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UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,)	File No. 22-cr-124
)	(NEB/DTS)
Plaintiff,)	
)	
v.)	
)	
Abdiaziz Shafii Farah(1),)	Courtroom 13W
Mohamed Jama Ismail(2),)	Minneapolis, Minnesota
Abdimajid Mohamed Nur(4),)	Thursday, May 23, 2024
Said Shafii Farah(5),)	11:03 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 XXII 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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I N D E X

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IN OPEN COURT

(JURY PRESENT)

THE COURT: You may all be seated.

And good morning, everyone.

Mr. Mohring, you may continue your examination.

MR. MOHRING: Thank you, Your Honor.

PAULINE ROASE,

called on behalf of the government, was previously sworn,
was further examined and testified as follows:

CROSS-EXAMINATION (Resumed)

BY MR. MOHRING:

Q. Good morning, Ms. Roase.

A. Good morning.

Q. So I want to move from where we were talking about when
we ended yesterday, but just to kind of start by orienting
us there.

We had been talking about the evidence that you
developed, you and your team developed, about food purchases
by Afrique Hospitality Group. Remember?

A. Yes.

Q. And so one of the documents that we were looking at that
contained information and summarized information about that
was M-6, right?

A. Yes.

Q. Okay. And M-6, highlighted in red conveniently, has a

1 calculation, a total for food expense as one of the Uses of
2 Funds, in the Uses of Funds category --

3 A. Yes.

4 Q. -- part of the chart? And this is -- this is
5 information -- that's a conclusion that was reached, that
6 number is a conclusion that was reached, based on a review
7 of the banking records from this account, correct?

8 A. Yes, that's right.

9 Q. As far as money that was actually spent on food, right?

10 A. Yes.

11 Q. At least in your conclusion, money that you believe was
12 spent on food?

13 A. Right.

14 Q. Right?

15 A. Yep.

16 Q. And we talked yesterday, the lion's share of that went
17 to Sysco, right?

18 A. Yes, that's right.

19 Q. Okay. I want to shift the focus of the questioning from
20 money that was -- actually went out to food, to food that
21 was purchased.

22 A. Okay.

23 Q. And so to do that, I want to look at and take us through
24 invoices from companies that sold food to Afrique.

25 A. Okay.

1 Q. Okay? And I'm going to limit my questioning to Sysco.

2 A. Okay.

3 Q. Okay? As an indication of the food that was acquired
4 and the value of the food that was acquired. Okay?

5 A. Sure.

6 Q. So -- so D7-23 is an exhibit that's in evidence.

7 Can we pull that up?

8 D7-23 is a collection of Sysco invoices. By my
9 count, I think there are 192 pages. Do these document --
10 does this look familiar?

11 A. Yes, it does.

12 Q. And so just looking at the first page, this is an
13 invoice from Sysco Minnesota to Afrique Hospitality Group
14 LLC, right?

15 A. Yes.

16 Q. And in the -- I'm pretty sure it's the upper left-hand
17 corner, that indicates where the food was delivered.

18 In this case the addresses for Afrique Hospitality
19 Group LLC are the same both in the upper left-hand corner
20 and right below that, right?

21 A. Yes, right.

22 Q. And if we look at the date of this right on the top,
23 delivery date is February 11th, 2021, right?

24 A. Yes.

25 Q. And if we can go to the last page, 192 I believe it is,

1 January 19th, '22, the delivery date. Do you see that on
2 the top?

3 A. I do see that.

4 Q. So these are records of Sysco's deliveries to Afrique.
5 In this instance -- okay, this answers the question.

6 So the last page, January 19th, shows a delivery
7 to Afrique Warehouse 1. Do you see that in the upper left?

8 A. Yes, I do.

9 Q. And is that an address of a warehouse that you know and
10 understand to be one of the warehouses that Afrique had and
11 used?

12 A. Yes. I believe the lease was with AE Distributors or
13 something of that sort.

14 Q. Okay.

15 A. But, yes, an Afrique warehouse.

16 Q. At 9124 Grand Avenue South?

17 A. Yes.

18 Q. So 192 pages of Sysco invoices beginning February 11th,
19 '21, and ending January 19th, '22, not quite a year later,
20 right?

21 A. Right.

22 Q. January 19th, '22, being just shy of a couple days
23 before -- the day before the search warrants were executed,
24 that whole collection of physical search warrants were
25 executed, right?

1 A. Yes, right.

2 Q. Okay. And just to look at this -- so this invoice to
3 Grand Avenue South is for \$9,380. Do I have that right?

4 A. Yes.

5 Q. And if we look back to January 12th.

6 Can we go back just one invoice, please, Ms. Falk?

7 A little further. There we go. January 12th. One more
8 ahead.

9 Okay. So there's also just a couple pages before
10 this on January 12th. Do you see an invoice for 3,008 --
11 38,710?

12 A. Yes, I do.

13 Q. Also to Afrique Warehouse 1 on 9124 Grand Avenue South?

14 A. Yes.

15 Q. Okay. I want to show you what has been -- because I
16 think the numbers are a little easier to track -- what has
17 been marked, but not admitted, as Defendant D7-24.

18 This also appear to be a Sysco document?

19 A. Yes, it does.

20 Q. And it's a -- I think a three-page document.

21 Can we just scroll through?

22 Three pages. Not much on the third page. Do you
23 see that?

24 A. Yes.

25 Q. And the document has in three groups deliveries by

1 address. Do you see how in bold at the top of a long column
2 of dates on the left is a description of a location?

3 A. Yes.

4 Q. An address?

5 A. Yes, I do.

6 Q. And looking at those three, do you understand those to
7 be -- and I think -- is there a fourth at the end? Next
8 page. Yeah.

9 Looking at those four, do you understand those to
10 be locations that Sysco delivered food that was bought on
11 the Afrique account?

12 A. Yes.

13 Q. Okay. If we -- can we go to the second page, please.

14 So at the bottom of the Afrique Warehouse 1
15 account, at the bottom of the page, do you see a delivery of
16 \$38,710 for one, about two lines up from the bottom?

17 A. I do see that.

18 Q. Okay. And do you also see at the very bottom 9,380?

19 A. Right, yep.

20 Q. Okay. Same numbers that we saw in the actual invoices
21 that broke out the food, right?

22 A. Yes.

23 Q. Do you believe that this is an accurate and reflects
24 summary document prepared by Sysco of the cost of the food
25 that was delivered to the locations indicated on the days

1 that are indicated on this document?

2 A. Yes, I do.

3 MR. MOHRING: I would move the admission of
4 Defendant D7-24.

5 MR. THOMPSON: No objection, Your Honor.

6 THE COURT: D7-24 is admitted.

7 BY MR. MOHRING:

8 Q. Okay. So yesterday we were talking about the timing of
9 actual payments from the Department of Education to the
10 sponsors and the food claims that those related to. Do you
11 remember that?

12 A. Sure, yeah.

13 Q. And I think we got to a point where it was clear that
14 the last money that actually flowed from the MDE to the
15 sites was for meal claims for food claimed to have been
16 provided in November, right?

17 A. Right.

18 Q. Okay. I want to focus on the numbers then for December
19 and January from this document.

20 And let's start with, let's see, let's start with
21 the Afrique warehouse, the bottom one, 9124 Grand Avenue
22 South. If we can zoom in just on November -- I'm sorry --
23 on December and January.

24 Okay. So I think -- so the first date at the top,
25 these are deliveries from Sysco to the Afrique's Grand

1 Avenue warehouse. I think Sysco characterized that as
2 Warehouse 1, right?

3 A. Yes.

4 Q. Okay. So December 1st through January 19th. And
5 then -- are the dates on the column on the left, right?

6 A. Right.

7 Q. The delivery dates.

8 A. Yes.

9 Q. Yes?

10 A. Yeah.

11 Q. And then on the far -- I'm sorry. On the left. On the
12 far right is the price for the food that was delivered on
13 those days.

14 A. Right, yes.

15 Q. Right? Okay. Better minds did the addition of that.

16 And it appears that the December total, the total
17 amount of food that was delivered to this location alone in
18 December of 2021, totaled \$245,095.99. Does that sound
19 about right?

20 A. Yeah, it sounds about right.

21 Q. Okay. And then at the January total for that site alone
22 was \$102,454.39. Does that sound like the right ball park?

23 A. Sure.

24 Q. Okay. Then can we do the same for the -- the previous
25 site is the Owatonna site. Let's go to December and

1 January. Owatonna I'm seeing smaller numbers, but
2 December \$52,563.94. Does that sound like --

3 A. Sure. Yeah, mm-hmm.

4 Q. And than January, \$17,336.17. Does that sound --

5 A. How much?

6 Q. I got 17,000 -- maybe 836.17?

7 A. Yeah, I'd say it's over 17,000.

8 Q. Okay. Cool.

9 So grand total, in the ball park at least, of
10 \$417,950.49?

11 A. Sure.

12 Q. Sound close?

13 A. Yes.

14 Q. Of food that was obtained for months after the MDE
15 stopped paying for claims, right?

16 A. Sure, yep.

17 Q. Looking then -- can we go to the first page?

18 Conveniently, Sysco has given us a total for each
19 site. Do you see that? So, for example, for the
20 1701 American Boulevard site, we've got a grand total of
21 \$134,161.39 of food, right?

22 A. Yep, I see that.

23 Q. Delivered between February 11th, '21, and May 15th, '21?

24 A. Yes.

25 Q. Right?

1 A. Yeah.

2 Q. And then deliveries pick up at a different location
3 May 20th, '21, on Lake Street. Do you see that?

4 A. Yes, right, yep.

5 Q. Okay. So there's a -- there's a grand total for each of
6 these. 134,000 and change for the 1701 American Boulevard
7 location, right?

8 A. Yes.

9 Q. 98,000 and a bit for the Lake Street location?

10 A. Yes.

11 Q. Now go to the next page.

12 \$621,714 for the Owatonna location, right?

13 A. Yep.

14 Q. And then 739,000 and change for the final location,
15 Afrique Warehouse 1, right?

16 A. Right, yes.

17 Q. When I do the addition, I came to 1.59 million and
18 change.

19 A. Yes.

20 Q. Does that sound close?

21 A. Yes, I think that's right.

22 Q. Okay. So based on your calculations, at least for that
23 window that we looked at, \$980,000 and change was spent,
24 came out of that account, for food purchases, right?

25 A. Yes, that's right.

1 Q. But based on this, 1.593 million of food was -- was
2 acquired, was obtained.

3 A. Yes.

4 Q. From Sysco alone.

5 A. Right.

6 Q. By Afrique.

7 A. Well, the payments actually was -- didn't just come from
8 Afrique, though. Empire Cuisine paid for --

9 Q. Let me make it simpler. 1.593 million of food from
10 Sysco on the Afrique account?

11 A. It's the Afrique account, yes.

12 Q. Okay. We've heard a number of times during the course
13 of the witnesses and testimony and argument in this case
14 about little money spent on food, no money spent on food.
15 1.593 is some money? Yes?

16 A. It's --

17 Q. This would be --

18 A. -- 1.5 million.

19 Q. This would be another pattern, right?

20 A. Pattern of what?

21 Q. It's a significant sum of money. Yes?

22 A. In the grand scheme of things, no.

23 Q. I want to go back to -- we talked some about M-6 and
24 M-6b and the price difference between those. Do you
25 remember that?

1 A. Yes.

2 Q. So M-6 is a summary of payments out of the Afrique
3 checking account, right?

4 A. Yes.

5 Q. And then the actual records of the actual transactions
6 attached to that?

7 A. Right.

8 Q. Right?

9 A. Yes.

10 Q. And M-6b achieved a different number, a little over
11 1 million, because it was a slightly larger time period?

12 A. Yes.

13 Q. Can we call up M-6b, please?

14 So the time period of M-6b went to 7/31/22?

15 A. Yes, that's right.

16 Q. And the time period of M-6 stopped a month or so short
17 of that?

18 A. Yes, that's right.

19 Q. Okay. And the difference is a \$70,000 payment to Sysco,
20 right?

21 A. Yes.

22 Q. Can we go back to D7-24, please? Thank you. And let's
23 go to the second page.

24 So this summary of Sysco deliveries to -- on the
25 Afrique account ends on January 19th, '22?

1 A. Right.

2 Q. Are you aware of any deliveries from Sysco after
3 January 19th of '22?

4 A. No.

5 Q. The \$70,000 payment that was made from Afrique to Sysco
6 some time in July, right, of '22?

7 A. Yes.

8 Q. Was for -- did you track to see what food that was for?

9 A. Yes, I did try. We subpoena -- so when we subpoenaed
10 Sysco for the records, we -- we did go -- I saw the \$70,000
11 payment in July of '22. So we tried to reach back to Sysco
12 to figure out what that was for. They never provided a
13 response, so I don't know what it's for.

14 Q. Okay. At least we know that from these -- this data
15 that the last delivery from Sysco was just a couple days
16 short of the search warrants, right?

17 A. Yeah, yeah. It stops the day prior to the search
18 warrants, yes.

19 Q. And that the last payment from MDE came in for claims in
20 November?

21 A. I'm not sure when the last payment was. Again,
22 that's -- the last claim was November, but the payment could
23 have come in December or January.

24 Q. Understood. Understood. But for claims in November?
25 Yes?

1 A. Right, yes.

2 Q. Okay. There's no evidence in the Sysco records then
3 that we have of any food deliveries after January '22 for
4 which that \$70 payment -- \$70,000 payment would have been
5 made, right?

6 A. Right.

7 Q. And if that payment is included, actual money spent
8 on -- to Sysco was a little over a million dollars, right,
9 by Afrique on the Afrique account?

10 A. Sure, yep.

11 Q. Okay. Okay. We've been talking about Sysco so far. I
12 want to just ask some more general questions about other
13 food providers. Let me start with Empire Cuisine & Market.

14 A. Okay.

15 Q. Empire Cuisine & Market, another entity that was a focus
16 of the investigation?

17 A. Yes.

18 Q. Right? And a considerable amount of time and resources
19 were spent investigating and gathering data about? Fair?

20 A. Yes.

21 Q. Okay. And Empire Cuisine & Market is an entity that at
22 least among its activities bought and sold food, right?

23 A. Yes.

24 Q. There's a market?

25 A. Right.

1 Q. Can we go to M-6, please?

2 We'll see if we need to get to the underlying
3 data, but M-6 shows both money coming into this one account
4 from Empire, right, on the Sources of Funds?

5 A. Right.

6 Q. 834,000 and change, right?

7 A. Yes.

8 Q. Did I see that right?

9 A. Yes.

10 Q. Okay. And then also money going to Empire, a million 2,
11 right?

12 A. Right, yes.

13 Q. Largest use of funds was to Empire, correct?

14 A. Sure, yes.

15 Q. And by a gap of about -- the gap between those coming in
16 from Empire and going out to Empire, I get about a little
17 over 375,000. Is that --

18 A. Sure, yeah.

19 Q. Okay. Now, none of the payments to Empire that's
20 reflected in the documents in the pages that follow the
21 cover page of M-6 are credited towards food, right?

22 A. It is not.

23 Q. And I think just as was done in the processing of --
24 well, I don't need to deal with that.

25 Significant payments to Empire. I think the total

1 is 1.2 million. But I saw checks as high as -- one for
2 87,000, another for 275,000.

3 A. Sounds about right.

4 Q. Okay. If any of that was for food purchases, any of the
5 money that was paid out of this account to Empire, none of
6 those -- none of those sums are included in the food expense
7 total, right?

8 A. They are not.

9 Q. Okay. Are you familiar from the investigation of
10 information about Afrique Hospitality Group providing
11 logistical services, storing food, transporting food,
12 selling food to other entities?

13 A. I know about the selling food.

14 Q. Okay. You know that -- I mean, we saw from the Sysco
15 invoices that Sysco delivered food to -- I think we got four
16 separate locations on the Afrique account, right?

17 A. Yes.

18 Q. Are you aware of Afrique receiving compensation from
19 entities such as Empire for services provided in the storage
20 and packaging of food?

21 A. I'm not sure. I don't remember what the memo line said,
22 if any of them said it was for logistical purposes or not.

23 Q. Okay. Any money that was spent -- that was received
24 from Empire for logistical services would not appear in --
25 would appear only in the Empire Cuisine & Market as an

1 income source, right?

2 Do you want me to try that again?

3 A. Yes, please.

4 Q. Okay. Any money that Empire Cuisine & Market or Empire
5 Enterprises -- those are lumped together for purposes of
6 this summary, right?

7 A. Right.

8 Q. As an income source?

9 A. Right, yes.

10 Q. Any money that they were paying Afrique for logistical
11 services, food packaging, food transportation, would be
12 reflected in that grand total, not elsewhere, right?

13 A. Right, yes, right.

14 Q. Out of this account Afrique is paying Empire, I think we
15 said, 375,000 or so more than they received from Empire,
16 right?

17 A. Right.

18 Q. I want to look for just a second at M-13a. I believe
19 that that was -- has been admitted.

20 MR. THOMPSON: Yes.

21 MR. MOHRING: Thank you.

22 BY MR. MOHRING:

23 Q. Now, M-13a is a similar summary document, but focusing
24 on different information, different data, right?

25 A. Sure, yes.

1 Q. And so this is -- this is a summary chart of several
2 Empire Cuisine & Market accounts?

3 A. Right, yes.

4 Q. Combined for purposes of this analysis?

5 A. Yes, right.

6 Q. And this shows that Afrique paid into this account --
7 these collection of accounts 762,000 and change, right?

8 A. Yes, that's right, yep.

9 Q. And that -- I'm looking for it, but that Empire paid out
10 \$834,000 to Afrique?

11 A. Yes.

12 Q. And as far as whether the payments coming in were for
13 food, the payments going out were for logistical services,
14 that's not information that you know, right?

15 A. I would know that. I just don't -- I don't know it off
16 this chart.

17 Q. Okay.

18 A. But the data behind it would show that. So -- and if we
19 were to review the checks, it would say something on the
20 memo line. I just don't recall.

21 Q. And that would be relevant if the memo line were an
22 accurate description of what the payments were for, right?

23 A. Sure.

24 Q. Okay. Separate question.

25 Can we go back to M-6? Thank you.

1 So about midway down M-6 in the Sources of Funds
2 is a number for Investment Income. \$886,600?

3 A. Yes.

4 Q. Do you see that?

5 A. Yes.

6 Q. Tell us what that is.

7 A. Yeah. So it's largely made up of the initial deposits
8 to this account. They were -- they were investment money
9 into Afrique Hospitality Group, is what I would be
10 expecting.

11 And then later there was -- one of the deposits
12 was 210,000, and there was -- that returned later. And I
13 think there was one more instance of investment income
14 deposits, maybe June of '21, but otherwise the majority of
15 it was in the beginning --

16 Q. Okay.

17 A. -- of the account opening.

18 Q. So this is people investing in -- people, entities,
19 money being invested in Afrique?

20 A. Yes, I would assume so, yes.

21 Q. Okay. So a while back in the trial we saw -- do you
22 remember there were images of either WhatsApp communications
23 or text exchanges between people?

24 A. Yes.

25 Q. Okay. I want to -- I want to go back to a photograph

1 that appeared in one of those.

2 Can we go to H-51a, page 2, please? H-51a,
3 page 2? Is that where we are? Okay. I must have the
4 wrong -- wrong page for that.

5 Okay. We can take this down.

6 Do you remember a page -- in these exchanges, a
7 photograph of a \$200,000 check to Afrique for shares, looked
8 like it was sitting on somebody's knee?

9 A. I believe so.

10 Q. Okay. Can we go to M -- back to M-6, please? Oh, you
11 found it? Thank you. Okay, yeah. It's good to have
12 friends.

13 H-50a. Page 2, yeah. There we go.

14 You remember this picture?

15 A. Yes, I do.

16 Q. And a discussion of it in evidence? So this appears to
17 be a photograph of a check from Empire Cuisine & Market to
18 Afrique Hospitality for \$200,000, right?

19 A. Yes.

20 Q. And the memo line says shares purchased or appears to be
21 shares purchased?

22 A. Right.

23 Q. Okay. Okay. I want to then look at M-6, a summary
24 document. And can we go to page 12?

25 Okay. Do you see at the bottom of page 12 -- can

1 we zoom in on the bottom a couple entries?

2 Okay. June 3rd. I think that was the same day
3 that was written on the check or at least close. Do you see
4 second line up from the bottom?

5 A. Yes. Yep, it's that check.

6 Q. Okay. Shares purchase. So that check was deposited
7 into the Afrique checking account.

8 A. Right, yes.

9 Q. That was not credited or considered to be an investment;
10 is that right?

11 A. It was not. It was part of the Empire Cuisine & Market
12 category.

13 Q. Okay. So that was kept out of the investment total?
14 Yes?

15 A. Yes.

16 Q. Okay. Okay. I want to change the subject just for a
17 second.

18 I think it was yesterday, maybe the day before,
19 but I'm pretty sure it was yesterday, you were asked to
20 testify about payments to Hadith Ahmed.

21 A. Yes.

22 Q. The guy who worked for --

23 A. Feeding Our Future.

24 Q. Okay.

25 A. Yep.

1 Q. And I think you prepared and there was some discussion
2 of a summary chart. M-43. Right?

3 A. Yes.

4 Q. Looking at his combined accounts. We don't need to --
5 and we can pull it up, if we need to. But that was a
6 summary that combined several of his accounts?

7 A. Yes, that's right.

8 Q. Two or three?

9 A. Probably three.

10 Q. Okay. And then went through the same analysis and the
11 same process of looking at things, characterizing it in
12 various ways and putting it into totals on the first page?

13 A. Yes.

14 Q. One of the things that you testified about, I think it
15 was yesterday, was payments to Hadith Ahmed, right?

16 A. Sure, yes.

17 Q. That were -- and payments that were reflected in
18 deposits in that -- those accounts?

19 A. Yes.

20 Q. And in that summary?

21 A. Right.

22 Q. Did he receive any payments from Mukhtar Shariff or any
23 payments from Mukhtar Shariff reflected in that document?

24 A. I don't believe so.

25 Q. What about Afrique?

1 A. No, I don't think so.

2 Q. Okay. Okay. The next thing I want to talk about is, we
3 spent some time yesterday on direct examination talking
4 about two exhibits, C-337 and L-5. Do you remember that and
5 those?

6 A. No.

7 Q. We can pull them up. So let's go to C-337.

8 C-337 is an email from Mahad Ibrahim to a number
9 of people, right?

10 A. Right, yes.

11 Q. Beginning with claims at Feeding Our Future, right?

12 A. Yes.

13 Q. And then there are a number of pages that follow that,
14 right?

15 A. Right, yes.

16 Q. Okay. So -- so before getting into the contents of
17 this, I want to ask you a little bit about the process that
18 goes on as records like this are obtained by you and the
19 team that you work with. Okay?

20 A. Okay.

21 Q. So documents, including documents like this, can come in
22 any number of ways. Sometimes there's a subpoena that's
23 given to an entity, right?

24 A. Sure, right.

25 Q. Bank records I think came from subpoenas to the banks?

1 A. Yes.

2 Q. Right?

3 A. Right.

4 Q. Sometimes there's actually a search warrant that is
5 obtained and served on, and in instances for records like
6 this, served on somebody who has the records, an entity that
7 has the records, right?

8 A. Right, right.

9 Q. And in this instance Mahad Ibrahim has a gmail account I
10 think that -- yeah, Mukhtar Shariff also has a gmail
11 account. Was a search warrant served on Gmail for email
12 addresses, including those two?

13 A. I don't remember.

14 Q. Okay. In any event, do you remember that search
15 warrants on email providers were used in the course of the
16 investigation?

17 A. Yes, yes.

18 Q. Okay. And so whether this came from a search warrant or
19 a subpoena, at least we're clear that this is a document,
20 like a large volume of others, that were obtained from, in
21 this instance, Google, right?

22 A. Right, yep.

23 Q. So when a document comes in, it is processed in a way.
24 Do you see the number on the bottom of the page?

25 A. Yes, I do.

1 Q. And so we call those Bates numbers, and some of us in
2 the courtroom are old enough to remember where that name
3 comes from, but we refer to those as Bates numbers. At
4 least you've heard that name being used?

5 A. Yes, right.

6 Q. And so the EML, dash, and then a bunch of numbers,
7 that's not something that was in the document as it was
8 obtained by law enforcement in the investigation, right?

9 A. I'm sorry. Can you say that again?

10 Q. I'm focusing specifically on the EML, dash, numbers in
11 the lower right-hand corner, right?

12 A. Yes, right.

13 Q. That's something that law enforcement adds to the
14 document as it's received, right?

15 A. Yeah, I believe so.

16 Q. Okay. And the documents are then obtained. And a
17 number is put on the bottom so that when we're looking at a
18 page, there's kind of a common reference point?

19 A. Yes.

20 Q. Right?

21 A. Yep.

22 Q. And so in this instance, there's a prefix that says EML,
23 right?

24 A. Yes.

25 Q. And then there's a number that is a page number, right?

1 A. Sure, yeah.

2 Q. That follows that?

3 A. Yes.

4 Q. Okay. Okay. In this instance the page number starts on
5 page 1 at 5109, right?

6 A. Yes.

7 Q. Can we go to the second page?

8 You see on the right-hand side, right?

9 A. Yes.

10 Q. The number jumps to 5116?

11 A. Yep.

12 Q. Right?

13 A. That's right.

14 Q. And then goes to 5124, I believe, if we go to page 8,
15 right?

16 A. Yeah.

17 Q. Okay. And then it jumps to 5110 -- or back to 5110,
18 right?

19 A. Yes.

20 Q. And goes to 5115.

21 Can we skip forward five?

22 Right?

23 A. Right.

24 Q. Okay. Then I think we go to 5136, right?

25 A. Yes.

1 Q. And that proceeds to 5148.

2 Can we go -- jump up another 12?

3 Okay. And then we got a stand-alone. It jumps
4 to -- or moves to 5125.

5 A. Yep.

6 Q. Okay. Okay. So the pages are out of sequence? Yes?

7 A. Yes, they are.

8 Q. Were they shuffled -- were they shuffled by you?

9 A. They were not shuffled by me.

10 Q. Were they shuffled?

11 A. They were shuffled.

12 Q. To create what impression?

13 A. It's not to create an impression. It's -- because we
14 did it with the O exhibits too, which is the bank
15 statements. It's just to put them in an easy order that we
16 could follow.

17 Q. So this is not -- what we're looking at is not the
18 exhibit, the document, as it was obtained by law
19 enforcement?

20 A. It's not in the same order.

21 Q. Is there a footnote on this document to say the pages
22 have been shuffled?

23 A. Well, you can see in the Bates number, that tells you
24 what page number it is.

25 Q. As compared to the form that this document was obtained

1 from Google, right?

2 A. Yes.

3 Q. It's been altered.

4 A. It hasn't been altered.

5 Q. It is not in the condition that it was obtained from
6 Google? Yes?

7 A. Neither are the O exhibits.

8 Q. The sequence then or the pages in this document were
9 altered by -- by the prosecution?

10 A. I wouldn't call it altering.

11 Q. The sequence was altered.

12 A. The pages were shuffled.

13 Q. Okay. In this document?

14 A. Yes.

15 Q. In the O series documents, the bank records?

16 A. Yes.

17 Q. Where else?

18 A. I don't know.

19 Q. At least those?

20 A. I think those -- I mean, I don't know. I think -- I
21 don't know. Those are probably it, is my guess, but I'm not
22 100 percent.

23 Q. Wow. Okay. Well, let's look at what is here.

24 Can we go to page 17?

25 Okay. Page 17 is an Upper Lakes Foods invoice,

1 right?

2 A. Yes.

3 Q. That was in the -- among the attachments to the email
4 that is the first page of this document, right?

5 A. Yes.

6 Q. And the first page of the document was the first page of
7 the document as received, right?

8 A. Right.

9 Q. Okay. Good to know.

10 Okay. So this is an invoice from Upper Lakes
11 Foods to Empire Cuisine & Market, right?

12 A. Yes, it is.

13 Q. Okay. And can we -- can we zoom in just on that top
14 group of food items there, please? Perfect.

15 Okay. So this is a food invoice from Upper Lakes
16 Foods. I think you -- can we say Upper Lakes Foods is a
17 large food distributor that operates in this part of the
18 country, right?

19 A. Yes.

20 Q. Okay. And so this shows -- this is an invoice
21 documenting food that was delivered on an Empire Cuisine &
22 Market account, right?

23 A. Right, yes.

24 Q. And I'm counting. So in the first -- well, second
25 column from the left is -- are numbers 405?

1 A. That's right.

2 Q. Do you see that?

3 A. Yep.

4 Q. And then the unit, a couple columns over to the right,
5 is CS, cases? Yes?

6 A. Sure, yes.

7 Q. Okay. So we got 40 cases of orange Tang juice, right?

8 A. Sure, yeah. 405?

9 Q. 405. Thank you.

10 A. Or, yeah, I guess I don't -- yeah, 405 cases, right.

11 Q. And another 405 of apple juice, right?

12 A. Yes.

13 Q. 810 cases of juice just in this delivery alone?

14 A. Yes.

15 Q. Okay. Can we go down to -- how about page 34? Let's
16 look at -- I just want to pull up a couple Sysco's.

17 Okay. So page 34 at the top I'm seeing -- can you
18 zoom in on just that top collection of things? Great.

19 Okay. So 20 cases of yogurt, another 20 cases of
20 different flavor of yogurt. Do you see that?

21 A. Yes, I do.

22 Q. So 40 cases of yogurt. Ten cases of 40 1-gallon milk,
23 skim milk gallons. Do you see that?

24 A. Yeah, I do see that.

25 Q. Okay. A little further --

1 MR. THOMPSON: Your Honor, I'm going to object.
2 This misstates the evidence. It's four, four cases of
3 1 gallon.

4 THE COURT: The jury will -- the jury will decide
5 what the evidence is.

6 BY MR. MOHRING:

7 Q. Ten cases, four cases, 1 gallon. I guess that's a
8 little --

9 (Counsel confer)

10 BY MR. MOHRING:

11 Q. Okay. Let's go down a little further, let me see, and
12 yet a little -- one more down. Okay.

13 Okay. 313 cases of Mott's apple juice. Do you
14 see that?

15 A. Yes, I do.

16 Q. 3,283 for that item alone?

17 A. Yep.

18 Q. Right? And I think right below that, the apple juice,
19 are there 210 cases of Dole pears in juice for \$4,819?

20 A. Yes.

21 Q. Right? Okay. So lots of food, right?

22 A. Yes.

23 Q. For significant sums of money, right?

24 A. Yes.

25 Q. Delivered, at least as this invoice indicates, to

1 Afrique Minneapolis, 1229 East Lake Street, right?

2 A. Sure, right.

3 Q. And did you know from your investigation -- from the
4 investigation, not you personally, did you understand that
5 1229 East Lake Street was a warehouse location or a location
6 that was used by Afrique to store food?

7 A. I wouldn't -- I don't know that it was a warehouse. I
8 am familiar with that address, but I wouldn't call it an
9 Afrique warehouse.

10 Q. Okay. It was a place where Sysco delivered food on the
11 Afrique account, yes?

12 A. Yes, it appears so.

13 Q. As a part of what we heard about, taking a step back,
14 the process by which claims were submitted to MDE, one of
15 the things that vendors were expected to offer and send to
16 their sponsors were invoices for the food that was
17 underneath the meals that they were making claims for.

18 A. Sure.

19 Q. Right?

20 A. Yes.

21 Q. And so if food was purchased centrally, purchased,
22 delivered to a location and ultimately sold and distributed
23 to different sites, that one invoice would reflect food that
24 was underneath the claims for more than one site, right?

25 A. Yes, although it would -- I would assume that this would

1 be under one sponsor, though, and not under both.

2 Q. That's quite an assumption. What if the food was bought
3 by Afrique and sold to people and distributed to sites that
4 were under different sponsors? Same invoice would reflect
5 food for -- that was underneath claims related to two
6 different sponsors, right?

7 A. Sure, that's possible, but, again, Afrique only paid
8 \$900,000 to Sysco.

9 Q. I'm not asking you how much they paid. I think we've
10 been over that. But these are substantial, we've said,
11 substantial quantities of food delivered to one location,
12 right?

13 A. To the 1229 East Lake Street.

14 Q. Okay. Okay. Still looking at food. You described --
15 but changing the subject some.

16 You described, I think yesterday or the day
17 before, a number of the kind of investigative lines that you
18 followed in following money, but looking for food.

19 A. Yes.

20 Q. Those were words that you used.

21 A. Right.

22 Q. Right? And so some -- an entity pays another entity,
23 and the memo or in some other way the suggestion is made
24 that what we're paying for is food. Right?

25 A. Right.

1 Q. And then so you would look at what the recipient of that
2 payment did with the money that they received, right?

3 A. Right.

4 Q. After they received it, right?

5 A. Right.

6 Q. And so -- and so I think we talked about -- there were a
7 number of examples, but one of those was BBI LLC, right?

8 A. Yes, right.

9 Q. And that was an entity that received money from Empire
10 and Bushra, right?

11 A. Right.

12 Q. And you looked at what BBI LLC did with the money that
13 they had been paid to see what they did with that, right?

14 A. Right, yes.

15 Q. And another example of that was -- I apologize. I'm not
16 going to get this right, but Manmabuyu, M-A-N-M-A-B-U-Y-U.

17 Do you remember that?

18 A. Yes, I do.

19 Q. And that was another example of an entity that received
20 money from people in this case?

21 A. Right, yes.

22 Q. And you looked to see what they did with that -- with
23 that money that they received, right?

24 A. Right.

25 Q. And I think in that instance there's a larger sum, but

1 at least some of that money bought cars from East Side Auto?

2 A. Yes.

3 Q. Right? So in looking for food, you looked at what the
4 recipients of money did with the money that they received
5 after they received it, right?

6 A. No, I looked at it in totality.

7 Q. The testimony was about what those entities did after
8 they received the money, right?

9 A. Yes, because I was looking to see how they spent that
10 money when they should have purchased the food beforehand.
11 So if -- so if they -- if they still owed food, it's a
12 reimbursable program, they should have taken that money and
13 spent it on food first. Right?

14 Q. But your testimony was about what they did with the
15 money after they received it, right?

16 A. That is one thing I did. I did not talk about
17 everything that I did on the case.

18 Q. Okay. And I'm not going to ask you about everything. I
19 do have some questions, though.

20 So -- so the name Gusto has come up a number of
21 times. And did you see that as a name of an entity that
22 appeared in some of the banking documents that you saw and
23 summarized?

24 A. Yes.

25 Q. So what is Gusto?

1 A. Gusto is a payment processor.

2 Q. Like a payroll system?

3 A. Payroll. It looks like they, yeah, they also paid out
4 contractors.

5 Q. Okay. And it's a stand-alone -- is it a business? It's
6 an entity unto itself?

7 A. Yes, it is.

8 Q. That -- that people can contract or pay to help them
9 process payroll payments, among other things?

10 A. Yes.

11 Q. Okay. And as I looked at it, the Afrique account had a
12 considerable number of payments to Gusto from the Afrique
13 account?

14 A. Yes.

15 Q. Checking account? Does that sound right?

16 A. Yes, that's right.

17 Q. And I think also from the A&E Logistics account there
18 were payments to Gusto?

19 A. Probably.

20 Q. Okay. And then I think there was testimony about the --
21 about Wadani Consulting? That's another entity that you
22 looked at and processed?

23 A. Yes.

24 Q. And there were Gusto deposits into Wadani Consulting; is
25 that right?

1 A. Yes, that's right.

2 Q. Okay. Okay. I want to -- let's then talk a little bit
3 about Wadani. Can we pull up B-7, please?

4 I think we looked at this yesterday or the day
5 before. Can we go to the second page?

6 So these are Secretary of State records, right?

7 A. Yes.

8 Q. Obtained in the connection -- in the course of the
9 prosecution's investigation in this case?

10 A. Yes, that's right.

11 Q. And these ones focus on Wadani Consulting LLC?

12 A. Yes.

13 Q. And they reflect that this -- that entity was registered
14 in the State of Minnesota on January 6th, '21, right?

15 A. Sure, yes.

16 Q. And can we go to the next page?

17 And so there's an LLC name. Wadani Consulting
18 LLC, right?

19 A. Right.

20 Q. There's an address, registered office and agents, if
21 any, at that address, right?

22 A. Yes.

23 Q. And then there's an organizer. Mukhtar Shariff, right?

24 A. Right.

25 Q. And then it's -- although it's not a signature, his name

1 appears by a field that says "Signed by"?

2 A. Yes.

3 Q. Right? And there's a mailing address and an email
4 address, right?

5 A. Right.

6 Q. Same email address as we've seen before in connection
7 with Mr. Shariff?

8 A. Yes.

9 Q. The investigation -- so you're aware -- are you aware
10 that Mukhtar Shariff moved to Minnesota some time in the
11 fall of 2020?

12 A. Yes, I am.

13 Q. From -- from Washington state?

14 A. Yes.

15 Q. And the investigation showed that Wadani Consulting
16 actually preexisted this filing and did work in Washington
17 state. Are you aware of that?

18 A. No, I'm not aware of that.

19 Q. Did your investigation look there, look in that
20 direction?

21 A. No.

22 Q. Okay. Okay. Wadani Consulting, you -- in the same
23 process that you described and then we talked about
24 yesterday, as you -- when you would identify an entity that
25 you wanted to learn more about --

1 A. Sure.

2 Q. -- there were two -- at least you took -- you took
3 steps, at least two steps. One was to see what the
4 Minnesota Secretary of State showed about that entity,
5 right?

6 A. Sure, yes.

7 Q. And the other was -- was to gather banking records and
8 take a look at what those showed, right?

9 A. Right.

10 Q. And I think you testified that that's a process that you
11 followed for lots of entities, but including Wadani
12 Consulting.

13 A. Yes.

14 Q. Right?

15 Can we go to O-53, please?

16 Okay. O-53 is -- I believe has been admitted.

17 MR. THOMPSON: Yes.

18 MR. MOHRING: Thank you.

19 BY MR. MOHRING:

20 Q. Is a collection of banking records from the Bank of
21 America, the Wadani Consulting checking account, right?

22 A. Right.

23 Q. A number of pages, but this is the beginning page,
24 right?

25 A. Yes.

1 Q. And so these records showed a number of deposits. I
2 think the opening deposit was 25,000. Does that sound
3 right?

4 A. I'm not sure.

5 Q. Okay. Did you also -- do you also see at the top, it's
6 Wadani Consulting on this account, but also there's a doing
7 business as, a d/b/a?

8 A. Yes, I do see that.

9 Q. Somali Diaspora Conference?

10 A. Yes.

11 Q. Okay. And do you recall that among the transactions in
12 this bank account were deposits to the account for that
13 name, the Somali Diaspora Conference? Do you recall any of
14 those?

15 A. I don't believe so.

16 Q. Okay. Let's -- can we go to page 141, please?

17 Okay. Page 141 of this document is a check,
18 appears to be written by the Islamic Association of
19 North America, right?

20 A. Yes.

21 Q. July 31st, 2021, right?

22 A. Yes.

23 Q. To the Somali Diaspora Conference, \$2500?

24 A. Right.

25 Q. That was deposited into this account?

1 A. Yes.

2 Q. Okay. Can we go to page 143?

3 A different entity, paid to the same recipient,
4 right? Somali Diaspora Conference, right?

5 A. Yes.

6 Q. In this instance \$10,000?

7 A. Right, yes.

8 Q. Okay. This is an account, so there's -- there are
9 records of deposits and there are records of receipts,
10 right, things received? Records of deposits, records of
11 spending?

12 A. Yes, right.

13 Q. Okay. Do you recall that there was a spending item,
14 \$23,799, to Northfield Lines Incorporated?

15 A. I'd have to see that.

16 Q. Okay. In any event, Somali Diaspora Conference was a
17 d/b/a on this account?

18 A. Sure, yes.

19 Q. Are you aware that there was an actual conference that
20 was presented?

21 A. I wouldn't doubt that.

22 Q. Okay. So this is Wadani Consulting's account. There's
23 evidence in the account of activity consistent with
24 consulting, right?

25 A. Well, I don't know if they're consulting. I mean, it

1 says marketing conference expense.

2 Q. Okay. And you looked in this consulting account, and
3 you said you were looking for food purchases. You did not
4 find any, right?

5 A. Sure, yes.

6 Q. The things that we've just looked at, though, were
7 there. Yes?

8 A. Yes.

9 Q. Okay. Yesterday we talked about D7-199. Can we pull
10 that up?

11 So D7-199 is the email from Mahad Ibrahim
12 forwarding a 2018 email on -- that forward happening on
13 July 21st, 2020, right?

14 A. Yes.

15 Q. And the attachments are Afrique Project Proposal pages?

16 A. Right.

17 Q. Right? At least include them.

18 And can we go to the next page?

19 And so these are images, images that look a lot
20 like the images that were in the pitch document that was --
21 that was sent by Mahad Ibrahim to Mukhtar Shariff, right?

22 A. Yes, right.

23 Q. Okay. I want to look now at D7-198, also admitted by
24 stipulation.

25 Right?

1 THE COURT: You mean, it has already been admitted
2 by stipulation?

3 MR. THOMPSON: Yes.

4 MR. MOHRING: Well, so there's a stipulation that
5 it may be admitted.

6 MR. THOMPSON: Yes, Your Honor. We stipulate to
7 the admission of this exhibit.

8 THE COURT: D7-198 is admitted.

9 MR. MOHRING: Thank you.

10 Can we pull it up?

11 BY MR. MOHRING:

12 Q. Okay. This is -- this is a different email sent to
13 Mahad Ibrahim on October 15th of 2020, right?

14 A. Yes, it is.

15 Q. Okay. And there are a number of attachments, including
16 Eat Afrique Hospitality Management Group and an agreement.

17 Do you see that?

18 A. Right, yes.

19 Q. And then there's a document -- can we just go to the
20 next page -- a document that reflects names and percentages,
21 do you see that, in a chart?

22 A. I do.

23 Q. And including Mahad Ibrahim?

24 A. Yes.

25 Q. A number of other names?

1 A. Right.

2 Q. Right? Not Mukhtar Shariff, correct?

3 A. Right. No.

4 Q. Okay. And then next page, please.

5 And then this -- what begins here is a many-page
6 limited liability company agreement, right?

7 A. Yes.

8 Q. That talks about Eat Afrique Hospitality Management
9 Group, the company. Do you see that in bold under the
10 Scope?

11 A. Yes, I do.

12 Q. And then -- and then there's a discussion of the
13 purpose, but the purpose discusses food and beverage
14 management projects and programs and restaurants, right?

15 A. Yes.

16 Q. Okay. Thank you.

17 We went at some length, and I'm not going to take
18 you through all of that, yesterday and I think even the day
19 before, through bank records and discussion of payments to
20 foreign entities, foreign wire transactions, right?

21 A. Yes.

22 Q. And there were at least -- I think I counted maybe four
23 different entities that -- and maybe there were more than
24 that, that were on the receiving end of international
25 transfers?

1 A. Yes.

2 Q. So there were a couple of tire companies, right?

3 A. Yes.

4 Q. In China?

5 A. Yes.

6 Q. And then there was -- I think it's Jiangxi, J-I-A-N-X-I,
7 next word, Enda, E-N-D-A, Linen Company?

8 A. Yes.

9 Q. Do you remember money being transferred internationally,
10 wired to those entities?

11 A. Right, yes.

12 Q. And then we certainly spent a lot of time hearing about
13 Capital View Properties and money being transferred to bank
14 accounts in Kenya relating to that entity?

15 A. Sure, yes.

16 Q. Okay. Did Mukhtar Shariff -- you looked at the Afrique
17 checking account. You looked at the Wadani Consulting
18 checking account.

19 In any of your investigation of those accounts or
20 any others, were you able to find any transfers by Mukhtar
21 Shariff to either of the Chinese tire companies?

22 A. I -- not -- not to those that we went over, but I did
23 see foreign transfers.

24 Q. Did you see any transfers to the Chinese textile
25 company?

1 A. No.

2 Q. Did you see any transfers from Mukhtar Shariff related
3 to Capital Properties?

4 A. No, I did not.

5 Q. Or other real estate in Kenya?

6 A. Not directly.

7 Q. Okay. You looked at records of international activity
8 in connection with these wire transfers, right?

9 A. Yes.

10 Q. And it's -- it's fair -- it's accurate, is it not, that
11 the defendants in this case are all -- all have ties to
12 Somalia, are all Somali?

13 A. Right. Generally East African. I don't know what
14 countries.

15 Q. Okay. Have you received training in East African
16 culture or East African business practices as a part of your
17 work as a forensic accountant?

18 A. I wouldn't -- I wouldn't call it formal training, but I
19 did receive some training as I was working this case. And I
20 have been working this case for three years now, so it's --

21 So, yes, so I have seen the pattern and, you know,
22 how financial transactions are conducted. And I -- yes, and
23 I am familiar with certain things like, you know, the naming
24 convention, hawalas, hog bots, things like that.

25 Q. Okay. You're aware then that entrepreneurial activity

1 is unusually -- is an unusually large feature of East
2 African immigrants in the -- in our part of the country?

3 A. Sure.

4 Q. And you're aware that as a component of that business
5 activity in this group of immigrants that there's a certain
6 amount of informality in the way the transactions are done,
7 right?

8 A. Sure.

9 Q. That transactions are conducted based on trust,
10 significantly?

11 A. Sure.

12 Q. Right? And sometimes based on tribal affiliation?

13 A. Sure.

14 Q. Okay. I want to ask, I think, finally, a couple
15 questions about seizure activity.

16 A. Okay.

17 Q. Okay?

18 A. Yeah.

19 Q. In a number of the summaries that we saw on the uses
20 side -- so sources and uses, right?

21 A. Yes.

22 Q. So on the uses side of a number of the summaries that
23 you prepared, often a significant line item reflected
24 seizure activity, right?

25 A. Yes.

1 Q. So that would be money that was in bank accounts
2 controlled by the people that were subject of this
3 investigation that at a certain point in the investigation
4 was frozen and seized by you guys, right?

5 A. Yes.

6 Q. And sometimes that number was in the ranking of uses of
7 money -- I remember some charts where it was fairly close to
8 the top, right?

9 A. Yes, right.

10 Q. So money in connection with a federal criminal
11 investigation can be frozen and seized when that money is
12 believed to be the proceeds of illegal activity, right?
13 That's one way?

14 A. Right.

15 Q. And then there's also -- it's also possible to seize
16 property when property was used to facilitate criminal
17 activity too, right?

18 A. Yes.

19 Q. So if it was -- if something was bought or acquired with
20 proceeds that are believed to be illegally obtained, that's
21 one way that those things can be seized?

22 A. Sure.

23 Q. Sometimes cash --

24 A. Yes.

25 Q. -- itself? But also any property that was used in

1 connection with the offense can also be seized, whether it
2 was bought with legitimate proceeds or not, right?

3 A. Sure.

4 Q. And you've seen the indictment in this case, right?

5 A. Yes.

6 Q. And the indictment has --

7 MR. THOMPSON: Your Honor, I'm going to object and
8 ask for a sidebar.

9 **(Sidebar discussion)**

10 THE COURT: Mr. Thompson.

11 MR. THOMPSON: Your Honor, I assume where
12 Mr. Mohring is going with this is to cross-examine about
13 whether or not we seized certain assets, whether it's
14 property or accounts, and with the suggestion that if we
15 didn't seize certain accounts or property that that's
16 probative of not guilty or a belief that they weren't
17 involved in a fraud.

18 I object on several grounds. One, it's calling
19 for a legal conclusion. Two, she has no foundation to
20 answer these. I think it's irrelevant and confusing. The
21 witness doesn't make the decisions about whether or not to
22 forfeit assets. That's a legal decision that's not even
23 made by me. Generally, it's someone in our asset forfeiture
24 department that makes those. There's a whole host of
25 factors that go into it that are both legal in terms of our

1 ability to seize assets, but also equitable.

2 And it's misleading. I don't think we have
3 forfeiture authority or authority to forfeit property or
4 accounts that are used to facilitate crimes, at least not
5 these crimes.

6 It's a complicated area of the law that's far
7 beyond this witness's knowledge. And I think it's
8 objectionable, it's confusing to the jury, and it poses 403
9 concerns.

10 THE COURT: Mr. Mohring?

11 MR. MOHRING: Am I on? Can you hear me?

12 THE COURT: Yep.

13 MR. MOHRING: Okay. Only part of that is
14 accurate, Your Honor.

15 It is true that the next questions would be that
16 there is no -- has been no forfeiture seizure activity
17 targeting any of the assets in any of Mr. Mukhtar Shariff's
18 accounts, nor any of his property. That's the end of the
19 question, the questioning about that.

20 THE COURT: And what's the relevance?

21 MR. MOHRING: The relevance is that while they
22 have sought to obtain property from other people, they have
23 not identified Mr. Shariff -- any property of Mr. Shariff in
24 that same way.

25 THE COURT: It's not relevant.

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(In open court)

MR. GOETZ: May we just have a moment, Your Honor?

THE COURT: Yes.

That objection is sustained.

(Mr. Mohring and Mr. Goetz confer)

MR. MOHRING: Okay. I want to go back to M-31.

And before we show it to the jury, can I confirm
is that admitted?

(Counsel confer)

MR. GOETZ: I believe that is in evidence.

MR. THOMPSON: Yeah, it is, Your Honor.

THE COURT: M-31. Go ahead.

BY MR. MOHRING:

Q. Okay. So M-31 has -- so this is a summary of the Wadani
Bank of America checking account, right?

A. Yes.

Q. From its opening. It looks like period of review
February 16th, '21, to December 31st, '21?

A. Yes.

Q. Okay. And so in Uses of Funds, there's a Travel
Expenses field, right?

A. Right.

Q. 41,834, right?

A. Yes.

Q. Okay. Can we go to O-53, please, page 149?

1 So O-53 is the bank records, Bank of America
2 records for this account that's summarized at M-31, right?

3 A. Yes.

4 Q. Okay. This is a check that I was asking about before,
5 Northfield Lines Incorporated, 23,799.20, right?

6 A. Yes.

7 Q. For transportation, is what's in the memo field?

8 A. Okay. Yep.

9 Q. Right? And November 18th, '21?

10 A. Yes.

11 Q. Right? And just below the face of the check is the back
12 of the check that shows that it was -- it was negotiated.
13 It was deposited, right?

14 A. Yes, that's right.

15 Q. Which category -- did you put that in Travel Expenses?

16 A. Could we go back to page 1?

17 Q. Please.

18 A. Or I'm sorry.

19 Q. So page 1 -- go to M-31, right?

20 A. Yes. I'm sorry.

21 So what I believe I did with that is actually in
22 Other Expense.

23 Q. Okay.

24 A. But, yeah, the Travel Expenses would be of personal use.

25 And that appeared to be business use.

1 Q. Okay. Great.

2 MR. MOHRING: I have no further questions, Your
3 Honor.

4 THE COURT: Thank you.

5 You know, let's do this. I need to break in about
6 ten minutes anyway. So let's go ahead and you can get set
7 up after the lunch break.

8 Could we come back at 1:25? Would that work for
9 the defendants?

10 MR. ANDREW BIRRELL: Sure.

11 THE COURT: All right.

12 MR. MOHRING: I think that transgresses on prayer
13 time, Your Honor.

14 THE COURT: All right. That was my question.

15 So let's do 1:30 as usual. We're just going to
16 take a little bit longer lunch break. Okay?

17 Thank you, everyone.

18 **IN OPEN COURT**

19 **(JURY NOT PRESENT)**

20 THE COURT: Thank you, everyone. We're in recess
21 till 1:30.

22 (Recess taken at 12:11 p.m. till 1:32 p.m.)

23

24 **IN OPEN COURT**

25 **(JURY PRESENT)**

1 THE COURT: You may all be seated.

2 And, Mr. Birrell, cross-examination.

3 MR. ANDREW BIRRELL: Thank you, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. ANDREW BIRRELL:

6 Q. Ms. Roase, what I would like to do with you this
7 afternoon is to have a talk with you so we can give the jury
8 some tools to evaluate the information that you're
9 presenting. Okay?

10 A. Okay.

11 Q. So you are an auditor?

12 A. I was an auditor. I am now an accountant.

13 Q. Okay. So you account? Is that what you do?

14 A. Sure, yes.

15 Q. What you do is you try to follow the money?

16 A. Yes.

17 Q. That is how you do your investigation; is that right?

18 A. Sure, yes.

19 Q. What?

20 A. Yes.

21 Q. You are not a food expert?

22 A. I am not a food expert.

23 Q. You are not a nutritionist?

24 A. No.

25 Q. You are not a food supply chain expert?

- 1 A. No.
- 2 Q. You are not an expert in these food programs?
- 3 A. No.
- 4 Q. You have some knowledge about them?
- 5 A. Yes.
- 6 Q. So, for example, you know about meals?
- 7 A. Sure, yes.
- 8 Q. What are the five components of a meal?
- 9 A. If you're talking about the food group, it's -- I would
10 say it's protein, vegetables, fruits, milk, and there's one
11 more.
- 12 Q. Is there?
- 13 A. There's one more, right?
- 14 Q. What is it?
- 15 A. You tell me.
- 16 Q. You're answering the questions. I'm asking them.
- 17 A. Okay.
- 18 Q. I'll treat you fair; you treat me fair. All right?
- 19 A. I think I answered the question.
- 20 Q. All right. Put up 13a. This is already in evidence.
21 You made this?
- 22 A. Yes, I did.
- 23 Q. It's called a pivot table?
- 24 A. Yes.
- 25 Q. Comes from an Excel spreadsheet?

1 A. Yes.

2 Q. And the Excel spreadsheet is populated with underlying
3 data that you put in; is that right?

4 A. Yes. Right.

5 Q. Okay. So let's break that down a little bit.

6 So the underlying data that you put in, in
7 particular, is the O series of bank accounts?

8 A. Yes, that's right.

9 Q. And the O series consists of, what, hundred thousand
10 pages?

11 A. I would say hundreds of thousands of transactions.

12 Q. How many pages?

13 A. I don't know how many pages.

14 Q. All right. And then from these -- and the O series is
15 in evidence?

16 A. Yes, it is.

17 Q. Okay. Now, I noticed when you were answering
18 Mr. Mohring's questions there was some issue about shuffling
19 the O series. So before we get further, I want to
20 understand what that means.

21 A. Sure. I can answer. It was rearranged, just like the O
22 series, into more easily understandable format. They were
23 not altered.

24 Q. I didn't say they were altered.

25 So you put the bank account information into the

1 Excel spreadsheet? Is that what you are talking about?

2 A. No, I'm not.

3 Q. All right.

4 A. I'm talking about the O series itself.

5 Q. Yeah.

6 A. It starts with a bank application.

7 Q. Yeah.

8 A. And then the bank statements, then the deposits, then
9 the withdrawals, then cashier's checks, then wires, and then
10 the 902(11) certifying that these are true and accurate
11 records provided by the bank. That's what I meant.

12 Q. All right. So just so we're clear, are these bank
13 records in the form that you receive them from the bank?

14 A. Each page individually, yes.

15 Q. But you rearranged the pages?

16 A. To make them as trial exhibits.

17 Q. Did you rearrange the pages?

18 A. We did, yes.

19 MR. THOMPSON: Your Honor, I'm going to object and
20 ask for a sidebar.

21 **(Sidebar discussion)**

22 THE COURT: Mr. Thompson.

23 MR. THOMPSON: Your Honor, this is the second
24 attorney who has suggested that the altered -- records have
25 been altered. They most emphatically have not.

1 When the banks produce bank records, they often do
2 it in a haphazard format, sometimes, for example, in reverse
3 chronological order. There's at least one local bank that
4 produces all the January statements for each year, then all
5 the February statements, then all the March statements.

6 All Ms. Roase did, as she's explaining, is put
7 them in an orderly fashion for the jury to understand. This
8 is a confusing line of questioning. There's a suggestion
9 that they've altered the records and there's some sort of
10 misconduct at play. If the defense had an issue with these
11 exhibits, they should have raised it before they were
12 introduced.

13 I would ask that this line of questioning be
14 stopped and that, frankly, that there be an instruction to
15 the jury that there's been nothing wrong done with these
16 exhibits.

17 THE COURT: Mr. Birrell.

18 MR. ANDREW BIRRELL: Well, Your Honor --

19 THE COURT: You're not on.

20 MR. ANDREW BIRRELL: I'm not saying that she
21 altered them. I'm just clarifying what has happened to them
22 because she herself raised this issue in her response to
23 Mr. Mohring's questions. I think it's a perfectly
24 appropriate line of inquiry.

25 If I was claiming that she was altering the

1 records, I would be saying she's altering the records. I'm
2 just trying to clarify what she said.

3 And to give the jury an instruction about the
4 character and quality of these exhibits is a -- is very
5 improper and a very bad idea.

6 MR. MOHRING: If I could -- am I on?

7 Andrew Mohring on behalf of Mr. Mukhtar Shariff.
8 May I weigh in on this also, Your Honor?

9 THE COURT: Sure.

10 MR. MOHRING: Sequence is work product. And
11 recrafting sequence to -- with an intent, as has been
12 described, to impact the jury -- make it easy for the jury
13 is a nice way to say it, but the sequence, which is work
14 product, has been changed. And so the sequencing now
15 reflects work product intentionally applied. I think that
16 the fact that that happened is relevant for the jury's
17 consideration.

18 THE COURT: Why was there no objection made to
19 these exhibits? They all came in without objection.

20 MR. MOHRING: The sequencing we only note --
21 there's no indication of resequencing other -- it's true,
22 the pages -- the pages --

23 THE COURT: That's the way that you noticed it.

24 MR. MOHRING: -- until we tried to compare newly
25 admitted and G-337 to pull up those pages.

1 THE COURT: If you're going to, all right, if you
2 are going to argue that there's something improper about the
3 exhibits, there should have been an objection.

4 I'm not going to give the jury an instruction, but
5 I do want to let her explain what she has done. And I
6 don't -- we can talk about what will happen in closing
7 argument, but you have to at least let her explain what
8 she's done.

9 (In open court)

10 THE COURT: You may continue.

11 MR. ANDREW BIRRELL: Okay.

12 BY MR. ANDREW BIRRELL:

13 Q. Why don't you explain what it is you did with the
14 O series.

15 A. Me personally?

16 Q. Whoever did it. Did you participate in it?

17 A. I did not, but you want me -- do you want me to explain?

18 Q. Sure.

19 A. We had another forensic accountant.

20 So when we get the bank records, there's a lot of
21 data. It's hundreds and hundreds, sometimes thousands of
22 pages for one bank account.

23 And so there's -- sometimes there's multiple
24 signature cards. There's the bank statements itself, which
25 can be hundreds, thousands of pages, and then checks,

1 depending on which bank provides the checks, and the
2 deposits. Sometimes it's just one individual check on one
3 page. And so, again, that will be thousands and thousands
4 of pages. And, yeah, and then sometimes they provide wire
5 information.

6 And so we're talking about thousands and thousands
7 of pages for one account. So in order for us to be able to
8 maneuver through it more easily in the O exhibits, which is
9 where the bank accounts are, we had a system where we first
10 put the signature cards up top and then next comes the bank
11 statements, then the deposits, then the checks, then the
12 cashier's checks, and then wires.

13 And then, again, we finish it up with a 902(11)
14 form, which is a certification from the bank basically
15 stating that these are true and accurate records.

16 Q. Okay. You finished with your explanation?

17 A. Yes.

18 Q. Yeah, okay. All right.

19 So let's look at this pivot table. So what
20 happens is you come into possession of a lot of information
21 like bank records.

22 A. Yes.

23 Q. And then you put some of the bank records into Excel
24 sheets.

25 A. Yes.

1 Q. Okay. And just so the jury knows, an Excel program is a
2 software program that allows people to do different things
3 with data.

4 A. Sure. Yes, right.

5 Q. All right. So the purpose of putting the -- some of the
6 bank records -- you put some of them in or all of them?

7 A. All 300?

8 Q. You said 3,000, I thought.

9 A. 3,000 for the entire case, yes; but 300 for this trial,
10 specifically.

11 Q. Okay. So did you put all 300 bank accounts into the
12 Excel spreadsheet?

13 A. I would say yes. I would say -- I would say 95 percent,
14 at least. There may be a couple that were out of the time
15 period where, for example, it opened in early 2018 and it
16 closed in 2019. That's out of my period of review, so those
17 would not be, most likely, would not be entered into Excel.

18 Q. All right. So you put all the bank records that you had
19 that you thought were appropriate into the Excel system?

20 A. Sure, yes.

21 Q. Okay. Now, was that something you did of your own
22 decision, or was there a group decision, or how did that
23 happen?

24 A. I -- I wouldn't -- I guess I wouldn't say it's a -- it's
25 kind of hard to explain. I think -- I think I would say

1 that it was my decision.

2 Q. Okay.

3 A. Yeah.

4 Q. Fair. And now when you have the documents into the
5 Excel system -- I'll call it a system.

6 A. Okay.

7 Q. You can -- you can do different things with the
8 information, right?

9 A. Yes.

10 Q. All right. So you could query the Excel system for a
11 particular word, right?

12 A. Sure. Yes.

13 Q. So you might say "food."

14 A. Right.

15 Q. And then it would produce -- this software is in a
16 computer, right?

17 A. Yes.

18 Q. It seems obvious, but let's say it.

19 So you type in the word "food," and then it will
20 produce a report of all the items in its system with food.

21 A. No. I think that would be more of a Microsoft Access
22 function. I'm sure that you could write a macro to do that
23 kind of search. I'm not -- I'm not very good with macros.

24 But what we can do is we can filter or, you know,
25 do a "find 'food'" and then it will show one by one. Or I

1 can filter a call-in where I know -- or I would expect food
2 to be mentioned in the check memo line column, so then I
3 could filter for just food.

4 Q. So different ways to get to the same place?

5 A. Yes.

6 Q. Yeah. All right.

7 A. Yes.

8 Q. Now, then when you have that data, you can -- you can
9 have the Excel system create a pivot table.

10 A. Yes.

11 Q. All right. And that's -- when we're talking summary
12 charts, that's what a pivot table is?

13 A. Yes.

14 Q. All right. So the pivot table summary charts, like
15 M-13a, is a document that you created with that three-step
16 process?

17 A. Yes.

18 Q. Okay. And then you can actually design the pivot table
19 yourself?

20 A. Yes.

21 Q. Okay. And so, for example, you -- on 13a you have it
22 titled Combined Empire Cuisine & Market LLC Bank Accounts
23 for the period of review?

24 A. Yes.

25 Q. And then you -- on the left-hand side you -- this is a

1 fairly common Source of Funds/Use of Funds, the way to do
2 this, right?

3 A. Right, yes.

4 Q. Okay. And so you can decide the names of all the
5 categories of the Sources of Funds?

6 A. Yep.

7 Q. And then you can call up from the Excel spreadsheet
8 those categories and populate them.

9 A. Yes.

10 Q. And these other little charts, I call them little, but
11 13az or whatever, is the underlying data in one of these
12 categories?

13 A. Yes, that's right.

14 Q. Okay. So we're kind of opening that up to see what's in
15 there?

16 A. Yes.

17 Q. So this is like a book with chapters?

18 A. Yes.

19 Q. Okay. I just thought that up. I kind of like it.

20 All right. Use of Funds, the same sort of
21 analysis?

22 A. Right, yes.

23 Q. So you decide, all right, these are the -- these are the
24 categories. And then you decide what monies, checks,
25 whatever, go in the categories?

1 A. Yes.

2 Q. All right. And so this document, this pivot table,
3 represents your analysis and explanation of what you are
4 saying happened with the monies in this account?

5 A. Yes.

6 Q. Okay. And the way that you construct this is pretty
7 much entirely up to you?

8 A. Yes.

9 Q. All right. Now, you said that you were the lead, I
10 think?

11 A. Yep.

12 Q. Okay. So is there a team that you're leading, or who
13 are you leading?

14 A. Yeah, I wouldn't call it a team. Well, I mean, I
15 wouldn't -- I guess I'm not -- I wouldn't call it I'm
16 leading them. There are two other forensic accountants that
17 are also working this case jointly with me.

18 Q. So do you have the final decision-making authority about
19 these pivot tables?

20 A. It's not a formal process, I guess. For me, I created
21 these categories specifically. So, yeah, I -- I mean, I
22 think if one of the other forensic accountants were to
23 create categories, it would look different than mine. We
24 just -- it's kind of an independent process.

25 Q. It's a personalized view of what you're looking at.

1 Your view.

2 A. Sure, yeah.

3 Q. I mean --

4 A. Right.

5 Q. Okay. Excuse me.

6 Now, you said that you follow the money.

7 A. Yes.

8 Q. And is that the way you always conduct your
9 investigations?

10 A. That's one step that I usually take, yes.

11 Q. Well, that's -- is that your sort of overarching
12 principle about what you're doing? That's how I understood
13 what you were saying.

14 A. Sure, yeah, yeah.

15 Q. All right. Okay. So when you -- when you work with
16 your group here, do you talk with the prosecutors about
17 these pivot tables?

18 A. No, not generally.

19 Q. All right. You just show up and say, Here they are?

20 A. No, there's a discussion at some point, but I don't work
21 with them on the categories.

22 Q. Well, do they get -- do they get refined, altered,
23 changed in the litigation process or do they stay the same?

24 A. No, they've changed. Some have changed.

25 Q. Okay. All right. So you consider yourself a member of

1 the prosecution team? Is that fair to say?

2 A. Yeah, sure, yeah.

3 Q. All right. And you sit back here between the case agent
4 and an Assistant United States Attorney?

5 A. Yes.

6 Q. I imagine you talk with them in the evenings, breaks and
7 things?

8 A. Yeah.

9 Q. Have you discussed your testimony in the evenings or the
10 breaks?

11 A. Yeah. To prepare for the testimony, yes.

12 Q. Since the time you took the oath and started to testify,
13 have you visited with any member of the team about your
14 testimony?

15 A. In what capacity do you mean?

16 Q. I mean, talking with them about your testimony.

17 A. I mean, I guess, yes, generally.

18 Q. All right. When you use the raw data to create an Excel
19 spreadsheet -- that's what I should have called the thing
20 before, right?

21 A. Yeah.

22 Q. Yeah, all right. There's a number of columns on it.

23 A. Yes.

24 Q. And one of the columns is the column that talks about
25 categorization.

1 A. Yes.

2 Q. And that column is typically on the far right.

3 A. It can be anywhere.

4 Q. All right.

5 A. Yeah, it's up to, I guess, me or us.

6 Q. It's what?

7 A. It's up to me or who -- I mean, yeah, there's no like
8 standard way, but, yeah, it can be -- it can be in any
9 column.

10 Q. So what would be some of the columns we might expect to
11 see?

12 A. So there would be -- so usually -- I guess what I
13 personally do is I have an input number. So -- so that's on
14 the far left.

15 And then there's -- then the next column would be
16 the name of the account that I'm looking at. And then the
17 bank is in the next column. The account number is in the
18 next column. There's a transactions date column. Then
19 there's a posted date column.

20 Q. Posted? Yeah.

21 A. Yes. And then there's a year column. And then there's
22 a category column, payor, payee, check memo line, deposits,
23 withdrawals, balance, and then notes column.

24 Q. Okay. So what was the first column?

25 A. It's an input number.

1 Q. What is that? Where you got it?

2 A. What's that?

3 Q. Is that where you got it?

4 A. No, it isn't. It's just numbered because sometimes --
5 so, you know, starting in, you know, the order of, you know,
6 from like the, I guess, the earliest date to the most
7 current date.

8 And then sometimes the deposit line, there's
9 multiple checks and not just one. So I had to split that
10 out to reflect -- you know, say if there's five checks, so
11 then say, you know, that deposit is line item number 5, so
12 then I would split that out. There would be five line items
13 called number 5 to account for each of the five separate
14 deposits.

15 So that's what I mean by the input order.

16 Q. Okay. And the notes is your notes about the item?

17 A. Yes.

18 Q. Then if there's something in the memo line on the check,
19 you put that in there?

20 A. Yes.

21 Q. And then there's this category line?

22 A. Yes. Column, yes.

23 Q. Column. Thank you.

24 That's the one you said was usually hidden?

25 A. It's hidden in these exhibits.

1 Q. Okay. So the exhibits that the jury has don't have the
2 category column?

3 A. It does not.

4 Q. All right. And so circling back to the pivot chart
5 here, the category column is related to -- let's look at Use
6 of Funds -- where that particular item goes, right?

7 A. Sure, yep.

8 Q. All right. And so what sort of information might we see
9 if we saw the category column? What would it say?

10 A. I'm not sure what you mean, but these are the
11 categories.

12 Q. If we looked at the category column in the Excel
13 spreadsheet --

14 A. Yes.

15 Q. -- what would it say?

16 A. It's these items. These are the categories.

17 Q. It would say food expense or --

18 A. Right, yes.

19 Q. -- cash out or whatever?

20 A. Yes. Yep, that's what it would say.

21 Q. Okay. And so those would be -- the category column
22 items is where you want that item to go into on the Use of
23 Funds side?

24 A. Yes.

25 Q. Okay. So the way this is working is you are deciding

1 what the categories are, right?

2 A. Yes.

3 Q. And then what goes in what category?

4 A. Sure. Yes.

5 Q. Okay. So this is a decision that you're making about
6 how to characterize the transaction?

7 A. Yes.

8 Q. All right. The categories that are available to you to
9 use in, say, Use of Funds are just bounded by your
10 imagination, right?

11 A. I'm sorry. Can you repeat that?

12 Q. Well, you could create any kind of category you wanted.

13 A. I mean, yeah, right. Yeah, I could, yes.

14 Q. So you could have -- you could have, for example,
15 created the category of Cost of Overhead in Providing Food?
16 You could have had one like that?

17 A. Yeah, that's a little bit difficult to do. There's --
18 this wouldn't reflect, say, like a profit and loss
19 statement, for example, in like a financial statement, like
20 a cost of goods sold, because I don't have that knowledge of
21 what would be considered cost of goods sold or labor or
22 whatever.

23 So -- so, yes, there -- there -- I try to keep it
24 general so that it wouldn't be misleading, like, for
25 example, Payments to Other Individuals, 1.4 million, I

1 believe a lot of that is labor cost, but I don't know for
2 sure and I don't -- I don't know what the breakout is. So
3 instead of calling it Labor Cost or whatever, I just call it
4 Payments to Other Individuals.

5 Q. All right. Well, you anticipated my next question.

6 In order -- what this -- you looked at the
7 contract between, say, Empire Cuisine & Market and the
8 sponsor. Did you look at that?

9 A. Yes.

10 Q. All right. And what -- a contract is a written legal
11 agreement.

12 A. Right.

13 Q. And in this case the contract was written by some
14 governmental agency.

15 A. Sure, yes.

16 Q. Okay.

17 A. Right.

18 Q. And it says that the responsibilities of the sponsor are
19 these and the responsibility of the vendor are those.

20 A. Yes.

21 Q. Yeah. And what the vendor's responsibilities are is to
22 provide meals.

23 A. Yes.

24 Q. That's it.

25 A. Okay.

1 Q. All right. And the meals, of course, don't just show up
2 by themselves, right?

3 A. Right.

4 Q. Okay. So the vendor has to go out and acquire food.

5 A. Right.

6 Q. And this is -- this is a reimbursement contract, as you
7 talked about before.

8 A. Yes.

9 Q. And what that means is that under this contract the
10 vendor only gets paid after the meals are delivered.

11 A. Yes.

12 Q. And there's a process around that.

13 A. Yes.

14 Q. All right. And so -- so the vendor has to buy the food.

15 A. Yes.

16 Q. The vendor has to -- and that's spending the vendor's
17 money or persuading someone to extend credit.

18 A. Sure, yes.

19 Q. Then the vendor has to transport the food.

20 A. If that is the agreement, yes.

21 Q. Well, it has to get from where it is to where it needs
22 to go somehow, right?

23 A. Sure, yes.

24 Q. And that responsibility lies with the vendor.

25 A. I don't know if that's a rule. I mean, I think the site

1 could probably go pick it up from the vendor as well, but I
2 know what you are saying.

3 Q. Okay. So the site could go pick it up. There's labor
4 costs you talked about.

5 A. Yes.

6 Q. There's truck costs.

7 A. Yes.

8 Q. Trucks run on fuel.

9 A. Yes.

10 Q. Those are costs.

11 A. Yes.

12 Q. Driven by people.

13 A. Yes.

14 Q. Who have to be paid.

15 A. Yes.

16 Q. Insurance costs.

17 A. Yes.

18 Q. All those costs.

19 A. Yes.

20 Q. Okay. Now, Empire Cuisine & Marketing had a warehouse
21 space it rented?

22 A. I'm not sure.

23 Q. Anza?

24 A. Oh, yes, in Owatonna.

25 Q. Yeah.

1 A. Yes.

2 Q. That was like a million some dollars they paid for rent?

3 A. I don't think that was all rent.

4 Q. What was the rest of it?

5 A. I think it was for transportation.

6 Q. Okay. It was money they spent to get food to Owatonna?

7 A. Yes.

8 Q. Okay. I just have one quick question. Are you
9 contending Dominoes is not food? I mean, we heard something
10 about Dominoes earlier, but --

11 A. No, I have it marked red because it is considered food.

12 Q. Ah.

13 A. Yeah.

14 Q. I will be pleased to hear that. Okay. Thank you.

15 All right. So in the course of looking around
16 here, you discovered a lot of, well, a number of unpaid
17 invoices for food, right?

18 A. A number of paid invoices?

19 Q. Unpaid.

20 A. Unpaid?

21 Q. Outstanding demands for payment for food delivered and
22 provided.

23 A. I didn't see them until recently from the defense.

24 Q. All right. So are they reflected in this pivot chart?

25 A. They are not.

1 Q. You would agree that if there's a bill for food, then
2 there must have been food?

3 A. Not necessarily.

4 Q. Oh, okay. You got some reason to claim they're phoney?

5 A. I'm not sure which -- like what you are referring to. I
6 mean, if you have something specific.

7 Q. Well, you saw -- you saw claims for demands for payment
8 for food recently?

9 MR. THOMPSON: Objection, Your Honor. I'd ask for
10 a sidebar.

11 THE COURT: You may.

12 **(Sidebar discussion)**

13 THE COURT: Mr. Thompson.

14 MR. THOMPSON: Your Honor, after the government
15 executed its search warrants, some time significantly after,
16 some of the entities related to the defendants issued
17 large -- letters insisting that they were owed hundreds of
18 thousands of dollars for unpaid invoices.

19 Those invoices are hearsay. We have every reason
20 to question their validity. And they're not admissible in
21 court either as exhibits or through testimony of this
22 forensic accountant. She has every reason -- and she can't
23 answer this, because she's nervous to answer because, of
24 course, she has every reason to believe these are fake
25 invoices, and she doesn't want to -- wants to follow the

1 Rules of Evidence.

2 THE COURT: Mr. Birrell.

3 MR. ANDREW BIRRELL: Well, I want to follow the
4 Rules of Evidence too, so I'll move on to something else.

5 THE COURT: Thank you.

6 (In open court)

7 BY MR. ANDREW BIRRELL:

8 Q. Okay. So let's -- let me ask you this. If you need to
9 see your charts, I'll show you.

10 A. Okay.

11 Q. So Empire Cuisine, summary of all bank records, is
12 M-13a. Do you want to see it?

13 A. You mean this one?

14 Q. 13a. Sorry. Yes, this one. 13a.

15 So that's \$3.1 million, plus like 12,000 or
16 something?

17 A. Yes.

18 Q. So call it 3.1 million.

19 A. Yes, okay.

20 Q. And then -- got ahead of myself. M-13z, this is the
21 Empire Enterprise summary of all bank records. And so
22 that's Enterprise.

23 A. Yes, that's right.

24 Q. The first one was Cuisine.

25 A. Right.

1 Q. So they, by your reckoning, at least, they show
2 3.4 million spent just on food, right?

3 A. Yes.

4 Q. Okay. Now, there are additional bank's records for
5 Empire Gas & Grocery, right?

6 A. Yes.

7 Q. And those are at O-15. They are already admitted in
8 evidence?

9 A. Right.

10 Q. And they are both with U.S. Bank.

11 A. Yes, that's right.

12 Q. So I noticed you didn't put these in your summary, and
13 I'm wondering why that was.

14 A. So they're not M-13, but it is an M summary. We just
15 didn't go over it. But I consider that to be separate from
16 these two.

17 Q. What M exhibit is it, do you know?

18 A. I think Joe can look it up.

19 MR. THOMPSON: Maybe 37.

20 MR. ANDREW BIRRELL: 48. We got it.

21 Is that it? It's not in, though. Just show it to
22 the witness.

23 He's got it. It's 48, I think.

24 THE WITNESS: Yes, that's the one.

25 THE COURT: M-48 is being shown only to the

1 witness.

2 BY MR. ANDREW BIRRELL:

3 Q. So this is another one of your -- this is a double pivot
4 chart, right?

5 A. Yeah, actually, it's -- it actually goes on to the next
6 page. I broke it out by year. So this is -- so the top one
7 is for 2018. The bottom one is for 2019.

8 And then the second page has, yep, and then it has
9 2020 broken out.

10 And then I think there might be yet another page,
11 a third page after that. Yes. And then there's the rest,
12 '21 and then '22.

13 Q. So this was a summary you made in connection with your
14 work in this case?

15 A. Yes, that's right.

16 Q. And it's a condensation of voluminous records?

17 A. Yes, that's right.

18 MR. ANDREW BIRRELL: No objection?

19 MR. THOMPSON: No, nothing.

20 MR. ANDREW BIRRELL: Did you have an objection? I
21 thought you said, "No objection."

22 MR. THOMPSON: One second.

23 MR. ANDREW BIRRELL: Sure.

24 MR. THOMPSON: No objection.

25 THE COURT: You're offering it?

1 MR. ANDREW BIRRELL: Please. Thank you.

2 THE COURT: M-48 is admitted and may be published.

3 BY MR. ANDREW BIRRELL:

4 Q. All right. Let's go back to page 1. So tell us what
5 we're looking at here.

6 A. Yeah. So I broke this out by year. And so there's a
7 sources and uses on the top half of the page for just 2018,
8 and then the bottom half is just for 2019.

9 And the second page, we've got 2020 broken out.

10 I don't know if you want to flip to it. Thank
11 you.

12 So it's broken out for, you know, I guess, you
13 know, January 2020 through March of 2020, and then the
14 bottom half is the rest of 2020.

15 And then the next page is then one for 2021; and
16 then the last one is 2022, which is basically just the first
17 month and a half, because then the accounts close
18 February 17th, 2022.

19 Q. I see. So what does this chart summarize?

20 A. So basically just summarizing the transactions that
21 happened in this account or these accounts. Yeah, I think
22 it's two different Empire Gas & Grocery accounts.

23 Q. All right. And these, you decided not to include them
24 in 13a? Is that what you're saying?

25 A. Right, yes.

1 Q. All right. This was a separate sort of ongoing
2 enterprise, in your view?

3 A. Yes, that was my understanding. Yes.

4 Q. Okay. Okay. We can take that down.

5 So you talked a little bit about kind of the meals
6 economics of this program. Do you remember that?

7 A. Yes.

8 Q. All right. So there are five elements in the menu?

9 A. Yes.

10 Q. Grain, fruit, protein, milk and vegetables?

11 A. Okay.

12 Q. Right?

13 A. Yes.

14 Q. All right. And the amount and proportions are set by a
15 menu.

16 A. Yes.

17 Q. In fact, there's a thing called My Food Program where
18 you can figure out how much food you need to buy --

19 A. Fair, yep.

20 Q. -- for some number of meals.

21 A. Yes.

22 Q. Okay. So a meal serving for a grain could be one ounce
23 of rice, right?

24 A. I'm not sure.

25 Q. Well, let's suppose it was. What's a ten-pound bag of

1 rice cost?

2 A. I don't know.

3 Q. Well, on the invoices that you looked at, it's about ten
4 bucks, right?

5 A. I'm not sure.

6 Q. Well, did you do any calculations like this to figure
7 out the real cost of a meal?

8 A. Yes, our team did. Yes.

9 Q. Did you? I mean, how did you do that?

10 A. It was not me. It was one of the other forensic
11 accountants that did.

12 Q. All right. You're aware that one of the requirements of
13 the meal program is that when the meals are being delivered
14 to a particular group of people, they have to be culturally
15 appropriate?

16 A. Did you say it's a requirement?

17 Q. Yeah.

18 A. I don't know that it's a requirement. It's not a USDA
19 requirement, I don't believe.

20 Q. Is it an MDE requirement?

21 A. I don't believe -- I don't know of any requirements.

22 Q. Okay. So, in your view, there's no requirement of
23 culturally appropriate meals?

24 MR. THOMPSON: Objection, Your Honor. It's not
25 her view. It's consistent with the testimony in this case.

1 THE COURT: I'll overrule the objection.

2 And you can answer.

3 THE WITNESS: I'm sorry. Can you repeat that
4 question?

5 BY MR. ANDREW BIRRELL:

6 Q. No. In the contract between the sponsor and the vendor,
7 the deliverable is the meals?

8 A. Yes.

9 Q. And so the claim in the indictment is that the meals
10 weren't delivered.

11 A. Okay.

12 Q. Do you agree with that?

13 MR. THOMPSON: Your Honor, that misstates the
14 indictment and the evidence in the case.

15 THE COURT: Sustained.

16 BY MR. ANDREW BIRRELL:

17 Q. Your understanding is that the central claim in this
18 case is that meals weren't delivered.

19 MR. THOMPSON: Your Honor, that's not at all the
20 essential claim in the case. I object. It's a legal
21 conclusion.

22 MR. ANDREW BIRRELL: It's her understanding.

23 THE COURT: He's asking for her understanding.
24 I'll let her answer it. Overruled.

25 THE WITNESS: I'm sorry. Can you repeat that

1 question?

2 BY MR. ANDREW BIRRELL:

3 Q. Your understanding is that the central claim in this
4 case is that meals were not delivered.

5 A. I would probably phrase it more that the claims were
6 overstated.

7 Q. All right. And in order to investigate that claim, what
8 you decided to do was follow the money.

9 A. Yes.

10 Q. And the way this worked was that there was no government
11 money until after the meals were claimed for and approved.

12 A. That is how it -- I'm sorry. I'm sorry. Can you repeat
13 that?

14 Q. This was a reimbursement program.

15 A. Right.

16 Q. There is no government money put out until there is a
17 claim that meals have been delivered and an approval and
18 then there is a payment.

19 A. Right, yes.

20 Q. So the money comes after the delivery of the meals.

21 A. Yes.

22 Q. All right. So what you did was you tried to follow
23 money to see where it went after it was paid.

24 A. It was not --

25 Q. Is that right?

1 A. No.

2 Q. Not right?

3 A. That's only part.

4 Q. "Follow the money" means you're following where the
5 money goes after it's paid.

6 A. I can follow the money from where it came from as well.

7 Q. Okay. Well, let's think about this. The money comes
8 from the sponsor.

9 A. Yes.

10 Q. Who gets it from MDE.

11 A. Either the site or the vendor.

12 Q. Hold it. The sponsor gets money from MDE.

13 A. Oh, I'm sorry. You're going the other way. Okay. Yep.

14 Q. I'm following it the other way.

15 A. Sorry. Yeah, you're going -- okay.

16 Q. Okay. So MDE pays money to the sponsor based on the
17 sponsor's request through CLiCS.

18 A. Sure, yes.

19 Q. Okay. And the CLiCS system, which we heard about
20 before, and we can talk about it now a little bit, this is a
21 computer system that the sponsor and MDE communicate
22 through.

23 A. Yes.

24 Q. The vendors do not have access to CLiCS.

25 A. Right.

1 Q. They can't see in CLiCS.

2 A. Right.

3 Q. They don't know what the communications are that are
4 occurring between the sponsor and MDE.

5 A. Right.

6 Q. And that's what an accountant might call an internal
7 control system.

8 A. Yes.

9 Q. Which would mean it's a way of doing what? How would we
10 say this?

11 A. A segregation of duties.

12 Q. Yeah. It's a way of trying to ensure integrity in the
13 program.

14 A. Yep.

15 Q. Okay. Now, after the sponsor pays the money -- well,
16 when the sponsor pays money, either they pay it to the
17 vendor or to a nonprofit.

18 A. Yes.

19 Q. So, for example, we hear about ThinkTechAct, which is --
20 can't remember. Is that Mahad's?

21 A. Mahad Ibrahim's.

22 Q. Yeah, Mahad Ibrahim. Okay. That's -- that's a
23 nonprofit that the vendor is working with.

24 A. Right.

25 Q. Okay. So in that circumstance what happens is MDE pays

1 the sponsor.

2 A. Yes.

3 Q. And what they pay the sponsor is 100 percent of the
4 money they're going to pay to the vendor.

5 A. Not 100 percent. So, yeah, I mean, so I think the
6 sponsor keeps an administrative fee.

7 Q. You're ahead of me.

8 A. Okay.

9 Q. So MDE has paid the sponsor 100 percent, whatever that
10 is, of the vendor's bill.

11 A. Yeah, I guess the number of claims for that site. Yes.

12 Q. Okay. Whatever they're going to pay, MDE, whatever
13 they're going to pay on the claim, they pay 100 percent of
14 it and it goes to the sponsor?

15 A. Yes.

16 Q. Then the sponsor takes out 15 percent, or what do they
17 take out?

18 A. It's 10 to 15 percent.

19 Q. All right. That's the sponsor. So let's make the
20 numbers easy. We'll say 10 percent.

21 A. Okay.

22 Q. So now 90 percent of the vendor's bill, money, goes to
23 let's say ThinkTechAct, if they're involved.

24 A. Okay. Yes.

25 Q. And they get to take out, what, 5 percent or something?

1 A. I don't think it's a hard-and-fast rule.

2 Q. Five percent in the neighborhood?

3 A. I'm not sure that that is a rule. I have seen that. I
4 don't think that that is a rule.

5 Q. Is it fair to say that it's around 5 percent or --

6 A. I don't -- I mean --

7 Q. You don't know?

8 A. I don't know.

9 Q. Yeah. All right. They take out something, and it's
10 going to be less than the sponsor's cut.

11 A. Yeah.

12 Q. Because they're doing less work, right?

13 A. I don't -- I don't know that there's a percentage
14 that -- I mean, if they agree with the vendor, which doesn't
15 make sense either.

16 Q. Well, the vendor does not control how much ThinkTechAct
17 gets. That's designed by the program, right?

18 A. I think what shouldn't matter is a percentage of cut
19 between the nonprofit and the vendor. It should be just
20 whatever is --

21 Q. Right.

22 A. -- billed.

23 Q. I think we're saying the same thing. I'm trying to
24 track the flow of fund. So \$100 goes to sponsor.

25 A. Okay.

1 Q. Sponsor takes 10, so there's 90.

2 A. Okay.

3 Q. The 90 goes to ThinkTechAct or somebody.

4 A. Okay.

5 Q. They take whatever dollars. Then the rest goes to the
6 vendor.

7 A. Okay. Yep.

8 Q. Otherwise, if there's no nonprofit between the sponsor
9 and the vendor, what happens is the money goes to MDE, to
10 the sponsor, and then goes straight to the vendor.

11 A. Yes, that does happen.

12 Q. Okay. So just to make it clear, when there's a
13 nonprofit, sort of educational thing on the side, like
14 ThinkTechAct, the vendor actually gets less money on his
15 bill.

16 A. I don't know. I would think that there would be an
17 agreement beforehand about what that vendor is requesting
18 from that nonprofit. I don't know that it's, okay,
19 nonprofit, you get to keep 5 percent, I'll take the rest.

20 Q. Yeah, except that's not how it works.

21 A. It's not supposed to be how it works.

22 Q. The way it works is there's some structural agreement
23 between the sponsor and ThinkTechAct about what they're
24 going to get. There's a contract between them, right?

25 A. Yes.

1 Q. Okay. And so then this money has been earned, right?

2 A. It's been received.

3 Q. All right. Well, it's been approved by the sponsor and
4 MDE and paid to the people who are requesting the payment.

5 A. Yes.

6 Q. All right. And so in that context it's their money.
7 They can do whatever they want with it, right?

8 A. I guess high level, yes.

9 Q. Okay. So to give the jury some sort of sense of the
10 quantity of the documents here, each one of these pivot
11 tables has an Excel spreadsheet sort of beneath it?

12 A. Yes, that's right.

13 Q. And what sort of quantity of spreadsheets are -- you
14 know, can you give us a sense of what that means in terms
15 of --

16 A. I mean, do you mean like transactions? I mean, I can
17 speak about the transact -- number of rows.

18 Q. Well, let's -- yeah, that was not the best question.
19 Let's say 13a, and I wanted to look at the underlying
20 documents.

21 A. Okay.

22 Q. What are there? Like a couple hundred pages?

23 A. Yes, couple hundred pages, yes.

24 Q. Okay. And those couple hundred pages came from lots
25 more pages.

1 A. I guess I'm not sure, because they were -- they were
2 originally in Excel. And so then the pages in the exhibit,
3 they're -- yeah, they were just printed to PDF.

4 Q. Gotcha. Okay. Well, let's do it this way. Whatever
5 these backup -- we'll call them backup documents?

6 A. Okay. Sure.

7 Q. All right. Whatever these couple hundred page backup
8 documents are, they came out of Excel.

9 A. Yes.

10 Q. They were in Excel.

11 A. Yes, right. Yep.

12 Q. And what's in Excel came from somewhere else.

13 A. Yes.

14 Q. Okay. So by the time we get to a pivot table, we have a
15 number that's been derived from, what, a hundred thousand
16 documents, potentially?

17 A. I would -- I would say, like, yeah, for M-13a, that
18 would probably be thousands of pages worth.

19 Q. Okay.

20 A. Yes.

21 Q. And so to do your work, what you -- what you said you
22 worked with was the bank records and CLiCS. I know you did
23 other things, but to conduct these tables.

24 A. Yeah, not the bank records and CLiCS, but, yes, the --
25 the export of the claims in CLiCS.

1 Q. All right. Export of the claims in CLiCS. So you were
2 looking at the claims the sponsor sent MDE?

3 A. Yes.

4 Q. That's the export of the claims?

5 A. Yes.

6 Q. Okay. And were there times when MDE was disallowing
7 claims? I don't mean wholesale, but sort of analyzing them?

8 A. Yeah, I would -- I would think so.

9 Q. Okay. Do you know, or did I ask you a bad question?

10 A. I guess --

11 Q. Well, I'll ask you a different question.

12 A. Okay.

13 Q. So what you're saying is you looked at the claims that
14 were exported in CLiCS from the sponsor to MDE.

15 A. Yes.

16 Q. All right. Did you look at the response back from MDE
17 to the sponsor in response to those claims?

18 A. I guess the, well, yeah, I guess the export of that
19 data, it is the approved claims, and then there's -- I'm
20 sorry -- paid out claims. And then there's a small portion
21 where it was unpaid, still yet to be determined, because of
22 the stop pay, if that makes sense.

23 Q. Yeah, okay. So you're using a word that we need to
24 define. What does "export" mean in this circumstance?

25 A. Yeah, it's just pulling out the data like, you know,

1 from the -- from the system.

2 Q. Okay. So you were pulling out CLiCS data?

3 A. Yes.

4 Q. All right.

5 A. Yeah.

6 Q. And the data that you were pulling out, did it show the
7 claims made by the sponsor to MDE?

8 A. Oh, yeah, okay, I think I see what you mean. No, I
9 don't see that portion where -- actually, I'm not sure that
10 it would be -- actually, I don't think it would be
11 different.

12 Q. Okay. But tell me what you saw. That's what I'm
13 wondering. You're imagining it's not different, but what I
14 want to know is what you looked at.

15 A. I guess -- so my understanding is when the sponsor,
16 yeah, when the sponsor approves the number of, you know,
17 claims for that site, they're the ones that enter it into
18 the system.

19 Q. Right.

20 A. And then the MDE, their system automatically approves
21 it. So I don't think there's an adjustment or something
22 done on MDE's end.

23 Q. Okay. So from your looking at this, what happened was
24 the sponsor -- so that's either Feeding Our Future in this
25 case or Partners in Quality Care, a/k/a Partners in

1 Nutrition?

2 A. Yes.

3 Q. All right. We'll call them the sponsors.

4 So the sponsors compose a claim on CLiCS.

5 A. I believe so. I believe, yeah, that's what they do.

6 Q. All right. And what goes to MDE is the claim the
7 sponsor has entered into the CLiCS system.

8 A. Yes.

9 Q. And then, if I understood you correctly, the sponsor --
10 or MDE is approving these claims from the sponsors?

11 A. Yes.

12 Q. And were they, could you tell, analyzing them or just
13 approving them or what were they doing?

14 A. Yeah, I -- I -- I think based on Emily Honer's
15 testimony, it's just -- it's just like an automatic approval
16 process. So it is not reviewed ahead of time. It just
17 automatically gets approved.

18 Q. Okay. So they were just paying them.

19 A. Yes.

20 Q. Yeah, all right. Now, this system here, the CLiCS
21 system is this closed black box system, I call it. Is that
22 a fair characterization?

23 A. Sure, yeah.

24 Q. Yeah, all right. All right. So you're mentioning Emily
25 Honer. Now, she was the first witness from MDE.

1 A. Yes.

2 Q. And she was the person who -- she went to the FBI? Is
3 that what she did? I'm trying to remember.

4 A. Yeah, I think her or someone from her team. I think she
5 testified that it was her that reached out to the FBI.

6 Q. And also the person from PIN had already complained to
7 the FBI.

8 A. Yes.

9 Q. Colleen --

10 A. Christine Twait?

11 Q. Yes. Thank you.

12 A. Yes.

13 Q. All right. And what I understood Ms. Honer to be saying
14 she wanted was to look at the data.

15 A. For the FBI to look at the data?

16 Q. Well, MDE, FBI, somebody.

17 A. Sure.

18 Q. She wanted somebody to look at the data.

19 A. Sure, yes.

20 Q. And that precipitated this lawsuit.

21 A. What lawsuit?

22 Q. Well, you were here. I mean, the --

23 A. Oh, with Feeding Our Future, you mean?

24 Q. Yeah. They sued --

25 A. Okay. Yes.

1 Q. -- MDE?

2 A. Yes.

3 Q. Because MDE stopped paying?

4 A. Right.

5 Q. Some judge in state court in Ramsey County told them
6 they had to keep paying?

7 A. It was something like that.

8 Q. Yeah, all right.

9 So I was sitting here for like the last two days,
10 three days, and I was thinking that you have an extremely
11 powerful position in this case. You do.

12 A. I wouldn't agree.

13 Q. Well, all --

14 THE COURT: I'm sorry. I didn't get your answer.

15 THE WITNESS: Oh, I said I wouldn't agree.

16 BY MR. ANDREW BIRRELL:

17 Q. You don't agree? All right.

18 Well, you're the only person here from --
19 presenting these pivot charts we looked at.

20 A. Sure.

21 Q. The charts contain categories you selected.

22 A. Sure, yeah.

23 Q. With numbers you selected.

24 A. Numbers I did not select.

25 Q. Well, you selected the method of acquiring them.

1 A. I selected the categorizing of the numbers.

2 Q. Yeah, that's the hidden column. The category?

3 A. The category is hidden from the M exhibits.

4 Q. Okay. The ones the jury has?

5 A. Yes.

6 Q. Yeah. And so you were the person who got to decide
7 about the categorizations.

8 A. Yes.

9 Q. You were the person who got to decide what documents got
10 put into Excel.

11 A. I wouldn't say that.

12 Q. You already did. Who else did it?

13 A. I guess -- I guess -- I guess what you mean is which
14 statements to put into -- which accounts to put into Excel.

15 Q. Yeah, yeah.

16 A. Yeah. Yes.

17 Q. Okay. So at the end of the day there's one person
18 making all these decisions, and that's you.

19 MR. THOMPSON: Your Honor, I'm going to object.
20 They can call a forensic accountant if they want to.

21 THE COURT: Sustained.

22 MR. ANDREW BIRRELL: What? I didn't hear, Your
23 Honor.

24 THE COURT: Sustained.

25 MR. ANDREW BIRRELL: I want to make a little

1 record here, if I might.

2 **(Sidebar discussion)**

3 THE COURT: Mr. Birrell.

4 MR. ANDREW BIRRELL: Mr. Thompson just told the
5 jury that I can call a forensic accountant if I want to.

6 And this is an invasion of my client's right to be
7 presumed innocent, to not to have to present evidence to
8 support any claim. It is a violation of his constitutional
9 right to due process, to be presumed innocent.

10 And I object to this in the strongest possible
11 terms, and I request a mistrial based on that statement to
12 the jury.

13 THE COURT: Mr. Thompson.

14 MR. THOMPSON: Your Honor, Mr. Birrell, and
15 Mr. Mohring before, have spent hours here suggesting that
16 the government is hiding evidence from the jury. That is
17 not true.

18 The defendants, including Andy Birrell, have these
19 underlying charts. They have the underlying categories. In
20 fact, as Mr. Birrell knows, the subcharts, you might
21 remember, 13mah and maz, show the itemized categories for
22 food expense based on those categories.

23 This is extraordinarily misleading, these
24 continued suggestions that the government's hiding evidence
25 from the jury. We are not. He's putting us in no

1 situation --

2 And, frankly, Your Honor, it's not fair with hours
3 and hours and hours of cross-examination just leaving it for
4 redirect with this witness. It's not fair. She's up there.
5 She doesn't know how to respond to this stuff because these
6 are suggestions that are totally -- they lack basis.

7 They've had these charts for a month or two
8 months. If they had issues with them, they could have
9 raised it with the court. It's attacking the integrity of
10 these proceedings again and again. And the government
11 cannot effectively respond when they're suggesting that
12 we're manipulating evidence and manipulating figures.

13 MR. ANDREW BIRRELL: Yeah, Your Honor, that fails
14 even to address my claim about the statement to the jury.

15 THE COURT: Okay. We'll get to your statement to
16 the jury.

17 My concern is that these are 1006 summaries.
18 Under 1006, you were supposed to have the underlying data.
19 My understanding is that you did have the underlying data.

20 And so I'm not quite sure where this line of
21 inquiry is going, given that you have the underlying data
22 that the 1006 summaries, which were unobjected to, are the
23 subject of the inquiry.

24 MR. ANDREW BIRRELL: I'm about finished, Your
25 Honor, but I don't know if there's -- if there's a question,

1 I'll be happy to answer it.

2 MR. MOHRING: Judge, if I may. Andrew Mohring.

3 For the record, what we received on the summary
4 exhibits were PDFs. They were not -- we did not get the
5 spreadsheets. The news that there was a hidden column, I
6 learned of first from this testimony. So we were not given
7 the spreadsheets to even know that.

8 MR. ANDREW BIRRELL: Well --

9 THE COURT: All right. Mr. Sapone.

10 MR. ANDREW BIRRELL: I was --

11 THE COURT: Just a minute. Just one moment.

12 **(In open court)**

13 THE COURT: I'm going to have you all excused for
14 about 15 minutes. All right?

15 All rise for the jury.

16 **IN OPEN COURT**

17 **(JURY NOT PRESENT)**

18 THE COURT: All right. I'm going to take a quick
19 recess, and I'll be back in about five minutes, and I'll
20 address this. Thank you.

21 (Recess taken at 2:38 p.m. till 2:43 p.m.)

22

23 **IN OPEN COURT**

24 **(JURY NOT PRESENT)**

25 THE COURT: You may all be seated.

1 I'll hear you all out in a moment, but first with
2 respect to the request for a mis -- oh.

3 (Mr. Goetz enters courtroom)

4 MR. GOETZ: Apologies, Your Honor.

5 THE COURT: I didn't notice. It's my fault.

6 All right. Thank you.

7 First, with respect to the request for a mistrial
8 based on Mr. Thompson's statement, I'm denying a mistrial.

9 I will strike the comment, the reason for the
10 objection, which was they can call their own forensic
11 accountant. I'll ask the jury to disregard that and they
12 will. And so that will clear that issue up.

13 My concern over this line of cross-examination has
14 to do with my admitting Rule 1006 summaries without any
15 challenge or objection and then cross-examination seemingly
16 on the accuracy of the summaries.

17 The committee comments to Criminal Jury
18 Instruction 4.12 indicate, as makes sense, that the
19 summaries are to be admitted as long as the opposing party
20 has had an opportunity to examine and copy the documents at
21 a reasonable time and place. I heard nothing from anyone
22 that that hadn't happened.

23 And then it also states that the trial judge makes
24 only a preliminary determination regarding a 1006 summary,
25 the accuracy of which is challenged. The accuracy of these

1 summaries were not challenged, so I didn't make a
2 preliminary determination. I admitted them under the rules.

3 And so there was no challenge to the summaries.
4 That's why I'm concerned about this line of
5 cross-examination. That is the objection that I have heard
6 from Mr. Thompson. And I'm at this point not sure about a
7 remedy and will address it, but that is what I -- that was
8 what I wanted to address with all of you.

9 Because of the way the rule states and the way
10 that the instruction states, I'm afraid that the jury may be
11 confused at this point, given that those came in without
12 objection and I let them in without challenge. So that's my
13 concern.

14 I'll hear from all of you if you want to address
15 that issue.

16 Mr. Birrell.

17 MR. ANDREW BIRRELL: Well, it is true that they
18 came in without objection. It is also true that at some
19 point, at least to some of them, I asked for and received
20 the -- the category column. So that record is clear.

21 I think that the cross-examination was fair. And,
22 you know, he can redirect her on it.

23 THE COURT: Okay.

24 MR. ANDREW BIRRELL: If he wants.

25 THE COURT: Thank you.

1 Anyone else?

2 Mr. Sapone, you've been wanting to speak.

3 MR. SAPONE: Well, I raised this issue, Your
4 Honor, with the government, with Mr. Thompson.

5 And I want to start off by saying I know that
6 there's no intention at all on their part, but what we've
7 noticed is he has a very good voice and sometimes it
8 carries.

9 When we have sidebar discussions, it seems that
10 the jurors hear him. And on one occasion it looked like,
11 and I don't know for sure, they could have been making notes
12 on something else and they just waited to make the notes
13 while Mr. Thompson was speaking, but I just wanted to make a
14 record of that.

15 THE COURT: Thank you.

16 I think we addressed this earlier with respect
17 to -- maybe it was Ms. Walcker. We have asked the jury on
18 multiple occasions whether they can hear the attorneys
19 during sidebar, and they have indicated no. Ms. Wegner has
20 done that.

21 If you want me to do that on the record, I
22 certainly can, but we have -- that's my responsibility, and
23 I know that, and so I have asked them, and they have
24 indicated that they cannot.

25 MR. THOMPSON: And, Your Honor, just for the

1 record with respect to sidebars, I heard Mr. Sapone. He
2 commented during the break, and I will take that into
3 consideration.

4 As the court may notice, I usually put my hand
5 like I'm an NFL football coach, blocking my head when I
6 talk. So my hand is between the mic and my mouth, so,
7 again, in an effort to make sure the jury not only can't
8 hear what I'm saying, but also try not to read my lips.

9 THE COURT: All right. I can ask one more time as
10 well.

11 Mr. Mohring.

12 MR. MOHRING: I have nothing to say on what we
13 were just talking about as far as the --

14 THE COURT: You've got your rule book out. I like
15 that.

16 MR. MOHRING: I do. I do.

17 Your Honor, so the court was talking about
18 Rule 1006. I am looking at Rule 611(b), which talks about
19 the scope of cross-examination and identifies that although
20 cross-examination should not go beyond the subject matter of
21 direct examination, it may go to matters affecting the
22 witness's credibility.

23 And so this is not about accuracy. The fact that
24 there was a hidden column goes to illuminate, and should be
25 considered also, through the lens of Rule 611(b).

1 Like I said, when we were on the sidebar, I got a
2 PDF. I did not get a column list. I did not ask for one,
3 but the PDF was as it was given.

4 I am not questioning the accuracy, but I am asking
5 questions about, as I think is appropriate, the
6 characterization process that was not available in the
7 document that I received. So it's not a question about
8 accuracy, but it does go to the witness.

9 THE COURT: All right. Thank you. Let me
10 consider that.

11 Mr. Cotter.

12 MR. COTTER: I'm actually coming up here to beg
13 your forgiveness to make sure I understand this rule
14 properly.

15 And I understand there's one thing in a summary
16 chart addressing a hidden category, but I also heard
17 testimony about her explaining what the chart actually
18 means. And I want to be clear that what the various
19 categories mean. For example, related parties versus labor
20 costs, pretty big deal.

21 And so in understanding a forthcoming ruling, I'd
22 want to make sure to understand what's the scope of how we
23 can cross-examine on this, based on some of her testimony --

24 THE COURT: Okay.

25 MR. COTTER: -- and how are those categories to be

1 understood, not the underlying data, but the categories
2 themselves that she created.

3 THE COURT: And you have the underlying data?

4 MR. COTTER: We have underlying data, but she's
5 the one that's interpreting it. And so there was questions
6 asked on how that should be interpreted and understood.

7 THE COURT: And do you anticipate cross-examining
8 by saying, In the underlying data, such and such appears to
9 be labor, you have categorized it as X.

10 Is it that, or is it simply a suggestion that she
11 did it poorly without a reference to the underlying data?

12 MR. COTTER: No. It would be the former, Your
13 Honor, and based upon what I've heard her testify to.

14 THE COURT: All right. Thank you.

15 Mr. Schleicher.

16 MR. SCHLEICHER: Thank you very much, Your Honor.

17 I'd like to address the mistrial ruling. I
18 understand that the court has ruled. I just want to make it
19 very clear on the record that on behalf of Said Farah,
20 Defendant Number 5, I do join the motion for a mistrial.

21 I believe what happened in response to questioning
22 on cross-examination, the prosecutor stated something to the
23 effect of they can call their own forensic accountant, after
24 posting an objection. I believe that shifts the burden of
25 proof. I think regardless of who and what defendant is

1 asking the questions or defense attorney's asking the
2 questions, there's a significant spillover effect.

3 I think it demonstrates two things. First, the
4 perils of joint trials, but, second and probably most
5 important, that of speaking objections. Speaking objections
6 are not the norm. It's something that the court has
7 cautioned against. It's something that we have objected to
8 and -- well, the record will speak for itself.

9 THE COURT: I understand. I am denying the
10 mistrial motion. I don't think a mistrial is warranted, but
11 I will admonish the jury to disregard the statement.

12 MR. SCHLEICHER: In that regard, Your Honor, and
13 perhaps others can suggest, I don't know what instruction in
14 disregarding that statement would be effective.

15 It's unringing a bell. And it's necessarily, on
16 one hand, I want them to apply the presumption of innocence
17 and the proper burden of proof, and they should be reminded.
18 On the other hand, by doing so, we're going to be repeating
19 the very thing that I didn't think that they should have had
20 to have heard in the first place.

21 And so I'm at a loss for how you can craft an
22 appropriate instruction, but I'm interested in hearing it.

23 THE COURT: Well, I'm going to tell them to
24 disregard the reason for the objection.

25 MR. SCHLEICHER: All right.

1 THE COURT: And this jury is paying attention.
2 They are taking notes.

3 The objection was kind of mumbled, so I'm not sure
4 all of them heard it; but even if they did, I will tell them
5 to disregard the reason for the objection. They will follow
6 that instruction.

7 Again, I'm impressed with the caliber of the
8 attentiveness of this jury. And by doing that I am not
9 repeating the sentence itself.

10 And I understand that there's a standing -- that
11 you all don't agree with that and that you don't necessarily
12 need to agree with that ruling, but that's how I intend to
13 address it.

14 MR. SCHLEICHER: As long as I've made a record of
15 nonwaiver, I can sit down.

16 THE COURT: Yes, you have.

17 MR. SCHLEICHER: Thank you, Your Honor.

18 THE COURT: Thank you.

19 MR. MOHRING: And since we're not -- if I may,
20 judge?

21 THE COURT: Yes.

22 MR. MOHRING: Since we're not in the "one
23 objection applies to all" mode, I think I would join in the
24 mistrial motion --

25 THE COURT: Yes.

1 MR. MOHRING: -- and the objection to the court's
2 ruling and would ask that the court consider as part of that
3 instruction, just also a reminder, I think you're already
4 there, of where the burden of proof is.

5 THE COURT: Okay. Thank you.

6 Mr. Garvis, do you join as well?

7 MR. GARVIS: Yes, Your Honor.

8 THE COURT: All right. Mr. Cotter?

9 MR. COTTER: Yes, Your Honor.

10 THE COURT: Mr. Sapone?

11 MR. SAPONE: Yes, Your Honor.

12 I want to reiterate on behalf of Mr. Nur that I
13 believe it is burden shifting. And Your Honor would
14 consider not repeating, as you said, what the objection was,
15 but just disregard the statement -- the statement. You can
16 just reiterate that there is no burden of proof and there is
17 a presumption of innocence.

18 THE COURT: I will reiterate the presumption of
19 innocence. Thank you.

20 Yes.

21 MR. ANDREW BIRRELL: I was just coming --

22 THE COURT: No, wait. We're not done yet.

23 Ms. Kettwick.

24 MS. KETTWICK: Your Honor, we join as well.

25 THE COURT: I'm sorry. I missed you. Thank you.

1 Mr. Thompson, I would like you to address the 1006
2 issue.

3 MR. THOMPSON: Yes, Your Honor.

4 And before I do, just with respect to the
5 mistrial, I want to note that my objection was in response
6 to defense counsel's suggestion that only Ms. Roase would
7 testify about this and everyone had to rely on her
8 interpretation, which he has suggested was unethical or
9 lacked integrity in making the decision, which, of course,
10 is not true, and opened the door to us pointing out that
11 other people can testify as to these bank records.

12 I'll move on.

13 With respect to the 1006, Your Honor, these --
14 these charts have been produced to the defense. They were
15 produced months ago to the defense. Actually, Mr. Birrell,
16 as he noted, asked for the category column, which we
17 produced to him.

18 When the witness said they were hidden, that's a
19 term of art in how Excel works. It's called hiding the
20 column. It's not hidden from the world, and that's been the
21 suggestion.

22 And the real problem from the government's point
23 of view is for hours now there's been a suggestion that
24 exhibits that were admitted into evidence without objection
25 were somehow manipulated and lack integrity and are designed

1 to mislead the jury. And that's a really difficult position
2 for us to get put in. It's really hard for Ms. Roase to
3 effectively respond to allegations like that on the stand.
4 It's not fair to ask her to do so. It's not her place.

5 The way we do exhibits, as you know, is we offer
6 them. Actually, we produce them in advance. We offer them.
7 Whether or not -- there can be an objection from the
8 defense, if they want to, in which case Your Honor has to
9 rule. And if there's no objection, they get admitted.
10 That's what happened here.

11 It's similarly true with respect to these summary
12 charts. And I want to note that Mr. Sapone last night
13 reached out to me about one of the charts that we introduced
14 yesterday. I think it was Nur Consulting LLC, Government
15 Exhibit N-25.

16 He mentioned -- he noted that one of the line
17 items on there might be a little problematic and wasn't
18 necessarily relevant to this case. He asked if we would
19 remove it and categorize that -- those expenses in a
20 different way, which I did, and we made that change last
21 night. We circulated that. I gave it to Mr. Sapone earlier
22 today so he could use it on cross-examination without having
23 that line, and I circulated it to defense counsel.

24 Similarly, if there had been other concerns with
25 respect to these charts and categorizations, if defense

1 counsel had raised them, we would have considered those
2 concerns.

3 As Ms. Roase has testified repeatedly, she was
4 extraordinarily conservative in her categorizing things.
5 Things that clearly were not food purchases, designed to
6 feed kids, were categorized as food expenses. That's been
7 her testimony. There's been no looking at the bank records.

8 Some of the irony of this, of course, is Ms. Roase
9 and I spent the better part of two days, while we looked at
10 those summary charts, we spent much of the time in the raw
11 bank records themselves going check by check, deposit by
12 deposit.

13 If they have a problem with the 1006 charts,
14 that's a question of admissibility to be brought before the
15 court, not to be thrown out in terms of allegations in front
16 of the jury.

17 And I don't know what the jury is supposed to make
18 of those allegations. We certainly can't respond, and
19 Ms. Roase shouldn't be forced to respond. These are
20 properly admitted exhibits into evidence, and their
21 integrity shouldn't be questioned in that way.

22 If they want to cross on the meaning of things,
23 that's totally fair game; but questioning the integrity of
24 this -- of exhibits that have been admitted into evidence
25 without objection is really questioning the integrity of

1 this whole court proceeding and this whole trial.

2 THE COURT: What remedy are you suggesting?

3 MR. THOMPSON: I think probably we need some sort
4 of instruction saying that these are properly admitted
5 summary charts and there's nothing untoward about them. Any
6 suggestion that information has been hidden from the jury or
7 that they lack integrity is not right and should not be
8 considered by the jury.

9 MR. SCHLEICHER: May I respond in a very limited
10 fashion?

11 THE COURT: To the remedy, you may.

12 MR. SCHLEICHER: Your Honor, a remedy that would
13 involve the court's endorsement of the actual exhibit itself
14 I think would be paramount to instructing the jury that the
15 evidence in fact is what it purports to argue.

16 And, you know, there was no objection to the
17 summary document in terms of they provided the underlying
18 bank records, that's true, the actual checks and things that
19 they talked about; but there is still a cross-examination
20 and argument to be made regarding the manner of
21 categorization.

22 For example, you know, in the case of Said Farah,
23 I would intend to ask questions regarding taking the Bushra
24 Wholesalers category out of groceries. I think that's
25 perfectly fair food expense, and I think that that's

1 perfectly fair.

2 I think that as with some of the other rulings
3 that the court has made, when various parties have indicated
4 that they have an objection because somebody's misstating
5 the evidence, the jury is going to have to decide what the
6 evidence is.

7 The only decision that was made on the summaries
8 was that they would not be objected to on foundation
9 purposes or the like. But I think that the person who
10 prepared the summaries and the manner in which the summary
11 is prepared -- I'm not talking about any allegation that
12 the, you know, the data itself was manipulated. I'm just
13 talking about categorization decisions. That's all fair
14 game for cross-examination and to limit it would be to limit
15 our Sixth Amendment right to confrontation.

16 THE COURT: So the 1006 jury instruction is quite
17 clear about the process. There's one process to follow if
18 there's a challenge made; there's another process to follow
19 if a challenge is not made.

20 And, again, my concern is that a challenge was not
21 made, and that has to do with the admissibility of the
22 exhibit. And so to bring a challenge right in the middle of
23 the trial and right in the middle of a cross-examination is
24 my concern.

25 I don't -- I'm not going to vouch for any exhibit,

1 but these were admitted essentially by stipulation. There
2 was no challenge made. And I have to follow the procedure
3 that was -- that is for no challenge.

4 So what I'm not going to allow -- you can
5 cross-examine on the categorization. I think that's fair.
6 What I will not allow is any inference or any implication to
7 this witness, any questions, that acts like you all don't
8 have the documents, because you do have the documents.

9 So what I don't want is questions to be asked so
10 the jury could conclude that you don't have the documents,
11 because you do. And no one has said that they don't. And,
12 frankly, that's kind of in the province of my admitting
13 documents and exhibits.

14 Is that fair?

15 MR. SCHLEICHER: Speaking for myself, that seems
16 reasonable, yes, Your Honor.

17 THE COURT: Okay. All right.

18 Anything else? Okay.

19 I will also allow cross-examination that gets a
20 little bit into this issue -- or sorry -- redirect that gets
21 a little bit into this issue because the door has been
22 opened. I'm not sure what that looks like, but I think that
23 would be fair as well.

24 My summary chart instruction will remain as it is,
25 though I may add, given this confusion, to the summary chart

1 instruction at the end of the case the exhibit numbers that
2 came in through 1006. I'll have to double-check those with
3 all of you to make sure I've got the right ones, but I may
4 add that to the instruction to try to clear up any confusion
5 that is in the minds of the jury.

6 All right. Thank you.

7 Let's go get the jury.

8 Do you all need five minutes for a little break?

9 MR. GOETZ: We would appreciate it.

10 THE COURT: Okay.

11 (Recess taken at 3:03 p.m. till 3:11 p.m.)

12

13

IN OPEN COURT

14

(JURY PRESENT)

15

THE COURT: You may all be seated.

16

Members of the jury, thank you for your patience.

17

18

Before we broke, there was an objection from the
prosecution. I am sustaining that objection, but striking
19 from the record the reason for the objection and want you --
20 and instructing you to disregard it.

21

I want to remind you that the defendants don't
22 have a burden here. They're presumed to be innocent unless
23 and until proven guilty beyond a reasonable doubt.

24

Thank you.

25

Mr. Birrell, you may continue.

1 MR. ANDREW BIRRELL: Thank you, Your Honor.

2 BY MR. ANDREW BIRRELL:

3 Q. Yesterday you were shown a picture of Empire Cuisine &
4 Market. Do you remember that?

5 A. Yes.

6 Q. And I think you described it as slightly modest sort of
7 structure?

8 A. Yes.

9 Q. In your review of the invoices in this case, you
10 learned, did you not, that there were deliveries made to
11 warehouses on behalf of Empire from vendors?

12 A. I think the only one that I saw might have been Sysco.

13 Q. Okay. Could you put up L-5, page 19, which is in
14 evidence?

15 A. Yes, Upper Lake Foods.

16 Q. Okay. So did you think there was another one besides
17 Upper Lakes?

18 A. I'm sorry. Can you repeat that?

19 Q. Does this show the warehouse?

20 A. Yeah. I think you're -- are you talking about the Ship
21 To 1506 Southcross?

22 Q. Yes, exactly.

23 A. I don't believe that to be a warehouse. That was a
24 site, though. That was a food site under Feeding Our
25 Future.

1 Q. All right. Let's look at page 21 then.

2 The ships -- the Ship To here is a warehouse in
3 Owatonna?

4 A. Yes.

5 Q. Thank you.

6 MR. ANDREW BIRRELL: I don't have any other
7 questions, Your Honor.

8 THE COURT: Mr. Cotter, cross-examination.

9 CROSS-EXAMINATION

10 BY MR. COTTER:

11 Q. Good afternoon.

12 A. Good afternoon.

13 Q. I'm Patrick Cotter. I represent Mohamed Ismail.

14 My colleagues have asked a lot of questions, but
15 there's a lot of information to unpack, so I have some
16 additional questions for you. Some of them I'm just going
17 to get real high level.

18 We've heard a lot of these terms throughout this
19 trial; but when you were testifying about the number of
20 meals and the claim for reimbursement, you agree with me,
21 don't you, that the meal -- number of meals does not equate
22 with the number of children? It's the number of meals that
23 are paid; is that correct?

24 A. Right, yes.

25 Q. So throughout this trial sometimes the word "children"

1 has been used, and that would be wrong. It's the number of
2 meals that are reimbursed, correct?

3 A. Depending on the context, yes.

4 Q. All right. Thank you.

5 And in addition, just on a higher level, the meals
6 that were able to be reimbursed under this program were --
7 the actual meals were breakfast, lunch and dinner, correct?

8 A. And snacks.

9 Q. So -- just a second -- those are meals. You would agree
10 with me the snack was also reimbursable, but that wasn't
11 equated with a full meal, correct?

12 A. Yeah, sure.

13 Q. All right. And the reason I say that is we talked a
14 little bit about there was a set rate to be reimbursed. So
15 a supper would have one set rate, and that was the most that
16 could be paid, correct?

17 A. Sure, yes.

18 Q. And a lunch had one set rate that was set by the federal
19 government and passed on down to the state and through to
20 the sponsor and on down to the site and then to the vendor,
21 correct?

22 A. Yes.

23 Q. And a breakfast had one set rate as well, correct?

24 A. Yes.

25 Q. And then a snack, of course, had a set rate; is that

1 correct?

2 A. Right.

3 Q. And the reason I say that, of course, is these set
4 rates, that's what was paid for that meal, a supper, that
5 rate, regardless of the input costs necessary to secure,
6 deliver and serve that meal, correct?

7 A. Right.

8 Q. So you understand general business principles. Fair?

9 A. Sure.

10 Q. So, of course, a business attempts to reduce their
11 costs, their input costs, to serve the product that they're
12 trying to serve. Fair?

13 A. Right, yes.

14 Q. That's a general business principle?

15 A. Yes.

16 Q. And, in fact, you're aware that even today vendors
17 provide these same meals for the federal nutrition programs,
18 correct?

19 A. Yes.

20 Q. And these are private businesses that are in the
21 business of making money, right?

22 A. Yes.

23 Q. And, of course, they're intending to try to make as much
24 profit as they can because they're a private company,
25 correct?

1 A. Sure, yes.

2 Q. All right. So moving forward, just a couple other of
3 these general business principles.

4 There's been some testimony about creating an LLC,
5 correct?

6 A. Yes.

7 Q. And would you agree with me it's fair that LLCs get
8 created -- they're pretty easy to create, right?

9 A. Yes.

10 Q. And they're essentially just a pass-through entity. In
11 other words, the income from -- generated from an LLC just
12 passes through to the individual owners, correct?

13 A. I mean, I would think that there would be some business
14 expenses; and then whatever is left over, yes, it would go
15 to the individual owners.

16 Q. Sorry. I was talking about just at a high level.

17 Correct.

18 In any event, individuals can create an LLC to own
19 a cabin, for example, correct?

20 A. Sure.

21 Q. They can -- if an individual wants to, they could set up
22 an LLC to own any other, you know, high value item that they
23 might own, correct?

24 A. Sure.

25 Q. Especially if they want to protect themselves from any

1 potential liability relating to that product or that
2 particular piece of land, cabin or any other item, right?

3 A. Yes.

4 Q. And an individual can have multiple LLCs that they
5 are -- that they set up, correct?

6 A. Yes.

7 Q. All right. And when someone sets up an LLC, it would be
8 a common practice then for them to -- the next step would be
9 to open a bank account. And you have to get a tax
10 identification number in order to do that, right?

11 A. Right.

12 Q. So it wouldn't be uncommon that shortly after going and
13 setting up a limited liability company that owner would then
14 obtain a tax identification number and open a bank account,
15 correct?

16 A. Yes.

17 Q. All right. Continuing on with some of these general
18 principles, have you observed that a business may have
19 multiple LLCs, especially small businesses?

20 Let me give you an example. If a business is
21 delivering a product, they might create an LLC for purposes
22 of the transportation aspect of their business, correct?

23 A. Yes.

24 Q. If they're storing a product and have buildings, they
25 may set up a separate LLC for purposes of the storage of

1 their product. Is that fair?

2 A. Yes.

3 Q. Similarly, they might have a separate LLC for the
4 purchasing aspect of a business and/or the finance aspect of
5 a business. Is that a fair statement?

6 A. Sure, yes.

7 Q. All right. And it could go on and on, depending on the
8 complexity of the business and how someone chooses to
9 structure their business. Fair?

10 A. Yes.

11 Q. All right. And you did testify a little bit, I believe,
12 when Mr. Mohring was up here that you have some background
13 in kind of the business principles applied by people from
14 East Africa, correct?

15 A. Yes.

16 Q. And you would agree with me it is quite common, because
17 most, if not all, are first-generation immigrants, that they
18 initially work with people that they -- are a part of their
19 close-knit community, correct?

20 A. Yes.

21 Q. And so -- and family is a good place where they start,
22 right?

23 A. Yes.

24 Q. And also other people that might be, for example, part
25 of the same mosque or the same clan or tribe that they're a

1 part of, right?

2 A. Right.

3 Q. And that's a very common way for that group of people to
4 do business, correct?

5 A. Yes, I would agree with that.

6 Q. Thank you. And in this particular case, there's been
7 some testimony about multiple LLCs that were created by
8 various individuals that were related to each other or that
9 were -- they seem to have a close relationship. They were
10 all from an East African descent, correct?

11 A. I believe so.

12 Q. All right. And you have just testified there was some
13 numbers put up about various monies, because you were
14 following the money that was being transferred between, for
15 example, there was testimony by Mr. Mohring -- when you
16 testified, between Afrique Hospitality and Empire Cuisine &
17 Market; is that correct?

18 A. Yes.

19 Q. And there was some testimony about the fact that one
20 might be providing some of the logistics or storage for the
21 other, correct?

22 A. Sure, yes.

23 Q. And/or one might have been purchasing food and sharing
24 that purchase with the other; is that correct?

25 A. Yes.

1 Q. All right. So they were doing business together,
2 correct?

3 A. Sure, yes.

4 Q. All right. And just going -- you know, I didn't go into
5 all the categories.

6 Could we pull up M-13a, please?

7 You'd agree with me that one of the categories
8 that you had in the Uses of Funds for Empire Cuisine &
9 Market was Defendants' Other Entities?

10 A. Yes.

11 Q. Okay. Another one was Related Parties? That's actually
12 at the very top, correct?

13 A. Yes.

14 Q. And you would agree with me that you just testified 1.2,
15 almost \$1.3 million was paid to Anza International LLC as a
16 related party?

17 A. Yes.

18 Q. And you agreed and testified that you believe they were
19 actually providing both warehousing storage for Empire
20 Cuisine & Market as well as transportation for Empire
21 Cuisine & Market, correct?

22 A. I would believe so.

23 Q. All right. But that -- instead, the way it's
24 categorized on your M-13a is just as a related party, right?

25 A. Yes.

1 Q. All right. But, in actuality, they were providing
2 storage and transportation services for Empire Cuisine &
3 Market, correct?

4 A. Yes.

5 Q. And that was to the tune of almost \$1.3 million spent on
6 that; is that right?

7 A. Yeah, I'm not sure if it was just all transportation
8 and -- but -- and rental, but I know generally that's what
9 some of the payments were for.

10 Q. Got it. Additionally, you have a line for -- excuse me.
11 Give me one moment.

12 I get a dry mouth so quick. I'll go get some
13 water.

14 Do you see your line for Transportation and
15 Logistics?

16 A. Yes, I do.

17 Q. On M-13a?

18 A. Yes.

19 Q. Can we highlight that line, please?

20 And is that \$658,316.71?

21 A. Yes, it is.

22 Q. That Empire Cuisine & Market spent -- this is directly,
23 again, during the time frame May 12th of 2020 through April
24 of 2022, right?

25 A. Right.

1 Q. All right. And then if we could pull up -- I think it's
2 M-13a11 -- or excuse me -- not 11, al.

3 THE COURT: Mr. Cotter, your counsel helped you
4 out with water.

5 MR. COTTER: Thank you. Appreciate that.

6 BY MR. COTTER:

7 Q. Could we highlight the -- I'll start with line 1, 2 and
8 3.

9 It looks like this was before -- it's in
10 December -- excuse me -- yeah, December of 2020. Do you see
11 that there was a warehouse lease expenditure for \$52,000?

12 A. That is what --

13 THE COURT: It's not in evidence yet.

14 MR. COTTER: Oh, I apologize. We'll take that
15 down and -- my apologies, Your Honor.

16 Just show that to the --

17 THE COURT: That's why you don't have it, members
18 of the jury.

19 BY MR. COTTER:

20 Q. I'll lay the foundation first.

21 Is M-13a11 -- I keep saying 11 -- 1 a summary
22 chart that you created?

23 A. Oh, I'm sorry. Yes.

24 Q. And, again, is it based upon the voluminous records that
25 you've testified to that you've reviewed in this case?

1 A. Yes.

2 Q. And it was made with the intention of summarizing the
3 data and putting it into certain categories; is that
4 correct?

5 A. Yes.

6 Q. And do you believe it would assist the jury in
7 understanding some of the voluminous bank records?

8 A. Yes.

9 MR. COTTER: I'd move to admit M-13a11.

10 THE WITNESS: al.

11 THE COURT: al.

12 Mr. Thompson.

13 MR. THOMPSON: No objection, Your Honor.

14 MR. COTTER: Sorry. Once it's in my head.

15 THE COURT: Bless you.

16 M-13a1 is admitted.

17 BY MR. COTTER:

18 Q. Now I'll go to where I started.

19 It appears that in December of 2020 a lease was
20 obtained for a warehouse, and there was a charge of \$52,000.
21 Do you see that?

22 A. That is what the check said.

23 Q. Okay. And moving down, do you see that there was
24 multiple payments to Ryder?

25 A. Yes, I do.

1 Q. All right. And do you understand Ryder to be the
2 company that leases out trucks or things that you can use to
3 deliver?

4 A. Yes.

5 Q. Sometimes people use them as moving trucks, but they can
6 also be used to deliver goods, correct?

7 A. Right.

8 Q. In your experience, is it fair to say that new
9 companies, for example, that haven't yet been able to
10 purchase their own equipment might lease or rent the
11 equipment until they are able to purchase?

12 A. Yes.

13 Q. And in this particular instance, it appears that there
14 was multiple charges paid by Empire Cuisine & Market to rent
15 Ryder trucks or vans in order, presumably, to deliver goods
16 as in their groceries/the food, right?

17 A. Right.

18 Q. All right. And it goes on for several pages of Ryder
19 expenses, correct?

20 A. Right.

21 Q. But then -- just give me one moment.

22 You can take that down. Just for the witness,
23 could we pull up M-13am?

24 Ms. Roase, you see Exhibit M-13am?

25 A. Yes, I do.

1 Q. Was this another summary chart that you created?

2 A. Yes.

3 Q. Is it a summary chart that, again, was based upon your
4 review of voluminous bank records?

5 A. Yes.

6 Q. Related to Empire Cuisine & Market LLC bank accounts?

7 A. Yes.

8 Q. For the time period May of 2020 to April of 2022?

9 A. Yes.

10 Q. Would this summary accurately reflect some of the data
11 you reviewed and assist the jury in understanding its
12 contents?

13 A. Yes.

14 MR. COTTER: I'd move to admit M-13am.

15 MR. THOMPSON: No objection, Your Honor.

16 THE COURT: M-13am is admitted.

17 BY MR. COTTER:

18 Q. So you just testified about a lot of rentals for Ryder
19 trucks. At a certain point did it appear that Empire
20 Cuisine & Market was able to purchase?

21 A. Yes.

22 Q. And we heard some testimony earlier in this case about
23 the purchase of Boyer trucks, and there was some receipts
24 found in my client's home regarding that. Correct?

25 A. Right.

1 Q. Looking at the bottom here, August of -- August 31st,
2 there's a check to Boyer Trucks in the amount of \$167,112;
3 is that correct?

4 A. Right.

5 Q. All right. And, again, on 9/2 there's a check for
6 \$69,769 that says Boyer Trucks fleet purchase as well?

7 A. Yes.

8 Q. All right. There is then a check for a transit van
9 pass, it looks like. I don't think that is related,
10 correct?

11 A. Yes.

12 Q. All right. But up earlier -- can we look at -- in the
13 middle of this chart, which is July 27, 2021, there was also
14 a Boyer Truck and it says truck reefer; is that correct?

15 A. Right.

16 Q. That was purchased in the amount of \$41,453?

17 A. Yes.

18 Q. And we've heard testimony essentially the reefer meant a
19 refrigerated truck; is that correct?

20 A. Yes.

21 Q. So, for example, if you needed to transport milk, you'd
22 need to have a refrigerated truck in order to keep it cool,
23 right?

24 A. Yes.

25 Q. All right. All in all, you have like under that

1 category of expenses 688,000 -- or excuse me -- \$658,316.71,
2 if we go back to M-13a, for vehicle expense,
3 transportation -- excuse me -- transportation and logistics;
4 is that correct?

5 A. For transportation and logistics, yes, but -- yes, okay.
6 Yep.

7 Q. And then right above that you have an assets - vehicle
8 expenses and purchases, correct?

9 A. Right.

10 Q. All right. And we've gone through and not all -- some
11 of those are personal vehicles, correct?

12 A. Yes.

13 Q. And some of them are these fleet trucks that were
14 purchased for purposes of Empire Cuisine & Market's
15 business, correct?

16 A. Right.

17 Q. All right. Whoops. Sorry.

18 I'm not going to walk through all of the food
19 invoices, but I just want to highlight a couple items.

20 If we can pull up -- give me one second -- O-240,
21 please. This is in evidence, I believe. O-240, if we can
22 start at page 7.

23 You see this is an Empire Cuisine & Market invoice
24 from Sysco?

25 A. Yes.

1 Q. Sysco, again, being the major international company that
2 it is?

3 A. Yes.

4 Q. All right. And you see that actually it has listed both
5 Empire Cuisine & Market up in the top left and right below
6 that Empire Gas & Grocery LLC also?

7 A. Yes, I see that.

8 Q. All right. And those were related businesses, correct?

9 A. If you're questioning my categorizing --

10 Q. I'm just asking you the question, Were they related
11 businesses?

12 A. They're the same owners.

13 Q. Okay. We'll go into that a little bit more.

14 You see that on this particular invoice it has on
15 the far left Quantity?

16 A. Yes.

17 Q. And this is just one invoice for milk. And it has, you
18 see, 225 CS and then another 225 CS?

19 A. Yes.

20 Q. All right. And then you see next to that it has pack,
21 4?

22 A. Right.

23 Q. And then you see the size, which is one gallon?

24 A. Yes.

25 Q. All right. And it goes all the way across and lists a

1 unit price, right?

2 A. Right, yes.

3 Q. And then a total price?

4 A. Right.

5 Q. All right. So going -- and then at the very bottom it
6 says cases, at the far bottom left, 450. Do you see that?

7 A. Right.

8 Q. All right. And so this is just one invoice. And let's
9 just take a look up -- and the delivery date for this
10 invoice is February 27th of 2021?

11 A. Yes.

12 Q. All right. On this invoice alone there was 450 cases of
13 milk purchased, correct?

14 A. Yes.

15 Q. And in each one of those cases there's a 4-pack; is that
16 right?

17 A. Right.

18 Q. And you'd agree with me that 450 times 4 is 1,800?

19 A. Yeah.

20 Q. So you'd agree with me that that would then be a total
21 of 1,800 gallons of milk that were --

22 A. Yeah.

23 Q. -- purchased --

24 A. Yes.

25 Q. -- on this invoice?

1 A. Yes.

2 Q. All right. And you may not know this, but does it sound
3 fair to you that there is approximately -- or there is
4 128 ounces of milk in a gallon?

5 A. I don't know.

6 Q. You don't know. If I were to tell you there are
7 128 ounces of milk in a gallon of milk, would you have any
8 reason to dispute it?

9 MR. THOMPSON: Objection. Foundation.

10 MR. COTTER: Fair enough.

11 THE COURT: Sustained.

12 BY MR. COTTER:

13 Q. In any event, in a gallon of milk -- well, let me back
14 this up. Do you recall going to school and you'd get those
15 little cartons of milk?

16 A. Yes.

17 Q. All right. Are you aware that there are approximately
18 eight ounces of milk in those?

19 A. I'm not sure.

20 Q. All right. In any event, you'd agree that if one gallon
21 of milk could be broken down significantly into a serving,
22 in other words, an amount that would be found in a carton of
23 milk?

24 A. Sure.

25 Q. And that would be served to a child, for example?

1 A. Sure.

2 Q. All right. In any event, we have 1,800 gallons of milk
3 here that can be divided down into 8-ounce cartons, if it
4 were to be divided into a serving for a child. Fair?

5 MR. THOMPSON: Objection, Your Honor. They are
6 gallons of milk, not cartons. Misstates the evidence.

7 THE COURT: Overruled.

8 You may answer if you can.

9 THE WITNESS: Yeah, I was -- I mean, I don't know
10 if you're kind of assuming that milk would be poured for the
11 kids? That's not what happens.

12 BY MR. COTTER:

13 Q. I'm not asking you to assume anything. I'm just talking
14 about -- the question was simply, One gallon of milk can be
15 broken down into smaller portions, that would be a more
16 appropriate serving size, correct?

17 A. I don't know -- I don't know that it would be broken
18 out.

19 Q. Very good.

20 We can move on to page -- we'll pull up C-337,
21 which is in evidence. All right. And move down to page 19.

22 Let me see if this is the actual -- this is C-337?
23 Oh, I must have written down the wrong one. You can take
24 that down. It's the wrong one.

25 Would you agree with me that your categorization

1 of the amount of money spent on food in M-13a is the total
2 cost of the food product that was purchased, correct?

3 A. By Empire Cuisine & Market?

4 Q. Yes.

5 A. By Empire Cuisine & Market, yes.

6 Q. All right. It wasn't broken down into the number of
7 servings that could be obtained from each category of food
8 that was purchased, correct?

9 A. No, it was not.

10 Q. All right. And you'd agree with me, as we talked about
11 when I started my examination, that reimbursement was based
12 upon the number of servings that were reimbursable under the
13 program, correct?

14 A. Yes.

15 Q. All right. Now I'm going to shift gears a little bit
16 and just briefly focus more specifically on Mohamed Ismail.
17 Okay?

18 A. Okay.

19 Q. You testified that there had been a precursor business.
20 The Empire Gas & Grocery, that was actually incorporated in
21 2018; is that correct?

22 A. I mean, it was earlier. I don't remember if it was
23 2018.

24 Q. Okay. You started -- and we can pull up M-48 briefly.
25 You at least tracked sources of funds back to January 1st of

1 2018; is that correct?

2 A. Yes. And actually I believe that there was a little bit
3 of 2017, but because it wasn't a full year I didn't want to
4 do that, do a sources and uses for that.

5 Q. And you understood that this was a business that
6 Mr. Ismail was one of the owners, correct?

7 A. Yes.

8 Q. All right. And as has already been testified to, this
9 business remained open, at least its bank accounts,
10 throughout the course of the time period May of 2020 to
11 January of 2022; is that correct?

12 A. Yes.

13 Q. All right. And you also, it's been established now --

14 Can we pull up A-1?

15 This is Empire Cuisine & Market, correct?

16 A. Yes.

17 Q. And you understand from the testimony and from the bank
18 records that there was two sides. There was a restaurant,
19 correct?

20 A. Yes.

21 Q. And there was a market, correct?

22 A. Right.

23 Q. And you also understand that -- are you aware that --
24 did they have separate -- strike that.

25 Did you actually specifically audit the restaurant

1 side of Empire Cuisine & Market?

2 A. I wouldn't be able to audit if I don't have all the
3 records.

4 Q. Well, are you aware of whether the records from the
5 restaurant were obtained, essentially all of the finances
6 and billing and profit and loss and financial statements?

7 A. I'm not sure. I don't know.

8 Q. Similarly, for the market, was there any determination
9 whether there was any difference between the restaurant and
10 the market in the financing or finances?

11 A. I guess what I would say is I -- I could kind of tell
12 based on the activity in the bank accounts.

13 Q. And that's -- actually I want to talk about that because
14 at a certain point, and it's already been testified to,
15 Empire Cuisine & Market was formed, correct?

16 A. Yes.

17 Q. Had a bank account. And then more than one was opened
18 in that business?

19 A. Right.

20 Q. But there was still Empire Gas & Groceries bank account
21 opened, correct?

22 A. Yes.

23 Q. And at a later time in August of 2021 MZ Market LLC was
24 opened; is that correct?

25 A. Yes.

1 Q. And that was Mohamed Ismail's business?

2 A. Yes.

3 Q. All right. Are you aware of -- well, let me just look
4 at -- back at M-48.

5 The top portion, it has Credit Card/EBT Income.

6 A. Yes.

7 Q. Do you see that?

8 A. Right.

9 Q. All right. And EBT was what?

10 A. Food stamp.

11 Q. Food stamps. And are you aware of any, in accounting,
12 any rules regarding restaurants versus markets being able to
13 accept food stamps?

14 A. Generally, I think it's just supposed to be for
15 groceries.

16 Q. All right. And so you understand that, again, there was
17 a restaurant and there was a market, correct?

18 A. Right.

19 Q. And with regard to Empire Gas & Grocery, it had credit
20 card/EBT income; is that correct?

21 A. Yes.

22 Q. Was your category?

23 A. Yes.

24 Q. And then M-13a, that just talked about credit card
25 income for Empire Cuisine & Market. Do you recall that?

1 A. Yes.

2 Q. All right. You also -- there's been some testimony --
3 if we can pull up M-37. This is the summary chart for
4 MZ Market, correct?

5 A. Yes, it is.

6 Q. Opened on August 1st, 2021?

7 A. Yes.

8 Q. And there had been some review of the use of the funds
9 between August and January, August '21 and January '22,
10 correct?

11 A. Yes.

12 Q. And it was noted that there wasn't money spent on food,
13 right?

14 A. Right.

15 Q. Going back to M-48 and page 3, which is --

16 This was the summary chart for 1/1/21
17 through 12/31/21 at the top, correct?

18 A. Yes, right.

19 Q. And you see the Use of Funds expense for that was
20 242,559.54 on food, correct?

21 A. Yes, I see that.

22 Q. All right. And these both were businesses, MZ Market
23 and Empire Cuisine & Market, that one of them Mr. Ismail
24 owned alone and the other he had a partner, right?

25 A. Right.

1 Q. All right. With regard to the -- and then we'll move
2 off of these. You do agree with me that during the time
3 frame of the pandemic there was over a million dollars in
4 sales just for the Empire Cuisine & Market accounts?

5 A. Yes.

6 Q. All right. And that was just credit card sales,
7 correct?

8 A. I think it was mainly credit card sales and some cash.
9 Yeah, I think it's just -- I think the system that they used
10 or the app --

11 Q. Let's pull up M-13.

12 A. -- is Clover, I think.

13 Q. That's not the one. Sorry.

14 M-13a. This is the one. So you see credit card
15 income?

16 A. Yes.

17 Q. All right. \$1,062,943 -- excuse me. 1,062,943.76; is
18 that correct?

19 A. Yes, right.

20 Q. There's an additional cash in of over \$11,000?

21 A. Yes.

22 Q. All right. And that was just during the relevant time
23 frame that's in controversy here in this case?

24 A. Right.

25 Q. May of 2020 through April of 2022; is that correct?

1 A. Yes.

2 Q. The last point of inquiry, if you know, this says Empire
3 Cuisine & Market LLC combined bank accounts, correct?

4 A. Yes.

5 Q. And that was three different accounts at U.S. Bank and
6 Old National and at JPMorgan Chase?

7 A. That's right.

8 Q. And Mohamed Ismail was not a signer on any of these
9 accounts after June 2020, correct?

10 A. Right.

11 Q. All right. So he didn't have authority to write checks
12 on those accounts, correct?

13 A. He was not an account signer, but he was still an owner,
14 is my understanding.

15 Q. I've asked you the question, He was not an account
16 signer able to write checks, correct?

17 A. Right, after June of 2020.

18 Q. All right. Thank you.

19 MR. COTTER: I have no other questions.

20 THE COURT: Thank you, counsel.

21 Mr. Sapone.

22 MR. SAPONE: Yes. Thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. SAPONE:

25 Q. Good afternoon, ma'am. How are you?

1 A. I'm good. How are you?

2 Q. Very well. Thanks for asking.

3 Do you recall when you testified on direct
4 examination you and Mr. Thompson had talked about certain
5 invoices from food supply companies that vendors emailed to
6 the sponsors?

7 A. Yes.

8 Q. And I think that you referred to them as "duplicates."
9 Remember?

10 A. Right.

11 Q. Now, to be clear, there were two sponsors in this case,
12 Feeding Our Future and Partners in Quality Care or Partners
13 in Nutrition. Yes?

14 A. Yes.

15 Q. You came to learn that there were food supply companies
16 such as Upper Lake, right?

17 A. Right.

18 Q. Asahal. Yes?

19 A. Yes.

20 Q. Sysco?

21 A. Yes.

22 Q. Afro Produce?

23 A. Right.

24 Q. And others, right?

25 A. Right.

1 Q. We'll get to amounts of food later, but for now I'm
2 going to ask some other questions. Okay?

3 A. Okay.

4 Q. We can agree the companies I just named, the food supply
5 companies, were real companies. Yes?

6 A. Yes.

7 Q. And they were really in the business of supplying food.
8 Fair?

9 A. Yes.

10 Q. And that the invoices that you testified about were
11 invoices that listed various items of food, right?

12 A. Right.

13 Q. We can agree that a fair characterization would be lots
14 of food. Yes?

15 A. I would not.

16 Q. There's a difference between a bank statement and an
17 invoice. Two different things? Yes?

18 A. Yes.

19 Q. Let's say we're talking about food. Okay?

20 A. Okay.

21 Q. A bank statement can show money that was paid by a
22 person or an entity for the food, right?

23 A. Right.

24 Q. An invoice can show food items that were delivered or
25 acquired by the customer, right?

1 A. Yes.

2 Q. We can agree that Empire spent money on food. Yes?

3 A. Yes.

4 Q. Can we pull up M-48, please?

5 M-48 is an example of some money spent by Empire
6 on food, right?

7 A. Well, this is Empire Gas & Grocery, so I wouldn't
8 consider this as part of the Empire Cuisine side of the
9 business.

10 Q. We can take it down. But, in any event, there's no
11 dispute that Empire spent money on food in this case, right?

12 A. Right, yes.

13 Q. Bushra spent money on food also, right?

14 A. Yes.

15 Q. And so did Afrique, yes?

16 A. Yes.

17 Q. All told, do you agree that millions of dollars were
18 spent on food by these men in this case?

19 A. Yes.

20 Q. Notwithstanding how much money was spent, we can agree
21 that Empire, Bushra and Afrique acquired food from those
22 food supply companies. Yes?

23 A. Yes.

24 Q. Do you agree with me that the amount of food acquired is
25 not determined by the amount of money paid for the food?

1 A. I'm sorry. Can you -- can you say that again?

2 Q. Put differently, a vendor can acquire food from a food
3 supply company, yet they didn't pay the bill, true?

4 A. Sure.

5 Q. I want to invite your attention back to the spring of
6 2021. Okay?

7 A. Okay.

8 Q. The first business you looked at in connection with the
9 Feeding Our Future investigation was a restaurant named
10 Safari, right?

11 A. Right.

12 Q. And you had spent some time looking at Safari. Yes?

13 A. Yes.

14 Q. And then you looked at Empire, right?

15 A. Right.

16 Q. I want to talk about charts for a few minutes. Okay?

17 A. Okay.

18 Q. You did a lot of work in this case by making lots of
19 charts, right?

20 A. Yes.

21 Q. And you made lots of charts relative to money, right?

22 A. Right.

23 Q. Money sent and received, right?

24 A. Yes.

25 Q. Amounts of monies in various bank accounts. Yes?

1 A. Yes.

2 Q. Monies spent and earned, right?

3 A. Right.

4 Q. And other financial transactions. Yes?

5 A. Yes.

6 Q. Is it fair to say that you've created dozens of charts
7 concerning money?

8 A. Yes.

9 Q. Can you just tell me roughly, if you know, when was the
10 time that you made the first chart regarding money in this
11 case?

12 A. If you're talking -- I guess if you're talking about
13 exhibit-wise, is that what you mean or --

14 Q. Yes.

15 A. It would have been a few months ago.

16 Q. And when was the last one you made?

17 A. Including modifications or --

18 Q. Sure.

19 A. Okay. Yesterday.

20 Q. So it's fair to say that you invested a lot of time
21 making these charts that were turned into exhibits regarding
22 money, right?

23 A. Sure, yes.

24 Q. Can you estimate just more or less approximately the
25 number of hours you spent making charts relative to money?

1 A. Again, if you're talking about just the exhibits, I
2 already had, you know, the -- the underlying data and Excel
3 documents that I spent, you know, years on, along with my
4 colleagues. But to take that data and make them into
5 charts, I -- I don't know, maybe a hundred hours.

6 Q. You've been investigating in this case since the spring
7 of 2021?

8 A. Yes.

9 Q. What month in 2021? I know you said it, but I forgot.

10 A. It was May.

11 Q. So that's three years that you've been investigating
12 this case. Yes?

13 A. Yes.

14 Q. Lots of your charts made lots of comparisons, right?

15 A. I'm not sure what you mean by "comparisons."

16 Q. Sure. So the charts, some of them, would take a large
17 bucket of information and then break it down into smaller
18 buckets of information, true?

19 A. Sure, yes.

20 Q. One example is M-25, if we could pull it up, please.

21 (Counsel confer)

22 BY MR. SAPONE:

23 Q. Do you recall making a chart of Abdimajid Nur's combined
24 bank accounts, Nur Consulting?

25 A. Yes.

1 Q. And that takes all of the bank accounts and breaks it
2 down from that large bucket into smaller buckets, such as
3 sources of the funds that went into the bank account, right?

4 A. Right.

5 Q. It lists the entities from where the money came. Yes?

6 A. Yes.

7 Q. And it breaks down even smaller buckets, such as uses of
8 the funds, right?

9 A. Right.

10 Q. You were asked by Mr. Thompson, were you not, lots of
11 questions regarding things that were significant to you in
12 your investigation. Yes?

13 A. Right.

14 Q. And why you chose to focus on certain things, true?

15 A. Yes.

16 Q. We can agree, and I think you've said it, the money was
17 significant to you, right?

18 A. Right.

19 MR. SAPONE: Can we pull up Exhibit D-23, please?

20 Okay. Thank you. Just wanted to take a look at it.

21 BY MR. SAPONE:

22 Q. You have reviewed in connection with your investigation
23 in this case invoices that show various items of food,
24 correct?

25 A. Right, yes.

1 Q. You did not make a chart where you took a large bucket
2 of, let's say, total volume of food supplied by a food
3 supply company into a smaller bucket of number of servings
4 or meals that it would be broken down into. You have no
5 such chart, correct?

6 A. We looked at it, but, yes, we did not -- I did not
7 create a chart.

8 Q. Do you recall testifying -- it was today, I think, on
9 cross-examination, perhaps Mr. Birrell -- about 210 cases of
10 Dole pear diced in juice? Do you recall that?

11 A. Yes.

12 Q. So you didn't do a chart, for example, of how many
13 individual servings or meals the 210 cases of pears would be
14 broken down into, true?

15 A. Again, we did look at it, and I did not create a chart,
16 but we did look at it. And we did do that, but it's not a
17 chart.

18 Q. And so I think you said that you know from your
19 investigation that there are invoices in this case, right?

20 A. Yes.

21 Q. The food supply stores, supply stores sent food to the
22 vendors in bulk quantities. Yes?

23 A. Yes.

24 Q. And I'm talking about the vendors who participated in
25 the food programs, the ones sitting here.

1 A. Yep.

2 Q. Yes. And then you know that the vendors and employees
3 took from that bulk the items of food and broke it down into
4 small enough quantities to put into bags to serve to people.
5 Yes?

6 A. Yeah.

7 Q. An example could be apples. The apples would come in
8 bulk, many, many pounds, could be hundreds or more, and then
9 maybe one apple goes in a bag, true?

10 A. Right, yes.

11 Q. And as of 2021, how many years had you been with the
12 FBI?

13 A. Let's see. I was in my fourth -- fifth year? Fourth,
14 fifth year.

15 Q. And was that as a forensic accountant from the
16 beginning?

17 A. I'm sorry. Seven years, but, yes, forensic accountant,
18 yep.

19 Q. And you've done investigations throughout that period of
20 time?

21 A. Yes.

22 Q. By the end of 2021, do you know how many FBI agents were
23 participating in this investigation?

24 A. By the end of 2021?

25 Q. Yes.

1 A. There were three or four case agents.

2 Q. By the way, I represent Abdimajid Nur. I don't know if
3 you knew that.

4 A. I knew that.

5 Q. Okay. Part of the reason you knew is because you sat
6 throughout the trial. Yes?

7 A. Yes.

8 Q. You testified on direct examination about lots of meal
9 count forms, right?

10 A. Right.

11 Q. And on the forms there's a site at which meals,
12 according to the form, were delivered, right?

13 A. Right.

14 Q. An example, just among many, could be Autumn Holdings
15 was a site, right?

16 A. Right.

17 Q. And on the forms -- I think we all have seen a lot of
18 them, but just for this line of questioning -- there were
19 numbers of meals per day, Monday through the end of the
20 week, right?

21 A. Yes.

22 Q. And then the total for the week. Yes?

23 A. Right.

24 Q. The type of meal was on the forms, like whether it be a
25 snack or a supper or what have you. Yes?

1 A. Yes.

2 Q. And so you testified on direct about lots of these meal
3 counts and sites and it was submitted to sponsors, right?

4 A. Right.

5 Q. And emails containing invoices and other data that went
6 to the sponsors. Yes?

7 A. Yes.

8 Q. Now, you've been investigating since the spring of 2021
9 you said. Yes?

10 A. Yes.

11 Q. In fairness to you, it was never your role to go to the
12 sites to investigate the numbers of meals served. That's a
13 fair statement, right?

14 A. Yes.

15 Q. So -- and I'm not saying you should have, but since the
16 spring of 2021 you're investigating the case, but you didn't
17 go to one site to determine how many meals were actually
18 delivered, right?

19 A. I did not.

20 Q. Because it wasn't your role. It's not that you failed
21 to, but that wasn't your job, right?

22 A. Right.

23 Q. You testified about various consulting agreements that
24 you saw on Abdi's -- and I'm talking my Abdi Nur -- on his
25 iCloud account. Do you remember that?

1 A. Yes.

2 Q. Do you know based on your training and experience what
3 metadata is?

4 A. I do generally, yes.

5 Q. Can you just tell us some of the things we can learn
6 from metadata?

7 A. It can tell the creation of something, and occasionally
8 it can tell you who actually created it.

9 Q. Did you look at metadata relative to any of the
10 consulting agreements that you asked questions about?

11 A. Not me personally.

12 Q. You recall, do you not, testifying about at least one
13 Empire invoice where there were misspellings on it? Do you
14 recall that testimony?

15 A. Yes.

16 Q. It was not your testimony that Abdi misspelled anything,
17 right?

18 A. Correct.

19 Q. Did you look at metadata -- I'm asking you -- regarding
20 any invoices that were on the iCloud account?

21 MR. THOMPSON: Objection, Your Honor. Could I ask
22 for another sidebar?

23 THE COURT: You may.

24 **(Sidebar discussion)**

25 THE COURT: Mr. Thompson.

1 MR. THOMPSON: Your Honor, again, I'm going to
2 object on 403, foundation, beyond the scope.

3 I also want to say a couple things. Again,
4 counsel is opening the door repeatedly by suggesting that
5 the government didn't do something in terms of metadata or
6 in terms of creating charts based on food. Our only
7 response to that is to suggest -- is to state and elicit and
8 argue that the defense has every right to do that
9 themselves.

10 This has been a theme of this trial. At this
11 point it's infected the whole thing. The jury must be
12 hopelessly confused about whether or not the government is
13 involved in some sort of conspiracy to convict the
14 defendants. It's not appropriate.

15 THE COURT: Mr. Sapone.

16 MR. SAPONE: I didn't accuse the government of
17 conspiring to do anything. I'm just cross-examining based
18 on the direct examination.

19 THE COURT: Where are we going with the metadata?

20 MR. SAPONE: Well, she testified about certain
21 things that she found and looked at and was asked, you know,
22 many questions about those things.

23 I just want to know the depth of what she knows
24 about those things and whether or not she knows anything,
25 for example, from looking at metadata, or is it just that

1 she just saw them on the iCloud account, Your Honor.

2 MR. THOMPSON: Your Honor, there is no such
3 metadata when you get a search warrant on a gmail account.
4 Counsel knows that.

5 If he wants to -- if he wants to say that we
6 didn't hear about metadata, that's one thing, but to suggest
7 the government didn't look for it or somehow trying to pull
8 the wool over the jury's eyes is inappropriate.

9 And, again, our only response is to point out the
10 fact that the defense is welcome to put on someone to
11 testify about the metadata if they want to show that those
12 are legitimate invoices.

13 MR. SAPONE: Just quickly, Your Honor. It makes
14 Abdi look bad if there are misspellings on a document on his
15 iCloud account. I just want to make sure that she's not
16 implying or didn't say that he's the one that did it. And
17 the way to find that out is if you looked at metadata, you
18 would know when it happened or even who did it.

19 THE COURT: And do you have the metadata to
20 suggest that?

21 MR. SAPONE: No, but I know he -- I don't believe
22 he did it, but I don't know how else to show that.

23 THE COURT: She's already answered that question.

24 MR. SAPONE: Sure.

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

1 Move on.

2 MR. SAPONE: Okay.

3 **(In open court)**

4 THE COURT: The objection is sustained.

5 BY MR. SAPONE:

6 Q. Ma'am, do you recall testifying about a template that
7 you found on the iCloud account?

8 A. Yes.

9 Q. Have you ever used a template for anything?

10 A. Probably.

11 Q. Can we agree that templates are used in business all the
12 time?

13 A. Yes.

14 Q. And there are accounting templates, right?

15 A. Sure, yes.

16 Q. You testified on direct about emails that Abdi Nur sent
17 to a witness by the name of Hadith Ahmed, right?

18 A. Yes.

19 Q. But that was while Hadith Ahmed was an employee of
20 Feeding Our Future. Yes?

21 A. I don't recall the email specifically.

22 Q. But as you testified, you certainly don't recall any
23 personal email, right?

24 A. That's -- I mean, that's probably right.

25 Q. You testified about invoices that Abdi Nur had emailed

1 where he cc'd Abdiaziz Farah. Do you recall that?

2 A. Yes.

3 Q. You know that in 2021 Abdi Nur worked for Abdiaziz and
4 worked for Empire, right?

5 A. Right, yes.

6 Q. You testified about emails to Ms. Lomen. Do you recall?

7 A. Yes.

8 Q. But that's when Ms. Lomen was a Partners in Nutrition or
9 Partners in Quality Care employee, right?

10 A. Right.

11 Q. Those weren't personal emails, were they?

12 A. No.

13 Q. Do you recall testifying yesterday about an Afro Produce
14 invoice, Afro Produce invoice, and you were asked by
15 Mr. Thompson, quote, Are these the same invoices saved to
16 Nur's Google Drive, the ones that were being altered? Do
17 you recall that?

18 A. Yes.

19 Q. You're not testifying that you witnessed Abdi Nur alter
20 anything, are you?

21 A. No.

22 Q. You're not aware of any statements by Abdi saying that
23 he altered anything, right?

24 A. Right.

25 Q. No witness told you that Abdi Nur altered anything,

1 true?

2 A. Right.

3 Q. You reviewed no email in which Abdi Nur says, in sum and
4 substance, he altered anything, right?

5 A. Right.

6 Q. I'm not going to ask about metadata.

7 You were asked about Abdi emailing something to
8 himself, do you recall?

9 A. Yes.

10 Q. Have you ever emailed something to yourself?

11 A. Sure.

12 Q. You testified about various WhatsApp messages, many of
13 which were between the two Abdis, Abdiaziz and Abdimajid.

14 Yes?

15 A. Yes.

16 Q. Some of them were regarding cashier's checks and a wire
17 to Kenya, do you recall?

18 A. Probably.

19 Q. And that was in 2021 when Abdi was working for the other
20 Abdi at Empire. Yes?

21 A. Yes.

22 Q. And part of his job functions, while Abdiaziz was in
23 Kenya, was to take care of some of the banking, right?

24 A. Sure, that makes sense.

25 Q. And in fact Abdi Nur was a signatory on one Empire bank

1 account, right?

2 A. Right.

3 Q. You reviewed, I think you said, hundreds of bank
4 accounts in connection with this investigation. Yes?

5 A. Yes.

6 Q. You knew that in 2021 Abdi Nur also had a personal
7 checking account, right?

8 A. Right.

9 Q. With Wells Fargo?

10 A. That sounds about right.

11 Q. Into which -- into which the bank account were checks
12 from the U.S. Army, his employer at that time, right?

13 A. Sure, yes.

14 Q. And his U.S. Army checks were deposited into his bank
15 account, right?

16 A. Yes.

17 Q. You testified that Abdi Nur didn't buy food, do you
18 recall?

19 A. Out of his -- out of the Nur Consulting account, yes.

20 Q. But Abdi Nur, in fairness to him, wasn't a vendor,
21 right?

22 A. Right.

23 Q. And Abdi Nur didn't own a restaurant, right?

24 A. Right.

25 Q. And he didn't own a market, did he?

1 A. Right.

2 MR. SAPONE: Thank you, ma'am. Nothing further.

3 THE COURT: Thank you, counsel.

4 Mr. Garvis, cross-examination.

5 CROSS-EXAMINATION

6 BY MR. GARVIS:

7 Q. Ms. Roase, how are you doing?

8 A. I'm good. How are you?

9 Q. Okay. Good.

10 I'm going to mostly talk about my client. You
11 know that I represent Mr. Aftin, right?

12 A. Yes.

13 Q. All right. And -- but I do want to just start a little
14 bit -- and my colleague Mr. Schleicher is going to mostly
15 deal with the aspects related to Bushra and M-10. Okay?

16 A. Okay.

17 Q. All right. But I do want to start with the concept that
18 Bushra itself, you know, was a physical location, correct?

19 A. Yes.

20 Q. Mr. Clayton -- or Mr. Carlson, sorry, would you pull up
21 O-24. O-24. Sorry. And the second page.

22 So know the address. 3004 Pillsbury Avenue,
23 Minneapolis, right?

24 A. Yes.

25 Q. Okay. And I think early on in this trial Agent Kary

1 testified we know that nobody went to Bushra Wholesalers,
2 right? We heard that testimony, correct?

3 A. Right.

4 Q. And we know there wasn't any pictures of Bushra
5 Wholesalers, correct?

6 A. Right, not that location. Right, yep.

7 Q. Right. Okay. I'm not talking about the search of the
8 house.

9 A. Correct.

10 Q. All right. But we do know that Bushra bought food,
11 correct?

12 A. Yes.

13 Q. They stored food?

14 A. Probably.

15 Q. Okay. And delivered food?

16 A. I'm not sure, but probably.

17 Q. Okay. Now, I think -- I don't want to belabor the
18 point, but I think as it relates to Bushra you -- you didn't
19 obviously take any of the invoices and do any type of -- I'm
20 terrible at this -- deep dive forensic accounting of it. Is
21 that a fair statement?

22 A. No. I want to say we -- we did. It wasn't me that dove
23 into the invoices, but, yes, we did dive into it.

24 Q. And what I'm getting at is that there were other things
25 provided, like W-9 for employees and different things, that

1 you guys didn't necessarily review?

2 A. Oh, sure. No, right.

3 Q. That's what I was getting at.

4 A. Okay.

5 Q. All right. And I do want to do this, and I realize
6 we've now done this, and this is the issue that we run into
7 when there are seven defense lawyers that are
8 cross-examining people, but just in the general sense, that
9 as we relate to the reimbursement program, right, we
10 understand how it played out? Fair statement?

11 A. Yes.

12 Q. Okay. Obviously, things happened between two
13 thousand -- you know, at the pandemic in March of 2020,
14 correct?

15 A. Right.

16 Q. Right? We created this. We had the waivers that
17 Mr. Mohring talked about, correct?

18 A. Yes.

19 Q. We had restaurants that then became sites. Fair
20 statement?

21 A. Yes.

22 Q. Right? And then in October MDE shut those down, 2020,
23 correct?

24 A. Yes.

25 Q. All right. And then after that we had various sponsors

1 who then began applying for other sites. Fair statement?

2 A. Sure, yes.

3 Q. Right. Okay. And that led to that Feeding Our Future
4 fight that we heard so much about from Ms. Honer, correct?

5 A. Yes.

6 Q. All right. And eventually what happened was around
7 April of 2021 the sites were approved and the stop pay that
8 had been put in place was lifted, correct?

9 A. Right.

10 Q. All right. And then after that, what was required was
11 that these places, these various sites, had to then produce
12 documentation?

13 A. Right, yes.

14 Q. Okay. As to Bushra, though, right, just so we make sure
15 of this, they were not a sponsor. Fair statement?

16 A. Right.

17 Q. They were not a site?

18 A. Right.

19 Q. And what they were was a supplier of food to sites.

20 A. Yes.

21 Q. And other vendors.

22 A. Yes.

23 Q. Okay. And so what would happen is, is that, as we've
24 talked about, a claim would be put in by the sponsor to MDE
25 and the money would go MDE to the sponsor and then either to

1 a nonprofit or to a vendor, right?

2 A. Yes.

3 Q. And then to the supplier.

4 A. Right.

5 Q. Okay. So Bushra is at least three steps down the line
6 on the money.

7 A. Sure, yes.

8 Q. Okay. Now, we heard some testimony -- obviously we've
9 heard a lot of testimony about Bushra when it was formed,
10 correct?

11 A. Right.

12 Q. We know it was formed February, I think, 10th, 2021.

13 A. Right.

14 Q. Okay. Now, at the time there was some testimony early
15 on in this trial that my client was actually out of town
16 from the fall of 2020 and came back into town just before
17 formation. Is that a fair statement?

18 A. Yes.

19 Q. Okay. And at the time that they did that, this was
20 obviously the time frame when MDE had a stop pay in,
21 correct?

22 A. I think -- I think the stop payment came -- I think the
23 notice was end of March 2021.

24 Q. Okay.

25 A. And then the stop pay was, I think, effective April 1st

1 or something, something like that, around there.

2 Q. I mean, obviously there was some testimony in this case,
3 and I'm not trying to trip you up, so to speak, but is it
4 fair to state that obviously Ms. Honer might have testified
5 that the stop pay was -- there was an affidavit that she
6 testified about from April of 2021 lifting the stop pay?

7 A. I don't recall.

8 Q. Okay. Fair enough.

9 As it relates, however, to Bushra and after it was
10 formed, fair to state when you looked at the bank accounts
11 of Mr. Aftin and Mr. Said Farah that they put out monies
12 themselves individually in relation to the -- in relation to
13 Bushra?

14 A. When they first opened the account?

15 Q. Well, not so much when they opened Bushra's account, but
16 just as far as doing business for Bushra.

17 A. Putting their own money in?

18 Q. Yeah.

19 A. I'm not sure I saw that.

20 Q. Okay. Mr. Carlson, would you pull up O-113? Now go to
21 the second page, please.

22 This is one of Mr. Aftin's bank accounts. Is that
23 a fair statement?

24 A. Okay. Yes.

25 Q. Right. And we see -- we see obviously at the time he

1 was living at 1 West Lake Street, Apartment 302.

2 A. Yes.

3 Q. Okay. Would you go to page 606, please?

4 This is a check -- and I apologize to Ms. Rogge
5 upfront -- is a payment that says from my client to -- it
6 says payroll in the memo, right?

7 A. Sure, yes.

8 Q. To a Muktar Salat Ahmed.

9 A. I see that.

10 Q. Right.

11 Mr. Carlson, would you go to page 610?

12 610. Another check by my client, again, April.
13 This is to Hani Ahmed Noor. Again, payroll.

14 A. Yes.

15 Q. Would you go to page 612?

16 Again, a check by my client to a Farhia Hussein
17 Ibrahim, again for payroll.

18 A. Yep.

19 Q. Would you go to page 625?

20 This is another check from my client, payroll,
21 Sadiya Mohamed Sayid Abdi.

22 A. Yep.

23 Q. Fair statement?

24 A. Yep.

25 Q. Okay. Now, there's other ones in here. I think that's

1 a pretty good representative.

2 But would you pull up page 618, please?

3 Now, this is actually a check from my client to
4 AFC Foods. I think the memo line says milk.

5 A. Yep.

6 Q. All right. And I say that because, again, we're at this
7 time frame where they were putting money up front,
8 reimbursement program that from these guys, but they are
9 actually putting money up front to the sponsors who haven't
10 yet gotten paid necessarily and they're putting their own
11 money forward.

12 MR. THOMPSON: Objection. Misstates the evidence.

13 THE COURT: The jury will recall the evidence.

14 You may answer.

15 THE WITNESS: I don't know why these payments are
16 being made out of his personal account, because Bushra had
17 \$200,000 deposited into its account February 10th.

18 BY MR. GARVIS:

19 Q. I understand that, but that's -- you don't understand
20 it, but that's partially because there wasn't any effort to
21 talk to anybody at Bushra. Is that a fair statement?

22 MR. THOMPSON: Argumentative.

23 THE COURT: Overruled.

24 You may answer.

25

1 BY MR. GARVIS:

2 Q. Well, let me do it this way. Did you ask anybody at
3 Bushra? Did you talk to anybody?

4 A. Not me personally.

5 Q. So let me do this. Pull up H-59, page 33, please.

6 This is a text chain that we heard lots of texts,
7 but this is an actual text that Said Farah sends his brother
8 from May [sic] 8th of 2021, and it's a list of costs that he
9 has incurred.

10 And in there, if we blow it up -- it could be
11 blurry, but it does say individually on lines 8 and 9, Said
12 and Abdiwahab's checks to employees.

13 A. That's what it says.

14 Q. Okay. Now, can you go to M-10 for just a minute?

15 So we look at M-10. Obviously we've heard a lot
16 about the fact that, you know, categorize -- you decided
17 what were categories or not categories, and we're not going
18 to go there.

19 But is it fair to say that you've lumped in
20 various things -- and I realize this is not individual
21 stuff, this is Bushra -- payments to other individuals.
22 That's where employee payments went. Is that a fair
23 statement?

24 A. It would be in that category, yes.

25 Q. All right. So would you pull up O-025. Sorry. And

1 this is obviously Bushra, Bushra. Would you go to page 215?

2 And, again, these are checks that we're going to
3 go through, a series of them. These are individual payroll
4 checks by, you know, by Bushra to various employees.

5 A. Yes.

6 Q. Okay. Would you go to page 219.

7 Again, another check. And I will probably ruin
8 the name. Shueb A. Mohamed.

9 Would you go to page 223?

10 Again, a check to payroll, Waritu Worku Woldeys,
11 right?

12 A. Yep.

13 Q. Would you go to page 227?

14 A check to Maru Mako Genemo, correct?

15 A. Right, yes.

16 Q. 231. This is a check to Zainab Abdullahi Osman, right,
17 payroll?

18 A. Yes.

19 Q. And then how about page 233? Again, a check to
20 Abdirashid Bashir Hassan, correct?

21 A. Yes.

22 Q. All right. Now, these were all just payroll checks to,
23 I guess, arguably W-9 employees that were at Bushra, as best
24 you know?

25 A. 1099?

1 Q. Yeah, 1099. Sorry. My mistake.

2 A. Yeah, like contractors, basically.

3 Q. Yeah, contractors.

4 A. Yes.

5 Q. But Bushra also had an employee.

6 Would you pull up page 245.

7 So this is Idriss Omar. Idriss Omar was actually
8 a salaried employee, correct?

9 A. I'm not sure, but I do see this check.

10 Q. Okay. Now, on top of it, obviously, just for the sake
11 of it, there were some checks made for obviously food,
12 right? And we've had conversations about obviously various
13 vendors.

14 Would you pull up page 201?

15 This is a check to Asli Fine Foods, right?

16 A. Yes.

17 Q. Okay. 217. Again, a check to AFC Foods.

18 A. Right.

19 Q. How about page 260? Maybe -- terrible. Maybe 259 or
20 261. No, two -- there we go.

21 Afro Produce, right?

22 A. Yes.

23 Q. A check -- how about page 281?

24 Gold Star, right?

25 A. Yes.

1 Q. So Bushra buying groceries. Then those are being used
2 obviously either to deliver to a vendor or to deliver to a
3 site.

4 A. Sure, yes.

5 Q. And we've had some conversations about various
6 relationships obviously that we had today, right, about
7 people from East Africa coming here, migrants, working
8 together, right?

9 A. Yes.

10 Q. Individuals who maybe know each other, right?

11 A. Right.

12 Q. I think we've had a lot of testimony in this case about
13 people knowing each other, right?

14 A. Yes.

15 Q. Okay. And so the reality is, is that obviously it's
16 pretty well aware that my client Mr. Aftin knew the Farahs.
17 Fair statement?

18 A. Yes.

19 Q. Right. Done work with them before, correct?

20 A. Yes.

21 Q. Right?

22 In fact, would you go back to O-113. And this
23 is -- and I'll ask you to go to page -- in a moment.

24 This is obviously the U.S. Bank account of my
25 client again. But during the time frame that this was going

1 on, just so we make clear, my client had other employment
2 that was going on.

3 A. That's right.

4 Q. Right? So he worked at Minnesota Food Grocery, correct?

5 A. Yes.

6 Q. And actually that was adjacent really to Bushra
7 Wholesalers.

8 A. Yes, it was.

9 Q. Okay. And he was actually employed there since 2019.

10 A. That's probably right, yes.

11 Q. Would you pull up page 374?

12 This is a check, Minnesota Food Grocery, right?

13 A. Yes.

14 Q. Obviously 2019?

15 A. Right.

16 Q. My client also owned a business called -- or was owned
17 at Golden Care LLC.

18 A. Yes.

19 Q. It was a home health care business.

20 A. Right.

21 Q. Right?

22 A. Yep.

23 Q. Fair to say that he was working with Mr. Said Farah in
24 that business as well?

25 A. In the Golden Care, I'm not sure.

1 Q. Well, obviously for Minnesota Foods he was, right?

2 A. Yes.

3 Q. Okay. Because Said Farah signs the check.

4 A. Right, yes.

5 Q. Okay. Would you pull up page 609?

6 Golden Care?

7 A. Yep, that's right, yep.

8 Q. Okay. On top of it, my client also inside Minnesota
9 Foods had a contract for a Taaj business called Ajaub
10 [phonetic] Wireless?

11 A. Yes.

12 Q. Is that correct?

13 A. Right, yep.

14 Q. All right. Would you pull 613, please.

15 This is a blurry picture, but obviously I think
16 you've had -- we've had lots of testimony about Taaj or some
17 version of that, Ajaub Wireless, where an individual would
18 actually send money through this business.

19 A. Yeah, I guess I'm not sure what this one is for, but if
20 you say it's for the Ajaub --

21 Q. It is, well --

22 A. Okay.

23 Q. It's what was inside the business.

24 A. Oh, okay. Sure.

25 Q. Last, they obviously own another business called Derman

1 Senior Care.

2 A. Yes.

3 Q. Is that a fair statement? Or I should say this. They
4 didn't own it. My client was an investor in it. Fair
5 statement?

6 A. Yep.

7 Q. Would you pull up page 420?

8 Check again, Derman Senior Care, right?

9 A. Yes.

10 Q. All of these businesses, right, my client is working
11 with Said Farah?

12 A. Yeah.

13 Q. Just like Bushra?

14 A. Sure.

15 MR. GARVIS: I have nothing further, Your Honor.

16 THE COURT: Thank you counsel.

17 Mr. Brandt.

18 CROSS-EXAMINATION

19 BY MR. BRANDT:

20 Q. Good afternoon.

21 A. Good afternoon.

22 Q. As you know, my name is Michael Brandt. And along with
23 Ms. Kettwick, we represent Hayat Nur.

24 And so we're going to actually shift gears a
25 little bit and talk primarily about Ms. Nur this afternoon.

1 Okay?

2 A. Okay.

3 Q. So we haven't heard a lot about her, but yesterday there
4 was some testimony about her, and I've got some questions
5 obviously for you. Fair enough?

6 A. Sure.

7 Q. Okay. Now, when you started your testimony yesterday,
8 you talked a lot about how you came up to speed on this case
9 and you mentioned that you had done a couple of things. You
10 had reviewed some of the reports of case agents, true?

11 A. Yes.

12 Q. You looked over some of the emails in this case, true?

13 A. Yes.

14 Q. And you've obviously learned a lot by sitting through
15 this trial, right?

16 A. Right.

17 Q. And as we've heard, your job was to -- well, we've heard
18 it many times -- follow the money.

19 A. Right.

20 Q. Okay. And I can't remember if you said it or somebody
21 else, but something to the effect that this case was rather
22 complicated with a lot of tentacles and a lot of arms of
23 money going different places. Fair?

24 A. Sure, yes.

25 Q. Okay. And, I mean, when you first picked this file up,

1 things weren't exactly apparent where you had to go. You
2 would find one -- one bit of information that would lead you
3 in another direction, correct?

4 A. Right.

5 Q. And one of the things I think you said was that you
6 actually met with folks from MDE to get more information?

7 A. Yes. We had a Teams call, yep.

8 Q. Okay. And I think when Ms. Honer was testifying way
9 back a few weeks ago, somebody asked her about this child
10 nutrition program is a complicated system in terms of all
11 the moving parts and pieces. Do you remember that?

12 A. Vaguely, but yes.

13 Q. You agree with that?

14 A. Yes.

15 Q. Okay. And that's perhaps one of the reasons it's not
16 uncommon for people to use sponsors to help cut through some
17 of that red tape to run a site?

18 A. Right, yes.

19 Q. Okay. Now, is it fair to say that when you first
20 embarked on this venture, you actually didn't understand
21 that whole system. You had to learn as you go. Correct?

22 A. Right, yes.

23 Q. Probably took you more than a few days?

24 A. Yes.

25 Q. More than a few weeks?

1 A. More than that.

2 Q. Maybe a few months to get your head wrapped around this,
3 true?

4 A. Yes.

5 Q. Okay. So somebody actually coming into this system, if
6 you will, cold, it would take a while to understand all
7 these moving parts. Fair to say?

8 A. Right, yes.

9 Q. Okay. Now, you spent a lot of time what I'll call
10 following the money. And you've had -- we've had testimony
11 that this money was allegedly used to purchase real estate.
12 You've heard that, correct?

13 A. Right.

14 Q. None of that related to Ms. Nur, did it?

15 A. It did not.

16 Q. We heard about some assets that were seized by the
17 government, correct?

18 A. Right.

19 Q. None of that related to Ms. Nur, did it?

20 A. No.

21 Q. We've heard testimony about foreign transfers, right?

22 A. Right.

23 Q. None of that related to Ms. Nur, did it?

24 A. No.

25 Q. We've heard about different folks were involved with

1 different entities, perhaps as board of directors, on the
2 board of directors. We heard none of that with Ms. Nur, did
3 we?

4 A. No.

5 Q. Now, some of the things that you did is -- I think you
6 talked a lot yesterday about scouring through records with
7 the Minnesota Secretary of State, true?

8 A. Yes.

9 Q. And that was, again, where you might pick up some
10 information and go with it and find out whose got what
11 entity, correct?

12 A. Right, yes.

13 Q. Do you remember roughly how many entities you explored?

14 A. It was a few hundred.

15 Q. Okay. But there were no entities created by Ms. Nur,
16 correct?

17 A. I think that's true, yes.

18 Q. Okay. Fair enough.

19 Now, one of the things you talked about was the --
20 the different entities opening checking accounts around the
21 time they formed their entities, correct?

22 A. Right.

23 Q. Now, do you remember looking at Ms. Nur's financial
24 information?

25 A. Yes.

1 Q. And do you remember that hers went back to 2018?

2 A. Yes.

3 Q. I mean, that's how far back you went, true?

4 A. Yeah, yep, yep.

5 Q. So the account might have been there longer than that,
6 correct?

7 A. Right.

8 Q. Okay. Now, one of the things that you did, and we
9 talked a lot yesterday, was about the -- we had one category
10 of the income or the money coming into the different
11 entities, correct?

12 A. Yes.

13 Q. And then -- I'm talking about the pivot tables.

14 A. Right, yes.

15 Q. And then the other side obviously were the expenditures,
16 correct?

17 A. Yes.

18 Q. So do you recall when you were looking through Ms. Nur's
19 records that she every other week had money coming in on
20 a -- for payroll?

21 A. I did see that.

22 Q. And that was pretty regular throughout those records,
23 correct?

24 A. Yes.

25 Q. Would suggest that she had a job, right?

1 A. Right.

2 Q. Okay. Now, the pattern that you talked about went from
3 meal counts, forming an LLC, opening a bank account, and
4 then depositing a lot of money to that account, in general.

5 A. Yes.

6 Q. And we're talking about tens of thousands, if not
7 hundreds of thousands, of dollars to start those accounts,
8 true?

9 A. Right, yes.

10 Q. And, again, none of that with Ms. Nur, correct?

11 A. Right.

12 Q. Now, when you were being examined yesterday by
13 Mr. Thompson, he had shown you a -- one of the exhibits
14 that's in evidence.

15 And then I'm going to ask you, Mr. Carlson, if you
16 would be so kind to pull up Exhibit D-57.

17 And this is an email that had some invoices
18 attached, correct? Do you remember that?

19 A. Yes.

20 Q. Okay. And could you pull up D-56, please?

21 And then -- and then -- actually, I have that
22 backwards. So D-56, D-56 was an email that Ms. Nur had
23 received, true? I'm sorry. D-57.

24 A. Yes, right.

25 Q. Yes. And then I think Mr. Thompson asked you something

1 and he pointed out Minnehaha Transportation or something
2 like that; and you said, oh, yes, this looks like this was
3 in response to that email. Correct?

4 A. Yes.

5 Q. Okay. You can take that down.

6 And there are other situations -- and I understand
7 you didn't review all these emails, true?

8 A. True.

9 Q. But you reviewed a number of them, I would assume?

10 A. Yes.

11 Q. To complete your investigation, right?

12 A. Right, yes.

13 Q. Could you please pull up E-83?

14 Now, this is an email that Ms. Nur received, true?

15 A. Yes.

16 Q. And what was the subject?

17 A. Subject is a forward -- forwarded message that says
18 Albright and Crossing Valley.

19 Q. And that appears to be, as it says, a forwarding of
20 another email, correct?

21 A. Right.

22 Q. And then could you please pull up E-86?

23 And like the other ones, this is another one that
24 has that same subject line, correct?

25 A. Yes.

1 Q. And this was later in the day?

2 A. I'd have to --

3 Q. You can go back to E-83.

4 And that one was sent at approximately 8:05 a.m.?

5 A. Yes, 8:08.

6 Q. 8:08. I'm sorry.

7 And then please pull up E-86.

8 And this was sent at about 11:22 a.m.?

9 A. Right, yes.

10 Q. Again, looks like it was in response to the earlier
11 email, true?

12 A. Yes.

13 Q. Okay. And could we please pull up E-90?

14 This is an email that she received on January 5,
15 2022, true?

16 A. Yes.

17 Q. At about 4:53 p.m.?

18 A. Right.

19 Q. And the subject was Islamic Society of Marshall,
20 Minnesota, roster, true?

21 A. That's the attachment.

22 Q. I'm sorry. The subject was the Marshall, Minnesota,
23 roster, week of 1/2?

24 A. Right, yes.

25 Q. And that, again, was a forwarded email, true?

1 A. Yes, it is.

2 Q. And then if you could pull up E-91?

3 And this is an email that was sent January 6th,
4 2022, at 9:00 in the morning?

5 A. Right.

6 Q. Same subject?

7 A. Yes.

8 Q. And, again, looks like that was in response to the
9 earlier one, true?

10 A. Right.

11 Q. And could you please pull up E-93?

12 And this is an email that Ms. Nur received on
13 January 8th, 2022, at about 12:28?

14 A. Yes.

15 Q. And, again, forwarded -- a forwarded email?

16 A. Yes, it is.

17 Q. And the subject line was Forward 500?

18 A. Right.

19 Q. And then could you please pull up E-91?

20 And this is an email Ms. Nur sent on January 6th,
21 2022 -- excuse me -- January 8, 2022, at 2:43 p.m.

22 A. January 6, 2022.

23 Q. I'm sorry.

24 A. Yes.

25 Q. And that one appears to be in response to the earlier

1 one, true?

2 A. Yes.

3 Q. And, last, and then we'll be done with these, could you
4 please pull up E-93?

5 And, again, a forwarded email from someone to
6 Ms. Nur, correct?

7 A. Right.

8 Q. And could you please pull up E-92?

9 And, again, this is an email she sent on
10 January 8, 2022, at 2:43 p.m.?

11 A. Yes.

12 Q. Okay. And that one, again, appears to be in response to
13 the earlier email, true?

14 A. Yes.

15 Q. Okay. Thank you. You can take that down.

16 Now, one of the things I think you did, and we
17 talked about this yesterday, is when you were looking at the
18 accounts you followed the money. And one of the things you
19 did is if you saw there were some expenditures or some
20 income, you traced those back, correct?

21 A. Sure, yes.

22 Q. As a matter of fact, I think yesterday we went off on a
23 branch where there were two or three -- whoops, excuse me --
24 side branches, correct?

25 A. Yes.

1 Q. Now, with Ms. Nur you didn't find any trails like that
2 out of her accounts, correct?

3 A. Right, yeah.

4 Q. Okay. Now, in all of the pivot tables that we looked at
5 yesterday, and there were a number of them --

6 A. Yes.

7 Q. -- you listed various sources of funds, correct?

8 A. Right.

9 Q. And, again, none of those summary -- in those summary,
10 in those pivot tables showed Ms. Nur as a source of funds,
11 correct?

12 A. Right.

13 Q. Now, did you examine all the bank records of all
14 employees at Empire Cuisine?

15 A. No, I did not.

16 Q. Did you examine all the bank records of all employees at
17 all entities?

18 A. No, I did not.

19 Q. Now, we've heard some testimony in this trial too about
20 the use of some of these funds and such things as taking
21 trips first class, correct?

22 A. Sure.

23 Q. Didn't find any of that with Ms. Nur?

24 A. No.

25 Q. Flying economy class, didn't find any of that with her?

1 A. I don't recall seeing that.

2 Q. You haven't heard anything about her flying anywhere,
3 have you?

4 A. No.

5 Q. Purchasing jewelry?

6 A. No.

7 Q. Purchasing property?

8 A. No.

9 Q. Thank you.

10 MR. BRANDT: Nothing further.

11 MR. SCHLEICHER: Could we have a sidebar, Your
12 Honor?

13 THE COURT: Yes.

14 **(Sidebar discussion)**

15 THE COURT: Mr. Schleicher.

16 MR. SCHLEICHER: Can you hear me?

17 THE COURT: I can.

18 MR. SCHLEICHER: All right. I have more than
19 15 minutes with the witness. I would prefer to start
20 tomorrow, if possible. And I have a separate matter I'll
21 have to make a record with the court when the jury is out.

22 THE COURT: All right. Thank you.

23 MR. SCHLEICHER: Thank you, Your Honor.

24 **(In open court)**

25 THE COURT: Members of the jury, we're going to

1 break there for today, and I'll see you all tomorrow morning
2 at 9:00.

3 **IN OPEN COURT**

4 **(JURY NOT PRESENT)**

5 THE COURT: You may all be seated.

6 Mr. Schleicher.

7 MR. SCHLEICHER: Thank you very much, Your Honor.

8 I just want to -- by way of clarification, I know
9 under cross-examination of this witness by Mr. Garvis, he
10 asked a question about whether or not she or anyone spoke
11 with anyone at Bushra. And it was kind of an expansive
12 question as phrased. I think that the answer that reflected
13 that the intent of the questioning was did you speak with
14 any Bushra employees.

15 My client, upon his arrest, invoked his right to
16 remain silent and invoked his right to counsel. I just want
17 it very clear one defendant cannot open the door for
18 questioning on that line of questioning for the prosecution.
19 That should be a closed door, and no further inquiry on that
20 topic should be allowed.

21 THE COURT: Mr. Thompson, any disagreement as to
22 the closed door?

23 MR. THOMPSON: Great minds here. I was going to
24 raise the same issue, because I believe bank records showed
25 that Mr. Schleicher was retained a day or two after the

1 search warrants were executed on January 20th.

2 Obviously, the government continues to have
3 concerns about these lines of questioning about things you
4 didn't do, because our only response to many of these things
5 is to point out that the defense is welcome to do some of
6 these. And an example, checking metadata on the results of
7 gmail search warrants. One, I don't think you can and I
8 don't think that's a thing. The defense counsel, I think,
9 knows that. But if it was a thing, they would be welcome to
10 do it themselves.

11 And our only -- it seems like the whole theme of
12 the defense has been, Jury, don't -- ignore all the evidence
13 because the government has manipulated it, we're trying to
14 hide something for you. And, again, the only way for us to
15 respond to that is to point these things out. They're
16 welcome to hire, to put on witnesses to talk about how the
17 food would go far enough or the bank records, you know,
18 aren't what the government makes them appear to be. I don't
19 want to be in this situation.

20 To address specifically Mr. Schleicher's concern,
21 assuming this doesn't go further and we don't hear argument
22 on it, I would rather not get into his invocation of his
23 Fifth Amendment rights or his retention of counsel in the
24 wake of a search warrant. I don't want those doors to be
25 opened at all. That's my general concern about all of these

1 lines of inquiry.

2 THE COURT: Mr. Schleicher.

3 MR. SCHLEICHER: Your Honor, respectfully, it's
4 never appropriate for the government to suggest that the
5 defense is welcome to call a witness or put on any evidence,
6 even in response to questioning, even in response to tough
7 questioning. That's just a line that cannot be crossed.
8 It's burden shifting, and it's not allowed, and it would be
9 the basis for a mistrial if it were to continue.

10 If the questioning from the defense suggests that
11 there were things lacking in the investigation, that's --
12 that's just classic defense questioning of government
13 witnesses. The government is responsible for putting on a
14 case. The defense is responsible for bringing criticism of
15 the case and bringing attention to lack of detail.

16 But it's never an appropriate response to say,
17 well, then you put on a witness, you say something, the
18 burden is on you. The appropriate response is to either fix
19 the problem or to argue that it's not a problem, but not to
20 shift the burden.

21 And so I would caution the prosecutor, the
22 government, to not take that position, to not take that
23 tack, because that is very dangerous ground.

24 MR. THOMPSON: Your Honor, that's just wrong on
25 black letter law. The door absolutely can be opened. The

1 defense suggests, for example, that the government didn't
2 call a certain witness to testify because they're trying to
3 hide that witness's testimony from you. It's -- case law
4 establishes -- it's well established that the government can
5 in a situation like that, for example, say the defense has
6 the right to subpoena someone.

7 Here, again and again, it's gone beyond just a
8 criticism of the government's investigation to suggest that
9 the government has this evidence in its possession and
10 either -- and is hiding it from the jury and perhaps hiding
11 it from the defense. That has been a drum that's been
12 beaten again and again and again, not just today, but
13 throughout this trial.

14 I've been trying to bite my tongue. It puts us in
15 a very tough situation because objecting you look like
16 you're just exacerbating the problem from the government's
17 perspective. It's as if we are trying to hide something.
18 We are, of course, not.

19 They have these bank records. They had the 1006
20 summaries for a long time. Those have come into evidence as
21 accurate summaries without objection. The issues -- all of
22 this stuff, the government's not hiding financial records
23 from the jury. We're not misleading the jury with respect
24 to the financial records.

25 And criticism of the investigation -- criticizing

1 the investigation is one thing. Suggesting that the
2 government is acting unethically and trying to hide evidence
3 from the jury is another.

4 MR. SCHLEICHER: If I may, Your Honor.

5 I think we're conflating issues. The issue I was
6 raising specifically was on the burden shifting. I don't
7 believe that I've made any such argument that the government
8 is hiding anything. I have been critical of the diligence
9 of the investigation, and I think that that's fair.

10 Again, I would reiterate it is not appropriate to
11 try to burden shift to say, you know -- on the metadata
12 example, right, if -- if the questioning is you didn't
13 gather metadata or didn't look at the metadata that you
14 gathered to confirm that a photograph was taken in a certain
15 place or a cell phone was in a certain location, that is
16 fair game. And it's not appropriate to then say, well, you
17 can call a witness. They can't do that.

18 The whole issue as to hiding evidence, the
19 summaries or any of that, that's a completely different
20 matter and one that I'm not engaging in.

21 My only concern is that there be no perceived
22 license that the door has been opened regarding my client's
23 assertion of his constitutional rights or that there be any
24 indication that he is required, or any defendant is required
25 to, but my defendant is the only one I'm advocating for,

1 produce evidence or put on a case.

2 THE COURT: All right. I think you've all made
3 your record.

4 Mr. Garvis, you want to make a different record?

5 MR. GARVIS: Only in the sense, Your Honor, that
6 it was my inartful question that created this brouhaha, and
7 I want to make sure that was never my intention.

8 MR. THOMPSON: And to be clear, Your Honor, just
9 to make sure we're all -- I don't intend to go into it. I
10 don't think Mr. Garvis intended to do that. I just want to
11 make sure that we don't get in that situation because I
12 don't want that any more than mister -- maybe slightly -- he
13 probably cares more about it than I do, but I too care about
14 that issue.

15 THE COURT: All right. Fair enough. You've all
16 made your record on this.

17 My concern at this point is I don't have a motion
18 before me, I don't have an objection before me. I have a
19 concern raised.

20 And what I would say is if the government wishes
21 to comment either -- or redirect on the issue that you
22 raise, and there's case law that you want me to look at as
23 to whether the defense has opened the door, I would like to
24 see that case law before -- before the jury hears the
25 question. Okay?

1 MR. THOMPSON: Very well, Your Honor.

2 THE COURT: All right. Thank you, everyone.

3 THE CLERK: All rise. Court is in recess.

4 THE COURT: Have a good night. We'll see you
5 tomorrow morning.

6 (Court adjourned at 4:54 p.m., 05-23-2024.)

7 * * *

8 I, Renee A. Rogge, certify that the foregoing is a
9 correct transcript from the record of proceedings in the
10 above-entitled matter.

11 Certified by: /s/Renee A. Rogge
12 Renee A. Rogge, RMR-CRR

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