 4:35 p.m. to resume on
 4 November 15, 2019 at 9:30 p.m.)
 5 oooOooo

Rivka Teich, CSR, RPR, RMR, FCRR
Official Court Reporter

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