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UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,)	
)	File No. 22-cr-124
Plaintiff,)	(NEB/DTS)
)	
v.)	
)	
Abdiaziz Shafii Farah(1),)	Courtroom 13W
Mohamed Jama Ismail(2),)	Minneapolis, Minnesota
Abdimajid Mohamed Nur(4),)	Monday, May 13, 2024
Said Shafii Farah(5),)	9:02 a.m.
Abdiwahab Maalim Aftin(6),)	
Mukhtar Mohamed Shariff(7),)	
Hayat Mohamed Nur(8),)	
)	
Defendants.)	

BEFORE THE HONORABLE NANCY E. BRASEL
UNITED STATES DISTRICT COURT DISTRICT JUDGE

JURY TRIAL PROCEEDINGS - VOLUME XV OF XXX

Court Reporter: RENEE A. ROGGE, RMR-CRR
 United States Courthouse
 300 South Fourth Street, Box 1005
 Minneapolis, Minnesota 55415

* * *

Proceedings recorded by mechanical stenography;
Transcript produced by computer.

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APPEARANCES:

1
2 For Plaintiff: UNITED STATES ATTORNEY'S OFFICE
3 BY: JOSEPH H. THOMPSON
4 HARRY JACOBS
5 MATTHEW S. EBERT
6 CHELSEA A. WALCKER
7 DANIEL W. BOBIER
8 600 United States Courthouse
9 300 South Fourth Street
10 Minneapolis, Minnesota 55415

11 For Defendant BIRRELL LAW FIRM PLLC
12 Abdiaziz Shafii BY: ANDREW S. BIRRELL
13 Farah(1): IAN S. BIRRELL
14 333 South Seventh Street, #3020
15 Minneapolis, Minnesota 55402

16 For Defendant SIEBEN & COTTER PLLC
17 Mohamed Jama BY: PATRICK L. COTTER
18 Ismail(2): 105 Hardman Court, #110
19 South St. Paul, Minnesota 55075

20 For Defendant SAPONE & PETRILLO LLP
21 Abdimajid Mohamed BY: EDWARD V. SAPONE
22 Nur(4): 40 Fulton Street, 17th Floor
23 New York, New York 10038

24 For Defendant Said MASLON LLP
25 Shafii Farah(5): BY: STEVEN L. SCHLEICHER
CLAYTON CARLSON
225 South Sixth Street, #2900
Minneapolis, Minnesota 55402

For Defendant KOCH & GARVIS
Abdiwahab Maalim BY: ANDREW S. GARVIS
Aftin(6): 3109 Hennepin Avenue South
Minneapolis, Minnesota 55408

For Defendant Mukhtar GOETZ AND ECKLAND P.A.
Mohamed Shariff (7): BY: FREDERICK J. GOETZ
ANDREW H. MOHRING
KAITLYN C. FALK
615 First Avenue NE, #425
Minneapolis, Minnesota 55413

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APPEARANCES (Continued):

For Defendant Hayat
Mohamed Nur (8):

BRANDT KETTWICK DEFENSE PLLC
BY: MICHAEL J. BRANDT
NICOLE A. KETTWICK
2150 Third Avenue, #210
Anoka, Minnesota 55303

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1 **IN OPEN COURT**

2 **(JURY PRESENT)**

3 THE COURT: You may all be seated.

4 Government may call its next witness.

5 MR. EBERT: Thank you, Your Honor. The government
6 calls Shane Ball.

7 THE COURT: Thank you.

8 Good morning, sir. I will have you come up to the
9 witness stand. Raise your right hand.

10 SHANE BALL,

11 called on behalf of the government, was duly sworn, was
12 examined and testified as follows:

13 THE WITNESS: I swear.

14 THE COURT: Thank you. You may have a seat in the
15 witness chair.

16 I'll just note that there's some physical exhibits
17 still on the witness stand. Are they meant to be there for
18 this morning, Mr. Ebert or Ms. Walcker?

19 MS. WALCKER: For the second witness, Your Honor.

20 THE COURT: I understand. Thank you. All right.

21 Mr. Ebert -- first, I'll have you state and spell
22 both your first and last name for the record.

23 THE WITNESS: Yes, ma'am. Shane Ball. B-A-L-L is
24 the last name. Shane, S-H-A-N-E, is the first.

25 THE COURT: Thank you.

1 Now, Mr. Ebert, you may inquire.

2 MR. EBERT: Thank you, Your Honor.

3 DIRECT EXAMINATION

4 BY MR. EBERT:

5 Q. Good morning, sir.

6 A. Good morning.

7 Q. Can you explain to the jury where you work?

8 A. Currently, I'm a contract instructor for the sheriff's
9 department in the northwest metro.

10 Q. Okay. How long have you done that?

11 A. Two years-ish.

12 Q. Before your current position, what were you doing?

13 A. I was an FBI agent for just over 27 years.

14 Q. What types of casework did you do when you were with the
15 FBI?

16 A. I spent the vast majority of my career in -- sort of
17 working in rural America; and as part of that, you do a
18 hodgepodge of cases, sort of all the different violations
19 that the FBI does. So kind of a little bit of everything.

20 Q. Geographically, was that all in Minnesota?

21 A. Nope. I processed out of this office, got sent -- so
22 actually, I got hired from here, went to California, then
23 Texas, then North Dakota, then back to Minnesota.

24 Q. And how many years did you say you were with the FBI?

25 A. Just over 27.

1 Q. Okay. All right. I want to turn to the heart of the
2 matter. At some point were you involved in the
3 investigation that gives rise to the charges in this case?

4 A. Yes, sir.

5 Q. Can you describe what your role was for the jury?

6 A. Yeah, there's -- some search warrants were conducted in
7 January of 2022. They put out a -- kind of the way that
8 works is they put out an email to the office, say who's
9 available to assist. Got the email, said I was available on
10 that date, so you do a briefing. Pretty sure the briefing
11 was the day before. Go to that briefing, and then the next
12 day you -- helped serve some search warrants.

13 Q. Okay. And you did that in this case?

14 A. I did.

15 Q. Approximately, how many search warrants did you assist
16 with?

17 A. Two.

18 Q. Where were they located?

19 A. Savage and I think the second one was maybe Shakopee.

20 Q. Specifically, did you participate in the search of the
21 residence of a man named Mohamed Ismail?

22 A. I did.

23 Q. And I'm showing you up on the screen what is admitted
24 into evidence as Exhibit H-62. Can you describe for the
25 jury what we're looking at in Exhibit H-62?

1 A. Yeah, that's just a front -- a photo of the front of the
2 residence, townhome, with the address "13825" shown above
3 the garage door.

4 Q. And is this the residence of Mohamed Ismail?

5 A. It was at that time.

6 Q. And I'll enlarge so the jury can see. What is the house
7 number?

8 A. 13825.

9 Q. Do you recall approximately what time you arrived to
10 perform this search warrant?

11 A. It would have been right around 7:00 a.m.

12 Q. When you arrived, what do you recall happening at the
13 residence first?

14 A. So we pulled up, went to the door, knocked on the door,
15 an individual answered the door.

16 Q. And did you later come to know who that individual was?

17 A. Yes.

18 Q. Who was it?

19 A. Mr. Ismail.

20 Q. Was there anyone else present inside the residence when
21 you arrived?

22 A. I do not recall anybody else being there.

23 Q. Now, this Exhibit H-63 has numerous photographs that
24 were taken; is that right?

25 A. Correct.

1 Q. What is the purpose of having the photographs taken?

2 A. Well, there's a couple of reasons, so -- so that in a
3 trial later on, we can come back and reference those so
4 everybody knows what we're talking about.

5 Second, you'll see there's labels in various
6 rooms, like, for example, on the one that's on the screen
7 right now as labelled "M" allows us to then know where the
8 various items of evidence that were taken or seized from, so
9 we have a reference backwards on that.

10 Q. And just to clarify, up on the screen, do we see page 7
11 of this exhibit, which is the office?

12 A. Yeah, yes, with the "M" on it.

13 Q. A sheet of paper posted there?

14 A. Correct.

15 Q. Okay. And you mentioned that you had some types of
16 meetings prior to executing this search warrant on this day;
17 is that right?

18 A. A meeting.

19 Q. Okay. And approximately when did you execute this
20 search warrant at Mr. Ismail's home?

21 A. On -- the January 20th one?

22 Q. Yes.

23 A. Yeah, January 20th.

24 Q. In which year?

25 A. Oh, 2022.

1 Q. Generally speaking, what types of things were you and
2 other agents looking for in Mr. Ismail's residence pursuant
3 to the search warrant?

4 A. So we're looking for evidence of the crime, and then
5 fruits of that crime.

6 Q. And in this instance, did you and other agents find such
7 things?

8 A. Yes.

9 Q. Now, I'm showing you page 63 of H-62. What do we see in
10 this photograph?

11 A. A book of checks, Empire Cuisine & Market.

12 Q. I'm going to enlarge that a little bit more. And I'll
13 even do a better one than that.

14 You said Empire Cuisine & Market; is that right?

15 A. Correct.

16 Q. What is the address on this check below that name?

17 A. 232 Marschall Road, Shakopee.

18 Q. Now, you mentioned that you participated in two
19 different search warrants as part of this case; is that
20 right?

21 A. Correct.

22 Q. What was the other one that you did?

23 A. Empire Cuisine & Market at 232 Marschall Road in
24 Shakopee.

25 Q. And when did you do that warrant?

1 A. Later that afternoon.

2 Q. Okay. And we'll turn to that in a moment, but sticking
3 with Mr. Ismail's house, I want to turn your attention to a
4 few other items.

5 Is this a photograph of another item that agents
6 saw that day in Mr. Ismail's home?

7 A. Yes.

8 Q. And on the left, what do we see?

9 A. On the left. Just the -- it's about the GMC 2022
10 Sierra.

11 Q. And then I'm going to highlight a couple things in
12 yellow, and let me know if you have difficulty seeing them.

13 In the upper left-hand corner, do you see a date
14 up there?

15 A. Looks like 12/23/21.

16 Q. And at the top of this document, does it indicate that
17 there's a reservation?

18 A. Yeah, it's a reservation form.

19 Q. For what?

20 A. For the 2022 Sierra 1500 pickup.

21 Q. So this date of approximately December 23rd; is that
22 right, 2021?

23 A. Yeah, that looks like that, correct.

24 Q. Can you just remind the jury when -- when is that in
25 relation to when you were in Mr. Ismail's house executing

1 this warrant?

2 A. Well, it would be just shy of a month prior.

3 Q. And then is there a second document that's related to
4 this GMC Sierra?

5 A. Yes.

6 Q. In the middle, is there more information that's listed
7 about the vehicle?

8 A. Yeah, the reservation ID. It's at Walser Buick in
9 Bloomington.

10 Q. Can you describe what's on the screen here of page 85 of
11 Exhibit H-62?

12 A. Yeah, the back and the front of credit cards.

13 Q. And I'm going to enlarge the one on the left. Can you
14 read aloud the information on the back of this card?

15 A. Well, there's some banking information at the top with
16 phone numbers and whatnot, and then the name Abdiaziz S.
17 Farah, Empire Gas & Grocery, with the credit card number and
18 the valid through.

19 Q. And at the very top, does it indicate a bank?

20 A. U.S. Bank.

21 Q. And again, this is in Mr. Ismail's home?

22 A. Correct.

23 Q. Can you describe what we see on pictures 79 and 80 of
24 this exhibit?

25 A. Yes, sir. Just two passports.

1 Q. And on page 79, is this a portion of Mr. Ismail's
2 passport?

3 A. Yes, it is.

4 Q. And on the following page, although there is a glare, is
5 this another photograph of Mr. Ismail's passport?

6 A. Yes, it is.

7 Q. With his signature at the top?

8 A. Yes.

9 Q. Now, I'm showing you page 52 of this exhibit. Can you
10 describe what is depicted in this image for the jury?

11 A. Yeah, a couple of, like, television clickers. I think
12 that's a charger on the left. And then a cell phone sort of
13 on the right above the number 25.

14 Q. And did agents seize this cell phone?

15 A. Yes, sir.

16 Q. There's a -- what appears to be a sticky note with the
17 number 25 next to it; is that right?

18 A. Correct.

19 Q. Can you explain what that is?

20 A. Yeah, typically, as items are found, we use a sticky
21 note to sort of reference that number and also for the
22 photograph so they keep it all -- keep track of everything.

23 Q. All right. I want to turn your attention to some of the
24 items that were seized by you and other agents from

25 Mr. Ismail's home. Okay?

1 A. Okay.

2 Q. I'm showing you what's admitted as Exhibit H-63. And
3 starting from the top of this document -- first of all, do
4 you see a title of the document in the upper right?

5 A. Bill of Sale.

6 Q. And then is there a company name?

7 A. Boyer Ford Trucks, Incorporated.

8 Q. With an address in Savage, Minnesota?

9 A. Correct.

10 Q. And then do you see two boxes below that?

11 A. Yeah, the "bill to" and the "ship to."

12 Q. Yep. Could you read those allowed for the jury, please?

13 A. So the bill to starts with the number 10339, and A&E
14 Logistics, Inc., 13825 Edgewood Avenue, Savage, with a phone
15 number.

16 And then the ship to is A&E Logistics, 13825
17 Edgewood Avenue, Savage.

18 Q. In fact, is that the address of the residence that you
19 searched that day?

20 A. Yes, sir.

21 Q. The home of Mr. Ismail?

22 A. Yes.

23 Q. Okay. And now directing your attention to the middle
24 part of this document, Exhibit H-63, is there a net total
25 price at the bottom?

1 A. Yep. 167,012.

2 Q. And then if you could just take a minute, do you see
3 what items are subject to purchase that result in that total
4 of approximately \$167,000?

5 A. Yeah, it looks like two -- so the top one's a
6 Freightliner M2, heavy duty, and the one below it is a
7 Freightliner M2, 112 heavy duty.

8 Q. And does the top one have a price of 79,000?

9 A. Yep.

10 Q. And then the bottom one has a price of what?

11 A. 84,506.

12 Q. Okay. And then at the bottom of the document, do we see
13 a purchaser's signature?

14 A. We do. Mohamed Ismail.

15 Q. Additional signatures on the second page of this
16 purchase document; is that right?

17 A. Yes.

18 Q. The fourth page of this exhibit, what's the title at the
19 top of that?

20 A. Vehicle -- excuse me -- Vehicle Receipt and Delivery
21 Verification.

22 Q. Okay. Signed at the bottom; is that correct?

23 A. Mohamed Ismail again.

24 Q. And is there a date received beneath that signature?

25 A. 8/26/21.

1 Q. Now, I'm showing you Exhibit H-64. This is another
2 document from Boyer Trucks. I'll enlarge that at the top.

3 A. Again, it's a vehicle receipt and delivery verification.

4 Q. Okay. And I'll enlarge here. Can you describe the
5 vehicle at issue in this vehicle receipt?

6 A. Yeah, 2016 Ford Transit.

7 Q. And then does it contain a serial number and a stock
8 number below that?

9 A. It does.

10 Q. And at the bottom, is there a customer name?

11 A. A&E Logistics at the Edgewood address.

12 Q. And is there a signature?

13 A. There is.

14 Q. Okay. I'm going to direct your attention back to some
15 of the photographs we were looking at a few moments ago.

16 Up on the screen is page 28 of Exhibit H-62. Can
17 you describe for the jury what's depicted in this image?

18 A. It's a hallway of the -- of the -- of the residence we
19 previously discussed. There's a suitcase and a -- like a --
20 I guess I'd call it a gym bag.

21 Q. And in the back of the photo, do you see the letter "H"?

22 A. I do.

23 Q. What does that signify?

24 A. Again, that's just a reference. So when they -- they
25 label all the different rooms so that when you take photos,

1 you know where things are. That's the --

2 Q. At the top of this screen is the following page, page 29
3 of this exhibit, what do we see here?

4 A. The top one is the same gym bag that we previously
5 talked about. And then inside that is a blue backpack.
6 Well, it's the next one.

7 Q. We're now moving on to the following page. You
8 mentioned a blue backpack?

9 A. Yeah.

10 Q. Can you describe what we see here in page 30 of this
11 exhibit?

12 A. Yeah, that's the gym bag with a backpack inside of it.

13 Q. Did agents open up that backpack?

14 A. Yes.

15 Q. Now, I'm showing you the following page, page 31. Can
16 you describe for the jury what we see here?

17 A. Yep. Those are the items that would have been inside
18 the backpack.

19 Q. And we'll go through some of these in a moment, but
20 enlarged on the screen do we see some of the items that were
21 contained inside the backpack?

22 A. Yes.

23 Q. Did agents seize those records pursuant to the search
24 warrant?

25 A. Yes.

1 Q. Okay. Turning now to a series of items that were found
2 inside that duffel bag, I direct your attention to
3 Exhibit H-70k, which is in evidence. And we're going to
4 move through some of these documents.

5 Up on the screen is the first page of this
6 exhibit. Can you describe what the title is at the top of
7 the document?

8 A. Summer Food Service Program, Contract for Vended Meals.

9 Q. And at the bottom do you see where it says, "Purpose and
10 Authority"?

11 A. Yes.

12 Q. Which parties are listed as subject to this contract?

13 A. So the sponsor is Partners in Quality Care, and the
14 vendor is Empire Cuisine & Market.

15 Q. And at the very bottom of the first page, is there a
16 date range?

17 A. 10/1 of 2020 to 4/30 of 2021.

18 Q. And this is a multi-page document; fair to say?

19 A. Yes, sir.

20 Q. Jumping to page 7 of this exhibit, at the top, is there
21 a dollar amount?

22 A. Yes, 600,000.

23 Q. And what does it say before 600,000?

24 A. "Sponsor estimates total payments to vendor under this
25 contract to be 600,000."

1 Q. And beneath that, do we see some signatures?

2 A. We do.

3 Q. First of all, at the top, do you see where it says
4 "sponsor"?

5 A. Yes.

6 Q. Can you read some of the information that's contained
7 beneath "sponsor"?

8 A. So the name is Partners in Quality Care; authorized
9 representative is Kara Lomen; title, executive director.
10 There's a signature and a date of 10/1/2020.

11 Q. And beneath that, do you see where it says "vendor"?

12 A. I do.

13 Q. What is listed as the vendor for this contract?

14 A. Empire Cuisine & Market.

15 Q. And with that same 232 Marschall Road address in
16 Shakopee?

17 A. Correct.

18 Q. And is there an authorized representative?

19 A. Abdiaziz Farah.

20 Q. And what does it indicate is Mr. Farah's title?

21 A. Owner.

22 Q. Is there a signature below that?

23 A. There is.

24 Q. And what is the date next to it?

25 A. 10/1 of 2020.

1 Q. Continuing on with these records that were in the duffel
2 bag, now I direct your attention to Exhibit H-701, which is
3 in evidence.

4 Is this another copy of a summer food service
5 contract for vended meals?

6 A. Yes, it is.

7 Q. Like the previous exhibit, does it list the two parties
8 to the contract?

9 A. Yes, the sponsor being Partners in Quality Care and the
10 vendor being Empire Cuisine & Market.

11 Q. Same as the last contract we looked at a moment ago?

12 A. Correct.

13 Q. Now, on this one, does it contain some additional
14 information on the first page for site names?

15 A. It does.

16 Q. Can you read aloud what's in the first line under the
17 "site name" box?

18 A. Albright Townhomes, 3051 Pillsbury Avenue, Minneapolis.

19 Q. And then beneath that, is there an address that appears
20 to be crossed out?

21 A. Yeah, Chancellor Manor, 14250 Irving Avenue, Burnsville.

22 Q. And there's a final site listed below the crossed out
23 one; is that right?

24 A. Correct.

25 Q. What is that one?

1 A. Clifton Townhomes, Dakota Street, Shakopee.

2 Q. Moving on to the seventh page of Exhibit 701, once
3 again, do we see signatures on behalf of the parties to this
4 contract?

5 A. Yes, sir.

6 Q. And on the top, Partners in Quality, is that listed?

7 A. Under the sponsor's name.

8 Q. And beneath that, do we see a name listed underneath
9 "vendor"?

10 A. Yeah, Empire Cuisine & Market.

11 Q. And there's a handwritten authorized representative. Do
12 you see that?

13 A. I do.

14 Q. What do you see?

15 A. Abdiaziz Farah.

16 Q. And, once again, how is he described on this contract?

17 A. As the authorized representative and owner.

18 Q. And then what are the dates signed -- or indicated here
19 for Partners in Quality as the sponsor and for the vendor?

20 A. 10/1 of 2020.

21 Q. Now, I'm showing you a five-page document. This is an
22 Exhibit 70d.

23 This is this another item that agents recovered
24 from that duffel bag in the hallway?

25 A. Yes, sir.

1 Q. And at the very top, what is the title of this document?

2 A. It's a Minnesota Department of -- excuse me -- a
3 Minnesota Department of Education Meal Count Form - Clicker
4 Count.

5 Q. And beneath that in handwriting, is there something
6 listed next to sponsor name?

7 A. Partners in -- well, it says Partners in QC.

8 Q. And then next to that, does it have a phone number
9 listed?

10 A. It does.

11 Q. What is that phone number?

12 A. 612-644-6843.

13 Q. There's a date range that's indicated. Do you see that?

14 A. Yeah, 10/1 to 10/3.

15 Q. And then I won't go through the middle part here, the
16 jury has seen this, but generally speaking, is there data
17 entered underneath where it says "Meal Counts" in bold?

18 A. There is.

19 Q. And is there a signature at the very bottom of the
20 document?

21 A. There is.

22 Q. Beneath that signature is there printed language -- I'm
23 sorry -- above the signature?

24 A. Yeah, there is. "By signing below, I certify that the
25 above information is true and accurate."

1 Q. And then it bears a signature, correct?

2 A. It does.

3 Q. What is the title of the signer, printed on the left
4 next to the signature?

5 A. Site supervisor.

6 Q. And is there a date on this document?

7 A. 10/3 of 2020.

8 Q. Now, and you found this in the home of which person?

9 A. Mohamed Ismail.

10 Q. On this same document, I direct your attention to
11 Row 11. What does that indicate?

12 A. Initials of person -- I'm sorry, it bounced around.

13 Q. Do you see that a little better?

14 A. Yeah, "Initials of person taking daily meal count
15 certifying that the information is true and accurate."

16 Q. And what initials are there?

17 A. MI.

18 Q. Directing your attention to the second page of
19 Exhibit 70d. Is this another meal count form?

20 A. It is.

21 Q. At the very top, do you see where it says "Site and
22 Supervisor Name"?

23 A. Yes.

24 Q. What is printed there?

25 A. Partners in QC.

1 Q. And for the site beneath Partners in QC, what do you
2 see?

3 A. I'm reading The Landing.

4 Q. Once again, is there a signature at the very bottom?

5 A. There is.

6 Q. What's the date next to the signature?

7 A. 10/10 of 2020.

8 Q. And then does it have the same language in Row 11 where
9 it reads, "Initials of person taking daily meal count
10 certifying that the information is true and accurate"?

11 A. It does.

12 Q. And do you see initials after that?

13 A. I do.

14 Q. What are they?

15 A. MI.

16 Q. And then these -- fair to say that these meal count
17 forms continue on for multiple pages?

18 A. That is correct.

19 Q. I want to direct your attention to another item that was
20 recovered from the duffel bag in Mr. Ismail's home.

21 And this is Exhibit H-70a, which is in evidence.

22 It's a 26-page document, and let's start with the very top.

23 Can you read aloud what you see at the top?

24 A. Feeding Our Future, Child and Adult Care Food Program,
25 Agreement Between Feeding Our Future and Program.

1 Q. And then does it go on below that to contain language
2 underneath the header "Directions"?

3 A. It does.

4 Q. On the second page of Exhibit H-70a -- I'm going to
5 enlarge the top part -- do you see where it says sponsor in
6 the upper left-hand corner of the table?

7 A. I do.

8 Q. Who is the sponsor?

9 A. Feeding Our Future.

10 Q. What's the address for Feeding Our Future?

11 A. 3055 Old Highway 8, Suite 312, Minneapolis.

12 Q. And then beneath that, do you see where it says
13 "program"?

14 A. I do.

15 Q. Can you read aloud, if you can, what is entered there
16 for the program address and city?

17 A. 309 Central Avenue North, Faribault.

18 Q. In Minnesota?

19 A. Yes.

20 Q. Now, I'm at the bottom of page 6 of Exhibit H-70a. Do
21 you see a representative on behalf of the that Faribault
22 program listed here?

23 A. I do.

24 Q. And can you make out what the name is?

25 A. Mahad -- I'm not --

1 MR. COTTER: Objection. 602.

2 THE COURT: Overruled.

3 You may answer, if you can.

4 THE WITNESS: I'm having a little trouble with the
5 second name. Abdulle.

6 BY MR. EBERT:

7 Q. And then the first name appears to be what?

8 A. Mahad.

9 Q. And then there's a title next to that name. Do you see
10 that?

11 A. Owner.

12 Q. What is it -- or I'm sorry. What is the date beneath
13 that?

14 A. 10/1 [sic] of 2020.

15 Q. And do you see a name printed on behalf of the
16 sponsoring organization?

17 A. Yeah, Feeding Our Future, and then the representative is
18 Aimee Bock.

19 Q. On page 7 of this exhibit, does there appear to be a
20 form with the title of W-9 contained within it?

21 A. There is.

22 Q. And at the very top in Row 1, is there a name that's
23 printed out?

24 A. Yeah. Madina Grocery & Restaurant, Inc.

25 Q. And beneath that, is there an address for Madina Grocery

1 & Restaurant, Inc.?

2 A. At the very bottom of this? 309 Central Avenue North,
3 Faribault, Minnesota.

4 Q. And is that the same address that you testified about a
5 moment ago for the program name for this Feeding Our Future
6 contract?

7 A. It is.

8 Q. All right. I want to show you a few more items that
9 agents recovered from that duffel bag in Mr. Ismail's home.

10 Directing your attention to Exhibit H-70f. And
11 does this Exhibit H-70f contain a series of approximately 23
12 forms?

13 A. It does.

14 Q. I'm scrolling through them now on the screen. What is
15 the title of these documents? And I'll go back to the very
16 first one.

17 A. Site Transfer Request Form.

18 Q. In the upper left, is there a name and a logo?

19 A. Yeah, the Minnesota Department of Education.

20 Q. So let's take a look at some of the information on the
21 site transfer form.

22 First of all, at the very top, can you read aloud
23 for the jury what you see there?

24 A. You mean the name of center?

25 Q. Yes.

1 A. So T-O-T or Tot Park. And then reading across, Partners
2 in Quality Care, site address.

3 Q. Do you see a city that's listed for Tot Park?

4 A. Yeah, Circle Pines.

5 Q. And then beneath that, is there a printed name of a site
6 authorized representative?

7 A. Mahad Ibrahim.

8 Q. Highlighted now in yellow; is that right?

9 A. Correct.

10 Q. And then next to that is there a phone number listed for
11 that person?

12 A. There is.

13 Q. Do you see the area code?

14 A. 571.

15 Q. And then is there an email address?

16 A. There is.

17 Q. And then at the very bottom is there a signature listed
18 there for the site authorized representative?

19 A. There is.

20 Q. And is there a date on the document?

21 A. 4/1 of 2021.

22 Q. Beneath that, do you see where it says "Current Sponsor"
23 section?

24 A. I do.

25 Q. What information do you see there?

1 A. Partners in Quality Care with a sponsor ID number.

2 Q. And is there a printed name on behalf of Partners in
3 Quality Care?

4 A. Yeah, Kara Lomen.

5 Q. A signature and a date as well?

6 A. Correct.

7 Q. What's the date?

8 A. 4/1 of '21.

9 Q. And page 1 you said concerns Tot Park in Circle Pines?

10 A. Yes.

11 Q. Let's move on to the second page of these transfer
12 forms. I'll blow this up a little bit.

13 Now, does this contain a different name at the top
14 of the document for name of center/site specifically?

15 A. Yeah, Al-Ihsan.

16 Q. And what's the site address?

17 A. 955 West -- I don't know that I can read that second
18 name.

19 Q. And do you see a city?

20 A. St. Paul.

21 Q. Otherwise, does the information that you testified about
22 appear to be the same?

23 A. Does the -- the number and the email are the same.

24 Q. Okay. Specifically, this, once again, includes Mahad
25 Ibrahim?

1 A. Correct.

2 Q. As well as Kara Lomen on the bottom?

3 A. Correct.

4 Q. Dates of April 4th, 2021?

5 A. Yes.

6 Q. Moving on to page 3. At the very top, what is printed
7 for name of center/site on this one?

8 A. It looks like Winfield Townhomes.

9 Q. In which city?

10 A. Savage, Minnesota.

11 Q. Page 4, what's the site name?

12 A. Autumn Holdings.

13 Q. Which city?

14 A. Faribault.

15 Q. Otherwise same information, once again?

16 A. Yes, sir.

17 Q. Including the same dates?

18 A. Yes. Sorry, I couldn't see it on that blow-up.

19 Q. Can you see it now, sir?

20 A. I can.

21 Q. Okay. All right. Moving on, fifth page, is this
22 generally the same document, sir?

23 A. Yes, it is.

24 Q. However, on the fifth page, what's the name of the site?

25 A. Four Seasons.

1 Q. Which city is Four Seasons listed as on this document?
2 A. Faribault, Minnesota.
3 Q. Page 6, what is the name of the site on this transfer
4 request form?
5 A. Scott Park.
6 Q. Do you see an address on Galaxie Avenue?
7 A. I do.
8 Q. What city?
9 A. Apple Valley, Minnesota.
10 Q. Page 7, another location on this one?
11 A. It looks like Greenfield [sic] Place.
12 Q. And which city is Greenfield Place listed as being in?
13 A. Faribault, Minnesota.
14 Q. Page 8, I'm going to blow that up, what is the same of
15 the center/site at the top of this form?
16 A. Plymouth -- I think that's Learning and Mind.
17 Q. What city is that listed in?
18 A. Minneapolis.
19 Q. Once again, with Mr. Mahad Ibrahim?
20 A. Correct.
21 Q. Otherwise the same information below on all of these
22 forms you're testifying about?
23 A. Yes, sir.
24 Q. Same dates of April 1st, 2021?
25 A. Correct.

- 1 Q. Page 9, what name is listed?
- 2 A. Cedar Run Townhomes in Owatonna, Minnesota.
- 3 Q. Page 10, is there another Owatonna location?
- 4 A. Parkview Heights.
- 5 Q. Page 11, yet another Owatonna location?
- 6 A. Hoodbridge [sic] Apartments.
- 7 Q. Moving on to page 12, what do you see there?
- 8 A. Heather Court Apartments in Owatonna.
- 9 Q. Now, directing your attention to page 13, what's the
- 10 name of the center/site that's printed?
- 11 A. Empire Cuisine & Market in Shakopee.
- 12 Q. What's the site address?
- 13 A. 232 Marschall.
- 14 Q. Once again, do we see Mahad Ibrahim as the authorized
- 15 representative?
- 16 A. Yes.
- 17 Q. Page 14. What do we see?
- 18 A. Shamrock Court Apartments in St. Paul.
- 19 Q. With an address on Afton Road?
- 20 A. Yes.
- 21 Q. On the 15th page, what's the name of the site?
- 22 A. Cedar Cultural, Minneapolis.
- 23 Q. All of these are found within the duffel bag; is that
- 24 right?
- 25 A. Yes, sir.

- 1 Q. You said Cedar Cultural is in Minneapolis?
- 2 A. Yes.
- 3 Q. What was the address?
- 4 A. 416 Cedar Avenue -- could be northeast, but --
- 5 Q. Moving on to the 16th page, what's the name of this one?
- 6 A. Lifestyle Apartments, Faribault.
- 7 Q. Faribault, Minnesota?
- 8 A. Correct.
- 9 Q. Page 17, are you able to read that one?
- 10 A. It looks like Albright Townhomes.
- 11 Q. In Minneapolis?
- 12 A. Minneapolis.
- 13 Q. What about page 18?
- 14 A. Samaha Islamic Center.
- 15 Q. Where's that located?
- 16 A. Shakopee.
- 17 Q. Otherwise, the same information that you've testified
- 18 about already on this form?
- 19 A. Correct.
- 20 Q. Page 19?
- 21 A. Clifton Townhomes.
- 22 Q. Where's that located?
- 23 A. Shakopee.
- 24 Q. Page 20, is this another site name?
- 25 A. As-Sunnah.

1 Q. Where is it located?

2 A. St. Paul.

3 Q. Page 21, do you see the name printed there?

4 A. La Cruz Community Apartments in St. Cloud.

5 Q. Contains the same information on the rest of the form?

6 A. It does.

7 Q. What about page 22?

8 A. Lion's Park.

9 Q. Where is that located?

10 A. Shakopee.

11 Q. Sorry. I didn't mean to talk over you.

12 And then the last one, what do we see here?

13 A. The Landing in Shakopee.

14 Q. Sticking with the records that were recovered from the
15 duffel bag in Mr. Ismail's home, now up on the screen is
16 Exhibit H-70p. And was this a two-page document that agents
17 recovered?

18 A. Correct.

19 Q. So directing your attention to the first page, can you
20 read that allowed for the jury, please?

21 A. So the MDE contact information, Jeanette Johnson-Reed,
22 email, Jeanette.johnson-reed@state.mn.us. And then Monica
23 Herrera and her email address. And then underneath that is
24 the key points to make.

25 Do you want me to read those aloud?

1 Q. Yes, please.

2 A. "Working with Partners in Quality Care as your
3 sponsoring organization; Want to participate in the SFSP and
4 serve meals to children; Want CAP released to allow new site
5 approval."

6 Q. And now moving on to the second page of this note, is
7 there handwriting?

8 A. There is.

9 Q. And at the top do you see where it says "Top 3"?

10 A. I do.

11 Q. What is printed below "Top 3"?

12 A. Well, I can't really read the first one. It's scratched
13 out. And then Dar Al-Farooq and Dar Ul-Vloom.

14 Q. And is there other language printed on this note?

15 A. Yeah. The Landing, the Lion's Park. I don't know what
16 that last word is.

17 Q. In addition to these notes, were there other notes that
18 were recovered within the duffel bag?

19 A. There were.

20 Q. Directing your attention to Exhibit H-70r. So first on
21 the left, do you see language at the top left corner, sir?

22 A. I do.

23 Q. What is that?

24 MR. COTTER: Your Honor, I'm just going to object.
25 602, personal knowledge of this handwriting on this one.

1 THE COURT: Overruled.

2 You may answer if you can.

3 THE WITNESS: Just read them?

4 BY MR. EBERT:

5 Q. At the very top left, do you see -- what's the first
6 word at the top left?

7 A. Aram.

8 Q. And then beneath that, are there a series of names
9 printed out?

10 A. There are.

11 Q. Each followed by numbers and parenthesis; is that
12 accurate?

13 A. That's accurate.

14 Q. What are some of the names that you see printed beneath
15 A-R-A-M?

16 A. So from top to bottom, Albright and then Winfield,
17 Samaha, As-Sunnah, Success, Faribault, and Shamrock.

18 Q. And then I'm going to enlarge this. You just read aloud
19 Faribault a moment ago; is that right?

20 A. I did.

21 Q. And does there appear to be an arrow drawn from
22 Faribault?

23 A. Yes.

24 Q. With some additional language beneath that?

25 A. Yes.

1 Q. Are you able to make out any of those words?

2 A. Not with any confidence.

3 Q. Okay. On the right hand, let's take a look at that.

4 Is there a header at the very top of the
5 right-hand column?

6 A. SFSP.

7 Q. Once again, a series of names printed beneath that; is
8 that right?

9 A. Correct.

10 Q. Followed by respective numbers after each one?

11 A. Correct.

12 Q. Can you read aloud the names and the numbers?

13 A. Sure. Autumn Hold, 300; Clifton, 450; As-Sunnah, 2,000;
14 Winfield, 1,000; Samaha -- that could be a 200 or it could
15 be a 2,000. It's kind of cut off there. Albright, 550;
16 Cross VV, 250; Heritage 250; Lifestyle, 350; Highland, 250;
17 Four Seasons, 350; Greenwood, 250. And then a --

18 Q. And then another series of words written at the bottom?

19 A. Yeah. So it's daily attendance at risk, invoice to
20 site, A-R-A-M, and then handout.

21 Q. Now I'm showing you what's in evidence as Exhibit H-70s.
22 Are these additional notes recovered from the duffel bag?

23 A. Yes.

24 Q. So looking at the one on the left, what do we see here?

25 A. Should I just read them like I did the last ones?

1 Q. Yes, please.

2 MR. COTTER: Your Honor, same objection. 602.

3 THE COURT: Overruled. You may answer.

4 THE WITNESS: So Clifton, 13,950; Samaha, 38,750;
5 Autumn, 9,300; Winfield, 31,000; As-Sunnah, 62,000;
6 Albright, 17,050; for a total of 172,050.

7 BY MR. EBERT:

8 Q. And then in the right, does it also indicate another for
9 total meals?

10 A. It does: 249,941.

11 Q. All right. Now let's -- I'm going to enlarge the other
12 part of this note in Exhibit H-70s.

13 First of all, what does it say at the top?

14 A. Superstar.

15 Q. Exclamation point?

16 A. Exclamation point.

17 Q. What's beneath Superstar exclamation point?

18 A. Greenfield, 7750; LifeStyle, 10,900; Heritage, 7,750;
19 Highland, 7,750; Four Seasons, 10,850; and Cross is 7,750
20 for --

21 Q. And I'm sorry. I --

22 A. Got ahead of me. Total: 52,750.

23 Q. And then on the second page of this note, was there
24 additional language?

25 A. There's "empathy" on the left, and then a number on the

1 right.

2 Q. What's the number on the right?

3 A. 1,482,150.13.

4 Q. Now, I'm showing you Exhibit H-70n. Is this another
5 record that agents found in the duffel bag in Mr. Ismail's
6 home?

7 A. Yes, sir.

8 Q. Okay. Let's take a look at this. First of all, at the
9 very top, what's the party name and address that you see
10 there?

11 A. Empire Cuisine & Market, 232 Marschall Road, Shakopee.

12 Q. What's the date the invoice indicates it was submitted?

13 A. 3/31/21.

14 Q. And who is the invoice for, according to this record?

15 A. Kara Lomen, Partners in Quality Care.

16 Q. And it's payable to which party? Directing your
17 attention to the middle.

18 A. Yep. Empire Cuisine & Markets.

19 Q. Do you see where it says "project"?

20 A. The SFSP sites.

21 Q. And then there's an invoice number; is that right?

22 A. There is.

23 Q. What is the due date?

24 A. 4/15 of '21.

25 Q. And then let's take a look at the bottom half of this

1 invoice. Do you see where it says "Description"?

2 A. I do.

3 Q. Fair to say there's a series of names listed there?

4 A. There is.

5 Q. Greenwood?

6 A. That's the top one.

7 Q. Four Seasons?

8 A. That's the one below it.

9 Q. Continues on from there, Autumn Holdings, Winfield
10 Townhomes?

11 A. Correct.

12 Q. The names on this document, are some of these names that
13 you've testified about in some of the other records that
14 were found in the duffel bag?

15 A. Correct.

16 Q. Okay. And then with respect to each of the names on
17 this invoice, do you see a corresponding dollar amount in
18 the right-hand column?

19 A. I do, all the way to the right.

20 Q. And do this add up to a total at the very bottom of
21 this invoice?

22 A. They do.

23 Q. What is the total dollar amount of this invoice?

24 A. \$1,586,195.

25 Q. I'm showing you another invoice on the screen. This is

1 Exhibit H-70v.

2 Once again, was this recovered from the duffel bag
3 in Mr. Ismail's home?

4 A. Yes, sir.

5 Q. Looking at the top first, what party name is listed
6 there?

7 A. Somali Community Resettlement Services.

8 Q. Is there a date the invoice was submitted?

9 A. 3/31 of '21.

10 Q. Who's the invoice for?

11 A. Kara Lomen.

12 Q. At Partners in Quality Care?

13 A. Correct.

14 Q. Who's it payable to?

15 A. Somali Community Resettlement.

16 Q. And then underneath the "payable to" line, do you see
17 where it says "project"?

18 A. I do.

19 Q. And what's listed beneath "project"?

20 A. CACFP sites.

21 Q. Is there a due date on this invoice?

22 A. 4/15 of '21.

23 Q. Looking at the bottom half of this invoice in
24 Exhibit H-70v, can you read what's listed underneath
25 "Description" in the left-hand column?

1 A. Sure. From top to bottom, it's Minneapolis, Faribault,
2 Rochester, St. Cloud, and Willmar.

3 Q. On the right-hand side, is there a corresponding unit
4 price listed in the column?

5 A. There is.

6 Q. And then to the right of that, is there a corresponding
7 price?

8 A. The total price.

9 Q. The total price. And, ultimately, at the bottom, is
10 there a total for Minneapolis, Faribault, Rochester,
11 St. Cloud, and Willmar?

12 A. There is.

13 Q. What is that dollar amount?

14 A. \$633,334.95.

15 Q. And then moving on to the second page of Exhibit H-70v,
16 do we see another invoice?

17 A. We do.

18 Q. I'm going to enlarge this. What's listed at the top?

19 A. Islamic Center Society of Marshall, Minnesota.

20 Q. Submitted on March 31st of 2021?

21 A. Correct.

22 Q. Is it also payable to that same party, Islamic Society
23 of Marshall, Minnesota?

24 A. Correct.

25 Q. What's listed as the project?

1 A. CACFP sites.

2 Q. Once again, is this an invoice for Kara Lomen of
3 Partners in Quality Care?

4 A. It is.

5 Q. Which due date?

6 A. 4/15 of '21.

7 Q. And what's the total price at the bottom?

8 A. \$41,779.80.

9 Q. In addition to those records, did agents also recover
10 from the duffel bag records like this contained in
11 Exhibit H-70c?

12 A. Yes.

13 Q. And at the very top, what's the title of that document?

14 A. So it's a Minnesota Department of Education form, daily
15 meal count form.

16 Q. And are you able to read the handwritten site name for
17 this particular one?

18 A. Well, the site name is Winfield Townhomes.

19 Q. And this continues on for multiple pages; is that
20 correct?

21 A. That is correct.

22 Q. Over 50 pages; is that right?

23 A. Yes.

24 Q. And each of these bears a signature on the bottom; is
25 that right?

1 A. They do.

2 Q. So, for example, on page 21, does this one have a
3 signature?

4 A. It does.

5 Q. Does it have a date?

6 A. 6/28 of '20.

7 Q. And what's printed directly above the handwritten
8 signature on page 21?

9 A. "By signing below, I certify that the above information
10 is true and accurate."

11 Q. In addition to that exhibit, now I'm showing you H-70b.
12 Are these more meal count forms that were found in the
13 duffel bag in Mr. Ismail's home?

14 A. Yes.

15 Q. Once again, does it have a signature at the bottom?

16 A. It does.

17 Q. Containing the same attestation about true and accurate
18 information?

19 A. Correct.

20 Q. On this particular 1, page 1 of this exhibit, what is
21 the site name printed?

22 A. Samaha Islamic Center.

23 Q. Moving on to page 20 of this exhibit, what's the site
24 name listed on that one?

25 A. I'm struggling. So Mind Foundry.

1 Q. And then do you see language to the right of "Mind
2 Foundry"?

3 A. Landing, Lion's.

4 Q. And what about on the following page, page 21? What's
5 the site name on that meal count form?

6 A. So Mind Foundry, Landing, Lion's Park.

7 Q. Showing you now Exhibit H-70e, are these yet again more
8 meal count forms?

9 A. Yes.

10 Q. Recovered from that duffel bag in Mr. Ismail's home?

11 A. Correct.

12 Q. And this continues on for multiple pages; is that
13 accurate?

14 A. That is accurate.

15 Q. With the same signature -- same signature attestation at
16 the very bottom: "By signing below, I certify that the
17 above information is true and accurate"?

18 A. That is correct.

19 Q. And then do some of these also contain initials, for
20 example, do you see initials printed above the date enlarged
21 on the screen?

22 A. I do.

23 Q. On page 8 of Exhibit H-70e, are you able to read what
24 those initials are?

25 A. AF.

1 Q. And do those initials, AF, appear on multiple pages
2 within this exhibit?

3 A. They do.

4 Q. Including on page 13? Do you see those same initials,
5 AF?

6 A. I do.

7 Q. On page 13, do you see a sponsor name at the top?

8 A. Yep, Partners in QC.

9 Q. And beneath that, do you see printed out where it says
10 "Site and Supervisor Name"?

11 A. Clifton Townhomes, Samaha, Empire Partnerships. There's
12 a line between those two, Samaha and then Empire
13 Partnerships.

14 Q. All right. Now I'm showing you H-70q. Are these weekly
15 consolidated meal counts?

16 A. Yes.

17 Q. Approximately 27 pages of these; is that right?

18 A. Correct.

19 Q. Are these additional records recovered from the duffel
20 bag in Mr. Ismail's home?

21 A. Yes.

22 Q. So, for example, on page 7 of this exhibit at the top,
23 do you see where it says Partners in Quality?

24 A. I do.

25 Q. Are you able to read what location is printed beneath

1 that?

2 A. So the site and supervisor name?

3 Q. Yes.

4 A. St. Peter.

5 Q. And does that appear on multiple documents?

6 A. It does.

7 Q. So just to recap, all the series of records you've just
8 testified about contained within the subparts of
9 Exhibit H-70, those were all recovered from this duffel bag
10 shown on the screen in Exhibit H-62?

11 A. Correct.

12 Q. I want to switch gears a little bit and direct your
13 attention to the other search warrant that you participated
14 in.

15 Can you remind the jury what that was?

16 A. The Empire Cuisine in Shakopee.

17 Q. Okay. I'm showing up on the screen what's in evidence
18 as Exhibit H-119. Can you describe for the jury what we see
19 here?

20 A. It's just the front of the Empire Cuisine & Market, the
21 strip mall, sort of the front door.

22 Q. What's on page 2?

23 A. Just a close-up of that front door.

24 A photo of the kitchen.

25 Q. We're going to turn to some of the photographs here.

1 Can you describe the sort of the layout of the Cuisine as
2 you recall it from your time there?

3 A. Yeah, there's a small like seating area with a -- like
4 some kind of -- where you can buy various items. And then
5 behind that, there's a kitchen with some storage area.

6 Q. Approximately, how many rooms were there?

7 A. Three or four.

8 Q. All right. Now up on the screen is the -- this is the
9 third page. Can you describe what we see here?

10 A. Yeah, that's a photo of part of the kitchen from a --
11 just from an angle.

12 Q. Page 4, what do we see?

13 A. The kitchen area.

14 Q. When you arrived that day, were there customers present?

15 A. I don't recall any customers present.

16 Q. Was there anyone present? Do you recall?

17 A. Yeah, there was three individuals there, appeared to be
18 employees, when we got there.

19 Q. And then you mentioned a moment ago that -- I believe
20 you used the word "strip mall"; is that right?

21 A. Yeah, just that it's located in a strip mall.

22 Q. Can you describe a little bit more about what is -- what
23 generally surrounds Empire Cuisine in that strip mall?

24 A. There's just a few additional stores as you move back to
25 the right, but I don't remember what they were.

1 Q. Okay. Would you describe it as a large place?

2 A. No.

3 Q. How would you describe it?

4 A. The strip mall itself or the --

5 Q. Yes.

6 A. -- Empire Cuisine?

7 Q. Both.

8 A. Okay. It's a, you know, medium strip mall like on every
9 street in lots of neighbors, and Empire Cuisine is a fairly
10 small restaurant.

11 Q. All right. Going back to some of these interior photos.
12 Now I'm on page 6. What do we see here?

13 A. Seating area of the restaurant.

14 Q. What's depicted in Photo 7?

15 A. So from back to front, so the front door is the furthest
16 away from us in the photo. So it's from the seating area
17 all the way up to -- I mention that there's the area where
18 you can buy stuff on the left there, and then there's
19 some -- like pop or whatever on the right in the cooler.
20 And just the seating area.

21 Q. And then here do we see approximately three or four
22 booths?

23 A. Correct.

24 Q. And this is looking at it from another angle in
25 Photo 11; is that right?

1 A. In essence, the same photo, but from the opposite side.

2 Q. What do we see in Photograph 9?

3 A. So I'm going to describe this as like their storage
4 area, kind of back past the kitchen.

5 Q. Okay. I'm just going to enlarge a little bit. What do
6 we see that's enlarged there?

7 A. That's a cooler. Has items in it.

8 Q. And then how would you describe this storage area?

9 A. It's not a very large storage area.

10 Q. What's in Photo 10?

11 A. The kitchen.

12 Q. Photo 11, is that another angle of the kitchen?

13 A. Correct.

14 Q. What about Photo 14, the final one?

15 A. So there's a -- like a walk-in cooler/fridge, and
16 there's some items, goats or lambs, and then some food, or
17 at least some boxes that likely contain food underneath,
18 stored underneath those.

19 Q. You've testified about these refrigerated areas and that
20 storage area. Were there other areas on site that you saw
21 that had storage?

22 A. Not that I saw.

23 Q. All right. I want to direct your attention to some of
24 the items that agents recovered from Empire Cuisine. And
25 that was in January of 2022; is that right?

1 A. Correct.

2 Q. Specifically, January 20th of that year?

3 A. Correct.

4 Q. I'm showing you Exhibit H-123. What is the title of
5 this multi-page document?

6 A. Partnership Agreement.

7 Q. And beneath the title, is there a date associated with
8 this agreement?

9 A. Third day of August, 2020.

10 Q. Do you see where it says "amongst"?

11 A. I do.

12 Q. Can you read aloud the names you see there?

13 A. Sure. Mohamed Ismail, the 13825 Edgewood Avenue;
14 Abdiaziz Farah, 13825 Edgewood Avenue; Farhiyo Mohamud
15 Mohamed, 1400 Autumn Drive, Faribault.

16 Q. Edgewood Avenue, that was the other location you
17 searched earlier in the day?

18 A. Correct.

19 Q. Moving on to the second page of this partnership
20 agreement in Exhibit H-123, do you see where it says "Place
21 of Business"?

22 A. I do.

23 Q. And does it have the 232 Marschall Road address for
24 Empire Cuisine printed there?

25 A. It does.

1 Q. Beneath that, do you see where it says "Capital
2 Contributions"?

3 A. I do.

4 Q. What's the first partner name listed?

5 A. Mohamed Ismail.

6 Q. And what is listed for "Contribution Description"?

7 A. Is that 2 million? No, apostrophe, so it's -- oh, I'm
8 sorry. 200,000. I apologize.

9 Q. And to the left of "Agreed Value," do you see a column
10 that says "Contribution Description"?

11 A. Yeah, monetary and time contribution.

12 Q. And so for Mohamed Ismail, is that dollar amount listed
13 as what?

14 A. 200,000.

15 Q. And is there another name beneath Mr. Ismail?

16 A. Abdiaziz Farah.

17 Q. Also with a monetary and time contribution next to his
18 name?

19 A. Correct.

20 Q. And what is the agreed value for him?

21 A. The 200,000.

22 Q. And then there's another person listed below, then; is
23 that correct?

24 A. Correct.

25 Q. With a \$45,000 agreed value contribution?

1 A. Correct.

2 Q. Above these names, can you read aloud what it says for
3 Capital Contributions?

4 A. Sure. "Each of the partners has contributed to the
5 capital of the partnership in cash or property in the
6 agreed-upon value as follows." So it's the capital
7 contribution.

8 Q. And then it's what you've just testified about; is that
9 right?

10 A. Correct.

11 Q. I'm directing your attention to the fifth page of
12 Exhibit H-23, this empire partnership agreement, and I'm
13 going to enlarge the middle portion.

14 Do you see where there's a header that reads
15 "Management"?

16 A. I do.

17 Q. And do you see a paragraph 22?

18 A. I do.

19 Q. What's listed for paragraph 22?

20 A. "Abdiaziz Farah will be the manager partner. The term
21 'managing partner' will also include any" partly
22 subsequently appointed to the role -- "any party
23 subsequently appointed to the role."

24 Q. Sorry about that.

25 A. No, that's all right.

1 Q. And then moving on to the sixteenth and final page of
2 this agreement, do we see some signatures?

3 A. We do.

4 Q. And are there printed names beneath each of those
5 signatures?

6 A. There are.

7 Q. What are those names?

8 A. Mohamed Ismail, Abdiaziz Farah, Farhiyo Mohamud Mohamed.

9 Q. Everyone's favorite; meal count forms. I'm showing you
10 Exhibit H-127. Are these additional records that were
11 recovered at the search warrant at Empire Cuisine?

12 A. Yes, sir.

13 Q. So, for example, Exhibit H-127 has six pages of these;
14 is that right?

15 A. Yes.

16 Q. And does page 3 contain initials at the very bottom?

17 A. It does, M- --

18 Q. What is it? I'm sorry. What are those initials?

19 A. MI.

20 Q. In addition to meal counts in H-127, I'm showing you
21 Exhibit H-128. Are these daily meal count forms also
22 recovered during the search warrant at Empire Cuisine?

23 A. Yes.

24 Q. Containing dates and signatures at the bottom; is that
25 right?

1 A. Correct.

2 Q. Certifying that the information contained is true and
3 accurate?

4 A. Correct.

5 Q. Showing you Exhibit H-120, what's the title of this
6 document?

7 A. Summer Food Service Program Site Delivery Receipt.

8 Q. And this is another record recovered from Empire Cuisine
9 during the search warrant?

10 A. Yes.

11 Q. Do you see "site name" printed there?

12 A. Clifton.

13 Q. And what's the location beneath that?

14 A. Shakopee.

15 Q. Is there a date?

16 A. 8/25 of '21.

17 Q. And this is a multi-page document, once again?

18 A. It is.

19 Q. On the left, does it read "Number of Meals
20 Produced/Shipped"?

21 A. It does.

22 Q. And at the very bottom, is there a title that's printed
23 beneath the signature?

24 A. The "Shipped by"? The kitchen supervisor/staff?

25 Q. Yes.

1 A. Yes.

2 Q. And on the right, is there another column?

3 A. There is.

4 Q. And what's the title of the column on the right?

5 A. "Number of Meals Received."

6 Q. And then there is a signature block for someone with the
7 title of site supervisor/staff?

8 A. Correct.

9 Q. On the second page of Exhibit H-120, is this also for
10 this same Clifton site?

11 A. It is.

12 Q. And do we see a signature on the left under kitchen
13 supervisor?

14 A. We do.

15 Q. And is it showing a dollar amount of 999 next to the
16 word "breakfast"?

17 A. I don't know that it's a dollar amount.

18 MR. COTTER: Objection, Your Honor.

19 THE COURT: I'm going to sustain the objection.

20 And you can rephrase.

21 BY MR. EBERT:

22 Q. Do you see the word "breakfast"?

23 A. I do.

24 Q. Do you see a number written next to it?

25 A. I do.

1 Q. Beneath "breakfast" is there another meal listed?

2 A. Lunch.

3 Q. Is there a dollar amount listed next to "lunch"?

4 A. There's a number listed next to lunch.

5 Q. I'm sorry. Is there a number that's listed there?

6 A. Yes, there is.

7 Q. What is that?

8 A. 999.

9 Q. And do you see those same numbers anywhere else on the
10 document?

11 A. Yeah. Under the number of meals received, the numbers
12 are the same.

13 Q. 999 --

14 A. Correct.

15 Q. -- for both?

16 And then does it indicate that those are received
17 by a site supervisor?

18 A. Yes.

19 Q. With a signature there?

20 A. Correct.

21 Q. And are you able to read the first letter?

22 A. M.

23 Q. Other than the areas of the Empire Cuisine that you've
24 testified about, were there any other parts of that building
25 that we haven't seen images of, other rooms, for example?

1 A. No, or at least not that I was aware of.

2 Q. All right. Thank you.

3 MR. EBERT: I have no further questions.

4 THE COURT: All right. Thank you.

5 Let's take a morning break, and we'll return at
6 10:40.

7 All rise for the jury.

8 10:19 a.m.

9 **IN OPEN COURT**

10 **(JURY NOT PRESENT)**

11 THE COURT: You may all be seated.

12 Mr. Schleicher, I believe you had something you
13 wanted to place on the record.

14 MR. SCHLEICHER: Your Honor, it pertains to a
15 different witness and set of exhibits. I think that
16 Mr. Thompson and I can meet and confer on that and perhaps
17 make some progress before we bring it to your attention.

18 THE COURT: Fair enough.

19 MR. THOMPSON: I agree, Your Honor.

20 THE COURT: All right. Thank you.

21 10:40, everybody.

22 THE CLERK: All rise.

23 (Recess taken at 10:20 a.m. till 10:41 a.m.)

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IN OPEN COURT

(JURY PRESENT)

THE COURT: You may all be seated.

Mr. Birrell, cross-examination.

MR. ANDREW BIRRELL: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. ANDREW BIRRELL:

Q. Now that you're retired, do I properly refer to you as Agent Ball or Mr. Ball?

A. That's a good question. You can call me whatever you feel is appropriate.

Q. What do you prefer?

A. Mr. Ball is fine.

Q. All right. Mr. Ball, it's the first experience I've had with that.

A. And to be fair, also mine.

Q. Fair enough.

So you -- I represent Abdiaziz Farah, and my name is Andy Birrell.

So you were -- I'm going to talk with you about your second search warrant at Empire Cuisine & Market.

Okay?

A. Yes, sir.

Q. All right. And there was some sort of pre-search meeting?

1 A. The day before.

2 Q. Okay. And one of the things that was discussed was what
3 sort of businesses were there and what sort of records you
4 might be looking for?

5 A. Correct.

6 Q. Okay. And one of the things that you learned was that
7 at Empire Cuisine & Market there was a money transfer
8 business, right?

9 A. I don't know that I knew that or didn't know that, to be
10 honest with you.

11 Q. Well, let's look at the picture that you showed when you
12 went into the business.

13 So this is the picture that you and your
14 colleagues or your colleagues took when you went into Empire
15 Cuisine & Market, right?

16 A. Yes, sir.

17 Q. And can we zoom in on the Taaj there?

18 Do you see the sign on the window that's partially
19 blocked by the handicapped sign?

20 A. The Taaj?

21 Q. Yes.

22 A. Okay. Yes, sir.

23 Q. And that tells us that inside of Empire Cuisine & Market
24 there's a money transfer business.

25 A. Correct.

1 Q. Okay. So when you went into the business, there was a
2 stall, a place where this money transfer activity occurred,
3 right?

4 A. So when you go in, on the right --

5 Q. Yes.

6 A. -- there's -- you know, like in a deli there will be
7 various food items? I mean, is that the counter you're
8 talking about?

9 Q. No. If you went in, to the left on the wall there's a
10 framed certificate from the State of Minnesota that says
11 that it's a licensed money transfer facility. Did you see
12 that sign?

13 A. Don't recall it, but...

14 Q. But you don't know if you did or not?

15 A. I do not know if I did or not.

16 Q. Did you look throughout the whole store?

17 A. Yes.

18 Q. Was there a place with a window with a computer behind
19 it? Or I should say window, plastic screen-type thing,
20 like --

21 A. There was an area in the back with a computer.

22 Q. There's a couple computers there, weren't there?

23 A. Correct.

24 Q. Where did you finds the computers. Let's start with
25 that.

1 A. I don't know that I was the one that found the
2 computers, but there was like a little office area where the
3 computers were found.

4 Q. So how many computers were found in all?

5 A. I would have to refer back to the notes, as I was not
6 the seizing agent for that event. But I remember there
7 being a couple.

8 Q. Okay. Was there a safe?

9 A. Do not recall.

10 Q. All right.

11 MR. ANDREW BIRRELL: May I approach the witness,
12 Your Honor?

13 THE COURT: You may.

14 MR. ANDREW BIRRELL: Thank you.

15 BY MR. ANDREW BIRRELL:

16 Q. I'm going to show you something to help you along here.
17 This is the 302, if you want to read it to yourself quickly
18 and get up to speed.

19 A. (Reviews document).

20 Q. Okay. Did that help refresh your memory?

21 A. It does.

22 Q. Thank you. So there was a safe?

23 A. Yes.

24 Q. And where was the safe?

25 A. Again, I wasn't the seizing agent. I do not know.

1 Q. Okay. Fair enough.

2 And it was how many computers, do you think?

3 A. There's two listed.

4 Q. All right. Were there financial documents?

5 A. Some.

6 Q. All right. Was there any cash? Let's start with that.

7 A. I do not recall.

8 Q. All right. Cash would have been of interest to you in
9 your search?

10 A. Yes.

11 Q. Okay. Particularly if there's a money transfer
12 business, right?

13 A. If there had been any large sum of cash, we would have
14 been responsible for, at a minimum, noting it.

15 Q. Okay. And there wasn't any noted, I guess?

16 A. Not that I saw.

17 Q. Okay. So you were -- your role in this case was to
18 conduct two searches.

19 A. Originally one, but it turned into two, yes, sir.

20 Q. Okay. Fair enough. But you talked about the first
21 house search and the search of Empire Cuisine & Market?

22 A. Correct.

23 Q. That's what you did in this case?

24 A. That's the totality.

25 Q. All right. So you've been asked some questions about

1 meal count forms. Do you know anything about those?

2 A. I do not.

3 Q. All right. Do you know anything about how this program
4 works?

5 MR. EBERT: Objection, Your Honor. More specific
6 question about what he's referring to.

7 MR. ANDREW BIRRELL: Sure. That was a terrible
8 question.

9 BY MR. ANDREW BIRRELL:

10 Q. Do you have any specific knowledge about how the food
11 programs at issue in this case worked?

12 A. I do not.

13 Q. All right. So your job wasn't to analyze anything. It
14 was just to go get it?

15 A. Go in and conduct the search. That was the extent.

16 Q. Yeah. All right.

17 MR. ANDREW BIRRELL: I don't have any other
18 questions. Thank you.

19 THE COURT: Thank you.

20 Mr. Cotter.

21 CROSS-EXAMINATION

22 BY MR. COTTER:

23 Q. Good morning.

24 A. Good morning.

25 Q. My name is Patrick Cotter, and I represent Mohamed

1 Ismail.

2 Turning your attention, then, to that January day
3 in 2022 where you executed the search warrant at
4 Mr. Ismail's home, you said you arrived at around 7:00 a.m.?

5 A. Correct.

6 Q. Do you recall how many agents arrived to conduct the
7 search with you?

8 A. Yeah. There would have been -- my recollection was
9 eight or nine, and then there was several support employees,
10 so non-sworn people who don't carry guns for a living that
11 came in after the search, after the initial clear was made
12 so once it was safe to do so.

13 Q. Is it safe to say, I think I've heard, it was maybe 17
14 below zero or 9 below zero? It was extremely cold out?

15 A. It was very cold out.

16 Q. Yeah, all right. And you arrived and knocked?

17 A. Correct.

18 Q. And to your recollection, Mr. Ismail answered the door?

19 A. Yes.

20 Q. And per protocol, he was asked to step out or leave the
21 house while it was -- townhouse while you were searching,
22 correct?

23 A. Correct.

24 Q. And he was very cooperative with agents?

25 A. Yeah, I dealt with him very little. He was cooperative

1 in the very short time I did, so yes.

2 Q. To your knowledge, he was cooperative?

3 A. To my knowledge.

4 Q. And when you went into the residence, you had already
5 testified no one else was present; is that correct?

6 A. Correct.

7 Q. And I think you just testified you hadn't done any,
8 really, background research about who all lived at this
9 residence or when, and you just got involved to conduct the
10 search; is that correct?

11 A. Yeah, that -- that research is done by the case agents
12 and whatnot. You're given that during the briefing. I did
13 no independent research.

14 Q. Fair enough. There goes about 30 questions.

15 So I wanted to talk to you about just the items
16 you found. There was photographs shown of an office, for
17 example, a home office. Do you recall those photos?

18 A. I do.

19 Q. And other general photos. You didn't seize any items,
20 to your knowledge, that were hidden in any way behind walls
21 or in secret compartments at all? They were just out in
22 normal drawers and things like that?

23 A. We -- I testified at some length about some documents
24 that were found, so in a backpack, in a gym bag.

25 Q. Right.

1 A. So that would --

2 Q. I'll get to those. So there were some documents in a
3 bag, but as far as hidden inside the house or in walls or in
4 cupboards or things like that, you didn't find things in
5 that way, correct?

6 A. Correct.

7 Q. All right. And I know that you're retired now, but you
8 were an FBI agent for a very long time. You were an agent
9 before there were cell phones, right?

10 A. Yes.

11 Q. And you were an agent after cell phones and essentially
12 the explosion of the ability to communicate that way,
13 correct?

14 A. That is correct.

15 Q. And would you agree that as you worked after this cell
16 phone age, that type of evidence became extremely important
17 to collect, electronic evidence from cell phones?

18 A. I'm not being difficult. So yes, comma, if the warrant
19 allows us to do so.

20 Q. Right. Great. Great answer. My point was simply it
21 was important pieces of evidence to get from cell phones,
22 computers, things of that nature, correct?

23 A. Absolutely they can be.

24 Q. All right. And in this case you were able to collect
25 several electronic devices from my client, Mr. Ismail's

1 home; is that correct?

2 A. Correct.

3 Q. In fact, I believe you were able to collect -- was it
4 three cell phones?

5 A. I'd have to look at the exhibit list as, again, I was
6 not the collector, but there were several.

7 Q. There was several? Do you recall being able to collect
8 a couple of iPads?

9 A. Again, I'm not trying to be difficult with you. I would
10 need to look at the evidence list. There were iPads. There
11 was cell phones. I think there was a laptop, but I would
12 need to refresh that in order to give you an accurate
13 statement.

14 Q. I think that's sufficient. You -- there was cell
15 phones, there was iPads, there was -- do you recall USB
16 drives?

17 A. Do not recall.

18 Q. Okay. But that would be, of course, on the itemization
19 of things that you did collect from the house?

20 A. Correct. That would be on the 302 as well as the
21 evidence log.

22 Q. Understood.

23 And those pieces of evidence, what happens to
24 those pieces of evidence once they're collected?

25 A. So as a general practice, they're photographed in place,

1 then they're collected, properly stored depending upon what
2 kind of storage is appropriate for that item, and then
3 they're taken back to the field office where they're logged
4 into evidence. And then whatever -- whatever process is
5 required after that to go through them and analyze the
6 information inside of that.

7 Q. And you've been involved in many searches where this was
8 done, correct?

9 A. Yes.

10 Q. Do you recall -- and again, if you recall this -- that
11 there was a request from Mr. Ismail to get his password for
12 his cell phone?

13 A. I do recall that being requested.

14 Q. And that can be really helpful to law enforcement. It
15 cuts several steps needed to be able to extract data?

16 A. Correct.

17 Q. And he voluntarily agreed and cooperated and gave his
18 password to law enforcement?

19 A. That is my understanding.

20 Q. Ultimately, the majority of the pieces of evidence that
21 you've talked about today came from this duffel bag,
22 correct?

23 A. Correct.

24 Q. And you were shown a document -- well, strike that.

25 You don't actually know who that duffel bag

1 belongs to, correct?

2 A. Not -- not past where it was located.

3 Q. Yeah.

4 A. And the names that are in it, no.

5 Q. Right. So you don't know. You just know it was found
6 in Mr. Ismail's residence?

7 A. Correct.

8 Q. Fair enough. And there was a lot of documents in it,
9 and, obviously, you've testified that there was a
10 partnership agreement between Mr. Farah and Mr. Ismail,
11 correct?

12 A. Correct.

13 Q. They were business partners, right?

14 A. That's what the document said.

15 Q. Right. And Empire Cuisine & Market, a place you
16 searched that was a real business, correct?

17 A. Correct.

18 Q. Money transfer money as well, correct?

19 A. Correct.

20 Q. All right. And on that document, that partnership
21 agreement, do you recall that it listed for both Mr. Farah
22 and Mr. Ismail the same address, the 13825 Edgewood?

23 A. Correct.

24 Q. All right. So you don't know, but they may have been
25 roommates at one point in time?

1 A. I don't know, but they certainly -- they could be.

2 Q. Okay. Fair enough.

3 MR. COTTER: And if we could pull up H-63 that was
4 in evidence.

5 Thank you.

6 BY MR. COTTER:

7 Q. Now, I'm going to call you Agent Ball. Agent Ball --

8 A. That's fine.

9 Q. -- you reviewed this document, which was the Boyer Truck
10 bill of sale; is that correct?

11 A. Correct.

12 Q. And it indicated it was for two separate Freightliner
13 M2, heavy duty trucks, correct?

14 A. Yes.

15 Q. One of them indicates white is the color; is that
16 correct?

17 A. I'm trying to find that.

18 Q. We can highlight the second one.

19 A. Oh, yes.

20 Q. Are you familiar with these types of vehicles, by
21 chance?

22 A. Only from seeing them on the road.

23 Q. All right. Would you agree that they're kind of the big
24 white box truck-type vehicles?

25 A. Box truck is how I would describe them.

1 Q. Got it. And so this indicated a purchase of two of
2 those box trucks, at least one of them being white in color.
3 Is that what that would indicate to you?

4 A. That's -- yes.

5 Q. All right. And you were briefed on at least the general
6 details of this investigation involved of whether or not
7 food was being delivered and distributed, correct?

8 A. Correct.

9 Q. And so an important piece of evidence would be to see,
10 is there any documents or things that might indicate
11 someone's actually delivering any food, fair?

12 A. It's fair, but it's not really up to me to decide what's
13 important or not, so I can't speak to that.

14 Q. I understand, but it's important for you to collect
15 items of evidence?

16 A. Correct.

17 Q. And you did testify, there was a question, that may be
18 fruits of a crime, right?

19 A. Correct.

20 Q. But it's also important to collect evidence that may
21 show that there's information that is contradictory to
22 what's being presented. Like, for example, a bill of sale
23 for a box truck to deliver food.

24 A. We collect evidence. That evidence shows what it shows.

25 Q. Fair enough. That's, I think, the right answer.

1 MR. COTTER: And H-64, please.

2 BY MR. COTTER:

3 Q. And this is the delivery receipt verifying what appears
4 to be another Ford 2016 vehicle, correct?

5 A. Correct.

6 Q. And it's also from Boyer Ford Trucks located in Savage;
7 is that true?

8 A. I'm looking for the address. Yes. Well, the logistics
9 company, but I think -- is Boyer in Savage? That's a
10 technicality.

11 Q. I can put -- we can highlight that dealer portion.

12 A. Oh, there you go, on Frontage.

13 Q. Right there on Frontage Road in Savage?

14 A. Yes.

15 Q. Thank you.

16 When you went to Empire Cuisine & Market later
17 that day, were you able to observe the parking lot area of
18 the strip mall?

19 A. Able to observe, yes.

20 Q. All right. And again, I'm just asking you if you know,
21 was there any discussion about locating these Boyer trucks
22 that were relative to the receipts?

23 A. There was no discussion related to that that I was a
24 part of.

25 Q. Okay. Yeah, and I'm just asking you what you know.

1 Thank you.

2 As to -- do you recall seeing any white box trucks
3 located in the parking lot when you executed the search
4 warrant?

5 A. I don't, but to be honest with you, I wasn't looking for
6 them. They -- they -- I don't recall having seen them, but
7 I also -- that was not what I was doing, so.

8 Q. Do you know if any other agents were tasked with looking
9 to see if there were box trucks located at Empire Cuisine &
10 Market?

11 A. I do not know the answer to that.

12 Q. Okay. Additional documents collected from Mr. Ismail's
13 townhome --

14 MR. COTTER: If we could pull up H-65, which is in
15 evidence.

16 BY MR. COTTER:

17 Q. You can just take a look. This is previously admitted
18 H-65, which was another document that was collected in the
19 search. You can go to the second page. So we'll return to
20 the first page briefly.

21 Does this indicate a legal description?

22 A. Yeah, the lot 30, block 2.

23 Q. And going to the second page, it looks like a
24 truth-in-lending disclosure statement; is that correct?

25 A. That's what it says on the document, yes, sir.

1 Q. Do you recall that you were able to collect,
2 essentially, the closing documents for the purchase of that
3 address, 13825 Edgewood?

4 A. Yep, so that was in the -- in a stack of documents, yes,
5 sir.

6 Q. All right.

7 MR. COTTER: If we can highlight just the top
8 portion, please.

9 BY MR. COTTER:

10 Q. It has the borrower, which is Mohamed Ismail, noted; is
11 that correct?

12 A. Correct.

13 Q. Do you see there's a date for when this was, disclosure
14 statement was --

15 A. The September 19th date?

16 Q. Yes. And what date is that?

17 A. September 19th, 2014.

18 Q. All right. So 2014, correct?

19 A. Correct.

20 Q. And there was a mortgage lender at that time, American
21 Mortgage & Equity Consultants, Inc.; is that correct?

22 A. Correct.

23 Q. And it had a loan number, 14027526; is that correct?

24 A. That is correct.

25 Q. And it was for this property address, 13825 Edgewood

1 Avenue in Savage?

2 A. Yes.

3 Q. And it goes on to provide that -- you know, financing
4 information; is that correct?

5 A. Correct.

6 Q. And there's obviously a number of additional pages, but
7 this goes through and had the full closing document packet
8 for this address that was collected as evidence, correct?

9 A. Correct. I can't say that it's full, because I
10 didn't -- I'd have to review them all in order to tell you
11 that accurately, but yes, we're in agreement that they're
12 there.

13 Q. And they were collected and itemized and put on the
14 inventory?

15 A. Yes, sir.

16 Q. All right. Thank you.

17 And I believe -- I mean, you've already testified
18 to this. You were asked to essentially read from a number
19 of documents during your direct examination, correct?

20 A. Yes, sir.

21 Q. And that was really all you were doing, is reading from
22 them. You didn't have any independent knowledge about what
23 they meant, correct?

24 A. Correct.

25 Q. All right. Thank you.

1 As to of the search of -- now I'll turn my
2 attention to Empire Cuisine & Market.

3 You were shown some photographs.

4 MR. COTTER: Why don't we pull up H-119, please.

5 BY MR. COTTER:

6 Q. That's the outside of the market. Do you recall, that
7 there appears to be --

8 MR. COTTER: If we could just zoom in on the front
9 portion below the sign, essentially the windows, area.

10 BY MR. COTTER:

11 Q. All right. So that's one door to get in. And, I
12 believe -- can you expand it out to the -- going to the end?

13 So is this -- was there just one door to get in,
14 to your knowledge? Or was there a second door? If you
15 remember.

16 A. Yeah, it's a long time ago. I apologize. As an
17 educated guess, I'm thinking there's probably a back door,
18 but I do not recall.

19 Q. Got it. Do you recall that there was a -- excuse me --
20 a separate section? So you were shown the restaurant
21 portion, but there was another section where they had goods
22 to be sold, essentially a market? As opposed to just a
23 restaurant side, a market side? Do you recall that?

24 A. I was only on the restaurant side.

25 Q. All right. Is it possible that there was a market side

1 that other agents were in?

2 A. It's possible. I mean, I was in the room. I don't
3 recall there being a separate space.

4 Q. Okay. And there -- but you don't recall if there was
5 another door that you could enter from the front to get into
6 a separate space, correct?

7 A. So are you -- are you saying, like, as we're looking at
8 this, it's straight in front of us, so to the right would
9 there be another door? Is that what you're --

10 Q. Yes.

11 A. I don't know.

12 Q. You don't know?

13 A. I don't know.

14 Q. Okay. Thank you.

15 You indicated that it was a relatively small space
16 in the sense of the number of booths and things, but you
17 recall that this time frame was during -- well, not when you
18 searched, I guess. Right before that we had just gone
19 through the pandemic. Do you recall that?

20 A. I certainly recall the pandemic, yes.

21 Q. I'd think so.

22 And just from your own personal knowledge, was
23 take-out cuisine pretty popular during the pandemic, from
24 your own observations?

25 A. I certainly got take-out during the pandemic, so I'm

1 assuming it was popular with other folks.

2 Q. Okay. Are you familiar with there being the Amazon
3 distribution center not located all that far from the Empire
4 Cuisine & Market restaurant?

5 A. Only peripherally.

6 Q. Okay.

7 A. I mean, I know there's an Amazon distribution center. I
8 don't even know where it is.

9 Q. Okay. Just curious.

10 In any event, there wasn't a lot of sit-down
11 seating for the market, but you don't have any separate
12 knowledge about the amount of take-out business they were
13 doing, correct?

14 A. All I can see is what was there.

15 Q. All right. Thank you.

16 And I apologize if you've already stated this. To
17 your knowledge, nobody that you are aware of went to track
18 down the Boyer trucks, the box trucks?

19 A. I am not aware of that.

20 Q. Got it. Thank you.

21 And that was the sum total of your involvement?
22 You were a part of collecting all the evidence from those
23 two locations, and then you were done with this case; is
24 that correct?

25 A. Correct.

1 Q. All right. Thank you a lot for coming in to testify.

2 MR. COTTER: I have no additional questions.

3 THE COURT: Any other defense attorney wish to
4 cross-examine?

5 Mr. Mohring.

6 MR. MOHRING: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. MOHRING:

9 Q. Good morning. Mr. Ball, we're creatures of habit,
10 right? I'm going to slip up. I'll probably call you agent.
11 I mean no offense if I do.

12 You testified a number of times that your
13 involvement in the investigation, your active involvement in
14 the investigation was limited to participating in two
15 searches that were done on January 20th of '22; is that
16 right?

17 A. That's correct.

18 Q. Didn't interview any witnesses?

19 A. Did not.

20 Q. Didn't testify in front of the grand jury, right?

21 A. Did not.

22 Q. Okay. And am I right, I'm sure that there's a form for
23 it, but your involvement began with kind of a help wanted
24 communication. A number of searches were going to be done
25 that day. They needed agents to help with the search

1 processes, right?

2 A. Correct.

3 Q. And do you remember roughly how long before
4 January 20th, how long before the actual searches that call
5 for help went out?

6 A. So by proto- -- you know, by just generally how things
7 are done, that would have gone out a week or two before so
8 they have a chance to line up the people they need to
9 conduct the searches.

10 Q. Okay. And where were you stationed then?

11 A. So I was actually in the process -- when that email came
12 out, I was in the process of moving from -- I was in the
13 headquarter city in Minneapolis, so Brooklyn Center office
14 out to the airport.

15 Q. Okay. And so the call went out and you, one way or
16 another, raised your hand and volunteered?

17 A. Correct.

18 Q. You were aware that an investigation had been going on
19 though, right? Was this --

20 A. Like prior to the email?

21 Q. Yeah.

22 A. Probably not.

23 Q. Okay. Okay. So a call for help went out and you
24 responded. You said that there was a briefing session a
25 day-ish before the actual searches?

1 A. Correct.

2 Q. I think you used the word "case agent" at various
3 points. Would you describe your -- kind of your involvement
4 as somebody who assisted in the searches as a -- as being
5 one of the case agents?

6 A. No. Case agents are the -- are the one or more agents
7 that are the responsible parties. It's their case.

8 Q. Okay.

9 A. I was one of a number of people that helped on a
10 particular day.

11 Q. As coordinated by one or more case agents?

12 A. Correct, or case squads if it's a --

13 Q. Okay. So the team briefing a day or so before the
14 actual searches, you attended that? Yes?

15 A. I did.

16 Q. Were documents reviewed in the team briefing?

17 A. So the op order would have been reviewed, which is just
18 a here's where we're going, here's how we're going to do
19 this sort of document. We wouldn't have gone through
20 like -- well, I shouldn't say we didn't, but it would have
21 been unlikely we would have gone through documents, like
22 evidentiary documents.

23 Q. Okay. Op order. What about the search warrants
24 themselves? Did you have access to the warrants for -- let
25 me dial in -- for the two locations you participated in

1 searching?

2 A. So I had access to the first one to the residence, and
3 then later on the second day. So I wasn't really a part of
4 the second search warrant until noon or 1:00 on the 20th.

5 Q. Okay.

6 A. At which time, you review that search warrant prior to
7 execution.

8 Q. So as an agent, even not -- a non-case agent, or not a
9 case agent, who is involved in conducting a search or
10 helping a search conducted, is it a part of the practice to
11 look at the warrant and the warrant application?

12 A. Yes.

13 Q. And the warrant and the warrant application give you
14 information about the location of -- the location itself,
15 the place that's going to be searched?

16 A. Correct.

17 Q. And also information -- so I saw pages and pages, maybe
18 as many as seven pages, describing the types of things that
19 you're looking for and are -- that are subject to seizure in
20 the search?

21 A. Are you speaking to like Appendix A?

22 Q. Appendix A and B.

23 A. And B.

24 Q. So Appendix A, is that typically where the location is
25 described?

1 A. There's a couple different places where it's described.
2 So there's the legal description, right, which is an
3 important piece. Appendix A. And then I think Appendix B
4 is where the actual items to be seized are located.

5 Q. Okay. And you reviewed each of those. Let's -- we can
6 take them one by one. And I think most of my questions are
7 going to be for the first search, but they may apply to
8 both.

9 So let's focus on the first of the searches, the
10 Edgewood residence. Okay?

11 A. Okay.

12 Q. So before -- before your involvement in that search, you
13 reviewed both the search warrant but also the application
14 documents, the affidavit; is that fair?

15 A. Yeah, the -- so yes.

16 Q. And Attachments A and B, including the Attachments A and
17 B?

18 A. Correct.

19 Q. Yes?

20 A. Correct. I don't want to overstate the studying of the
21 application. That's not something that I would particularly
22 do. You're making sure that you're -- that it's signed by a
23 magistrate or a judge, that it's going to the right place,
24 and then what you're looking for.

25 Q. Okay.

1 A. I may or may not have read the actual -- the actual
2 probable cause statement, I may or may not have read it. I
3 don't know.

4 Q. Okay. Okay. I want to ask you some questions about
5 some of the search results, nothing that you haven't been
6 shown or testified about so far over the course of this
7 morning.

8 A number of the documents that we looked at
9 together this morning included handwritten -- handwriting,
10 right?

11 A. Correct.

12 Q. Initials? Yes?

13 A. Yes.

14 Q. Markings above a line that -- in a way that would
15 indicate a signature of somebody?

16 A. Correct.

17 Q. Are you trained in handwriting analysis?

18 A. I am not.

19 Q. Are you aware of any handwriting analysis having been
20 done in connection with those documents?

21 A. I'm not aware, but I wouldn't be. Outside of what
22 happened on that day, I don't know what investigation was
23 conducted.

24 Q. Okay. So not to your knowledge?

25 A. Not to my knowledge.

1 Q. Fair?

2 A. Fair.

3 Q. Some of the documents --

4 MR. MOHRING: And maybe it would help. Can we
5 look at H-70 N as in Nancy admitted in evidence?

6 BY MR. MOHRING:

7 Q. Some of the documents -- do you recall this as one of
8 the documents we looked at together this morning?

9 A. I do.

10 Q. So a number of them, you see -- you see one of the
11 columns in this invoice is a unit price? Do you see that?

12 A. The middle column?

13 Q. One of the middle columns? Yes?

14 A. Yes.

15 Q. And on this page, page 1 of H-70n the unit price is
16 \$5.98?

17 A. Correct.

18 Q. Do you know what the significance of that is?

19 A. No.

20 Q. Okay. And you recall from the forms there were other
21 units prices on other invoices that we looked at? I think I
22 saw 455, and 405. Do you remember --

23 A. I remember different numbers. I don't remember what
24 they were.

25 Q. Okay. But the briefing that you had didn't give --

1 didn't provide any information about what that meant?

2 A. Not that I recall.

3 Q. Okay. Okay. Others of the forms that we looked at this
4 morning included mention and the words "Mind Foundry."

5 MR. MOHRING: Can we see H-70b, page 20, please.

6 BY MR. MOHRING:

7 Q. You see -- so this is another of the forms that we
8 looked at together this morning, correct --

9 A. Correct.

10 Q. -- Mr. Ball? And the site name across the top, you were
11 asked -- what I think your testimony was, It appears to say
12 Mind Foundry?

13 A. Correct.

14 Q. I want to ask you some questions about that, but in the
15 context of another name that appeared on the forms, Mahad
16 Ibrahim, do you recall that name from your review of these
17 documents this morning?

18 A. I do.

19 Q. And do you also recall that name from the search warrant
20 application materials? We can pull them up.

21 A. We'd have to pull them up to look at them, but I'll take
22 your word for it. I --

23 Q. Okay. Let's --

24 MR. MOHRING: Actually, just for these forms, can
25 we pull up H-70f as in Frank, please.

1 BY MR. MOHRING:

2 Q. So we looked at a bunch of these, right, site transfer
3 request forms?

4 A. Yes, sir.

5 Q. Okay. And in the -- just on the top of the page, do you
6 see a printed name of site authorized representative,
7 signature below line, that's typed, right?

8 A. Um --

9 MR. MOHRING: Yeah, can we zoom in on just the top
10 part. Thank you.

11 BY MR. MOHRING:

12 Q. Third line down.

13 A. Oh, yeah.

14 Q. Full line. Do you see printed name of site authorized
15 representative, signatory below?

16 A. Yeah.

17 Q. And what appears to be the name Mahad Ibrahim written
18 after that?

19 A. Yes.

20 Q. In handwriting?

21 A. Yes.

22 Q. Someone printed it? It's not typed, right?

23 A. Correct.

24 Q. And then there's also an email address. Do you see that
25 right below the line below that appears to be Mahad.Ibrahim,

1 I-B-R-A-H-I-M, at gmail.com? Do you see that?

2 A. I see that.

3 Q. Are you aware of any searches or warrants or subpoenas
4 that focused on that email address in the investigation?

5 A. Again, outside of that day, I don't know what happened.

6 Q. Got it. So not that you know of?

7 A. Not that I'm aware of.

8 Q. Now, do you understand that Mahad Ibrahim is not a
9 defendant in this trial?

10 MR. EBERT: Objection, Your Honor. Can we have a
11 sidebar?

12 THE COURT: You may.

13 **(Sidebar discussion)**

14 THE COURT: Mr. Ebert, your objection.

15 MR. EBERT: First of all, Your Honor, in terms of
16 foundation, I think he's indicated he does not know who
17 Mahad Ibrahim is, other than his name appearing on the
18 document. And I'm concerned about additional lines of
19 questions that would -- first of all, he lacks the
20 foundation to talk about it.

21 I also am concerned about confusion to the jury
22 concerning Mr. Ibrahim. He is obviously a defendant in this
23 case, and for reasons that the jury doesn't understand, he's
24 not on trial today. I'm just concerned that this further
25 line of inquiry is going to tread in waters that are

1 fraught, in addition to the fact that this witness lacks any
2 foundation to talk about Mr. Ibrahim further.

3 THE COURT: Mr. Mohring? Your microphone isn't
4 on.

5 MR. MOHRING: Sorry. Better?

6 As far as questions about people accused and
7 standing trial in this case, that is my only question. I do
8 have some follow-up, some questions about Mr. Ibrahim as
9 identified in the search warrant documents, but not in
10 connection with the proceedings in this room. That was --
11 that was my only question along that line.

12 THE COURT: All right. Why don't you move to the
13 next one in terms of the search warrant document.

14 MR. MOHRING: Okay.

15 THE COURT: Okay. Thank you.

16 **(In open court)**

17 THE COURT: The jury will disregard that question,
18 and Mr. Mohring will ask another one.

19 BY MR. MOHRING:

20 Q. Okay. So I actually do want to ask you some questions
21 about Mahad Ibrahim, a name that appears in some of the
22 search warrant application and documents. And so if we --
23 you said -- would it help to actually see the warrant and
24 the application?

25 A. Sure.

1 Q. Okay.

2 MR. MOHRING: Can we pull up, please, just for the
3 witness, D7XS01?

4 BY MR. MOHRING:

5 Q. Can you see that Mr. Ball?

6 A. Yes.

7 Q. And does this appears to be -- I mean, it starts with
8 the application. It's many pages long, but does this appear
9 to be documentation that relates to the first of the
10 searches that you participated in?

11 A. It does.

12 Q. Okay. And so when you said that you looked at, as a
13 part of your practice, the application and the warrant, does
14 this appear to be the first -- at least the first page of
15 that collection of records?

16 A. It does.

17 Q. Okay.

18 MR. MOHRING: Can we please go to -- let's see --
19 page 5, paragraphs 8 and 9.

20 BY MR. MOHRING:

21 Q. You mentioned, I think, paraphrasing your testimony, but
22 tell me if I get it at least close to right, that the
23 location of where it is that the search is going to happen
24 is described at various points in these documents? Right?

25 A. Correct.

1 Q. Is this one of these locations, -- one of those places
2 in the document, locations to be searched?

3 A. It's listed in here. It was not a location that I went
4 to.

5 Q. Okay.

6 A. Was not a location I know anything about.

7 Q. Right. But this is material that was in the -- in the
8 application documents for the search that you participated
9 in?

10 MR. EBERT: Your Honor, I'm going to object as
11 beyond the scope and lack of foundation.

12 THE COURT: Sustained.

13 BY MR. MOHRING:

14 Q. Is the information in paragraphs 8 and 9 information
15 that, as an agent participating in a search, you would
16 review in preparation for conducting that search?

17 A. It is if I was doing that search.

18 Q. Okay.

19 A. Which I didn't do that search.

20 Q. Okay. I didn't say, Mr. Ball, at the outset of my
21 questioning, that my name is Andrew Mohring. I represent
22 Mukhtar Shariff. Mukhtar Shariff, do you recall his name
23 appearing in the search documents that you reviewed in
24 preparation for either of the searches that you participated
25 in that day?

1 A. I do not recall.

2 Q. Mr. Shariff, I can tell you, there's been testimony, is
3 one of a number of individuals associated with an entity
4 called Afrique Hospitality Group.

5 Do you recall Afrique Hospitality Group being
6 identified in any of the documentation related to any of the
7 searches that you participated in that day?

8 A. I do not recall.

9 Q. Do you recall any evidence -- we've looked at a lot of
10 documents and a lot of names, do you recall any evidence
11 identifying either of those two things, Mukhtar Shariff or
12 Afrique Hospitality Group, appearing and being taken into
13 evidence in the course of either of those searches?

14 A. Not in the work that I did.

15 MR. MOHRING: Your Honor, I have no further
16 questions at this point.

17 THE COURT: Does any other defense counsel wish to
18 cross-examine?

19 Ms. Kettwick.

20 CROSS-EXAMINATION

21 BY MS. KETTWICK:

22 Q. Good morning, Agent Ball -- or Mr. Ball. I'm sorry.

23 A. Good morning.

24 Q. My name is Nicole Kettwick. I don't believe you
25 mentioned my client, Ms. Hayat Nur, but I just have a few

1 questions for you. Okay?

2 A. Okay.

3 Q. You mentioned when you went to execute the second search
4 warrant that you encountered three employees; is that right?

5 A. Correct.

6 Q. Do you recall the names of those employees?

7 A. I do not.

8 Q. Would it refresh your recollection to view the report
9 associated with that search?

10 A. Yeah, there's a 302 associated with the search that
11 lists those individuals' names.

12 MS. KETTWICK: And if we could pull that up for
13 the witness. It's report 8478.

14 BY MS. KETTWICK:

15 Q. Does that refresh your recollection?

16 A. It does.

17 Q. Do you know the names of the three employees who were
18 there?

19 A. Would you like me to read them? Is that what you're
20 asking?

21 Q. Yes or if you recall them.

22 A. I don't know that I ever knew their names, so I don't
23 recall them, but they're listed here. They were there. I
24 wasn't the one who made contact with them.

25 Q. Okay. Does Abdulkarim Shafii Farah, was that one of the

1 employees?

2 A. Yes.

3 Q. And Abdikarim Hussein, another employee?

4 A. Yes.

5 Q. And Nathan Kandie, a third employee?

6 A. Correct.

7 Q. And I believe the first of the two employees were
8 interviewed; is that correct?

9 A. Yes.

10 Q. Do you recall being a part of those interviews?

11 A. I was not.

12 Q. On January 25th, about five days later, perhaps with an
13 Agent John Thomas, do you recall being part of an interview
14 for Abdikarim Hussein, one of those employees?

15 A. No.

16 Q. Would it refresh your recollection to look at another
17 report?

18 A. Sure.

19 Q. And this is report 930.

20 MS. KETTWICK: If we could pull that up for the
21 witness, please.

22 THE WITNESS: Yes, so this actually did take place
23 on the day of. So I must have been standing there when --
24 when agent Thomas did this interview.

25

1 BY MS. KETTWICK:

2 Q. Okay. I apologize. It must have been drafted the 25th?

3 A. Yeah.

4 Q. Does that sound right?

5 A. It's just the way the wording is.

6 Q. Okay.

7 A. "Investigation on" at the very bottom left would be the
8 actual date.

9 Q. Okay.

10 MR. EBERT: Your Honor, I'm going to object as
11 beyond the scope.

12 THE COURT: I'm going to --

13 MS. KETTWICK: Would you like a sidebar, Your
14 Honor?

15 THE COURT: No. I'd like you to ask one more
16 question, and then I'll rule.

17 BY MS. KETTWICK:

18 Q. Do you recall interviewing the employees that day or
19 being near when that happened?

20 A. Well, the answer is no, I do not recall, but I must have
21 been standing in the vicinity when this happened.

22 Q. In reviewing this report, does that refresh your
23 recollection?

24 A. Not -- not really, in fairness. A couple years -- you
25 know, several years ago. I've since retired. Doing other

1 things. So I apologize. I'm sure I was standing there. I
2 don't have much recollection of the interview.

3 Q. Understandable.

4 A. I don't think there was -- it was not particularly
5 memorable.

6 Q. And, Mr. Ball, would it refresh your recollection to
7 look at a report, this one is 582, of the interview of the
8 other employee?

9 A. Sure. Yeah, so this is -- yes, I was -- I have some
10 recollection of this. It was not -- so when we use the term
11 "interview" it has different connotations, right? This was
12 a quick contact with this guy and there was conversation. I
13 don't know that it was -- it was not like we sat down and
14 did an interview.

15 Q. Okay. And I understand. This was a while ago.

16 Do you know whether any of these employees were
17 indicted as part of this conspiracy?

18 MR. EBERT: Objection, Your Honor. Relevance.

19 THE COURT: Sustained.

20 MS. KETTWICK: I have no further questions.

21 Thank you.

22 THE COURT: Any other defense counsel wish to
23 cross-examine?

24 Mr. Schleicher?

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CROSS-EXAMINATION

BY MR. SCHLEICHER:

Q. Good morning.

A. It's nearly afternoon.

Q. All right. Well, that's a good foreshadowing for the questions I'm going to ask you, which will be relatively brief.

But you executed the search warrant at 13825 Edgewood on January 20, 2022, at approximately 7:00 a.m.; is that right?

A. Correct.

Q. And the next location, you testified to Empire Cuisine on Marschall Road, did you execute that search warrant, I believe, at approximately 2:53 p.m.?

A. Yes.

Q. All right. Thank you very much.

MR. SCHLEICHER: I have no further questions.

THE COURT: Any other defense counsel wish to cross-examine?

Mr. Ebert, redirect?

MR. EBERT: Just a few questions, Your Honor.

THE COURT: Go ahead.

MR. EBERT: Your Honor, may I just have a moment to switch the system back?

THE COURT: Sure.

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REDIRECT EXAMINATION

BY MR. EBERT:

Q. Special Agent Ball, you were asked a number of questions about the types of items that were seized at both locations by some of the opposing counsel. Do you recall that?

A. Yes.

Q. You were asked questions about types of items that could be construed as fruits of a crime. Do you remember that?

A. Yes.

Q. Generally, from your 27-plus years with the FBI, can you describe for the jury what "fruits" in this context might mean?

A. Items of monetary value that would be sort of outside the scope of what the person would normally have.

Q. And how, if at all, might a fruit be connected to the alleged crime?

A. Well, if we're talking about monetary value fruits, like high-end items that they wouldn't normally have, that would have been purchased with the proceeds from the crime.

Q. Directing your attention to Exhibit H-63, would that include the purchase of two vehicles for \$167,000?

A. It certainly could.

Q. Would that include another purchase of a vehicle from Boyer Trucks that we see here in Exhibit H-64?

A. Yes.

1 Q. And aside from fruits, is it fair to say you were also
2 searching for evidence of an alleged crime at both
3 locations?

4 A. Yes.

5 Q. Did you find that?

6 A. Yes.

7 Q. Did that include hundreds of pages of meal counts?

8 A. Yes.

9 Q. Did that include --

10 MR. COTTER: Your Honor, I'm going to object.
11 Relevance and scope for this witness. Actually, 602.

12 THE COURT: Can you establish more foundation?

13 BY MR. EBERT:

14 Q. Can you describe some of the types of records that you
15 found at the residence?

16 A. Well, there was --

17 MR. MOHRING: Your Honor, objection. Also
18 Rule 701 and 702.

19 THE COURT: Can we have a sidebar here?

20 **(Sidebar discussion)**

21 THE COURT: I think the concern is that the
22 question was not the meal counts themselves, but evidence of
23 an alleged crime. And you're asking him to connect -- I
24 think the concern is you're asking him to collect -- or to
25 connect the evidence to the alleged crime.

1 Is that what you're asking him to do?

2 MR. EBERT: Your Honor, I can -- I understand that
3 concern. I can rephrase it. I'm just simply trying to have
4 him touch upon some of the categories of items that were
5 recovered. And I can rephrase my question, Your Honor.

6 THE COURT: I would rephrase.

7 MR. EBERT: All right. Thank you.

8 THE COURT: Thank you.

9 **(In open court)**

10 THE COURT: Counsel will rephrase the question.

11 MR. EBERT: Yes, Your Honor. Thank you.

12 BY MR. EBERT:

13 Q. Did you recover different types of records at
14 Mr. Ismail's home?

15 A. Yes, we did.

16 Q. And did that include those meal count records we looked
17 at?

18 A. Yes.

19 Q. Hundreds of pages of them?

20 A. Lots of pages of them, yes.

21 Q. Did that also include invoices?

22 A. It did.

23 Q. Showing transactions, some as much as \$1.5 million?

24 A. Yes.

25 Q. Did it also include handwritten notes?

1 A. Yes.

2 Q. With all the different locations you testified about?

3 A. Yes.

4 Q. Thank you.

5 MR. EBERT: I have no further questions, Your
6 Honor.

7 RECROSS-EXAMINATION

8 BY MR. ANDREW BIRRELL:

9 Q. So, Mr. Ball, let's talk about three trucks. Now, these
10 are trucks that are sold by, you know, a dealer down in
11 Shakopee? Is that right?

12 A. Boyer?

13 Q. Boyer?

14 A. Are those the trucks we're talking about?

15 Q. They're all Boyer trucks, right?

16 A. Correct.

17 Q. Boyer Trucks is a lawful, legitimate business, so far as
18 you know?

19 A. As far as I know.

20 Q. And people are entitled to buy trucks to do business,
21 right?

22 A. Yes.

23 Q. Nothing wrong with that, right?

24 A. People can buy trucks.

25 Q. Sure. And the fact that people buy trucks to do

1 business like doing food delivery would be evidence that
2 they are not guilty, right?

3 A. I can't speak to --

4 THE COURT: Wait, wait, wait.

5 MR. EBERT: Objection, Your Honor. Calls for a
6 legal conclusion.

7 THE COURT: Sustained.

8 You do not need to answer.

9 BY MR. ANDREW BIRRELL:

10 Q. It would be evidence that would be important for the
11 jury to have in deciding whether they are guilty or not,
12 right?

13 MR. EBERT: Same objection, Your Honor.

14 THE COURT: Sustained.

15 BY MR. ANDREW BIRRELL:

16 Q. Now, as far as these invoices and transactions, truth be
17 told, you don't know really anything about them at all.
18 Isn't that true?

19 A. I know exactly what I saw on the invoices.

20 Q. Right.

21 A. That's it.

22 Q. And you don't have any -- I'm sorry. Did I cut you off?

23 A. I said, And that's it.

24 Q. And that's it.

25 Thank you.

1 THE COURT: Any other defense counsel with
2 recross?

3 Any redirect, Mr. Ebert?

4 MR. EBERT: No, Your Honor. Thank you.

5 THE COURT: Thank you.

6 Sir, you may step down. Thank you.

7 **(Witness steps down)**

8 THE COURT: And the government may call its next
9 witness.

10 MS. WALCKER: Your Honor, the government calls
11 Vicki Klemz.

12 THE COURT: Good morning. You may come forward to
13 the witness stand.

14 Would you raise your right hand.

15 VICKI KLEMZ,

16 called on behalf of the government, was duly sworn, was
17 examined and testified as follows:

18 THE WITNESS: I do.

19 THE COURT: Thank you. You may be seated in the
20 chair there.

21 And when you're settled, I'll have you state and
22 spell both your first and last name for the record.

23 THE WITNESS: Sure. Vicki Klemz, V-I-C-K-I; last
24 name K-L-E-M-Z.

25 THE COURT: You may inquire, Ms. Walcker.

1 MS. WALCKER: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY MS. WALCKER:

4 Q. Good morning, Ms. Klemz.

5 A. Good morning.

6 Q. Why don't you start by telling the jury where you're
7 employed?

8 A. I am employed with the FBI.

9 Q. Is that also known as the Federal Bureau of
10 Investigation?

11 A. Yes, it is.

12 Q. How long have you worked for the FBI?

13 A. Just over 13 years.

14 Q. What do you do there? What's your position?

15 A. I am a digital forensic examiner with the FBI.

16 Q. What do you do as a digital forensic examiner?

17 A. So as a forensic examiner, I'm responsible for
18 collecting, preserving, imaging, processing, and analyzing
19 anything -- any information that can be digital, in a
20 digital format.

21 Q. Can you give some examples of something that could be
22 considered digital or in a digital format?

23 A. Sure. So computers, laptops, phones, tablets, USB
24 drives, SD cards, gaming systems, vehicles, refrigerators.

25 What doesn't have digital information?

1 Q. And is digital information or digital evidence, is that
2 a big part of FBI investigations?

3 A. Yes, it is. Definitely.

4 Q. Why is that?

5 A. Because everybody has multiple computers, multiple
6 laptops, phones, it's hard to find anybody that doesn't have
7 a phone on them nowadays.

8 Q. Did you receive specialized training when you joined the
9 FBI digital forensic team?

10 A. I did, yes.

11 Q. Can you tell us a little bit about that training?

12 A. Yes. So in order to become a digital forensic examiner
13 with the FBI, there is an intense curriculum. It is about a
14 year and a half to complete it, about roughly 800 hours.
15 And it consists of hands-on training in person, remote, test
16 taking, doing multiple practical examinations, receiving
17 certifications outside of what the FBI is teaching as well.

18 Q. Are you certified, Ms. Klemz?

19 A. I am.

20 Q. Do you also receive ongoing training after you receive
21 that certification?

22 A. Yes. Yes, I do.

23 Q. Can you tell us about that?

24 A. So once -- every year we receive proficiency
25 examinations where we have to -- where they test our -- our

1 knowledge and our skill set. They're sort of a mock
2 scenario and we have to turn in our results. So that's one
3 example.

4 Another example would be our annual training that
5 we also are mandated to take. And so they give us a list of
6 different courses, could be anything from mobile phones to
7 Linux, or it could be Windows forensics, it could be vehicle
8 forensics. It interchanges just based upon the -- what's
9 available.

10 Q. Why is it necessary to keep your training up to date
11 annually and take these annual proficiency exams?

12 A. Right. So technology changes. It changes pretty fast,
13 and so we have to keep up with training, keep up with the
14 technology as it advances.

15 Q. It's important to keep up with technology advances?

16 A. Yes.

17 Q. Okay. And you've used the word "we." Are there more
18 than one of you as digital forensic examiners at FBI?

19 A. Yes. There are five -- we call it -- we're considered
20 CART, Computer Analysis Response Team. So our team is
21 actually a response team, and there's five members of that
22 response team.

23 Q. You said Computer Analysis Response Team?

24 A. Yes.

25 Q. Otherwise known as CART for short?

1 A. Correct.

2 Q. And you're one of those five members of that team in the
3 FBI?

4 A. Yes, that's correct.

5 Q. Since becoming certified, have you done this type of
6 digital forensic analysis in practice?

7 A. Yes.

8 Q. If you were to estimate, how many digital devices have
9 you reviewed over the years?

10 A. I actually don't keep any stats, but hundreds, hundreds
11 of devices.

12 Q. And what kinds of devices?

13 A. Anything from mobile devices to computers, laptops,
14 anything from USB drives, media cards, gaming systems, you
15 name it.

16 Q. Ms. Klemz, I now want to talk through the steps that
17 CART takes to examine digital evidence.

18 A. Sure.

19 Q. First, how does CART receive digital evidence at FBI?

20 A. So it starts with a service request. It's called a CART
21 service request, and what that means is the case agent or
22 the investigator will contact us and just reach out for
23 assistance to say, hey, we need some help CART. Can you
24 help us out?

25 Q. After you receive a service request, what do you do

1 next?

2 A. So after we receive the service request, we would check
3 for the legal authority to make sure that we have the
4 appropriate documentation and that we are allowed to review
5 that particular item.

6 Q. When you say "legal authority," what do you mean by
7 that?

8 A. So it could be a search warrant, it could be a
9 consent -- consensual search.

10 Q. So after you check that you have legal authority, what
11 do you do next?

12 A. So after we receive the legal authority, we would check
13 it out, the evidence items, from our evidence control in
14 Minneapolis.

15 Q. Evidence control in Minneapolis, is that a secure
16 location?

17 A. It is.

18 Q. Okay. After you check the device, say a phone out of
19 the evidence room, what do you do next?

20 A. So after checking it out of evidence, we would bring it
21 back to our lab, and we would begin our inventory process.
22 And so what that means is we would take photographs, we
23 would document any serial numbers, if there's any damage,
24 just take an overall capture of what we're going to be
25 reviewing.

1 Q. Why do you do that?

2 A. First, you know, serial numbers, it's important to --
3 and to note any damage also if, for example, the screen is
4 damaged on a phone, we want to make sure that we document
5 that so later on we're not, you know, accused of breaking
6 it.

7 Q. Okay. Okay. So what do you do after you've examined
8 the phone or the physical device as part of this inventory
9 process?

10 A. So then I would determine -- depending on what type of
11 device it is, I would determine what tool, what imaging tool
12 I would use to then capture that data off of that device.

13 Q. You use the word "image" or "imaging tool." What do you
14 mean by that, "image"?

15 A. So to create an image is -- very simply, is to create a
16 copy of the contents of that device.

17 Q. And is that an accurate, reliable copy of the device
18 contents, that image you create?

19 A. Yes.

20 Q. How do you know that?

21 A. So the tools that we use, they're essentially hardware
22 and software combined. And so when that -- those software
23 tools essentially suck the data off of that, it creates
24 what's called an MD5 hash value or a hash value. And that
25 hash value is the digital fingerprint for that particular

1 file.

2 So when we -- when we get an image of it, it's --
3 we're getting one file. Even though the phone may have
4 thousands and millions of files on it, when we create an
5 image, it's one file. And so that file has an MD5 hash
6 value. It's a really long alphanumeric value that gets
7 assigned to a file or a set of files based upon the data
8 that's in it.

9 And so we can check, then -- so if you had a
10 Microsoft Word document on your phone, right, and you change
11 one period, you remove one period from that document, it's
12 going to render a completely different hash value. And so
13 the hash value is an integrity check to make sure that what
14 we have in the beginning and the end are the same.

15 Q. Can you tell the jurors a little more about what's
16 contained in an image or a copy, as you describe it?

17 A. So it depends on what the device is, but for a phone,
18 for example, there's communications, there's, you know,
19 there's all kinds of applications that we use, hundreds of
20 applications, there's images, videos. There can be banking
21 information. There could be -- anything we can do on our
22 devices is essentially the types of information that we
23 could get off your device.

24 Q. And what kind of tools, these forensic tools, do you use
25 to image a device?

1 A. So we would use, for example, what's called Graykey for
2 phones. We also use a tool called Cellebrite Premium for
3 foods. For USB devices we would use something called like
4 FTK Imager. It stands for Forensic Tool Kit. It's a real
5 popular one in the forensic world. There's a number of
6 different ones available, but those are three very common
7 ones.

8 Q. And you mentioned that these different tools are used to
9 create a copy of the phone contents?

10 A. That is correct.

11 Q. Okay. Once you obtained this image, this forensic copy
12 of the phone contents or other digital device, what do you
13 do with the image that you created?

14 A. So then, as I said, that one file that we obtain from
15 the image, we then ingest that into another forensic tool.
16 And that forensic tool helps us decode the data. So it
17 pretty well puts it back together, right? So -- so it
18 would -- it's a way for you to be able to review the
19 contents of the devices in a very efficient way. You can
20 keyword search. It puts images with all the images. It
21 categorizes the way that you're able to look through a
22 device. It makes it much more user friendly and efficient,
23 versus just thumbing through a phone.

24 Q. And I want to talk about that tool next, but focusing on
25 the image itself, once you've created an image of, say, a

1 phone, what do you do with that copy?

2 A. So the image copy, then, would go on our FBI network.

3 Q. Okay.

4 A. That's what we would do with that.

5 Q. You save it somewhere to the FBI network?

6 A. Yes.

7 Q. And then what do you do with the physical device after
8 it's imaged?

9 A. Right. So we would put that back into evidence control
10 once we're done with it.

11 Q. Okay. And that, you mentioned before, is a secure area?

12 A. Yes.

13 Q. Okay. So turning to the next part, I think you had
14 mentioned, in addition to creating a forensic copy of a
15 device, does CART receive requests to process devices?

16 A. Yes. And that was just that process that I explained
17 just a moment ago, with it being a forensic tool, where it
18 decodes the data, puts it back together so a person
19 reviewing it can easily do that.

20 Q. Okay. And why does it decode? What is the purpose of
21 this other forensic tool?

22 A. So that -- so an investigator or somebody with -- a
23 layperson, you are or I could go through it. It's very
24 intuitive. It's computer software. It puts things together
25 so they make sense for the investigator. All of the

1 communications are in one area. All the images are in one
2 area, and you can -- you can click through it and be able to
3 keyword search so it's an investigative tool.

4 Q. And it makes it easier to view?

5 A. Yes.

6 Q. Okay. And you mentioned some of these investigative or
7 forensic tools. Can you give some examples of those in
8 terms of --

9 A. For processing? Yes. We would use a tool -- a common
10 tool called Cellebrite Physical Analyzer. Another one would
11 be Axiom. Another one would be AD Lab. That's an access
12 data tool. They are all -- there's various tools for
13 processing. We use very common ones.

14 Q. Okay. And very briefly, these tools you just mentioned,
15 do they all do a similar type of function with respect to
16 information contained on the device?

17 A. Yes, they do.

18 Q. Okay. And does it make -- for example, a phone, if you
19 were to process a phone from the image you had created, does
20 it make it look like how it would on a phone or other device
21 itself?

22 A. Yes, it can. Especially for the communications, they do
23 a really good job with putting in like the bubbles like you
24 would see on your phone. It would -- it would imitate that
25 as well.

1 Q. Does it allow to you browse the data that was stored on
2 the device, the phone, at the time of this processing?

3 A. Yes.

4 Q. Okay. What do you do after you've run this tool on the
5 image, the forensic copy?

6 A. So after that I would generate a report and make it
7 available for the investigator to review it.

8 Q. Tell us about that report. What is -- what is that
9 report?

10 A. So every tool that we use has the ability to generate
11 some sort of portable -- portable report, and so,
12 essentially, what it is is something I can hand over to the
13 case agent and they could double click on an executable.
14 That executable would open, and they would see the contents
15 of that device on their computer. And they could then click
16 through -- click through the links, read communications,
17 keyword search, do the same thing that anybody would be able
18 to do that was processing it.

19 Q. And is there an additional verification step at that
20 point after creating this report?

21 A. Yes. So every time we do the -- a processing, some sort
22 of process where we're dealing with the image, we would post
23 hash, that hash value that I spoke about, we'd do a post
24 hash to verify that that's the same as when we started.

25 So I can say that nothing changed from the time

1 that we checked it out to the time that we put it back into
2 evidence.

3 Q. And I think you referred to that as a digital
4 fingerprint earlier; is that right?

5 A. Right.

6 Q. So you're comparing to make sure the fingerprint is the
7 same?

8 A. Right.

9 Q. Okay. Ms. Klemz, I now wants to ask you about your
10 involvement in this case. What was your role in this
11 investigation?

12 A. So my role was to image, process, and make available the
13 contents to the case agent.

14 Q. Okay. Let's, let's break that down. What specifically
15 were you asked to do with respect to devices in this case?

16 A. I was asked to, like I said, image them, so create that
17 duplicate, or that copy. And then from that copy, I
18 would -- to take the data off of it and make it available
19 for the agent to review.

20 Q. Okay. So did CART create these images of the seized
21 devices in this case?

22 A. Yes, we did.

23 Q. Approximately, how many seized devices did CART image in
24 this case?

25 A. For this particular one, I think there were roughly --

1 there were over 20, I think 23ish. There were like 11 USB
2 drives, a couple of laptops, couple of -- I think there was
3 seven phones, a few watches. Yes.

4 Q. Okay. And you said images were created of those
5 devices, correct?

6 A. Where we could, yes.

7 Q. And in some cases it wasn't possi --

8 A. It wasn't possible, right.

9 Q. Can you give some examples of why that might not be
10 possible?

11 A. So we may not have the passcode, right? So they're --
12 one -- I know one of the Mac, Macintosh laptops we needed a
13 password for in order to even image it, and we didn't have
14 it at that time. So that would be a good example.

15 Q. Okay. Where you could, you imaged all the seized
16 devices?

17 A. Where we could, yes.

18 Q. Okay. And then you also processed some of those
19 devices; is that correct?

20 A. Yes, some of them.

21 Q. Okay. What devices did you and the CART team process?

22 A. We processed the ones for the particular -- like the USB
23 drives, and --

24 Q. This particular case, which phones did you process?

25 A. There were -- there were seven phones altogether, so we

1 created reports for all the ones there, and we provided all
2 those to the case agent.

3 Q. Ms. Klemz, you should have in front of you what's been
4 admitted as Government Exhibit H-46 and H-69 and what's been
5 identified as Government Exhibit H-94. Do you see those?

6 A. I do, yes.

7 Q. Do you want to take a moment to look through those and
8 make sure you're familiar with them?

9 A. (Witness complies.)

10 Q. Do you recognize those exhibits?

11 A. I do.

12 Q. And how do you recognize them?

13 A. These were all phones that came to CART for imaging and
14 processing.

15 Q. What kind of phones are they?

16 A. They are all iPhones.

17 Q. When processing these phones, did you and the CART team
18 follow the steps that you previously described for the jury?

19 A. Yes.

20 Q. And did CART also process the data on those three
21 phones?

22 A. Yes.

23 Q. And was that to make it into a more readable format?

24 A. Correct.

25 Q. Okay. What forensic tools did you and CART use to

1 process those phones?

2 A. Physical Analyzer, Cellebrite Physical Analyzer and
3 Axiom.

4 Q. And were those some of the tools you described earlier
5 to make them more readable and an easier, digestible format?

6 A. Yes.

7 Q. And are those common tools that law enforcement uses to
8 process devices?

9 A. Yes, they are.

10 Q. Did you and the CART team generate a report that
11 contains the data?

12 A. We did, yes.

13 Q. Okay. And after extracting the data, did you perform
14 the same verification process you described earlier?

15 A. Yes.

16 Q. What did you and the CART team do with those reports you
17 generated?

18 A. We turned them over to the case agent.

19 Q. Okay. And what did you and the CART team do with the
20 phones? Did you need to check them back into evidence?

21 A. Yes, they went back into the evidence control room.

22 Q. Ms. Klemz, was your role limited to imaging or
23 processing the devices that were seized in this case?

24 A. Yes, they were.

25 Q. Were you responsible for analyzing those reports for

1 relevant information in this case?

2 A. I was not.

3 Q. Are you aware if other agents reviewed the phone data
4 for relevant evidence in this case?

5 A. Yes.

6 Q. Are you aware if Special Agent Brian Pitzen will testify
7 about the text contents found on the phone?

8 A. That is my understanding, yes.

9 Q. And due to scheduling issues, he won't be testifying
10 directly after you; is that right?

11 A. Yes.

12 Q. Okay. Did you have any further involvement with the
13 evidence in this case?

14 A. No, I did not.

15 Q. Did you have any other role in the investigation in this
16 case?

17 A. No.

18 MS. WALCKER: Your Honor, I have no further
19 questions.

20 THE COURT: Mr. Birrell.

21 MR. IAN BIRRELL: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. IAN BIRRELL:

24 Q. Good afternoon, Ms. Klemz.

25 A. Good afternoon.

1 Q. So I just want to be -- make sure I understand what some
2 of your testimony was here today.

3 So your role in this case was to -- you were given
4 electronic devices, right?

5 A. Correct.

6 Q. And you were told to basically make a copy of what's on
7 the electronic devices, right?

8 A. Yes.

9 Q. Make that copy in some form in a way that's useable for
10 an ordinary person or an agent, right?

11 A. Correct.

12 Q. And then pass that useable form along for someone else
13 to review?

14 A. Correct.

15 Q. So it probably wouldn't be fair for me to ask you about
16 the contents of what's on the phones or other devices,
17 right, because you didn't look at them. Is that fair?

18 A. I was not tasked with reviewing or analyzing any of the
19 data.

20 Q. Right. So do you know how many devices were seized in
21 this broader investigation?

22 MS. WALCKER: Your Honor, objection. Beyond the
23 scope.

24 THE COURT: Overruled. You may answer.

25 THE WITNESS: I think -- I know that we -- I think

1 approximately -- I don't know how many were seized. I know
2 that we've imaged over -- almost a hundred.

3 BY MR. IAN BIRRELL:

4 Q. And did you say you imaged some, but not all, of --

5 A. That is correct, yes.

6 Q. Okay. So you -- just so I can make sure the record is
7 clear, you seized some, but not all, of the devices -- you
8 imaged some, but not all, of the devices that were seized,
9 right?

10 A. Are we talking just this particular cluster, or are we
11 talking broadly?

12 Q. Well, let's talk about this particular cluster.

13 A. Okay. Sure.

14 Q. Did you did you make a copy and image of all the devices
15 that were seized in this particular cluster?

16 A. The ones that we could, yes.

17 Q. Were there items that you were not able to image?

18 A. Yes.

19 Q. Okay. Do you know which items those were?

20 A. There was one Macintosh and I believe the three watches.

21 Q. Okay. So because you weren't able to make a copy of
22 those, you weren't able to generate the report, right?

23 A. Um, not -- so for the watches, for example, you know,
24 based on our training and experience, we know that --
25 there's three ways you can get information from the watches.

1 There's a diagnostic port on the watch, so that would be one
2 way. It takes a special adapter. It's still under some
3 testing.

4 Q. That's like if you have an Apple watch, there's some
5 Apple thing that plugs into it; is that right?

6 A. It's more of a diagnostic port, is my understanding of
7 it.

8 Q. Okay.

9 A. It's still being tested. You can also get the data off
10 of the watch if you have a paired or synced iPhone. In this
11 case, we had a lot of iPhones, and we had other devices as
12 well. And so the Mac would be one that we didn't have the
13 passcode for.

14 Another way you can get information from watches
15 are through iCloud. So we essentially met that requirement
16 through having a paired or synced device.

17 Q. So you think you got the information off those three
18 watches; is that true?

19 A. I bel- -- so that is three ways that you can get
20 information about the data on synced watches. Is there
21 other information on the -- you can get health data, things
22 like that.

23 Q. Well, just the data contained on these three particular
24 watches that were seized but not imaged, right?

25 A. They were not imaged, no.

1 Q. Did you obtain the information that was contained on
2 these watches through one of those processes or not?

3 A. If -- so it should be in a Cellebrite report that was --
4 that the devices were synched with, so paired with.

5 Q. Okay.

6 A. So that's typically where you find -- so the iPhone --
7 or the watch is very different than an iPhone, the data
8 that's contained on it. On iPhones you can get, you know,
9 much more broader information. And you can get that same
10 information from a watch if it's paired with that device.
11 There's actually a special place within the operating system
12 level file system that you can actually see contents from
13 the device from the watch.

14 Q. Okay. So you believe that the information contained on
15 the Cellebrite reports would contain the relevant data that
16 was stored on those watches. Is that what --

17 A. I -- I believe we did everything that we could at that
18 time to get the information from the -- from the watches.

19 Q. But it sounds like you don't know if that information --
20 the information on there was passed along to the agents or
21 not. Is that fair?

22 A. I -- well, I didn't review it, so I don't know if they
23 looked at it.

24 Q. But it was provided to the them, you believe?

25 A. Yes.

1 Q. Okay. And the Mac that you didn't have the passcode
2 for, were you able to get the information contained on that
3 Mac or not?

4 A. No, we were not.

5 Q. Okay. So then that wouldn't have been passed along to
6 the agents, right?

7 A. That would have -- I'm sorry, would have been?

8 Q. The information contained on the Mac would not have been
9 passed along to the agents?

10 A. Oh, correct. Yes, correct.

11 Q. Okay. And so that's the imaging part. And I think you
12 testified also after you imaged them, you processed them for
13 review, right?

14 A. Correct.

15 Q. And in this case, for this cluster of devices, did you
16 process all of the documents that were -- or all of the
17 devices that were imaged, or only some of the devices that
18 were imaged?

19 A. So it was at the request of the case agent to process
20 the cell phones and export out any logical file, so active
21 files, from the USB drives and from the laptop, I believe.

22 Q. Okay. So were there devices that were imaged that the
23 case agent told you, Don't worry about processing those,
24 that's not part of your duties here?

25 A. They -- no. So they -- so they wanted just the active

1 files. So what they wouldn't -- they would get everything
2 user related, but they wouldn't get operating system.
3 There's a lot of -- when you -- when you go through a
4 forensic image, it's not just the contents that the user has
5 created, it's a lot of other files. And so, understandably,
6 they just wanted the active files, so the files that you
7 could -- if you were to open it up like on a computer, you'd
8 be able to see documents. You'd be able to see, you know,
9 images and videos and things like that.

10 So -- and we were happy to have that because there
11 was such a large amount of data to have it on our storage
12 network. This seemed like the most logical way to do it,
13 yes.

14 Q. Gotcha. So were there any devices that you and your
15 team made an image of but didn't end up processing?

16 A. Well, processing, I mean, we still -- processing in
17 terms of with a forensic tool, yes.

18 Q. Okay. So yes, they were all processed, or, yes, there
19 were some that were not processed?

20 A. The USB drives and the SD cards were not processed.

21 Q. Okay. So you don't know what's on those files. Is
22 that --

23 A. No, that's not true. That's absolutely not true.

24 Q. Okay. Then I'm misunderstanding. Could you -- could
25 you clarify that?

1 A. So -- so once I had a forensic image of the USB drives,
2 I can use a tool, a forensic tool, that allows you to open
3 up that image, see the active files that are on there, not
4 the deleted files, just the active files, and then copy
5 those out. So I did exactly that. I copied those out and I
6 gave them to the case agent.

7 Q. Okay. So the information that was on the SD cards,
8 memory cards, was all passed along to the case agents?

9 A. Yes.

10 Q. Okay. Deleted files, can you recover deleted texts off
11 an iPhone?

12 MS. WALCKER: Objection, Your Honor. Beyond the
13 scope.

14 THE COURT: Overruled.

15 You may answer.

16 THE WITNESS: Sometimes.

17 BY MR. IAN BIRRELL:

18 Q. Sometimes yes; sometimes no?

19 A. Sometimes yes; sometimes no.

20 Q. Okay. What about cloud-based documents and information?
21 So if I have a cell phone and I'm on a Google Drive, where
22 information is stored not on my phone but somewhere else and
23 I'm looking at it, and say I'm doing that on January 1st,
24 and then my phone is imaged on January 2nd, would the
25 information on that Google Drive be contained in the image

1 or would it not be contained in the image?

2 A. So that also depends. There's -- sometimes there's
3 cache when you open a file. It might create an temp file.

4 Q. And that's cache, C-A-C-H-E?

5 A. Right, C-A-C-H-E. Right. So it depends.

6 Q. Sometimes yes; sometimes no?

7 A. Sometimes yes; sometimes no.

8 Q. Okay.

9 MR. IAN BIRRELL: Thank you. I have nothing
10 further.

11 THE COURT: Any other defense attorney wish to
12 cross-examine?

13 Mr. Mohring.

14 MR. MOHRING: Thank you.

15 CROSS-EXAMINATION

16 BY MR. MOHRING:

17 Q. Good afternoon, Ms. Klemz.

18 A. Good afternoon.

19 Q. I don't think we've met before, have we?

20 A. I don't think.

21 Q. At least not --

22 A. Formally.

23 Q. Not in this setting.

24 You said that you'd been with the FBI for
25 13 years. Have you been involved in digital forensic

1 examination for that entire period?

2 A. No, I have not.

3 Q. How long have you been in the digital forensic
4 examination role, whatever title, but how long --

5 A. Over half, over half. So nine -- nine years.

6 Q. Nine years?

7 A. Right.

8 Q. Have you seen an expansion in the volume of -- the
9 number -- let me break it down, the number of devices that
10 are coming through for CART analysis?

11 A. Yes.

12 Q. Have you also seen an expansion in the depth or the
13 volume of information, that is, that can be extracted from
14 the devices that you are looking at?

15 A. Certainly.

16 Q. There's been testimony, but from a phone, potentially
17 there's an enormous amount of information of data that can
18 be -- that can be taken, can be viewed?

19 A. Correct.

20 Q. Location data where the phone has been?

21 A. True.

22 Q. Right? Information about communications, texts, right?

23 A. That's true.

24 Q. Phone calls, time, duration, numbers called?

25 A. Yes.

1 Q. Right?

2 A. Correct.

3 Q. Incoming, outgoing?

4 A. Correct.

5 Q. You mentioned health data. There are health apps now on
6 phones?

7 A. There are, yes.

8 Q. You can get information about health readings about the
9 person, or at least about the phone or from the phone?

10 A. Yes.

11 Q. Banking information --

12 A. Yes.

13 Q. -- can be obtained?

14 Email information, information about email
15 addresses and actual emails --

16 A. Yes.

17 Q. -- can be gotten?

18 A. Mm-hmm.

19 Q. Okay. So in your -- a couple questions about your
20 process. Obviously, for you to have a digital device of the
21 various types that you talked about: Mobile devices,
22 phones, computers, laptops, USB drives, gaming systems --

23 A. Sure.

24 Q. -- you said sometimes?

25 In order for the device to be there for you to

1 work on it, it has to have been obtained in one way or
2 another?

3 A. Yes.

4 Q. By law enforcement?

5 A. Yes.

6 Q. And, ultimately, whether seized by the -- an FBI agent
7 or some other law enforcement agency obtained and then given
8 to -- delivered to the FBI?

9 A. Mostly, yes.

10 Q. Okay. And I think you said, it was a part of your
11 practice -- was it at the outset that you look at the
12 documents that relate to the seizure of the -- whatever the
13 device is?

14 A. Can you -- I'm not sure --

15 Q. So you mentioned -- you mentioned two things. You
16 mentioned search warrants, right?

17 A. Yes.

18 Q. That's one way the devices can be obtained --

19 A. Right.

20 Q. -- by law enforcement?

21 And then you also mentioned consent?

22 A. Sure, yes.

23 Q. Okay. And you know, the search warrant or consent, the
24 documentation of consent in your work as a digital forensic
25 examiner, are those things that you look at?

1 A. Sure, yes.

2 Q. Okay. I'm not going to ask you about specifics, but
3 that's a part of your -- your intake process, right?

4 A. Yes.

5 Q. There was question about the number of devices.

6 My name is Andrew Mohring, I should have said, and
7 I represent Mukhtar Shariff, one of the seven people who is
8 on trial in this case.

9 To your knowledge, did you look at any cell phone
10 obtained and associated with Mukhtar Shariff?

11 A. I have no -- I don't recall. I don't know.

12 Q. Okay. Not that you're aware of as you testify?

13 A. Can you say the name again?

14 Q. Mukhtar Shariff?

15 A. I don't know.

16 Q. That's not a name that you recognize?

17 A. It's not.

18 Q. Okay. And I asked about cell phones, but let me expand
19 it to anything: USBs, computers, laptops, iPads, gaming
20 systems. Is that a name that you recognize as having been
21 the subject of any of the search activity that you did?

22 A. I -- I don't have any information about that name, no.

23 Q. Okay. Last set of questions. You describe a process of
24 you take a device, any device, you make an image of that
25 device? Yes?

1 A. Yes.

2 Q. And from that point on, the main focus is on that image,
3 not on the device, right?

4 A. That's correct.

5 Q. And then -- and then you take that image, and depending
6 on what -- what the device was and the type of information
7 that you're trying to get from it, you use various types of
8 processing programs to analyze the image, right?

9 A. That's correct.

10 Q. Has artificial intelligence made it in to that analysis
11 process yet?

12 A. Somewhat. Hope to see a little bit more, but yeah, I
13 would say yes.

14 Q. What AI programs do you use?

15 A. I don't mean AI in terms of programs. I mean AI in
16 terms of making our jobs little bit easier, for example,
17 Axion has a feature for -- Axiom is a very common forensic
18 decoding tool, and there is a feature in there called "find
19 similar pictures."

20 So if you're looking for -- I work a lot of child
21 pornography investigations, unfortunately, and so that would
22 help identify some of those instead of having to look
23 through all of that material.

24 Q. Okay. Let's be clear. You did not find any child
25 pornography --

1 A. Absolutely not.

2 Q. Let me finish the question -- any child pornography in
3 your investigation of any of the devices in this case; is
4 that true?

5 A. I didn't review any of it, so not to my knowledge.

6 Q. Okay. And so am I right, then, on the AI and the extent
7 to which artificial intelligence is incorporated into the
8 processes that you talk, am I right in saying that it is to
9 the extent that any of these processing programs have built
10 it in?

11 A. To some degree, to some limited degree, yes.

12 Q. You don't have a separate AI function that you use as an
13 add-on to the analysis process?

14 A. We don't.

15 Q. Okay.

16 MR. MOHRING: I have no further questions. Thank
17 you.

18 THE COURT: Any other counsel to cross-examine?

19 Mr. Brandt.

20 CROSS-EXAMINATION

21 BY MR. BRANDT:

22 Q. Good afternoon, Agent Klemz. My name is Michael Brandt.
23 I've got a couple questions for you. Okay?

24 A. Sure.

25 Q. So when you were giving the description to Ms. Walcker

1 about kind of the process you go through from getting a
2 request to getting the device to imaging it, right, you pass
3 that data on to someone else, correct?

4 A. Yes. I would say about 70 to 80 percent of the case
5 work that we do, that's typically how we do it, we pass it
6 on.

7 Q. Yep. And so the information that you get off of them, I
8 think Mr. Mohring was just asking you about the volume of
9 information these days. It's pretty ubiquitous, isn't it?

10 A. It can be, yes.

11 Q. All right. And the, the information that you get off of
12 those -- and again, as you were describing the -- shall I
13 say the process, even though the process, you know, ends
14 with you handing off your report, whether it's from
15 Cellebrite or Axiom, right, you understand what's then done
16 with that, correct? An agent reviews it, right?

17 A. Yes.

18 Q. And the agent pulls out what they would deem to be the
19 relevant information based on their investigation, right?

20 A. Correct.

21 Q. So, obviously, many times there's irrelevant information
22 on a device?

23 A. Yes.

24 Q. Okay. Now, the -- in this particular case you did some
25 of the analyses, correct?

1 A. No.

2 Q. I'm sorry, not analyses. You did some of the imaging
3 and generating the Cellebrite report?

4 A. Yes.

5 Q. Okay. And I assume some of your other agents helped you
6 with that?

7 A. Yes.

8 Q. So -- and I assume you trust your coworkers to do a good
9 job, like you would?

10 A. We work very close together and we all fall under the
11 same umbrella, so yes.

12 Q. The answer is yes. Thank you.

13 And so any of their reports we could trust as
14 having accurate information being taken off of an electronic
15 device, correct?

16 A. Yes.

17 Q. And to the extent that their reports pulled off, let's
18 say, text messages, and I understand it may be different
19 depending on the device, depending on the software you're
20 using, but to the extent it pulled off any text messages and
21 the report was given to the agent, we could trust that those
22 texts came from that device. True?

23 A. Yes.

24 Q. All right. Thank you.

25 MR. BRANDT: I have nothing further.

1 THE COURT: Any other counsel to cross-examine?
2 Ms. Walcker.

3 MS. WALCKER: Just a couple additional questions,
4 Your Honor.

5 REDIRECT EXAMINATION

6 BY MS. WALCKER:

7 Q. Ms. Klemz, what was the authority that CART had to
8 process the devices seized in this case?

9 A. They were all search warrants.

10 Q. Okay. And you were asked some questions on
11 cross-examination about Apple iwatches, I believe. Do you
12 remember that?

13 A. Yes.

14 Q. You testified on direct examination that you've
15 processed hundreds of digital devices over the years; is
16 that right?

17 A. That is correct.

18 Q. How do Apple watches compare to other digital evidence
19 such as phones in terms of investigative information?

20 A. A forensic value, in this particular case, didn't seem
21 very high. I can understand if it was a different type of
22 investigation, for example, if I may, if it was a murder
23 investigation or something like that, it would become more
24 relevant if that was the only piece of evidence that we had.

25 Q. And you mentioned before this concept of syncing to the

1 phone. Can you explain that for more the jury?

2 A. Sure. So the Apple watch is essentially -- it's
3 designed so that we can have our data available to us at all
4 times, no matter if we're at home, at work, wherever we are.
5 And so the Apple watch is that -- that liaison between your
6 main devices.

7 Q. So in general, fair to say that if the phone and the
8 watch were synced, that any investigative information on the
9 watch would be also available on the phone?

10 A. Yes.

11 Q. Okay.

12 MS. WALCKER: No further questions, Your Honor.
13 Thank you.

14 THE COURT: You may step down.

15 THE WITNESS: Thanks.

16 THE COURT: Thank you.

17 **(Witness steps down)**

18 THE COURT: We're going to go ahead and take our
19 lunch break at this time, and we'll return at 1:30.

20 All rise for the jury.

21 **IN OPEN COURT**

22 **(JURY NOT PRESENT)**

23 THE COURT: All right. We're in recess, everyone.
24 1:30.

25 (Recess taken at 12:22 p.m. till 1:31 p.m.)

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IN OPEN COURT
(JURY PRESENT)

THE COURT: You may all be seated.

And the government may call its next witness.

MS. WALCKER: Thank you, Your Honor. The government calls Amanda Knez.

THE COURT: Good afternoon. You are going to come right up here to the witness chair and stand to take the oath.

AMANDA KNEZ,

called on behalf of the government, was duly sworn, was examined and testified as follows:

THE WITNESS: Yes, I do.

THE COURT: Thank you. You may have a seat there.

And when you're settled, I'll have you state and spell both your first and last name for the record.

THE WITNESS: Sure. Amanda Knez. K-N-E-Z.

THE COURT: You may inquire, Ms. Walcker.

MS. WALCKER: Thank you, Your Honor.

DIRECT EXAMINATION

BY MS. WALCKER:

Q. Good afternoon, Agent Knez.

A. Good afternoon.

Q. Please introduce yourself to the jury by telling us what

1 you do for a living.

2 A. I'm a special agent with the FBI.

3 Q. How long have you been with the FBI?

4 A. It will be 18 years in August.

5 Q. Can you describe what you do as a special agent with the
6 FBI?

7 A. Sure. I'm assigned to the white collar crime squad in
8 Minneapolis, so I investigate a variety of white collar and
9 financial crimes.

10 Q. Looking back at early 2022, was your role the same back
11 then?

12 A. Yes.

13 Q. Was it during that time that you became involved in the
14 investigation in this case?

15 A. Yes, it was.

16 Q. What was the extent of your involvement in the
17 investigation?

18 A. I was tasked with performing a search at an office
19 location.

20 Q. Did you have any other role in this case?

21 A. No.

22 Q. You mentioned you were involved in searching an office
23 location. Is that an office place associated with a company
24 called ThinkTechAct?

25 A. Yes.

1 Q. Is that company known by any other names?

2 A. Yes, I think it's also known as Mind Foundry.

3 Q. And did you search this location based on a search
4 warrant?

5 A. Yes.

6 Q. Where was the ThinkTechAct office located?

7 A. It was located at 200 Southdale Center, Suite 156, in
8 Edina.

9 Q. When did you perform that search, Agent Knez?

10 A. January 20th, 2022.

11 Q. Do you recall what day of the week it was?

12 A. It was a Thursday.

13 Q. What was your role in the search?

14 A. I was a team leader for the search location.

15 Q. What does it mean to be a team leader?

16 A. It means that I gather the search team, give them all
17 assignments. It was a pretty small search team, so we had
18 multiple assignments.

19 Q. Did you take photos during the search?

20 A. Photos were taken by another agent on the site.

21 Q. And why were photos taken at the site?

22 A. Standard practice for us. We take photos at the
23 beginning, called the entry photos, to document the scene as
24 it is when we arrive. And then we also take photos that we
25 call exit photos that document the seen as it looks when we

1 leave.

2 Q. Agent Knez, I'm going to show you what's been identified
3 as Government Exhibit H-106.

4 Do you see that before you?

5 A. Yes.

6 Q. Does this exhibit contain photos that were taken during
7 the search of ThinkTechAct?

8 A. Yes.

9 Q. Are they fair and accurate depictions of the space as it
10 appeared that day?

11 A. They are.

12 MS. WALCKER: Your Honor, the government moves to
13 admit H-106.

14 THE COURT: Any objection?

15 H-106 is admitted and may be published.

16 BY MS. WALCKER:

17 Q. Now, Agent Knez, before we walk through these photos,
18 you mentioned that this was an office space in Edina; is
19 that right?

20 A. Correct.

21 Q. Can you describe, what was the -- what kind of building
22 was it?

23 A. So it's the Life Time Work building, so it's a -- where
24 many places can rent out office space in that one location.

25 Q. Okay. And it's -- the building itself, is that owned by

1 Life Time Work?

2 A. It is.

3 Q. Okay. What are we looking at here on the first page of
4 Exhibit H-106?

5 A. That's a view of the office suite from the hallway.

6 Q. This is the office suite that you were searching that
7 day?

8 A. Yes.

9 Q. And it looks like it's Suite 156; is that right?

10 A. Correct.

11 Q. It says a different company name. Can you explain that
12 for the jury?

13 A. Sure. The ThinkTechAct moved into that suite about
14 three weeks prior, at the beginning of January, and they had
15 not changed the suite placards to reflect the correct title
16 yet.

17 Q. How did you know that this was ThinkTechAct's office?

18 A. A Life Time Work employee let me know who rented that
19 suite number, and then also, while we were performing the
20 search, an employee of ThinkTechAct and a company attorney
21 showed up at the site. And then we also found documents
22 with the name "ThinkTechAct" on them during our search.

23 Q. You mentioned that a Life Time Work employee told you
24 the tenant or the lease -- the leaser of the space; is that
25 right?

1 A. Correct.

2 Q. Who did they tell you this belonged to, this space?

3 A. It was leased to ThinkTechAct.

4 Q. And you mentioned there also was a ThinkTech employee
5 and company lawyer that appeared during the search?

6 A. Yes.

7 Q. The company lawyer, which company are you referring to?

8 A. It was my understanding he represented both ThinkTechAct
9 and Mind Foundry.

10 Q. Do you have an understanding of the association between
11 ThinkTechAct and Mind Foundry?

12 A. It's my understanding one is a d/b/a of the other.

13 Q. Okay. Turning to the next page here, page 2, how would
14 you describe the space we're seeing here, Agent Knez?

15 A. It appears to be an empty shell of an office space.
16 There wasn't a lot of items in there at all.

17 Q. Is this how it appeared when you began your search?

18 A. Yes.

19 Q. Turning to page 3, what are we seeing here on page 3?

20 A. So that's showing one of the two desks in this space.
21 You can see there's not a lot of anything on the desks, a
22 couple file cabinets, not the really anything on the
23 shelves.

24 Q. Do you see a phone here?

25 A. I do not see a phone.

1 Q. What about a printer?

2 A. No printer, no copy machine, no typical office supplies
3 other than that iMac there on the desktop.

4 Q. Did you see anything that indicated that this was a
5 functioning office?

6 A. Not really.

7 Q. Turning to page 4 here, what are we seeing here?

8 A. That's the other desk in the space. No computer on
9 that. You can see it's pretty empty. It has that Life Time
10 Work, I think, it's a card that they put on newly rented
11 spaces. A couple brochures there on the file cabinet and
12 some moving boxes.

13 Q. Any printer?

14 A. No printer.

15 Q. Do you see a scanner?

16 A. No.

17 Q. Do you see a phone?

18 A. No.

19 Q. Computer or monitor on this desk?

20 A. No.

21 Q. And you said, was this search during business hours?

22 A. It was, middle of the day.

23 Q. And was anybody there when you began the search?

24 A. Not in that office suite, no.

25 Q. You didn't see anyone working that day?

1 A. No.

2 Q. Did you find documents that you would expect to find
3 there?

4 A. We found very few documents. It's not what I would have
5 expected for a functioning office.

6 Q. All right. And you mentioned that it had moved to this
7 space several weeks earlier; is that right?

8 A. Correct.

9 Q. Turning to page 5, what are we seeing here?

10 A. That's a photo from the interior of the office pointing
11 out towards the entry.

12 Q. It looks like you can see an office across this hallway
13 there. Do you see that?

14 A. Yes.

15 Q. What office is that?

16 A. It's the -- I don't know how you say it, WEB WOC
17 Programs, Suite 138.

18 Q. How did this ThinkTechAct office space compare to the
19 WEB WOC Program space across the hall?

20 A. The ThinkTechAct office was very sparse, not much in
21 there. The office space across the hall, Suite 138, there
22 were three people working in there. They had phone, they
23 had several files, boxes. Just looked more like an office
24 space that was functioning.

25 Q. You mentioned several files. I'm just zooming in here.

1 Can you describe what we're seeing here on the other side of
2 that class to that office space?

3 A. I mean, it's a storage box on top of what I believe is
4 a -- some kind of storage cabinet.

5 Q. Did you see anything like that here in this ThinkTechAct
6 space?

7 A. I did not.

8 Q. Agent Knez, based on your training and experience, did
9 you see any evidence of a \$20 million business being run out
10 of this location?

11 MR. MOHRING: Objection. 701 and 702, Your Honor.

12 THE COURT: Overruled. You may answer.

13 THE WITNESS: No.

14 MS. WALCKER: No further questions.

15 THE COURT: Cross-examination?

16 Mr. Mohring.

17 MR. MOHRING: Thank you.

18 CROSS-EXAMINATION

19 BY MR. MOHRING:

20 Q. Is it Knez?

21 A. Correct.

22 Q. Silent "K."

23 Good afternoon.

24 A. Good afternoon.

25 Q. My name is Andrew Mohring. I represent Mukhtar Shariff

1 in the case.

2 As I understand it looking at the paperwork, were
3 there two locations searched in connection with the search
4 activity on the day that you --

5 A. Two locations at the --

6 Q. -- at the --

7 A. -- 200 Southdale?

8 Q. Yes.

9 A. There were.

10 Q. Okay. So first you went to -- you obtained -- or agents
11 obtained documentation for a search at Suite 160; is that
12 right?

13 A. Correct.

14 Q. But the location that you've been testifying about is a
15 different suite?

16 A. Yes.

17 Q. That you came back later in the day to search?

18 A. We never left. We were just there the whole day.

19 Q. Okay. But took steps to get a new search warrant for
20 the second location?

21 A. Agents got a search warrant for the second location. It
22 was not me.

23 Q. Okay. Nothing was found in the first location?

24 A. Correct.

25 Q. Was that actually searched?

1 A. It was.

2 Q. I think it was clear from your direct examination, but
3 let's make it clear that, is it fair that as an FBI special
4 agent your active involvement in this investigation was
5 limited to the search that you -- searches, now, that you've
6 just testified about?

7 A. Yes.

8 Q. Didn't interview any witnesses, right?

9 A. No. I interviewed a couple of people in surrounding
10 suites of the search.

11 Q. Okay.

12 A. But nothing that was not related to the searches of
13 those location.

14 Q. Okay. Did you prepare reports of your interviews?

15 A. I did.

16 Q. Did you testify in front of a grand jury?

17 A. No.

18 Q. Were you part of -- so the search -- searches that now
19 we're talking about happened on January 20th, '22; is that
20 right?

21 A. Yes.

22 Q. We've heard that there was a briefing session for --
23 there were a bunch of searches done on that day and the next
24 day, right? You were?

25 A. I believe there were a bunch.

1 Q. A bunch, we've seen mention of a number of more than two
2 dozen? Two dozen or more?

3 A. I don't know.

4 Q. Anyway, a number in addition to just the search that
5 you've testified about?

6 A. I know there were more than just mine.

7 Q. Okay. We've also heard about a briefing session that
8 happened a day or so before the actual searches were done.

9 Were you a participant in that?

10 A. I don't remember if I was at the briefing.

11 Q. You've been with the FBI how long?

12 A. Almost 18 years.

13 Q. Okay. Is it -- have you been involved in search
14 activity that was preceded by a briefing session? Does that
15 happen sometimes?

16 A. Yes, there's usually briefing.

17 Q. But you don't remember if there was in this case?

18 A. I'm sure there was a briefing. I don't recall if I was
19 at it.

20 Q. Okay. Got it. As a part of your work in conducting
21 these two searches, is it your practice to take a look at
22 the search warrant that you're -- that discusses the search?

23 A. Yes.

24 Q. And also as a part of that warrant, to look at the
25 application, the affidavit that it was offered in support of

1 that warrant? Is that part of your practice as well?

2 A. Yes.

3 Q. So the -- there have been some questions about
4 ThinkTechAct. ThinkTechAct is a name of a business entity
5 that was associated with the location that you were
6 searching, right?

7 A. Correct.

8 Q. And ThinkTechAct, you said, is a d/b/a, or maybe it's
9 the other way around, of another entity called Mind Foundry?

10 A. Correct.

11 Q. Based on your involvement in the investigation and your
12 review of the search documents, is it your understanding
13 that those two business entities are associated with a
14 person named Mahad Ibrahim?

15 A. Yes.

16 Q. In the search warrant application documents, do you
17 recall any other name being associated with those two
18 business entities that you were performing a search related
19 to?

20 A. Right now I don't recall.

21 Q. Do you recall the name Mukhtar Shariff or the entity
22 Afrique Hospitality Group being mentioned in the search
23 warrant application documentation?

24 A. I don't recall.

25 Q. Do you recall Mukhtar Shariff or Afrique Hospitality

1 Group being identified in any of the materials that were
2 seized from the -- one of the two places that materials were
3 seized from?

4 A. I don't recall.

5 MR. MOHRING: Your Honor, I have no further
6 questions.

7 THE COURT: Any other defense attorney wish to
8 cross-examine?

9 Mr. Garvis.

10 CROSS-EXAMINATION

11 BY MR. GARVIS:

12 Q. Good afternoon, Agent.

13 A. Good afternoon.

14 Q. My name is Andrew Garvis. I represent Mr. Abdiwahab
15 Aftin.

16 I just want to make sure I understand this. You
17 guys went to the Edina Southdale Life Time Fitness, I guess,
18 work space? That a fair statement?

19 A. Yeah, it's the Life Time Work. I think it's connected
20 to the Life Time Fitness.

21 Q. Right. And there's just sets of various stalls that
22 have businesses in there that get rented out. Is that -- is
23 that how it is?

24 A. Yes.

25 Q. Okay. And I think you said you went there -- initially

1 you went to, I guess, stall 160, and it wasn't there,
2 nothing was in there?

3 A. Correct.

4 Q. Okay. And so then you must have spoken to somebody and
5 you heard that maybe they had moved?

6 A. That's right.

7 Q. And so then somebody then went and made an application
8 to actually search apparently where they were moved or -- is
9 that -- is that what took place?

10 A. Yes.

11 Q. Okay. And then you waited around?

12 A. We did.

13 Q. Okay. And then you went in there and, as I think we
14 saw, lots of things were not unboxed at that point in time?

15 A. I don't know. There wasn't much there to unbox.

16 Q. Okay. Fair enough. But that's what -- that's the
17 extent of it? You didn't go anywhere else?

18 A. Those two office suites was it.

19 MR. GARVIS: Nothing further. Thank you.

20 THE COURT: Does any other defense attorney wish
21 to cross-examine?

22 Any redirect, Ms. Walcker?

23 MS. WALCKER: Just very briefly, Your Honor.

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REDIRECT EXAMINATION

BY MS. WALCKER:

Q. Agent Knez, you were asked about another earlier location you search before the ThinkTechAct office location. Do you remember that?

A. Yes.

Q. What was the first location you searched?

A. It was Suite 160.

Q. And was that associated with ThinkTechAct?

A. It was. That's what the search warrant was for and the signage outside the suite had the ThinkTechAct name on it.

Q. Was ThinkTechAct the current lease occupant of that location?

A. Not on the day that we searched, it was not.

Q. Was there a different lease tenant in that space when you searched the location?

A. There was.

Q. Was there anything related to a ThinkTechAct in that space?

A. No.

MS. WALCKER: No further questions, Your Honor.

THE COURT: You may step down, agent. Thank you.

THE WITNESS: Thank you.

(Witness steps down)

THE COURT: And the government may call its next

1 witness.

2 MS. WALCKER: Thank you, Your Honor. The
3 government calls Falon Wanless.

4 THE COURT: Good afternoon. I'll have you stand
5 and take the oath.

6 FALON WANLESS,
7 called on behalf of the government, was duly sworn, was
8 examined and testified as follows:

9 THE WITNESS: I do.

10 THE COURT: Thank you. You may be seated in the
11 witness chair.

12 And then when you are settled, I'll have you state
13 and spell both your first and last name for the record.

14 THE WITNESS: You said spell as well?

15 THE COURT: Yes, please.

16 THE WITNESS: Okay. It's Falon Wanless. First
17 name, F-A-L-O-N; last name W-A-N-L-E-S-S.

18 THE COURT: Thank you.

19 You may inquire, Ms. Walcker.

20 MS. WALCKER: Thank you, Your Honor.

21 DIRECT EXAMINATION

22 BY MS. WALCKER:

23 Q. Good afternoon, Ms. Wanless.

24 A. Hi.

25 Q. Why don't you start by telling the jury where you're

1 from.

2 A. Yes. So I was born in Vicenze, Italy. I am a daughter
3 to two Army veterans. We moved to the United States when I
4 was still an infant, and then we moved around down south
5 quite a bit.

6 We moved up here from Kentucky after my dad got
7 discharged from the Army, Fort Campbell, Kentucky. And
8 while we lived in Iowa, and I absolutely hated it there, I
9 decided to move to Minnesota. And I went to school here and
10 started by my career here.

11 Q. Where did you go to school here in Minnesota?

12 A. I went to Mankato, Minnesota State of Mankato.

13 Q. And you mentioned you also started your career here?

14 A. I did, I did. I started my first big-kid job here with
15 Heartland Realty at Clifton Townhomes as a property manager.

16 Q. What does it mean to be a property manager?

17 A. A lot of different things. I mean -- you mean like the
18 roles and responsibilities of a property manager, or --

19 Q. What does it -- yes, what does it mean to you?

20 A. Yeah. I mean, for me specifically working in a
21 Section 8 property, it meant that I could -- you know,
22 there's two factors to managing properties: It's the
23 property itself, and then it's the tenants.

24 And so I'm very people-oriented. So being able to
25 manage a Section 8 property meant that I was able to help a

1 maybe less-than-fortunate community and be able to bring a
2 community together and help provide resources and the
3 knowledge that I could share with them.

4 Q. And I think you used term "Section 8 property." Do you
5 mind explaining what that means for the jurors?

6 A. Yeah. So Section 8 property, it's a low-income housing,
7 so anyone who applies to Clifton Townhomes can be placed on
8 a wait list and received subsidized housing, which is
9 decided based on their income.

10 Q. And, Ms. Wanless, I think you said you were employed by
11 a company called Heartland Realty; is that right?

12 A. Yes, that's correct.

13 Q. What is the association between Heartland Realty and
14 Clifton Townhomes?

15 A. So Heartland Realty owns multiple properties throughout
16 the United States, and in the State of Minnesota, Clifton
17 Townhomes is one of the properties that they own.

18 Q. Okay. And, Ms. Wanless, just because we have our
19 wonderful court reporter, I'm going to ask for both of us to
20 talk just a little bit slower to make sure she can take
21 everything down here.

22 A. Okay.

23 Q. Thank you.

24 Can you describe a little bit more about Clifton
25 Townhomes, where it's located for the jury?

1 A. Yeah, it's located in Shakopee, not too far from what I
2 would consider downtown Shakopee. It's in a quiet
3 neighborhood. I want to say it's near a school as well, so
4 it's -- yeah, it's just tucked a little ways. It's a quiet
5 neighborhood.

6 Q. And since we're talking about a specific location, let's
7 take a look at a map to orient the jury. I'm going to show
8 you what's been admitted as Government Exhibit N-117.

9 Do you see this here, Ms. Wanless?

10 A. I do.

11 Q. Okay. And is this a map of Shakopee?

12 A. Yes.

13 Q. Do you see Clifton Townhomes on the map?

14 A. I do.

15 Q. Okay. And what was the address for Clifton Townhomes?

16 A. Oh, gosh. I want to say it was -- it was on Mission
17 Street. Was a 533 Mission Street --

18 Q. Okay.

19 A. -- in Shakopee.

20 Q. Can you tell us a little more about --

21 A. I'm so sorry. 551 Mission Street. I'm pretty sure.

22 Q. 551 Mission Street.

23 A. I think so, in Shakopee.

24 Q. Okay. How many units were in the building at Clifton
25 Townhomes?

1 A. I'm going to say it's probably 50 to 57, from what I
2 remember.

3 Q. I'm going to show you what's been admitted as Government
4 Exhibit C-120.

5 Do you recognize this?

6 A. Yep. That's the entrance of Clifton Townhomes.

7 Q. Okay. Can you tell us a little bit about what we're
8 seeing here?

9 A. Yeah. You're seeing the very front of Clifton Townhomes
10 off the main street that it's on, Mission Street, and then
11 you're right in front of the property where the
12 drive-through is to get to our parking lot. There's several
13 apartment buildings surrounding the parking lot, and then
14 one smaller building straight ahead where my office would
15 have been.

16 Q. Okay. Your office was at Clifton?

17 A. Yes.

18 Q. Did you live at Clifton?

19 A. No, I did not.

20 Q. Okay. But your office was directly on the property
21 here?

22 A. Yes, ma'am.

23 Q. Okay. And when did you work at Clifton as a property
24 manager?

25 A. I worked at Clifton from May 2019 to sometime in July of

1 2021.

2 Q. You said you did work there. What do you do now for
3 work?

4 A. Yeah, after I left Heartland, I continued my career in
5 property management, but eventually I did decide to change
6 careers and pursue marketing. So now I am an event
7 coordinator for a software company.

8 Q. Very briefly, what do you do as an event coordinator?

9 A. Yeah. As an event coordinator I -- you know, we travel
10 to different trade shows, so I'm a large part of the demand
11 generation of our team, so being able to go to trade shows,
12 figure out how we can market ourselves there, get as many
13 leads as possible and convert them into sales.

14 Q. Now, turning back to, you said, May 2019 through
15 July 2021 is when you were property manager at Clifton; is
16 that right?

17 A. Yes, ma'am.

18 Q. Okay. And you mentioned before when I asked you about
19 your responsibilities, part of it was sort of managing the
20 folks that live there; is that right?

21 A. Yeah. So I would have been in charge of screening and
22 selection of our tenants, their lease management, and then
23 overseeing the property management or the maintenance of the
24 property.

25 Q. Were you a full-time employee at Clifton?

1 A. I was, yes.

2 Q. What was your schedule there?

3 A. It was a basic Monday through Friday 9:00 to 5:00.

4 Q. Were there times that you'd have to stay after 5:00?

5 A. Yes, there was.

6 Q. Was it important for you to be present at Clifton as
7 part of your job?

8 A. Extremely important. Part of Section 8 and this
9 specific property, tenants have to regularly report their
10 income to me. So it was important that I would be there for
11 HUD compliancy and making sure that they get the correct
12 subsidized rent that they needed.

13 Q. I think you mentioned "HUD compliancy." Very briefly,
14 what is your understanding of what that means, for the jury?

15 A. Yeah. HUD is the housing authority and, like, the
16 basics of term, it's making sure that we protect the renters
17 by providing safe, clean homes for them, any legal factors
18 that come into compliance as well.

19 Q. Part of your role, would you have to speak with tenants
20 fairly regularly?

21 A. Yes, on a regular basis.

22 Q. Ms. Wanless, I now want to turn your attention to the
23 onset of the COVID-19 pandemic in 2020. Do you have that
24 time frame in mind?

25 A. Yeah, I feel like that was almost a majority of my time

1 there, I feel. COVID was a very weird time, but yeah.

2 Q. Can you tell the jurors what impact, if any, the
3 pandemic had on Clifton Townhomes?

4 A. Yes. So as I mentioned before, Section 8 property is
5 for low-income families. So as many of you probably know,
6 during COVID a lot of people were laid off. That required a
7 lot of paperwork to make sure that I was giving the correct
8 subsidized rent for our families.

9 Additionally, the kids had to be removed from
10 schools and stay at home. So it did cause quite the
11 disruption in our community.

12 Q. Were you -- did you remain on site during that time?

13 A. I did. I did.

14 Q. You mentioned kids on property and the schools closing
15 down. Are you familiar with any school districts' food
16 distribution happening at Clifton during at that time?

17 A. Yes. So when the kids first got called out of school,
18 the school district let me know that they were going to be
19 using Clifton Townhomes as a distribution center to be able
20 to drop off meals to families at that property.

21 Q. Do you know what school district that was?

22 A. It would have been Shakopee.

23 Q. The Shakopee School District?

24 A. Yes.

25 Q. Did you ever observe the Shakopee School District

1 distributing meals for children at the Clifton Townhomes?

2 A. I did. They would come sometime in the morning, and
3 then our residents would kind of sit outside, just right
4 outside my office, and wait for the bus to arrive.

5 Q. You said "the bus to arrive." Can you explain that to
6 the jury, what you observed?

7 A. Yes. So they would bring a school bus to the property,
8 and then inside they would have all their food bagged and
9 prepared to be able to distribute. So what would happen is
10 they would park in a specific -- we had a specific parking
11 spot for them. And so they parked the bus there, and then
12 outside the rear of the bus, in the back door, is where they
13 would hand and distribute food to members who came up and
14 requested it.

15 Q. That was outside the back of the bus?

16 A. Correct.

17 Q. Okay. About how many folks did you see assisting with
18 handing out the meals?

19 A. I want to take two to three people at a time.

20 Q. And what do you recall about the number of folks that
21 appeared to receive meals when the school bus would come?

22 A. Yes. I would say -- I would say it could range anywhere
23 from like 10 to 20.

24 Q. 10 to 20 people coming?

25 A. (Moves head up and down.)

1 Q. Okay. How often did you see that happening?

2 A. My memory is not too great there, but I want to say they
3 were doing it every day for a while to every other day,
4 while the kids were out of school.

5 Q. Did you ever ask about the meals being distributed from
6 the school bus?

7 A. No. The most interaction I ever had was when the
8 tenants would be out there, I would just come out there and
9 say hi to everyone and just say hi to the people
10 distributing, but I never had like any thorough
11 conversations with the staff there.

12 Q. Do you know how the folks that came out to get the meals
13 from the yellow school bus, how they knew about that?

14 A. A couple different things. I know for sure on my end
15 that they had, once the -- excuse me -- once the school
16 district had notified me, I send regular notices to my
17 tenants. So I had made a letter and I printed it out and I
18 put one on everyone's door to let them know that they were
19 going to be distributing free meals and when they were going
20 to do it and what times.

21 Q. Okay. Ms. Wanless, at any point, apart from the school
22 district folks, did anyone else ask you for permission to
23 serve meals for children at Clifton Townhomes during that
24 time period?

25 A. No, ma'am.

1 Q. If someone had asked you for permission, would you have
2 the authority to approve that request apart from the school
3 district folks?

4 A. I would say it would depend on the size of the operation
5 and if it was an organization versus someone who was just
6 maybe wanting to provide like some meals that day,
7 specifically. So it was solely depend.

8 Q. Apart from the school district, the Shakopee School
9 District meal distribution that you saw and were aware of,
10 are you aware of anyone at Heartland Realty authorizing
11 anyone at Clifton to be used as a food distribution site?

12 A. No, ma'am.

13 Q. Can you think of any instances where something was
14 happening at Clifton Townhomes where Heartland Realty
15 reached out to you to let you no know about it?

16 A. Yeah. I mean, they're the owners of the property, so, I
17 mean, there would be various different reasons. Sometimes
18 we would have like a large project that we had budgeted for
19 and they would let me know when venders were going to come
20 out. Or if we had inspections and we needed to make sure
21 the property was ready to be inspected, they would also let
22 me know.

23 Q. Okay. And did they let you know about any other events
24 taking place regarding food distribution during that time
25 period?

1 A. No, ma'am.

2 Q. I now want to turn your attention to the October of 2020
3 through July of 2021 time period, during the pandemic.

4 A. Okay.

5 Q. Based on your knowledge and observations, are you aware
6 of any other meal distributions that took place at Clifton
7 during that time period, apart from the Shakopee School
8 District distributions?

9 A. No. The only thing was during the pandemic we had
10 communities, or people in our community -- and when I say
11 community, I mean our property -- who would go to food
12 shelves and they'd have excess food. So there kind of
13 became this thing where our residences were offering excess
14 food to other neighbors. So we used the community room as
15 like a -- almost like a community food shelf, where anyone
16 can bring in excess food items and residents could come in
17 and pick up as they needed.

18 But other than that, there was no -- other than
19 that in the school there was no other time where food was
20 distributed, unless it was like a resident event. But I
21 would have hosted that and paid for that.

22 Q. The community -- the food room, who maintained that, the
23 food -- the community food shelf?

24 A. Yeah, it's a -- so it's hard to describe, but the
25 community room is really small. Like you can only -- you

1 can barely fit like two round tables with like six chairs
2 around them, and then there's like this cabinet in the back
3 of the wall that we used. And so because it was small, and
4 most of the time I was there by myself if we didn't have
5 maintenance on site, I would just make sure that if there
6 was any like food that was like vegetables or fruits that
7 were going bad, that those got thrown away, and the
8 perishables, and made sure it still looked good because we
9 had people coming in and out of the office.

10 Q. And you said that was food that residents had gotten
11 from other left over community food shells?

12 A. Yeah, it would have been like noodles or bread or other
13 nonperishable, like cans.

14 Q. Okay. So apart from the community foods, that small
15 food shelf, and then the Shakopee meal distribution at
16 Clifton, did you see any other meal distributions taking
17 place at Clifton?

18 A. No, ma'am.

19 Q. As the property manager, would you have heard about what
20 was happening at Clifton?

21 A. I would say so. I mean, it's a small property. We're
22 pretty tight-knit. I communicate regular with the
23 residents, and I have some few residents who were, I would
24 say, more like outstanding citizens who would come to me and
25 let me know when like there were things that I could let the

1 community know, like if there was an event where people can
2 go to to get some excess food or if they needed clothes. So
3 we stayed pretty -- in close contact trying to make sure
4 that we could notify residents whenever there was a resource
5 to them that they could use.

6 Q. During your time at Clifton, did you ever see anyone
7 collecting names or taking down counts, anything like that
8 in connection with any meal distribution, apart from the
9 Shakopee School District folks?

10 A. No, ma'am.

11 Q. Are you aware that Clifton was registered as a claimed
12 meal distribution site with the State of Minnesota apart
13 from the Shakopee School District?

14 A. I was not, no.

15 Q. I'm going to show you what's been admitted as Government
16 Exhibit C-119. And under "site information," do you see the
17 name here next to site?

18 A. Yeah, it says Clifton Townhomes.

19 Q. Okay. And then the site address here.

20 A. 551 Dakota Street South, Shakopee, Minnesota. That
21 would have been the address of Clifton Townhomes.

22 Q. You recognize that address?

23 A. Yes, ma'am.

24 Q. Okay. Turning to the next page here, paragraphs -- are
25 you laughing?

1 A. I'm laughing because I said -- I gave you my current
2 corporate address in San Francisco when I said Mission
3 Street. And so when I said -- when I see Dakota, I just
4 realized where I got Mission Street from, so sorry.

5 Q. That's okay.

6 MR. BOBIER: Your Honor, I'm sorry to interrupt.
7 It's Dan Bobier back here. The jurors' screens have come
8 off.

9 THE COURT: Thank you, Mr. Bobier.

10 Back up?

11 Thanks, everyone.

12 MS. WALCKER: Ms. Wegner, you're a miracle worker.
13 Snap your fingers and it appears. Thank you.

14 BY MS. WALCKER:

15 Q. Ms. Wanless, I'm turning your attention --

16 MS. WALCKER: And thank you, Mr. Bobier, for
17 letting us know.

18 BY MS. WALCKER:

19 Q. Turning your attention here to paragraphs 5 through 8
20 here on this form, it says under paragraph 5, Maximum Daily
21 Participation, 1100.

22 Do you see that?

23 A. Yes, ma'am.

24 MR. COTTER: Your Honor, I'm just going to state a
25 602 objection.

1 THE COURT: You may answer. Overruled.

2 THE WITNESS: I'm sorry. What was the question?

3 BY MS. WALCKER:

4 Q. It says here the maximum daily participation was 1100.

5 Do you see that?

6 A. I do see that, yes.

7 Q. And then the operational days in which meals would have
8 been served at Clifton, it lists July, August, and September
9 on Wednesdays. Do you see that?

10 A. Yes, ma'am, I do.

11 Q. And then it says Vendor Name, Empire Cuisine & Market at
12 the bottom. Do you see that?

13 A. Yes, ma'am.

14 Q. Does the name Empire Cuisine & Market mean anything to
15 you?

16 A. No, ma'am.

17 Q. Turning to the next page, page 3, it says here that for
18 meal type information, that 1100 breakfasts and 1100 lunches
19 would have been served between military time 1500 and 1800
20 or 3:00 p.m. to 5:00 p.m.

21 Do you see that?

22 A. Yes. Yes, ma'am, I do.

23 Q. Did you see any evidence of that happening at Clifton
24 while you were a property manager?

25 A. No, ma'am. It's, it's an extremely small property. We

1 only have like two sections of parking lot and then a
2 two-way street on the side of the neighborhood. I would
3 have been alarmed if I had seen this many people come to our
4 property in a three-hour time span.

5 Q. Why would you have been alarmed by that?

6 A. I wouldn't have expected it. I wouldn't know why they
7 would be there.

8 Q. It would have stood out to you?

9 A. Definitely would have stood out to me.

10 Q. I'm going to show you what's been admitted as Government
11 Exhibit C-112. This is another form that was submitted for
12 Clifton Townhomes.

13 Do you see that name there?

14 A. Yes, ma'am.

15 Q. Turning to the second page of this document, under
16 paragraph 10a, it looks like they're claiming to be
17 providing an after-school program at Clifton Townhomes.

18 Do you see that?

19 A. Yes, ma'am.

20 Q. Are you aware of any after-school program happening at
21 Clifton Townhomes during that time period?

22 A. No, ma'am.

23 Q. And it looks like as part of that after-school program
24 that was claimed, that meals would have been served in these
25 checked months here, January through June, September through

1 December.

2 Do you see that?

3 A. Yes, ma'am.

4 Q. With the meals being after school snacks and suppers.

5 Do you see that?

6 MR. COTTER: Objection. Leading.

7 THE COURT: Sustained.

8 Rephrase, please.

9 BY MS. WALCKER:

10 Q. Do you see which meal types were selected under

11 Section 10C here on the form?

12 A. Yeah. I see at-risk after-school snack, and then
13 at-risk supper.

14 Q. Did you see any evidence of after-school snacks or
15 suppers being served at Clifton Townhomes while you were
16 property manager?

17 A. No, ma'am.

18 Q. Ms. Wanless, I now want to talk to you about the meals
19 that were claimed to have been served at Clifton Townhomes.

20 A. Okay.

21 Q. Not the meals provided by the Shakopee School District.

22 A. Okay.

23 Q. I'm going to show you what's been admitted as Government
24 Exhibit N-28. Do you see that before you?

25 A. Yes, ma'am.

1 Q. Looking at the first month here, October of 2020, did
2 you ever see 11,772 breakfasts and 11,772 lunches being
3 served at Clifton Townhomes in October of 2020.

4 A. No, ma'am.

5 Q. And you look like you smiled there when you saw that.
6 Can you explain your reaction to the jury?

7 A. 11,000 is just a lot of people. I mean, I think about
8 how many people were on the property, which may be a little
9 over 150, and then I'm trying to multiply that in my head to
10 equal 11,000 people, and there's no way that I would not
11 have noticed 11,772 people being served breakfast and then
12 lunch that day or that month.

13 Q. Did you see approximately 406 people on average in
14 October -- receiving 11,772 breakfasts and lunches?

15 A. So you're saying at the bottom it's the average daily
16 attendance, and you're asking if I've seen 406 people or
17 around that when -- those days?

18 Q. Receiving that many meals on those days in October of
19 2020?

20 A. No, ma'am.

21 Q. Turning to the next month, November of 2020. Did you
22 see approximately 449 people receiving 13,442 breakfasts and
23 13,442 lunches in November of 2020?

24 A. No, ma'am.

25 Q. December of 2020?

1 A. No, ma'am.

2 Q. You didn't see anything of those numbers in December of
3 2020?

4 A. I -- no, ma'am. I did not. Our property is, again, a
5 really small community. Any fluctuation of people, I would
6 have noticed. Like, the most activity I've seen at my
7 property would be during like Ramadan when people were
8 having family members over and they were celebrating
9 together. It's just -- it would -- I -- I don't really know
10 what else to say except there's no way I would not have
11 noticed so many people at my property. It's way too small.

12 Q. What about vehicles? How would that number equate for
13 you in terms of the size of the parking lot at Clifton
14 Townhomes?

15 A. Well, first of all, the parking lot probably would have
16 been full and packed, and I'm sure people would probably not
17 even park in parking spots if they wanted to be there. And
18 then on top of that --

19 THE COURT: Hang on. Let me rule on the
20 objection.

21 THE WITNESS: Sorry.

22 (Court reporter asks for clarification.)

23 MR. COTTER: Objection. Speculation.

24 THE COURT: I'm going to overrule the objection.

25 You may continue.

1 THE WITNESS: And then on top of that, there is a
2 street, Dakota Street, that is long that people could
3 potentially park, but I, again, would have noticed if there
4 was a large amount of cars being parked on the side of the
5 street as well.

6 BY MS. WALCKER:

7 Q. Ms. Wanless, I'm going to turn to another exhibit with
8 you, it's Exhibit D-29. This is in evidence. The second
9 page. This invoice here that was submitted in August of
10 2021. I'm jumping ahead a few months here.

11 Do you see Clifton Townhomes listed here?

12 A. I do.

13 Q. And according to this invoice, it says, Quantity,
14 18,363. Do you see that?

15 A. Yes, ma'am.

16 Q. And the invoice total for Clifton Townhomes is \$110,178.
17 Do you see that?

18 A. Yes, ma'am.

19 Q. And looking at the top of this invoice here, do you see
20 who this invoice was submitted to?

21 A. Partners in Quality Care.

22 Q. And do you see the name at the top of this invoice?

23 A. The Empire Cuisines & Markets.

24 Q. And do you see what's listed under the projects here?

25 A. Yes, ma'am. "Summer meals."

1 Q. And the due date?

2 A. August 14th of 2021.

3 Q. Did you ever see any evidence of over \$110,000 worth of
4 summer meals at Clifton Townhomes when you were property
5 manager?

6 MR. GOETZ: Objection. 602, Your Honor. May we
7 have a short sidebar?

8 THE COURT: You may.

9 **(Sidebar discussion)**

10 THE COURT: Mr. Goetz?

11 MR. GOETZ: Your Honor, the witness by her own
12 testimony doesn't have personal knowledge to testify about
13 this invoice. She was gone in July of 2021, and this is in
14 August. There's no date reference for these meals.

15 THE COURT: Ms. Walcker?

16 MS. WALCKER: Your Honor, I was simply asking if
17 she was aware of that happening at Clifton Townhomes, but
18 I'm happy to move on.

19 THE COURT: Let's move on. I'll sustain the
20 objection.

21 **(In open court)**

22 THE COURT: The objection is sustained.

23 Ms. Walcker will ask her next question.

24 BY MS. WALCKER:

25 Q. All right. Ms. Wanless, I'm going to go back to the

1 exhibit I was showing you before, which is Government
2 Exhibit N-28.

3 Do you see that?

4 A. Yes, ma'am.

5 Q. Okay. Now, I want to focus with you on the time period
6 of January 2021 through July of 2021. Do you see that?

7 A. Yes, ma'am.

8 Q. Did you see this number of claimed meals being
9 distributed month after month between January 2021 and July
10 of 2021 when you were property manager?

11 A. No, ma'am.

12 Q. And it looks like in June of 2021 it was 22,000 meals
13 over only 11 days; is that right?

14 A. That's what I see, yes.

15 Q. Did you see any evidence of that at Clifton?

16 A. No, ma'am.

17 Q. Would you have known about it if this was happening?

18 A. Yes, ma'am.

19 Q. Based on your observations, did this happen?

20 A. No, ma'am.

21 MS. WALCKER: I have no further questions. Thank
22 you.

23 THE COURT: Cross-examination.

24 MR. GOETZ: I just --

25 MR. IAN BIRRELL: Go ahead.

1 MR. GOETZ: I just have a few, Your Honor.

2 THE COURT: Mr. Goetz.

3 CROSS-EXAMINATION

4 BY MR. GOETZ:

5 Q. Good afternoon, Ms. Wanless.

6 A. Good afternoon.

7 Q. I could tell you were raised in a military family. Your
8 "yes, ma'am" was indicative of that.

9 A. Yes. My parents would scold me if I didn't use it.

10 Q. I represent Mukhtar Shariff in the back. You've never
11 met Mr. Shariff, have you?

12 A. No, sir, I have not.

13 Q. Okay. Never heard his name until just now?

14 A. Except in the news, sir.

15 Q. Okay. Well, we won't talk about the news, but in terms
16 of Clifton Townhomes?

17 A. Correct, I've never heard the name before.

18 Q. I just want to look at a couple exhibits for
19 clarification.

20 You were just shown by the prosecutor,
21 Ms. Walcker, C-119.

22 MR. GOETZ: Can we have that, please?

23 BY MR. GOETZ:

24 Q. Now, you said your period of employment was from
25 May 2019 through July of 2021; is that right?

1 A. Yes, sir.

2 Q. When exactly in July did you leave Clifton Townhomes?

3 A. My memory is pretty foggy on that. I want to say it was
4 probably mid-July, so I would shoot for the 14th,
5 potentially.

6 Q. Okay. I noted that the time period for this document,
7 approval effective date range -- if we could blow that up --
8 is July 2021 through April of 2022. So to the extent that
9 you have any knowledge about meals distributed, it would be
10 just limited to the first 14 days of that date range; is
11 that right?

12 A. Yes, sir.

13 Q. Okay. Because after that you went to other pursuits,
14 correct?

15 A. Yes, sir.

16 Q. Similarly, let's look at C-12, please. I'm sorry.
17 C-112.

18 And this CLiCS form has a range of, at the top,
19 October '21 through September 2022. Do you see that?

20 A. Yes, sir, I do.

21 Q. Now, the prosecutor just asked you questions about if
22 you knew of any meals distributed, and she went through
23 other areas of the form, but you were gone by then, right?

24 A. Yes, I left in July of 2021.

25 Q. So whether or not there were any meals distributed

1 during this period of time at Clifton Townhomes, you have no
2 personal knowledge. Would you agree with that?

3 A. Yes, sir, I would agree that I would have no knowledge
4 between October 2021 and September 2022.

5 MR. GOETZ: Thank you. That's all I have.

6 THE COURT: Mr. Birrell.

7 CROSS-EXAMINATION

8 BY MR. IAN BIRRELL:

9 Q. Good afternoon, Ms. Wanless.

10 A. Good afternoon.

11 Q. Just following up on this briefly, these documents that
12 you were just shown, these government forms, you don't know
13 who created or submitted those documents; is that fair?

14 A. Yes, sir, I do not know who created those forms.

15 Q. And you don't know about what a sponsor does in the food
16 program versus what a vendor does in the food program,
17 right?

18 A. Correct, I don't have that knowledge.

19 Q. You're just here to talk about your observations at the
20 townhomes, right?

21 A. Yes, at my property.

22 Q. And at your property, you said that no one else asked
23 you for permission aside from the Shakopee School District
24 to distribute food there; is that right?

25 A. That's correct.

1 Q. Do you recall speaking with a man named Mark Morjane
2 [phonetic]? Or does that name ring a bell at all? Mark
3 Morjane?

4 A. No, sir.

5 Q. Okay. How about someone named either Terry Mander or
6 someone with the last name Hart? Do those ring a bell?

7 A. No, sir. Brittany Hart would have been -- I'm sorry.
8 You said "Hart" with a last name. Brittany Hart would have
9 been my manager.

10 Q. Okay.

11 A. She's the one I worked for, but that's the only person I
12 know by that last name.

13 Q. And I'm guessing, but I have to ask, do you know whether
14 Ms. Hart would have spoken with Mark Morjane or anyone else
15 about distributing food at the townhomes?

16 A. I would not have not have known if they had spoke to
17 them directly, no.

18 MR. IAN BIRRELL: Okay. Thank you. I have
19 nothing further.

20 THE WITNESS: Thank you.

21 THE COURT: Mr. Cotter.

22 CROSS-EXAMINATION

23 BY MR. COTTER:

24 Q. Good afternoon.

25 A. Good afternoon.

1 Q. Just a few questions for you.

2 A. Yes, sir.

3 Q. You don't have any background in United States
4 Department of Agriculture food programs, correct?

5 A. No, sir, I don't.

6 Q. So, for example, you don't have a background in the
7 rules and regulations surrounding the school nutrition
8 program. Is that a fair statement?

9 A. Yes, sir, that is fair.

10 Q. Sometimes people call that the school lunch program.
11 Have you ever heard of that?

12 A. Yes, sir.

13 Q. Okay. And you don't have any background or
14 understanding specifically regarding the Child and Adult
15 Care Food Program; is that correct?

16 A. Yes, sir that is correct.

17 Q. And you don't have any specific knowledge or
18 understanding regarding the summer food service program,
19 correct?

20 A. That's correct, sir.

21 Q. All right. And, of course, you don't have any specific
22 knowledge as to how those programs would have been
23 administered during the COVID-19 pandemic. Is that a fair
24 statement?

25 A. I'd say that's fair.

1 Q. And you don't have any specific knowledge of certain
2 changes and waivers that were called that were put into
3 place and administration of any type of food programs --

4 A. No, sir.

5 Q. -- right?

6 A. I would not be aware of that.

7 Q. Got it. And as it pertains to the Clifton Townhomes
8 site, you don't have any specific knowledge as to how the
9 government, Minnesota Department of Education or otherwise,
10 determines the eligibility of a site for distributing food,
11 do you?

12 A. No, sir, I do not.

13 Q. And you don't have any knowledge or specific
14 understanding of what needs to be applied for, the paperwork
15 or who administers it, do you?

16 A. Administer what, sir?

17 Q. Administers the determination of a site to distribute
18 food.

19 A. No, sir, I would not have that knowledge.

20 Q. Got it. Is it true that the first time anyone from the
21 FBI or anybody came to speak to you about the Clifton
22 Townhomes was on April 30th of 2024?

23 A. I'm sorry. I was contacted before the -- today, but I
24 don't recall what day they contacted me.

25 Q. If I were to be looking at a report that said April 30th

1 of 2024, would that sound about right to you?

2 A. What is today?

3 THE COURT: Today is May 13th.

4 THE WITNESS: May 13th? I would say yes. That
5 would be closely aligned with when they contacted me.

6 BY MR. COTTER:

7 Q. And you had just mentioned something about seeing
8 something in the news. Had you been aware of this kind of
9 prosecution regarding people involved in the food programs
10 before someone came to talk to you from the FBI?

11 A. No, sir. I only looked it up after I was spoken to,
12 because I want to know more about what was going on.

13 Q. Got it. So did you start to kind of do your own
14 research then at that point, looking up news articles and
15 things?

16 A. Yeah, I just looked it up in the beginning, like one
17 article, to figure out -- I think it was like the first day
18 that you started trial. And I read an article to figure
19 out, you know, a little bit more context as to what the case
20 was about.

21 Q. Were you aware of the fact that when you were talked to
22 this April 30th, was after this trial had already started?

23 A. Yes, I believe so.

24 Q. All right. So the first time anyone talked to you about
25 this was after we were already started trial here, correct?

1 A. Yes, sir.

2 Q. And you obviously did some reviewing of the case online
3 or newspaper articles before you came in to testify here in
4 court today; is that correct?

5 A. Yes, sir, I did.

6 Q. Did you also meet with Ms. Walcker, other members of the
7 prosecution team sitting here in front of you prior to
8 coming in to court today?

9 A. Yes, sir, I met with two of them.

10 Q. And when did you do that?

11 A. So they contacted me on -- if it was the correct day,
12 they contacted me on the 30th, it would have been the
13 following Thursday, I believe, I came in to meet with them.

14 Q. Okay. And how long did you meet with them for?

15 A. Not very long. I want to say it was probably 20 to
16 30 minutes. They went over what questions they would be
17 asking me and what to expect when I came on to the stage.

18 Q. Did they go through these forms that were just presented
19 to you in court?

20 A. They presented -- from the forms we saw, I know for sure
21 one of them I saw beforehand. And they pointed out a couple
22 of months, but they specifically chose not to show me all of
23 them because they wanted to get my genuine answer and
24 reaction to --

25 Q. I understand, but the first time you had ever seen any

1 of these kinds of forms was when a federal prosecutor was
2 showing them to you and asking you specific questions about
3 them, right?

4 A. Yes, sir.

5 Q. All right. And that was as this trial had already
6 started, correct?

7 A. I believe so, yes, sir.

8 Q. All right. And after you had already looked up
9 information online about the case, right?

10 A. Yes, sir.

11 Q. In -- again, just my understanding is you had general
12 business hours at the Clifton Townhomes when you were there?

13 A. Yes, sir, I did.

14 Q. 9:00 to 5:00 or so, Monday through Friday?

15 A. Yes, sir. Unless I was, you know, working late that
16 day. But those were my office hours when people could come
17 visit.

18 Q. You weren't there every single Saturday morning, for
19 example?

20 A. No, sir, I was not.

21 Q. As it pertains to the numbers, you kept talking about
22 the numbers of people. So you were kind of referencing that
23 there weren't 11,000 people, for example, at the Clifton
24 Townhomes, correct?

25 A. I'm sorry. Can you repeat that?

1 Q. Do you remember on your direct examination where you
2 referenced people, you would have noticed that many people
3 present?

4 A. Yes, sir.

5 Q. And you were looking at these big large numbers and
6 saying, I would have recognized if I saw that many people
7 there --

8 A. Yes.

9 Q. -- correct?

10 A. Yes, sir.

11 Q. And that's kind of what you understood from looking at
12 those forms, right?

13 A. Yes, sir.

14 MR. COTTER: No further questions. Thank you very
15 much.

16 THE COURT: Any other defense attorney wish to
17 cross-examine?

18 Redirect, Ms. Walcker?

19 MS. WALCKER: Very briefly, Your Honor.

20 REDIRECT EXAMINATION

21 BY MS. WALCKER:

22 Q. Ms. Wanless, you were asked about -- shown one of the
23 forms and asked about some of the dates on that form and
24 whether you were working at that time. Do you remember
25 that? On cross-examination?

1 A. Yes, ma'am.

2 Q. I'm going show you what's been admitted as Government
3 Exhibit C-113. Do you see that?

4 A. I do.

5 Q. Okay. And do you see under site information, what does
6 it say there in terms of the name?

7 A. Clifton Townhomes.

8 Q. And in terms of the date range, what is the date range?

9 A. October 2020 through April 2021.

10 Q. Were you employed as the property manager at Clifton
11 Townhomes during that entire date range?

12 A. I was.

13 Q. Turning to the second page of that exhibit, Ms. Wanless,
14 can you tell us what is the days checked here on this form
15 in terms of when meals would may be served?

16 A. It says -- it's Monday through Sunday, so every day of
17 the week.

18 Q. And are you able to read for us which months they
19 claimed they'd be serving meals during every day of the
20 week?

21 A. Yes. January, it says 31 -- I might be going out of --

22 Q. If you could just tell us the months.

23 A. Oh, yeah.

24 Q. Number is --

25 A. Oh, January, February, March, April. I see October,

1 November, December.

2 Q. And, Ms. Wanless, during this time period when you were
3 property [sic] at Clifton Townhomes, did you see any
4 evidence of meals for children being served apart from the
5 Shakopee School District?

6 A. No, ma'am.

7 MS. WALCKER: No further questions. Thank you,
8 Your Honor.

9 THE COURT: You may step down.

10 THE WITNESS: Thank you.

11 THE COURT: Thank you.

12 **(Witness steps down)**

13 THE COURT: The government may call its next
14 witness.

15 MR. EBERT: Thank you, Your Honor. At this time
16 the government calls Gary Theisen.

17 THE COURT: Good afternoon, sir. You're aiming up
18 here for the witness chair.

19 And I'll have you stand to take the oath. Raise
20 your right hand.

21 GARY THEISEN,

22 called on behalf of the government, was duly sworn, was
23 examined and testified as follows:

24 THE WITNESS: Yes, I do.

25 THE COURT: Thank you. You may have a seat in the

1 witness chair.

2 And when you are settled, I'll have you state and
3 spell both your first and last name for the record.

4 THE WITNESS: It's Gary Theisen. G-A-R-Y,
5 T-H-E-I-S-E-N.

6 THE COURT: Thank you.

7 You may inquire, Mr. Ebert.

8 MR. EBERT: Thank you, Your Honor.

9 DIRECT EXAMINATION

10 BY MR. EBERT:

11 Q. Good afternoon, Mr. Theisen. How old are you, sir?

12 A. 51.

13 Q. Where are you from?

14 A. St. Cloud, Minnesota.

15 Q. Can you tell the jury a little bit about what you do for
16 a living?

17 A. Currently?

18 Q. Yeah, what do you -- where do you work currently?

19 A. Yep. At Bernick's. It's a Pepsi distributor in
20 St. Cloud. I do maintenance on machines there.

21 Q. How long have you been with Bernick's?

22 A. About two years.

23 Q. What did you do before Bernick's?

24 A. Worked at Catholic Charities in St. Cloud as building
25 maintenance supervisor.

1 Q. What is Catholic Charities?

2 A. A nonprofit, supply housing and food, just different
3 things for people of low income.

4 Q. And how long were you with Catholic Charities in
5 St. Cloud?

6 A. I would have started there in July of 2012 and I ended
7 my employment there end of March, beginning of April of
8 2022.

9 Q. Okay. What type of work did you do for Catholic Charity
10 during that time period?

11 A. Building maintenance, so -- and groundskeeping.

12 Q. At what types of properties?

13 A. All their properties that Catholic Charities had owned,
14 and there was probably about seven.

15 Q. I want to direct your attention to a place called La
16 Cruz. Are you familiar with that?

17 A. Yes.

18 Q. What is La Cruz?

19 A. La Cruz is a set of apartments. There was also
20 townhomes there. Altogether, I believe there is eight
21 apartment buildings and 20-some, roughly, townhomes in the
22 community there.

23 Q. And La Cruz, is that located in St. Cloud?

24 A. Yes.

25 Q. Okay. Can you describe a little for the jury about what

1 you did for your job at it relates to the La Cruz buildings?

2 A. Well, I was -- my main office that I officed out of was
3 at La Cruz apartments, so I was there daily, morning and in
4 the evenings and sometimes lunch. And I'd work there some
5 full days.

6 There, as far as work, we did everything from
7 going into apartments, fixing anything from bathrooms,
8 kitchens, appliances, drywall, converting over apartments
9 from one tenant to the other. Then we did all the grounds
10 maintenance too, the mowing and picking up of garbage, snow
11 blowing, anything that had to do with maintenance.

12 Q. And did you work at La Cruz -- were you there year
13 round?

14 A. Yes.

15 Q. What was a normal work shift for you?

16 A. I would always go in in the morning and make sure
17 everybody knew what we were doing, where we were going, and
18 my office was right there.

19 We also had a shop on the property that we worked
20 out of. So we would meet in the shop, go over everything
21 with everyone, get what we need. I may take a couple people
22 with me if I needed to go to a different location for the
23 day or a part of the day. Then we'd go end the day back at
24 La Cruz and kind of decide what we were doing for the next
25 day or what came up throughout the day.

1 Q. So you were not the only person on the maintenance crew?

2 A. No.

3 Q. Generally, throughout the time that you worked on
4 maintenance at La Cruz, approximately how many other
5 maintenance people worked with you?

6 A. There was one main other maintenance worker that was at
7 La Cruz all the time, and then we had another guy who kind
8 of floated around between properties too.

9 Q. Setting aside maintenance crew, were there other
10 individuals who work at La Cruz?

11 A. Just at La Cruz? There was one lady, Shamus, who was
12 just in the office there to collect rent and a few things.

13 Q. And generally, were you in communication with your
14 coworkers about the goings on at La Cruz?

15 A. Yes.

16 Q. In case I didn't ask this, generally what time did you
17 arrive in the morning for your job?

18 A. Anywhere from 7:00 to 8:00.

19 Q. a.m. or p.m.?

20 A. a.m., in the morning.

21 Q. And then approximately what time did you go home at the
22 end of the day?

23 A. That could vary anywhere from 4:00 to 6:30, 7:00 at
24 night, depending how the day went.

25 Q. What days of the week did you work at La Cruz?

1 A. Mostly Monday through Friday, but we worked an on-call
2 schedule too, between the three of us, so every third week
3 you were on call. And on them weeks, we would be called in
4 on the weekends probably several times to La Cruz.

5 Q. I'm going to direct your attention to an exhibit that is
6 not admitted as evidence and have you take a look at that on
7 the screen, okay? This will be Exhibit C-215.

8 Do you see a couple photographs on the screen?

9 A. Yes.

10 Q. Do you recognize those?

11 A. Yes.

12 Q. What do you recognize them to be?

13 A. The west side of the street, our three apartments we had
14 over there.

15 Q. Those true and accurate depictions of the apartment
16 building?

17 A. Yes.

18 Q. And to be clear, which apartment building are we talking
19 about?

20 A. La Cruz.

21 MR. EBERT: Your Honor, at this time the
22 government offers Exhibit C-215.

23 MR. ANDREW BIRRELL: No objection.

24 THE COURT: C-215 is admitted and may be
25 published.

1 MR. EBERT: Thank you, Your Honor.

2 BY MR. EBERT:

3 Q. Mr. Theisen, now those images are up on the screen for
4 the jurors to see.

5 A. Okay.

6 Q. Now that they can see, can you just describe what we see
7 in this first image in Exhibit C-215?

8 A. It's three of our apartment buildings that would be on
9 the west side of the street. The street you see right there
10 goes between our apartments, so to the east side, which
11 would be behind us as we look at this picture, there's also
12 five more apartment buildings similar to these in size. And
13 then there was our townhomes also over on the other side
14 behind us.

15 Then our maintenance shop, and there's a big
16 playground. And my office and everything would have been on
17 the side of the street that is behind us.

18 Q. And the second page, just a closer up image of
19 Unit 1505; is that right?

20 A. Yep.

21 Q. And there's another unit on the left.

22 A. Yep, 1515. And then to the far left in that picture you
23 can kind of see where it angles and turns, that's the
24 1525 building.

25 Q. All part of La Cruz; is that right?

1 A. Yes, correct.

2 Q. Can you describe a little bit more about the -- the
3 location of the office where you worked in relation to those
4 buildings we see on page 2 of Exhibit C-215?

5 A. I would be straight across the road. The other side of
6 the street is lower than what this side is. This side is
7 kind of up the hill. The other side goes down, probably
8 about equally in elevation amount down. So as you come in,
9 there's one driveway into the property on that side of the
10 street, and it makes a loop around and back out.

11 As you go in, there's townhomes to your right,
12 then apartments, some more townhomes, and then it's the
13 park. And our shop was kind of centered in front of the
14 park. And then it was the building with my office in it,
15 and then one more building and you'd come back out of that
16 parking lot.

17 Q. The park you're describing, is this a city park?

18 A. It wasn't a city park. It's kind of considered a city
19 park. Everyone went to it. When they built the new Vikings
20 stadium, they had to donate so much money towards community
21 parks. And so U.S. Bank stadium donated a bunch of money
22 and renovated that park, put in all new equipment, new
23 basketball courts and stuff. So kind of for the community
24 in that area and other buildings outside of us, it was kind
25 of the central hub for a lot of people to -- for kids to

1 come to to do things.

2 Q. Was it within the grounds of these La Cruz buildings
3 that you're testifying about?

4 A. Yes.

5 Q. And approximately how far was that park from the office
6 where you worked?

7 A. Looking out my window, you're looking right at the park.
8 And our shop that we worked out of every day was -- the only
9 way into the park was probably between where I'm sitting and
10 the back wall of -- this part right here, the courthouse,
11 that was the only way into the park. So it was right in
12 front of it.

13 Q. Now I want to direct your attention to the last three
14 months of year 2021. Okay?

15 A. Okay.

16 Q. So October, November, December 2021, at that time were
17 you still working for Catholic Charities?

18 A. Yes.

19 Q. During those three months at the end of 2021, did you
20 still have the same work position with respect to La Cruz
21 apartments?

22 A. Yes. We were -- probably, if it's in the fall of the
23 year like that, I was probably on site a lot more because as
24 you can see probably in those pictures, there's a lot of oak
25 trees on that property. We spent endless weeks picking up

1 leaves and cleaning up garbage and stuff, preparing for
2 winter so that everything was cleaned up for snow blowing
3 and things.

4 Q. During October through December 2021, did you ever see
5 any meal distributions for children take place at La Cruz
6 apartments?

7 A. The Yes Network.

8 Q. What is the Yes Network?

9 A. I'm not sure if it's just -- I'm pretty sure it's just
10 local. They would come during the summers when the kids
11 were out of school, and then sometimes they would come on a
12 weekend. They distributed around 150 meals a day, and then
13 they would have other activities for the kids to do. They
14 would have some art, help with math or reading, different
15 things like that.

16 And they would set up right outside our shop in
17 the park area there. They would come in with their food,
18 set up tables and everything, then they would distribute
19 around 150 meals. And then they would do activities with
20 the kids from basketball to art to other things.

21 Q. Did the Yes Network come throughout the time period that
22 you worked at La Cruz?

23 A. Yes.

24 Q. So is that an organization you'd had some awareness of?

25 A. Yes.

1 Q. Setting aside the Yes Network, in the final three months
2 of 2021, are you aware of any other meal distributions for
3 children at the apartment?

4 A. No.

5 Q. In the last three months of 2021, did you ever see lines
6 of vehicles to unload food at La Cruz?

7 A. No, no.

8 Q. Ever see people lined up to receive food in the last
9 three months of 2021 at La Cruz?

10 A. Not other than the Yes Network.

11 Q. Did you ever see any signs posted in the last three
12 months of 2021 concerning meals for distribution at La Cruz,
13 aside from the Yes Network?

14 A. No.

15 Q. Directing your attention to what is in evidence as
16 Exhibit 2 -- rather, C-213. Can you see that up on the
17 screen?

18 A. Yep.

19 Q. And let's take a look at the very top. Do you see where
20 it says "La Cruz Community"?

21 A. Yes.

22 Q. And beneath that do you see a date range?

23 A. January to September.

24 Q. Of which year?

25 A. 2021.

1 Q. And then is there an address beneath that date range?

2 A. 1505 Sixth Avenue South, St. Cloud.

3 Q. Do you recognize that St. Cloud address?

4 A. Yes.

5 Q. What is that?

6 A. It's La Cruz apartments on the west side.

7 Q. And then beneath that, do you see the words "Mind
8 Foundry" --

9 A. Yes.

10 Q. -- "La Cruz Community"?

11 A. Yep.

12 Q. Does the words "Mind Foundry" mean anything to you?

13 A. No.

14 Q. Never heard of that?

15 A. Nope.

16 Q. Looking a little further below that, do you see the
17 first name and last name as a contact?

18 A. I see it there, but don't recognize it.

19 Q. Do you see Kara Lomen specifically?

20 A. Yep.

21 Q. Is that a name that means anything to you as it relates
22 to your job at La Cruz?

23 A. No.

24 Q. On the second page of Exhibit C-213, at the very bottom,
25 do you see where it indicates months in which meals are

1 served?

2 A. Yes.

3 Q. And then are there months checked off?

4 A. Yes.

5 Q. Could you read those allowed, the ones that you see
6 checked off?

7 A. January, February, March, April, May, June, and
8 September.

9 Q. Did you ever see any meals being served by something
10 having to do with Kara Lomen or Mind Foundry?

11 A. No.

12 Q. Looking a bit above, do you see where it says "Method of
13 Meal Preparation"?

14 A. Yes.

15 Q. And beneath that is an item checked?

16 A. It says "meals prepared on site."

17 Q. Did you ever see any meals being prepared on site?

18 A. No.

19 Q. Based on your awareness of working there, was there such
20 a location for meals to be --

21 A. There's nowhere to prepare anything on site.

22 Q. If meals were being prepared on site, is that a type of
23 thing you would be aware of?

24 A. Yes. They would have had to have some kind food truck
25 or something to do -- because we had no facilities there.

1 So I would have -- we sure would have seen it.

2 Q. And you just mentioned a food truck. At any point did
3 you ever see a food truck come to La Cruz?

4 A. The only one we seen was a couple times a white, like
5 box van came into the parking lot, handed out a few bags or
6 boxes with -- had fresh vegetables, fruits, and a gallon of
7 milk. They would be there for maybe five minutes,
8 10 minutes, and they were gone before we could even go see
9 who it was. There was nothing on the truck. So by the time
10 somebody would call us, they were already going or gone.

11 The only reason we knew what they handed out is we
12 came across the boxes and bags of things being left behind
13 as litter.

14 Q. And what do you mean "left behind as litter"?

15 A. Kids most likely got the stuff from whoever was in this
16 truck, and they would just take it into the entryway, grab
17 whatever they thought they wanted out of it and leave the
18 rest behind, which was very common, that -- anything that
19 happened, stuff would get left behind.

20 Q. And this truck that you're describing, approximately how
21 many times did you see that type of truck come?

22 A. Maybe two or three times it only came.

23 Q. And each time, approximately how many items of -- or how
24 many bags did you see being disbursed from the truck?

25 A. From what we gathered, because we never really got to

1 see it because it was in and out before we could even get
2 ahold of them, from what -- everyone we talked to and
3 everything, maybe like 10, 12 bags and were gone again.

4 Q. And then --

5 MR. COTTER: Your Honor, I'm going to move to
6 strike as hearsay that last statement.

7 THE COURT: Sustained.

8 BY MR. EBERT:

9 Q. Did you see --

10 THE COURT: The jury will disregard that last
11 portion of the statement.

12 MR. EBERT: I'm sorry, Your Honor.

13 THE COURT: Go ahead.

14 BY MR. EBERT:

15 Q. Did you see items left behind when this truck came?

16 A. Yes.

17 Q. Did that include trash that was left behind from it?

18 A. Yes.

19 Q. About how much trash?

20 A. From that truck, probably taking like one of your big
21 outdoor garbage cans, you know, like a 55 gallon garbage can
22 there, probably two of them full.

23 Q. And you mentioned that you saw gallons of milk a couple
24 times; is that correct?

25 A. Yes.

1 Q. What, if anything, did you have to do with the gallons
2 of milk?

3 A. Take them, throw them away because they got left in
4 entryways or left outside in the sun and they were just
5 wrecked, spoiled milk. So we just through it away.

6 Q. All right. Moving on to the fourth page of
7 Exhibit C-213, I'm just going to point out a couple things
8 on here for you.

9 At the very top, do you see the month and the year
10 that's listed?

11 A. Yep, October of 2021.

12 Q. And the site is La Cruz Community. Did I read that
13 correctly?

14 A. Yes.

15 Q. Now, looking further down on this document, do you see
16 where it says "average daily attendance"?

17 A. Yep, of a thousand.

18 Q. Did you ever observe a daily attendance of a thousand
19 people in October of 2021 at La Cruz?

20 A. No.

21 Q. Is that a type of thing that you would have known, had
22 it occurred?

23 A. Absolutely.

24 Q. Why do you say absolutely?

25 A. Because that would be more people than we even had in

1 all the apartments there, and there's just no possible way
2 you'd physically fit that many people there.

3 Q. And do you see where it reads "at risk after-school
4 snack"?

5 A. Yep.

6 Q. And beneath that, what is the number you see?

7 A. 22,986.

8 Q. Did you ever observe 22,986 snacks being handed out at
9 La Cruz apartments in October of 2021?

10 A. No.

11 Q. What about 22,986 suppers?

12 A. No.

13 Q. Type of thing you would have known about?

14 A. Absolutely. We would have had garbage everywhere.

15 Q. What do you mean?

16 A. Because like, Yes Network, working with 130 meals to 150
17 meals, and we almost quit their program a couple weeks in
18 because we had so much garbage everywhere that kids were
19 just leaving in entryways, throwing down on the property.
20 That was all over.

21 So when we threatened to quit that, this Jerry
22 that ran that, we were in contact with him, he brought in
23 another five to six workers just to help contain the kids so
24 that the garbage won't go everywhere, and then just picking
25 up garage. And then they would stay after and help us. And

1 we still had several hours picking up garbage. And that was
2 off 150 meals. So if there's -- these numbers, it would be
3 crazy. We would totally know it.

4 Q. What would be crazy?

5 A. All the garbage and what. I mean, a thousand people and
6 all these meals, that --

7 Q. And is that garbage that you ever saw in October or
8 November or December of 2021?

9 A. No.

10 Q. Now, I'm showing you what's in evidence as Exhibit N-54.
11 Can you see that on the screen?

12 A. Yep.

13 Q. Now, I asked you some questions a moment ago about
14 October 2021. Do you remember that?

15 A. Yeah.

16 Q. So now do you see to the right of that information for
17 November 2021?

18 A. Yes.

19 Q. As well as December 2021?

20 A. Yes.

21 Q. And taking a look at the month of November, do you see
22 where it says 933 for average daily attendance in that
23 month?

24 A. Yes.

25 Q. Did you ever observe that based on your job at La Cruz?

1 A. No.

2 Q. Type of thing you would have seen?

3 A. Absolutely, and with it being -- there's nowhere like
4 inside to have anything, so it would have been all outside.
5 And it would be cold out and -- yeah, I mean, we would
6 definitely know if there were gatherings.

7 Q. And were there any?

8 A. No.

9 Q. Did you see 51,410 food items, snacks, and suppers being
10 handed out in November 2021?

11 A. No.

12 Q. And then factoring in the month of December in total,
13 did you see 173,016 food servings handed out in that
14 three-month period where you worked?

15 A. No. If that happened, we would have definitely known.

16 Q. I'm showing you Exhibit C-15. Can you see that on the
17 screen?

18 A. Yes.

19 Q. At the very top, do you see where it says "purpose and
20 authority"?

21 A. Yep.

22 Q. I'm going to highlight a few items.

23 Do you see some parties who are listed on this
24 document?

25 A. Yep, that --

1 Q. Do you see one that's called The Free Minded Institute?

2 A. Yep.

3 Q. Have you ever heard of that?

4 A. No.

5 Q. What about a party called Empire Cuisine & Market?

6 A. No.

7 Q. With a date range of September, 2021, through June 30th,
8 2022. Did I read that correctly?

9 A. Yeah.

10 Q. And the title of this document at the very top is what?

11 A. Child and Adult Care Food Program Contract For Vended
12 Meals.

13 Q. Jumping to page 13 of this exhibit, at the very bottom,
14 do you see some information about La Cruz?

15 A. Yeah. I've got page 12 on the bottom.

16 Q. Page 12?

17 A. Yeah, because I think you said 13.

18 Q. So at the very top, you see where it says Table 1?

19 A. Yep.

20 Q. What does it say after that?

21 A. "Delivery Schedule for Multi-Site Sponsors."

22 Q. And at the very bottom, do you see information about
23 La Cruz?

24 A. Yes.

25 Q. Does it have an address in St. Cloud?

1 A. It does.

2 Q. And then moving to the right is there a day of the week
3 that's written there?

4 A. Yep.

5 Q. What does it say?

6 A. That's Friday and seven days a week -- or seven days, I
7 should say. Friday, seven days.

8 Q. And just directing your attention to the next column
9 over, are there some boxes checked?

10 A. Yep. It's got supper and snacks.

11 Q. And there's some numbers after each one, right?

12 A. 500 after each.

13 Q. And then in the final column, is there something listed
14 for "time of delivery"?

15 A. Yep. 2:45 p.m.

16 Q. Throughout your time at La Cruz, did you ever see supper
17 and snacks delivered at 2:45 p.m. on Fridays?

18 A. No.

19 Q. With respect to the parties that were on this document,
20 Free Minded Institute and Empire, did you ever see any food
21 provided by those parties on any day at La Cruz?

22 A. No, I have not.

23 Q. Directing your attention to Exhibit E-68. At the very
24 top, do you see something that's in the subject of the email
25 message contained in this exhibit? Do you see highlighted

1 in yellow the subject?

2 A. Yes.

3 Q. And what does that say?

4 A. La Cruz additional names and date of births.

5 Q. And is that an email message on December 15th, 2021?

6 A. Yes.

7 Q. And is it sent to a person named Kara?

8 A. Yes.

9 Q. And at the very top, do you see where it says "from"?

10 A. Yep.

11 Q. Is it from --

12 A. Hayat Nur.

13 Q. Can you say that again, sir?

14 A. Is it Hayat Nur?

15 Q. And that's sent to Kara at Partners in Quality Care; is

16 that correct?

17 A. Yes.

18 Q. And there are two more email addresses on the CC line.

19 Do you see those?

20 A. Yep.

21 Q. One of them, is it an aazizfarah@gmail?

22 A. Yes.

23 Q. And the other is Abdi Nur; is that right?

24 A. Yes.

25 Q. With respect to La Cruz, do you know anything about the

1 parties who are identified in this email?

2 A. No.

3 Q. Directing your attention to Exhibit E-87. Fair to say
4 this is another email message?

5 A. Yep.

6 Q. And then on the subject line, do you see an additional
7 reference to La Cruz?

8 A. Yep.

9 Q. And are there apparent attachments listed here?

10 A. Yep.

11 Q. Is this one also sent from a person named Hayat Nur?

12 A. Yes.

13 Q. And then is it the same email addresses on the CC line,
14 Abdiaziz Farah and Abdi Nur?

15 A. Yes.

16 Q. Do you know anything about why this message is being
17 sent on January 3rd, 2022, involving La Cruz?

18 A. No.

19 Q. Now I'm directing your attention to Exhibit O-141,
20 page 49.

21 Here do you see a copy of a check?

22 A. Yes.

23 Q. And in the bottom, do you see a reference to La Cruz in
24 the memo line?

25 A. Yep.

1 Q. And what's the dollar amount on this check? Do you see
2 that?

3 A. \$102,379.64.

4 Q. And do you see a date above the dollar amount?

5 A. Yep. 11/8 of '21.

6 Q. And in the upper left-hand corner, who's the party
7 submitting this check?

8 A. Partners in Nutrition.

9 Q. And it says "pay to the order of." Do you see that?

10 A. Yep. The Free Minded Institute.

11 Q. Are you aware of why Partners in Nutrition was paying
12 \$102,379 concerning La Cruz apartments to The Free Minded
13 Institute?

14 A. No.

15 Q. And what was the date of that check?

16 A. 11/8 of '21.

17 Q. Moving on to page 58 of Exhibit O-141.

18 MR. COTTER: Your Honor, objection. 602. Can we
19 have a sidebar?

20 THE COURT: You may.

21 **(Sidebar discussion)**

22 THE COURT: Mr. Cotter.

23 MR. COTTER: Your Honor, my belief is we're going
24 to continue to run through document after document that this
25 witness has no personal knowledge of to our knowledge, has

1 never seen these before today, is just reading off a bunch
2 of stuff in order to be asked, Do you have any knowledge of
3 this, and he'll say no.

4 He has no personal knowledge under 602 and adds
5 nothing to this trial going through these documents.

6 THE COURT: Mr. Ebert?

7 MR. EBERT: Well, Your Honor, I would disagree
8 that it adds nothing. I think it's important under 602 for
9 him to make clear the things that he has personal knowledge
10 of by virtue of his job, being there every day, and those
11 things that he doesn't know about.

12 And I think it's important for the jury to
13 understand, Your Honor, whether he has any awareness of
14 these large financial transactions that involve La Cruz on
15 the check, if he knows anything about them.

16 I'm not intending to belabor the point, and
17 actually this next one that I was just going to ask if he
18 knows about is the last one that I was going to show.

19 THE COURT: All right. Let's not belabor the
20 point.

21 MR. ANDREW BIRRELL: Your Honor, this is
22 Mr. Birrell.

23 THE COURT: Mr. Birrell.

24 MR. ANDREW BIRRELL: The government continues to
25 complain about scope of cross, and this is the reason why

1 the scope of cross continues to expand. What they're trying
2 to do is make an additional argument to the jury, explain
3 these checks about which this man has no knowledge, they're
4 cumulative, waste of time under 403, and they should be
5 excluded.

6 If the government really wants a tight trial with
7 a good scope here, then they need to quit doing this.

8 THE COURT: I'm sorry. Is your objection -- what
9 is your objection?

10 MR. ANDREW BIRRELL: My objection is under 403.
11 It's cumulative, it's repetitive, it's a waste of time.

12 THE COURT: It is becoming cumulative, so let's
13 move it along.

14 MR. EBERT: Okay.

15 THE COURT: But make your record.

16 MR. EBERT: Okay. Your Honor, if it's acceptable
17 to the court, I was literally going to ask him one more
18 question with respect to this and then that was my last one.

19 THE COURT: Agree.

20 MR. EBERT: Thank you, Your Honor.

21 **(In open court)**

22 BY MR. EBERT:

23 Q. Mr. Theisen, on the screen before you is page 58 of
24 Exhibit O-141.

25 With respect to the information that's on the

1 screen, do you have any awareness of why a check in the
2 amount of \$114,490 was being submitted with La Cruz on the
3 memo line?

4 A. I do not.

5 MR. EBERT: Thank you, Your Honor. I have no
6 further questions.

7 THE COURT: Cross-examination?

8 Mr. Birrell.

9 CROSS-EXAMINATION

10 BY MR. ANDREW BIRRELL:

11 Q. Good afternoon, Mr. Theisen. You have nothing to do
12 with billing as it regards the food program, I take it?

13 A. No.

14 Q. So there's no reason you would have any information
15 about any of these checks that the government is displaying
16 to you, right?

17 A. I wouldn't have been involved in, yeah, the checks.

18 Q. It's not your thing, right?

19 A. No.

20 Q. All right. So what's going on is that there's a -- is
21 it a group of buildings called La Cruz?

22 A. Yes, apartment complex.

23 Q. And this is the with the Catholic Charities?

24 A. Yes.

25 Q. All right. So La Cruz is the cross, I take it?

1 A. Is the what?

2 Q. The cross.

3 A. Yeah, that's --

4 Q. That's what "La Cruz" means, right?

5 A. Yep.

6 Q. Yeah, okay. And you have about 900 residents?

7 A. Correct.

8 Q. And one of the groups that came to help out by bringing
9 food was Yes Network?

10 A. Correct.

11 Q. And is that related with the church or what is that?

12 A. I'm not sure where the whole parent company comes out of
13 for the Yes Network.

14 Q. Are they there during school times or all year round or
15 what?

16 A. All year round, kind of. In the summer months when
17 school is out, they are there full time. Like, Monday
18 through Friday, I should say. Sometimes he would call and
19 let us know that he was going to come on a Saturday for
20 supper or afternoon. And on them days it was usually just
21 feed meals. They didn't have the other activities.

22 Q. So it's a summer meal program? Is that what it is?

23 A. Right, but he would do it at other times too.

24 Q. Right. And did he also do like activities for the kids
25 in the summer?

1 A. Yes.

2 Q. All right. So this -- you mentioned that you saw some
3 box trucks or something, a box truck?

4 A. Yeah.

5 Q. And the food was left out and --

6 A. Yes.

7 Q. Okay. That was in the summertime, right?

8 A. Yes.

9 Q. All right. So you don't know who The Free Minded
10 Institute is?

11 A. No.

12 Q. You don't no know who Partners in Nutrition is?

13 A. No.

14 Q. Do you know who Mahad Ibrahim is?

15 A. No.

16 Q. All right. So what you're here and able to tell us
17 today is what you saw?

18 A. Right.

19 Q. All right.

20 MR. ANDREW BIRRELL: Thank you. I don't have any
21 other questions.

22 THE COURT: Mr. Cotter.

23 CROSS-EXAMINATION

24 BY MR. COTTER:

25 Q. Hi. Good afternoon. My name is Patrick Cotter. Real

1 quick, is it my understanding that the first time that the
2 FBI or anyone came to speak to you about this was on May 3rd
3 of this year?

4 A. That would be about right.

5 Q. All right. So about ten days ago?

6 A. Yes.

7 Q. Were you aware that this trial had already commenced
8 when you were first approached about anything you remember
9 from back in 2021?

10 A. No. I had heard of some day care fraud and things, but
11 I haven't -- not of the food stuff or anything.

12 Q. Okay. You had heard about some -- had you read any
13 articles or heard any news about this before you came into
14 testify here today?

15 A. No.

16 Q. No?

17 A. Just what I've talked now about and --

18 Q. Gotcha. Nothing else.

19 MR. COTTER: Thank you very much.

20 THE COURT: Mr. Carlson.

21 CROSS-EXAMINATION

22 BY MR. CARLSON:

23 Q. Good afternoon, Mr. Theisen.

24 A. Hello.

25 Q. I just want to ask you a couple quick questions to put

1 some numbers we saw in context.

2 You said that there are 900-ish residents at
3 La Cruz; is that right? And I know you just testified you
4 didn't know anything about meal programs, but generally
5 people eat breakfast, lunch, dinner, and then a snack in
6 each day. Is that fair to say?

7 A. That's fair to say, yes.

8 Q. So if we're looking at each day, those 900 residents,
9 900 times 4, they're eating about 3600 meals. Is that
10 accurate?

11 A. Yes.

12 MR. CARLSON: Would you mind pulling up
13 Exhibit N-54? And could you highlight the number, the
14 173016 in the bottom right?

15 BY MR. CARLSON:

16 Q. So the government just showed you this -- this exhibit.
17 You have never seen this before today; is that accurate?

18 A. That's accurate.

19 Q. And they showed you these big numbers. They showed you
20 173016, and they said you never saw that many meals in this
21 three-month period; is that true?

22 A. Yeah, I had never --

23 Q. Yeah, and you never saw those -- that many meals in that
24 period, right?

25 A. No, that was being served there. We would have --

1 Q. So if we're talking residents, four meals a day, 3600
2 meals, then the seven meal -- seven -- you know, meals for
3 seven days a week. 3600 times 7, that's 25,200. Is that --
4 can we agree on that?

5 A. Yep.

6 Q. And then, you know, in a month, in the month of October,
7 2021, we multiply that by 30. Now that's 756,000 meals
8 being eaten just by the residents of La Cruz, right? 25,200
9 times 30.

10 A. Back that all up again. That was kind of fast.

11 Q. That's fair. The numbers are getting a little bigger,
12 but if we take that 756,000 in a month, and then we multiply
13 that by 3 for these three months, we're talking about 2.268
14 million meals being eaten by the residents of La Cruz in
15 that three-month period, right?

16 A. In all their homes with all the kids and everything.

17 Q. Right, with all the kids and everything. Right? That's
18 fair?

19 A. I --

20 Q. I know the math. You might be --

21 (Multiple speaker overlap)

22 A. Yeah. I can't do the math in my head.

23 MR. CARLSON: Yeah. Sorry, Your Honor.

24 BY MR. CARLSON:

25 Q. So you would agree if that's 2.268 million meals, this

1 big 173,000 number, that's actually a very small portion of
2 that total meal count, right?

3 MR. EBERT: Objection, Your Honor.

4 THE COURT: Wait. Let me hear the objection,
5 please.

6 MR. EBERT: It calls for speculation.

7 THE COURT: Overruled.

8 You may answer if you can.

9 THE WITNESS: Going back to just the 173,000
10 meals? There's just no way that was served at La Cruz
11 without us seeing it, because there's no way you'd have that
12 many meals get distributed, brought into homes, given out.
13 More or less the figures that you're giving me would
14 never --

15 BY MR. CARLSON:

16 Q. Sir -- no, that's fair. And I apologize to cut you off,
17 but then did you -- did you ever see 2.268 million meals
18 being served over that period of time at La Cruz?

19 A. No.

20 Q. But you understand that was the number of meals that
21 were being eaten by those residents, even though you didn't
22 see them, right?

23 A. Right, because I can't be in everybody's home 24/7.

24 Q. That's fair. Thank you.

25 MR. CARLSON: I have no further questions.

1 THE COURT: Mr. Sapone.

2 CROSS-EXAMINATION

3 BY MR. SAPONE:

4 Q. Good afternoon, sir. How are you?

5 A. Good.

6 Q. I just have a couple of questions for you. Okay?

7 A. Sure.

8 Q. During the time that you worked over at La Cruz, did you
9 work with a woman named Bambi?

10 A. Holloway, yes.

11 Q. And that's Bambi Holloway, right?

12 A. Yes.

13 Q. You mentioned on direct examination someone by the name
14 of Shamus [phonetic]?

15 A. Yes.

16 Q. What's Shamus's last name?

17 A. I do not recall at the --

18 Q. Is it Dierae [phonetic]?

19 A. I'm not even sure if I knew her last name.

20 Q. Shamus worked in the office, right?

21 A. Office, yup, at La Cruz, yes.

22 MR. SAPONE: Nothing further. Thank you.

23 THE COURT: Anyone else?

24 Ms. Falk.

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CROSS-EXAMINATION

BY MS. FALK:

Q. Good afternoon. My name is Kaitlyn Falk, and I represent Mukhtar Shariff.

You've never met Mr. Shariff, have you?

A. No.

Q. Okay. And I just wanted to walk through a couple of forms that Mr. Ebert walked through with you.

MS. FALK: Can we pull up C-213, please, and can we scroll in on the top half of the page.

BY MS. FALK:

Q. Okay. Looking at the first page of Exhibit C-213, which is in front of you, I know that Mr. Ebert walked through most of this with you, but just kind of retracing our steps, under "sponsoring authority information" it says Partners in Nutrition? Yes?

A. Yes.

Q. And the site under site information is the La Cruz Community?

A. Correct.

Q. And the site application status, approved?

A. What was that? Approve, yeah.

Q. With approval effective date ranges from January 2021 to September of 2021?

A. Correct.

1 Q. And under the site program name, you see Mind Foundry,
2 La Cruz Community?

3 A. Correct.

4 Q. You testified earlier that the name "Mind Foundry"
5 didn't mean anything to you?

6 A. Correct.

7 Q. And then looking below under the contact information,
8 the name is Kara Lomen?

9 A. Yes.

10 Q. And you testified earlier that you weren't familiar with
11 Ms. Lomen, right?

12 A. Correct.

13 Q. Okay. So if we can scroll out. Nowhere on this form do
14 we see the words "Mukhtar Shariff" or "Afrique Hospitality
15 Group," do we?

16 A. Correct.

17 MS. FALK: And could we go to page 4, please.

18 BY MS. FALK:

19 Q. Mr. Ebert also walked through page 4 of Exhibit C-213
20 with you. Briefly, just looking at the top of the form
21 under "sponsor," you see "Partners in Nutrition"?

22 A. Yep.

23 Q. And the site is La Cruz Community?

24 A. Correct.

25 MS. FALK: If you could zoom out.

1 BY MS. FALK:

2 Q. And you have no knowledge of who submitted this form, do
3 you?

4 A. No.

5 Q. Or regardless, it doesn't say "Mukhtar Shariff" or
6 "Afrique Hospitality Group" anywhere on it?

7 A. No.

8 Q. Okay. And then I also wanted to look at C-15.

9 MS. FALK: If you could pull that up, please.

10 BY MS. FALK:

11 Q. Top of the form says, Child and Adult Care Food Program
12 Contract for Vended Meals. Do you see that?

13 A. Yes.

14 Q. And under Purpose and Authority, there are a couple of
15 parties listed. Neither of those parties are Mukhtar
16 Shariff or -- Mukhtar Shariff or Afrique Hospitality Group,
17 are they?

18 A. No.

19 Q. And if we slowly scroll through the signatures on the
20 forms --

21 MS. FALK: If you could just slowly scroll through
22 the document.

23 BY MS. FALK:

24 Q. Paying attention to the signatures, we don't see Mukhtar
25 Shariff, do we?

1 A. I'm not seeing signatures. Oh, there they are.

2 Q. No Mukhtar Shariff?

3 A. No.

4 MS. FALK: Can you keep going through the end of
5 the document? Thanks.

6 BY MS. FALK:

7 Q. Again, no "Mukhtar Shariff" or "Afrique Hospitality
8 Group" on that form?

9 A. No, not that I see.

10 MS. FALK: Thank you. No further questions.

11 THE COURT: Anyone else?

12 Mr. Ebert, redirect?

13 MR. EBERT: No, Your Honor. Thank you.

14 THE COURT: You may step down, sir. Thank you.

15 THE WITNESS: Thank you.

16 **(Witness steps down)**

17 THE COURT: We're going to take our afternoon
18 break at this time, and we'll return at 3:40.

19 3:40, everyone.

20 We're in recess.

21 THE CLERK: All rise.

22 (Recess taken at 3:19 p.m. till 3:41 p.m.)

23

24

IN OPEN COURT

25

(JURY PRESENT)

1 THE COURT: You may all be seated.

2 And the government may call its next witness.

3 MR. BOBIER: Your Honor, the government calls
4 Blake Hostetter.

5 THE COURT: Raise your right hand.

6 BLAKE HOSTETTER,

7 called on behalf of the government, was duly sworn, was
8 examined and testified as follows:

9 THE WITNESS: Yes, Your Honor.

10 THE COURT: Thank you. Be seated.

11 And when you are settled, please state and spell
12 both your first and last name for the record.

13 THE WITNESS: Blake Hostetter. B-L-A-K-E.
14 H-O-S-T-E-T-T-E-R.

15 THE COURT: Thank you.

16 You may inquire, Mr. Bobier.

17 MR. BOBIER: Thank you, Your Honor.

18 DIRECT EXAMINATION

19 BY MR. BOBIER:

20 Q. Good afternoon.

21 A. Good afternoon.

22 Q. Could you start by introducing yourself to the jury by
23 letting them know where you work?

24 A. Sure. I'm a special agent with the FBI here in
25 Minneapolis.

1 Q. How long have you been with the FBI?

2 A. Little shy of 13 years.

3 Q. And as a special agent with the FBI, are there
4 particular types of cases or investigations you work on?

5 A. Yes. Currently I'm the supervisor of the public
6 corruption and civil rights squad.

7 Q. As the supervisor of that squad, what are your chief
8 responsibilities?

9 A. To oversee the cases of those two violations, plus fraud
10 against the government.

11 Q. You said you work out of the Minneapolis office; is that
12 right?

13 A. That's correct.

14 Q. Is that the office you've always worked in as an FBI
15 agent?

16 A. No. I was first assigned out of the academy to the Salt
17 Lake Division, Lewiston RA.

18 Q. You went from Salt Lake Division to here, or was there
19 somewhere in the middle?

20 A. That's it. Salt Lake to here.

21 Q. Special Agent Hostetter, I'd like to start today by
22 showing you an exhibit that's already in evidence. This is
23 Government's H-1 at page 72.

24 Now, this is in evidence as an item that was
25 seized during executions of a search warrant in the broader

1 Feeding Our Future investigation. Now that this is up, let
2 me ask you, are you familiar with any search warrants having
3 been executed in the Feeding Our Future investigation?

4 A. I am.

5 Q. Are you aware of any warrants having been executed in
6 January 2022?

7 A. Yes, sir.

8 Q. Can you tell us what the extent of your knowledge is of
9 those warrant executions?

10 A. Yes. On January 20th, 2022, several residents -- key
11 residences of targets of the investigation were searched in
12 furtherance of the investigation, including Mr. Farah's
13 residence.

14 Q. And you mentioned Mr. Farah's residence. The passport I
15 have up on the screen that's in evidence is a copy of his
16 passport. Do you see his name there in the middle of the
17 document?

18 A. I do.

19 Q. And can you read his date of birth as pictured on that
20 passport that was seized, please.

21 A. December 20th, 1988.

22 Q. Now, the jury has heard this. I won't belabor it, but
23 at a very high level, can you tell us what a passport book
24 like this is for?

25 A. It's a travel document issued by the State Department.

1 Q. What does it enable the holder of that document to do?

2 A. To leave the United States.

3 Q. Let me show you one other document. This is in evidence
4 as Government's I-1. This is page 12.

5 This is another image of a document seized from
6 Abdiaziz Farah's house during the execution of the
7 January 2020 warrant -- January 2022 warrant, excuse me, we
8 were just discussing.

9 Can you see that?

10 A. I can.

11 Q. What does that appear to be?

12 A. It's Mr. Farah's passport card.

13 Q. At a high level, do you have an understanding of what a
14 passport card is?

15 A. Yeah. At a high level, it's the same as a passport,
16 except for it's a much shorter list of countries you can
17 travel to using it.

18 Q. When you say it's the same as a passport, can you tell
19 us, if you know, who issues passport cards?

20 A. It's, again, issued by the State Department.

21 Q. So far as you're aware, is there anywhere that an
22 individual can obtain a passport book or card other than
23 from the State Department?

24 A. Not to my knowledge.

25 Q. Special Agent Hostetter, do you know if after Abdiaziz

1 Farah's passport book and passport card were seized in
2 January of 2022, whether he applied for a replacement?

3 A. He did on March 16th, 2022.

4 Q. When you say he did, did he apply both for a book and
5 for a card or just for one or the other? Do you know?

6 A. I'm unsure. I think just the passport, but I could be
7 wrong on that. I could review the package again, if you'd
8 like.

9 Q. When you say "review the package," are you referring to
10 an actual application package?

11 A. That's correct.

12 Q. Is that something you've reviewed?

13 A. Yes.

14 Q. Let me show you what's been marked for identification
15 only as Government's I-3.

16 Do you see that document, Special Agent Hostetter?

17 A. I do.

18 Q. I'm going to page through it a little bit, just for your
19 review. Do you recognize what's on the screen here?

20 A. I do.

21 Q. How is it that you recognize it?

22 A. I reviewed it for today's testimony.

23 Q. And what does it appear to be?

24 A. It is Mr. Farah's application for a replacement passport
25 and/or card.

1 Q. That application from March of 2022 you've just been
2 referring to?

3 A. That's correct.

4 Q. And as I page down to 11 and 12, does this application
5 packet include a certification from the Department of State?

6 A. It does.

7 Q. Does that certification indicate that the application
8 materials were made at or near the time of the issuance of a
9 passport?

10 A. That's correct.

11 Q. And does that same certification from the State
12 Department indicate that this application packet was kept in
13 the course of regularly conducted activity under the
14 authority of the Secretary of State?

15 A. Yes, sir.

16 MR. BOBIER: Your Honor, at this time the
17 government offers Exhibit I-3.

18 THE COURT: Any objection?

19 MR. ANDREW BIRRELL: No objection.

20 THE COURT: I-3 is admitted and may be published.

21 MR. BOBIER: Thank you, Your Honor.

22 BY MR. BOBIER:

23 Q. I will pull that document up, Special Agent Hostetter,
24 so the jury can see it with us.

25 All right. I've navigated to page 4 of that

1 document. Do you see that?

2 A. I do.

3 Q. All right. And at the very top, can you tell us what it
4 is we are looking at here?

5 A. It's an application for a U.S. passport.

6 Q. Have you ever reviewed applications like this other than
7 this one in your role as an FBI special agent?

8 A. I have.

9 Q. Connected to investigations you've worked on, for
10 example?

11 A. Yes, sir.

12 Q. All right. Let's walk through some of this.

13 Now, at the top, there's a section with the header
14 "Select documents for which you are submitting fees." Do
15 you see that?

16 A. I do.

17 Q. Can you tell us whether there are any selections made in
18 that top section?

19 A. Yes, there are three: The U.S. passport book; U.S.
20 passport card; and regular book, standard.

21 Q. And we just looked at photos of Abdiaziz Farah's book
22 and card as seized at his home in January 2022, correct?

23 A. Correct.

24 Q. What's the name on this application?

25 A. Abdiaziz Farah.

1 Q. Do you recognize the date of birth?

2 A. I do.

3 Q. Why do you recognize it?

4 A. It's the same as what was on the passport that I just
5 read.

6 Q. There's some information below this blue bar, still on
7 page 4 of Government's I-3. Can you tell us what that issue
8 date reads?

9 A. February 16, 2022.

10 Q. And the expiration?

11 A. December 20, 2025.

12 Q. A few more items here on this page. There's a stamp of
13 some sort on the left side. Do you see that?

14 A. I do.

15 Q. What does at that appear to be to you?

16 A. It's a Department of State seal dated March 22, 2022.

17 Q. Given that you've reviewed applications like this before
18 in your work on FBI investigations, does the presence of
19 this stamp indicate anything to you about this application?

20 A. It would indicate to me that it was done in person and
21 that identification was verified.

22 Q. I want to ask you just a few questions about this. This
23 little paragraph of text here right above the signature, do
24 you see that?

25 A. I do.

1 Q. So, first, could you read us this clause before the
2 colon?

3 A. "I declare under penalty of perjury all of the
4 following."

5 Q. And could you read Item 2 for us that follows that
6 clause?

7 A. "The statements made on the application are true and
8 correct."

9 Q. And Item 3?

10 A. "I have not knowingly and willfully made false
11 statements or included false documents in support of this
12 application."

13 Q. Now, below this perjury statement, is there a line that
14 reads "applicant's legal signature"?

15 A. There is.

16 Q. Is there a signature?

17 A. There is.

18 Q. Let me show you the next page of this same document.

19 All right. I'm now on page 5 of Government's
20 Exhibit 3 -- I-3. Excuse me. At the top, same name and
21 same date of birth, correct?

22 A. Correct.

23 Q. What has the applicant entered here for occupation?

24 A. Consultant, self-employed.

25 Q. All right. Let me show you page 6 of the same exhibit.

1 Now, this page looks a little different; is that right?

2 A. It does.

3 Q. What's written at the top there?

4 A. "Statement regarding a valid lost ore stolen U.S.
5 passport book and/or card."

6 Q. Special Agent Hostetter, do you understand this page as
7 being part of the same application package we've been
8 reviewing?

9 A. That's correct.

10 Q. Let's walk down this a bit. Do you see this sort of
11 light purple box at the top of the page?

12 A. I do.

13 Q. It says, "Please select the document or documents that
14 you are reporting and its status."

15 Did I read that right?

16 A. That's correct.

17 Q. If there are any elections selected there, can you tell
18 us what they are?

19 A. Valid U.S. passport book is mark as lost, and valid U.S.
20 passport card is marked as lost. Then it says --

21 Q. Go ahead.

22 A. It says, "Are you submitting this form in connection
23 with an application for a new U.S. passport book and/or
24 card?" And that is selected as "yes."

25 Q. And above these selections, there's this important

1 notice text. Do you see that?

2 A. I do.

3 Q. Would you read us the first four sentences of that,
4 please?

5 A. "A U.S. national may not normally bear more than one
6 valid or potentially valid U.S. passport book and/or card at
7 a time. Therefore, a statement is required when applying
8 for a new U.S. passport if the previously valid or
9 potentially valid passport is not submitted. Your statement
10 must detail why the previous valid U.S. passport cannot be
11 presented. The information you provide on this form will be
12 placed into the Consular Lost and Stolen Passport System,
13 which is designed to prevent the misuse of all reported
14 valid lost or stolen U.S. passports."

15 Q. Now, before we go further into this document, for the
16 avoidance of doubt, whose application do you understand this
17 to be?

18 A. Mr. Farah's.

19 Q. And how did the investigative team obtain a copy of this
20 completed application, if you know?

21 A. We sent a court order, probably a grand jury subpoena,
22 to the State Department requesting the documents.

23 Q. It was received from the State Department?

24 A. That's correct.

25 Q. Now let's look at the next two boxes here on this lost

1 or stolen passport form.

2 Same name?

3 A. Correct.

4 Q. What's the name?

5 A. Abdiaziz Farah.

6 Q. Same date of birth?

7 A. Correct.

8 Q. And what is that?

9 A. 12/20/1988.

10 Q. And in the second box here there's a little more

11 information. Can you tell us what the second box is titled?

12 A. The second box is titled "Valid lost or stolen U.S.

13 passport book/card information."

14 Q. In the first box, the applicant is directed to, Explain

15 in detail how your valid U.S. passport book/card was lost or

16 stolen.

17 Did I read that correctly?

18 A. You did.

19 Q. And what did the applicant write in the box below?

20 A. "I could not find anywhere in my house or car."

21 Q. Again, the applicant here you understand to be Abdiaziz

22 Farah?

23 A. That's correct.

24 Q. The next box, Explain whether you lost or theft

25 occurred. Provide the address, if known.

1 A. "Unknown."

2 Q. That's what Mr. Farah entered here as the response to
3 the question?

4 A. Correct.

5 Q. And the next box is, On what date was your valid U.S.
6 passport book/card lost or stolen?

7 What did Mr. Farah write here?

8 A. "Unknown."

9 Q. Looks like we've got another signature and a statement
10 on the bottom of this page too. Accurate?

11 A. That's correct.

12 Q. Could you read us the first two points of this, please,
13 starting with "I, the undersigned"?

14 A. "I, the undersigned, declare under penalty or perjury
15 all of the following: That I have read and understood the
16 warning on page 1 of this form; two, the information
17 provided herein is correct and complete."

18 Q. What's the date?

19 A. March 16th, 2022.

20 Q. And there's a box of applicant's legal signature. Do
21 you see that?

22 A. Yes.

23 Q. Remind us who the applicant is.

24 A. Abdiaziz Farah.

25 Q. And is there a signature there?

1 A. Yes, sir.

2 Q. All right. This application you've told us is dated
3 March 16, 2022.

4 Special Agent Hostetter, on March 16, 2022, do you
5 know where Abdiaziz Farah's passport was?

6 A. It was in the custody of the federal government.

7 Q. On March 16, 2022, do you know where Abdiaziz passport
8 card was?

9 A. Also with the federal government.

10 Q. How do you know they're in the federal government's
11 custody at this date?

12 A. Because it was on our receipt for property that I
13 reviewed in preparation for this testimony as items seized
14 during the January 20th, 2022 search warrant of his
15 residence.

16 Q. And when I say federal custody, can you tell us in whose
17 custody in particular Abdiaziz Farah's passport and card
18 would have been?

19 A. The FBI's.

20 Q. Now, the jury heard a little bit at the end of last week
21 about a receipt for property. I think you just mentioned
22 that.

23 A. Yes, sir.

24 Q. Is that also called a Form 597?

25 A. It is.

1 Q. Could you just tell us at a high level what that is used
2 for by the FBI?

3 A. It's a carbon copy form that we leave typically at the
4 end of a search warrant just outlining exactly what we
5 seized during the search warrant that we leave with the
6 owners of the items seized.

7 Q. Now, when you say outlining the items seized, fair to
8 say the seized items are typically itemized?

9 A. Correct. It is actually very specific.

10 Q. And in being very specific, the jury heard already that
11 a 597 was executed after the search of Mr. Abdiaziz Farah's
12 house and a copy left there. Would that be consistent with
13 FBI policies and procedures?

14 A. Yes, it would be.

15 Q. Let me pull back up Government H, which is in, I'm
16 sorry, H-1, which is in evidence. This is page 72.

17 Now, this is the passport we were looking at
18 earlier. Do you remember that?

19 A. I do.

20 Q. And the jury's heard already that after this passport
21 was seized in January of 2022 from Abdiaziz Farah's house,
22 it was itemized in particular on the receipt left at his
23 home. Is that the same photo we looked at earlier?

24 A. That's correct.

25 Q. I'm going to show you one other. It's already in

1 evidence as Government's I-1 at page 12.

2 Now, on Friday, the jury also heard that after the
3 execution of a search warrant at Abdiaziz Farah's house in
4 January of 2022, a receipt was left at his property that
5 itemized his passport card. Is this a photo of the passport
6 card we discussed earlier?

7 A. It is.

8 Q. To be clear, it is Abdiaziz Farah's passport card; is
9 that right?

10 A. That's correct.

11 Q. Remind us of the date that the search warrant was
12 executed at Abdiaziz Farah's house and the two passport
13 documents we've just reviewed were seized.

14 A. January 20th, 2022.

15 Q. And remind us again of the date of his application for a
16 new passport and card in which he claimed that those
17 documents had been lost at an unknown location.

18 A. March 16th, 2022.

19 Q. Two months later?

20 A. Yes, sir.

21 Q. All right. Special Agent Hostetter, I want to talk to
22 you about a different subject now.

23 The large batch of search warrants executed in the
24 broader Feeding Our Future investigation, that was
25 January 2022; is that right?

1 A. Correct.

2 Q. And that included the search of Abdiaziz Farah's house
3 that we've talked about, right?

4 A. Yes.

5 Q. You mentioned there was some other locations searched?

6 A. Correct.

7 Q. Do you know whether on that day a search warrant was
8 executed on Mohamed Ismail's house?

9 A. It was.

10 Q. Do you have an understanding of who he Mohamed Ismail
11 is?

12 A. He's a defendant in this trial.

13 Q. That was January 2022. I want to ask you a little bit
14 about April 20th, of 2022. Is that date familiar to you?

15 A. It is.

16 Q. And at a high level, why is it familiar to you?

17 A. It's the date I assisted in arresting Mr. Ismail.

18 Q. What were the charges on which you were arresting
19 Mr. Ismail on April 20, 2022?

20 A. Fraudulently applying for a replacement passport in
21 violation of federal law.

22 Q. Could you explain some background to the jury, as far as
23 you are aware of it, of the facts that led to that charge?

24 A. Sure. Like we talked about, on January 20th of 2022,
25 Mr. Ismail's house was searched, at which time his passport

1 was seized.

2 Mr. Ismail provided the searching agents the code
3 to the safe where the passport was seized out of, was found.
4 A receipt for property was also left with Mr. Ismail.

5 On April 1st U.S. Attorney's Office notified his
6 legal counsel that he was a target of this investigation.

7 On March 22nd he applied and received a
8 replacement passport.

9 On April 4th he booked a one-way ticket from
10 Rochester through Minneapolis to Amsterdam with a final
11 destination of Nairobi, Kenya.

12 Q. Okay. Let me break that down a bit, if I can.

13 A. Okay.

14 Q. You mentioned, I think, that Mohamed Ismail's passport
15 was seized during an execution of a search warrant at his
16 home in January 2022, correct?

17 A. Correct.

18 Q. That -- the passport was actually seized from a locked
19 safe. Was that in his home?

20 A. That's correct.

21 Q. And a safe to which federal agents received the
22 combination from Mr. Ismail himself, correct?

23 A. Correct.

24 Q. Now, there's something else you mentioned after that. I
25 want to make sure I heard this correctly. Do you know if

1 after Mr. Ismail's passport was seized he came to understand
2 that he was a target in the Feeding Our Future
3 investigation?

4 A. That's correct.

5 Q. When did that happen?

6 A. April 1st, 2022 -- or excuse me. Excuse me.
7 February 1st, 2022.

8 Q. Mohamed Ismail learns on February 1, 2022, that he's a
9 target in the Feeding Our Future investigation, right?

10 A. That's correct.

11 Q. Are you aware whether Mr. Ismail later then or later
12 learned that he may be indicted in that investigation?

13 A. He was aware.

14 Q. On that same date?

15 A. I believe so.

16 Q. Do you know how he was made aware?

17 A. The U.S. Attorney's Office notified his legal counsel.

18 Q. All right. January 2022 Mohamed Ismail's passport is
19 seized.

20 February 2022 he's alerted that he may be indicted
21 in the investigation, correct?

22 A. Correct.

23 Q. What does he do in March?

24 A. In March he applies to obtain a replacement passport.

25 Q. Do you know at the time he applied for a replacement

1 where his existing passport was?

2 A. It was also in the custody of the FBI.

3 Q. As a result of that search we discussed?

4 A. That's correct.

5 Q. And that led, I assume, to the suspicion of passport
6 fraud, which you described was the reason that you
7 participated in an arrest; is that right?

8 A. That's correct.

9 Q. I want to talk about that arrest a little bit. Do you
10 know whether the State Department issue Mohamed Ismail a new
11 passport when he submitted an application for a replacement
12 one?

13 A. They did.

14 Q. Do you know when that happened?

15 A. According to the report I reviewed, March 22nd, 2022.

16 Q. All right. When was the arrest you participated in?

17 A. April 20th, 2022.

18 Q. I want to talk about that period between March 22nd,
19 when he gets the replacement passport, and April 20th when
20 you participate in the arrest. Okay?

21 During that time frame, I think you mentioned
22 this, do you know whether Mohamed Ismail booked any flights?

23 A. He did.

24 Q. And you said taking off from Rochester, right?

25 A. That's correct.

1 Q. Remind us where he was going from there?

2 A. His end destination was Nairobi, Kenya. He had stops in
3 Minneapolis and Amsterdam.

4 Q. Are you aware whether someone trying to depart on a
5 flight from the U.S. internationally can board that flight
6 without a valid U.S. passport -- or a valid passport, I
7 should say?

8 A. To my knowledge, you need the passport.

9 Q. When were those flights booked?

10 A. April 4th.

11 Q. And when were they set to depart?

12 A. April 20th.

13 Q. So far as you know, was Mr. Ismail able to get on that
14 first leg of the flight from Rochester to
15 Minneapolis/St. Paul?

16 A. He was.

17 Q. Was he able to get on the second flight from
18 Minneapolis/St. Paul to Amsterdam?

19 A. He was not.

20 Q. What stopped him?

21 A. I did. We arrested him in the jetway after he was
22 deplaning in Minneapolis.

23 Q. Now, I think you mentioned the destination of his flight
24 plan ultimately was Kenya; is that correct?

25 A. That's correct.

1 Q. At the time you seized Mohamed Ismail on that flight
2 plan to Kenya, did he have any baggage on his person?

3 A. He had one personal item, a carry-on, and I believe he
4 had five checked bags.

5 Q. Five checked bags?

6 A. That's correct.

7 Q. Do you know whether he was flying with a companion,
8 spouse, friend, anything like that?

9 A. He was flying alone.

10 Q. Okay. So Mohamed Ismail was flying alone from
11 Rochester, Minnesota, to Kenya with seven bags; is that
12 right?

13 A. That's correct.

14 Q. Why did you arrest him on April 20th as opposed to some
15 later date?

16 A. I believed the case agents feared that he was fleeing
17 from prosecution.

18 Q. Special Agent Hostetter, when you arrested Mohamed
19 Ismail at the Minneapolis/St. Paul airport in April 2020,
20 three months after his house had been searched and his
21 passport had been seized and one month after he received a
22 replacement one and he was carrying seven bags and flying
23 alone -- was his itinerary round trip or one way?

24 MR. COTTER: Objection. Narrative question.

25 THE COURT: Overruled.

1 Q. He pled guilty not that long after, like in July of
2 2022, right?

3 A. I can't speak to the date.

4 Q. All right. But he took responsibility for what he did
5 in that -- in this instance, didn't he?

6 A. He did plead guilty.

7 Q. And he was sentenced and he's already served his
8 sentence for that particular crime he committed, right?

9 A. I'm actually not aware of that.

10 Q. You're not aware? You didn't get debriefed on that at
11 all before you testified here today?

12 A. No.

13 Q. All right. And, in any event, you were asked some
14 questions about where he was going ultimately, which was
15 Nairobi, Kenya; is that correct?

16 A. That's correct.

17 Q. And you understand that, of course, this passport
18 application issue was part of a broader case involving this
19 investigation into the food programs, right?

20 A. Yes.

21 Q. All right. Ultimately, did you learn that in fact
22 Mr. Ismail's family, his wife and five kids, lived in
23 Nairobi, Kenya?

24 A. After reviewing the complaint in preparation for this
25 testimony, yes, I did learn that he had a family.

1 Q. And you would have had the opportunity to observe his
2 prior travel experiences to Kenya before this, if you chose
3 to, right?

4 A. I did not review any of his prior travel.

5 Q. So you don't know how many times he traveled a year to
6 see his family in Nairobi, Kenya?

7 A. No, I do not.

8 Q. All right. Would you agree with me it's fair to say
9 that someone might want to visit their family, wife and five
10 kids, with some frequency?

11 A. Depends on the relationship with the family.

12 Q. Okay. Well, you agree that his wife and five children
13 were living in Nairobi, Kenya, at the time of this, right?

14 A. He did have family there, yes.

15 Q. Though, specifically, he had a wife and five children
16 living there during this time, not just any old family. Are
17 you aware it was his wife and five children?

18 A. I can't speak to the number of children but, yes, wife
19 and kids.

20 Q. All right. And, ultimately, were you aware that his
21 parents, elderly parents, also lived in Nairobi at that time
22 as well?

23 A. I was not aware.

24 Q. Okay. Do you have any familiarity with the Muslim
25 culture and some of their holidays?

1 A. I have a general awareness, yes.

2 Q. Are you familiar with Ramadan?

3 A. I am.

4 Q. Are you familiar with Eid, which is essentially the end
5 of fasting and a celebration?

6 A. I'm familiar.

7 Q. Are you aware of the fact that right around this time,
8 April 20, 2022, that would have been the end of Ramadan and
9 the start of the celebration of Eid?

10 A. I'd have to take your word on that.

11 Q. So you just don't know?

12 A. I don't know the specific dates.

13 Q. You'd agree that that's a significant celebration in the
14 Muslim culture?

15 A. I would.

16 Q. All right. And, of course, you don't have any idea how
17 long Mr. Ismail planned to spend to stay in Africa in
18 Nairobi when he left, correct?

19 A. I don't.

20 Q. So when we talk about the number of bags that were
21 checked, obviously there was five bags and a carry-on bag,
22 you said, right? Five checked bags?

23 A. Plus a personal item.

24 Q. Right. And the personal item, what are we talking
25 about?

1 A. I don't recall.

2 Q. All right. Well, personal item, that could be a book.

3 Do you know what the personal item was?

4 A. Like I said, I don't know.

5 Q. All right. So he had a personal item that you don't

6 know what it is and a carry-on bag, right?

7 A. That's correct.

8 Q. And then he had five checked pieces of luggage; is that

9 right?

10 A. That's correct.

11 Q. All right. Are you aware of the fact that a lot of the

12 contents of that luggage included gifts for his children to

13 celebrate Eid?

14 A. I have no knowledge of the contents of the luggage.

15 Q. But the contents of that luggage can be catalogued and,

16 in fact, inventoried, fair?

17 A. It can be.

18 Q. All right. So similarly, what we do know is he left the

19 country or was attempting to leave the country and that he

20 had family, a wife and kids, in Kenya, correct?

21 A. Correct.

22 Q. We know that you didn't have an idea of how much time he

23 planned to spend there, right?

24 A. I did not, know.

25 Q. You don't know how many times a year he went to see his

1 family on a typical basis before this, right?

2 A. That's correct.

3 Q. And you agree that it was the end of Ramadan and Eid but
4 you just don't know that much about that celebration?

5 A. You said it was the end of Ramadan. I'm not sure if it
6 was.

7 Q. You're just not sure?

8 A. No.

9 Q. I don't have any additional -- well, let me just finish
10 with this: You agree he accepted responsibility for the
11 passport application issue, correct?

12 A. He did plead guilty to those charges.

13 Q. That's what that means, pleading guilty is accepting
14 responsibility if you did something wrong, right?

15 A. If that's the legal definition.

16 Q. All right. Thank you.

17 MR. COTTER: Nothing further.

18 THE COURT: Anyone else want to cross-examine?
19 Redirect, Mr. Bobier?

20 MR. BOBIER: Very briefly, Your Honor.

21 REDIRECT EXAMINATION

22 BY MR. BOBIER:

23 Q. Special Agent Hostetter, in your work at the FBI, have
24 you ever been involved in investigations where flight risk
25 is a concern?

1 A. Yes.

2 Q. Why can that be a concern in an investigation?

3 MR. SCHLEICHER: Objection. Relevance.

4 THE COURT: Is that from you, Mr. Schleicher?

5 MR. SCHLEICHER: Yes, Your Honor.

6 MR. COTTER: He beat me to it.

7 THE COURT: Overruled.

8 You may answer.

9 THE WITNESS: It's a risk because targets of
10 investigation flee to avoid prosecution.

11 BY MR. BOBIER:

12 Q. And here, when you arrested Mohamed Ismail at the
13 airport bound on a one-way ticket to Kenya, am I right that
14 this was within months of his house being searched, correct?

15 A. Correct.

16 Q. Within months of his passport being seized? Yes?

17 A. Yes.

18 Q. Within months of --

19 MR. COTTER: Objection. Leading.

20 THE COURT: Sustained.

21 BY MR. BOBIER:

22 Q. What was the concern here with respect to Mohamed Ismail
23 in particular?

24 A. When you look at the totality of the facts and the
25 situation at hand, I think the case agent's concern was the

1 fact that they seized his passport; he fraudulently applied
2 to obtain a new passport; he was told he was going to be
3 indicted for the Feeding Our Future fraud; he booked a
4 one-way ticket to Kenya, where his family still resided; and
5 according to the complaint, he owned five homes and a share
6 of a textile mill.

7 MR. BOBIER: Thank you. Nothing further, Your
8 Honor.

9 MR. ANDREW BIRRELL: I have some.

10 CROSS-EXAMINATION

11 BY MR. ANDREW BIRRELL:

12 Q. Mr. Farah never tried to flee, did he?

13 A. Excuse me?

14 Q. Mr. Farah, Abdiaziz Farah, he never tried to flee?

15 A. Not that I'm aware of.

16 MR. ANDREW BIRRELL: Thank you.

17 MR. BOBIER: Nothing further, Your Honor.

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

19 THE WITNESS: Thank you, Your Honor.

20 **(Witness steps down)**

21 THE COURT: And the government may call its next
22 witness.

23 MR. THOMPSON: Your Honor, I think we had
24 discussed maybe breaking early today so we could discuss
25 some housekeeping among the lawyers here.

1 THE COURT: That's what you would all like to do?
2 Fair enough.

3 All right. We'll break for today and discuss some
4 housekeeping matters.

5 MR. THOMPSON: Thank you.

6 THE COURT: All rise for the jury.

7 9:00 tomorrow morning, everybody. We'll see you
8 then.

9 **IN OPEN COURT**

10 **(JURY NOT PRESENT)**

11 MR. THOMPSON: Your Honor, I think probably on the
12 record we need a quick ruling for a witness that will be
13 tomorrow.

14 THE COURT: Go ahead.

15 MR. THOMPSON: I think I will need the ELMO here,
16 Your Honor.

17 Tomorrow, Your Honor, the government intends to
18 call IRS Special Agent Brian Pitzen to testify about text
19 messages or WhatsApp messages among various defendants in
20 this case. They were obtained from cell phones, the
21 Cellebrite extractions that you heard testimony about
22 earlier today.

23 Cellebrite data comes out a little wonky, and so
24 we cleaned them up a little bit to make them a little more
25 presentable, which I think isn't objectionable to the

1 defense.

2 The thing that is objectionable to the defense is
3 we put -- for on the left-hand column and the right-hand
4 column a picture of the person speaking, so to speak, on the
5 text thread.

6 THE COURT: Okay.

7 MR. THOMPSON: And the defense finds that
8 objectionable, or at least they think that would render an
9 otherwise admissible exhibit into a demonstrative that would
10 not go back to the jury.

11 THE COURT: Mr. Schleicher.

12 May I see it?

13 MR. THOMPSON: Yes, Your Honor.

14 THE COURT: Thank you.

15 Mr. Schleicher, go ahead.

16 MR. SCHLEICHER: Thank you, Your Honor.

17 And I'll note for the record that I'll be
18 reserving some substantive objections after I compare these
19 with the Cellebrite report, but essentially, yes, that's
20 correct.

21 The alteration of the Cellebrite data, the
22 extraction report in this format, coupled with the
23 photographs inserted on either side to denote the speaker,
24 converts what could be a substantive exhibit into a
25 demonstrative exhibit.

1 And so I would object to anything that resembles
2 this being offered and received as a substantive exhibit to
3 go back to the jury.

4 THE COURT: And so is it the picture that renders
5 it a demonstrative or the picture plus the name?

6 MR. SCHLEICHER: The picture plus the name --
7 anything, Your Honor, that differs from the Cellebrite
8 extraction report and the exhibit converts it into a
9 demonstrative, not a substantive exhibit.

10 And so if they want to use demonstratives in front
11 of the jury, of course, with proper foundation, that's their
12 prerogative. But in terms of what they need to submit as a
13 substantive exhibit, this is fundamental trial practice
14 stuff, they need to have a clean version of this without the
15 adornments on either side.

16 THE COURT: Do you have a clean version,
17 Mr. Thompson?

18 MR. THOMPSON: Your Honor, we can make one. I
19 think certainly -- I understand the nature of
20 Mr. Schleicher's objection with respect to the photos,
21 although we routinely do that sort of thing, laying the
22 proper foundation for it, but I think the names on the side
23 is totally unobjectionable. I don't think that converts it
24 into a demonstrative.

25 I think this is something that makes this

1 something that the jury can understand, which is the whole
2 point of a trial, is having the jury understand the evidence
3 here, and especially in a case with this -- with the scope
4 of this case and the amount of evidence here.

5 To give them a Cellebrite extraction would be
6 unhelpful to them, and I don't think that's necessary under
7 the rule. I know it's not necessary under the Rules of
8 Evidence and I also don't think it's prudent here.

9 MR. SCHLEICHER: And, Your Honor, there's nothing
10 that makes me more nervous when I ask somebody to explain
11 something and they say it's because they do it all the time.
12 That's not an acceptable explanation.

13 I think, you know, the rules are very clear. The
14 exhibit has to be what was actually taken or extracted from
15 the phone. So the use of the name, even if it facilitates
16 comprehension, yes, that converts it to a demonstrative.
17 The same with the photograph.

18 Anything that they have that's the raw extraction
19 data, that can be a substantive exhibit. Something like
20 this could be used as a demonstrative exhibit and it would
21 be perfectly acceptable to display it to the jury if proper
22 foundation is laid, but it's not a substantive exhibit.

23 THE COURT: I don't know what the Cellebrite data
24 looks like without adornment, and so I can't tell whether it
25 would be confusing to the jury, which would be --

1 MR. THOMPSON: Your Honor, I don't have one with
2 me currently, but I can certainly run down and get one.

3 Basically, the text itself would be the same. The
4 only difference is you see a -- when there's an attachment
5 to the text, in the Cellebrite it pulls it out as a separate
6 exhibit. So we put it into there so you can tell and you
7 don't have to reference; otherwise, you can't tell which
8 attachment is which, unless you're in the Cellebrite report
9 itself, in which case you can, which, of course, the jurors
10 can't be.

11 THE COURT: Well, let me see how that goes
12 tomorrow. I tend to agree with Mr. Schleicher, that this is
13 a demonstrative and -- but there may be -- if there's
14 another way to bring it into evidence, I'm happy to hear
15 that. But without seeing whether the original is confusing,
16 I'm not sure that I can rule on what you're asking me to
17 rule on.

18 MR. THOMPSON: So, Your Honor, maybe we can take a
19 brief break and I can go down and get the original. We're
20 going to put this witness on, presumably, probably some time
21 tomorrow morning. And I can run down and get it in two
22 minutes.

23 THE COURT: Okay. Let's do that.

24 MR. MOHRING: Your Honor --

25 MR. THOMPSON: Or I can show it electronically

1 here, Your Honor.

2 THE COURT: That would work. What did you use in
3 the opening?

4 MR. THOMPSON: We used little bubbles like that.
5 The bubbles look the same.

6 THE COURT: Oh.

7 Do you have a different issue, Mr. Mohring?

8 MR. MOHRING: Same set of exhibits, different
9 issue, Your Honor.

10 MR. THOMPSON: Sorry, Your Honor. Just --
11 Mr. Ebert made clear that we did use that version in the
12 opening without objection from the defense, I believe.

13 MR. SCHLEICHER: But, of course, Your Honor, in
14 terms of the lack of objection, you can use slide decks, you
15 can use interpretations. This wasn't represented as an
16 exhibit, and so I didn't object to it. I do now.

17 MR. THOMPSON: Sorry, Your Honor. I'm pulling --
18 trying to pull this up here.

19 Your Honor, if I may, I have it on electronic here
20 on my computer. Oh, here you go, Your Honor, up on the
21 screen.

22 This is what it looks like in the Cellebrite. You
23 can see on the right here, Your Honor, the image on the
24 Cellebrite is -- appears like this, and you have to click
25 somewhere else in the Cellebrite to see the image in there.

1 And so what our -- the versions that we have just put the
2 image in there.

3 THE COURT: And are you contending this is -- are
4 you -- what are you contending? Is this a 1006 --

5 MR. THOMPSON: It is a 1006 summary, Your Honor.
6 And I think it accurately and fairly summarizes this
7 exhibit. And we'll obviously have to lay the foundation for
8 the accuracy of it.

9 THE COURT: Mr. Schleicher, why doesn't 1006 work
10 here?

11 MR. SCHLEICHER: It's not a summary, Your Honor.
12 It's a demonstrative. The items -- the -- a summary would
13 be to summarize -- the names of the speakers do not appear
14 in the Cellebrite data, nor do the photographs that they're
15 placing on either side to show the picture.

16 So it's not a summary. In fact, it's less than a
17 summary. It's a selected excerpt, and they've taken that
18 raw data and converted it into a demonstrative exhibit. A
19 summary would be something I would suppose tally up the
20 number of conversations or do something to simplify or
21 summarize voluminous data. That's not what this is at all.

22 This is an extract of a selected portion of
23 text-change that they've, you know, sort of prettied up with
24 the photographs and the names. That's not a summary.

25 MR. THOMPSON: Well, Your Honor, there's two

1 issues here, I think: One is the photographs and the names,
2 and the other is being able to convert it, pretty it up, for
3 example, and putting the images in there. And I hardly see
4 how that is objectionable.

5 The data is there. The Cellebrite just comes out
6 looking in a wonky way. That doesn't mean that has to be --
7 the evidence here is, of course, is the statements of the
8 defendants, not the Cellebrite report itself. That's just a
9 forensic tool.

10 In terms of the names, they are the participants
11 to the call. For example, here on H-51, this is the full
12 Cellebrite extraction or thread. The names are on there for
13 the text conversation, and they appear, of course, in the
14 conversation with all this other extraneous data.

15 For example, source info, removing source info,
16 that's just forensic information about where it came from on
17 the phone. That's not -- removing that doesn't alter the
18 image. It's summarizing the defendants' statements, which
19 of course are the evidence, not the Cellebrite report
20 itself. That's just a forensic tool.

21 In terms of being excerpted, that's -- we're
22 admitting statements of the defendants and coconspirator
23 statements. Some of these text threads go on for a thousand
24 or more pages. Obviously, we wouldn't be admitting a
25 thousand page long text thread to the jury. That's not

1 helpful, and it's not required.

2 In the same way, if we subpoenaed bank records or
3 records from a bank, we don't have to present them to the
4 jury as an exhibit in the way they come from the bank. We
5 can put them in order, say, with records on top, you know,
6 the account application on top and we could put the months
7 in order, if we want. That doesn't render it different. Or
8 if we search a house, we can submit and present the evidence
9 that we select, not just everything we got in a box.

10 THE COURT: All right. Rule 1006 says the
11 proponent may use a summary chart or calculation to prove
12 the content of voluminous writings, recordings, or
13 photographs that cannot be conveniently examined in court.

14 As I look at the Cellebrite data, it is not
15 convenient to examine it in court. And it would seem to me
16 that what I am looking at, which is the bubbles with the
17 pictures, is, as long as it is accurate, would fall under
18 1006 because it isn't conveniently examined in the -- in the
19 form that is provided in H-51.

20 I would, however, think that the photographs
21 should be removed to make it more a fair summary under 1006.

22 MR. THOMPSON: Very well, Your Honor.

23 THE COURT: There's my ruling.

24 MR. THOMPSON: Thank you.

25 MR. SCHLEICHER: Thank you, Your Honor.

1 THE COURT: Thank you.

2 I'm sorry. Mr. Mohring had another issue.

3 MR. GOETZ: And then I have a quick one as well,
4 Your Honor.

5 THE COURT: All right.

6 MR. GOETZ: Emphasis on --

7 THE COURT: Well, I don't know. Do I still need
8 this? I'm going to hang on to this.

9 No, what do I need to look at, Mr. Mohring?

10 MR. MOHRING: I believe, I believe we'll be able
11 to pull it up on the screen.

12 THE COURT: Oh, go ahead. Thank you.

13 MR. MOHRING: The one that I want to talk about,
14 Your Honor.

15 THE COURT: Go ahead.

16 MR. MOHRING: So, judge, what was up until 8:00, a
17 little after 8:00 last night H-51f, I believe it's now
18 H-51i, although that may not have been updated on the
19 system, so let me make -- let's see if we can pull it.
20 Same -- same image. I think the current is --

21 THE COURT: Okay.

22 MR. MOHRING: Okay. Let's try "I," Kate.

23 Yeah, okay. It became "I" last night, I believe.

24 Anyway, this is the exhibit in its current
25 iteration, current label, Your Honor. It is excerpts of a

1 conversation, text exchange, between Abdimajid Nur and
2 Abdiaziz Farah. Of concern is, I believe, at least as the
3 document reflects, Mr. Nur -- so Mr. Shariff is not in the
4 loop on any of this.

5 Copied into this exchange is this -- what's being
6 shown on the screen now, a letter from an unknown author,
7 unidentified author, that goes on for some pages, but
8 includes specific -- if we go down, I think, two pages
9 further, Kate -- some specific allegations against
10 Mr. Shariff. I can read them. The court can read them.

11 THE COURT: I see it.

12 MR. MOHRING: Masterminds are -- this is in the
13 context of inflammatory allegations. "Parents, your
14 children have been exploited and used. These kids are all
15 minors." On the following page -- two pages down, "In
16 previous years you've expelled over a thousand students
17 including staff from the weekend traditional Islamic
18 courses. You forced the teachers out of the building."

19 I mean, it goes on and on, but it does include
20 specific allegations, again, written by an unknown entity or
21 group of people against Mr. Shariff.

22 Concerns that we have include, it is -- it is
23 extremely prejudicial. It is hearsay within hearsay --
24 excuse me -- outside of the scope of 801(d)(2) as a
25 statement of a party opponent, because there's nothing --

1 nothing -- neither -- Mr. Shariff is neither making any of
2 these statements, nor is he in a position where he can be
3 seen as constructively adopting them.

4 And so I appreciate the opportunity to address
5 this not just in a sidebar when it's introduced, but this --
6 this exhibit should not be admitted, now H-51i.

7 THE COURT: Are you objecting to the entire
8 exhibit or just the portion of it with the white text on a
9 black background that's a cut and paste?

10 MR. MOHRING: Certainly -- sorry. I didn't mean
11 to interpret. Certainly the white text on black background,
12 but I don't think there's anything else really in the
13 exhibit beyond the introduction and presentation of this.
14 So without this, I don't know that there's really any
15 remaining relevance. But, no, the area of concern is the
16 white text on black copied into this email exchange
17 document.

18 THE COURT: All right. Thank you.

19 Mr. Thompson.

20 MR. THOMPSON: Thank you, Your Honor.

21 Your Honor, I think this is admissible evidence.
22 These are coconspirator statements, and it puts them on
23 notice here.

24 There is a discussion -- I think they're social
25 media posts talking about a fraud being committed by an

1 entity called Minnesota Youth Connection, was it MYC --
2 Minnesota Youth Connection, a/k/a MYC, has committed fraud.
3 MYC was a coverup basketball program to help the youth. The
4 reality is that this was a hidden agenda to help collect
5 names of the participants of this basketball program. Along
6 with this, they have collected the names of every player's
7 siblings' names, which had nothing to do with basketball.
8 These names were used to con the federal government of a
9 federal budget through a federal COVID-19 food program
10 relief. It talks earlier about the mastermind of the acts
11 being Mukhtar Shariff and Mohamed Omar.

12 I think, one, I think we should probably brief
13 this tonight, Your Honor. This text message chain goes on,
14 and it's Abdimajid Nur and Abdiaziz Farah talking about
15 these allegations, talking about the role of Feeding Our
16 Future in them, and we can submit the whole exhibit to you
17 and provide briefing on it this evening. I think there's
18 probably more to consider for Your Honor.

19 THE COURT: I would appreciate that. I mean, as I
20 look at it, the pasted portion seems to be hearsay. It
21 doesn't seem to be the statement of Mr. Nur. And so I'm
22 concerned about the hearsay within hearsay that Mr. Mohring
23 discussed. So brief it for me, please.

24 MR. THOMPSON: Very well, Your Honor. Thank you.

25 THE COURT: Thank you.

1 All right. Mr. Birrell?

2 MR. IAN BIRRELL: Your Honor, it's a couple more
3 issues with the same set of exhibits. I think there's some
4 concerns we have with some undisclosed 404 evidence. So I
5 think probably the better thing to do is for me to talk to
6 Joe after court and see if we can figure it out before
7 tomorrow morning.

8 THE COURT: Good. Meet and confer, please. Thank
9 you.

10 Anything else? Mr. Goetz?

11 MR. GOETZ: Your Honor, just briefly on a
12 different topic.

13 The next witness I think is going to be Dinna,
14 D-I-N-N-A, Wade-Ardley. I expect her testimony will concern
15 food distribution under the heading of the Dar Al-Farooq
16 site, but at a particular location, the Oak -- Oak Ridge or
17 Oak Grove -- it's mentioned both ways -- Middle School in
18 Bloomington.

19 My concern is if the government, consistent with
20 the testimony of other site witnesses, walks through the
21 numbers for the Dar Al-Farooq site in total, this witness,
22 based upon her 302s, does not have any knowledge of what
23 happened at Dar Al-Farooq. Therefore, the numbers that will
24 be on meal count claims and CLiCS data are combined numbers.
25 She only has knowledge of what -- how many meals were

1 distributed at the school.

2 So, in other words, she does not have personal
3 knowledge to be able to respond to the same litany of
4 questions that every other site witness who saw everything
5 at that site. She didn't.

6 So I would move now on a motion in limine to
7 prohibit that line of questioning. She can talk all day
8 about the Oak Grove school, but that's it.

9 THE COURT: Mr. Thompson?

10 MR. THOMPSON: Your Honor, I'll be putting
11 Ms. Wade-Ardley on the stand tomorrow. I think -- I see the
12 limits of her testimony in that area. I don't think it
13 precludes it necessarily, but I will be mindful of it, and I
14 don't intend to belabor the issue.

15 THE COURT: All right. She should testify to what
16 she has personal knowledge about, and I'll rule on
17 objections as they come.

18 MR. THOMPSON: Thank you, Your Honor.

19 THE COURT: All right. Anyone else?

20 All right. Thanks, everyone. I'll see you at
21 9:00 tomorrow morning.

22 THE CLERK: All rise. Court is in recess.

23 (Court adjourned at 4:37 p.m., 05-13-2024.)

24 I, Renee A. Rogge, certify that the foregoing is a
25 correct transcript from the record of proceedings in the
above-entitled matter. Certified by: /s/Renee A. Rogge

Renee A. Rogge, RMR-CRR