

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - -	X	
UNITED STATES OF AMERICA,	:	23-CR-146(DG)
Plaintiff ,	:	
-against-	:	United States Courthouse
	:	Brooklyn, New York
RACHEL CHERWITZ and	:	
NICOLE DAEDONE,	:	
Defendant.	:	May 30, 2025
- - - - -	X	9:30 a.m.

TRANSCRIPT OF CRIMINAL CAUSE FOR FURTHER JURY TRIAL
BEFORE THE HONORABLE DIANE GUJARATI and a JURY
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government:	JOSEPH NOCELLA, JR.
	Interim United States Attorney
	BY: KAITLIN T. FARRELL
	KAYLA C. BENSING
	NINA C. GUPTA
	SEAN M. FERN
	Assistant United States Attorneys
	271 Cadman Plaza East
	Brooklyn, New York 11201

For Defendant Cherwitz:	BALLARD SPAHR LLP
	1675 Broadway, 19th Floor
	New York, New York 10019
	BY: CELIA COHEN, ESQ.
	MICHAEL P. ROBOTTI, ESQ.
	KELLY LIN, ESQ.
	SCHUYLER LA BARGE, ESQ.
	KELLY LENAHAN-PFAHLERT, ESQ.

(Appearances continued on the next page.)

Court Reporter:	Stacy A. Mace
	Official Court Reporter

1 Appearances: (Cont'd)

2

3 For Defendant Daedone: BONJEAN LAW GROUP, PLLC
4 303 Van Brunt Street, 1st Floor
5 Brooklyn, NY 11231
6 BY: JENNIFER A. BONJEAN, ESQ.
7 KELSEY KILLION, ESQ.

8

9

10

11 Also Present:

12 Liam McNett, Paralegal, US Attorney's Office
13 Marlane Bosler, Paralegal, US Attorney's Office

14

15 Galila Assefa, Paralegal, Bonjean Law Group

16 Richard Hobbs, Trial Direct, Ballard Spahr

17

18

19

20 Proceedings reported by machine shorthand, transcript produced
21 by computer-aided transcription.

22

23 Court Reporter: Stacy A. Mace, RMR, CRR, RPR
24 Official Court Reporter
25 United States Courthouse, Room N377A
225 Cadman Plaza East
Brooklyn, New York 11201
smacerpr@gmail.com

26

27

28

29

1 (In open court; jury not present.)

2 THE COURTROOM DEPUTY: All rise.

3 (Judge DIANE GUJARATI entered the courtroom.)

4 THE COURTROOM DEPUTY: This is United States of
5 America versus Rachel Cherwitz and Nicole Daedone.

6 Is the Government ready?

7 MS. BENSING: Yes.

8 Kayla Bensing, Kaitlin Farrell, Nina Gupta and Sean
9 Fern, joined by Paralegal Specialists Liam McNett and Marlane
10 Bosler, and FBI Special Agent Tricia Quintero.

11 Good morning.

12 THE COURT: Good morning, everyone.

13 MS. COHEN: Good morning, Your Honor.

14 On behalf of Rachel Cherwitz: Celia Cohen, Michael
15 Robotti, Kelly Lin, Schuyler La Barge, Kelly Lenahan-Pfahlert
16 and Richard Hobbs.

17 THE COURT: Good morning, everybody.

18 MS. BONJEAN: And good morning, Your Honor.

19 Jennifer Bonjean, Kelsey Killion and Ashley Cohen,
20 and Galila Assefa on behalf of Ms. Daedone.

21 THE COURT: Good morning, everybody.

22 Okay. So our jury is here, and we can bring back
23 our witness and the jury.

24 And I believe, Ms. Cohen, you're still on
25 cross-examination?

Proceedings

4198

1 MS. COHEN: Yes. And I have just about 20 minutes,
2 max.

3 THE COURT: That's fine. And you know what, let's
4 go at 12:25, so you can get upstairs.

5 MS. COHEN: That would be great.

6 THE COURT: But if for some reason I don't do it,
7 just get my attention, but you're on my mind.

8 MS. COHEN: Great. Thank you, Your Honor.

9 (Pause.)

10 (Witness entered and resumed the stand.)

11 THE COURT: Good morning.

12 (Pause.)

13 (Jury enters.)

14 THE COURT: Good morning, everyone. You all may be
15 seated.

16 And, Ms. Cohen, you may resume your
17 cross-examination.

18 MS. COHEN: Thank you, Your Honor -- sorry.

19 THE COURTROOM DEPUTY: Ms. Gillick, the Court
20 reminds you, you are still under oath.

21 THE COURT: Go ahead.

22 MS. COHEN: Yes, thank you.

23

24 (Continued on the following page.)

25

Gillick - cross - Cohen

4199

1 **ANTHIA GILLICK,**

2 previously called as a witness by the Government and
3 having been duly sworn/affirmed by the Courtroom Deputy,
4 resumed the stand and was examined and testified further
5 as follows:

6 CROSS-EXAMINATION (Resumed)

7 BY MS. COHEN:

8 Q Good morning, Ms. Gillick.

9 A Good morning.

10 Q You testified yesterday that your family disapproved of
11 OneTaste.

12 Do you recall that?

13 A Yes.

14 Q And -- but you also testified that your mom helped with
15 the purchase of OneTaste New York, correct?

16 A She was on those e-mail threads. Her money was not
17 involved in the purchase of it.

18 Q Right. But you consulted with her, correct?

19 A Yes.

20 Q And she visited you in New York and you talked about how
21 she watched your aerial show, right?

22 A Yes.

23 Q And you went to a Matilda play with her. Do you recall
24 that?

25 A I don't.

Gillick - cross - Cohen

4200

1 Q Do you recall that on September 20th, 2014, you wrote in
2 a chat that you were grateful for your mom's approval of your
3 involvement in your OMing.

4 Do you remember that?

5 A I don't. I'm happy to look at it, if you'd like.

6 Q Sure.

7 Let me show you what's been marked as Defense
8 Exhibit 12-AW.

9 MS. COHEN: Just for the witness. And, again, we'll
10 blow this up.

11 THE COURT: Can you see that?

12 THE WITNESS: It could be a little bit bigger.

13 Thanks.

14 THE COURT: Can you make it bigger? It's very hard
15 to read.

16 MS. COHEN: Can you make it bigger?

17 THE COURT: I'm having trouble. Is there a way to
18 make it bigger or no?

19 MS. COHEN: Maybe it's helpful if you could
20 highlight the line starting with the -- here. That would be
21 easier to see.

22 Oh, you can't see it? Sorry.

23 (Pause.)

24 MS. COHEN: I have the paper, but I think it's
25 worse, but I'm happy to --

Gillick - cross - Cohen

4201

1 THE COURT: As long as the witness can read it.

2 THE WITNESS: I can.

3 BY MS. COHEN:

4 Q And does that refresh your recollection that you said you
5 were grateful for your mom's approval of your OMing?

6 A Yes. This is a gratitude list, which is an exercise that
7 we did a lot.

8 Q And do you recall that Rachel Cherwitz also -- she told
9 you she loved you in that e-mail, do you recall that?

10 MS. BENSING: Objection.

11 THE COURT: Sustained.

12 Q Do you recall writing that Rachel Cherwitz said she loved
13 you?

14 MS. BENSING: Objection.

15 THE COURT: Sustained.

16 Q Do you recall writing that you -- do you recall
17 expressing your love for Rachel Cherwitz in that e-mail?

18 I'm sorry.

19 Do you recall writing to Rachel Cherwitz and
20 expressing your love at that time?

21 A Yeah, it's written on the page here.

22 Q And that was in September of 2014, right?

23 A Yes.

24 Q Okay. I'm going to show you a series of photos. I
25 handed them up.

Gillick - cross - Cohen

4202

1 A Uh-hum.

2 Q Okay. They are marked as Defense Exhibit 12-AI.

3 A Yep.

4 Q 12-N -- sorry. I have to do this for the record.

5 A No problem.

6 Q 12-AJ; 12-AR, as in Ralph; 12-Q; 12-B, as in boy, C, as
7 in cat; 12-B again, E as in Edward, BE; 12-G, as in golf, V as
8 in Victor; 12-GW.

9 When you've had a chance to look --

10 THE COURT: Let me just make sure I have those.

11 MS. COHEN: Sure.

12 THE COURT: Was the second one just 12-N or was
13 there another letter?

14 MS. COHEN: Just 12-N, as in Nancy.

15 THE COURT: And the second -- the third one was
16 12-A --

17 MS. COHEN: J, as in Jack.

18 THE COURT: Okay. Thank you.

19 BY MS. COHEN:

20 Q Ms. Gillick, do you recognize these photos?

21 A Yes.

22 Q And do you appear in all of them?

23 A Yes.

24 Q And are they a fair and accurate depiction of the
25 photographs that were taken at those times?

Gillick - cross - Cohen

4203

1 A Yes.

2 MS. COHEN: Okay. Your Honor, at this time, the
3 defense moves to admit -- do I need to read them all over?

4 THE COURT: No, I'll read them.

5 MS. COHEN: Okay.

6 THE COURT: Is there any objection to any of these
7 exhibits?

8 MS. FARRELL: I'm sorry. We're just still trying
9 to --

10 THE COURT: That's fine. Take a minute. Do you
11 want me to say then again?

12 MS. FARRELL: Yes, if you don't mind just reading
13 them out.

14 THE COURT: Okay. And then Ms. Cohen can check me
15 if I'm correct on this.

16 MS. COHEN: Sure.

17 THE COURT: 12-A1 -- or is it AI?

18 MS. COHEN: No, I think it's AI.

19 THE COURT: AI.

20 12-N, 12-AJ, 12-AR, 12-Q, 12-BC, 12-BE, 12-GV,
21 12-GW.

22 MS. FARRELL: No objection, Your Honor.

23 THE COURT: Okay. So all of those that I just read
24 out are admitted.

25 (Defense Exhibits 12-AI, 12-N, 12-AJ, 12-AR, 12-Q,

Gillick - cross - Cohen

4204

1 12-BC, 12-BE, 12-GV, 12-GW, were received in evidence.)

2 MS. COHEN: Thank you, Your Honor.

3 So those are admitted. Can we pull up for the jury,
4 Defense Exhibit 12-AI?

5 (Exhibit published.)

6 BY MS. COHEN:

7 Q And, Ms. Gillick, do you --

8 MS. COHEN: Actually, can we scroll up so she can
9 see the date?

10 Q Well, first, I'll ask you who's depicted here?

11 A Myself, Michelle Wright and Aubrey Fuller.

12 Q Okay. Is that Michelle Wright in the middle?

13 A Yes.

14 Q And it's hard probably for the jury to see, but do you
15 see November 10th, 2013?

16 A Yes.

17 Q Would that have been when you in CP7?

18 A Yes.

19 Q All right.

20 MS. COHEN: And if we could show Defense
21 Exhibit 12-N.

22 (Exhibit published.)

23 Q And this photograph is from March of 2014.

24 So, this is when you were in New York City, right?

25 A I don't think the date on that is correct. It may have

Gillick - cross - Cohen

4205

1 been when it was posted, but I don't think it was when it was
2 taken.

3 Q Do you remember when this was taken?

4 A Yeah. That was taken before I joined OneTaste at all.

5 Q Oh, okay. This was in New York City?

6 A No, it's in San Francisco.

7 Q Oh, okay. Sorry.

8 MS. COHEN: Next one, AJ.

9 (Exhibit published.)

10 Q And this is May -- this appears to be posted on May of
11 2014.

12 Do you recognize this?

13 A Yes.

14 Q Where was this taken?

15 A In San Francisco.

16 Q And can you tell us who's in the picture with you?

17 A Henry -- I don't remember his last name -- and myself,
18 Margot Fried, Ali Wahl, Caitlin D'Aprano, Diego Vargas, and
19 Clouds deNavarez.

20 Q And Clouds is the one we heard about yesterday who you
21 moved in with in 1080, right?

22 A Correct.

23 Q And are all these other people part of OneTaste?

24 A Correct.

25 MS. COHEN: And can we -- and this -- sorry.

Gillick - cross - Cohen

4206

1 Q May of 2014 is right before you moved to New York City,
2 right?

3 A Correct.

4 MS. COHEN: And can we show the next one as 12-AR.
5 (Exhibit published.)

6 BY MS. COHEN:

7 Q And this is -- looks like it's from July 2014.

8 Would that have been when you were in New York City?

9 A Yes.

10 Q Do you remember what you were doing there?

11 A Getting my nails done with Maya.

12 Q And Maya, that's Maya Gilbert?

13 A Correct.

14 MS. COHEN: And then this next one might be hard on
15 the screen, but we'll try it.

16 12-Q. It's a little dark.

17 THE COURT: Oh.

18 MS. COHEN: Oh, yes. Can you zoom that in? I think
19 this is November 15th, 2014.

20 Q Is that -- is that right around your birthday?

21 A Yes.

22 Q And were you celebrating your birthday here?

23 A Yes. This is at the Nicole Daedone Intensive.

24 Q Okay. And it's hard to see, but who's the person
25 bringing the cake?

Gillick - cross - Cohen

4207

1 A Rachel Cherwitz.

2 MS. COHEN: And then can we look at 12-BC.

3 (Exhibit published.)

4 BY MS. COHEN:

5 Q And this was from January 2015. Do you remember -- is
6 that you in the front?

7 A Yes.

8 Q And -- and do you remember where you were?

9 A This is CP7.

10 Q And can you see -- do you recognize anyone else in this
11 photograph?

12 A Yeah. Amanda is in the front. I believe that's Peter
13 Crann next to me. Kenan Wang is in the black T-shirt. Rachel
14 Cherwitz is -- and Rachael Hemsli are standing on either side
15 of the camera. And that's Mark -- I can't remember his last
16 name -- from London.

17 Q Okay.

18 MS. COHEN: All right. Can we show the next one?
19 This is 12-B, as in boy, E as in Edward.

20 Q This is February 2015, I think -- 2015, no --

21 A Yes.

22 Q Yes. So you would have been in New York City at this
23 point?

24 A Yes.

25 Q And do you recognize the people in this picture?

Gillick - cross - Cohen

4208

1 A Courtenay Lapovsky is there and Dana Lawrence. I vaguely
2 recognize the woman next to the woman in the blue shirt
3 towards the front, but this was like a lead gen event. So
4 these were new people, and I don't remember their names.

5 MS. COHEN: And can we show 12-GV. G as in golf, V
6 as in Victor.

7 (Exhibit published.)

8 Q And so this is from September of 2016.

9 So that was after you left, a little over a year
10 after OneTaste?

11 A Yeah. I don't remember this. Like I don't remember if
12 this date is correct or what -- when this is from. I'm
13 assuming it's in LA because Maya and Eli are there, but I
14 don't remember this event.

15 Q Okay. But it was posted on September 15th, 2016, right?

16 A According to the paper. Like I said, I don't remember
17 when this was taken or when it was posted.

18 Q Okay.

19 A It's on Maya's account.

20 Q And with respect to when it was posted, it was a little
21 over a year after you left OneTaste, right?

22 A Correct.

23 Q And Eli and Maya were still associated with OneTaste at
24 that time, right?

25 A Correct.

Gillick - cross - Cohen

4209

1 MS. COHEN: And then finally, can we show Defense
2 Exhibit 12-GW.

3 Okay. I can put it on the ELMO if you've got a
4 problem.

5 (Exhibit published.)

6 MS. COHEN: Okay.

7 BY MS. COHEN:

8 Q Do you recognize this photograph? Do you know where it
9 was taken?

10 A Yes, it was taken in Turkey.

11 Q And this was from May of 2016, right?

12 A That's correct.

13 Q So, again, that's about almost a year after you -- you
14 left OneTaste, right?

15 A Correct.

16 Q And do you recognize the other woman with you?

17 A Yeah, that's Summer Engman.

18 Q And was she also a part of OneTaste?

19 A Not at the time. She had left as well.

20 MS. COHEN: Okay. We can take that photograph down.

21 BY MS. COHEN:

22 Q And the other person in the photograph, who is --

23 A That's my husband, Carl Gillick.

24 Q All right. You -- after you left, do you recall right
25 after sending a message to Rachael Hems?

Gillick - cross - Cohen

4210

1 A No, not specifically.

2 Q Let me -- let me ask you -- well, let me show you Defense
3 Exhibit 12-I.

4 MS. COHEN: Just for the witness.

5 Q This is a long one, but --

6 MS. COHEN: Yeah, if we could just blow up the top
7 part.

8 Would a copy help or --

9 THE COURT: I think you should give her a copy.

10 MS. COHEN: Okay. At least this is a little darker.

11 THE WITNESS: Thank you.

12 BY MS. COHEN:

13 Q I'll just ask you, Ms. Gillick, do you recall sending a
14 message -- does this refresh your recollection that you sent a
15 message to Rachael Hemsì?

16 A Yes.

17 Q And do you recall that you expressed your love for
18 Rachael Hemsì as well?

19 A Yes.

20 Q And this was after you left, correct?

21 A Yes.

22 Q And do you recall that you also expressed concern about
23 Rachel Cherwitz? Do you recall that?

24 A I haven't gotten to that part.

25 (Pause.)

Gillick - cross - Cohen

4211

1 Q Are you on --

2 A Yeah, yes.

3 MS. FARRELL: Your Honor, I object to improper
4 hearsay and improper refreshment.

5 THE COURT: The last question was: Do you recall
6 that you also expressed concern about Rachel Cherwitz? Do you
7 recall that part?

8 And then she turned to the document and said: I
9 haven't gotten to that part.

10 But what the -- what Ms. Cohen is asking you is
11 about your recollection. She's not asking you to read from
12 the document and tell her what's in the document. She's
13 asking you --

14 THE WITNESS: Okay.

15 THE COURT: -- if looking at the document refreshes
16 your recollection.

17 THE WITNESS: It does.

18 THE COURT: Okay. Go ahead.

19 BY MS. COHEN:

20 Q So you expressed concern, and do you recall that you
21 wanted to reach out to Rachel?

22 A Yes.

23 Q Now, after you left OneTaste, you went home to Aspen
24 first, right?

25 A Yes.

Gillick - cross - Cohen

4212

1 Q And then you went to Hawaii, correct?

2 A Yes.

3 Q And you went to Burning Man in August, correct?

4 A Yes.

5 Q And do you recall posting on Facebook on August 28th,
6 2015, and thanking Rachel for the inspiration she had been in
7 the last year?

8 Do you remember that?

9 A Vaguely.

10 Q Is there something that would refresh your recollection?

11 A If you have a posting.

12 MS. COHEN: Can you show the witness 12-EZ?

13 THE WITNESS: Can you make it larger, please?

14 MS. COHEN: If you can go to the second paragraph.

15 I mean -- sorry -- blow up the second paragraph.

16 THE WITNESS: Yes.

17 BY MS. COHEN:

18 Q Does that refresh your recollection that you thanked her
19 for being an inspiration to you in the past year?

20 A Yes. Rachel had been doing like a celebration
21 of happiness. This is in reference to an experiment that
22 she'd been doing, and I was inspired by it.

23 MS. COHEN: Thank you, Your Honor. I have no
24 further questions.

25 THE COURT: Any redirect examination?

Gillick - redirect - Farrell

4213

1 MS. FARRELL: Yes, Your Honor.

2 REDIRECT EXAMINATION

3 BY MS. FARRELL:

4 Q Good morning, Ms. Gillick.

5 A Good morning.

6 Q You started cross-examination being asked questions about
7 your memoir --

8 A Yes.

9 Q -- do you recall that?

10 How does your memoir that you're writing differ from
11 your testimony here today?

12 MS. BONJEAN: Hold on. Objection to form and --

13 THE COURT: Sustained.

14 Q Does your memoir differ from your sworn testimony today
15 that you're giving?

16 MS. BONJEAN: Objection.

17 THE COURT: Sustained.

18 Q You testified that your memoir is a work of art, is that
19 correct?

20 A Yes.

21 Q And are there fictitious elements to it?

22 A I've rearranged a lot of the timeline, in particular, to
23 make it flow better.

24 It's also a teaching memoir, so there's tools and
25 things that I learned before, during and after my time at

Gillick - redirect - Farrell

4214

1 OneTaste. It's a broader scope.

2 Q And would you agree that's different from your testimony
3 in connection with this trial?

4 A Yes.

5 Q Is there -- in your view, is there a difference between
6 having no privacy, as you testified for two-and-a-half years,
7 and living in a commune setting?

8 A Yes. One of the biggest differences, I think, is a
9 choice. And they're like -- there's -- there's a lot of
10 things beyond the -- the privacy that, like, were....

11 Like in a normal commune, you would, you know, kind
12 of come and go, and you wouldn't -- if you were gonna go to
13 yoga, it wasn't just Bikram. Like, there's -- there's a lot
14 of different aspects that I would say were quite different.

15 Q We looked at a document where you had listed that a hard
16 no for you was having a bad boss.

17 A Yes.

18 Q What -- what changed from when you wrote that document?

19 A I -- the -- the message of -- I mean, I came to believe
20 very deeply in a lot of the teachings that Nicole Daedone did,
21 as well as the practice, itself. And it -- it -- it, over
22 time, kind of replaced any goals and things that I wanted in
23 my life, and that became my whole mission in life. And there
24 was -- I would put up with almost anything to -- to further
25 that mission as I got further in.

Gillick - redirected - Farrell

4215

1 Q And switching topics: Ms. Bonjean cross-examined you and
2 asked, essentially, that you didn't have to take out a credit
3 card to take any of the OneTaste courses.

4 Do you remember that line of questioning?

5 A Yes.

6 Q Did you ever hear or witness either Rachel Cherwitz or
7 Nicole Daedone telling others to take out credit cards to pay
8 for courses?

9 A Yes.

10 Q What did you see?

11 A Several people during my CP7, when they signed up for
12 further courses at the end of the course, as well as, in
13 particular, one of my coaching clients here in New York -- her
14 name was Jen. I don't remember her last name.

15 MS. COHEN: Objection to hearsay.

16 THE COURT: Overruled.

17 BY MS. FARRELL:

18 Q Continue testifying to what you personally witnessed.

19 A Rachel Cherwitz asked me to bring her in for a sales
20 conversation to enroll in -- in further classes. I believe
21 she signed up for Mastery.

22 And I was sitting -- it was at the New York Center
23 and I was sitting in the main room when the door was open to
24 one of our coaching rooms, and I overheard Rachel telling her
25 to open three credit cards to take Mastery because she had

Gillick - redirect - Farrell

4216

1 absolutely no money whatsoever.

2 Q You also were cross-examined about the time you spent
3 with family while you were at OneTaste.

4 A Yes.

5 Q Were there any important events in your life that you
6 missed because of OneTaste?

7 A Yes.

8 Q What?

9 A One of my best childhood friends had asked me to be her
10 bridesmaid for her wedding, and it was the -- it ended up
11 being the day that Rachel Cherwitz called me and -- and told
12 me that there was, like, one weekend left in the year that
13 didn't have, like, a wedding scheduled at it to -- to be
14 completed at the end of the course. And so that was the only
15 option left for Raph and I to get married, and it was the same
16 weekend as my childhood best friend who I had known since I
17 was three. And so, I had to call her and tell her that I
18 could no longer be her bridesmaid and or attend her wedding.

19 Q And ultimately, did you end up attending her wedding?

20 A I did end up attending her wedding because it was after I
21 left, but not as a bridesmaid.

22 Q And what was your mental space that you were willing to
23 miss, you know, being a bridesmaid at your best friend's
24 wedding in order to get married at the end of that OneTaste
25 course?

Gillick - redirect - Farrell

4217

1 MS. COHEN: Objection.

2 MS. BONJEAN: Objection. She didn't miss the
3 wedding.

4 THE COURT: Overruled.

5 A I -- I was incredibly devastated that I had to make that
6 call, but I felt -- I felt trapped. It felt like the only,
7 like, path forward that was allowed to happen. Like, I was --
8 I was engaged and I was supposed to get married quickly and
9 that was my one option.

10 Q So, there were some -- you were cross-examined about
11 selling your aerial silks business in September -- in 2014.

12 Do you remember that line of cross-examination?

13 A Yes.

14 Q And I believe you testified that you ultimately sold it
15 sometime in early November 2014. Is that correct?

16 A Yes.

17 Q And you also testified about a person named Po.

18 Who was Po?

19 A Po was one of the co-owners of OneTaste New York.

20 Q And where did Po live?

21 A In --

22 Q In which city?

23 A Here in New York, in Brooklyn.

24 Q And is Po the person you testified did not live in The
25 Bunker?

Gillick - redirect - Farrell

4218

1 A Correct.

2 Q Was Po also an owner of OneTaste New York City?

3 A Correct.

4 Q Along with you --

5 A Yes.

6 Q -- and others?

7 If you know, where did Po have the money to be a
8 OneTaste owner like you?

9 MS. BONJEAN: Objection; hearsay.

10 THE COURT: Response?

11 MS. FARRELL: I can ask a follow-up question, Your
12 Honor.

13 THE COURT: Okay. Sustained.

14 BY MS. FARRELL:

15 Q Given that you and Po jointly purchased a -- a franchise
16 at OneTaste, do you have familiarity with her financial
17 situation?

18 A Yes.

19 Q And if you know, what was her financial situation such
20 that she was able to purchase the franchise alongside you?

21 MS. BONJEAN: It's an objection. It can't be
22 anything but hearsay.

23 THE COURT: Overruled.

24 Q You may answer.

25 A She had a lot of real estate investments, primarily down

Gillick - redirected - Farrell

4219

1 in Philadelphia, that she had -- had built up wealth around.

2 Q Okay.

3 MS. FARRELL: And I'd like to show the witness what
4 was shown yesterday. It's Defense Exhibit 12-FZ.

5 And if I may approach with a copy, Your Honor?

6 THE COURT: Yes.

7 THE WITNESS: Thank you.

8 BY MS. FARRELL:

9 Q Do you -- do you recognize this as one of the text
10 message threads with Po that I think Ms. Bonjean showed you
11 yesterday?

12 A Yes.

13 Q And this is in reference to you going to -- where you
14 say" I'm at the doctor's.

15 Do you recall this --

16 A Yes.

17 Q -- line of questioning?

18 Okay. I want you to look very carefully at this
19 text thread. Read it from the top, all the way to the bottom.

20 A (Witness complies.) Yes.

21 Q Now, let me ask -- now, typically, did you and Po live in
22 the same time zone?

23 A Yes.

24 Q And in this -- on this October 30th, 2014 text thread,
25 does it appear that you and Po are in the same time zone?

Gillick - redirected - Farrell

4220

1 A No.

2 Q And what, if anything -- why, for any reason, would you
3 have been traveling in -- on October 30th, 2014, out of
4 New York?

5 A This would have been when I was in San Francisco to close
6 down Aspen Aerials, my business, my aerial silks business.

7 Q And so -- and this references you going to the doctor, is
8 that correct?

9 A Yes.

10 Q Is there a reason you would have gone to the doctor when
11 you were outside of The Bunker, as opposed to while you were
12 in New York?

13 MS. BONJEAN: Objection.

14 THE COURT: Overruled.

15 A Yes.

16 Q Can you explain that?

17 A This would have been the first time I got a little bit of
18 time and wasn't as observed.

19 Q All right. You can put that aside.

20 Ms. Bonjean asked you yesterday about maintaining
21 friends from OneTaste after you left OneTaste.

22 Do you recall that line of questioning?

23 A Yes.

24 Q Were any of those friends people who also left OneTaste?

25 A The majority of them were, yeah.

Gillick - redirected - Farrell

4221

1 Q And was there a difference between being able to maintain
2 relationships with people who had left OneTaste versus people
3 who remained within OneTaste?

4 A A large difference.

5 Q Could you explain that difference?

6 A Yeah. Just as when I was in OneTaste and I had to go
7 offline and ask permission to see family and friends and it
8 was restricted to an hour, that was the -- the amount -- once
9 I was outside, that was the amount that, like, I got to spend
10 with anyone who was still in OneTaste.

11 So, they would -- I'm sure they were posting and
12 saying "offline." But like, basically, I would have got just
13 an hour with them.

14 And it was incredibly hard to arrange. And I did --
15 I had very few, like, contacts and text messages in between.
16 And I needed to be in the city that they were in. Like, there
17 was no, like, meeting in between. There was no travel.

18 And that picture with Summer Engman, who -- we were
19 very close for a long time after both leaving OneTaste. You
20 know, she was living in Turkey at the time. My husband and I
21 were traveling in Europe and we were able to, like, meet up
22 there.

23 So, there was like -- the people who had already
24 left, I could have like a normal sustained relationship where
25 we would, you know, find each other and meet in the middle and

Gillick - redirected - Farrell

4222

1 there was lots of, you know, conversations and phone calls and
2 texts and time spent with each other. And it was more -- it
3 was more than that, like, hour in, hour out.

4 Q And we also looked at a text thread -- you looked at a
5 text thread yesterday from October 2nd, 2014 with Maya Gilbert
6 where you were talking about wanting to have a -- have sexual
7 relations with Rob Kandell.

8 Do you remember that text thread?

9 A Yes.

10 Q And was that after Mr. Kandell had left OneTaste?

11 A Yes.

12 Q And so -- and I think you testified about these text
13 messages talking about needing to hide it from Rachel
14 Cherwitz.

15 Do you recall that?

16 A Yeah, from -- from everyone. It was -- Rachel Cherwitz
17 and Nicole Daedone had expressly forbidden that we communicate
18 with Rob because he had left.

19 Q Ms. Bonjean also asked you about the Brooklyn OM House
20 being separate from the franchise that you purchased.

21 Do you recall that?

22 A Yes.

23 Q At the time that you were living at the Brooklyn OM
24 House, was there a New York City, a separate New York City
25 franchise?

Gillick - redirect - Farrell

4223

1 A No.

2 Q It was only after you moved out of the Brooklyn OM House
3 that you purchased the New York City franchise, is that
4 correct?

5 A Yes. It was -- it was formed after I moved out of the
6 Brooklyn OM House.

7 Q So the question about them being separate entities was --
8 was not about -- was about a later-in-time period, is that
9 correct?

10 A Yes.

11 Q Okay.

12 You also, in response to one of Ms. Bonjean's
13 questions, you said: Ravi was always going to be the finances
14 for Ayries.

15 Do you recall your testimony?

16 A Yes.

17 Q What did you mean by that?

18 A Ayries didn't have any money and she didn't -- like, she
19 would not have been able to afford any kind of investment.
20 So -- and since they were ceremonially married in a
21 relationship, it was like her husband funding a business
22 venture.

23 Q And do you have knowledge of Ravi's financial situation,
24 given that you participated in a joint financial venture with
25 him?

Gillick - redirect - Farrell

4224

1 A Yes.

2 Q And based on your knowledge, what was Ravi's financial
3 situation?

4 A Ravi came from a very wealthy family, and he was the
5 main, and to my knowledge still is today, money manager of
6 his -- all his family's finances.

7 Q We looked at a number or we looked at least at one policy
8 regarding the Coaching Program.

9 Do you recall that?

10 A The Code of Conduct?

11 Q Yes.

12 A Yes.

13 Q And I believe you testified that that was relevant to you
14 being a student at the Coaching Program?

15 A Yeah. It governed the teachers and staff of the Coaching
16 Program that I was a student in.

17 Q Like their conduct towards students?

18 A Correct.

19 Q I want to focus on the policies pertaining to employees
20 or owners of OneTaste. Okay?

21 A Uh-hum.

22 Q So, we talked about the student policies applying when
23 were you a student, but let's focus on the time that you're an
24 owner and then an employee.

25 Were there any -- to your knowledge, were there any

Gillick - redirect - Farrell

4225

1 policies in place protecting employees from superiors at the
2 company, instructing them to engage in certain sexual
3 activity?

4 A I didn't know of any written Code of Conduct for
5 employees, period.

6 Q Okay. And to the extent there were written policies, is
7 it your understanding that they were always followed?

8 MS. BONJEAN: Objection to -- objection to the form
9 of that question; foundation.

10 THE COURT: Sustained.

11 BY MS. FARRELL:

12 Q And so just to back up, you don't even recall there being
13 any policies applying to employees, is that correct?

14 A Correct.

15 Q Okay. And is that with respect to protection of
16 employees?

17 MS. BONJEAN: Objection to the foundation.

18 THE COURT: Sustained.

19 MS. FARRELL: Okay.

20 Q So, Ms. Bonjean questioned you about not being in the
21 in-crowd was the only reason for your mental distress.

22 Do you remember that question?

23 A I don't remember it phrased as that. I remember
24 something about not being in the in-crowd.

25 Q Was being in the in-crowd the only reason for your mental

Gillick - redirect - Farrell

4226

1 distress at the time?

2 A No.

3 Q What were the other things contributing to your mental
4 distress?

5 You could just list them off.

6 A Yeah, I mean, I think more than anything, it was the
7 like, as I said, sort of the, like, lack of choice. I didn't
8 feel in control of my sleep schedule. I never picked, like,
9 during work hours, like 11:00 p.m. I could pick, but I never
10 picked what I ate.

11 There were -- I did not pick any kind of exercise
12 that I did. It was -- it was always like I said, the Bikram,
13 the Soul Cycle. It was exactly the same thing and I had to
14 go.

15 Yeah. I -- I just like, I felt completely out of
16 control really, and including a lot of times either with
17 sexual partners or the fact that I had to have sex every day
18 didn't -- didn't felt in my control. And to have it governed
19 by a company was very hard to wrap my head around.

20 Q In fact, you were cross-examined extensively about your
21 belief about whether you were or were not permitted to do
22 certain things, correct?

23 A Yes.

24 Q Whether or not Rachel Cherwitz directed you to do certain
25 things?

Gillick - redirect - Farrell

4227

1 A Yes.

2 Q And about whether what you're saying on the stand now
3 is -- is credible, right?

4 A Yes.

5 MS. BONJEAN: Objection.

6 THE WITNESS: Sorry.

7 THE COURT: Overruled.

8 BY MS. FARRELL:

9 Q And you were questioned about whether you have any text
10 messages to prove what you testified to on direct, is that
11 right?

12 A Yes.

13 MS. FARRELL: Well, I'd like to approach, Your
14 Honor.

15 THE COURT: Yes.

16 Sorry. What are you handing up?

17 MS. FARRELL: Sorry. I'll put it when I have the
18 mic.

19 THE COURT: Thank you.

20 Q Ms. Gillick, I just handed you Government Exhibit 906.
21 Do you recognize this document?

22 A Yes.

23 Q Is this a document you wrote outlining a number of your
24 concerns with respect to OneTaste?

25 MS. BONJEAN: I'm going to object to the leading.

Gillick - redirect - Farrell

4228

1 THE COURT: Overruled.

2 A Yes.

3 Q And do you recall when you wrote this?

4 A Yes.

5 Q When was it?

6 A It was in the spring of 2015, before I left.

7 Q And if I showed you a document, might it refresh you on
8 the particular date or month that you wrote it?

9 A Yes.

10 MS. FARRELL: I'm going to ask that Mr. McNett pull
11 up Government Exhibit 1852 for the witness.

12 If you could zoom in. Just go up to the top,
13 please.

14 BY MS. FARRELL:

15 Q Do you see the -- the date of the top e-mail?

16 A Yes, January 18th, 2015.

17 Q And does this refresh your recollection that you wrote
18 Government Exhibit 906 either on or before January 18th, 2015?

19 A Yeah. I had been working on it for at least a couple
20 days before I sent it.

21 MS. BONJEAN: Objection.

22 THE COURT: Basis?

23 MS. BONJEAN: Foundation.

24 THE COURT: Overruled.

25 Q So just so the record is clear, does this -- does

Gillick - redirect - Farrell

4229

1 Government Exhibit 1852 refresh your recollection that you
2 wrote Government Exhibit 906 either on or before January 18th,
3 2015?

4 A Yes.

5 Q And that is when you were still at OneTaste --

6 A Yes.

7 Q -- is that right?

8 Was it, in fact, about six months before you left
9 OneTaste?

10 A Yes.

11 Q And in this document that you wrote at the time that you
12 were at OneTaste, did you express many of the same concerns
13 that you testified about yesterday under oath?

14 A Yes.

15 MS. BONJEAN: Objection.

16 THE COURT: Overruled.

17 MS. FARRELL: Your Honor, I'll move to admit
18 Government Exhibit 906 as a prior consistent statement.

19 MS. BONJEAN: Objection to the hearsay. It's --
20 it's not prior consistent as to everything, and --

21 THE COURT: Okay. Sustained.

22 MS. FARRELL: I'm happy to go through page-by-page.

23 MS. BONJEAN: No.

24 Your Honor, this is -- this is rank hearsay.

25 THE COURT: Sustained. Sustained.

Gillick - redirected - Farrell

4230

1 MS. BONJEAN: No authenticity.

2 THE COURT: Sustained.

3 You can ask your next question.

4 MS. FARRELL: Thank you, Your Honor.

5 BY MS. FARRELL:

6 Q So, Ms. Gillick, yesterday on cross-examination you were
7 challenged on your testimony that -- that people were shamed
8 and beat up on, correct?

9 A Yes.

10 Q And did you write in this document concerns about people
11 being shamed and beat up on?

12 MS. COHEN: Objection.

13 MS. BONJEAN: Objection, Your Honor. It is --

14 THE COURT: Sustained as to foundation.

15 Q Did you express concerns about shaming in this document?

16 MS. BONJEAN: I'm going to continue to object.

17 THE COURT: Okay. Sustained.

18 Give me one moment.

19 MS. BONJEAN: And also, I'd ask for a sidebar.

20 THE COURT: Give me one moment to read it.

21 (Pause.)

22 THE COURT: We're not going to have a sidebar.

23 You can ask your next question. I sustain the last
24 objection.

25 Q So, were you cross-examined about whether or not people

Gillick - redirect - Farrell

4231

1 were actually shamed at OneTaste?

2 A Yes.

3 Q Were you cross-examined about whether or not you were
4 actually leading a monastic lifestyle separate from the
5 outside world at OneTaste?

6 A Yes. I don't believe the word monastic was used, but
7 yes.

8 Q Were you cross-examined about whether or not while at
9 OneTaste you were encouraged not to talk to people who had
10 left OneTaste?

11 A Yes.

12 Q Were you cross-examined about whether you had genuine
13 fear and paranoia during your time at OneTaste?

14 MS. BONJEAN: Objection; misstates --

15 THE COURT: Overruled.

16 A Yes.

17 Q Were you cross-examined about whether Rachel Cherwitz
18 actually overstoked you and others?

19 A I don't believe the word "overstoked" was used, but the
20 concept, yes.

21 Q And the concept being her berating people, correct?

22 A Yes.

23 Q Were you cross-examined about that?

24 A Yes.

25 Q And was it suggested you were not accurately depicting

Gillick - redirec - Farrell

4232

1 how it had been?

2 MS. COHEN: Objection.

3 MS. BONJEAN: Objection.

4 THE COURT: Sustained.

5 MS. FARRELL: Okay.

6 BY MS. FARRELL:

7 Q Were you cross-examined about whether or not you were
8 able to interact freely with family and outside friends?

9 A Yes.

10 Q Were you cross-examined about whether it was acceptable
11 to speak up against people in power at OneTaste?

12 A Yes.

13 MS. BONJEAN: Objection.

14 THE COURT: Overruled.

15 Q Were you cross-examined about whether you had control
16 over going to medical appointments?

17 A Yes.

18 Q And about whether your body was in your control versus
19 your boss's control?

20 MS. BONJEAN: Objection. That misstates the --

21 THE COURT: Overruled.

22 A Yes.

23 Q Were you cross-examined about whether what was best for
24 you came from higher-ups at OneTaste?

25 A Yes.

Gillick - redirect - Farrell

4233

1 Q Were you cross-examined about whether people were
2 actually exhausted and pushed past their breaking points?

3 A Yes.

4 Q Were you cross-examined about whether they genuinely felt
5 shame based on what they were told by their superiors at
6 OneTaste?

7 A Yes.

8 Q Were you cross-examined about having genuine feelings of
9 being unsafe?

10 A Yes.

11 Q Were you cross-examined about people genuinely feeling
12 like they had been harmed?

13 A Yes.

14 Q Were you cross-examined about whether you genuinely
15 learned not to trust yourself?

16 A Yes.

17 Q Were you cross-examined about whether your life, in fact,
18 had been deeply impacted by what you had experienced at
19 OneTaste?

20 A Yes.

21 Q And prior to yesterday and prior to being cross-examined
22 on all of those topics, had you, in fact, documented your
23 concerns on all of the topics that we just discussed --

24 A Yes.

25 MS. BONJEAN: Objection.

Gillick - redirec: - Farrell

4234

1 THE COURT: Overruled.

2 Q -- while you were at OneTaste?

3 A Yes.

4 Q And did you write those down in Government Exhibit 906?

5 MS. BONJEAN: Objection. This is hearsay.

6 THE COURT: Overruled.

7 A Yes.

8 Q And, again, was that written in January, on or before
9 January 18th, 2015?

10 A Yes.

11 Q And so, is document -- Government Exhibit 906 a document
12 in which you expressed all these concerns at that time?

13 A Yes.

14 Q Years before you were cross-examined in this case?

15 A Yes.

16 MS. FARRELL: Your Honor, we move to admit
17 Government Exhibit 906 --

18 MS. BONJEAN: Your Honor.

19 MS. FARRELL: -- as a prior consistent statement.

20 THE COURT: Are you objecting?

21 MS. BONJEAN: Yes.

22 THE COURT: Sustained.

23 MS. FARRELL: May we have a sidebar, Your Honor?

24 THE COURT: How much longer do you have?

25 MS. FARRELL: I'm done.

Sidebar

4235

1 THE COURT: Okay. Go to sidebar.

2 (Sidebar held.)

3 (Sidebar conference held on the record in the
4 presence of the Court and counsel and the defendants, out of
5 the hearing of the jury.)

6 THE COURT: We're at sidebar and everybody is here,
7 including the two individual defendants.

8 I sustained the objection. I'm not going to permit
9 the entirety of the document to come in on the foundation you
10 laid.

11 If there are specific statements that are prior
12 consistent that are appropriate to admit based on the
13 cross-examination, I would consider admitting them, of course.
14 But this entire document I'm not going to let in based on the
15 foundation.

16 So, if there are statements that you want to pull
17 from Ms. Bonjean's cross-examination and you want to point me
18 to specific statements here, we can do that. But I'm not
19 going to allow this document to come in in its entirety.

20 MS. BONJEAN: I would also point out, Your Honor,
21 the -- this document does not speak in terms of herself. It
22 says, we, friends. There's -- almost every reference is not
23 necessarily about her own experience even. She's talking
24 about --

25 THE COURT: Look, I'm not letting in the entirety of

Sidebar

4236

1 the document --

2 MS. BONJEAN: Right.

3 THE COURT: -- because there would need to be a more
4 granular analysis done.

5 MS. BONJEAN: And I would also point out that my
6 cross-examine didn't -- cross-examination didn't suggest she
7 just made it up now. I mean, I -- no, I think --

8 THE COURT: Ms. Bonjean, again, we'd have to go
9 through --

10 MS. BONJEAN: Yeah.

11 THE COURT: -- statement-by-statement.

12 MS. BONJEAN: And this was never sent to our
13 clients. So, I know --

14 THE COURT: That's a separate issue.

15 MS. BONJEAN: That's a separate issue.

16 But initially, they wanted it in for notice
17 purposes. It's not notice. It was sent to Mr. Kandell after
18 he left, and he helped edit it. So, there's that problem.

19 There's an authenticity problem that it's not really
20 even her words. It's also Mr. Kandell's words after he
21 leaves.

22 MS. FARRELL: That's not this exhibit. You're
23 talking about 907.

24 THE COURT: Yes. There were two versions.

25 MS. FARRELL: Right.

Sidebar

4237

1 THE COURT: I think the Government had said one had
2 the comments of Kandell and one didn't. This is the one that
3 didn't.

4 MS. BONJEAN: Okay. But I don't know the timing of
5 that.

6 THE COURT: But that's a separate issue from what
7 your objection was.

8 MS. BONJEAN: And since it wasn't sent to our -- I
9 just want the record to be clear, it's not a notice issue
10 because it was never sent.

11 THE COURT: Right, I understand that proffer. It
12 was not notice.

13 MS. BONJEAN: And if they want to put it in as a
14 prior consistent statement based on something specific she was
15 cross-examined on, I mean, it's certainly not this whole
16 thing.

17 And also --

18 THE COURT: But this is what I'm saying. You and I
19 are agreeing, Ms. Bonjean. But the question now is --

20 You said you had nothing else.

21 MS. BENSING: Well, Your Honor, can we just make a
22 quick record?

23 THE COURT: Yes, of course.

24 MS. BENSING: They attempted to --

25 THE COURT: You have to speak up a little bit.

Sidebar

4238

1 MS. BENSING: They attempted to impeach her entire
2 credibility. They suggested that she was making things up for
3 purposes of a memoir, that she was making things up for
4 purposes of a screenplay.

5 And so, I think the Government has the right under
6 801(d)(1)(B) to introduce a prior consistent statement.
7 That's before those things --

8 THE COURT: Yes, but not this entire document.

9 MS. BENSING: So, I think what we can do, or what we
10 will seek to do, is then go statement -- Ms. Farrell just
11 asked a bunch of things like, did you say X on
12 cross-examination, Y on cross-examination.

13 So rather than repeat all of those, I think what we
14 will seek to do is just say, isn't it true as of January -- I
15 don't have the exact date.

16 MS. FARRELL: 18th, 2015.

17 MS. BENSING: -- 2015, you said X at that time.

18 And so, rather than going through the whole
19 document, we'll go statement-by-statement.

20 MS. BONJEAN: They're going to need to point to the
21 actual testimony.

22 Again, so many of these statements are not even
23 clear that she's referring to something she has personal
24 knowledge of.

25 THE COURT: Okay. You and I are agreeing,

Sidebar

4239

1 Ms. Bonjean, that this has to be specific statements and a
2 specific cross-examination, but I do think that there are
3 statements in here that are appropriate for the reasons that
4 you have proffered.

5 MS. FARRELL: Understood, Your Honor.

6 Just to reiterate. There are two subsections of the
7 rule, and one is to rebut a specific statement. And then
8 Subsection 2 is to rehabilitate the declarant's credibility as
9 a witness.

10 THE COURT: Right. Right.

11 MS. FARRELL: And so, we're really seeking admission
12 of the entire statement on that basis.

13 THE COURT: I'm not going to allow it.

14 MS. FARRELL: Not going -- understood. Just to --

15 THE COURT: Go ahead.

16 MS. FARRELL: But just rather than -- we think,
17 Subsection 2 allows us, rather than going
18 statement-by-statement based off specific questions, given
19 that her entire credibility was attacked, and to do it more
20 generally.

21 THE COURT: No, I understand the rules.

22 I also know that this is a very lengthy document
23 that covers many different categories, and the entirety of it
24 is not admissible based upon what has been established so far.

25 MS. FARRELL: Understood, Your Honor.

Sidebar

4240

1 So, my intention is, I have, I think, about ten
2 portions highlighted on my version that are too specific to
3 questions asked by -- on cross-examination. My intention is
4 only to elicit those specific statements.

5 THE COURT: All right. Why don't you talk to
6 Ms. Bonjean and Ms. Cohen and Mr. Robotti about those, so that
7 I know whether there's going to be objection to specific
8 statements.

9 MS. BONJEAN: Right.

10 THE COURT: And it's a bit early to take a break,
11 but we could do that.

12 MS. BENSING: Well, I assume they're going to
13 object, Your Honor, and so I don't know if it makes sense.

14 THE COURT: Well, let me --

15 MS. FARRELL: May I just ask it and then they can
16 object, and you can sustain it or overrule it, based on --

17 THE COURT: The problem is, you're not going to have
18 in front of you or you're not going to be presenting to me the
19 exact testimony on cross-examination.

20 MS. FARRELL: That's correct.

21 THE COURT: Right.

22 And that will take some time for me to be able to
23 evaluate it. Right?

24 MS. FARRELL: Understood.

25 You know, can I talk to Ms. Bensing for a minute?

Sidebar

4241

1 THE COURT: Yes.

2 (Pause.)

3 MS. FARRELL: All right. I'm going to just wrap up.

4 THE COURT: Okay.

5 (Sidebar discussion concluded; proceedings

6 continued.)

7

8 (Continued on the following page.)

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Gillick - Redirect - Farrell

4242

1 (Continuing.)

2 THE COURT: You may proceed, Ms. Farrell.

3 BY MS. FARRELL:

4 Q Thank you. Ms. Gillick, just to wrap up that thread,
5 fair to say that in January 2015, you expressed and wrote down
6 many of the same concerns that you discussed in your direct
7 testimony?

8 A Yes.

9 Q And did you share this document with anyone within
10 OneTaste?

11 A I expressed a lot of these concerns to Ulysses and Po.

12 Q And who is Ulysses?

13 A Ulysses Slaughterhouse of the reconciliation council.

14 Q The gentleman who was running the reconciliation council?

15 A Yes.

16 Q And was that in connection with all of those phone calls
17 you described?

18 A No, separately.

19 Q Okay. And then lastly we looked at a document where you
20 had listed one of your -- something that you could bring or
21 offer to OneTaste as being that you trust your gut. Do you
22 remember that?

23 A Yes.

24 Q During your time at OneTaste, were you able to trust your
25 gut?

Gillick - Recross - Bonjean

4243

1 A There was a lot of like discussion and strengthening of
2 intuition and stuff, but -- sort of at the beginning but
3 eventually I became very -- I questioned my gut very deeply
4 because Rachel Cherwitz and Nicole Daedone and many other
5 staff that was there, because of that limbic connection that I
6 mentioned in my testimony earlier, I would say that they could
7 say I could feel better than what I did because they were
8 senior practitioners of OM and I began to question myself very
9 deeply.

10 MS. FARRELL: No further questions, Your Honor.

11 THE COURT: Any recross-examination?

12 MS. BONJEAN: Yes.

13 RECROSS EXAMINATION

14 BY MS. BONJEAN:

15 Q Ms. Gillick, you talked about not having choices, but you
16 demonstrated time and time again that you did have choices;
17 right?

18 A The choices that I made against the stroke had
19 consequences.

20 Q Okay. Well, everything happens consequences, right, in
21 life?

22 MS. FARRELL: Objection.

23 THE COURT: Overruled.

24 A Yes.

25 Q Okay. So you said -- you made some comment that you

Gillick - Recross - Bonjean

4244

1 didn't have the choice to come and go but that's not in fact
2 true. You went, for instance, to a three-month training for
3 the circus arts right?

4 A I was not a OneTaste employee during that time.

5 Q You were never a OneTaste employee; right?

6 A Correct. I was not a OneTaste owner at that time.

7 Q Okay. You were an owner, but you were never a OneTaste
8 employee; isn't that right?

9 A Yes.

10 Q Okay. And for all of this terrible experience that you
11 had, you decided to buy a franchise; right?

12 A Yes.

13 Q So let's talk about coming and going. You went to a
14 three-month training for circus arts or aerial silks; right?

15 A Yes.

16 Q You traveled to San Francisco for your business; correct?

17 A Yes.

18 Q You went to the Hamptons and San Francisco after you
19 bought the franchise, right?

20 A Yes.

21 Q That wasn't with OneTaste people; correct?

22 A The Hamptons was not.

23 Q Okay. You went to Bali. You didn't go with the OneTaste
24 people to Bali; right?

25 A Correct.

Gillick - Recross - Bonjean

4245

1 Q You went to lunch from time to time with and without
2 OneTaste folks; correct?

3 A Correct.

4 Q You went for massages sometimes with and without OneTaste
5 folks; correct?

6 A Correct.

7 Q You said you had to go to Bikram, but you also could have
8 gone to Soul Cycle and, in fact, you did?

9 A There were particular days that we could each as a group
10 and I had to go to the ones that we were all going to
11 together.

12 Q You didn't have to. You chose to.

13 A It didn't feel that way.

14 Q Why didn't it feel that way? I'm still not following.
15 What was it --

16 What did you experience that you felt like, I have
17 to go to Bikram?

18 A I felt that if I didn't do what was on stroke and what
19 was happening with the group that I would be punished,
20 ashamed, called out by Rachel Cherwitz in particular.

21 Q You would get kicked out of the group chat, is that what
22 you were concerned about?

23 A That was one of the things.

24 Q Okay. You testified on redirect that you came to believe
25 in the teachings of Ms. Daedone so deeply that it became your

Gillick - Recross - Bonjean

4246

1 whole mission. Do you remember that?

2 A Yes.

3 Q Because her teachings resonated with you, you tried to
4 follow them; right?

5 A Yes.

6 Q But she repeatedly told you, you don't have to follow
7 them; this is my experience, but you don't have to make it
8 work for you and maybe it doesn't; right?

9 A Yes.

10 Q And, in fact, we even looked at paperwork where you
11 acknowledged that these ideas were controversial because they
12 are and were; right?

13 A Yes.

14 Q We looked at paperwork that says you don't have to --
15 they may not work in your own life; right?

16 A Yes.

17 Q But you, for whatever reasons during this time period,
18 found that they did resonate with you; correct?

19 A Yes.

20 Q And no one forced that on you, that was your own
21 experience with them at the time; correct?

22 MS. FARRELL: Objection.

23 THE COURT: Sustained.

24 BY MS. BONJEAN:

25 Q You could have walked out the door and gone to some other

Gillick - Recross - Bonjean

4247

1 organization where there were some different teachings right?

2 A Doing so meant losing everyone in this teaching
3 organization, but yes, I could have.

4 Q You said losing what?

5 A It meant losing everyone inside OneTaste.

6 Q But of course it did, right?

7 MS. FARRELL: Objection.

8 THE COURT: Sustained.

9 BY MS. BONJEAN:

10 Q Leaving an organization where people deeply believe in
11 something that you now have rejected and going to another
12 friend group would necessarily mean leaving the first friend
13 group, right?

14 MS. FARRELL: Objection.

15 THE COURT: Sustained.

16 BY MS. BONJEAN:

17 Q So in your life, you had friends from childhood; right?

18 A Yes.

19 Q And you probably have stayed in touch with a couple of
20 them; right?

21 A Yes.

22 Q And that's a normal transformation in life; correct?

23 MS. FARRELL: Objection.

24 THE COURT: Sustained.

25 BY MS. BONJEAN:

Gillick - Recross - Bonjean

4248

1 Q It's not unusual to lose touch with friends because
2 you're no longer in the same place; right?

3 A Yes, sorry, I'm confused. I didn't lose touch with some
4 of my childhood friends though.

5 Q You did lose touch with some of them I assume; right?

6 A Yes, yes.

7 Q And you're still in touch with some of them; right?

8 A Yes.

9 Q How about your college friends; are you in touch with
10 some of them?

11 A Yes.

12 Q And you lost touch with some of them; right?

13 A Yes.

14 Q Your life looks very different now than it did in
15 college; right?

16 A Yes.

17 Q Now you're married; right?

18 A Yes.

19 Q You probably have friends that are also expecting kids in
20 your community; right?

21 A Yes.

22 Q And those are your friend groups now; right?

23 A Yes.

24 Q You're probably on a group chat or two with moms or
25 soon-to-be moms; right?

Gillick - Recross - Bonjean

4249

1 A I don't have any group chats. I have mom friends that I
2 talk to.

3 Q Right. And then when you have a child, you'll be friends
4 potentially -- I don't know if you have any other kids, but
5 the kids go to school, right?

6 MS. FARRELL: Objection. This is going way outside
7 the scope of the redirect.

8 THE COURT: Sustained.

9 BY MS. BONJEAN:

10 Q The point is, Ms. Gillick, when you left OneTaste you
11 knew that one of the consequences is probably you would lose
12 touch and have less communication with the people at OneTaste;
13 right?

14 A I lost touch with everyone that stayed.

15 Q Well, that's not true. You had a text conversation with
16 Ms. Cherwitz herself; isn't that right?

17 A After a while I lost touch with everyone that stayed.

18 Q Right, because you were no longer participating in that
19 community, right?

20 A I tried to participate for a long time.

21 Q Well, did you want -- well, you just testified on
22 redirect that you complained in 2015 about some of the issues
23 you complained about in your testimony. Do you remember that?

24 A Yes.

25 Q Okay, so, did you want in or did you want out at that

Gillick - Recross - Bonjean

4250

1 point?

2 A I wanted the -- I wanted to stay in very deeply and I
3 wanted things to change.

4 Q So you wanted the best of both worlds; right?

5 A Yes.

6 Q And you understood that they felt very strongly about
7 their belief systems; correct?

8 A Yes.

9 Q Are you saying that they don't have the right to feel
10 strongly about their belief systems?

11 MS. FARRELL: Objection.

12 THE COURT: Sustained.

13 BY MS. BONJEAN:

14 Q You know there are devout Catholics and evangelicals and
15 all types of religions. Are you saying they don't have the
16 right to feel strongly about their religion?

17 MS. FARRELL: Objection.

18 THE COURT: Sustained.

19 BY MS. BONJEAN:

20 Q Do you think you have the right to go to any club that
21 you want to and not follow the rules of that club?

22 MS. FARRELL: Objection.

23 THE COURT: Sustained.

24 BY MS. BONJEAN:

25 Q You said on redirect examination that you over heard

Gillick - Recross - Bonjean

4251

1 Rachel Cherwitz suggesting, encouraging, someone to take out
2 credit cards, right, or take out -- open credit cards to make
3 payments for a course?

4 A Yes.

5 Q Okay. You weren't in the room though; right?

6 A I -- there was an open door and I was a number of feet
7 away.

8 Q And that person -- did that person ultimately take out a
9 credit card to the best of your knowledge?

10 A Three of them.

11 Q And they weren't -- they chose to do that, they filled
12 out the application, right?

13 MS. FARRELL: Objection.

14 THE COURT: Overruled.

15 Q Right.

16 A Rachel helped them fill out the application.

17 Q That person had to put in his or her own information into
18 a credit card application. You understand how all of that
19 works; right?

20 A Yes.

21 Q So Ms. Cherwitz you understand is a salesperson; right?

22 A Yes.

23 Q And you understand that she -- that -- if she's
24 suggesting to you or anybody else you can take out a credit
25 card that person can also say no; right?

Gillick - Recross - Bonjean

4252

1 A Yes.

2 Q Your testimony also on direct -- redirect was that you
3 blame OneTaste because you weren't a bridesmaid of one of your
4 childhood friends, do I have that correctly?

5 MS. FARRELL: Objection.

6 THE COURT: Sustained.

7 Q Was that what you testified to; that you couldn't go
8 to -- well, you did go to the wedding; right?

9 A Yes.

10 Q Okay. And then you came back to OneTaste; correct?

11 A No, I went to the wedding after I left OneTaste.

12 Q So, you made the choice to leave OneTaste and go to the
13 wedding, right?

14 A It wasn't the reason I left OneTaste, but yes.

15 Q I understand, but you chose to leave OneTaste; right?

16 A Yes.

17 Q And you went about your life and did things that you
18 wanted to do; right?

19 A Yes.

20 Q And you could have made that choice on day one; right?

21 A Yes.

22 Q You could have made that choice on day 30; correct?

23 A Yes.

24 Q You could have made that choice on day 60; correct?

25 A Yes.

Gillick - Recross - Bonjean

4253

1 Q You could have made that choice on day 365; correct?

2 A Yes.

3 Q You could have made that choice on day 649; right?

4 A Yes.

5 Q And then you eventually made that choice; right?

6 A Yes.

7 Q And you continued to use the word or the Government uses
8 the word "directed," but again directed to have sex -- you
9 didn't have to have sex with all the people you chose to have
10 sex with, did you?

11 MS. FARRELL: Objection.

12 THE COURT: Sustained.

13 BY MS. BONJEAN:

14 Q You could decide yourself who you did and did not want to
15 have sex with, right?

16 MS. FARRELL: Objection I think we're way past the
17 scope.

18 THE COURT: Overruled.

19 Q Correct? You could choose who you did and did not want
20 to have sexual activity with; right?

21 A At certain points, yes.

22 Q And, in fact, you did choose not to have sex with plenty
23 of people who wanted to have makeout sessions, right?

24 A Very rarely.

25 Q But that was a you choice.

Gillick - Reross - Cohen

4254

1 A Yes.

2 MS. BONJEAN: Okay, I have no further questions.

3 THE COURT: Ms. Cohen, any further cross?

4 MS. COHEN: Yes.

5 RECROSS-EXAMINATION

6 BY MS. COHEN:

7 Q Ms. Gillick, you testified on redirect examination about
8 OneTaste not approving of speaking to former OneTaste members
9 while you were there. Do you recall that?

10 A Yes.

11 Q And you also were asked about a text message concerning
12 your wanting to meet with and talk to and be with Rob Kandell
13 while you were at OneTaste and he was not. Do you remember
14 that?

15 A Yes.

16 Q And you had looked at -- you were referred back I believe
17 this morning to the text message regarding your conversation
18 with Maya about meeting up with Rob. Do you recall that?

19 A Yes.

20 Q And in that message, do you recall you had also indicated
21 that Rachel Cherwitz had just had lunch with Rob Kandell?

22 A Yes.

23 Q So she was meeting with Rob Kandell and he was no longer
24 at OneTaste; correct?

25 A Yes.

Gillick - Reross - Cohen

4255

1 Q And, in fact, in that message, you were concerned about
2 meeting with Rob because you had upset Rachel about Andres who
3 she also had a romantic interest in. Do you remember that?

4 A Those were very different periods, but yes.

5 Q You referred back in time to the Andres thing?

6 A Yes.

7 Q And you had referred back in that message to your being
8 with Andres and upsetting Rachel at the time, right?

9 MS. FARRELL: Objection to the hearsay.

10 THE COURT: Overruled.

11 A Yes.

12 Q All right. And in October -- when you sent that message
13 in October of 2014 about Andres, you were still at OneTaste;
14 right?

15 A Yes.

16 Q And you were going -- you were talking to Rob Kandell;
17 correct?

18 A Yes.

19 Q And you felt you had to be sneaky because you didn't want
20 Rachel to find out that you were also interested in Rob
21 Kandell; correct?

22 A That's not why I was being quiet about it.

23 Q Well, you -- you wanted to be with Rob Kandell at that
24 time; right?

25 A Yes.

Gillick - Reross - Cohen

4256

1 Q And you discussed -- you were concerned about your
2 connecting with Rob ever since you mentioned Andres to Rachel;
3 right?

4 A I believe it was prior to that. I don't remember the
5 exact order of that.

6 Q In this message, you were concerned that Rachel would
7 find out that you were speaking to Rob Kandell; right?

8 A Yes.

9 Q And you referenced Rachel having been upset with you
10 because you wanted to be with Andres, do you remember that?

11 A Yes.

12 Q So, isn't it true that you were telling Maya you didn't
13 want Rachel to find out because she would be upset that you
14 wanted to have sex with Rob?

15 A She would be upset that I was in contact with Rob,
16 period.

17 Q No, that you wanted to be with him because she was also
18 in love with Rob Kandell?

19 MS. FARRELL: Objection, asked and answered.

20 THE COURT: Sustained.

21 BY MS. COHEN:

22 Q Isn't it true that we were attracted to both Andres and Rob
23 Kandell?

24 MS. FARRELL: Objection.

25 THE COURT: Sustained.

Gillick - Reross - Cohen

4257

1 Q Isn't it true that Rachel Cherwitz had a relationship
2 with both Andres and Rob Kandell?

3 A Yes.

4 Q You also testified on redirect about the privacy, that
5 there was a difference between living in a commune setting and
6 OneTaste in terms of privacy. Do you remember being asked
7 that?

8 A Yes.

9 Q And you lived in 1080, you chose to move into 1080;
10 right?

11 A Yes.

12 Q So you knew what it was like to life any OneTaste
13 community setting correct?

14 A Yes, it was very different living in a staff house than
15 1080, yes.

16 Q Did you feel that you had privacy at 1080?

17 A A little bit more than at a staff house, but not much.

18 Q And you, when you moved into the Brooklyn OM house in New
19 York City, we already established yesterday that you
20 originally wanted to move into The Bunker; correct?

21 A Yes.

22 Q And when you couldn't get in there you moved into the
23 Brooklyn OM house; correct?

24 A Yes.

25 Q And it's fair to say there's not a lot of privacy in the

Gillick - Reross - Cohen

4258

1 Brooklyn OM howls?

2 A I actually felt more privacy at the Brooklyn OM house.

3 Q But you had less privacy?

4 A I don't mean physical privacy, I meant mental and
5 emotional privacy.

6 Q You testified yesterday that you to move into the
7 Brooklyn OM house because there wasn't another place for you
8 to live, is that your testimony?

9 A Not within the OneTaste community which I wanted to
10 continue living in.

11 Q So it didn't have -- you could have gotten your own
12 place; correct?

13 A Of course.

14 Q And you chose to -- before you went to The Bunker, you
15 knew what The Bunker was like; correct?

16 A I hadn't lived in a staff house like since they had been
17 created.

18 Q But you had been there a lot; correct?

19 A Maybe once or twice.

20 Q You visited it?

21 A Yeah.

22 Q And, in fact, so much that you expressed in your journal
23 the concerns you had about alcohol and drinking at The Bunker;
24 correct?

25 MS. FARRELL: Your Honor, I'm going to object to way

Gillick - Reross - Cohen

4259

1 outside the scope of the redirect.

2 THE COURT: Sustained.

3 BY MS. COHEN:

4 Q Well, in connection with this privacy as we talked about,
5 you ended up living in The Bunker; right?

6 A Yes.

7 Q And Po, who was also a co-owner as you testified, did not
8 live there; right?

9 A That's correct. Different rules applied to different
10 people.

11 Q Well, she chose to stay in her apartment because you said
12 she had cats; right?

13 A She was also approved to stay in her apartment.

14 Q Well, she lived in her own apartment, right?

15 A Yes.

16 Q And she also had her own acupuncture and wellness
17 business on the side; right?

18 A Yes.

19 Q And she never gave that up when she was a part owner of
20 the OneTaste New York, right?

21 A She did.

22 Q She gave it up during the time that you were there?

23 A Yes.

24 Q Okay. And she was also a business owner of that;
25 correct?

Gillick - Reross - Cohen

4260

1 A Yes.

2 Q And while you were living in New York, Rachel was not --
3 Rachel was also in San Francisco and L.A. often; correct?

4 MS. FARRELL: Objection to the scope.

5 THE COURT: Overruled.

6 A Yes, she traveled a lot.

7 Q And you also testified that you had to eat certain things
8 and on direct examination you talked about that; correct?

9 A Yes.

10 Q But you were part of OneTaste at that point; right?

11 A At which point?

12 Q I mean, your complaints are about eating and exercise
13 while at OneTaste?

14 A Yes.

15 Q And OneTaste was premised on health, wellness and
16 spirituality; correct?

17 A Yes.

18 Q And, in fact, when you moved into these various homes,
19 those are the requirements about moving in; correct?

20 A What are the requirements?

21 Q About doing exercise, OMing, eating healthy?

22 A No, that only applied to staff and owners.

23 Q Okay. You were an owner at that time, okay, and if you
24 want to move into The Bunker or the Brooklyn OM house, those
25 are the requirements; correct?

Gillick - Reross - Cohen

4261

1 A Yes -- not the Brooklyn OM house, just The Bunker.

2 Q Did you ever see the Brooklyn OM house rules?

3 A Yes.

4 Q And the Brooklyn OM --

5 A The Brooklyn OM house was run independently of OneTaste
6 staff.

7 Q Right. And those people who ran that independently
8 operated it under the same premise as --

9 A No, they did not.

10 Q Would it refresh your recollection to see the Brooklyn OM
11 house rules?

12 A Yes -- it was based on OneTaste stuff, but it was a very
13 different experience living in the Brooklyn OM house in
14 practice and I'm happy to look at the Brooklyn OM house rules.

15 Q I can bring it up but let me see if we can agree.

16 The Brooklyn OM house required Oming; correct?

17 A Yes.

18 Q Your inventory; correct?

19 A Yes.

20 Q Okay. And you also were asked on cross-examination --
21 I'm sorry, on redirect about being crossed on -- I don't know
22 the exact words, but the word came out "monastic." Do you
23 remember that?

24 A Yes.

25 Q And you said, well, I don't remember that word being

Gillick - Reross - Cohen

4262

1 used?

2 A In the first cross exam. It was used a lot in OneTaste.

3 Q That was my question. That was a OneTaste word; correct?

4 A Yes.

5 Q And did you feel that the staff house was a monastery?

6 A Yes.

7 Q And you also testified that you knew of no employee
8 rules, do you remember that?

9 A By the time that I was an owner, there was not a code of
10 conduct that I was aware of that was being used or circulated.

11 Q You've seen the employee handbook; correct?

12 A I don't know that I have.

13 Q Okay. Well let me show that to you.

14 MS. COHEN: Can you pull up DX 1-BS and this can go
15 to the jury. It's in evidence.

16 (Exhibit published.)

17 BY MS. COHEN:

18 Q Do you recognize this?

19 A No.

20 Q And this is from October 2013 and that was before you
21 were an owner of OneTaste New York; correct?

22 A Correct.

23 Q But you were taking classes at the time; right?

24 A Correct.

25 MS. COHEN: And can we go to the next page?

Gillick - Re-redirect - Farrell

4263

1 Q Do you recognize this?

2 A No.

3 Q You were never an employee yourself; correct?

4 A Correct.

5 Q But you did own New York OneTaste as an owner; correct?

6 A Correct.

7 MS. COHEN: No further questions, Your Honor.

8 MS. FARRELL: Your Honor, we have the burden of
9 proof. If I may have permission to redirect on some of these?

10 THE COURT: Yes.

11 MS. FARRELL: Thank you.

12 FURTHER DIRECT EXAMINATION

13 BY MS. FARRELL:

14 Q Ms. Gillick, as an owner of the OneTaste New York City
15 franchise, if there had been an employee handbook in use would
16 you have been expected to receive that from corporate?

17 A If it applied to owners, yes.

18 Q What about people working at the OneTaste New York City
19 branch?

20 A It probably should have been, but I didn't receive it.

21 Q Okay. In reference to Po, you testified just now that
22 different rules applied to different people, what did you mean
23 by that?

24 A There -- one of the things that was incredibly difficult
25 to track, kind of similar to sales calls, there were a lot of

Gillick - Re-recross - Bonjean

4264

1 things that were -- and the strokes that I mentioned, there
2 were things that were constantly, constantly changing and I
3 could never map out what -- like, certain things were approved
4 for certain people and not for me and I could never map out
5 what those things were and they changed on a daily basis.

6 Q And because you were an owner versus an employee, did
7 different rules sometimes apply to you?

8 A It didn't have to do with my position. It had to do with
9 me individually. It was more individually than your position
10 in OneTaste.

11 Q Did you think certain rules applied to you versus other
12 employees?

13 A Yes.

14 MS. BENSING: No further questions.

15 THE COURT: I would permit a briefly recross, just
16 on the scope of the brief, re-redirect.

17 Go ahead, Ms. Bonjean.

18 FURTHER CROSS-EXAMINATION

19 BY MS. BONJEAN:

20 Q Ms. Gillick, the prosecutor just asked you some questions
21 about Po; right?

22 A Yes.

23 Q You did not have to ask permission to live outside one of
24 the OM houses or The Bunker, the Brooklyn home OM, you didn't
25 have to ask permission?

Gillick - Re-recross - Bonjean

4265

1 A I felt that I did.

2 Q You didn't work there.

3 THE COURT: Please lower your voice.

4 MS. BONJEAN: I apologize.

5 Q You didn't work there ma'am, right?

6 MS. FARRELL: Objection. That's not a question
7 she's just yelling at the witness.

8 THE COURT: Sustained.

9 BY MS. BONJEAN:

10 Q You did not work there; correct?

11 A I owned a franchise that was closely governed by
12 corporate.

13 Q Ma'am, you owned the franchise for about eight months, do
14 you remember that part?

15 A Yes.

16 Q And you chose to live in the OM residences before you
17 owned the franchise; correct?

18 A Yes.

19 Q And after you owned the franchise; right?

20 A Yes.

21 Q And at no point did you ever ask to live outside any of
22 the residences, did you?

23 A That's correct.

24 Q And, ma'am, when you bought the franchise you then became
25 an owner of the franchise; right?

Gillick - Re-recross - Bonjean

4266

1 A Yes.

2 Q Did you and the other owners prepare an employee handbook
3 for your employees?

4 A No.

5 Q Did you see the Government exhibit where there was an
6 employee handbook that was actually in existence you could
7 have used?

8 A I didn't know of that handbook's existence.

9 Q Did you ask as an owner of the franchise, hey, can you
10 guys send me over your employee handbooks and documents so we
11 can use them with our employees? Did you do any of that?

12 MS. FARRELL: Objection.

13 THE COURT: Overruled.

14 A No.

15 MS. BONJEAN: No further questions.

16 THE COURT: Ms. Cohen?

17 MS. COHEN: Nothing further, Your Honor.

18 THE COURT: The witness may step down.

19 (Witness excused.)

20 THE COURT: Okay. We're going to take the morning
21 break. I just want to let you know about schedule. We're
22 going to take lunch a little bit on the earlier side as well.

23 We'll have a break now, but right around 12:30 we're
24 going to have lunch so I can accommodate some other scheduling
25 issues. So, we'll come back now at 20 after 11 and we'll be

Gillick - Re-recross - Bonjean

4267

1 back for maybe a little more than an hour. Keep an open mind
2 and don't talk about the case.

3 (Jury exits.)

4 THE COURT: Okay, I will see everyone as 20 after
5 11.

6 (Recess taken.)

7 THE COURT: Everyone can be seated.

8 MS. BENSING: The next thing we intend to offer and
9 admit into evidence is Government Exhibit 5005, the
10 stipulation.

11 THE COURT: That is fine.

12 (Jury enters.)

13 THE COURT: Everyone may be seated and you can
14 proceed, Ms. Bensing.

15 MS. BENSING: The Government offers Government
16 Exhibit 5005, a stipulation between the two parties into
17 evidence.

18 THE COURT: No objection?

19 MS. COHEN: No objection, Your Honor.

20 MS. BONJEAN: No objection.

21 THE COURT: Government Exhibit 5005 is admitted.

22 (Government Exhibit 5005 received in evidence.)

23 MS. BENSING: And we can use the screen to publish
24 this to the jury. Thank you.

25 (Exhibit published.)

1 MS. BENSING: So, it's hereby stipulated and agreed
2 by and between the United States of America and the defendants
3 through their attorneys as follows: Effective tax year 2013,
4 OneTaste, Incorporated, or OneTaste, was classified as an S
5 corporation under subchapter S of the Internal Revenue Code,
6 26 United States Code, Sections 1361 to 79.

7 According to the Internal Revenue Service, an S
8 corporation is a corporation that elects to pass corporate
9 income, losses, deductions and credits through to its
10 shareholders for federal tax purposes. An S corporation's
11 shareholders are entitled to a proportionate share of that
12 corporation's profits, losses, tax deductions and tax credits
13 and a proportionate share of voting rights in that
14 corporation.

15 For tax year 2013, OneTaste's shareholders were
16 Nicole Daedone who owned 49.505 percent of OneTaste and who
17 resided in California; Robert Kandell, who owned 49.505
18 percent of OneTaste and who resided in California and Ippolita
19 Rostagno, who owned .99 percent of OneTaste and resided in
20 Brooklyn, New York. For tax year 2015, the OneTaste
21 shareholders were Nicole Daedone who owned 99 percent of
22 OneTaste and who resided in California, and Ippolita Rostagno
23 who owned one percent of OneTaste and who resided in Brooklyn,
24 New York. For tax year 2016, OneTaste shareholders were
25 Nicole Daedone, who owned 99.467 percent of OneTaste and who

1 resided in California, and Ippolita Rostagno who owned .533
2 percent of OneTaste and who resided in Brooklyn, New York.

3 And this stipulation, Government Exhibit 5005 is
4 admissible in evidence and I believe has now been admitted.

5 THE COURT: Yes, it has.

6 And the Government may call its next witness.

7 MS. FARRELL: Thank you, Your Honor. The Government
8 calls Mark Lubin.

9 Your Honor, while we're waiting, for the Court's
10 understanding, in the binder for this witness the
11 certifications are in the front on the left.

12 THE COURT: Yes, I see it. Thank you.

13 THE COURTROOM DEPUTY: Sir, come here, please.

14 (Witness takes the stand.)

15 THE COURTROOM DEPUTY: Raise your right hand. Do
16 you solemnly swear or affirm that the answers and the
17 testimony that you are about to give this Court will be the
18 truth, the whole truth and nothing but the truth?

19 THE WITNESS: I do.

20 THE COURTROOM DEPUTY: Please be seated state your
21 full name for the record and spell it slowly and use the
22 microphone.

23 THE WITNESS: Mark Lubin, M-A-R-K, L-U-B-I-N.

24 (Continued on the next page.)

25

Lubin - Direct - Farrell

4270

1 **MARK LUBIN,**

2 called by the Government, having been

3 first duly sworn, was examined and testified

4 as follows:

5 DIRECT EXAMINATION

6 BY MS. FARRELL:

7 Q Mr. Lubin, where do you currently work?

8 A I work for the Federal Bureau of Investigations.

9 Q And is that also known as the FBI?

10 A Yes.

11 Q What is your current position with the FBI?

12 A I'm a forensic accountant.

13 Q What does it mean to be a forensic accountant?

14 A I assist the -- I review financial records and assist the
15 special agents in their criminal investigations.

16 Q Approximately how long have you worked as a forensic
17 accountant for the FBI?

18 A Nine years.

19 Q What is the highest level of education you've completed?

20 A I have a Bachelor's of Science in business administration
21 from the University of Missouri, majoring in economics and
22 post-baccalaureate studies in accounting from the University
23 of Houston.

24 Q Do you have any certification in the field of accounting?

25 A Yes, I do.

Lubin - Direct - Farrell

4271

1 Q And what are those?

2 A I am a certified public accountant and I'm a certified
3 fraud examiner as well.

4 Q And a certified public accountant, is that also known as
5 a CPA?

6 A Yes.

7 Q And what does it mean to be a CPA?

8 A Well, I received my certification in the state of Texas.
9 It means I've taken the prerequisite accounting courses,
10 college accounting courses. I passed the state examination in
11 Texas and I take continuing professional education every year,
12 40 hours.

13 Q And you mentioned you're a certified fraud examiner.
14 What does that involve?

15 A Again, I took course work, passed a certification
16 examination given by the entity and have 20 hours of
17 continuing professional education for that certification.

18 Q Can you briefly describe your professional experience
19 before you joined the FBI?

20 A Yes. I was in industry banking and consulting and in the
21 consulting area primarily forensic accounting.

22 Q And you described your field as forensic accounting.
23 What is does forensic accounting mean?

24 A Forensic accounting is used to examine financial records
25 and used in financial -- financial information, analyze those

Lubin - Direct - Farrell

4272

1 records and that is used in civil litigation and criminal
2 investigations.

3 Q And is that kind of accounting backwards-looking?

4 A Many times, yes, it is.

5 Q As opposed to, like, preparing statements for companies?

6 A Oh, absolutely. Absolutely.

7 Q What sort of tools or techniques do you use to conduct
8 forensic accounting?

9 A Quite a few. We have -- we use software. I use a lot of
10 Excel. We have proprietary databases at the FBI. We have
11 proprietary software at the FBI to help facilitate and analyze
12 books and records.

13 Q Did there come a time when you were asked to work on a
14 project related to this case?

15 A Yes.

16 Q And approximately when was that?

17 A November of 2024.

18 Q And briefly what was the scope of your involvement in
19 this case?

20 A I was asked to review financial records.

21 Q And what -- just at a high level, we'll go through the
22 specifics shortly, but what types of financial records or
23 documents did you analyze in connection with this case?

24 A This case, I reviewed books and records which would be
25 signature cards, account statements, withdrawal slips, deposit

Lubin - Direct - Farrell

4273

1 slips, signature cards. I reviewed wire records as well. In
2 addition, I reviewed tax information, information filed with
3 the Department of Labor, information provided by the IRS.
4 That's basically the information that I've obtained.

5 Q Did you also review documents from the company OneTaste
6 and its corporate affiliates?

7 A Oh, yes, of course. I looked at general ledgers and
8 Intuit records, yes.

9 Q And who provided you with all the categories of records
10 that you just described?

11 A Well, those records would be provided via a federal grand
12 jury subpoena.

13 Q Okay. They were obtained by subpoena; is that correct?

14 A Yes.

15 Q And then who actually provided you with the records that
16 you reviewed?

17 A The FBI.

18 Q And what did you do after you received the sets of the
19 various financial records that you were asked to look at?

20 A Well, depending upon the records, review them and analyze
21 them and in instances I would put the information into an
22 Excel spreadsheet and then perform an analysis on that data.

23 Q And why do you take information from, like, books and
24 records, for example and put them in a spreadsheet?

25 A Well, it's -- if I have the information in the

Lubin - Direct - Farrell

4274

1 spreadsheet, I can easily -- I can categorize the information
2 from the bank. I can add it together and I can do various
3 analyses using the Excel spreadsheet.

4 Q And did you prepare a work product like that in
5 connection with this case?

6 A Yes, I did.

7 Q So beyond reviewing and analyzing records, did you
8 participate in any interviews?

9 A There was one phone call that I listened to with the
10 accountant who had provided some services to the company.
11 That was the only involvement that I've had in the interviews.

12 Q And was that to help assist your understanding of the
13 records provided by the company?

14 A Yes.

15 Q Okay. So now I want to go through in more detail the
16 specific types of records you reviewed and their Government
17 exhibit numbers.

18 MS. FARRELL: And Your Honor I would ask that I be
19 permitted to lead him with respect to the numbers. I
20 understand the defense does not have an objection.

21 MS. BONJEAN: No objection.

22 THE COURT: What do you mean "the numbers"?

23 MS. FARRELL: We're going to reference the specific
24 Government exhibits you reviewed so I'm going to say the
25 numbers instead of asking him to recall it off the top of his

Lubin - Direct - Farrell

4275

1 head.

2 THE COURT: Go ahead. That's fine.

3 BY MS. FARRELL:

4 Q Mr. Lubin, I would direct you to 3500-ML-20 if you need
5 help remembering the various records that you reviewed.

6 So, you mentioned wage and income tax records. Did
7 you review some of those as part of this case.

8 A Yes.

9 Q And you testified that you reviewed IRS records; is that
10 correct?

11 A Yes.

12 Q And did those include Government Exhibit 4461-B?

13 A Yes.

14 Q Were those individual tax records for Nicole Daedone from
15 2007 to 2018?

16 A Yes.

17 Q Did you review Government Exhibit 4461-C?

18 A Yes.

19 Q And were those individual tax records for Rachel Cherwitz
20 for 2007 to 2018?

21 A Yes.

22 Q And did you review Government Exhibit 4462?

23 A Yes.

24 Q And were those Internal Revenue Service documents for
25 OneTaste and various other OneTaste-related corporate

Lubin - Direct - Farrell

4276

1 entities?

2 A Yes.

3 Q And I would just like to list those out and if you can
4 confirm for me that these are all different entities you
5 looked at: OneTaste Inc., The Next Right Thing LLC, OTBA,
6 Inc., Caravan Retreats Inc., OneTaste Media LLC, OneTaste
7 Cooperative Inc., OneTaste Lineage LLC, Great Work Publishing.
8 The Landco LP, The Land Sanctuary, Inc., The Land Operations
9 LLC a/k/a OM Free, Inc. Feminine Rising Foundation, Inc. On
10 Her Terms LLC, OneTaste Cooperative Inc., Institute of OM
11 Foundation, Institute of OM Inc., Unconditional Freedom, OM
12 Free Inc. and OneTaste NYC LLC?

13 A Yes.

14 Q Did you review records from those entities from quarter
15 one 2004 through quarter two 2024 to the extent there were
16 relevant records?

17 A Yes.

18 Q Okay. And all of the IRS records we just reviewed by
19 their Government exhibit number, were those all certified
20 public documents of various IRS stamps on the face of the
21 document?

22

23 (Continued on the following page.)

24

25

Lubin - direct - Farrell

4277

1 DIRECT EXAMINATION

2 BY MS. FARRELL: (Continuing)

3 Q Okay. So let's now turn to Department of Labor records.

4 Did you review records from the California

5 Department of Labor?

6 A Yes.

7 Q And are those found in Government Exhibit 4455-A?

8 A Yes.

9 Q And did the California Department of Labor certify those
10 records as certified public records in Government Exhibit

11 44535-A-1?

12 A Yes.

13 Q Did you also look at New York Department of Labor
14 records?

15 A Yes.

16 Q Are those denoted by Government Exhibit 4455-C?

17 A Yes.

18 Q And did New York certify those documents as public
19 certified records in what is marked as Government Exhibit

20 4445-B?

21 A Yes.

22 Q For what individuals did you look at materials from the
23 California and New York Departments of Labor?

24 A I looked at Nicole Daedone, Rachel Cherwitz, and various
25 individuals provided to me by the prosecutor.

Lubin - direct - Farrell

4278

1 Q And is that -- is your understanding that these are
2 individuals that the Government identified to you as certain
3 testifying witnesses in this trial?

4 A Yes.

5 Q And you just know that because the prosecutors told you,
6 but not because you have seen any of this trial, is that
7 correct?

8 A That's correct.

9 Q And were those records all obtained pursuant to Grand
10 Jury subpoena as well?

11 A Yes.

12 Q And the wage records that you looked at, were those also
13 supplemented by two documents that have been produced by the
14 defense?

15 A Yes.

16 Q And what were those two documents?

17 A Those were two 1099 -- 2013 1099 documents, 1099 forms.

18 Q And were those documents certified -- I'm sorry. Was
19 that Government Exhibit 4463 and 4464?

20 A Yes.

21 Q And were those two documents certified as business
22 records by OneTaste in the certification marked as Government
23 Exhibit 5006?

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

25 Q Sure.

Lubin - direct - Farrell

4279

1 Were both of those documents certified as business
2 records by OneTaste pursuant to the certification marked as
3 Government Exhibit 5006?

4 A Yes.

5 Q Okay. What were you reviewing the Department of Labor
6 records for?

7 A I was looking for reported wages for the individuals
8 provided to me by the prosecutor, and for Nicole Daedone and
9 Rachel Cherwitz.

10 Q All right. Now, did you also review bank records in
11 preparation for your testimony here today?

12 A Yes, I did.

13 Q What kind of bank records did you review?

14 A These were Wells Fargo bank records.

15 Q And were these for an account number ending in 8202?

16 A Yes.

17 Q And who is the signatory to that bank record?

18 A Nicole Daedone.

19 Q Were those records found in Government Exhibit 4437?

20 A Yes.

21 Q And were they certified as business records by Wells
22 Fargo pursuant to Government Exhibit 4437-A?

23 A Yes.

24 Q Did you also review certain wire records from Wells
25 Fargo?

Lubin - direct - Farrell

4280

1 A Yes.

2 Q And were those found in Government Exhibit -- are those
3 marked as Government Exhibit 4447?

4 A Yes.

5 Q And are those wire records certified by Wells Fargo as
6 business records pursuant to the document marked Government
7 Exhibit 4447-B?

8 A Yes.

9 Q Going back to Government Exhibit 4437.

10 Do those records also contain statements for an
11 account ending in the numbers 3986 with signatories Nicole
12 Daedone and Yia Vang?

13 A Yes.

14 Q And were the relevant dates of the records contained
15 therein from 2014 to 2018?

16 A Yes.

17 Q Okay. Now, let's move to the next category.

18 Did you review corporate accounting records as part
19 of your work on this case?

20 A Yes.

21 Q So let's start with an entity called A.L. Nella. Are you
22 familiar with that entity?

23 A Yes.

24 Q What is A.L. Nella?

25 A It's an accounting firm.

Lubin - direct - Farrell

4281

1 Q Why is A.L. Nella relevant here?

2 MS. BONJEAN: Objection.

3 THE COURT: Sustained.

4 MS. FARRELL: Sorry.

5 Q For whom did A.L. Nella provide accounting services?

6 A OneTaste, Inc.

7 Q Are A.L. Nella records that you reviewed denoted by
8 Government Exhibit 4378?

9 A Yes.

10 Q And are those records certified as business records
11 pursuant to Government Exhibit 4460?

12 A Yes.

13 Q And did you also review Intuit records?

14 A Yes.

15 Q What is Intuit?

16 A Intuit is a software company that provides software for
17 companies -- for like tax services, like QuickBooks, quite a
18 few other products.

19 Q And are the Intuit records that you reviewed set forth in
20 Government Exhibit 4434, 3744 and 3749?

21 A Yes.

22 Q And are those all certified as business records in
23 Government Exhibit 4434-A?

24 A Yes.

25 Q And did you also look at Intuit records marked as

Lubin - direct - Farrell

4282

1 Government Exhibit 4446?

2 A Yes.

3 Q And are those marked or certified as business records
4 under Government Exhibit 4446-A?

5 A Yes.

6 Q All right. Then finally, did you review documents,
7 corporate documents produced by OneTaste?

8 A Yes.

9 Q And are those marked as Government Exhibits 4096, 4110,
10 4132, 4152, and 4056?

11 A Yes.

12 Q And are those all certified as business records in
13 Government Exhibit 5002?

14 A Yes.

15 Q All right. So is that -- with respect to your testimony
16 today, is that kind of the universe of materials that you
17 reviewed in preparing your analysis?

18 A Yes.

19 Q And all of the documents that you reviewed were certified
20 as either certified public records or certified business
21 records by the various entities?

22 A Yes.

23 Q Okay. So, now I'd like to -- for you to take a look at
24 one more set of documents. And they're in your binder,
25 starting with Exhibit 853, 856 and 862. If you could just

Lubin - direct - Farrell

4283

1 take a look at those.

2 A Which tabs?

3 Q If you would look at the front of your binder, there
4 should be a key and then looks like 25, 26, and 27. I'm
5 sorry, 24, 25, and 26.

6 A Yes.

7 Q What are these documents?

8 A These are exhibits that I helped prepare.

9 Q Are they summary charts of information contained in these
10 like voluminous records that you just testified to reviewing?

11 A Yes.

12 Q When you say with you helped prepared these, what was
13 your role in preparing them?

14 A My role was to analyze financial records and provided the
15 numbers for the exhibits.

16 Q So you -- did you do sort of the graphics of the Exhibit?

17 A No.

18 Q But are the numbers the numbers that you came up with?

19 A Yes. Absolutely.

20 MS. FARRELL: So let's take a look first at
21 Government Exhibit 853, if we could?

22 Q What is this document?

23 A (No response.)

24 Q It's behind tab 24. It's also in front of you on the
25 screen, if you need to look.

Lubin - direct - Farrell

4284

1 A I'm good.

2 Q Great.

3 A This shows the -- for Nicole Daedone, the reported wages
4 and income received from OneTaste, Inc., Caravan Retreats,
5 Inc., Texas Limbic Network, LLC; OneTaste New York, LLC.

6 Q And specifically, which exhibits of voluminous records
7 did you rely on to create this chart?

8 A These would be for the California Department of Labor and
9 Internal Revenue Service.

10 Q And if you look at the bottom of the chart, does it have
11 the Government Exhibit numbers listed that you relied on?

12 A Yes, it does.

13 Q Could you read those aloud, please?

14 A 4461-B and 4445-A.

15 Q And so the records that comprise the information
16 contained on this summary chart, are they voluminous?

17 A Yes.

18 Q And can they not be conveniently examined in court today
19 if we were to go page-by-page?

20 A That is correct.

21 MS. FARRELL: Your Honor, I move to admit Government
22 Exhibit 853 into evidence.

23 THE COURT: Any objection?

24 MR. ROBOTTI: No objection.

25 MS. BONJEAN: No objection.

Lubin - direct - Farrell

4285

1 THE COURT: Government Exhibit 853 is admitted.

2 (Government's Exhibit 853 received in evidence.)

3 Q I'm going to go ahead and talk to you about the other two
4 summary charts and we'll come back to this. Okay.

5 So if we could turn to the next chart, which is
6 Government Exhibit 856?

7 Do you see this document?

8 A Yes, I do.

9 Q And what is this?

10 A These are for individuals' reported wages received,
11 OneTaste, Inc., Caravan Retreats, Inc. and OneTaste New York,
12 LLC.

13 Q And the select individuals on this chart, are these the
14 individuals the Government told you would be testifying
15 witnesses in this case?

16 A Yes.

17 Q Okay. And how was this document created?

18 A This document was created by compiling, going through
19 various records that I had for the Department of Labor for New
20 York and California, and looking at 1099 records and looking
21 at the -- using the exhibits that were provided by the defense
22 as well.

23 Q Well, when you say 1099 records, what is a 1099?

24 A Yeah. So, basically, when you work for a company, you're
25 an employee. You're going to get a W-2.

Lubin - direct - Farrell

4286

1 THE COURT: If I could just ask you to move the
2 microphone a little bit closer? It's a little bit low.

3 THE WITNESS: Of course.

4 MS. BONJEAN: I'm going to object to that question.

5 MR. ROBOTTI: Join.

6 THE COURT: Sorry. I'm not sure which question you
7 were objecting to.

8 MS. FARRELL: I asked him what a 1099 was.

9 MS. BONJEAN: I guess I'm moving to strike his
10 answer because it didn't answer the question.

11 THE COURT: Sustained. I'll strike the answer.
12 You can ask your next question.

13 Q When you refer to the numbers 1099, what are you
14 referring to?

15 A Yes. For an individual who -- or for an entity, an
16 individual who provides services for a company but is not an
17 employee of a company, they will receive a 1099 form from the
18 company for payment for their services.

19 Q Is there a threshold for like a certain amount of money
20 you need to have earned in order to get a 1099?

21 MS. BONJEAN: I'm going to object; foundation.

22 THE COURT: Sustained.

23 MS. FARRELL: Okay.

24 Q And you also I think mentioned W-2s. What is a W-2?

25 A W-2 is a form that when you work for a company, you

Lubin - direct - Farrell

4287

1 receive a W-2 from them showing your wages that you earn.

2 Q So looking back at Government Exhibit 856, is this
3 summary chart based on voluminous records you reviewed in
4 order to come up with this chart?

5 A Yes.

6 Q And, again, what kinds of records does this chart
7 represent?

8 A Payroll records, Intuit records, 1099 records, W-2 type
9 records.

10 Q And if you would look at, for example, an Intuit record
11 and also someone's W-2, would there sometimes be overlap?

12 A I'm sorry. Can you repeat the question, please?

13 Q Withdrawn.

14 Is the information contained in Government Exhibit
15 856, would it be difficult to review the underlying materials
16 because of their volume here in court today?

17 A Yes, it would.

18 Q And is this a summary chart of information contained in
19 those underlying materials?

20 A Yes, it is.

21 Q And are the underlying -- are the specific Government
22 Exhibit numbers that comprise the underlying materials
23 referenced at the bottom of the document?

24 A Yes, they are.

25 Q And if you could just read those numbers for us?

Lubin - direct - Farrell

4288

1 A 3744, 3749, 4378, 4434, 4446, 4445-A, 4445-C, 4463, 4464.

2 MS. FARRELL: Your Honor, we move to admit
3 Government Exhibit 856 into evidence as a summary chart.

4 THE COURT: Any objection?

5 MR. ROBOTTI: No objection.

6 MS. BONJEAN: Can I have one second, Your Honor?

7 THE COURT: Yes.

8 MS. BONJEAN: I just want to look at this.

9 THE COURT: Sure.

10 (Pause.)

11 MS. BONJEAN: No objection.

12 THE COURT: Government Exhibit 856 is admitted.

13 (Government Exhibit 856 was received.)

14 Q Okay. And then just turning to the last summary chart,
15 Government Exhibit 862.

16 Do you recognize this document?

17 A (No response.)

18 Q It's behind tab 26.

19 A I have 863 behind eight.

20 Q Do you have Government Exhibit 862 in your binder?

21 I can bring up a copy. It's also on the screen if
22 you look at it.

23 A I will just look at the screen.

24 Q Great.

25 Do you recognize this document?

Lubin - direct - Farrell

4289

1 A Yes, I do.

2 Q What is it?

3 A These are reported wages and income of OneTaste, Inc.,
4 Caravan Retreats, Inc. and OneTaste New York, LLC, for Rachel
5 Cherwitz.

6 Q And what is the date on which this document is based?

7 A Department of Labor records provided by the State of New
8 York and California and Internal Revenue Service records
9 provided.

10 Q And are the underlying documents that this document
11 summarizes voluminous?

12 A Yes, they are.

13 Q Can they be conveniently examined in court today?

14 A No, they cannot.

15 MS. FARRELL: Your Honor, we move to admit
16 Government Exhibit 862 as well.

17 THE COURT: Any objection?

18 MR. ROBOTTI: No objection.

19 MS. BONJEAN: No objection.

20 THE COURT: Government Exhibit 862 is admitted.

21 (Government's Exhibit 862 received in evidence.)

22 MS. FARRELL: Okay. Let's take a look first at
23 Government Exhibit 853. If we could publish it for the jury,
24 please?

25 It's kind of -- my screen is messed up. I don't

Lubin - direct - Farrell

4290

1 know if anyone else is. It's shifted over to the left.

2 THE COURT: I think they are all probably like that.

3 MS. FARRELL: It looks fine on the jurors' screen,
4 so we can continue.

5 THE COURT: Okay. Just us.

6 Q So what is depicted in this document here? If you could
7 just walk us through it.

8 A Just one moment. The binder popped open.

9 Q Sure.

10 A Okay. I'm ready.

11 Q All right. So what is the title of this chart?

12 A 853?

13 Q Correct, 853, thank you.

14 A Nicole Daedone, reported wages and income received from
15 OneTaste, Inc., Caravan Retreats, Inc., Texas Limbic Network,
16 LLC and OneTaste New York, LLC.

17 Q And in preparing this chart, did you look through the
18 records the IRS provided for all of the related OneTaste
19 entities that we described earlier?

20 A Yes, I did.

21 Q And are these the ones listed here in the title the ones
22 where you -- where there were records of payments to Ms.
23 Daedone?

24 A Yes.

25 Q Okay. And looking at the chart in the middle, what is

Lubin - direct - Farrell

4291

1 the top row of boxes in the dark blue represent?

2 A Those are years.

3 Q And what span of years does this chart cover?

4 A 2007 through 2018.

5 Q And then below the years, what is contained in the boxes
6 there?

7 A Those are the wages and income that I calculated for each
8 year.

9 Q And this is based on reporting to government entities?

10 A Yes.

11 Q Okay. How much does this chart indicate OneTaste and
12 related entities reported to the authorities that they paid
13 Nicole Daedone in 2007?

14 A \$5,759.

15 Q How about in 2008?

16 A \$10,507.

17 Q In 2009?

18 A Zero.

19 Q 2010?

20 A Zero.

21 Q How about 2011?

22 A \$32,247.

23 Q 2012?

24 A \$77,546.

25 Q 2013?

Lubin - direct - Farrell

4292

1 A \$113,742.

2 Q 2014, sorry.

3 A \$151,953.

4 Q 2015?

5 A 4141,720.

6 Q 2016?

7 A \$259,866.

8 Q 2017?

9 A \$109,316.

10 Q And 2018?

11 A 55,500.

12 Q Does this chart include partnership distributions?

13 A No.

14 Q Okay. And what's the total for -- what is the total
15 wages and income received from these entities by Nicole
16 Daedone across the years 2007 through 2018?

17 A \$958,156.

18 Q If we can take a look now at Government Exhibit 862, does
19 this report -- does this chart show the same information but
20 for Rachel Cherwitz?

21 A Yes, it does.

22 Q And does it cover 2007 through 2018?

23 A Yes.

24 Q And what is the total?

25 A \$421,853.

Lubin - direct - Farrell

4293

1 Q Actually, going back, sorry, to Government Exhibit 853 --
2 strike that. I'm sorry.

3 Let's now take a look at Government Exhibit 856.
4 Can you explain to us what this chart is showing?

5 A Yes. This is showing wages, income received for the
6 individual provided to me by year.

7 Q So if we could go down the list of the individuals that
8 this chart covers, who is the first one?

9 A It's -- I'm going to go back to the binder. It's cut off
10 on my screen.

11 Q Sure thing. Let me know if you don't have a paper copy
12 and I will bring you one.

13 A Christina Berkeley.

14 Q Who is below her?

15 A Dana Gill.

16 Q Who is below her?

17 A Michelle Wright.

18 Q Who is below her?

19 A Lianna Lifson.

20 Q Who is below her?

21 A Rebecca Weiner.

22 Q Who is below her?

23 A Margaret Pixley.

24 Q Who is below her?

25 A Brooke Scheffer.

Lubin - direct - Farrell

4294

1 Q Who is below her?

2 A Michal Neria.

3 Q The last one?

4 A Lyndsi Scott Keves.

5 Q In preparing this chart, did you take a look at entities
6 besides OneTaste, Inc.?

7 A Yes.

8 Q And why did you look at entities besides OneTaste, Inc.?

9 A I wanted to capture all income that -- wages that these
10 individuals would have received. I looked at everything.

11 Q From anything that you understood to be related to
12 OneTaste or OneTaste affiliates?

13 A Absolutely.

14 Q And that was based on information that the prosecution
15 team provided you?

16 A From Grand Jury, the information, yeah, Grand Jury
17 subpoena information that I used.

18 Q And the Government exhibits that are listed on the
19 bottom, are those the exhibits that contained the relevant
20 data of what you examined?

21 A Yes.

22 Q And looking at the first row in dark blue, what are those
23 numbers?

24 A Those are the years.

25 Q Okay.

Lubin - direct - Farrell

4295

1 Why do some -- so looking down, for example, that
2 column under 2007, what does that number represent? I'm just
3 going to touch it. What does that number right there
4 represent?

5 A Those are the wages and income I was able to find for
6 that individual.

7 Q In that year?

8 A In that year.

9 Q Okay. Let's just walk through this.

10 For the year 2007, how much were you able to find
11 reported in the records that were subpoenaed for Christina
12 Berkeley.

13 A \$3,469.

14 Q How about 2008 for Christina Berkeley, based on what was
15 reported from the Grand Jury subpoena materials?

16 A \$9,418.

17 Q How about for Dana Gill, was there anything reported?

18 A No.

19 Q All right. Moving next to Michelle Wright, how much was
20 reported for her based on the materials cited in this exhibit
21 for the year 2012?

22 A \$7,311.

23 Q And how about for 2013?

24 A \$28,057.

25 Q For 2014?

Lubin - direct - Farrell

4296

1 A \$1,244.

2 Q Going next to Lianna Lifson, how much was reported for
3 her in the year 2013, based on the subpoenaed documents that
4 you reviewed?

5 A \$29,658.

6 Q And how about for 2014?

7 A \$6,678.

8 Q Moving next to Rebecca Weiner, how much for her in 2013?

9 A \$14,607.

10 Q And how much for Rebecca Weiner in 2014?

11 A \$6,600.

12 Q For Margaret Pixley in 2013?

13 A \$8,875.

14 Q For Brooke Scheffer in 2015?

15 A \$6,000.

16 Q For Michal Neria in 2015?

17 A \$1,175.

18 Q And for Lyndsi Keves in 2017?

19 A \$2,362.

20 Q And if we look all the way over to the column on the
21 right, does this show the total for each individual?

22 A Yes.

23 Q And then did you calculate a total for all of these
24 individuals?

25 A Yes.

Lubin - direct - Farrell

4297

1 Q And what is that number?

2 A \$125,355.

3 Q And that's for all these individuals from the years 2007
4 through 2018?

5 A Yes.

6 Q Okay. I'd like to turn to a different topic now.

7 Based on your review of the OneTaste records that
8 you testified about at the very beginning of your testimony,
9 what, if anything, happened with respect to OneTaste
10 Incorporation's ownership in 2017?

11 A It was sold.

12 Q How do you know that?

13 A Because I reviewed records that reflected the sale of the
14 entity.

15 MS. FARRELL: So if we could take a look at -- what
16 has been marked for identification as Government Exhibit --
17 and this is. I'm sorry. Not for the jury, Drew, Government
18 Exhibit 4056.

19 Your Honor, I believe this is in the back of your --
20 is that correct, tab 23. Thank you.

21 It's tab 23 for those of you who have binders.

22 THE COURT: Thank you.

23 Q Do you recognize this document, Government Exhibit 4056,
24 Mr. Lubin?

25 A Yes, I do.

Lubin - direct - Farrell

4298

1 Q And what is it?

2 A This is the sale agreement for OneTaste.

3 Q And was this document certified as a business record by
4 OneTaste in what is marked as Government Exhibit 5002?

5 A Yes.

6 Q Okay. So based on --

7 MS. FARRELL: Your Honor, I move to admit Government
8 Exhibit 4056 into evidence.

9 THE COURT: Any objection?

10 MS. BONJEAN: No objection.

11 MR. ROBOTTI: No objection.

12 THE COURT: Government Exhibit 4056 is admitted.

13 (Government's Exhibit 4056 received in evidence.)

14 MS. FARRELL: Thank you.

15 Q If we could just take a look first at the cover page. If
16 you could read what this says for us, Mr. Lubin?

17 A Yes. OneTaste, Incorporated, Stock Purchase Agreement
18 among OneTaste, Incorporated, Nicole Daedone and OneTaste
19 Investments, LLC, OneTaste Holdings, LLC, Amanda Durham and
20 Sujo Offield.

21 Q I think it's Dunham; is that right?

22 A Yes. Dunham. Sorry.

23 Q If we can look at page 2 of the document, please, on the
24 screen?

25 What is the date of the Stock Purchase Agreement?

Lubin - direct - Farrell

4299

1 A March 3rd, 2017.

2 MS. FARRELL: If we could then look at page 5,
3 please? If you could zoom on Article II, Purchase and Sale.
4 Liam, if you can. Thank you.

5 Q Mr. Lubin, what was the purchase price for the sale of
6 these shares?

7 A \$12 million.

8 Q And if we can go to page 22, who are the signatories to
9 this document?

10 A OneTaste Investments, LLC. Sorry. I'm sorry.

11 The seller is Nicole Daedone and the company buying
12 is Van Vleck.

13 Q And, now, if we could scroll down. Who are the buyers?
14 Starting with the top.

15 A (No response.)

16 Q I could read it if it's helpful.

17 Does the top person say Anjuli Ayer?

18 A Yes.

19 Q And moving to the next one, Austin Ayer?

20 A Yes.

21 Q Moving to the next one down, Amanda Dunham?

22 A Yes.

23 Q And then the last one, Sujo Offield?

24 A Yes.

25 Q Okay. Were you able to verify whether Nicole Daedone

Lubin - direct - Farrell

4300

1 actually received the purchase price?

2 A Yes, I was.

3 Q And how did you do that?

4 A I verified these dollar amounts were received into her
5 Wells Fargo 8202.

6 Q Is that the account that is certified as a business
7 record with certification 4437-A?

8 A Yes.

9 MS. FARRELL: Okay. So let's first pull up what's
10 marked as Government Exhibit 4468-R, which is behind tab 9-R.

11 Q Mr. Lubin, is this a redacted version of a March 2017,
12 account statement for the account ending in 8202 in the name
13 of Nicole Daedone?

14 A Yes.

15 Q And did you review this as part of your analysis?

16 A Yes.

17 Q And this is, again, a certified business record pursuant
18 to certification No. 4437-A?

19 A Yes.

20 MS. FARRELL: Your Honor, can I move to admit
21 Government Exhibit 4468-R in evidence?

22 THE COURT: Any objection?

23 MS. BONJEAN: No objection.

24 MR. ROBOTTI: No objection.

25 THE COURT: Government Exhibit 4468-R is admitted.

Lubin - direct - Farrell

4301

1 (Government's Exhibit 4468-R received in evidence.)

2 MS. FARRELL: Thank you.

3 If we could publish to the jury, please? And then
4 if we can move to the first or second page of the document?

5 If we could zoom in for Mr. Lubin to see.

6 Q Mr. Lubin, what are these transactions that we see here
7 that are marked on 3-3 and 3-six?

8 A Yes. These show the wire transfers received from
9 OneTaste Holdings, LLC for a million dollars and OneTaste
10 Investments, LLC, for a million dollars.

11 Q And then is there another transaction on March 6th?

12 A Yes. It's a wire transferred received from Sujo Offield
13 for \$6,830,000.

14 MS. FARRELL: And then if we look at the next page.
15 If we could zoom in on those?

16 Q Is there another transaction on March 9th?

17 A Yes.

18 Q How much that for?

19 A \$170,000.

20 Q Is that a deposit into this account?

21 A Yes, it is.

22 Q And then if we look down at March 10th, what do you see?

23 A I see another deposit for \$600,000.

24 MS. FARRELL: And if we'd turn to the next page.
25 I'm sorry, two pages in. It's page 6 on the document, Liam.

Lubin - direct - Farrell

4302

1 Q Is there a transaction on March 23rd?

2 A Yes, there is.

3 Q What is that transaction?

4 A It's a million dollar wire received, deposit into the
5 account.

6 MS. FARRELL: If we could also -- if we could take
7 that down. And then if we could also pull up what's marked --
8 for the witness only -- what's marked as Government Exhibit
9 4467-R.

10 And this is behind tab 17-R for those of you who
11 have a binder.

12 Oh, I'm sorry. I misread that. I switched the
13 numbers. Apologies. One second. Sorry, 44 --

14 A Do you mind if I pour?

15 Q By all means.

16 A Thank you.

17 Q So 4467-R is correct. I was mixed up in my head with
18 44 --

19 THE COURT: Tell me where to find it.

20 MS. FARRELL: It's tab eight, Your Honor.
21 Apologies.

22 Q And Mr. Lubin, is Government Exhibit 4467-R an April
23 2017, statement from account -- the account number ending in
24 8202 of Nicole Daedone's?

25 A Yes.

Lubin - direct - Farrell

4303

1 Q And is this account statement also certified as a
2 business record pursuant to the certification marked
3 Government Exhibit 4437-A?

4 A Yes.

5 MS. FARRELL: Your Honor, I move to admit Government
6 Exhibit 4467-R into evidence.

7 THE COURT: Any objection?

8 MR. ROBOTTI: No objection.

9 MS. BONJEAN: No objection.

10 THE COURT: Government Exhibit 4467-R is admitted.
11 (Government's Exhibit 4467-R received in evidence.)

12 MS. FARRELL: Thank you.

13 And if we could go to page 5 of the document, zoom
14 in.

15 Q What is this transaction?

16 A That is a deposit for \$600,000.

17 Q And were you able to find the backup -- this is a deposit
18 made in a branch; is that correct?

19 A Yes.

20 Q In the records are additional -- were there additional
21 documents showing like what that deposit was?

22 A Yes.

23 MS. FARRELL: If we could pull up what's marked as
24 Government Exhibit 4465-R, which is behind 6-R, for those you
25 who have binders.

Lubin - direct - Farrell

4304

1 Q Do you recognize this document, Mr. Lubin?

2 A Yes, I do.

3 Q Is this also a certified business record from Wells Fargo
4 pursuant to certification 4437-A?

5 A Yes.

6 Q And is this a copy of a record you reviewed in connection
7 with your analysis?

8 A Yes.

9 MS. FARRELL: I move Government Exhibit 4465-R into
10 evidence.

11 THE COURT: Any objection?

12 MR. ROBOTTI: No objection.

13 MS. BONJEAN: No objection.

14 THE COURT: Government Exhibit 4465-R is admitted.
15 (Government Exhibit 4465-R was received.)

16 THE COURT: Ms. Farrell, we are going to stop in
17 another minute or two, so --

18 MS. FARRELL: That's fine. I don't have much left.

19 THE COURT: Is now a convenient time to stop?

20 MS. FARRELL: May we just published this now?

21 THE COURT: Yes.

22 Q Is this a copy of the check that we saw the \$600,000
23 deposit for in the April 2017 statements?

24 A Yes.

25 MS. FARRELL: That's all, Your Honor. Thank you.

Lubin - direct - Farrell

4305

1 THE COURT: I'm going to ask the witness to step
2 down for the lunch break.

3 (Witness steps down.)

4 THE COURT: Okay. We're going to do the lunch break
5 now. We will give you a slightly longer break and we'll come
6 back at 1:40.

7 So enjoy your lunch. Don't talk about the case.
8 Keep an open mind. We'll see you at 1:40.

9 (Jury exits the courtroom.)

10 THE COURT: Okay. I will see everyone at 1:40.

11 MS. GUPTA: Thank you.

12 (Lunch recess.)

13

14 (Continued on the following page.)

15

16

17

18

19

20

21

22

23

24

25

1 AFTERNOON SESSION

2 (In open court; jury not present.)

3 THE COURTROOM DEPUTY: All rise.

4 (Judge DIANE GUJARATI entered the courtroom.)

5 THE COURTROOM DEPUTY: You may be seated.

6 THE COURT: Okay. I understand there's an issue
7 that the parties wanted to raise. Is that right?

8 MS. GUPTA: Yes, Your Honor.

9 We wanted to raise one issue with respect to two
10 exhibits that we were planning to introduce with the
11 publication witness, and we just wanted to raise it now.

12 THE COURT: What's the publication witness?

13 MS. GUPTA: Oh, apologies, Your Honor, the summary
14 witness.

15 THE COURT: Not this witness?

16 MS. GUPTA: Correct. So it will be the next
17 witness.

18 So, they're Government Exhibits 4064 and 4398.

19 THE COURT: Yes, okay.

20 MS. GUPTA: They should be tabs 64 --

21 THE COURT: We pulled those.

22 MS. GUPTA: Yes, great.

23 So, the first one in time is 4398. It's a
24 November 1st, 2017 expense sharing agreement between OneTaste,
25 Inc. and Nicole Daedone.

1 So, we understand that for both of these documents,
2 I believe the parties stipulate as to the authenticity. And
3 we have an authenticity certification from OneTaste.

4 But where I think there is still some disagreement
5 is I understand from Ms. Bonjean that she would object to
6 introduction based on relevance and hearsay.

7 So, we just wanted to briefly address that in
8 advance.

9 THE COURT: Okay. Go ahead.

10 MS. GUPTA: The reason we believe the documents are
11 highly relevant or that this is now after Ms. Daedone has left
12 OneTaste, but she continues to have a partnership with
13 OneTaste and continues to receive benefits from them, even
14 after her departure.

15 THE COURT: When you say "a partnership," do you
16 just mean relating to this book and the sharing of costs, or
17 do you mean something else?

18 MS. GUPTA: No. Correct, Your Honor. I mean with
19 respect to this document --

20 THE COURT: Okay.

21 MS. GUPTA: -- and the expense sharing agreement.

22 So maybe a better way to say it is they continue to
23 have a relationship. She continues to receive financial
24 benefits from the company. So, that's the relevance prong.

25 And then as to hearsay, we just wanted to raise that

1 we believe the contract is not hearsay because it's not being
2 offered for the truth of the statements in the document, but
3 just the fact that the contract was entered into.

4 THE COURT: But if it's not being offered for the
5 truth, what does it matter that something was entered into?

6 I'm not following you on that.

7 MS. GUPTA: So, Your Honor, I would -- I have a case
8 I can point you to, if that's helpful. It's United States v.
9 Connolly. The Westlaw cite is 2018 Westlaw 2411760, which
10 provides that a contract is not hearsay because its language
11 binds parties to its terms without regard to the truth of the
12 statements in the contract.

13 And so that, that would be our basis for it not
14 being hearsay, Your Honor.

15 MS. BONJEAN: May I respond, Your Honor?

16 THE COURT: Let me just take another moment to read
17 it more carefully, both of them.

18 MS. BONJEAN: Yes, sure.

19 THE COURT: And then you can respond.

20 (Pause.)

21 THE COURT: Okay. Go ahead, Ms. Bonjean.

22 MS. BONJEAN: So, it's clear they want to offer it
23 for the truth because they want to argue that it shows that
24 she continued to receive benefits. So, that is precisely the
25 context that they want to offer it for.

1 And in reality, the hearsay exception, and I also
2 have a case as well. If we're looking at Crawford versus
3 Franklin Credit Management, it's out of the Southern District,
4 2015 U.S. District Lexis 38737. This was a loan documents
5 case. And what the rule is, is if the significance of an
6 offered statement lies solely in the fact that it was made, no
7 issue is raised as the truth of anything asserted and the
8 statement is not hearsay. But that's not how they're using
9 it, not to just show that there was a contract made.

10 We could -- we would stipulate that there was --
11 well, actually I wouldn't even stipulate to that, but -- you
12 know, I think the better point is that they're trying to use
13 it to show that she received financial benefits, which is the
14 statements contained within the document.

15 THE COURT: Well, one of these documents, 4064,
16 appears to be outside the timeframe of the charged conspiracy,
17 right?

18 MS. BONJEAN: Yes.

19 THE COURT: So one is July of 2018, and I believe
20 the indictment goes to May 2018. Correct?

21 MS. GUPTA: That's correct, Your Honor. This is
22 really just provided for completeness. This is actually
23 termination of the agreement. So, it's discontinuing the
24 agreement. That was the only reason it was provided.

25 MS. BONJEAN: And their indictment charged when it

1 terminated. They don't get to -- that would be a variance to
2 ask the --

3 THE COURT: No, no, I think she's saying that it
4 terminated this agreement about the expenses, not the
5 conspiracy.

6 MS. GUPTA: Correct.

7 MS. BONJEAN: Either way --

8 THE COURT: I still want to go back to the issue of
9 relevance here.

10 Ms. Gupta, do you want to be heard further on
11 relevance?

12 MS. GUPTA: Yes, Your Honor.

13 It's relevant because Ms. Daedone resigned from the
14 company in March of 2017, and we plan to introduce her
15 resignation letter as well. And it's relevant because even
16 after that point, within the charged conspiracy time period,
17 she continued to have an agreement with OneTaste, which is
18 evidenced by Government Exhibit 4398.

19 And it's not for its truth because it's just the
20 fact that these two parties entered into an agreement.

21 THE COURT: What's the evidentiary value of the two
22 parties entering into an agreement if it's not for what the
23 truth of what the agreement was?

24 MS. GUPTA: Because, Your Honor, it shows that they
25 continued to have an agreement even after Ms. Daedone left the

1 company. So after she is no longer in her position with
2 OneTaste, she is continuing to enter into a contract with
3 OneTaste and receiving benefits from -- pursuant to that
4 contract.

5 THE COURT: But so what? I mean, so what? What is
6 really the relevance of that?

7 MS. GUPTA: Your Honor, again, I think it's relevant
8 because it shows that OneTaste and Ms. Daedone continued to
9 have some, some partnership, some agreement after she leaves
10 the company while the conspiracy is continuing. It shows her
11 continued involvement with the company.

12 MS. BONJEAN: If the agreement was I'm going to
13 volunteer free for you for the next year, they wouldn't want
14 it in. So, it is about the context. It's about the financial
15 nature of it. So, it is the context. It's not just the mere
16 agreement. Because the mere agreement doesn't have any
17 relevance necessarily, unless, again, they're trying to put it
18 in to show that there was a financial agreement, which we
19 argue, and I think the caselaw is pretty clear, the specifics
20 of this would be for the truth.

21 I mean I don't think they get around the hearsay
22 problem.

23 THE COURT: Do you want to be heard further on this?

24 MS. FARRELL: So, we cited that case for Your Honor,
25 that cites a different case. If Your Honor looks at the --

1 it's Arasinowicz versus Best Foods, Inc., 81 F. Supp. 2d 526.

2 Our review of the caselaw is that it's a commonly
3 understood application of the Rules of Evidence that any
4 contract is -- it's a verbal act.

5 THE COURT: I'm not -- I'm really focusing on
6 relevance here.

7 MS. FARRELL: Understood.

8 So, obviously, our theory is that OneTaste, the
9 company, is built on the backs of forced labor. That the
10 company, itself, grows and is able to make money because there
11 were a number of people -- many of whom have testified in this
12 trial -- who worked for free or for very little wages doing
13 labor as instructed by the defendants. And that that labor
14 then helped build the company ultimately, which Ms. Daedone
15 and Ms. Cherwitz financially benefited from.

16 That financial benefit did not cease upon
17 Ms. Daedone's exit from the company in March of 2017. She
18 continued to have a relationship with OneTaste in which the
19 agreement that they entered into was an expectation that she
20 would continue to share revenue. And given that -- our theory
21 is the source of that money, in part, was the forced labor
22 that we are trying to prove.

23 THE COURT: But this doesn't talk about any amounts,
24 anything like that, right?

25 MS. BONJEAN: There's no --

1 MS. FARRELL: Correct.

2 MS. BONJEAN: -- specifics and there's no -- nothing
3 about that letter that says it actually happened either.
4 There is just a letter of, I guess, perhaps a Letter of
5 Intent.

6 And I would point out that the cite, the case they
7 just cited is a contract case. It's a breach of contract.
8 And in a breach of contract, of course, you have to look at
9 the contract and the terms of the contract. That makes sense.
10 That is -- I don't know how they can cite that case in good
11 faith.

12 THE COURT: Is there other evidence you're intending
13 to try to put in on this topic of the book and the agreement
14 to reimburse?

15 MS. FARRELL: No. No.

16 THE COURT: Okay.

17 Well, do we need to address -- to resolve this right
18 now --

19 MS. FARRELL: We don't.

20 THE COURT: -- when we have the jury waiting?

21 MS. FARRELL: If I may just respond to not making
22 this argument in good faith.

23 We are citing United States versus Connolly, which
24 is a criminal case from the SDNY that cites Arasinowicz. So,
25 of course, we are making it in good faith. We're citing

1 another criminal case that's not a breach of contract.

2 THE COURT: I don't think there's any lack of good
3 faith in the argument, I'm just not sure it's particularly
4 persuasive.

5 But we are going to take this up after we continue
6 with this witness.

7 MS. FARRELL: Thank you, Your Honor.

8 THE COURT: Okay. We can bring back the witness and
9 the jury.

10 (Pause.)

11 (Witness entered and resumed the stand.)

12 (Jury enters.)

13 THE COURT: Everyone may be seated.

14 And, Ms. Farrell, you may resume your examination.

15 MS. FARRELL: Thank you, Your Honor.

16

17 (Continued on the following page.)

18

19

20

21

22

23

24

25

Lubin - direct - Farrell

4315

1 **MARK LUBIN,**

2 previously called as a witness by the Government duly
3 and sworn/affirmed by the Courtroom Deputy, resumed the
4 stand and was examined and testified further as follows:

5 MS. FARRELL: If we could please pull up Government
6 Exhibit 4465-R, which I believe is just the last document we
7 had looked at when were taking a lunch break.

8 DIRECT EXAMINATION (Continues)

9 BY MS. FARRELL:

10 Q And, Mr. Lubin, just remind us what this document is,
11 please.

12 A This is a cashier's check.

13 THE COURT: Could you just hit the microphone?
14 There's a button on the base.

15 Try again. Yes, very good.

16 A This is a cashier's check for \$600,000.

17 MS. FARRELL: And then if we could please, for the
18 witness only and the parties, pull up Government
19 Exhibit 4469-R. And that is Tab 10-R of your binder.

20 Q Mr. Lubin, is this a May 2017 account statement for the
21 account ending in 8202 owned by Ms. Daedone?

22 A Yes.

23 Q And if you turn to the second page -- I'm sorry.

24 And is this document certified by business records
25 certification number 4437-A?

Lubin - direc - Farrell

4316

1 A Yes.

2 MS. FARRELL: Your Honor, I move to admit Government
3 Exhibit 4469-R.

4 THE COURT: Any objection?

5 MS. BONJEAN: No objection.

6 MR. ROBOTTI: No objection.

7 THE COURT: Government Exhibit 4469-R is admitted.

8 (Government's Exhibit 4469-R was received in
9 evidence.)

10 MS. FARRELL: Thank you.

11 (Exhibit published.)

12 MS. FARRELL: If we could please pull up the second
13 page of the account statement, and if you can zoom in for us.

14 BY MS. FARRELL:

15 Q What is -- is there a transaction on May 3rd?

16 A Yes. It is --

17 Q And what -- what is the amount?

18 A The amount is \$800,000.

19 Q And similar to the one we looked at before the lunch
20 break, is this -- does this reflect a deposit made at a bank?

21 A Yes.

22 Q And were you able to look at the underlying check from
23 the bank records?

24 A Yes.

25 MS. FARRELL: And if we could please pull up

Lubin - direct - Farrell

4317

1 Government Exhibit 446-R -- sorry, 4446-R.

2 THE COURT: What tab?

3 MS. FARRELL: 4446-R.

4 THE COURT: What tab?

5 MS. FARRELL: I'm trying to find it, Your Honor.

6 THE COURT: Oh, sorry.

7 MS. FARRELL: I'm sorry. I think I have the wrong
8 number.

9 BY MS. FARRELL:

10 Q Were you able to confirm that this was a check in your
11 review of the documents, this 800-thousand-dollar deposit?

12 A I think -- I think it is a -- like, I believe it was a
13 withdrawal from an account and a deposit into an account.

14 Q Okay. Let's take a look at 4466-R, which is behind 7-R.

15 A Yes, yes.

16 Q Is this document the backup for the 800-thousand-dollar
17 deposit --

18 A Yes.

19 Q -- that we just saw?

20 A Yes, it is.

21 Q And is this a record that was also certified by the
22 certification marked as Government Exhibit 4437-A?

23 A Yes.

24 MS. FARRELL: Your Honor, I move to admit Government
25 Exhibit 4466 [sic] into evidence.

Lubin - direc - Farrell

4318

1 THE COURT: Any objection?

2 MS. BONJEAN: No objection.

3 MR. ROBOTTI: No objection.

4 THE COURT: Government Exhibit 4466-R is admitted.

5 (Government's Exhibit 4466-R was received in

6 evidence.)

7 THE COURT: It was R you wanted, correct?

8 MS. FARRELL: That's correct. And it's page 115 on

9 the -- sorry.

10 May I put it on the ELM0, please?

11 (Exhibit published.)

12 BY MS. FARRELL:

13 Q Is that the May 5th, 2017 transaction we saw?

14 A Yes.

15 Q And that's Government Exhibit 4466?

16 A Yes.

17 Q And so, what is -- what is this showing?

18 A That is a deposit into Nicole Daedone's account 8202 in

19 the amount of \$800,000.

20 Q Okay.

21 Now, all of the exhibits we just looked at, plus the

22 ones we looked at before the break, did those total up to

23 \$12 million?

24 A Yes, they did.

25 Q And what does that \$12 million represent?

Lubin - direc - Farrell

4319

1 A Those are the sales -- sales proceeds of OneTaste, Inc.

2 Q And who did they go to?

3 A Into Nicole Daedone's account.

4 Q And based --

5 A Into Nicole Daedone's Wells Fargo account.

6 Q Okay. And based on your review of her Wells Fargo
7 account, did she further disburse that money to anyone else?

8 A No.

9 Q Okay. So we looked earlier at Government Exhibit 853.

10 MS. FARRELL: Which if we could just pull that up,
11 please.

12 (Exhibit published.)

13 Q And these are reported wages and income for Ms. Daedone,
14 is that correct?

15 A Yes.

16 Q In addition to the payments that are shown in this
17 document, did you identify additional disbursements from
18 OneTaste that are not on this document and also were not part
19 of the sale proceeds that were not captured in the documents
20 that you reviewed to create this exhibit, 853?

21 A Yes.

22 MS. FARRELL: Okay. If we could please pull up for
23 the witness Government Exhibit 4480-R, which is 21-R,
24 Tab 21-R.

25 Q Is this a September 2016 account statement for the Wells

Lubin - direc - Farrell

4320

1 Fargo account ending in 8202 owned by Ms. Daedone?

2 A Yes.

3 Q And is this a certified business record that is certified
4 pursuant to certification Government Exhibit 4437-A?

5 A Yes.

6 MS. FARRELL: Your Honor, I move to admit Government
7 Exhibit 4480-R.

8 THE COURT: Any objection?

9 MR. ROBOTTI: No objection.

10 MS. BONJEAN: No objection.

11 THE COURT: Government Exhibit 4480-R is admitted.

12 (Government's Exhibit 4480-R was received in
13 evidence.)

14 (Exhibit published.)

15 MS. FARRELL: And if we could go to page 5 of the
16 document, please. If you could zoom in.

17 BY MS. FARRELL:

18 Q And on September 14th, 2016, did OneTaste, Incorporated
19 make a transfer of money to Ms. Daedone?

20 A Yes.

21 Q And how much was that?

22 A \$150,000.

23 Q And just to be clear, the -- is the reason that this is
24 separate from your summary chart that we looked at earlier is
25 because this was not a transfer of money that was captured in

Lubin - direct - Farrell

4321

1 either W-2s or 1099s?

2 A That is correct.

3 Q Okay.

4 MS. FARRELL: We can take that down.

5 Q As part of your work on this case, did you review

6 OneTaste's general ledgers?

7 A Yes.

8 Q What are general ledgers?

9 A A general ledger is a system that a company uses to
10 record all financial transactions, such as changes in
11 revenues, all expenses, changes in assets, liabilities and
12 owner's equity.

13 MS. FARRELL: If we could please pull up Government
14 Exhibit 4096-FR, which is Tab 2-R in your binder, Your Honor,
15 and Mr. Lubin. It's very tiny, I apologize.

16 First of all, actually, can we go to Government
17 Exhibit 4096-F.

18 BY MS. FARRELL:

19 Q Mr. Lubin, is 4096-F one of the general ledgers you
20 reviewed in this case?

21 A Yes.

22 Q And so, if we look at Government Exhibit 4096-F-R, is
23 that a redacted version of the general ledger?

24 A Yes.

25 Q And what is reflect -- I'm sorry.

Lubin - direct - Farrell

4322

1 And are these -- is this redacted version of the
2 exhibit and the original exhibit certified as a business
3 record pursuant to certification Government Exhibit 5002?

4 A Yes.

5 MS. FARRELL: Your Honor, I move to admit Government
6 Exhibit 4096-F-R into evidence.

7 THE COURT: Any objection?

8 MS. BONJEAN: Your Honor, we would object only to
9 the extent that it -- the contents of it, we believe, are
10 hearsay. But I understand they've been authenticated by the
11 company, so -- but I maintain my hearsay objection to the
12 truth of the information on the ledger.

13 MR. ROBOTTI: We join.

14 THE COURT: Overruled.

15 Government Exhibit 4096-FR is admitted.

16 (Government's Exhibit 4096-FR was received in
17 evidence.)

18 BY MS. FARRELL:

19 Q And so looking at this Government Exhibit 4096-FR, what
20 is reflected in the general ledger here on the screen?

21 (Exhibit published.)

22 A Contributions and distributions.

23 Q And what does it show that OneTaste paid for?

24 MS. FARRELL: Mr. McNett, can you please zoom in?
25 Right here. I'll show you. Yes, thank you.

Lubin, - direc - Farrell

4323

1 A The --

2 Q What does it reflect?

3 A The second line item -- you want --

4 Q What is on the screen in front of you?

5 A Okay. It says OT paying Nicole's CA taxes 2014. OT
6 paying Nicole's 2014 federal tax.

7 And I am having difficulty reading the last one.

8 Q So, did the general ledger for OneTaste in 2015 reflect
9 that OneTaste paid Ms. Daedone's federal income taxes for
10 2014?

11 A There was a federal -- federal tax payment made by
12 OneTaste, Inc. for her 2014 taxes.

13 Q And were you able to confirm that in the underlying IRS
14 records as well, or are you getting it from this document, the
15 OneTaste general ledger?

16 A Just -- just from the general ledger. It wouldn't show
17 who paid that payment.

18 MS. FARRELL: And then if we can look at Government
19 Exhibit 4110-C, which is behind Tab 3.

20 BY MS. FARRELL:

21 Q Mr. Lubin, is this another one of general -- excuse me,
22 OneTaste general ledger?

23 A Yes.

24 Q And is this a certified business record pursuant to the
25 certification in Government Exhibit 5002?

Lubin - direct - Farrell

4324

1 A Yes.

2 Q And then if we look at Government Exhibit 4110-CR, is
3 that a redacted version of the same document?

4 A Yes.

5 Q Okay.

6 MS. FARRELL: Your Honor, we move to admit
7 Government Exhibit 4110-CR.

8 THE COURT: Any objection?

9 MS. BONJEAN: Same objections, Your Honor.

10 MR. ROBOTTI: We join.

11 THE COURT: Overruled.

12 Government Exhibit 4110-CR is admitted.

13 (Government's Exhibit 4110-R was received in
14 evidence.)

15 (Exhibit published.)

16 BY MS. FARRELL:

17 Q And, Mr. Lubin, does 4110-CR -- what does it reflect
18 about OneTaste with respect to Ms. Daedone's federal income
19 taxes?

20 A The payment -- the payment for 2015 federal income taxes.

21 Q So, the top line reflects what year?

22 A 2013.

23 Q And then the next line down reflects which year?

24 A 2015.

25 Q Okay. Finally, as part of your work -- well, let me do

Lubin - direct - Farrell

4325

1 this.

2 Going back to Government Exhibit 853, which is the
3 summary chart of Ms. Daedone's reported wages and income.

4 If we look all the way over here at 2018
5 (indicating), do you know what the dates of those payments
6 were or could you know that from the underlying records?

7 A I believe there is a deposit for one of those items. I
8 recall seeing that.

9 Q Okay.

10 MS. FARRELL: So if we could take a look at
11 Government Exhibit 4482-R, which is Tab 31-R.

12 Q Mr. Lubin, is this a June 2018 account statement from
13 Wells Fargo for the account ending or for an account, the
14 holders of which were Nicole Daedone and Yia Vang?

15 A Yes.

16 Q And is this document a certified business record pursuant
17 to what's marked as Government Exhibit 4437-A?

18 A Yes.

19 Q And one of the transfers you're referring to that the
20 summary chart showed, is that contained in this document?

21 A Yes.

22 MS. FARRELL: Your Honor, I move to admit Government
23 Exhibit 4482-R.

24 MR. ROBOTTI: No objection.

25 THE COURT: Ms. Bonjean.

Lubin - direct - Farrell

4326

1 MS. BONJEAN: I'm sorry, what was the date?

2 MS. FARRELL: June 2018.

3 THE COURT: Sorry. 4482-R, right?

4 MS. FARRELL: Correct.

5 MS. BONJEAN: I'll object on relevance grounds.

6 MS. FARRELL: Your Honor, this is to show -- so, we
7 already have the summary chart in evidence showing payments in
8 2018, and the relevance of this is to show the specific date
9 of one of those payments.

10 THE COURT: Overruled.

11 Government Exhibit 4482-R is admitted.

12 (Government's Exhibit 4482-R was received in
13 evidence.)

14 (Exhibit published.)

15 MS. FARRELL: And if we could please go to page 4 of
16 the document. If you could zoom in on the transaction.

17 BY MS. FARRELL:

18 Q What is the date of this \$40,000 payment into the account
19 from OneTaste, Incorporated?

20 A June 5th.

21 Q What year?

22 A 2018.

23 Q Okay. And then as you just testified, both Nicole
24 Daedone and Yia Vang are accountholders of this account, is
25 that correct?

Lubin - direc - Farrell

4327

1 A Yes.

2 MS. FARRELL: And so, if we could please take a look
3 at Government Exhibit 32. Sorry, that's wrong. That was
4 Tab 32. Government Exhibit 4461-B1, which is behind Tab 32.

5 BY MS. FARRELL:

6 Q Do you recognize this document, Mr. Lubin?

7 A Yes, I do.

8 Q What is it?

9 A It's a document provided by the Internal Revenue Service.

10 Q And was that included in the certified records that the
11 Internal Revenue Service produced to the Government?

12 A Yes, it was.

13 Q And does this relate to the 40-thousand-dollar
14 transaction we just looked at?

15 A Yes.

16 Q Okay.

17 MS. FARRELL: Your Honor, I move to admit Government
18 Exhibit 4461-B-1.

19 THE COURT: Any objection?

20 MS. BONJEAN: If I could have a second.

21 THE COURT: Yes.

22 MS. FARRELL: Do you need a copy?

23 MS. BONJEAN: No objection.

24 MR. ROBOTTI: No objection.

25 THE COURT: Okay. Government Exhibit 4461-B1 is

Lubin - direc - Farrell

4328

1 admitted.

2 (Government's Exhibit 4461-B1 was received in
3 evidence.)

4 MS. FARRELL: If we can publish that.

5 (Exhibit published.)

6 BY MS. FARRELL:

7 Q Mr. Lubin, does this document show who the payee of that
8 \$40,000 transfer was?

9 A Yes.

10 Q And who was it?

11 A Nicole Daedone.

12 Q And this is for that June 2018 transfer we looked at a
13 moment ago?

14 A Yes.

15 Q Okay. And then, Mr. Lubin, as part of your work that you
16 were asked to do for this case, did you identify any wages
17 reported to be paid by OneTaste or related entities to Beverly
18 Daedone?

19 A Yes, I did.

20 MS. FARRELL: If we could please pull up Government
21 Exhibit 4455-A-2.

22 Q Is this a document from the California Labor Department?

23 A Yes.

24 Q And was it certified as a public record pursuant to the
25 certification marked as Government Exhibit 4455-A?

Lubin - direc - Farrell

4329

1 A Yes.

2 MS. FARRELL: Your Honor, I'd move to admit
3 Government Exhibit 445-A-2 [sic] into evidence.

4 THE COURT: Any objection?

5 MR. ROBOTTI: Objection on relevance.

6 MS. BONJEAN: Join.

7 THE COURT: Overruled.

8 Government Exhibit 4455-A is admitted.

9 (Government's Exhibit 4455-A was received in
10 evidence.)

11 MS. FARRELL: Thank you.

12 (Exhibit published.)

13 MS. FARRELL: And if we could zoom in.

14 BY MS. FARRELL:

15 Q Were you able to total up the payments made to
16 Ms. Daedone over a period of years from this document?

17 A Yes, I was.

18 Q Okay. So let's just walk through it, if we can.

19 MS. FARRELL: Give me one moment. Sorry.

20 Q So if we can look at this first page, please. What is
21 the total there?

22 A \$18,870.

23 Q Then if we could go to the next page, what is the total
24 there?

25 A \$14,169.29.

Lubin, - direct - Farrell

4330

1 Q If we could go to the next page, please. What is that?

2 A The -- the amount is \$14,150.68.

3 Q And if we could go to the next. How much is that?

4 A \$14,160.

5 Q And if we could go to the next.

6 A \$14,160.

7 Q And if we could go to the next.

8 A \$14,160.

9 Q And are these, each of these amounts that we've seen, are
10 they paid quarterly?

11 A It's re -- it's reported -- yeah, reported quarterly.

12 Q Okay. And what is the time period covered by this
13 document?

14 And if it's easier to look at the hard copy, it's
15 behind Tab 5.

16 A 2015 to 2017.

17 Q And for all the records you looked at, what was the total
18 amount of payments to Beverly Daedone from OneTaste?

19 A Approximately \$103,000, a little bit more than \$103,000.

20 Q And what was that time period?

21 A Again, 2015 through the '17.

22 Q Okay.

23 MS. FARRELL: No further questions, Your Honor.

24 THE COURT: Any cross-examination?

25 MS. BONJEAN: Yes, Your Honor. Just a little bit.

Lubin - cross- Bonjean

4331

1 THE COURT: Go ahead.

2 MS. BONJEAN: May I give these to you, Your Honor?
3 They're documents that may or may not --

4 THE COURT: Okay.

5 MS. BONJEAN: -- be used.

6 THE COURT: Thank you.

7 CROSS-EXAMINATION

8 BY MS. BONJEAN:

9 Q Good afternoon, Mr. Lubin.

10 A Good afternoon.

11 Q My name is Jennifer Bonjean, and I represent Nicole
12 Daedone.

13 Sir, you are an FBI agent, correct?

14 A No.

15 Q Oh, my apologies.

16 You work for the FBI?

17 A Yes.

18 Q Okay. And you are an accountant employed by the FBI, do
19 I have that right?

20 A I'm a forensic accountant employed by the FBI.

21 Q And you assisted the federal government in the
22 investigation of this case, correct?

23 A Yes.

24 Q And you are, of course, familiar with the charge in this
25 case, right?

Lubin - cross- Bonjean

4332

1 A No, no.

2 Q You don't know what the defendants are charged with?

3 A Not -- not really. I just know looking at the
4 financials. I'm really not into what was charged, per se.

5 Q Okay.

6 Do you know they're not charged with fraud?

7 A I believe they were not charged with fraud.

8 Q Okay. Not charged with tax fraud, wire fraud?

9 MS. FARRELL: Objection, Your Honor.

10 THE COURT: Sustained.

11 BY MS. BONJEAN:

12 Q In any event, notwithstanding the fact that you're
13 unfamiliar with the charges, you did review a number of
14 records in this case, right?

15 A Yes.

16 Q And I think you identified some of them; IRS records,
17 right?

18 A Yes.

19 Q Department of Labor from California and New York?

20 A Yes.

21 Q Records that were provided by OneTaste, Incorporated,
22 correct?

23 A Yes.

24 Q And those were provided via the prosecution through a
25 Grand Jury subpoena, is that correct?

Lubin - cross- Bonjean

4333

1 A Yes.

2 Q A company known as Intuit, records from a company called
3 Intuit?

4 A Yes.

5 Q What type of company is Intuit?

6 A It's a software company. They provide a software for
7 businesses, like payroll and taxes and such.

8 Q Okay. You didn't look at any corporate documents for the
9 various corporations, right?

10 A No, I did not.

11 Q Like organizational documents, like incorporation
12 documents or anything like that, right?

13 A I did not.

14 Q You didn't look at any employment agreements, right?

15 A I did not.

16 Q You didn't look at any other types of agreements between
17 Ms. Daedone and OneTaste, right?

18 A I did not.

19 Q And to be fair, you cannot confirm that the records that
20 you did review completely and accurately reflect income or
21 losses from the various corporations, right?

22 A Would you repeat the question, please?

23 Q You cannot confirm that the records you reviewed
24 completely and accurately reflect actual income or losses from
25 the corporations that were referenced in the direct

Lubin - cross- Bonjean

4334

1 examination?

2 A That is correct.

3 Q You're working with a set of records that were provided
4 to you by the U.S. Attorney's Office, right?

5 A I'm using records that were provided via a federal Grand
6 Jury subpoena.

7 Q Okay, right.

8 But the documents were actually given to you by the
9 U.S. Attorney's Office or the federal agents? How did you get
10 them?

11 A They were available in the FBI system.

12 Q Okay. And as you pointed out, those documents were
13 obtained through a federal Grand Jury subpoena, right?

14 A Yes.

15 Q Okay. And so you don't have any first-hand knowledge
16 about how those entities gathered the information to respond
17 to the Grand Jury subpoena, right?

18 A Correct.

19 Q And, of course, you cannot guarantee that all documents
20 that were responsive to the subpoena were actually provided,
21 right?

22 A That is correct.

23 Q And, in fact, the IRS was unable to give you complete
24 documents for the entire span of 2007 to 2000-and I guess it
25 was '18, right?

Lubin - cross- Bonjean

4335

1 A We received records from the IRS for that -- for that
2 period.

3 Q Right. And they also -- they also indicated to you that
4 they had no records available in some time periods, right?

5 A I don't recall that.

6 Q Would anything refresh your recollection?

7 A I simply don't recall it.

8 Q Right. But did you look at all the documents that were
9 provided to you?

10 A Yes, I did.

11 Q Okay. So, if you were provided with a document, would it
12 be helpful to look at that document to determine and be able
13 to answer my questions?

14 A Yes, I guess. Yes.

15 Q Okay.

16 MS. BONJEAN: I'm going -- Your Honor, I'm going to
17 ask that the witness look at Defense Exhibit 25-H, as in
18 Henry.

19 THE COURT: Okay. He has a hard copy, right?

20 MS. BONJEAN: No, but I'll give him one. Probably.

21 MS. FARRELL: I'm sorry, what's the defense exhibit
22 number?

23 THE COURT: 25-H.

24 MS. FARRELL: Thank you.

25 Q Mr. Lubin, can you thumb through that and let me know

Lubin, - cross- Bonjean

4336

1 when you've had a chance to do so?

2 A (Witness complies.) Yes.

3 Q Okay. Do you remember seeing this document in your
4 review of all those materials?

5 A Yes, yes.

6 Q And does it refresh your recollection about what the IRS
7 produced to you?

8 A Yes, it --

9 Q Okay. And would you agree that the IRS, for instance,
10 was not able to produce all income tax returns during certain
11 periods of time for the various entities?

12 A For these entities, yes.

13 Q Okay. And, in fact, for OneTaste, Inc., was there -- did
14 the IRS indicate that it had no records for a particular
15 period of time for employer's quarterly payroll tax returns?

16 You can look at page -- do you want a page number?

17 A That is correct.

18 Q Were you able to see that?

19 A It's on -- no record -- yes. I see that on the page
20 ending 6567.

21 Q Okay. And tax account -- what's a tax account
22 transcript, by the way?

23 A It's a certain type of reporting provided by the IRS. I
24 can't give you more than that at this time.

25 Q Can you tell me --

Lubin - cross- Bonjean

4337

1 A It's transcript -- I think it's transactional tax -- tax
2 information.

3 Again, I -- I -- at this point, I -- I don't recall
4 the definition of the transcript-type information.

5 Q Okay. So you're able to deduce that a tax account
6 transcript has something to do with taxes?

7 A Yes.

8 Q But you can't tell us what information goes into a tax
9 account transcript?

10 A I believe it's -- at this point, I -- I cannot.

11 Q Okay. You looked at materials for Caravan Retreats,
12 Incorporated, right?

13 A Yes, I did.

14 Q And were you able to review any U.S. income tax returns
15 for the year of 2007 to 2013 for Caravan Retreats?

16 A Repeat the question, please.

17 Q For Caravan Retreats were you able to review any U.S.
18 income tax returns for that corporation for the years 2007 to
19 2013?

20 A I was not.

21 Q Fair to say, these summary charts that you have testified
22 about do not contain information from those documents, right?

23 A From this -- from this document, that is correct.

24 Q Well, I'm not asking you about this document.

25 I'm saying if you didn't have access to those

Lubin - cross- Bonjean

4338

1 materials you just identified, that is the income tax returns
2 from 2007 to 2013 for Caravan Retreats, you would not have
3 been able to rely on those materials in conducting your work,
4 right?

5 A We have records from Department of Labor in New York,
6 which showed Caravan Retreats, Inc. reported income --

7 Q Right. I understand --

8 A -- for individuals.

9 Q I understand. I'm not asking you what you did rely on.
10 Right now I'm asking you what you didn't rely on.

11 And what I'm asking you is to confirm that you --
12 because you didn't have tax returns for Caravan Retreats
13 between 2011 [sic] to 2013, you could not have possibly relied
14 on them?

15 A That is correct.

16

17 (Continued on the following page.)

18

19

20

21

22

23

24

25

Lubin - Cross - Bonjean

4339

1 BY MS. BONJEAN: (Continuing.)

2 Q And similarly, if you didn't have employers quarterly
3 payroll taxes for OneTaste as you previously testified, you
4 would not have relied on those particular documents in
5 conducting your analysis; right?

6 A That is correct.

7 Q Now you did have access to OneTaste's tax returns for
8 2013, 2014, 2015, 2016 and 2017; right?

9 A Yes.

10 Q And they file their tax returns as an S corporation, yes?

11 A Yes.

12 Q And do you have those documents in front of you, or would
13 you like a copy?

14 A I do not have them in front of me.

15 MS. BONJEAN: How about I hand it to you.

16 I'd like to approach with Defendant's 25-F, 25-J,
17 25-E, 25-C and 25-B.

18 THE COURT: F, J, E and C?

19 MS. BONJEAN: Yeah -- 25-F, J, E, C and D.

20 THE COURT: Got it, thank you.

21 (Counsel approaches.)

22 Q These were among the documents you had in your possession
23 when you did your analysis; correct?

24 A Yes.

25 Q And these are tax returns filed by OneTaste; right?

Lubin - Cross - Bonjean

4340

1 A Yes.

2 Q And if you need to refresh your recollection on anything,
3 please feel free to do so.

4 Mr. Lubin, what was the total income for OneTaste in
5 2013?

6 MS. FARRELL: I'm going to object to the relevance,
7 Your Honor.

8 THE COURT: Do you want to respond, Ms. Bonjean?

9 MS. BONJEAN: I do. I think -- I think the wages
10 issue is an issue and what I'm going to ask about.

11 THE COURT: Okay. Give me one moment.

12 Overruled go ahead.

13 BY MS. BONJEAN:

14 Q Mr. Lubin, what was the total income that OneTaste
15 generated in 2013?

16 A Total income on line six shows 2,487,788.

17 Q Okay. How much did they spend in salaries and wages?

18 A Line eight shows salaries and wages 866,374.

19 Q Okay. Can we go to 2014, please?

20 A The total income in 2014 for OneTaste?

21 Q The total income in 2014.

22 A Line six shows total income of 4,200,012.

23 Q How much in salary and wages?

24 A 1,269,142.

25 Q And how about 2015? I would ask you first to tell us

Lubin - Cross - Bonjean

4341

1 what the total income was for OneTaste in 2015?

2 A 5, 084, 664.

3 Q And at that time salaries and wages?

4 A 730,504.

5 Q 2016, income?

6 A Line six, total income, 7,357,995.

7 Q And salaries and wages?

8 A 931,166.

9 Q And 2017, what was the total income?

10 A 8,965,373.

11 Q And salaries and wages?

12 A 1,062,543.

13 Q Okay. Fair to say that between 2013 and 2017 the income
14 continued to rise over the course of that period for the
15 company?

16 A Yes.

17 Q You can put that aside.

18 I would like to have you look at these charts that
19 we looked at briefly. Let's start with Government Exhibit
20 853.

21 (Exhibit published.)

22 Q And the wages that Ms. Daedone received over the course
23 of eleven years -- well, let's just say ten years, through
24 2017. I know the number is off a little bit, but was under
25 \$1 million; right?

Lubin - Cross - Bonjean

4342

1 A Correct.

2 Q And, by the way, did you compare the wages she received
3 to her tax returns?

4 A Yeah, I tied out the amount of wages that she received to
5 her W-2 income, that is correct.

6 Q Well, I understand you're saying the W-2 income. Did you
7 review her actual tax returns?

8 A I reviewed IRS records, information from her tax returns.

9 Q You of all people know that the IRS has a bajillion
10 (sic) -- it's not a word, but if it's appropriate it's here,
11 different types of forms they expect people to fill out,
12 right?

13 MS. FARRELL: Objection.

14 THE COURT: Sustained.

15 BY MS. BONJEAN:

16 Q You understand that IRS records encompass many different
17 types of records; right?

18 A I don't understand the question. Sorry.

19 Q Well, for instance, IRS records could include tax account
20 transcripts, right -- wait. We don't know that one.

21 They could include returns; right?

22 A It includes return -- yeah, return information, W-2, 1099
23 income, yes.

24 Q All types of different records; correct?

25 A Types of -- yes.

Lubin - Cross - Bonjean

4343

1 Q Okay. And what I'm asking you is when you did your
2 analysis did you actually review specifically Ms. Daedone's
3 tax returns?

4 A No. I reviewed the information that was in the IRS
5 records, in the California Department of Labor records.

6 Q Sir, didn't it true, didn't you review -- you looked at
7 Nicole Daedone's IRS records; right?

8 A Yes, I did.

9 Q Okay. Did you review specifically her tax returns?

10 A Tax returns information was provided in the records.

11 Q Can you just answer my question? Did you look at the
12 returns, like the returns you just looked at did you look at
13 those for Ms. Daedone?

14 A I do not recall at this time.

15 Q And if you did, I take it you don't know which years you
16 looked at; right?

17 A I would have looked at all the records. At this point, I
18 do not recall.

19 Q Do you know if you had all of her tax returns for the
20 years that are reflected on this chart that we're looking at,
21 that is 2007 through 2018?

22 A Can you repeat the question, please?

23 Q Yes, sir. Do you know whether you had in your possession
24 individual tax returns for Ms. Daedone for every year
25 reflected in Government Exhibit 853? It's up on the screen,

Lubin - Cross - Bonjean

4344

1 sir, if you need to see it.

2 A I do not recall.

3 Q Okay.

4 A I'm sorry.

5 Q And suffice it to say that you don't -- you know that
6 from your work that there were -- this was wages received from
7 OneTaste by looking at OneTaste documents that were then
8 reflected here; correct?

9 A I'm sorry, can you repeat the question, please?

10 Q Sure. It wasn't a great question.

11 You derived the information on this chart really
12 solely from OneTaste records. You didn't cross-reference it
13 with records that were related to Ms. Daedone, right, that she
14 had through IRS records, those types of things?

15 A I cross-referenced the California Department of Labor
16 income records with the income in the IRS records.

17 Q Which IRS records?

18 A With the IRS records provided for Nicole Daedone.

19 Q Can you be a little bit more specific, which ones you
20 were looking at?

21 A Yes, I -- it's provided in the -- the tax information
22 provided shows her reported -- you know, reported income for
23 2007 through 2014 that she reported and then 2015 afterwards
24 that showed the income that was attributed to her that was
25 reported by OneTaste to the IRS. So, the initial records were

Lubin - Cross - Bonjean

4345

1 what she reported to the IRS and the subsequent records is
2 what OneTaste income provided to the IRS.

3 Q Okay, what records are you referencing that she reported
4 to the IRS?

5 A The -- well, the tax return information that was reported
6 to the IRS, that's provided in the early records of what they
7 provided.

8 Q Who is the "they" in that sentence?

9 A It's the -- it's the reported income by the individual
10 that's given to the -- that's reported to the IRS.

11 Q That's what I'm asking you, what specific documents did
12 you review that you claim reflect what Ms. Daedone reported
13 herself to the IRS?

14 A The IRS records that -- for Nicole Daedone specifically
15 shows the reported income per -- the income that she reported.

16 Q Where did she report it? That's what I'm asking. What
17 records?

18 A This is information that's provided by the tax -- by the
19 taxpayer or the taxpayers preparer to the IRS.

20 Q Right. And that's what I'm asking you. Did you look at
21 the her tax returns? I thought you said you didn't
22 previously.

23 A We look at the information that's reported to the IRS,
24 that's including what's stated in the IRS records.

25 Q Sir, I'm really just asking you to be a little more

Lubin - Cross - Bonjean

4346

1 specific. You did this analysis; right?

2 A Yes.

3 Q You are vouching for this summary chart right here
4 because the records were so voluminous, and we're taking your
5 word for it because you reviewed it; right?

6 A That is correct.

7 Q Okay. So my question is, when you came up with the
8 number -- we'll just do it randomly, 2011, \$32,247, which you
9 say are Nicole Daedone's reported wages and income received.
10 Do you see that?

11 A Yes, I do.

12 Q Where specifically did you get that number? And a little
13 bit more specific than IRS records.

14 A I don't have that specific record in front of me, but
15 it's clearly stated in that record. If you want to pull up
16 the IRS -- pull up the IRS record I can show you exactly where
17 it is.

18 Q That's what you're here to do. You're here to testify
19 about where you got that number.

20 A And I got that number from the IRS records.

21 Q Which IRS records?

22 A I don't know the page number of that record. It's in
23 probably the first 20 pages of the tax return records for
24 Nicole Daedone.

25 Q Sir, you didn't even have the tax returns for Ms. Daedone

Lubin - Cross - Bonjean

4347

1 for between 2007 and 2013; isn't that right?

2 A I had the reported information that was reported to the
3 IRS. Those are the records that I used.

4 Q Reported by whom?

5 A Reported by either Nicole Daedone or Nicole Daedone's tax
6 preparer.

7 Q Okay. I would like you to tell me specifically what
8 documents you relied on, if you are able.

9 A I need the -- I need to pull up the IRS document, if
10 that's possible and I can show you where the number comes
11 from.

12 Q I'm happy to help you, but you have to identify it for
13 me.

14 A In the return for Nicole Daedone, her IRS records.

15 Q And you mean her returns?

16 A The return information that was reported to the IRS.

17 Q Okay. We're going to put a pause on that because I have
18 to go do your job for you.

19 THE COURT: What is the next question? No
20 commentary.

21 What's the next question, Ms. Bonjean?

22 BY MS. BONJEAN:

23 Q 2018, you said that you looked at -- you said that in
24 2018 that Ms. Daedone reported wages and income to the tune of
25 \$55,000; right?

Lubin - Cross - Bonjean

4348

1 A Yes. There were --

2 Q 55,500?

3 A Yes.

4 Q And then we went back and looked at Government Exhibit
5 4482-R which is a joint account for a deposit of \$40,000;
6 right?

7 A Yes.

8 Q Okay. Now, simple math will tell us that's a \$15,500
9 difference; right?

10 A Yes.

11 Q So, how are you able to connect this \$55,500 to the
12 \$40,000?

13 A I'm able to connect that in 2018 there were two 1099
14 forms from OneTaste Inc., one for \$40,000 and one \$15,000
15 showing that Nicole Daedone is the beneficiary of that 1099
16 income.

17 Q Okay. So you looked at 1099s there; right?

18 A Yes, I looked at two 1099s that were reported by the IRS.

19 Q On direct examination you just looked at some deposits
20 into her account, do you remember that?

21 A Yes.

22 Q Or a deposit?

23 A Yes.

24 Q And that was a deposit of \$40,000; correct?

25 A Of -- a deposit of \$40,000 from OneTaste Inc.

Lubin - Cross - Bonjean

4349

1 Q Right. And -- but what you're saying is that you also
2 had the benefit of two 1099s but we just didn't look at them;
3 is that correct?

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

5 Q Yes. So on your direct examination you said based on
6 this chart that she received 55,500 but then you also then
7 just pointed to a deposit of \$40,000 and I'm trying to
8 understand why there's a discrepancy in those numbers.

9 A Well, this -- I attributed that 40,000 deposit associated
10 with the \$40,000 1099 income she received from OneTaste Inc.

11 Q Okay. And we didn't look at that 1099, though, on direct
12 examination, right?

13 A We did look at that 1099. It was shown on the screen the
14 1099 information from the IRS.

15 MS. BONJEAN: 4461-B-1, let's pull that up.

16 (Exhibit published.)

17 BY MS. BONJEAN:

18 Q Is this a 1099?

19 A Yes. It shows 1099, document type, 1099-miscellaneous.

20 Q And it says \$40,000; right?

21 A \$40,000. That is correct.

22 Q And what is the -- is the one beneath it saying 15,500 or
23 above it?

24 A Yes, it does.

25 Q Okay. So that's the document that you're referencing

Lubin - Cross - Bonjean

4350

1 that's how you arrived at 55,500; right?

2 A That is correct.

3 Q Okay. And you know of course that Ms. Daedone was no
4 longer an employee of OneTaste at some point in 2018; right?

5 A I do not know the relation -- her business arrangement
6 with OneTaste apart from the sale.

7 Q You knew that she sold the company though; right?

8 A Absolutely.

9 Q And, so, you can't say what this \$55,500 worth of income
10 was for; right?

11 A I had no idea what services were provided for this
12 income.

13 Q Got it. And you don't know if it was, like, continued
14 consulting or something along those lines?

15 A I have no idea what it was for.

16 Q But it was via a 1099 rather than a W-2; right?

17 A That is correct.

18 Q So for Ms. Daedone, Beverly Daedone, you didn't get into
19 what services, if any, she provided; right?

20 A I have no idea what services Beverly Daedone provided.

21 Q I would like you to look at Government Exhibit 856.

22 (Exhibit published.)

23 Q Now, this was a chart that was put together by you or
24 your colleagues?

25 A By myself.

Lubin - Cross - Bonjean

4351

1 Q You put this chart together?

2 A I compiled the numbers for the chart.

3 Q You put together the information that went into the
4 chart; is that right?

5 A That is correct.

6 Q But you didn't do the formatting and so forth, right?

7 A That's correct.

8 Q And you have -- this chart reflects ten different
9 individuals; right?

10 A Nine.

11 Q I'm bad at math. Nine.

12 And you don't know any of these individuals; right?

13 A I do not.

14 Q You don't know anything about how long they worked for
15 the company; correct?

16 A Nothing.

17 Q You don't know if they worked part-time, full-time;
18 right?

19 A No idea.

20 Q You have no idea whether they were paid under the table
21 or whether they were paid on the books; right?

22 A I have no idea.

23 Q You have no idea whether they worked in a work/trade type
24 of arrangement; right?

25 A I have no idea.

Lubin - Cross - Robotti

4352

1 Q You have no idea whether or not how many hours they
2 worked, right?

3 A I do not know, sorry.

4 Q And the amounts that you have incorporated here could be
5 1099s or W-2s right?

6 A This -- yes, 1099 or W-2, that is correct.

7 Q Anything else that you could think of that it could be?

8 A No, no.

9 Q And you don't know if it was salary versus commissions or
10 anything like that?

11 A I just know W-2 or 1099.

12 Q Okay.

13 MS. BONJEAN: I have nothing further, Your Honor.

14 THE COURT: Mr. Robotti?

15 MR. ROBOTTI: Yes, Your Honor, briefly.

16 CROSS-EXAMINATION

17 BY MR. ROBOTTI:

18 Q Good afternoon, sir.

19 A Good afternoon.

20 Q My name is Mike Robotti and I represent Rachel Cherwitz.

21 MR. ROBOTTI: So, I would like to pull up Government
22 Exhibit 856 which is one of the summary charts.

23 (Exhibit published.)

24 MR. ROBOTTI: And if we could highlight Christina
25 Berkeley.

Lubin - Cross - Robotti

4353

1 BY MR. ROBOTTI:

2 Q So, in 2007, Ms. Berkeley made \$3,467; is that correct?

3 A Those are the -- those are the wages, the income that I
4 was able to identify her with, yes, correct.

5 Q And in 2008 the income you were able to identify was
6 \$9,418; correct?

7 A Yes.

8 MR. ROBOTTI: Can we just turn to Government Exhibit
9 862.

10 (Exhibit published.)

11 Q Now, can we look at the numbers for Ms. Cherwitz in 2007
12 and 2008?

13 So, in 2007, Ms. Cherwitz had income of about
14 \$5,860; is that correct?

15 A Attributable to OneTaste, Inc., yes.

16 Q And in 2008 that was 12,434; correct?

17 A Yes, that is correct.

18 Q So there's only a few thousand dollars apart between
19 Ms. Cherwitz and Ms. Berkeley in those years; correct?

20 A Can you show me that again?

21 MR. ROBOTTI: Can we go back to Government Exhibit
22 856?

23 (Exhibit published.)

24 A For Christina Berkeley say 12 -- 12,900 approximately and
25 for Rachel Cherwitz, it's approximately -- a little over

Lubin - Cross - Robotti

4354

1 \$18,000.

2 Q Sir, I'm just asking in 2007 --

3 A Sorry.

4 Q In 2007 Ms. Berkeley made a few thousand dollars less
5 than Ms. Cherwitz according to these documents, yes?

6 A Yes, a little over \$2,000 less.

7 Q And 2008 the same thing, Ms. Berkeley made a few thousand
8 dollars less than Ms. Cherwitz, yes?

9 A \$3,000 less.

10 MR. ROBOTTI: Let's go back to Government Exhibit
11 856.

12 (Exhibit published.)

13 Q And can we look in 2013 the numbers for Michelle Wright
14 and Lianna Lifson. Those are about \$28,000 and \$28,000
15 respectively; right?

16 A Yes.

17 Q Let's go back and look at what Ms. Cherwitz made for
18 2013.

19 MR. ROBOTTI: And that's on Government Exhibit 862.

20 (Exhibit published.)

21 Q So she made about \$33,600 that year; is that correct?

22 A Yes.

23 Q That's only a few thousand dollars more than Ms. Wright
24 and Ms. Lifson made in those years; is that correct?

25 A 5,000 and \$4,000.

Lubin - Cross - Robotti

4355

1 MR. ROBOTTI: Can we pull up Government Exhibit 862?
2 (Exhibit published.)

3 Q I want to walk through the numbers for Ms. Cherwitz. So,
4 in 2007 she made about \$5,800; correct?

5 A Yes, that's correct.

6 Q In 2008, she made about \$12,400; correct?

7 A Yes.

8 Q In 2009 she made zero dollars; correct?

9 A That is -- I was -- I didn't find any income in 2009.

10 Q 2010 the same thing, about zero -- zero dollars; correct?

11 A Yes.

12 Q All right. In 2011, \$20,600; correct?

13 A Yes.

14 Q 2012, about \$24,000; correct?

15 A That is correct.

16 Q And 2013 about \$33,000; correct?

17 A Yes.

18 Q All right, sir, are you aware that Ms. Cherwitz made less
19 than average income in the United States in each of those
20 years?

21 MS. FARRELL: Objection.

22 THE COURT: Sustained.

23 A I have no idea.

24 THE COURT: Sustained means you don't answer.

25 THE WITNESS: I'm sorry.

Lubin - Cross - Robotti

4356

1 THE COURT: That is okay.

2 THE WITNESS: Sorry.

3 THE COURT: That is okay.

4 BY MR. ROBOTTI:

5 Q So in 2014 she made about \$51,000; correct?

6 A Yes.

7 Q And then according to your document in 2015 her income
8 jumped to about \$107,000; correct?

9 A Yes.

10 Q All right. Does your chart reflect how hard she worked
11 each year to get those raises?

12 MS. FARRELL: Objection.

13 THE COURT: Overruled.

14 A The chart reflects the income I was able to identify. I
15 have no idea how hard she did or didn't work for that income.

16 Q Okay. So all this chart reflects is numbers; correct?

17 A Yes, it's numbers.

18 Q And in these numbers --

19 MR. ROBOTTI: We can step out of the highlight here.

20 Q So these numbers show that on average she made 35,156.92
21 each year.

22 A It would be eleven divided by -- I don't have my
23 calculator here, but it would be 421,000 divided by eleven, so
24 approximately, I guess, 35, \$36,000. I don't have my
25 calculator with me.

Lubin - Cross - Robotti

4357

1 Q Is this the type of calculation the Government asked you
2 to do?

3 A An average? To determine an average income? I don't
4 have it on the chart. But I did prepare the chart and I vouch
5 for all of these numbers.

6 Q You did prepare the chart. Did you decide which number
7 to blow up in big print at the bottom?

8 A No, I did not determine which -- how to graphically show
9 the number. My responsibility was to make sure that that
10 number was absolutely correct.

11 Q Okay. So the Government decided which number to blow up
12 at the bottom, correct, the prosecution team?

13 A Again, I did not do the graphics. I did the numbers.

14 Q And they didn't ask you to do the equation of how much
15 she made per year during this time period; right?

16 A I did not do a calculation of the average income during
17 this period of time. If I had a calculator I could derive
18 that average income for that period of time.

19 Q So you did not do it and the Government did not ask you
20 to do it; correct?

21 MS. FARRELL: Objection. Asked and answered.

22 THE COURT: Sustained.

23 MR. ROBOTTI: No further questions.

24 MS. FARRELL: I have some redirect.

25 THE COURT: Go ahead.

Lubin - Redirect - Farrell

4358

1 And we'll take a break shortly.

2 Go ahead with your redirect.

3 REDIRECT EXAMINATION

4 BY MS. FARRELL:

5 Q So, Mr. Lubin, Ms. Bonjean cross examined you a lot on
6 Ms. Daedone's IRS records. Do you remember that?

7 A Yes, I do.

8 Q Okay.

9 MS. FARRELL: If we could please pull up for
10 Mr. Lubin Government Exhibit 4461-A which is one of the
11 certification documents I believe we referenced earlier and if
12 we could go to the third page of the document.

13 (Exhibit published.)

14 Q Does this refresh your recollection with respect to
15 personal IRS records for Ms. Daedone?

16 A Yes, thank you.

17 Q And so just to confirm did you -- go ahead.

18 A Yes. And this is what I was -- maybe if I may --

19 Q Let me ask a question and then you can answer.

20 So do you want to clarify anything having looked at
21 this now?

22 A Absolutely.

23 Q Go ahead.

24 A Thank you. Okay. Because as I had stated earlier, it
25 says individual master. If you look at the second row it says

Lubin - Redirect - Farrell

4359

1 "individual master of file online posted return data."

2 That's the data I stated that was reported in the
3 tax return, in her tax return, that shows up in the IRS
4 system. This reflects her tax return. This is that data.
5 And then we see here the information returns processing
6 transcript request. Okay, whatever you want to call it, but
7 the IRPTR0, that's what the company reported, okay? And we
8 see that the company is showing W-2 information, the company
9 is showing 1099 information. That's the information that I
10 was looking to.

11 Q You were looking at Ms. Daedone's income vis-à-vis
12 OneTaste as opposed to an analysis of every -- everything in
13 her financial history.

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

15 Q I'll withdraw it.

16 MS. FARRELL: I'd like to show Mr. Lubin Government
17 Exhibit 4461-B.

18 (Exhibit published to the witness, counsel and the Court.)

19 Q Do you see it on the screen?

20 A Yes.

21 Q Is this the approximately 1,500 page document that has
22 the information for Ms. Daedone's individual tax returns that
23 you reviewed?

24 A Yes.

25 (Continued on the following page.)

Lubin - redirect - Farrell

4360

1 REDIRECT EXAMINATION

2 BY MS. FARRELL: (Continuing)

3 Q And, so, were you able to recall while you were being
4 cross-examined precisely the page of this 1,500-page document
5 that referenced what Ms. Bonjean was asking you?

6 A No, I do not. It's in the first 20 pages. If you flip
7 through this, I can show you where the exact number comes
8 from.

9 Q Okay. If we could look at page 6 --

10 THE COURT: Is there a question?

11 Q Do you see where it says "wages"?

12 A Yes, I do.

13 Q What is the number?

14 A \$32,247.

15 Q And what year is this for?

16 A I think this would be probably for 2009 -- filed in 2011.
17 It was filed in 2009 -- processing date.

18 If we can go back to the slide showing the income.

19 MS. FARRELL: If we could go to Government Exhibit
20 853, please.

21 Q Now we're on 853, if you'd look at 2011.

22 A Yes, 2011, it stayed the same.

23 \$32,247, the exact amount reported in the IRS
24 records.

25 Q Okay. And I'll spare everyone, but is the same process

Lubin - redirect - Farrell

4361

1 the same for each of these years in this summary chart,
2 Exhibit 853?

3 A All of the information in here is reflected in those IRS
4 records.

5 Q Okay.

6 And you also -- Ms. Bonjean also cross-examined you
7 on whether -- you don't how the entities responded to the
8 Grand Jury subpoena; correct? You were asked that question?

9 A Yes.

10 Q Is it your understanding that individuals or companies
11 that received Grand Jury subpoenas are obligated to respond?

12 A Absolutely.

13 Q Okay. And do you have any reason to believe that they
14 weren't complied with?

15 A I have no reason to believe that they did not fully
16 respond to the Grand Jury subpoena.

17 Q And what about -- okay.

18 You also testified about how you did not only rely
19 on IRS records, but also Department of Labor records. Can you
20 explain that, please?

21 A Absolutely. What I did was, I cross-referenced them. I
22 would identify the income that was provided by the, say, New
23 York Department of Labor and the California Department of
24 Labor, and I'd have those numbers. I used my spreadsheet.
25 I'd add those numbers together, and then I compared those

Lubin - redirect - Farrell

4362

1 numbers to what accountants call tie-out. I tied out those
2 numbers to the numbers that are in the records for the IRS.

3 Q And do you have -- based on your experience as a CPA, do
4 you have an understanding of why the Department of Labor has
5 this information?

6 A Well, companies are required by law to report -- my
7 understanding is for all the states, but differently in
8 California and New York, on a quarterly basis, and that's
9 important for employees for like benefits and unemployment and
10 such. So it's important they have the information as properly
11 reported to the states.

12 Q So to the extent that there were very old IRS records
13 that were not in what you reviewed, were you able to review
14 the Department of Labor records and rely on those?

15 A I reviewed the information that was available that was
16 given to me and I was able to -- for Nicole Daedone and Rachel
17 Cherwitz, I was able to tie out the income reported, the wage
18 income to the IRS records.

19 Q And then looking at 856, Government Exhibit 856 in
20 particular, which is for the many individuals, is it accurate
21 that everything here is information that was reported to the
22 government?

23 A Yes. This is -- it's pulled -- it's pulled different
24 from different sources. Now, it could be Intuit, Intuit
25 records. It could be a 1099, a W-2.

Lubin - recross - Bonjean

4363

1 I wanted to capture every penny that these
2 individuals received from OneTaste and related entities. That
3 was my objective, and that's what I did.

4 MS. FARRELL: Okay. May I have a moment?

5 THE COURT: Yes.

6 MS. FARRELL: No further questions, Your Honor.

7 THE COURT: Any recross-examination?

8 MS. BONJEAN: A little bit.

9 THE COURT: Go ahead.

10 RE CROSS-EXAMINATION

11 BY MS. BONJEAN:

12 Q Just a couple of questions.

13 A Great.

14 Q I'm going to have you look at Government Exhibit 4461-A
15 that we just looked at, if you could, okay?

16 Let me know when you see it.

17 A Yes.

18 Q We looked at a document that looked a lot like this, but
19 as it related to the entities, and that was Defense Exhibit
20 25-H? If not, it's okay if you don't remember.

21 A Actually, I don't remember offhand.

22 Q That's okay.

23 So Government Exhibit 4461-A, if you go to the third
24 page, it indicates what types of tax information was provided
25 by the IRS; right?

Lubin - recross - Bonjean

4364

1 A Yes.

2 Q And on the individual -- and I'm talking here, the
3 individual, Nicole Ann Daedone. Do you see that?

4 A Yes, I do.

5 Q Okay. And I was asking you on cross-examination if you
6 looked at her individual income tax returns, and you were at
7 the time unable to answer that question. Do you remember
8 that?

9 A Yes.

10 Q Okay. And would you agree that the IRS only provided you
11 with her income tax returns for 2017 and 2018?

12 A That is correct; yes.

13 Q Okay. And then you pulled information from some online
14 master file; right?

15 A Yes. That is correct.

16 Q And that's where you got the other information; correct?
17 Or strike that.

18 That's where you pulled information from which you
19 relied on in creating these charts; right?

20 A Well, that is information that either I did use that
21 information and the corroborated information that I had from
22 the California Department of Labor records.

23 Q Okay. So and the California Department of Labor records
24 would be the records that OneTaste would have disclosed;
25 correct?

Lubin - recross - Bonjean

4365

1 A I don't understand the question.

2 Q You're not looking at Department of Labor records for Ms.
3 Daedone. You're looking at the Department of Labor records
4 for the entity that's paying out for the labor; right?

5 A I'm looking at the information by OneTaste or Caravan
6 Retreats, Inc. or whatever entity reported by individual,
7 okay, to the California Department of Labor.

8 Q You mean listed by individual?

9 A Yeah.

10 Q Not by the individual?

11 A Yes. That is correct. That is correct. Listed by
12 individual. Thank you.

13 Q But that's what I'm asking.

14 What you looked at primarily was what OneTaste or
15 whatever related entities disclosed or reported -- that's the
16 better word -- reported to the Department of Labor?

17 A That is correct, which tied out to -- equaled the
18 information in the IRS records.

19 Q Okay. And these IRS records, you're talking about a file
20 that's online; right?

21 A I'm talking about the two -- the groups of records, the
22 transcripts that we have here and the, you know, plus the data
23 returns.

24 Q The transcripts, there were no records for -- there were
25 no transcripts for the years 2007 through 2014; right?

Lubin - recross - Bonjean

4366

1 A Oh, that is correct. That was -- those years are just
2 what the individual reported as opposed to what the company
3 reported.

4 Q Right.

5 And I'm focusing right now on Ms. Daedone, just the
6 individual. So all you really had to work with going back to
7 pre-2015, meaning 2007 to 2015, was this master file online;
8 right?

9 A Yes. The information that was reported by either her or
10 the preparer to the IRS. That's correct.

11 Q Do you know what information is contained in that master
12 file? Is it just like brute numbers or does it have -- or all
13 the information you would find in an individual tax return?

14 A It had specific numbers reported from the -- it would
15 have the 1099, it would have the W-2 information, for example.

16 Q Okay.

17 A As well as other information, just as we saw in the
18 previous screen a little bit ago.

19 Q So that screen we looked at, is that an example of an
20 online file?

21 A That is the -- yes, the \$32,000-whatever figure.

22 Q Forty and 1550?

23 A Yeah.

24 Q But that information was just like a little -- if we're
25 speaking the same language, that was just like a little, I

Lubin - recross - Bonjean

4367

1 guess transcript almost or like a little entry. It wasn't an
2 entire tax return; right?

3 A That is a specific amount that is -- that is fed from the
4 tax return.

5 Q Right.

6 So you're not able to look at that and, for
7 instance, tell whether she had any deductions; right?

8 A I was focusing on simply the reported income.

9 Q Right.

10 And you have no idea whether she had, for instance,
11 income from other sources; right?

12 A There are other -- there is income reported, but, again,
13 I was just isolating in those records the income that I could
14 attribute to OneTaste, Inc.

15 Q Okay. And you were asked questions about the assumption
16 that people comply with subpoenas; right? Do you remember
17 that question?

18 A Yes, I do.

19 Q You have no idea, though, whether entities comply with
20 subpoenas either purposefully or maybe inadvertently, right,
21 that they failed to comply?

22 A I believe that entities, when they receive a Grand Jury
23 subpoena, reply to the subpoena to the best of their ability.

24 Q Okay. That's fair.

25 But as you sit here today, for instance, Intuit, you

Lubin - recross - Bonjean

4368

1 have no idea whether someone made a mistake or whether it was
2 complete. You don't have firsthand knowledge about that;
3 right?

4 A Oh, I have a high degree of certainty that the records
5 from Intuit were complete. It shows the individuals and it
6 shows the -- it shows it was filed with the IRS.

7 I have no reason to believe that the Intuit records
8 aren't complete, let me put it that way. If I saw those
9 records and if I saw like there was a page missing or, you
10 know, we had -- we go from A to B and then we start with
11 people -- with letters M through Z, I would say, yeah, I'm
12 missing something.

13 But I didn't see that. Everything I saw looked
14 complete in my eyes.

15 Q Yeah. My question is a little different.

16 I understand that you have no reason to believe it's
17 incomplete. You don't have firsthand information one way or
18 the other?

19 A I cannot say with absolute certainty it's, you know,
20 everything -- the information is perfect, but I saw nothing in
21 those records to show me it was incomplete.

22 Q Okay. And you said on that chart we looked at for the
23 employees, select employees -- or select individuals I think
24 it said up at the top -- do you remember that?

25 You said you wanted to capture every penny that you

Lubin - recross - Bonjean

4369

1 could capture. Do you remember that?

2 A Yes.

3 Q Okay. But you can only capture anything they were --
4 anything that was reported; right?

5 A I can only capture the information that was provided to
6 me.

7 Q Right. And that's the only information that was
8 reported; correct?

9 A That was W-2 information, Intuit records, the Department
10 of Labor in New York and the Department of Labor in
11 California, and records provided by the accountant.

12 Everything I could capture, that's what I used to
13 compile that data.

14 Q So you looked at -- you looked from top to bottom at the
15 records you were provided?

16 A Absolutely. I wanted to capture -- I didn't want to
17 understate anybody's income.

18 Q Okay. I'm not suggesting you do. I'm just asking you
19 could only go off of what was reported from the materials that
20 you were provided; right?

21 A I could only -- I could only show the numbers of
22 information that I have.

23 Q Okay. Thank you.

24 MS. BONJEAN: I have nothing further.

25 MR. ROBOTTI: Nothing further, Your Honor.

Lubin - recross - Bonjean

4370

1 THE COURT: Okay. The witness may step down.

2 THE WITNESS: Thank you.

3 (Witness steps down.)

4 THE COURT: It's about 3:30. We'll take our
5 afternoon break now. We'll come back at a quarter to 4:00.

6 Have a good break. Don't talk about the case. Keep
7 an open mind.

8 (Jury exits the courtroom.)

9 THE COURT: Everyone can sit.

10 I have a question.

11 Ms. Cohen, whose phone is Ms. Cherwitz using?

12 MS. COHEN: Oh, it's my phone. She's not using it,
13 but I had information I wanted her to see about the case.

14 THE COURT: Okay. It's your phone?

15 MS. COHEN: Yes. Yes.

16 THE COURT: Thank you for that clarification.

17 I'll see you at a quarter to 4:00.

18 MS. COHEN: Thank you.

19 (Recess taken.)

20 THE COURT: Okay. We can bring in the jury.

21 MS. BENSING: So, Your Honor, I just want to flag
22 for the Court briefly that we do not anticipate calling the
23 victim-witness we mentioned.

24 THE COURT: Okay.

25 MS. BENSING: So the next witness will be the FBI

Proceedings

4371

1 summary witness. I understand the defense is just going to
2 lodge objections document-by-document.

3 THE COURT: Okay.

4 And do I have this set or --

5 MS. FARRELL: Yes.

6 MS. BENSING: It was the set that was previously
7 provided to the Court.

8 MS. FARRELL: That has the color-coded chart in the
9 front with the blanks for defense objections.

10 THE COURT: Andrew Punzo?

11 MS. BENSING: Yes.

12 THE COURT: Give me one minute. I'm not sure that I
13 have the chart down here. Do you have an extra one? Although
14 I'm not quite sure I need the chart if we're just going to be
15 doing this in realtime.

16 MS. BONJEAN: Well, Your Honor, we do have a chart
17 with our objections, but I think we need to maybe put it on
18 the record anyway. I don't know how the Court wants to do it
19 and --

20 THE COURT: Yes. At this point, I'm not going to be
21 reviewing a 20-page chart with various objections. So you
22 might as well object as the evidence comes in.

23 MS. BONJEAN: I think generally speaking although,
24 Your Honor, we do take the position that the individuals who
25 -- some of the individuals on these texts exchanges, the

Proceedings

4372

1 Government has not made a prime fascia showing or a sufficient
2 showing of co-conspirator.

3 I don't think they're putting on anymore witnesses,
4 so I don't know if it will be subject to -- you know, I just
5 want to let the Court know that I think that's our position.

6 THE COURT: Okay.

7 MS. BENSING: We just noted multiple different bases
8 for admission, so if the Court does not find that a particular
9 individual is a co-conspirator even though the Government
10 believes it has established that, almost all of these are with
11 the defendants themselves.

12 THE COURT: Okay. We'll bring in the jury and then
13 you can call your witness.

14 (Jury enters.)

15 THE COURT: Okay. Everyone may be seated.

16 And the Government may call its next witness.

17 MS. GUPTA: Your Honor, the Government calls Special
18 Agent Andrew Punzo.

19 THE COURTROOM DEPUTY: Please step up, remain
20 standing and raise your right hand.

21 (Witness sworn.)

22 THE COURTROOM DEPUTY: Please be seated. State your
23 full name for the record, spell your last name slowly. Please
24 use the microphone.

25 THE WITNESS: Andrew Punzo, P-U-N-Z-O.

Punzo - direct - Gupta

4373

1 THE COURT: Ms. Gupta, you may proceed.

2 MS. GUPTA: Thank you.

3 **ANDREW PUNZO,**

4 called as a witness, having been first duly
5 sworn/affirmed, was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MS. GUPTA:

8 Q Good afternoon.

9 Where do you work?

10 A Federal Bureau of Investigation.

11 Q Is that known as the FBI?

12 A Yes.

13 Q What is your title there?

14 A Special Agent.

15 Q How long have you been a special agent?

16 A A little over three years.

17 Q Are you assigned to any particular group or squad?

18 A Yes.

19 Q Which one?

20 A Civil rights.

21 Q Generally speaking, what are your duties and
22 responsibilities in that role?

23 A Investigate violations of federal law, collect evidence
24 and conduct operations like arrests and search warrants.

25 Q And what did you do before you were a special agent with

Punzo - direct - Gupta

4374

1 the FBI?

2 A I was an attorney.

3 Q And are you based in New York?

4 A Yes.

5 Q Are you familiar with John F. Kennedy International

6 Airport?

7 A Yes.

8 Q Is it sometimes called JFK Airport?

9 A Yes.

10 Q And where is it located?

11 A Queens.

12 Q Are you familiar with La Guardia Airport?

13 A Yes.

14 Q And where is that located?

15 A Queens.

16 Q Are you aware of an investigation into Nicole Daedone and
17 Rachel Cherwitz?

18 A Yes.

19 Q Are you one of the case agents?

20 A No.

21 MS. GUPTA: Your Honor, at this time, I would like
22 to move to admit into evidence pursuant to Federal Rules of
23 Evidence 803(6), 902(4), 902(11), and 902(13) the following
24 self-authenticated exhibits: Government Exhibits 585, 822 and
25 822-A, and 3767.

Punzo - direct - Gupta

4375

1 THE COURT: Any objections? Do you need a minute?

2 MS. BONJEAN: Yes.

3 THE COURT: Do you want to let me know what tabs
4 they're in?

5 MS. GUPTA: Yes, Your Honor.

6 THE COURT: Or just hand them up separately,
7 whatever is easier.

8 MS. GUPTA: 822 and 822-A are tab 62 and 62A.
9 Government Exhibit 585 -- oh, I'm sorry.

10 THE COURT: Give it to me.

11 MS. GUPTA: 62 and 62-A. And then Government
12 Exhibit 585 is at tab 66.

13 THE COURT: The last one?

14 MS. GUPTA: 3767 is at tab 63.

15 THE COURT: Okay. Let me take a look at those.
16 Do you have any objection?

17 MS. COHEN: Sorry. One moment.

18 THE COURT: No, just take your time.

19 MS. GUPTA: Your Honor, could I just have a moment
20 to point defense counsel to --

21 THE COURT: Sure.

22 MS. BONJEAN: I don't think I have an objection,
23 Your Honor. One second.

24 THE COURT: I'm still trying to find some of these.

25 MS. GUPTA: I'm sorry, Your Honor.

Punzo - direct - Gupta

4376

1 THE COURT: The number you're cross-referencing with
2 the tabs is not the smoothest, but give me a minute.

3 Defendants can let me know when they're ready and
4 have had a chance to look at it.

5 MS. BONJEAN: I have no objection.

6 MS. COHEN: No objection, Your Honor.

7 THE COURT: Let me make just sure I have the right
8 numbers: Government Exhibit 585, 822, 822-A and 3767.

9 And no objection from the defense?

10 MS. COHEN: No objection, Your Honor.

11 MS. BONJEAN: No objection.

12 THE COURT: All four of those are admitted.

13 MS. GUPTA: Thank you, Your Honor.

14 (Government's Exhibits 585, 822, 822-A and 3767 were
15 received in evidence.)

16 MS. GUPTA: Thank you, Your Honor.

17 Can we please go to Government Exhibit 822 and
18 publish to the jury.

19 (Exhibit published.)

20 Q Special Agent Punzo, what is this document?

21 A This is Google subscriber information.

22 Q What are subscriber records?

23 A Information about an individual for an account.

24 Q What account is this for?

25 A ndone1@gmail.com.

Punzo - direct - Gupta

4377

1 Q And who is the subscriber for this account?

2 A Nicole Daedone.

3 Q And when was the account created, according to these
4 records?

5 A November 9th, 2006.

6 MS. GUPTA: We can take that down. Thank you.

7 Could we pull up for the witness only Government
8 Exhibit 1030?

9 And, Your Honor, this is tab one in the binder.

10 THE COURT: Thank you.

11 Q Special Agent Punzo, what is this?

12 A An e-mail.

13 Q What is the date of the e-mail?

14 A October 7th, 2009.

15 Q I'm sorry. Who is this from?

16 A Nicole Daedone.

17 Q And who is it to?

18 A reesejones1@msn.com.

19 Q Is anyone cc'd?

20 A yia.v.vang@gmail.com.

21 Q And does this appear to be a fair and accurate depiction
22 sent from NDone1@gmail.com on October 7th, 2009?

23 A Yes.

24 MS. GUPTA: Your Honor, we move to admit Government
25 Exhibit 1030.

Punzo - direct - Gupta

4378

1 THE COURT: Any objection?

2 MS. BONJEAN: Yes, Your Honor. We object on
3 relevance; hearsay.

4 THE COURT: Ms. Cohen? Is it from Rob?

5 MS. COHEN: No. And join, as well as cumulative.

6 THE COURT: Give me a moment, please.

7 Overruled. Government Exhibit 1030 is admitted.
8 (Government's Exhibit 1030 received in evidence.)

9 MS. GUPTA: Thank you.

10 Could we please publish to the jury?

11 (Exhibit published.)

12 Q Special Agent Punzo, I'll just ask you to read through
13 this e-mail from the top.

14 A Good morning, Reese. I apologize if I caught you off
15 guard this morning. I am never quite sure when or how to
16 broach these topics without inspiring a small cyclone.

17 I have several things that I would like to handle.
18 I will put them in e-mail form to give you a chance to go over
19 at your leisure.

20 One, as I mentioned earlier for you to call Glowgow
21 and set up payment for services today. The number is
22 564-1621.

23 Two, please sign me up for the following two writing
24 classes starting October 20th, but will fill up. And there is
25 a link following that.

Punzo - direct - Gupta

4379

1 Three, I would like to order those boots. They are
2 the Golden Goose knee-high cowboy boots size 10, from the
3 Broadway New York store. The person that Yia was speaking to
4 was Emmanuel at the San Francisco store and the number is
5 268-3563.

6 Four, I would like to go to go to Tahoe Saturday
7 through Thursday around noon, sink in and write.

8 Five, I would like to set up appointment for us on
9 Friday for acupuncture in the afternoon. Does this work for
10 you?

11 Six, I was also thinking of a Thursday night massage
12 at the Ayurvedic place on Hayes. Does this work for you?

13 Seven, I had an agent contact me on Facebook. I
14 will forward.

15 I know, I know -- I know, I know we have David, but
16 just in case, since David seems a bit difficult at best to
17 reach.

18 Eight, let's look at when we want to return to New
19 York, if we could to do the planning. There are two plays I
20 would like to see and perhaps meet this agent and do other
21 coaching intro and you can meet the CEO.

22 Nine, I am also thinking about closet and flooring
23 for my room. It may be too earlier, but to let you know it's
24 on my mind.

25 Ten, the Sun Conference. Did you sign up for it?

Punzo - direct - Gupta

4380

1 It's the one on October 30 and November 1 in Eselen. Maybe
2 bring Kelly? Just a thought.

3 Eleven, Kelly will be out on November 14/15 and will
4 need a place. The apartment would work fine.

5 Twelve, I suspect then that we need to talk about
6 apartments and a longer term plan, so let's schedule to
7 discuss. Mint Street, the house, and Stinson. Maybe Saturday
8 on the way up to Tahoe.

9 I think that's it. Thank you for the New York
10 experience. I feel like a lot got cleared.

11 I love my new suitcase and tennies. Thank you. But
12 mostly, it was the time and depth we got to go to, open
13 parenthesis, doesn't this make it seem like I am that woman on
14 the plane from the Upper East Side who was very, very
15 organized? Close parenthesis. Love you, comma, N.

16 MS. GUPTA: Thank you.

17 Can we pull up for the witness only Government
18 Exhibit 1055 and this is tab 2.

19 Q Special Agent Punzo, what is this document?

20 A An e-mail.

21 Q Who is it from?

22 A rachelcherwitz@onetaste.us.

23 Q And who is it to?

24 A Reesejones1@gmail.com.

25 Q Is anyone cc'd or bcc'd here?

Punzo - direct - Gupta

4381

1 A Yes bcc'd, NDone1@gmail.com.

2 Q And what is the date?

3 A October 31st, 2011.

4 Q Does this appear to be a fair and accurate e-mail from
5 Rachel Cherwitz at OneTaste.US to ReeseJones@gmail.com and
6 Nicole Daedone?

7 A Yes.

8 MS. GUPTA: Your Honor, we move to admit Government
9 Exhibit 1055.

10 THE COURT: Objection?

11 MS. COHEN: Relevance.

12 MS. BONJEAN: Relevance.

13 Relevance, 403; hearsay.

14 THE COURT: Overruled.

15 Government Exhibit 1055 is admitted.

16 MS. GUPTA: Thank you. Can we please publish to the
17 jury?

18 (Government's Exhibit 1055 received in evidence.)

19 (Exhibit published.)

20 Q Special Agent Punzo, I will ask you to read through this,
21 please.

22 A Hi, Reese. I miss you and Bax. The trip has been
23 amazing. IN group was packed with 22 new bright players. Two
24 people signed up for the OM class. One woman registered for
25 the turned on woman's course in SF. Nicole knocked their

Punzo - direct - Gupta

4382

1 socks in the class.

2 On Saturday, the room was thick with electrical turn
3 on. The demo was sexy, deep and rich. Was Yia sat up, the
4 room was sitting fat in her orgasm. They couldn't get enough.
5 All but two stayed to OM. The get off was honey sweet and
6 golden.

7 Since arriving here Thursday night, we have made a
8 total of \$9,400. OM class, \$2,600. TOW enrollment, \$300.
9 Coaching, \$6,700. All in all, I would say the trip has been
10 wildly successful.

11 Looking forward to returning home with all the turn
12 on and continuing the upward motion of sales. See you
13 tonight. XOXO, Rachel.

14 MS. GUPTA: Thank you.

15 Can we please show for the witness only Government
16 Exhibit 1074-DR, which is tab 23-D.

17 Q Special Agent Punzo, what is this?

18 A A chat.

19 Q Between who?

20 A Nicole Daedone and an unknown individual.

21 Q And what is the date of this chat?

22 A February 3rd, 2012.

23 Q Is what is depicted here an easier to read version than
24 the original exhibit that you reviewed, Government Exhibit
25 1074?

Punzo - direct - Gupta

4383

1 A Yes.

2 Q Is this a fair and accurate depiction of Government
3 Exhibit 1074?

4 A Yes.

5 MS. GUPTA: Your Honor, we'd move to admit
6 Government Exhibit 1074-DR into evidence.

7 THE COURT: I don't think I'm looking at the right
8 thing, I'm sorry. 1074?

9 MS. GUPTA: Yes. It should be tab 23-D.

10 MS. BONJEAN: Is it a subsection?

11 MS. GUPTA: It has a redaction on top.

12 THE COURT: Give me one moment.

13 Was this document -- was this the subject of a
14 stipulation read last week or earlier?

15 MS. GUPTA: It is subject to the authenticity
16 stipulation, yes.

17 THE COURT: Do you have a copy of the stipulations
18 that these are subject to?

19 MS. GUPTA: Yes, I can hand it up.

20 THE COURT: Why don't you do that?

21 And it would be helpful if you could indicate, when
22 you are dealing with a document, that it's subject to a
23 stipulation because the stipulations have a lot of exhibit
24 numbers.

25 MS. GUPTA: Yes, Your Honor. I will do that.

Punzo - direct - Gupta

4384

1 THE COURT: I think it will be easier for the
2 defense to follow and it's certainly easier for the Court to
3 follow that. Thank you.

4 So, now, you are offering 1074-DR, is that correct?

5 MS. GUPTA: Yes, Your Honor.

6 THE COURT: I'm sorry. Were there objections?

7 MS. COHEN: Yes, Your Honor. Hearsay.

8 MS. BONJEAN: Relevance and cumulativeness.

9 THE COURT: Okay. Give me one moment, please.

10 MS. BONJEAN: I'd also say foundation, Your Honor,
11 to this one.

12 THE COURT: Overruled.

13 Government Exhibit 1074-DR is admitted.

14 (Government's Exhibit 1074-DR received in evidence.)

15 MS. GUPTA: Could we please publish to the jury?

16 (Exhibit published.)

17 Q Now, Special Agent Punzo, I will ask you to start reading
18 at page 2, starting at the message at 10:42:18 a.m.

19 MS. GUPTA: And if we can scroll up a little bit?

20 There we go.

21 Q Can you tell us who is this chat between?

22 A Nicole Daedone and an unknown individual.

23 Q Okay. So I will ask you to please read Nicole Daedone,
24 and I'll read the unknown individual.

25 So starting at 10:42:18 a.m.: Was Reese like this

Punzo - direct - Gupta

4385

1 for you in the beginning?

2 THE COURT: Where are you?

3 MS. GUPTA: I'm on page 2, the chat at 10:42:18 a.m.

4 THE COURT: Okay. Go ahead.

5 Q Was Reese like this for you in the beginning?

6 A Well, Joanna, there's a difference.

7 Q Reese actually got it and you were skilled.

8 A And he paid a million dollars and loaned a million more.

9 Q Exclamations. And a whole team.

10 A BTW book launch countdown should be at the end of list on
11 blog.

12 Q Okay. I am seeing, seeing that I can accept Steve as a
13 game and take the things come as consequence. Take the things
14 that will result. Or, I cannot. I can back out and gain my
15 power in another way. There is something that tells me there
16 is a piece in there for me. And I must loose myself to do it,
17 I have also experienced this morning around work that will be
18 required -- exquisite attention on all things and nothing even
19 a bit extra. I had this realization and then Johnny and I
20 downloaded the next video. It's incredible. Came quickly.
21 And is it. We left immediately after the last words came.
22 It's going to be epic. I'm so grateful. For you. For
23 orgasm. For practice. For this life.

24 A Beautiful.

25 Q Special Agent Punzo, based on what you just read, who do

Punzo - direct - Gupta

4386

1 you believe this chat to be between?

2 MS. BONJEAN: Objection; speculation.

3 THE COURT: Sustained.

4 MS. GUPTA: Can we pull up Government Exhibit
5 1153-DR for the witness only? This is at tab 24-D.

6 THE COURT: This is also subject to the stipulation;
7 is that right?

8 MS. GUPTA: Correct, Your Honor.

9 Q Special Agent Punzo, what is this exhibit?

10 A A chat.

11 Q Between who?

12 A Nicole Daedone and an unknown individual.

13 Q On what date?

14 A August 15, 2012.

15 Q And does this appear to be a fair and accurate copy of
16 the original Government Exhibit, 1153 which is subject to an
17 authenticity stipulation?

18 A Yes.

19 MS. GUPTA: Your Honor, we move to admit Government
20 Exhibit 1153-DR.

21 THE COURT: Tell me the tab it is in.

22 MS. GUPTA: Tab 24E.

23 THE COURT: Any objection?

24 MS. BONJEAN: The same objection.

25 MS. COHEN: Join.

Punzo - direct - Gupta

4387

1 THE COURT: I'm going to ask you to respond to the
2 objections.

3 MS. GUPTA: Yes, Your Honor.

4 Were the objections as to relevance?

5 MS. BONJEAN: Relevance and foundation and hearsay,
6 because of lack of foundation.

7 MS. GUPTA: Your Honor, this corroborates existing
8 testimony that we have had as to need to pay Reese Jones.

9 MS. BONJEAN: And the cumulateness as well.

10 THE COURT: Overruled.

11 Government Exhibit 1153-DR is admitted.

12 (Government's Exhibit 1153-DR received in evidence.)

13 MS. GUPTA: Thank you.

14 Could we please publish to the jury.

15 Q Special Agent Punzo, I will ask you to read Nicole
16 Daedone's statement and I'll read the unknown individual.

17 A I want to tell you but I think you know. Any money in
18 goes to Reese as quickly as possible.

19 Q Yes, we are on the same page.

20 A Excellent. Keep Rob there as well. Smiley face.

21 Q I will. How do you like New York?

22 A It's awesome, Joe. I'm in my element. How are you?

23 MS. GUPTA: Could we please show the witness only
24 Government Exhibit 1166-D.

25 AND this is, Your Honor, at tab 26D. And this is

Punzo - direct - Gupta

4388

1 also subject to the stipulation, Your Honor.

2 THE COURT: Thank you.

3 Q Special Agent Punzo, what is this exhibit?

4 A A chat.

5 Q Between who?

6 A Joanna Van Vleck and Nicole Daedone.

7 Q On what date?

8 A September 10, 2012.

9 Q Is this a fair and accurate depiction of the original
10 Government Exhibit 1166 which is subject to stipulation
11 between the parties?

12 A Yes.

13 MS. GUPTA: Your Honor, we move to admit Government
14 Exhibit 1166-D into evidence.

15 MS. COHEN: Objection on hearsay and cumulative.

16 MS. BONJEAN: Maintain our objections also
17 previously raised and emphasize cumulativeness.

18 THE COURT: Overruled. Government Exhibit 1166-D is
19 admitted.

20 (Government's Exhibit 1166-D received in evidence.)

21 MS. GUPTA: If we could please publish to the jury.

22 Thank you.

23 Q Special Agent Punzo, what is the date of this exhibit?

24 A September 10, 2012.

25 Q Okay. I will ask you again to read Nicole Daedone's

Punzo - direct - Gupta

4389

1 statement and I'll read Joanna Van Vleck's statement.

2 A Can you do immediately? Today's exec meeting is figuring
3 out how to pay off Reese loan in full by Thursday.

4 Q It's Tracy soon to be ex-husband. And yes, I can do
5 immediately, whoo-hoo. Yes.

6 A We need everyone posting daily on own OM hub and cp and
7 Ken should be on there as an expert it will help his coaching
8 practice as well.

9 Q Yes.

10 A Daily. Everyone. Without fail.

11 Priorities one, Reese money.

12 Two, daily income.

13 Three, hold students incl posting and check ins and
14 making sure boh is on 4. Set up turn on training.

15 Five, London secured so we aren't losing money.

16 Q Got it.

17 MS. GUPTA: Could we please show witness only
18 Government Exhibit 1169-DR, which is tab 27D. This also
19 subject to the stipulation.

20 Q Special Agent Punzo, what is this?

21 A A chat.

22 Q Between who?

23 A Nicole Daedone and Joanna Van Vleck.

24 Q On what date?

25 A September 12, 2012.

Punzo - direct - Gupta

4390

1 Q Is this a fair and accurate depiction of Government
2 Exhibit 1169 which is subject to stipulation?

3 A Yes.

4 MS. GUPTA: Your Honor, we move to admit Government
5 Exhibit 1169-DR.

6 MS. COHEN: Same objection: Cumulative and hearsay.

7 MS. BONJEAN: Same objection.

8 THE COURT: Overruled.

9 Government Exhibit 1169-DR is admitted.

10 (Government's Exhibit 1169-DR received in evidence.)

11 Q And Special Agent Punzo, again, I'll read Joanna Van
12 Vleck's statements and ask you to read Nicole Daedone's.

13 Rob and I just got done with Reese. We walked away
14 with Reese getting a quote settlement number to us by Sunday
15 as to what he will feel comfortable with to end this
16 relationship. We will negotiate from there based on what he
17 brings back. It was civil. He does not know if possible,
18 very soon buyout.

19 A Aha. Does he know the number we owe him?

20 Q We had an agreed upon \$1 million. We were asking him to
21 agree that is all. He was squirming. He doesn't want to
22 make, quote, records available of any money owed over and
23 above 600K, the wire transfers to Caravan.

24 A But wait, Jo. We only owe him 400K more after today,
25 right?

Punzo - direct - Gupta

4391

1 Q That's the part he's trying to squirm on. And when I
2 asked him for records, he squirmed too.

3 A Okay. You Gita need to pin him.

4 Q Absolutely. We agree he would come with numbers Sunday
5 and we would negotiate. Made it clear there would be
6 negotiations.

7 A Okay. I'm not sure we should have talked to him until we
8 had money. We should have said this amount in cash, open
9 parenthesis, according to our records, closed parenthesis, for
10 continued payments, period.

11 I'm not sure why you have him squirm room. I
12 totally agree. Where's Rob?

13 (Continued on next page.)

14

15

16

17

18

19

20

21

22

23

24

25

Punzo - direct - Gupta

4392

1 DIRECT EXAMINATION (Continues)

2 BY MS. GUPTA:

3 Q I am going to get you and us free of us. There is no
4 other way.

5 He went to put his laundry in. Reese still sitting
6 on couch at 1080.

7 He won't go.

8 A I think we owe Reese 400k. We offer him that in cash.
9 Maybe minus interest. That's it. Period.

10 He does.

11 Q I did feel a lot of compassion. He has a lot of crazy
12 shit happening in his life.

13 A He's probably in shock. The man really loves us. The
14 fear has gripped him -- the fear has him gripped.

15 You need to not let Rob's fear run this show.

16 How much did you give Reese today?

17 Joanna.

18 Q Just -- just done with OM. Sorry I missed you. We gave
19 him 53k.

20 A So you and Rob need to discuss how it was that you gave
21 Reese this squirm room. It's a major pain in my ass. We are
22 the ones holding the cards.

23 Q He's getting his laundry. Rob handed him an envelope. I
24 didn't see what was inside.

25 A Where's Rob? Did Reese sign the contract today getting

Punzo - direc. - Gupta

4393

1 me out of the media contract?

2 Q I saw a letter yesterday informing him that a
3 relationship was over. Was there a contract with that?

4 A I got it, thanks.

5 MS. GUPTA: Can we show the witness for
6 identification only Government Exhibit 1222-DR, Tab 28-D.

7 And this is also subject to stipulation.

8 BY MS. GUPTA:

9 Q And, Special Agent Punzo, what is this?

10 A A chat?

11 Q Between who?

12 A Nicole Daedone and Joanna Van Vleck.

13 Q On what date?

14 A January 8th, 2013.

15 Q And is this a fair and accuract depiction of the original
16 Government Exhibit 1222 that's subject to stipulation?

17 A Yes.

18 MS. GUPTA: Your Honor, we move to admit Government
19 Exhibit 1222-DR.

20 MS. COHEN: Same objections as the last, Your Honor;
21 hearsay, cumulative.

22 MS. BONJEAN: Same objections; relevance, hearsay
23 and cumulativeness.

24 THE COURT: Overruled.

25 Government Exhibit 1222-DR is admitted.

Punzo - direc. - Gupta

4394

1 (Government's Exhibit 1222-DR, was received in
2 evidence.)

3 MS. GUPTA: Thank you.

4 And if we could please publish.

5 (Exhibit published.)

6 BY MS. GUPTA:

7 Q Special Agent Punzo, I'll again ask you to read Nicole
8 Daedone and I'll read Joanna Van Vleck.

9 A Now, what we need is the massive enrollment and press
10 released.

11 Q Yes. Massive awareness around it.

12 A If each city does 100 people, we are cool. Talk to
13 Reese.

14 Q K. I will text him now. Texting with Reese now.

15 A Great. Messages from your orgasm are awesome, by the
16 way.

17 Q Thank you. I connected to a man last night who is going
18 to help us make them, quote, shareable from the e-mail format
19 they come in, I'm excited for them to spread. They have 50 to
20 60 percent open rate, which Leanne says is unheard of.

21 A They really are amazing, Jo.

22 Q Emoji. Update. I've had two meetings with people in
23 sales consultant-type roles. They are very different. One is
24 scrappy and could work more quickly. Doug is larger scale and
25 he will take longer. Both were initial conversations. I am

Punzo - direct - Gupta

4395

1 following up with materials and we will talk again early next
2 week.

3 I just met with Reese for an hour. First note, I
4 can't believe you lived in that house for so long. It doesn't
5 feel like you at all. Secondly, he had a few ideas. The
6 biggest was that he thought we should charge less and not use
7 the number 1000 in the title. Don't tell how many people you
8 want to have there.

9 A Oh, Jesus, and girl I die whatever it takes to keep the
10 doors open. Emoji.

11 Q Emoji.

12 MS. GUPTA: If we could show the witness only
13 Government Exhibit 1596-DR, which is Tab 39-D.

14 And, Your Honor, this is also subject to the
15 stipulation.

16 MS. BONJEAN: Did you say 1596?

17 MS. GUPTA: 1596-DR.

18 BY MS. GUPTA:

19 Q Special Agent Punzo, what is this?

20 A A chat.

21 Q Between who?

22 A Ms.joannav@me.com and Nicole Daedone.

23 Q On what date?

24 A August 4th, 2014.

25 Q And is this a fair and accurate depiction of the original

Punzo - direc. - Gupta

4396

1 Government Exhibit 1596?

2 A Yes.

3 MS. GUPTA: Your Honor, we move to admit Government
4 Exhibit 1596-DR.

5 MS. COHEN: Your Honor, objection to relevance,
6 hearsay and cumulative again.

7 MS. BONJEAN: Join.

8 THE COURT: Overruled.

9 Government Exhibit 1596-DR is admitted.

10 (Government's Exhibit 1596-DR was received in
11 evidence.)

12 (Exhibit published.)

13 BY MS. GUPTA:

14 Q And, Special Agent Punzo, again, I'll read msjoannav and
15 ask you to read Nicole Daedone.

16 Note about London. The team there is meeting with
17 Adam Spanier in 45 minutes. RH is saying she thinks he will
18 want to put in 100k pounds and be a bigger part of the team.

19 A Oh wonderful. Brooke's money.

20 Q Yes. She has all the final pieces she needs. I will
21 check with her now on when she transfers.

22 NYC has a list of things they are doing today.

23 They are in motion.

24 Meeting with Maya's mom on Wednesday.

25 I have a list of all things needed for cities today

Punzo - direc. - Gupta

4397

1 and this week.

2 Currently, LA and NYC are moving the fastest.

3 London is coming up quickly. FYI, I still have no texts from
4 SF.

5 A Yeah, they are going to text with each other for a while.

6 Q Ok. Justine just text Marcus and asked if he would talk
7 to her about how he got money in. Shall he talk to them?

8 A Argh. His response should be with a lot of help and talk
9 to Jo.

10 Q And I'll just ask you to pick back up at the message at
11 12:48:16.

12 A I need an accounting of all money given to Reese
13 following the loan repayment ASAP.

14 Q Oak. Getting it now. Rough estimate is between 5k and
15 10k. Getting accurate now.

16 A It's more than that.

17 Q Ok. That was a rough estimate. Getting figures from
18 QuickBooks now.

19 A You're positive.

20 Q Ok. Got it. From OT, Inc. total equals 24,000 8/19 --
21 or August 19th, 2013 equals 2,500; July 25th, 2013 equals
22 3,000; June 28th, 2013 equals 2,000; June 27th, 2013 equals
23 1,000; March 25th, 2013, equals 3,500; September 10th, 2012
24 equals 12,000. Triple checking when the payoff date was for
25 the big loan.

Punzo - direc. - Gupta

4398

1 A And where are we at with the money?

2 I need all focus on money today.

3 Closing cities collecting, et cetera.

4 And a good vision of where we are.

5 Is any of that from cities?

6 How much is owed out?

7 Q And I'm just going to ask you, Special Agent Punzo, to
8 pick back up on the 1:16:18 p.m. on page 5.

9 A And 150 goes to Justine of that goes through.

10 Q Yes. 150k goes to Justine. We will get 100k of that
11 back in about twenty days.

12 A So we are actually behind.

13 Q We are not behind utilizing the 100k that just came in
14 from Ravi. Justine's payout is calculated by using the city
15 proceeds for it.

16 Update on Reese money. The 12K listed was paid to
17 him before the big final payoff.

18 So the total money paid to him that is in our
19 records is 12K.

20 Since the loan payoff.

21 A Ok.

22 Q So, 12K total to Reese is what is in our books. That is
23 double-checked.

24 A Ok, thanks.

25 Q From OneTaste, Inc., total equals 12,000, August 19th,

Punzo - direc. - Gupta

4399

1 2013 equals 2,500; July 25th, 2013 equals 3,000, June 28th,
2 2013 equals 2,000; June 27th, 2013 equals 1,000; March 25th,
3 2013 equals 3,500.

4 Accurate total and dates for money to Reese above.
5 Yes.

6 A So LA and NYC come in when?

7 I need to pay Rob, but I need to give money -- give
8 Reese money. Have we paid Ippolita for the month?

9 Q We have till September 1st to pay Rob.

10 LA will close by then.

11 Ippolita has not been paid for the month, that will
12 be on the 23rd.

13 My apologies. It will be paid on the 25th.

14 It is 23k.

15 Let me do some math on our cash.

16 Here is where we are: We have 158k in our normal
17 business accounts, after we pay the checks we have written.
18 We have 200k in our prudent reserves if we pay Reese 100k and
19 Justine 155k. We will be left with 103k total, no prudent
20 reserves. The prudent reserves will be filling up again soon.

21 If Justine goes to London her 100k may come back
22 sooner at this rate, as London got a verbal yes on almost half
23 of their money today.

24 Both Justine and Reese payments are accounted for in
25 our proceeds from the city sales.

Punzo - direc. - Gupta

4400

1 A So we are getting how much by August 31st?

2 Ravi 100k in plus.

3 977 total.

4 Q And I'm going to ask you now if we could go to page 12 of
5 the document.

6 And, Special Agent Punzo, I'll just ask you to start
7 reading at 3:38:51 p.m.

8 A I am pushing them out SF very, very hard.

9 They will come back in nicer and more surrendered
10 and we will say basically if Chris is a yes, and yes we will
11 be talking to him. You are to accept him.

12 This tumescence will end. Period.

13 Q I like it.

14 On board.

15 Praise God.

16 A But only a quiet God.

17 Q Hearing it at a whisper from God.

18 A Sometimes Jo I will just be like, oh, my God, I am a
19 very, very hard core person. I wonder of that's okay.

20 Q You have are hard core from a deeper place of love than
21 most can feel.

22 A My God, it's like watching a me doing it and -- and
23 watching it and the watcher --

24 MS. BONJEAN: I'm going to object. There's some
25 inaccuracies in the reading, if you could -- I think.

Punzo - direc. - Gupta

4401

1 THE COURT: Do you want to just read that last part
2 again?

3 Q So, Special Agent Punzo, I'll just ask you to read the
4 message at 4:06:40 again.

5 THE COURT: It might be easier. Do you have a hard
6 copy?

7 MS. GUPTA: He does.

8 THE COURT: Whatever is easier for you to read it
9 more accurately, the screen or the hard copy.

10 Go ahead.

11 A My God, it's like there's a me doing it and -- and
12 watching it and the watcher is like, um, Nicole I'm not so
13 sure this is on.

14 Ok.

15 Q Asterisk you are. It's beautiful.

16 A It won't be stopped so I sure hope it's God's will.

17 Q God is with us. I know that for sure.

18 A Phew.

19 Q God's will is coming through.

20 A Ok, then it's mighty strong.

21 And a little controlling.

22 It's like it's generous, but as soon as someone gets
23 greedy or pissy, look out.

24 Q That came to me today. That it's an intense gain and it
25 feels there are places where it's getting more exacting.

Punzo - direct - Gupta

4402

1 Like, greed.

2 That was the one that came to me today.

3 A Yes.

4 MS. GUPTA: Okay.

5 Could we pull up for the witness only Government

6 Exhibit 1604-DR, which is Tab 40-D.

7 And this is also subject to the stipulation, Your
8 Honor.

9 BY MS. GUPTA:

10 Q Special Agent Punzo, what is this?

11 A A chat.

12 Q Between who?

13 A Nicole Daedone and Justine Dawson.

14 Q On what date?

15 A August 12th, 2014.

16 Q And is this a fair and accurate depiction of the original
17 Government Exhibit 1604 that's subject to stipulation?

18 A Yes.

19 MS. GUPTA: Your Honor, we move to admit Government
20 Exhibit 1604-DR.

21 MS. COHEN: Same objection, Your Honor.

22 MS. BONJEAN: Join.

23 MS. COHEN: Cumulative and hearsay.

24 THE COURT: Overruled.

25 Government Exhibit 1604-DR is admitted.

Punzo - direc. - Gupta

4403

1 (Government's Exhibit 1604-DR was received in
2 evidence.)

3 MS. GUPTA: And if we could please publish.

4 (Exhibit published.)

5 MS. GUPTA: Thank you.

6 BY MS. GUPTA:

7 Q And, Special Agent Punzo, who is this chat between?

8 A Nicole Daedone and Justine Dawson.

9 Q So I'll read Justine Dawson, and I'll ask you to read
10 Nicole Daedone.

11 Brian talks to dad Thursday and then comes to SF
12 Friday.

13 So, hopefully, we can land him Friday. He told Paul
14 he actually feels really good with Jeff. He wants to follow
15 another investor's lead and the terms they agree to. So them
16 talking could be good. Because Jeff isn't so concerned with
17 the details in the way Brian is.

18 A Oh, good.

19 We should ask Reese to sit in with them.

20 And somehow reward Reese.

21 Q Oh, that's a great idea. I'll text Reese and ask him.

22 That will probably soothe Brian too -- to hear from
23 a vc like Reese.

24 A Yes.

25 Q Oh.

Punzo - direc. - Gupta

4404

1 You're pretty sure he won't add any charge, yeah?

2 A Well, 80 percent, sure.

3 Q Ha ha. Yeah. It's all a risk. I can talk to him first
4 too.

5 A But Reese will need compensation if some kind.

6 Q Like financial?

7 A Something.

8 You can work out what feels ethical and good.

9 Q Ok. Let me talk to Nat and Paul. Maybe we could have
10 him over for a dinner. We don't even have money to pay them
11 yet.

12 A But when I pay him off that ended all, quote favors.

13 For OneTaste.

14 Just an FYI.

15 Q Got it. Yes. Let's not accrue any more, quote, debt.

16 A Precisely.

17 MS. GUPTA: If we could now pull up for the witness
18 only Government Exhibit 1258-DR, which is at Tab 32-D, and is
19 also subject to stipulation.

20 BY MS. GUPTA:

21 Q Special Agent Punzo, what is this?

22 A A chat.

23 Q With who?

24 A Joanna Van Vleck and Rachel Cherwitz.

25 Q On what date?

Punzo - direct - Gupta

4405

1 A May 12th, 2013.

2 Q And is this a fair and accurate depiction of the original
3 Exhibit 1258 subject to stipulation?

4 A Yes.

5 MS. GUPTA: Your Honor, we moved to admit Government
6 Exhibit 1258-DR.

7 MS. COHEN: Your Honor, objection on hearsay,
8 relevance and 403.

9 MS. BONJEAN: Join.

10 THE COURT: Overruled.

11 Government Exhibit 1258-DR is admitted.

12 (Government's Exhibit 1258-DR was received in
13 evidence.)

14 MS. GUPTA: If we could please publish.

15 (Exhibit published.)

16 MS. GUPTA: Thank you.

17 BY MS. GUPTA:

18 Q So, Special Agent Punzo, for this one I'll ask you to
19 read Rachel Cherwitz, and I will read Joanna Van Vleck.

20 And I will start at page 2, 9:59:44 a.m. or, sorry,
21 if you could start at page 2, 9:59:44 a.m.

22 A Oh boy.

23 Q FYI Maddie is asleep. I am waking her the fuck up. It's
24 10:00 a.m. No mic runners. No hot water. No BOH rounding
25 people up.

Punzo - direct - Gupta

4406

1 A I'm here.

2 Q Drea said she isn't sure she wants to wake up?

3 A Yup. Hang on. She texting me.

4 Roy.

5 We are grounded this shit.

6 How your heart Jonanna?

7 Q It's open. Trembling.

8 Working to stay open.

9 A I have extra today, so I am sending you love.

10 Q Heart emoji.

11 A Maddie and I texting. She waking up.

12 Ok, how does it feel now?

13 Q She's rubbing her eyes.

14 A Ok, but how does it feel?

15 Ugh.

16 Q She not in the room.

17 How's it going with Drea?

18 A I just said, quote, are you sure you want to abdicate
19 responsibility here in a way I collude with you and render you
20 incapable, end quote?

21 It hard.

22 I know I'm still texting her.

23 Ok.

24 Q Maddie still asleep. She not hearing, rounding up

25 students, nothing.

Punzo - direct - Gupta

4407

1 A Sending Maya and Eli back.

2 Q K.

3 A What do you need? I will come back there if I need to.

4 Kim and Rob shouldn't have to. They teaching.

5 You don't have to do it all alone, lady.

6 I have a lot of extra.

7 Q We good. Kimmie and Rob are good. We holding it.

8 Thank you.

9 Heart emoji emoji.

10 A We are getting to the seed of it.

11 Q Good.

12 A I got the seed out.

13 She got stuck with Reese.

14 Q What was it?

15 Way back when?

16 A After Yia and Michelle moved out.

17 Q Wow. Ok.

18 A She didn't want to go through the sound barrier with her

19 Alex.

20 Asterisk sex.

21 Yeah.

22 Q Wow. Ok.

23 A I can feel Maddie again.

24 Q Awesome.

25 A Phew. How it feel to you?

Punzo - direct - Gupta

4408

1 Yeah, girl. It is.

2 She sobbing.

3 Big.

4 She pretty much admitted she using Drea as a shield
5 from it.

6 Q That is intense with Maddie.

7 Room feels good. Moving the energy.

8 Big exhale.

9 A Yeah.

10 Q Wow.

11 A I was just about to text you.

12 Q FYI, I just have Roy a stroke about going faster on his
13 list.

14 His responses are basically like...I don't have any
15 time.

16 A WTF.

17 Q Seriously. These biatches need to speed up.

18 A Dude.

19 Q He has the... on his screen. Means he's writing a long
20 ass response.

21 All that's needed is, quote, yes.

22 A Ha ha, I know. Bottom line it, bitch.

23 Q I need to give myself some flexibility here. There are
24 certain things you want right away and I have a sense of how
25 long it will take you [sic]. I have to juggle in non-OT

Punzo - direct - Gupta

4409

1 projects, I am part-time with you and I need to balance out
2 other things I am doing. I do not feel comfortable making
3 changes to the timeline right now. If I complete certain
4 things on time or ahead of time, I can move other things up.

5 That's from Roy.

6 How do I best educate here?

7 A We should just give him a schedule.

8 Q What I said in reply: Ok. It sounds like you have a lot
9 on your plate right now. I will hand this off to someone
10 else. When you're clear about what you want to do, we can
11 renegotiate.

12 A Ok. What did he say?

13 Q So, I'm going to skip ahead to page 11, starting at
14 11:20:47 p.m.

15 FYI, Roy getting his ass in gear in terms of
16 projects.

17 He has completed three today.

18 Now he's telling me via text he has worked nine
19 hours today.

20 A LOL.

21 Q Because he was afraid I would be mad and he's unhappy.

22 I am telling him we all work from fear. It's part
23 of getting ignition.

24 He says he hasn't left his couch.

25 What I want to say is... awesome, you are now

Punzo - direct - Gupta

4410

1 showing signs that you can get a day's worth of work done.

2 A Yes, and be loving and supportive. It's like training a
3 dog.

4 Q Emoji emoji heart.

5 A I know. Did you write back?

6 Q Something simple. He asked me to do fear inventory
7 emoji.

8 A He's an ass.

9 Q He cracks me up.

10 A Right.

11 Q Tonight I don't even care if he's mad at me.

12 A He does this thing that Drea does where he regurgitates
13 what he hears, but it's not true or integrated.

14 We so close to making the goal.

15 Girl, I'm tired of hustling.

16 I like to hunt, but hustling a lot of work.

17 Q You doing really well with the team.

18 A Emoji emoji.

19 Q Keeping them going and hiving and energizing.

20 A Thanks, Joj. They have to start lead grinning.

21 Asterisk genning.

22 Q Yes. Absolute.

23 A Emoji.

24 MS. GUPTA: Could we show the witness for
25 identification only Government Exhibit 1521-DR. This is at

Punzo - direc. - Gupta

4411

1 Tab 36-D. And it's also subject to stipulation.

2 BY MS. GUPTA:

3 Q Special Agent Punzo, what is this exhibit?

4 A A chat.

5 Q Between who?

6 A Rachel Cherwitz, plus-44793906992. And that's it.

7 MS. BONJEAN: Your Honor, can we --

8 A I apologize.

9 Q I think there's if you keep going --

10 A In addition, Yia, Joanna Van Vleck, Rachael Hemsli,

11 Justine Dawson, and that's it.

12 Q What is the date?

13 A May 24th, 2014.

14 Q And is this a fair and accuract depiction of the original
15 Government Exhibit 1521 you reviewed?

16 A Yes.

17 MS. GUPTA: Your Honor, we move to admit Government
18 Exhibit 1521-DR.

19 MS. COHEN: Just one moment, Your Honor, I feel like
20 we might be missing it.

21 THE COURT: You don't have it?

22 MS. BONJEAN: How many pages is it?

23 MS. GUPTA: Um, let me just check.

24 THE COURT: I have seven pages. Is that correct?

25 MS. GUPTA: Yes, that's correct, seven pages.

Punzo - direct - Gupta

4412

1 MS. BONJEAN: Okay, I think I have it.

2 Yes, I have it in front of me now. Do you have it?

3 Do you want to see it?

4 (Pause.)

5 MS. COHEN: Okay. Your Honor, objections to

6 relevance, hearsay and foundation.

7 MS. BONJEAN: Yes, Your Honor. It definitely has

8 hearsay and also foundation, given the unknown number there.

9 THE COURT: Ms. Gupta, do you wish to be heard?

10 MS. GUPTA: Yes, Your Honor.

11 There are statements of a party opponent contained

12 within, as well as co-conspirator statements. I think the

13 context makes clear who the plus-44 number is.

14 And the remaining statements are additional

15 co-conspirator statements, as well as statements that are

16 simply there for context.

17 MS. BONJEAN: We object to the characterization

18 of -- of a co-conspirator and object on hearsay.

19 THE COURT: Overruled.

20 Government Exhibit 1521-DR is admitted.

21 (Government's Exhibit 1521-DR was received in

22 evidence.)

23 MS. GUPTA: If we could please publish.

24 (Exhibit published.)

25 MS. GUPTA: Thank you.

Punzo - direc. - Gupta

4413

1 Q So, Special Agent Punzo, I'll ask you to read Rachel
2 Cherwitz and I'll read the plus-44 number on the first page.

3 A Who is running the sales call and nationwide call?
4

5 (Continued on the following page.)
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Punzo - Direct - Gupta

4414

1 BY MS. GUPTA: (Continuing.)

2 Q I'm free to run either. I'm hacking at home free all day
3 today.

4 A Great. Can you run both. No one sent the feedback from
5 call script. I need it back ASAP.

6 Q Will do.

7 A I also need a very clear and laid out plan of how we are
8 making money today.

9 Q What's the normal format of that?

10 A Rob, do you understand what I am asking here?

11 Q I understand the concept and request an example of how
12 you normally do it.

13 A What am I asking?

14 Q You want to know how we're going to make our goal today.
15 In the past, I've seen Eli's grid what's the current format if
16 any?

17 A Don't use Eli's grid. That system doesn't work.

18 Q Fair enough.

19 A I want a clear and laid out plan for how SF, L.A., London
20 and NYC are making 20 K a day.

21 Q I'll ask you to read the same and we can alternate.

22 A Do you all remember if we did prostate massage in class
23 last mastery or did we just have the demo?

24 Q Demo. Wait, maybe we did. Yeah, no oral sex but
25 prostate, yes.

Punzo - Direct - Gupta

4415

1 A They practiced for sure. All the men got on the ground
2 and spread their legs.

3 Q Oh, yeah, I remember Deb jamming her hand into Steve
4 Bauer. Oh boy, image get out.

5 A Okay, awesome. I will tell him.

6 Q I'll say one of my concerns with this mastery in terms of
7 voltage is that the six months had time to get to know each
8 other so they're willing to do anything. These guys don't
9 know each other and they're compressed for five days.

10 A I think the container we hold can affect it a lot. And
11 let's plan for lots of adjustments possibly more people
12 stepping out of exercises.

13 Q Let's also change the writeup on the website for future
14 mastery. Who is a good zen or meditation purpose who can talk
15 about deepening practice on the last day?

16 A Rob, can you run the staff call at 10 a.m.?

17 Q I can look up my NYC peeps for mediation?

18 A Yeah.

19 Q Landed. Rob said he was offline.

20 MS. GUPTA: Can we pull up for the witness only
21 Government Exhibit 1796-DR, tab 42 D and this is also subject
22 to the stipulation.

23 (Exhibit published to the witness, counsel and the Court.)

24 Q Special Agent Punzo, what is this?

25 A A chat.

Punzo - Direct - Gupta

4416

1 Q Who are the participants?

2 A Ms.JoannaV@me.com and Nicole Daedone.

3 Q And what is the date?

4 A January 14, 2015.

5 Q And does this appear to be a fair and accurate depiction
6 of the chats you reviewed at Government Exhibit 1796?

7 A Yes.

8 MS. GUPTA: Your Honor, we move to admit Government
9 1796-DR.

10 MS. COHEN: Objection on relevancy and hearsay.

11 MS. BONJEAN: Join.

12 THE COURT: I'll take a relevance proffer.

13 MS. GUPTA: Your Honor, this corroborates witness
14 testimony regarding Nicole Daedone and treatment of employees.

15 THE COURT: Give me a moment.

16 Q And if I could ask the witness to just repeat the
17 participants. I think I may have misheard him.

18 THE COURT: Go ahead.

19 A Ms.JoannaV@me.com and Nicole Daedone.

20 Q Are you looking at 1796-DR, Special Agent Punzo?

21 A What's the tab number?

22 Q 42-D. I want to make sure we're on the same document.
23 It's also on the screen if that's easier for you.

24 A My apologies. Ms.JoannaV@me.com and Rachel Cherwitz.

25 Q Thank you.

Punzo - Direct - Gupta

4417

1 MS. GUPTA: I would add to the relevance proffer how
2 employees treated Nicole Daedone.

3 MS. BONJEAN: Your Honor, I maintain the objection.

4 THE COURT: Yes.

5 MS. COHEN: Yes, agreed, Your Honor.

6 THE COURT: Overruled. Government Exhibit 1796-DR
7 is admitted.

8 (Government Exhibit 1796-DR received in evidence.)

9 MS. GUPTA: And if we could please publish to the
10 jury.

11 (Exhibit published.)

12 BY MS. GUPTAA:

13 Q And, Special Agent Punzo, I'll read Joanna V and I'll ask
14 you to read Rachel Cherwitz.

15 Lady, we need to witch some shit. Can you help?
16 Via bought Nic and Jason the wrong tickets and now the show
17 Nic wants to see tonight is sold out, emoji. We gotta help
18 Yia. Just text me I don't know what it's called. It's her
19 friend.

20 A Yes, what show? Jo? Okay, hang on. I know.

21 Q Okay. I'm managing Yia.

22 A Okay, Yia needs to say that Nic is the best friend of the
23 person doing the show.

24 Q I'm trying to get to the venue.

25 A I am making their be tickets at Will Call. Tell Yia not

Punzo - Direct - Gupta

4418

1 to panic. I am getting inside the box office.

2 Q Okay, blank message.

3 A There are tickets. We are okay. I just need Yia not to
4 panic, emoji, emoji.

5 Q Okay. I am telling her by D.

6 A Yes.

7 Q Not to panic.

8 A No panic, emoji. Tell her it's handled. God it's good.

9 MS. GUPTA: If we can pull up for the witness only
10 Government Exhibit 1846-DR which is at tab 43 D and also
11 subject to stipulation.

12 (Exhibit published to the witness, counsel and the Court.)

13 Q What is this?

14 A A chat.

15 Q Between who?

16 A Ms.Joanna -- Ms.JoannaV@me.com and Nicole Daedone.

17 Q On what date?

18 A January 14, 2015.

19 Q And is this a fair and accurate depiction of the
20 Government Exhibit 1846 you reviewed with redactions?

21 A Yes.

22 MS. GUPTA: Your Honor we move to admit Government
23 Exhibit 1846-DR.

24 MS. COHEN: Objection on relevance, Your Honor and
25 hearsay.

Punzo - Direct - Gupta

4419

1 MS. BONJEAN: Join.

2 THE COURT: Overruled. Government Exhibit 1846-DR
3 is admitted.

4 MS. BONJEAN: Your Honor, I want to place on the
5 record also that the absence of emojis also is a basis for
6 objection for all of these.

7 THE COURT: What do you mean the absence of the
8 emojis?

9 MS. BONJEAN: I mean, emojis can change the meaning.

10 THE COURT: You mean where there's a word emoji?

11 MS. BONJEAN: We don't know what emoji is being
12 used.

13 THE COURT: Overruled.

14 You may continue.

15 BY MS. GUPTA:

16 Q Thank you. And if we can please publish to the jury.

17 (Exhibit published.)

18 Q Special Agent Punzo, I'll ask you to read Nicole Daedone
19 and I'll read Joanna V.

20 A Can I tell you a secret? I'm so scared that if I ever
21 split from Jason the whole community in couples would split,
22 emoji.

23 Q Thank you for telling me. I am positive that whatever
24 stroke happens will lead to what's the next right thing. I
25 will remind you when and if that time comes. It's going to be

Punzo - Direct - Gupta

4420

1 great and I think quite a few couples would stay together,
2 emoji.

3 A Okay. Then I am going to marry the man who is sitting
4 next to me in the AA meeting.

5 Q Emoji, emoji. What did he feel like?

6 A A man. Like a man, man, man, man, man. We need 20
7 weddings and I'm good.

8 Q Let's do it. We can get that in the near future.

9 MS. GUPTAA: If we can please show the witness
10 Government Exhibit 2034 which is tab 14 and also subject to
11 stipulation.

12 (Exhibit published to the witness, counsel and the Court.)

13 THE COURT: Give me the number again.

14 MS. GUPTA: Tab 14, Government Exhibit 2034.

15 BY MS. GUPTA:

16 Q Special Agent Punzo, what is this?

17 A An e-mail.

18 Q Who is it from?

19 A Nicole Daedone.

20 Q And who is it to?

21 A Justine.Dawson@onespace.us.

22 Q On what date?

23 A December 3, 2015.

24 Q And does this appear to be a fair and accurate depiction
25 of an e-mail sent from Ms. Daedone on December 3, 2015?

Punzo - Direct - Gupta

4421

1 A Yes.

2 MS. GUPTA: Your Honor, we move to admit Government
3 Exhibit 2034.

4 MS. COHEN: Your Honor, objection on confrontation
5 issue and relevance.

6 MS. BONJEAN: And I need a minute, Your Honor.

7 THE COURT: Can you move on to another exhibit?
8 It's small print and it's quite long. I don't think it's a
9 good use of time while everybody looks at it.

10 MS. GUPTA: Can we go to Government Exhibit 1232-DR
11 which is tab 30 D?

12 (Exhibit published to the witness, counsel and the Court.)

13 Q Special Agent Punzo, what is this?

14 THE COURT: You're going to have to give me the
15 number again.

16 MS. GUPTA: Government Exhibit 1232-DR and it should
17 be tab 30 D in the binder.

18 THE COURT: Thank you.

19 BY MS. GUPTA:

20 Q Special Agent Punzo, what is this?

21 A A chat.

22 Q Between who?

23 A Joanna Van Vleck and Rachel Cherwitz.

24 Q On what date?

25 A February 12, 2013.

Punzo - Direct - Gupta

4422

1 Q And does this appear to be a fair and accurate depiction
2 of the original exhibit which is subject to stipulation
3 between the parties?

4 A Yes.

5 MS. GUPTA: Your Honor, we move to admit Government
6 Exhibit 1232-DR.

7 MS. COHEN: Objection on hearsay, cumulative and
8 relevance.

9 THE COURT: Overruled. Exhibit 1232-DR is admitted.
10 (Government Exhibit 1232-DR received in evidence.)

11 MS. GUPTA: If we can please publish. Thank you.
12 (Exhibit published.)

13 BY MS. GUPTA:

14 Q I'll ask you to read Rachel Cherwitz, Special Agent
15 Punzo.

16 A No more meetings. Team should OM five X a day.

17 Q Yes.

18 A Can you announce? I'm not doing meeting. It's too much.

19 Q Yes, no problem.

20 A Heart. I love you too Jonanna.

21 Q I love you.

22 A Can you run sales threads?

23 Q Yes. How are you doing, lady?

24 A How you?

25 Q I'm good. I want to know how to have our team make

Punzo - Direct - Gupta

4423

1 money?

2 A Electricity. They need to OM a lot.

3 Q Okay.

4 MS. GUPTA: And if we can pull up for the witness
5 only Government Exhibit 1235-DR which is tab 31 D.

6 (Exhibit published to the witness, counsel and the Court.)

7 BY MS. GUPTA:

8 Q Special Agent Punzo, what is this?

9 A A chat.

10 Q Between who?

11 A Rachel Cherwitz and Joanna Van Vleck.

12 Q On what date?

13 A February 28, 2013.

14 Q Is this a fair and accurate depiction of the original
15 Government Exhibit 1235 that's subject to stipulation between
16 the parties?

17 A Yes.

18 MS. GUPTA: Your Honor, we move to admit Government
19 Exhibit 1235-DR.

20 MS. COHEN: Hearsay, relevance, 403.

21 MS. BONJEAN: I join.

22 THE COURT: Overruled. Government Exhibit 1235-DR
23 is admitted.

24 (Government Exhibit 1235-DR received in evidence.)

25 BY MS. GUPTA:

Punzo - Direct - Gupta

4424

1 Q I'll start reading Joanna and you read Rachel Cherwitz.

2 We have Katie at 5:15 your time then Michele. FYI,
3 been texting with Rosa. Apparently, Michele has been bitchy
4 since this a.m.

5 A Michele is a bitch. I'm quitting.

6 Q Michele needs to pull her head out.

7 A She is too messed. It's a major conference. She cannot
8 present there. She's sneaky. It's a major conference for
9 medical professionals. She cannot present.

10 Q What the fuck is she talking about? I have never heard
11 about it?

12 A She's hex around Sujo.

13 Q Totally.

14 A Can you handle?

15 Q Yes.

16 A Have her start with universities. She has a lot of
17 charge. We need to address it. How did she get so fucking
18 resentful? You have to be fierce Joanna. Joanna, be fierce
19 please. Don't let her with bully you. This is bullshit.

20 Q Will do.

21 A Ah, I got it she feels left behind. Her little world.

22 Q Talking to Amy. Then I call you?

23 A Okay. Well?

24 Q Three minutes, or 3 min?

25 A Okay. Let's cut the botch, asterisk bitch. I'm on other

Punzo - Direct - Gupta

4425

1 line for five min Rob.

2 Q Ha, ha, ha.

3 A What's she saying?

4 Q We talking about what it takes for you to be on?

5 A She's a cunt. Sorry, oh, my goodness, say something.

6 From Ken, what is we make Michele the offer for Robert to be
7 sales lead. Tell her Robert is ready to take it on and take
8 the heat and the pressure. If she wants to keep it, she can't
9 complain or get wigged out anymore. Something like that. WTF
10 is he talking about?

11 Q I don't know.

12 A How is Yia?

13 Q She has been spending time with Reese.

14 A Ah. A YouTube link. Fire everyone. What did she say.
15 You do it, Jonanna.

16 Q I think we got to do what we did last year. I've been
17 talking to Nic. She said this year I got it.

18 A I went to pare down sales team. Marcus, George, Eli
19 Andreas, Mark, Quinn, Jessica, Drea, say more.

20 Q She said I have to learn this one. I had this feeling
21 the same as last year that people are resting and then Rob
22 brought the news that people like Maya, Sasha and Amy are
23 about to get a commissions of 4,600. Of all of them Sasha is
24 the one who should get it. The rest don't do much. I asked
25 Nic if we were to clean out. She said massively.

Punzo - Direct - Gupta

4426

1 A Yes. Can I pare the sales team down? Can I also say it
2 is fucking ridiculous for FS to be paid that much. Where you
3 going?

4 Q Took a call. Back now. Totally. It makes me ill that
5 they all make that much? You, Rob and Ken did the work of the
6 IM weekend.

7 A So did Andreas, by the way.

8 Q Okay.

9 A I do. It's still too much weight.

10 Q You want Michele and RH off the sales, correct? Yup, the
11 team is heavy. I think it feels right and what role shall
12 Michele and Marcus have?

13 A We do tomorrow? Who cares?

14 Q FYI about to start an OM.

15 A Okay.

16 Q Done.

17 A I'm going to bed and, FYI, I don't want anyone on the
18 team new on sell and tell Yia to top being a fucking cunt.
19 It's ridiculous.

20 Q I will get in there.

21 A You keep saying that.

22 Q She is a slippery one.

23 A In what way?

24 Q Got to go slow to get it all the way in her ass?

25 A Just handle her. I mean it. She's being a bitch.

Punzo - Direct - Gupta

4427

1 Q Okay. Has she been via text to you as well?

2 MS. GUPTA: Your Honor, if we can pull up for the
3 witness only Government Exhibit 1162-DR, tab 25 D.

4 (Exhibit published to the witness, counsel and the Court.)

5 BY MS. GUPTA:

6 Q Special Agent Punzo, what is this?

7 A A chat.

8 Q With who?

9 A Rachel Cherwitz, Keenan, Ms.JoannaV@me.com, Justine
10 Dawson and that's it.

11 Q On what date?

12 A October 2, 2014.

13 Q And is this a fair and accurate and redacted copy of the
14 original Government Exhibit 1162 subject to stipulation
15 between the parties?

16 A Yes.

17 MS. GUPTA: Your Honor, we move to admit Government
18 Exhibit 1162-DR into evidence.

19 MS. COHEN: Objection as to hearsay and relevance.

20 MS. BONJEAN: Same objections.

21 THE COURT: Ms. Gupta, do you want to be heard as to
22 the Keenan portions?

23 MS. GUPTA: Yes, Your Honor. Those are offered just
24 for their context, not for their truth.

25 THE COURT: What do you mean for their context?

Punzo - Direct - Gupta

4428

1 MS. GUPTA: Just to provide context to the chat, but
2 they're not offered for their truth.

3 THE COURT: Objection overruled. Government Exhibit
4 1162-DR is admitted.

5 (Government Exhibit 1162-DR received in evidence.)

6 (Exhibit published.)

7 BY MS. GUPTA:

8 Q So, Special Agent Punzo, I'll ask you to read Rachel
9 Cherwitz and then we can alternate.

10 A FYI, I am having the NYC team make a play with Ayries.
11 Her and Ravi are pretty deep in the thick of their addiction
12 and she hasn't been working since I left NYC. The play is to
13 put her on probation for 30 days.

14 Q Probation with the New York business?

15 A Yes.

16 Q Okay.

17 A She needs a pretty serious wake-up call.

18 Q Okay. They all got to wake up. A few updates on some
19 things Nic downloaded today. We are writing out a to-do list
20 for the entire business of what's needed next week. It is
21 centered around galvanizing what we have and optimizing. We
22 have all the pieces. Now we put them together and get them
23 out. I will send you all the list tomorrow.

24 A I good at galvanizing. You tell me what to do.

25 Q We need to start allocating our paths to creation, like

Punzo - Direct - Gupta

4429

1 supporting OT Foundation and other charities and people's
2 businesses that are based in orgasm that we believe in. We
3 are going to tighten up with spending and use as much money as
4 possible to allocate towards greatness in the world with
5 orgasm. We need the cities to really start feeling like they
6 can do it on their own, so our attention is freed up to do the
7 next phase that we need to build. So, we will guide the
8 sittings that way. I am willing to make a companywide
9 presentation and make it to the team when we are in SF for the
10 last mastery.

11 A Jo, this is really gorgeous.

12 Q Simple things too, like getting out three new YouTube
13 videos up a week, taking what we have, galvanizing Danielle.
14 Keenan and I have been working with Daniel, Jennifer Gray's
15 guy, around messaging. He is brilliant and he's helping us to
16 see that we need to be more of who we are in person, online.
17 More to come on that in the next week as it develops. We're
18 going to find an awesome way to give employee feedback in a
19 way that is dignified and fun. And as always sales is our
20 barometer for how much TurnON we have in our employees. The
21 sales is the number one focus and we all doing this together.
22 Emoji, heart, emoji, heart, heart, emoji.

23 A Okay, Jo. This is great and you got to go to bed. FYI,
24 I am getting on with NYC soon to lay out the terms of Ayries'
25 probation.

Punzo - Direct - Gupta

4430

1 Q Okay.

2 Go ahead please.

3 A Emoji, heart.

4 Q Girl, got to wake up.

5 A Oh, that was for the DP.

6 Q Oh, hey, emoji, emoji, emoji, emoji, emoji, emoji, emoji.

7 A Hey, hey.

8 Q Oh my God, I love NYC. They got totally on board with
9 Ayries.

10 MS. GUPTA: If we can pull up for the witness only
11 Government Exhibit 1755-D which is tab 41 D.

12 (Exhibit published to the witness, counsel and the Court.)

13 BY MS. GUPTA:

14 Q Special Agent Punzo, what is this?

15 A A chat.

16 Q With who?

17 A Rachel Cherwitz, Rebecca Elswith, Justine Dawson, Tazima,
18 Clouds, Chris Cosely, +1-206-661-5560, Dustin, Yia Vang,
19 Joanna Van Vleck, Andrew CP7, Theresa Diaz, Keenan Wang,
20 undasee@aol.com. And that's it.

21 Q And what date?

22 A November 3, 2014.

23 Q And is this a fair and accurate depiction of the original
24 Government Exhibit 1755, that's subject to stipulation between
25 the parties?

Punzo - Direct - Gupta

4431

1 A Yes.

2 MS. GUPTA: Your Honor, we move to admit Government
3 Exhibit 1755-D.

4 MS. BONJEAN: Your Honor, again, rather than repeat
5 with hearsay and cumulative, lacks foundation and it's just
6 again irrelevant.

7 MS. COHEN: Join.

8 THE COURT: I am going to have you respond or you
9 can move on to something else, given the time that we're at
10 and come back to this.

11 MS. GUPTA: I'm happy to come back to it, Your
12 Honor.

13 THE COURT: Go ahead.

14 I am sustaining the objection for now.

15 Go ahead.

16 MS. GUPTA: If we can move to Government Exhibit
17 2000-DR which is tab 44 D.

18 (Exhibit published to the witness, counsel and the Court.)

19 BY MS. GUPTA:

20 Q Special Agent Punzo, what is this?

21 A A chat.

22 Q Between who?

23 A Yia and Joanna Van Vleck.

24 Q On what date?

25 A August 27, 2015.

Punzo - Direct - Gupta

4432

1 Q And is this a fair and accurate and redacted copy of the
2 original Government Exhibit 2000 that you reviewed that's
3 subject to stipulation between the parties?

4 A Yes.

5 MS. GUPTA: Your Honor, we move to admit Government
6 Exhibit 2000-DR.

7 MS. BONJEAN: One second please, Your Honor.

8 MS. COHEN: Our objection is hearsay, particularly
9 given that there's neither defendant on here and relevance.

10 MS. BONJEAN: Yes, Your Honor. Objection, hearsay.
11 This does not involve communications between either of the
12 defendants and they have not met their burden sufficiently as
13 to other matters.

14 THE COURT: Okay. Ms. Gupta, do you want to be
15 heard on relevance and foundation here?

16 MS. GUPTA: Yes, Your Honor. This is corroborative
17 of Rachel Cherwitz and treatment of employees that they have
18 testified to throughout this trial.

19

20 (Continued on the following page.)

21

22

23

24

25

Punzo - direct - Gupta

4433

1 (continuing)

2 THE COURT: And your foundation for the first text
3 on this? Your argument about that?

4 MS. GUPTA: The one at 5:34:77 [sic] a.m.?

5 THE COURT: Yes.

6 MS. GUPTA: Your Honor, that's relevant because it
7 shows that the leadership was intending to speak with Rachel
8 Cherwitz about this particular issue.

9 THE COURT: That's not evident from the face of
10 this. So I'm going to sustain the objection.

11 MS. GUPTA: Could I add one thing, Your Honor?

12 THE COURT: It's also clear from testimony that RT
13 refers to Rachel Cherwitz.

14 THE COURT: You're going to have to let me know what
15 testimony that is. You can come back to it if you want.

16 MS. GUPTA: I'm happy to come back to it.

17 THE COURT: I'm sustaining the objection for now.

18 MS. GUPTA: If we can pull up Government Exhibit
19 2242-DR, which is tab 53-DE.

20 DIRECT EXAMINATION

21 BY MS. GUPTA:

22 Q Special Agent Punzo, what is this?

23 A A chat.

24 Q Between who?

25 A Rachael Hemsli and Rachel Cherwitz.

Punzo - direct - Gupta

4434

1 Q On what date?

2 A December 27th, 2016.

3 Q And is this a fair and accurate and redacted depiction of
4 the original Government Exhibit 2242 you reviewed, subject to
5 stipulation between the parties?

6 A Yes.

7 MS. GUPTA: Your Honor, we'd move to admit
8 Government Exhibit 2242-DR.

9 MS. COHEN: Objection on hearsay; 403 as well.

10 MS. BONJEAN: Join on the hearsay objection.

11 THE COURT: Do you wish to be heard, Ms. Gupta?

12 MS. GUPTA: Yes, Your Honor. It's statements of a
13 party-opponent, and the statements of the other, I believe
14 we've met our burden as to co-conspirator statements. But if
15 not, there's really not much of substance there and they're
16 for context.

17 THE COURT: Overruled.

18 Government Exhibit 2242-DR is admitted.

19 (Government Exhibit 2242-DR was received.)

20 (Exhibit published.)

21 Q Special Agent Punzo, I'll ask you to read Rachel Cherwitz
22 and I'll read Rachael Hemsli.

23 A Marla just texted. She's not sure if she wants
24 membership. She got scared about the debt.

25 Q Oh, geez.

Punzo - direct - Gupta

4435

1 A You wanna call or you want me too?

2 Q You do it. That's right.

3 A Okay. I will get her lil mousy ass.

4 Q That's right. You will.

5 MS. GUPTA: Now, if we would please pull up

6 Government Exhibit 1079, which is tab three.

7 Q Special Agent Punzo, what is this?

8 A An e-mail.

9 Q Who is it from?

10 A Rachel Cherwitz.

11 Q Are there multiple e-mails here?

12 A Yes.

13 Q So I will ask you to just -- who are all of the
14 participants to these e-mail threads?

15 A Joanna Van Vleck, Justine Dawson, and that's it.

16 Q Is there another name? If you'd look at the top e-mail?

17 A Is this 1079?

18 Q Yes. I believe you said Joanna Van Vleck and Justine
19 Dawson?

20 A And Rachel Cherwitz.

21 Q Okay. And what is the date of this e-mail exchange?

22 A February 9th, 2012.

23 Q And does this appear to be a fair and accurate e-mail
24 chain between Rachel Cherwitz, Joanna Van Vleck and Justine
25 Dawson?

Punzo - direct - Gupta

4436

1 A Yes.

2 MS. GUPTA: And, Your Honor, this is also subject to
3 the stipulation between the parties.

4 We'd move to admit Government Exhibit 1079.

5 THE COURT: Any objection?

6 MS. COHEN: Objection on hearsay; relevance.

7 MS. BONJEAN: And also on this one, doctrine of
8 completeness, Your Honor.

9 THE COURT: Do you wish to be heard on those
10 objections, Ms. Gupta?

11 MS. GUPTA: Yes, Your Honor.

12 As to relevance, this corroborates scenes which
13 several witnesses have testified to.

14 As to hearsay, they are statements of a
15 party-opponent of a co-conspirator and remaining statements
16 are for context only.

17 And as to completeness, we're not aware of any more
18 e-mails on this particular chain, and defense has not pointed
19 us to any.

20 MS. BONJEAN: That doesn't change the completeness
21 problem.

22 THE COURT: Overruled.

23 Government Exhibit 1079 is admitted.

24 (Government's Exhibit 1079 received in evidence.)

25 Q So Special Agent Punzo, I'm going to ask you to start

Punzo - direct - Gupta

4437

1 with the most recent -- apologies -- the top e-mail and then
2 just read down from there.

3 And if you could please clarify who the e-mail is
4 from before you read, that would be great.

5 A From Rachel Cherwitz to Joanna Van Vleck and Justine
6 Dawson: I know that we are waiting for her proposal and I
7 need her to stop telling people about a residential program
8 where people can come and stroke and get stroked, please.

9 From Justine Dawson to Rachel Cherwitz, cc, Joanna
10 Van Vleck: What happened?

11 From Rachel Cherwitz to Justine Dawson, cc, Joanna
12 Van Vleck: She needs to stop telling people about 1080 and
13 scenes and shit like that.

14 From Joanna Van Vleck to Rachel Cherwitz, cc,
15 Justine Dawson: I have talked to her about this. For today,
16 I think we need to wait for her proposal for any more contact.
17 She said it would be any time.

18 Q Thank you.

19 And what is the subject of this e-mail?

20 MS. GUPTA: If we could scroll to the top?

21 A Kelly.

22 MS. GUPTA: Can we pull up for the witness only
23 Government Exhibit 1590-DR, which is tab 38-D?

24 THE COURT: 1590?

25 MS. GUPTA: 1590-DR.

Punzo - direct - Gupta

4438

1 THE COURT: Thank you.

2 Q Special Agent Punzo, what is this?

3 A A chat.

4 Q Between who?

5 A Ms.JoannaV@me.com and Nicole Daedone.

6 Q On what date?

7 A August 1st, 2014.

8 Q And is this a fair and accurate and redacted copy of the
9 original Government Exhibit 1590 you reviewed, that's subject
10 to stipulation between the parties?

11 A Yes.

12 MS. GUPTA: Your Honor, we'd move to admit
13 Government Exhibit 1590-DR.

14 THE COURT: Does everyone have it?

15 MS. BONJEAN: I don't think I have all 13 pages. It
16 looks like it's changed.

17 MS. GUPTA: Let me see.

18 THE COURT: All right. You know what? It's 5:25 on
19 a Friday. I think it's a good time to stop. We can take this
20 document or anything else up on Monday.

21 Is everybody in agreement? The parties in agreement
22 on that?

23 MS. GUPTA: Yes, Your Honor.

24 THE COURT: Okay. I'm going to ask the witness to
25 step down for today.

Punzo - direct - Gupta

4439

1 (Witness steps down.)

2 THE COURT: Okay. It is, in fact, Friday. Thank
3 you all for your attentiveness. I hope everyone has a
4 wonderful weekend and relaxes.

5 I will remind you what I remind you of every day,
6 especially since we have a weekend coming up, although
7 unfortunately, not another long weekend.

8 But over the weekend, don't discuss the case with
9 anyone, including with your fellow jurors. If anyone
10 approaches you and tries to discuss ask the trial with you,
11 please let me know about it immediately through Mr.
12 D'Agostino.

13 Don't read, listen to, or watch any news or other
14 media reports of the trial. Don't conduct any independent
15 research about the case, the matters in the case or the
16 individuals involved in the case.

17 Don't talk to any of the parties, the attorneys, the
18 witnesses about anything.

19 Keep an open mind and, again, thank you for your
20 attentiveness, and I hope everyone has a good weekend.

21 Same timeframe on Monday, 9:15 in the jury room, so
22 we can start at 9:30. Have a good weekend, all.

23 (Jury exits the courtroom.)

24 THE COURT: Okay. Everyone may be seated.

25 Ms. Gupta, approximately how much longer do you

Proceedings

4440

1 think you would have for the witness on Monday?

2 MS. GUPTA: Let's see, I think I'm about halfway.
3 Probably not. Sorry. I think I'm almost halfway. So maybe
4 another two hours -- maybe another two hours.

5 THE COURT: Okay. It's probably hard for you to
6 give an estimate of cross, given that --

7 MS. BONJEAN: I don't know what -- I don't think we
8 would have a long cross.

9 MS. COHEN: Yes.

10 MS. BONJEAN: Our issues are with the admissibility;
11 I think maybe if it's helpful over the weekend. I mean, it
12 looks like we're doing okay ruling on the fly if there is a
13 long document or something, perhaps.

14 THE COURT: Yes. I mean, my understanding from the
15 Government is that they're offering the vast majority of these
16 either as defendants' statements and/or co-conspirator
17 statements.

18 Perhaps some of the statements are for context of
19 defendant's statements, but it doesn't seem like that's -- at
20 least today, been happening for the most part.

21 Is there any other category that you want to mention
22 at this time?

23 MS. BENSING: No. I mean, some of them don't even
24 constitute hearsay.

25 For example, we just looked at a long kind of back

Proceedings

4441

1 of house sales thread. Much of that is not for its truth.

2 I just can put on the record for the Court to
3 consider with respect to RT, we would point the Court to --

4 THE COURT: I don't know what you mean. Oh, the
5 name? The initials? Yes. RT. Okay. I thought you were
6 giving me an exhibit number.

7 MS. BENSING: No.

8 THE COURT: There are so many letters here.

9 RT. Go ahead.

10 MS. BENSING: So I would point the Court to the
11 transcript at pages 2684 to 85. There was testimony from
12 Michal Neria with respect to Rachel Cherwitz, did she go by
13 any nicknames? RC or RT. And then we listed what RC stood
14 for and what RT stood for, Rachel Tayeb. She was married at
15 the time, Your Honor.

16 THE COURT: I just couldn't recall it in the moment.

17 MS. BENSING: I wanted to make that record, yes.

18 THE COURT: Okay. So is there anything the
19 defendants want to be heard further on this general category?
20 I have one other issue I want to raise with the parties, too.

21 MS. BONJEAN: Your Honor, I think we've already made
22 a record, but we disagree that for instance, Joanna Van Vleck,
23 I understand she was in the upper management, but just being
24 in the upper management does not per se make you a
25 co-conspirator. So I think we disagree with the Government's

1 assessment of who is and who is not and whether they have
2 demonstrated anything more than, you know, people in senior
3 management.

4 So I think I made the objection. We will maintain
5 that objection.

6 THE COURT: I will hear from the Government.

7 MS. BENSING: Sure.

8 I think Mr. Kandell's testimony plainly established
9 that she was one of the individuals who was involved in the
10 conspiracy, particularly when you combine that with the
11 content of all of these messages.

12 So obviously, the Court can look at an individual
13 exhibit and still have to make a ruling as to co-conspirator
14 statements, but then the Court can look at the entire body of
15 these text message exhibits. I think the entire body of these
16 establishes her status as a co-conspirator in addition to Mr.
17 Kandell's testimony.

18 THE COURT: I mean, do you want to put on the record
19 now who the universe of co-conspirators are that you believe
20 fall within the co-conspirator statement rule?

21 I mean, I think it's been clear throughout the
22 trial, but probably no harm in having you do that right now.

23 MS. BENSING: Yes. I just don't want to forget
24 anybody.

25 But I think Yia Vang, Joanna Van Vleck, Robert

Proceedings

4443

1 Kandell.

2 THE COURT: Go more slowly, please.

3 MS. BENSING: I'm sorry.

4 THE COURT: That's okay.

5 MS. BENSING: Yia Vang, Joanna Van Vleck, Rob
6 Kandell, Rachael Hemsli, and Aubrey Fuller. Those are the ones
7 who we would identify at the current moment. There may be
8 more, but I'm just not -- I just want to consult with my team.
9 But those individuals.

10 THE COURT: And Justine Dawson?

11 MS. BENSING: We are not seeking to admit anything
12 through Justine Dawson as a co-conspirator, Your Honor.

13 THE COURT: So to the extent there are any Dawson
14 statements, they are offered for context, correct?

15 MS. BENSING: Correct.

16 THE COURT: And that would be on chains with
17 defendants?

18 MS. BENSING: Correct. I think she's only on chains
19 with defendants.

20 THE COURT: Give me one moment, please.

21 I'm not sure that it's relevant, but I can't recall
22 all of the testimony, but I think you made a representation
23 yesterday about the individual coming into court about being a
24 co-conspirator, correct?

25 MS. BONJEAN: A what?

Proceedings

4444

1 THE COURT: A co-conspirator.

2 MS. BENSING: Yes.

3 THE COURT: Marcus.

4 MS. BENSING: I'm sorry, I don't think we are
5 seeking to admit any of his statements as co-conspirators
6 statements.

7 THE COURT: Right. Yes. I didn't think you were,
8 but I wanted to just get the universe of people that you have
9 represented are co-conspirators.

10 MS. BENSING: Sure. Yes. I think he may have been
11 identified in one of our pretrial briefings.

12 THE COURT: I think you said it the other day.

13 MS. BENSING: Yes, I think I identified him as
14 somebody we had alleged in our pretrial briefing was a
15 co-conspirator.

16 THE COURT: Okay.

17 MS. BONJEAN: There is like 20 people they allege in
18 their pretrial briefing. Again, we maintain that --

19 THE COURT: No. I understand. I'm assuming your
20 position is the general position that there was no conspiracy.

21 MS. BONJEAN: Well, yeah. We don't think there is a
22 conspiracy.

23 THE COURT: Or, at least, that your clients are not
24 involved.

25 MS. BONJEAN: Okay.

1 THE COURT: That much I've got. So I will be
2 addressing, you know, the Court's finding on co-conspirators'
3 statements before the Government's rests, but you are still
4 putting in statements.

5 MS. BONJEAN: Okay.

6 THE COURT: If the Government wants to be heard on
7 that issue or anyone wants to be heard on that issue. I
8 understand the defense position that there may be no
9 conspiracy and certainly certain people up think are not
10 co-conspirators.

11 MS. COHEN: Yes.

12 THE COURT: So there are many reasons why the
13 Government has been offering certain documents. It's not just
14 for co-conspirators. Sometimes it is also because they're
15 statements of the defendant or they are statements of agents
16 or they are not offered for their truth. So, I think
17 everybody is on the same page on that.

18 There is one other issue I wanted to raise.

19 MS. COHEN: I'm sorry. Are we done, because I want
20 to raise one other issue.

21 THE COURT: Does Mr. Robotti have to leave?

22 MR. ROBOTTI: I do, Judge, I think soon.

23 THE COURT: I'm happy to end relatively soon. But
24 the other thing I have to say is going to take a couple
25 minutes. But you are welcome to leave.

Proceedings

4446

1 MR. ROBOTTI: I will hang out.

2 THE COURT: Go ahead.

3 MS. COHEN: I just want to also raise that a few of
4 these are hearsay within hearsay. We see some confrontation
5 clause issues. We haven't come to those. I think one of them
6 was put aside. So we can --

7 THE COURT: Do you want to talk to the Government
8 about those specific ones, though, because I would rather have
9 less said in front of the jury than more, certainly.

10 MS. COHEN: Yes. And we can also, if it's helpful,
11 just flag them for Your Honor over the weekend so you can take
12 a look at them ahead of time.

13 THE COURT: Sure. It would have been helpful at the
14 beginning of the week when I got this bare chart that had a
15 whole column empty where it should have been defense
16 objections.

17 MS. COHEN: There aren't that many.

18 THE COURT: Yes. I want to hear you fully, so
19 whatever you want to give me.

20 MS. COHEN: Okay.

21 THE COURT: Was there anything else on this general
22 topic?

23 MS. COHEN: No.

24 THE COURT: I'm not sure there is a more efficient
25 way than you have been doing here. I almost cut you off a

1 half hour ago simply because it's Friday afternoon, and it
2 sort of a cumbersome process -- and the jury looked like they
3 were hanging in there and they were paying attention. By
4 Monday, everybody will be fresh. I don't know if there is
5 another way for you to do it. That's up to you. Give it a
6 thought.

7 Okay. I wanted to go back to the issue of Dr. Ley.
8 At the proceeding on December 10th, the Government actually
9 withdrew without prejudice its motion to exclude defendants'
10 proffered expert witnesses that had been at ECF Number 188.

11 So if the defendants still seek to call Dr. Ley and
12 the Government, again, seeks to have the Court exclude his
13 testimony, the Government can file a new motion and in the
14 interest of time, that can be a letter motion. I think you
15 probably have all that you need.

16 But I do recall at that conference -- I don't know
17 if it was with respect to Dr. Ley specifically, but I think
18 the defense was going to give more information to the
19 Government. It may have been Leonard. Was that one of the
20 other folks?

21 MS. BONJEAN: Yes, Leonard and I think there was
22 another --

23 THE COURT: Kriegman?

24 MS. BONJEAN: There was one other guy, too. I'm
25 blanking out on his name.

1 But he is not in the mix. Kriegman is not in the
2 mix at this juncture.

3 I think Ley, again, was a twofold-type of issue.
4 The issue he was kind of addressing, coercive control tactics
5 and grooming as well as sort of the science. I do think,
6 particularly on the science issue, which is what we will be
7 offering him for, his report absolutely satisfies the rules.

8 THE COURT: Okay. So there was nothing else on him
9 that the Government had asked for that you hadn't given
10 because you did say you were going to give them more, but I
11 don't remember if it was on him.

12 MS. BONJEAN: I don't think it was on him, but if it
13 was, it would have been to the coercive control tactics.

14 THE COURT: I see.

15 MS. BONJEAN: But we're not putting on anyone else.
16 Obviously, there is nothing to rebut on that. So we're not
17 addressing that.

18 We are only offering him specifically on the
19 benefits that have been established through the science in the
20 OM practice. That's it. And I know they object, but that's
21 where we're at.

22 THE COURT: Okay. It sounds like it can be a very
23 short -- even a joint letter is actually fine, but I would
24 want to have it by tomorrow by 5:00. Could you do that for
25 me?

1 MS. BONJEAN: Sure.

2 THE COURT: I think you all have the information. I
3 think, as a formal matter, because the Government had
4 withdrawn without prejudice, I think I would like the formal
5 motion. It can be a letter. And it should address
6 specifically what you anticipate the witness testifying.

7 I think at the last -- at the conference where we
8 discussed this last, I think you had described it as the
9 scientific research examining the practice and the historical
10 background regarding OM in sexual cultural practices. It was
11 some description like that.

12 MS. BONJEAN: Yes. And that's what he lays out.
13 And we can do a -- we can file a letter with the Court.

14 I think the scope of it can be, you know, pared
15 down, too. I think that's what we were asking for in terms
16 of, again, the benefits and the historical practice of OMing.

17 THE COURT: And I know the Government opposes that,
18 but -- and I don't need you to belabor it. Just maybe put a
19 joint letter in by 5:00 with the positions and then I can make
20 a decision for you on that.

21 Is there anything else that we need to take up
22 today?

23 (Continued on next page.)

24

25

1 (Continuing.)

2 MS. BENSING: I think so, Your Honor. Just --

3 THE COURT: Yes.

4 MS. BENSING: -- for scheduling purposes for next
5 week.

6 THE COURT: Yes.

7 MS. BENSING: I just want to understand from the
8 Court when we might have a jury charge --

9 THE COURT: Yes.

10 MS. BENSING: -- or a charge conference.

11 THE COURT: Yes. So, yes. My goal is to get you a
12 draft charge Monday.

13 MS. BENSING: Okay.

14 THE COURT: I was sort of waiting to see in terms of
15 when we'd have the charge conference, where we ended up, and
16 if -- you don't have to tell me now, but if there's going to
17 be a defense case for sure. You know, we can figure out what
18 makes sense schedule wise.

19 I think doing a charge conference at 5:30 at night
20 is not the best idea. So, I think that we would probably let
21 the jury go earlier or come later. Probably let them go
22 earlier.

23 There is a possibility that on Thursday we won't be
24 sitting a full day. I'll let you know for sure on Monday for
25 a couple reasons, but so that could possibly be a day, but I

1 think that might be too late. I just don't know.

2 I don't know how long your case is, but we will
3 certainly be having a formal charge conference at an
4 appropriate time, and you'll have the charge before then.

5 Do you want --

6 MS. COHEN: I think that sounds right.

7 THE COURT: Was there anything you wanted to tell me
8 about the charge along the lines of what we talked about the
9 other day?

10 You were going to look, Ms. Bensing, at one of the
11 charges to see whether you wanted or didn't want to request
12 it.

13 MS. BENSING: I think we still want to request it,
14 Your Honor.

15 THE COURT: Okay. And this is on investigative
16 techniques?

17 MS. BENSING: Correct, Your Honor.

18 THE COURT: Okay. I think I asked you another
19 question about the charge.

20 MS. COHEN: Yes, the other acts, I believe.

21 THE COURT: Yes, yes. The other acts, yes.

22 MS. COHEN: And I took a look at our prior
23 objections, I think we maintain our prior objections in the
24 jury -- what it was, the December filing on that. I think --

25 THE COURT: But I didn't give you a draft yet, what

1 do you mean your objections?

2 MS. COHEN: I mean the objections that were
3 submitted to the Court before.

4 THE COURT: Oh, you mean objecting to each other?

5 MS. COHEN: Yes, I think a joint was filed.

6 THE COURT: Yes, it was.

7 Go ahead, Ms. Bonjean.

8 MS. BONJEAN: Just the proposed positions we took I
9 think is what Ms. Cohen is referencing.

10 MS. COHEN: Yes.

11 THE COURT: But I think I still need you, if you're
12 asking for an instruction, to give me a specific one then.

13 MS. COHEN: Okay.

14 THE COURT: I think at this point, because I thought
15 it was, I can look back, but I thought it was maybe more
16 general or maybe overinclusive. I don't --

17 MS. COHEN: Yes. I know we object -- I saw that we
18 objected or Ms. Bonjean and prior counsel objected.

19 THE COURT: Yes.

20 MS. COHEN: So, I was just saying I think we
21 maintain that objection, but if --

22 THE COURT: I think I'm confused. Object to giving
23 an instruction or not giving the instruction?

24 MS. COHEN: Giving the instruction.

25 MS. BONJEAN: I think -- I think we took a position

1 that there should be other bad act instruction if there was
2 other bad act evidence introduced, and I think there is an
3 argument that other bad act evidence was introduced.

4 But I think over the weekend maybe I would have to
5 identify it --

6 THE COURT: Yes.

7 MS. BONJEAN: -- very specifically for the Court.

8 THE COURT: That's what I was asking because I'm not
9 certain --

10 MS. COHEN: Okay, I'm sorry.

11 THE COURT: -- you were going to want one or that
12 one is appropriate.

13 What is the Government's position?

14 MS. BENSING: So, it's the same as what I
15 represented to the Court, I think last week, which is that
16 from our perspective I don't think it's necessary.

17 But, obviously, we are fine with an other act
18 instruction. We proposed one for the Court, if necessary. I
19 don't think it's necessary, but I'm happy to hear what --

20 THE COURT: Right. And I'm not going to give one in
21 a vacuum, though. That's what -- I need to know what it would
22 be, what you think it would be addressing, and if it's
23 something that the parties want.

24 But can you let me know that sooner rather than
25 later?

Proceedings

4454

1 MS. BONJEAN: Yes, Your Honor. I'm not even sure we
2 would be proposing one actually. I'm of mixed mind on it.
3 So, I would like --

4 THE COURT: I thought you might be. No, that's why
5 I'm raising it. I want the parties' position on that.

6 MS. BONJEAN: Yeah.

7 THE COURT: Okay. Ms. Bensing.

8 MS. BENSING: Okay, so sorry. Just for
9 scheduling for --

10 THE COURT: Yes, I'm sorry. I left you midstream on
11 that thought.

12 MS. BENSING: No. I just -- I think we have the
13 first four defense witnesses.

14 MS. COHEN: Yes.

15 MS. BENSING: We have still not received a narrowed
16 list from Ms. Cohen. I think she had indicated she was going
17 to provide one today.

18 MS. COHEN: Yes, I -- okay. I thought Mr. Robotti
19 was working on that during -- that's one we will get that. He
20 conveniently left. We will get that out shortly to you.

21 MS. BENSING: And then I will note that Special
22 Agent McGinnis remains on the defendant's witness list. The
23 Government would renew its motion to preclude testimony from
24 him.

25 I am still hard-pressed to think of any relevant or

1 admissible testimony from him. So, I wanted to renew the
2 Government's motion.

3 THE COURT: Okay. Well, so far there's been no
4 proffer of any testimony he might give. There's been no
5 indication, at least on that list you read out yesterday, that
6 he's testifying or that you intended to call him.

7 So, if you intend to call him, I would want to know
8 what you think he has by way of relevant, admissible
9 testimony.

10 MS. COHEN: I think we --

11 MS. BONJEAN: I think it's best, if we're not -- we
12 will give the Court our best argument about why we would want
13 to call him. Right now I think is not the time, if the
14 Court -- we're not prepared to make that argument right this
15 second. We need to consult, and maybe we won't have that
16 argument.

17 THE COURT: No, that's fine. I just would need to
18 know before you would be trying to call him to the stand.

19 MS. BONJEAN: No, understood. Understood.

20 THE COURT: And the Government would need to know
21 because I also am not -- it is not evident to me that he would
22 have relevant, admissible testimony.

23 But you can raise it with me if you think he does.

24 MS. BENSING: And, Your Honor, just we would need to
25 know a little sooner than later because we do have to

1 coordinate with the FBI. There is a two-week process.

2 THE COURT: Yes, I know.

3 MS. COHEN: We did do it --

4 THE COURT: We did the request.

5 MS. COHEN: Yes, right.

6 MS. BENSING: We still have a process on our end.

7 THE COURT: Yes.

8 MS. BENSING: And so, to the extent it's, for
9 example, impeaching a witness statement, I don't even know
10 what that would be on this record, but there are other agents
11 who are on those 302s. Again, this is all in a vacuum because
12 I don't know what they would be seeking to elicit through him.

13 THE COURT: Okay.

14 Is there anything else by way of defense witnesses
15 that we need to take up?

16 MS. BENSING: I guess we'll just -- we'll continue
17 to work with Ms. Cohen and Ms. Bonjean with respect to our
18 26.2 arguments as well.

19 THE COURT: Okay.

20 And, obviously, this is not the time for you to have
21 to make any decision on this, but to the extent that either or
22 both defendants decide that they don't want to testify, I will
23 be wanting to, outside the presence of the jury, just allocute
24 them --

25 MS. BONJEAN: Sure.

1 THE COURT: -- with respect to their rights in that
2 regard.

3 MS. BONJEAN: Understood.

4 THE COURT: Okay.

5 MS. BENSING: Oh, and, Your Honor.

6 THE COURT: Yes.

7 MS. BENSING: We haven't yet heard back from the
8 defense on the admitted Government/Defense exhibits, but I'm
9 hoping to hear back from them. And then we can provide that
10 to the Court because I do think we'll rest on Monday.

11 So I want to -- so I don't know if there's an update
12 on timing.

13 MS. COHEN: Yes, I had indicated before, we are good
14 on the list.

15 MS. BONJEAN: We have it. We had one like where we
16 were -- it was almost exact, we had one or two exhibits where
17 we didn't have it on our list and they didn't have one on
18 their list, but I think we've gotten it.

19 THE COURT: Okay. I mean you can, obviously, check
20 the transcripts, too. They should be complete in that regard.

21 Okay. So you'll get that to me when you have that.

22 MS. BENSING: Yes. Hopefully, like tonight or
23 tomorrow so that the Court has time to review it.

24 THE COURT: But you are going to get me a list, but
25 also the exhibits, right?

Proceedings

4458

1 MS. BENSING: Yes.

2 THE COURT: Okay. Sounds good.

3 I will see everybody on Monday morning, but please
4 do file the expert related submission by 5:00 p.m. tomorrow.

5 If you want to request a other acts charge, if you
6 could do that by 5:00 p.m. tomorrow, too. If you don't want
7 to, then there's no need to file anything.

8 And I think that's it. Okay.

9 MS. COHEN: Thank you.

10 THE COURT: Have a good weekend, everybody. I'll
11 see you on Monday morning.

12 (Proceedings adjourned to Monday, June 2, 2025 at
13 9:30 a.m.)

14

15

16 ooo0ooo

17

18

19

20

21

22

23

24

25

I N D E X

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

WITNESS

PAGE

ANTHIA GILLICK

CROSS-EXAMINATION (Resumed) BY MS. COHEN	4199
REDIRECT EXAMINATION BY MS. FARRELL	4213
RECROSS EXAMINATION BY MS. BONJEAN	4243
RECROSS-EXAMINATION BY MS. COHEN	4254
FURTHER DIRECT EXAMINATION BY MS. FARRELL	4263
FURTHER CROSS-EXAMINATION BY MS. BONJEAN	4264

MARK LUBIN

DIRECT EXAMINATION BY MS. FARRELL	4270
CROSS-EXAMINATION BY MS. BONJEAN	4331
CROSS-EXAMINATION BY MR. ROBOTTI	4352
REDIRECT EXAMINATION BY MS. FARRELL	4358

ANDREW PUNZO

DIRECT EXAMINATION BY MS. GUPTA	4373
---------------------------------	------

E X H I B I T S

<u>Exhibit</u>	<u>Page</u>
Defense Exhibits 12-AI, 12-N, 12-AJ, 12-AR, 12-Q, 12-BC, 12-BE, 12-GV, 12-GW	4203
Government Exhibit 5005	4267
Government's Exhibit 853	4285
Government Exhibit 856	4288
Government's Exhibit 862	4289
Government's Exhibit 4056	4298
Government's Exhibit 4468-R	4301
Government's Exhibit 4467-R	4303
Government Exhibit 4465-R	4304
Government's Exhibit 4469-R	4316
Government's Exhibit 4466-R	4318

E X H I B I T S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

<u>Exhibit</u>	<u>Page</u>
Government's Exhibit 4480-R	4320
Government's Exhibit 4096-FR	4322
Government's Exhibit 4110-R	4324
Government's Exhibit 4482-R	4326
Government's Exhibit 4461-B1	4328
Government's Exhibit 4455-A	4329
Government's Exhibits 585, 822, 822-A and 3767	4376
Government's Exhibit 1030	4378
Government's Exhibit 1055	4381
Government's Exhibit 1074-DR	4384
Government's Exhibit 1153-DR	4387

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

E X H I B I T S

Exhibit

Page

Government's Exhibit 1166-D	4388
Government's Exhibit 1169-DR	4390
Government's Exhibit 1222-DR	4394
Government's Exhibit 1596-DR	4396
Government's Exhibit 1604-DR	4403
Government's Exhibit 1258-DR	4405
Government's Exhibit 1521-DR	4412
Government Exhibit 1796-DR	4417
Government Exhibit 1232-DR	4422
Government Exhibit 1235-DR	4423
Government Exhibit 1162-DR	4428

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

E X H I B I T S

<u>Exhibit</u>	<u>Page</u>
Government Exhibit 2242-DR	4434
Government's Exhibit 1079	4436