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UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,)	
)	File No. 22-cr-124
Plaintiff,)	(NEB/DTS)
)	
v.)	
)	
Abdiaziz Shafii Farah(1),)	Courtroom 13W
Mohamed Jama Ismail(2),)	Minneapolis, Minnesota
Abdimajid Mohamed Nur(4),)	Monday, June 3, 2024
Said Shafii Farah(5),)	8:28 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 XXVIII OF XXX

Court Reporter: RENE E. 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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IN OPEN COURT**(JURY NOT PRESENT)**

1 THE COURT: Good morning, everyone.

2 Do I have everyone here?

3 All right. We're on the record out of the
4 presence of the jury.

5 Over the weekend I have had allegations reported
6 to me of unauthorized contact with a juror. That is Juror
7 Number 52. Law enforcement authorities are investigating,
8 and that investigation is ongoing. And so I have excused
9 Juror Number 52.

10 The question is how to go forward to question the
11 other jurors to determine whether there's been any
12 unauthorized contact with the other jurors in a way that
13 does not indicate what the circumstances of the alleged
14 unauthorized contact were. And so I wanted to give all of
15 you that information and seek input from you.

16 My thought right now is that obviously we would
17 question each juror one by one, and the question that I have
18 is who should be present at that. I want to make sure that
19 our jurors feel safe and that we are able to determine --
20 that I'm able to determine that they are able to go forward
21 in an unbiased manner before we continue.

22 So I'll hear from the government first.

23 MR. THOMPSON: Thank you, Your Honor.

1 Aftin.

2 This case, as you know, Your Honor, has posed as a
3 significant risk of flight to the defendants. Abdiaziz
4 Farah and Mohamed Ismail submitted fraudulent passport
5 applications and booked flights to leave the country in the
6 wake of the search warrants. That created a huge risk of
7 flight.

8 The court obviously has allowed them out, but the
9 calculus has now changed with respect to detention, Your
10 Honor. The defendants now -- not only are they facing the
11 potential conviction in this massive fraud case, but even if
12 they were to get an acquittal, they would be facing
13 potential jury tampering and obstruction.

14 Someone went to a juror's --

15 THE COURT: I don't have any of that information.
16 You may disclose what information that you have, I guess.

17 MR. THOMPSON: The information I've received, Your
18 Honor, is that someone went to a juror's house last night,
19 Juror Number 52's home. That juror was not home, but her
20 father-in-law was.

21 This woman, described as a Somali woman driving a
22 Mazda, handed a bag full of cash to Juror Number 52's
23 father-in-law. Inside of the bag was rolls of 100s and 50s.
24 And the woman told Juror Number 52's father-in-law that this
25 is for Juror Number 52, using her first name, tell her that

1 there will be another bag tomorrow if she votes to acquit.

2 This is conduct that strikes at the very heart of
3 the judicial system and the integrity of this court. It is
4 so far beyond the pale that I think all defendants should be
5 moved to be taken into custody immediately, at least pending
6 the verdict here. If the jurors are going to be
7 sequestered, certainly the defendants can be as well.

8 Similarly, Your Honor, we've noticed this morning
9 the defendants typing furiously on their phone after they
10 got to court. We would ask that the court take into custody
11 each of the defendants' phones, pending the government
12 obtaining a search warrant for each defendants' phone in
13 this case.

14 This is outrageous behavior. This is stuff that
15 happens in mob movies, and it really has struck at the heart
16 of this case.

17 Outside of those two things, Your Honor, I would
18 request that we poll the jurors; and if other jurors were
19 contacted, that we consider what to do.

20 And we've done the case law. Jurors don't
21 necessarily automatically have to be excused when this sort
22 of stuff happens. We can inquire.

23 And I guess the first step is seeing whether or
24 not anyone was contacted and, if so, whether they believe
25 they can be fair going forward and set that aside, but

1 that's the government's position here, Your Honor.

2 THE COURT: When I poll -- just to cut off any
3 concern, I will obviously be asking -- I won't be telling
4 the jurors the allegations that have been made, and I will
5 be asking whether they've been contacted by anyone, the
6 media, the defense, the government, anybody regarding the
7 case or connected with the case.

8 So my inquiry will be broad so that the jurors are
9 not aware of the specific allegations that Mr. Thompson just
10 went through.

11 In addition, regardless of what I do with the
12 detention and cell phone issue that has been raised that I'm
13 going to suggest we table until after closings, with a
14 couple of thoughts on that, in addition, I am likely to
15 sequester this jury after closings. And we are looking into
16 that issue now.

17 So with that, do the defendants want five minutes
18 to confer, counsel with each other?

19 Or, Mr. Birrell, do you have thoughts that you
20 wish to share at this time?

21 MR. ANDREW BIRRELL: Well, I have some thoughts.

22 THE COURT: All right.

23 MR. ANDREW BIRRELL: We just heard about this 10
24 or 15 minutes ago and, of course, are very upset.

25 THE COURT: You are only, you are only an hour

1 behind me.

2 MR. ANDREW BIRRELL: Yeah, no, I appreciate that,
3 and, you know, it's a troubling and upsetting accusation.

4 I think that the court's -- I guess there's three
5 parts. And I would ask and agree with the suggestion to
6 talk about the cell phones and the detention after the
7 jurors go to deliberate, so we have a little time to think
8 about it.

9 I agree that the court should inquire
10 individually. I agree with the court's thinking about how
11 to do that. I think that's a good way to do it. I think
12 it's important and constitutionally required that the
13 defendants be present.

14 So other than that, I don't have any other
15 particular thoughts, unless you have questions.

16 THE COURT: I'd prefer that the defendants are
17 present. I want to ensure that the jurors are able to
18 answer in an open and honest way, and that is what I'm
19 measuring against as I consider how to inquire, but I think,
20 I think that my leaning is to have everybody present.

21 The case law indicates that I have discretion here
22 if I want to exclude, not counsel necessarily, but
23 defendants, but I think I'm comfortable going forward with
24 each of our jurors individually in open court.

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

1 THE COURT: Mr. Goetz.

2 MR. GOETZ: Your Honor, if I may take a slightly
3 different position than my colleague and respectfully
4 suggest that the court question the jurors as a panel first
5 broadly; and then if any individual has indicated they've
6 been contacted, then follow up on it with individual voir
7 dire.

8 The reason I'm suggesting that approach, Your
9 Honor, is I think merely by engaging in the process of
10 individual voir dire that sends a signal to these jurors
11 that something has happened.

12 THE COURT: Well, they've got a juror excused, and
13 there are going to be questions, so I don't know how they
14 can infer anything else.

15 MR. GOETZ: Well, respectfully, Your Honor, I
16 think jurors can be removed from a long trial like this for
17 many reasons. Kids get sick. They got ill. Many reasons.
18 And the court has a standard instruction that you could
19 give. You are not -- Juror Number 52 is not here with us.
20 You are not to take anything from that.

21 So if we simply question all of the jurors along
22 the lines the court indicated together, and then if any
23 juror indicates that they have been contacted or at all
24 affirmatively raises their hand, then the court can conduct
25 individual voir dire.

1 My concern is that to engage in that process now
2 sends a signal to these jurors something has happened, and
3 that might impact the ability of these jurors to render a
4 fair verdict.

5 *Smith versus Phillips*, I'm sure the court has
6 looked at that, Supreme Court case, 455 U.S. 209.

7 But the bottom line is, Can these jurors be fair
8 and impartial in light of what has happened. It appears --
9 and I don't know if the government or the court has any more
10 information as to Juror Number 52, whether or not she
11 contacted any of the other jurors at all, shared what
12 happened. I'm assuming not, but if we could get clarity on
13 that. But if that's the case, if she's been siloed
14 effectively, then I would respectfully suggest that the
15 panel be questioned first to lessen the stigma of whatever
16 has happened.

17 THE COURT: My concern is that *United States*
18 *versus Aiello*, which is 771 F.2d, Second Circuit 1985,
19 indicates that it was error to question two or more jurors
20 together because of the concern about taint.

21 So let me -- again, we're all reacting to this.
22 Let's take 15 minutes or so to -- if you want to look at
23 that case, you can; and if anyone else wants to weigh in,
24 that is fine as well.

25 MR. GOETZ: I would, to be clear, Your Honor, just

1 thinking what you just said, I'm not suggesting the initial
2 questioning go beyond just a raising of hands. So there
3 would be no sharing of information. But if we don't have
4 any hands, if nobody has been contacted, I don't know if
5 there's any need for any further inquiry.

6 THE COURT: Thank you.

7 MR. THOMPSON: Your Honor, if I may address the
8 contact issue.

9 My understanding, and I just learned about that
10 just this morning within the last hour, is that Juror 52,
11 after returning home last night and learning from her
12 father-in-law of the contact and the bag full of cash,
13 called 911 and talked to Spring Lake Park Police. My
14 understanding is that bag of cash was left at the house and
15 is now in the custody of Spring Lake Park Police, and FBI is
16 going to retrieve it as part of its investigation. I have
17 no reason to believe that she contacted other jurors.

18 THE COURT: All right. Let me get to the cell
19 phone issue for a moment.

20 I'm ordering all of your cell phones -- for you
21 not to use them at this time. In other words, I'm freezing
22 your cell phones. I'm not taking them; I am freezing them.
23 And I'm going to have a marshal here in the courtroom.

24 If there's a search warrant application that is
25 coming, then we will consider that.

1 MR. THOMPSON: Your Honor, I would ask that the
2 court order the defendants to put their phones in airplane
3 mode and hand them to the custody of their attorneys.

4 THE COURT: Fair.

5 MR. ANDREW BIRRELL: I don't want to take it. I
6 don't want to -- I'm not going to participate in that,
7 unless I'm ordered to do that.

8 THE COURT: Do I have an agent here?

9 MR. ANDREW BIRRELL: He can put it on the table.

10 MR. THOMPSON: Your Honor, we have several FBI
11 agents in the courtroom that are happy to take custody of
12 the phones.

13 THE COURT: Does anyone object to that procedure?
14 I am simply freezing a scene to allow for a search warrant.

15 And I will not sign a search warrant. You will go
16 to a different judge for that.

17 But that's my thought on doing this. And I
18 don't -- this isn't obviously a regular procedure, but I
19 think that's what would be done if you all weren't in court
20 here this morning. And so that's what I'm prepared to do.

21 But a search warrant would have to be applied for
22 and signed off by a different judge, the duty judge. I
23 think that's the more --

24 MR. ANDREW BIRRELL: Just to clarify.

25 THE COURT: Yes.

1 MR. ANDREW BIRRELL: I think I know what you
2 meant, but I want to be sure. When you said "your cell
3 phones," you are referring to the defendants.

4 THE COURT: Not yours. Correct.

5 MR. ANDREW BIRRELL: Just checking.

6 THE COURT: The defendants' cell phones. My
7 suggestion would be that they are turned in airplane mode
8 and given to an agent pending a search warrant.

9 MR. THOMPSON: Thank you, Your Honor.

10 THE COURT: Any objection?

11 MR. ANDREW BIRRELL: Your Honor, I just would note
12 for the record they're very likely to contain
13 attorney-client communications.

14 MR. THOMPSON: Of course, Your Honor, we will
15 obviously put in place a full filter team, and we will deal
16 with the magistrate judge who issues the search warrant as
17 to the procedure on that, but we're certainly not looking to
18 get attorney-client privileged information.

19 THE COURT: All right. In addition, there's been
20 a motion for detention. I would like more information on
21 that. I will have that hearing after the closing arguments
22 today and after the inquiry that we go through.

23 I will have a marshal in the courtroom. And I'm
24 ordering the defendants not to leave the courthouse until I
25 have that, that hearing.

1 MR. SAPONE: Your Honor, just to be clear.

2 THE COURT: Mr. Sapone.

3 MR. SAPONE: On behalf of Mr. Nur, no agent will
4 be looking at any cell phones? It's just to hold it? Yes?

5 THE COURT: Correct.

6 MR. SAPONE: Thank you.

7 THE COURT: Correct.

8 MR. THOMPSON: Yes, Your Honor.

9 THE COURT: That's the order. All right.
10 I'm going to take -- Mr. Mohring.

11 MR. MOHRING: Your Honor, can you give us the
12 reference to the Second Circuit case?

13 THE COURT: Yes. 771 F.2d 621. The spelling of
14 the defendant's name is A-I-E-L-L-O.

15 MR. MOHRING: Thank you.

16 THE COURT: All right. So we'll take a few
17 minutes. I'll come back and tell you my decision about how
18 we're going to proceed here this morning with the jurors.

19 And in the meantime if there's an agent here who
20 can collect, but not review, cell phones, that that is what
21 should happen. Fair?

22 MR. THOMPSON: Thank you, Your Honor.

23 THE COURT: All right. Thank you, everyone.

24 THE CLERK: All rise.

25 (Recess taken at 8:43 a.m. till 9:06 a.m.)

1 THE COURT: You may all be seated.

2 Mr. Thompson, have we taken care of the cell phone
3 issue?

4 MR. THOMPSON: We have, Your Honor.

5 THE COURT: Okay.

6 MR. THOMPSON: And I can provide one more update
7 to the court about the factual scenario last night, if the
8 court wants.

9 Agents have been in touch with Spring Lake Park
10 Police Department, who have informed FBI that the bag that
11 was handed to the juror's father contained \$120,000 in cash.

12 THE COURT: Thank you.

13 I have also had my staff contact Juror Number 52
14 who indicated as we thought, and that is that she has not
15 contacted anyone else, including obviously other jurors.

16 And so, again, she is excused. And I don't --
17 unless I'm hearing something else, I'm not bringing her in
18 to ask her that in person. I trust, given the 911 call and
19 what we've observed, that I trust that information from her.

20 All right. In addition, I am at this point
21 without a court security officer, but I am keeping the jury
22 together. They will not leave the courthouse for lunch. We
23 are bringing lunch in for them. They will be isolated and
24 together from this point forward.

25 I have a marshal in the courtroom who will remain

1 in the courtroom for the entire day, given my order that the
2 defendants are not to leave the courthouse.

3 I am going to ask the jurors one by one on the
4 witness stand whether they've been contacted by anyone,
5 either connected with the case or about the case, since the
6 beginning of trial, including over the weekend.

7 I'm going to do that individually. I am going to
8 allow the defendants to be present. And I will sort of
9 follow up to say, Are you sure, Is there anything that you
10 want to tell the court even in chambers. I wouldn't have
11 that discussion without lawyers present, but I want to
12 follow up to make sure that they're comfortable telling us
13 what we need to know.

14 Any objection to that procedure?

15 MR. THOMPSON: No, Your Honor.

16 THE COURT: Mr. Mohring.

17 MR. MOHRING: Your Honor, my only request before
18 we -- before the break, the court suggested that it wouldn't
19 just be contacted, but that you run through a laundry list
20 of the potential people and entities, media, family, I mean,
21 to make a longer list, because the concern obviously is that
22 if you don't identify a broader spectrum, that the most
23 likely leap and a very prejudicial leap would be that they
24 think that it would be the defendants.

25 THE COURT: I'm just saying "anyone" rather than

1 doing a list, because I don't want to leave anyone out. And
2 so if I say "anyone either connected with or about," I think
3 that includes the -- and I don't -- then I'm not itemizing
4 anybody.

5 MR. MOHRING: Again, I like the idea of a broader
6 list because anybody -- I'm concerned about where minds will
7 go, as they inevitably will. I don't know, I don't know --
8 we didn't discuss this particular nuance among the defense,
9 but my request would be that the court give a list and that
10 it include, I don't know, as many entities and things as you
11 can think of, the --

12 THE COURT: I'm going to say "anybody." I don't
13 know why anyone would leap to a defendant over anybody else,
14 but I think I want to say "anyone."

15 Does the government have any thoughts on that
16 issue?

17 MR. THOMPSON: I agree, Your Honor. I think
18 keeping it vague is the way to go.

19 THE COURT: All right. Mr. Sapone.

20 MR. SAPONE: Would Your Honor consider asking "the
21 media or anyone"?

22 THE COURT: Sure.

23 MR. SAPONE: Thank you.

24 THE COURT: I'm going to say "anyone, including
25 the media."

1 MR. SAPONE: Thank you.

2 THE COURT: Again, this jury has been quite
3 attentive, quite responsible, quite responsive. I am
4 inclined -- I will judge their credibility, but I'm fairly
5 confident in this jury.

6 All right. We're going to bring them in one by
7 one.

8 I'm not asking for any follow-up. If you have
9 follow-up that you want later, you can tell me and I may
10 bring a juror back, but I don't want to interrupt this
11 process, nor do I want these jurors to be intimidated in any
12 way. So I am not going to ask for any sidebars or follow-up
13 while any juror is in here.

14 I am also not placing each juror under oath. I
15 think there are circumstances in which that would be
16 appropriate; but, again, given the commitment of this jury
17 and what we have all observed with this jury, I don't think
18 it's necessary and I'm not going to do that.

19 (Juror enters courtroom)

20 THE COURT: Good morning.

21 THE JUROR: Good morning.

22 THE COURT: This is an unusual --

23 THE JUROR: Yeah.

24 THE COURT: -- way to start the day. I'm just
25 going to ask you what I'm going to ask everyone one by one.

1 Okay?

2 I need to ask you whether you have been contacted
3 by anyone, including the media, either connected with this
4 case or about this case at any point in the trial, including
5 over the weekend?

6 THE JUROR: No.

7 THE COURT: Not at all?

8 THE JUROR: Nope.

9 THE COURT: And if you had, we could have that
10 discussion differently in chambers and -- but you are sure?

11 THE JUROR: Yeah, positive.

12 THE COURT: Okay. Thank you. That's all I need.

13 (Juror exits courtroom)

14 THE COURT: For the record, that was Juror
15 Number 4.

16 Next will be Juror Number 62.

17 (Juror enters courtroom)

18 THE COURT: Good morning.

19 THE JUROR: Good morning.

20 THE COURT: We're beginning an unusual way today.
21 Have a seat just for a moment. I'm just going to ask you
22 one question.

23 THE JUROR: Yes.

24 THE COURT: And I need you to be completely candid
25 with me. All right?

1 I need to ask you whether you have been contacted
2 by anyone, including the media, either about this case or
3 connected with this case at any point during the trial,
4 including over the weekend?

5 THE JUROR: No.

6 THE COURT: You are absolutely sure?

7 THE JUROR: Absolutely sure.

8 THE COURT: Is there anything else that you want
9 to tell me in chambers or otherwise?

10 THE JUROR: No.

11 THE COURT: You are sure?

12 THE JUROR: Yep.

13 THE COURT: All right. Thank you.

14 (Juror exits courtroom)

15 THE COURT: Next will be Juror Number 17.

16 (Juror enters courtroom)

17 THE COURT: Good morning.

18 THE JUROR: Good morning.

19 THE COURT: Okay. I just need to ask you one
20 question. I want you to be completely candid with me.
21 Okay?

22 THE JUROR: Okay.

23 THE COURT: All right. I need to ask you whether
24 you've been contacted by anyone, including the media, either
25 connected with this case or about this case at any point

1 during the trial, including over the weekend?

2 THE JUROR: No.

3 THE COURT: No contact whatsoever?

4 THE JUROR: Whatsoever.

5 THE COURT: No improper contact?

6 THE JUROR: No.

7 THE COURT: You are being candid?

8 THE JUROR: Absolutely.

9 THE COURT: All right. Thank you.

10 THE JUROR: Thank you.

11 (Juror exits courtroom)

12 THE COURT: Next is Juror Number 22.

13 (Juror enters courtroom)

14 THE COURT: Good morning.

15 THE JUROR: Good morning.

16 THE COURT: Okay. I just need to ask you one
17 question. All right?

18 THE JUROR: Yeah.

19 THE COURT: I need you to be completely candid
20 with me.

21 THE JUROR: Mm-hmm.

22 THE COURT: All right. I need to ask you whether
23 you have been at any time during the trial contacted by
24 anyone either connected with this case or about the case --

25 THE JUROR: No.

1 THE COURT: -- at any point during the trial,
2 including over the weekend?

3 THE JUROR: No.

4 THE COURT: Completely candid?

5 THE JUROR: No, no one's reached out to me.

6 THE COURT: You are absolutely sure?

7 THE JUROR: Mm-hmm.

8 THE COURT: All right. Thank you.

9 (Juror exits courtroom)

10 THE COURT: Next, Juror Number 33.

11 (Juror enters courtroom)

12 THE COURT: Good morning.

13 THE JUROR: Good morning.

14 THE COURT: Okay. I need to ask you one question
15 on the record. I need you to be completely candid with me.
16 All right?

17 THE JUROR: Yes.

18 THE COURT: I need to ask you whether you have
19 been contacted by anyone, including the media, either
20 connected with the case or about this case at any point
21 during the trial, including over the weekend?

22 THE JUROR: No, I have not.

23 THE COURT: No contact whatsoever?

24 THE JUROR: Nope.

25 THE COURT. No attempted contact?

1 THE JUROR: No.

2 THE COURT: Anything else you want to tell me?

3 THE JUROR: No.

4 THE COURT: All right. You are sure?

5 THE JUROR: Yeah.

6 THE COURT: Okay. Thank you.

7 THE JUROR: Yeah.

8 (Juror exits courtroom)

9 THE COURT: Next is Juror Number 51.

10 (Juror enters courtroom)

11 THE COURT: Good morning.

12 THE JUROR: Good morning.

13 THE COURT: All right. We're beginning an unusual
14 way. I've got a question for you. All right? I need you
15 to be completely candid with me.

16 I need to ask you whether you have been contacted
17 by anyone, including the media, by anyone either connected
18 with the case or about the case at any point during the
19 trial, including over the weekend?

20 THE JUROR: I have not in any way.

21 THE COURT: And no one has tried to contact you?

22 THE JUROR: No.

23 THE COURT: You are absolutely sure?

24 THE JUROR: Positive.

25 THE COURT: All right. Thank you.

1 THE JUROR: Thank you.

2 (Juror exits courtroom)

3 THE COURT: Juror Number 78 is next.

4 (Juror enters courtroom)

5 THE COURT: Good morning.

6 THE JUROR: Good morning.

7 THE COURT: You can have a seat in the witness
8 chair just very briefly. All right. I need you to be
9 completely candid with me. All right?

10 THE JUROR: Yep.

11 THE COURT: I need to know whether you have been
12 contacted by anyone, including the media, anyone at all
13 either connected with the case or about the case in any way
14 over the course of the trial, including over the weekend?

15 THE JUROR: I have not.

16 THE COURT: No contact?

17 THE JUROR: No contact.

18 THE COURT: No attempt to contact?

19 THE JUROR: No.

20 THE COURT: You are absolutely sure?

21 THE JUROR: Yep.

22 THE COURT: All right. That's all I got.

23 THE JUROR: Thank you.

24 (Juror exits courtroom)

25 THE COURT: Next is Juror 85.

1 (Juror enters courtroom)

2 THE COURT: Good morning.

3 THE JUROR: Good morning.

4 THE COURT: All right. I have got a question for
5 you that I need to ask you on the record. All right? I
6 need you to be completely candid with me.

7 I need to know whether you've been contacted by
8 anyone, including the media, either connected with the case
9 or about the case at any time during the trial, including
10 over the weekend?

11 THE JUROR: I have not.

12 THE COURT: No contact whatsoever?

13 THE JUROR: Correct, none.

14 THE COURT: You are absolutely sure?

15 THE JUROR: Yes.

16 THE COURT: All right. Thank you. That's all
17 I've got.

18 (Juror exits courtroom)

19 THE COURT: This will either be 38 or 91.

20 (Juror enters courtroom)

21 THE COURT: 38.

22 Good morning.

23 THE JUROR: Good morning.

24 THE COURT: Just have a seat for just a moment.
25 I've got a question for you. I need you to be completely

1 candid with me. All right?

2 THE JUROR: Okay.

3 THE COURT: I need to know whether you've been
4 contacted by anyone, including the media, over the weekend
5 or anytime throughout this trial by anyone either connected
6 with the trial or about the trial?

7 THE JUROR: No.

8 THE COURT: Absolutely sure?

9 THE JUROR: Yes.

10 THE COURT: No attempts to contact you?

11 THE JUROR: Correct.

12 THE COURT: All right. Thank you. That's all I
13 need.

14 (Juror exits courtroom)

15 THE COURT: Next will be 87.

16 (Juror enters courtroom)

17 THE COURT: Good morning.

18 THE JUROR: Sit?

19 THE COURT: Please.

20 THE JUROR: Okay.

21 THE COURT: Thank you.

22 All right. I've just got one question for you,
23 and I need you to be completely candid with me. All right?

24 THE JUROR: All right. Yes.

25 THE COURT: Okay. I need to ask you whether

1 you've been contacted by anyone, including the media, either
2 connected with the case or about this case in any way over
3 the course of the trial, including over the weekend?

4 THE JUROR: No, I have not.

5 THE COURT: No attempts to contact you?

6 THE JUROR: No attempt.

7 THE COURT: Are you absolutely sure?

8 THE JUROR: I am.

9 THE COURT: All right. Thank you. That's all I
10 need.

11 (Juror exits courtroom)

12 THE COURT: 42.

13 (Juror enters courtroom)

14 THE COURT: Good morning.

15 THE JUROR: Good morning.

16 THE COURT: Okay. I've got one question for you.
17 I need you to be completely candid. All right?

18 I need to know whether you've been contacted by
19 anyone, including the media, either connected with the case
20 or about the case at any point during the trial, including
21 over the weekend?

22 THE JUROR: No.

23 THE COURT: No attempts to contact you at all?

24 THE JUROR: No.

25 THE COURT: You are absolutely sure?

1 THE JUROR: That I know of, yep.

2 THE COURT: Okay. Thank you.

3 (Juror exits courtroom)

4 THE COURT: 54.

5 (Juror enters courtroom)

6 THE COURT: Good morning. All right. I've got a
7 question. I need you to be completely candid. All right?

8 I need to know whether you've been contacted by
9 anyone, including the media, either connected with the case
10 or about the case in any way at any point during the trial,
11 including over the weekend?

12 THE JUROR: No.

13 THE COURT: No attempts to contact you?

14 THE JUROR: No.

15 THE COURT: You are absolutely sure?

16 THE JUROR: Mm-hmm.

17 THE COURT: All right. That's all I need. Thank
18 you.

19 (Juror exits courtroom)

20 THE COURT: 14.

21 (Juror enters courtroom)

22 THE COURT: Good morning.

23 THE JUROR: Good morning.

24 THE COURT: All right. I've got a question. I
25 need you to be completely candid. All right?

1 THE JUROR: Mm-hmm.

2 THE COURT: I need to know whether you've been
3 contacted by anyone, including the media, either connected
4 with the case or about the case at any point during the
5 trial, including over the weekend?

6 THE JUROR: No.

7 THE COURT: Have there been any attempts to
8 contact you?

9 THE JUROR: No.

10 THE COURT: You are absolutely sure?

11 THE JUROR: Mm-hmm.

12 THE COURT: All right. Thank you. That's all I
13 need.

14 (Juror exits courtroom)

15 THE COURT: 66.

16 (Juror enters courtroom)

17 THE COURT: Good morning.

18 THE JUROR: Good morning.

19 THE COURT: I just have a question for you. I
20 need you to be completely candid. Do you understand?

21 THE JUROR: I understand.

22 THE COURT: Okay. I need to know whether you have
23 been contacted by anyone, including the media, either
24 connected with the case or in any way about the case at any
25 point during the trial, including over the weekend?

1 THE JUROR: No.

2 THE COURT: No contact whatsoever?

3 THE JUROR: No.

4 THE COURT: No attempts to contact?

5 THE JUROR: No.

6 THE COURT: You are absolutely sure?

7 THE JUROR: Positive.

8 THE COURT: Okay.

9 THE JUROR: Yeah.

10 THE COURT: Thank you.

11 (Juror exits courtroom)

12 THE COURT: Juror Number 71.

13 (Juror enters courtroom)

14 THE COURT: Good morning.

15 THE JUROR: Good morning.

16 THE COURT: I have a question for you. I need you
17 to be completely candid with me. All right?

18 THE JUROR: Okay.

19 THE COURT: Okay. I need to ask whether you've
20 been contacted by anyone, including the media --

21 THE JUROR: No.

22 THE COURT: -- about this case, connected with
23 this case --

24 THE JUROR: No.

25 THE COURT: -- at any point --

1 THE JUROR: No.

2 THE COURT: -- including over the weekend?

3 THE JUROR: No.

4 THE COURT: You are absolutely sure?

5 THE JUROR: Absolutely.

6 THE COURT: Okay. Thank you. That's all I need.

7 (Juror exits courtroom)

8 THE COURT: 82.

9 (Juror enters courtroom)

10 THE COURT: Good morning.

11 THE JUROR: Good morning.

12 THE COURT: Okay. I've got a question for you. I
13 need you to answer me completely candidly. Okay?

14 THE JUROR: Okay.

15 THE COURT: All right. I need to know whether
16 you've been contacted by anyone, including the media, either
17 connected with the case or about the case at any point
18 during the trial, including over the weekend?

19 THE JUROR: No.

20 THE COURT: No contact whatsoever?

21 THE JUROR: No.

22 THE COURT: You are absolutely sure?

23 THE JUROR: Yes.

24 THE COURT: All right. Thank you.

25 THE JUROR: Okay.

1 (Juror exits courtroom)

2 THE COURT: And 91.

3 (Juror enters courtroom)

4 THE COURT: Good morning.

5 THE JUROR: Good morning.

6 THE COURT: All right. I've got a question for
7 you.

8 THE JUROR: Okay.

9 THE COURT: I need you to be completely candid
10 with me.

11 THE JUROR: Okay.

12 THE COURT: I need to know whether you've been
13 contacted by anyone, including the media, either connected
14 with the case or about the case at any point during the
15 trial, including over the weekend?

16 THE JUROR: No.

17 THE COURT: No attempts to contact you?

18 THE JUROR: None.

19 THE COURT: You are absolutely sure?

20 THE JUROR: Absolutely.

21 THE COURT: All right. Thank you.

22 (Juror exits courtroom)

23 THE COURT: Does anyone wish to make a record?

24 (No response)

25 THE COURT: I'm satisfied.

1 Mr. Goetz.

2 MR. GOETZ: No record. Just a request, Your
3 Honor.

4 THE COURT: Go ahead.

5 MR. GOETZ: Your Honor, given what's just
6 happened, as well as the fact that now media reports have
7 been issued regarding the occurrence, I'd ask the court to
8 have the standard instruction about not reading or looking
9 at any media at every break.

10 THE COURT: I will do that at every break.

11 I'm also going to have them not look at their cell
12 phone and ask that they put it on essentially emergency
13 mode. It will be taken away anyway during deliberations.

14 MR. GOETZ: Perfect.

15 THE COURT: But I will do that at every break.

16 In addition, as I said, I'm having lunch brought
17 in for the jury so that they don't -- I'm keeping them
18 together.

19 And then we'll get to closings today, and they'll
20 be instructed today, and at that point it is my intention to
21 sequester them.

22 But I am satisfied, given the answers just given
23 to me, that no other -- that they were all telling me the
24 truth. And, therefore, I'm not looking -- I'm not going to
25 excuse any of the rest of them. I will excuse the

1 alternates at the end. And then, again, I will order
2 sequestration. That is my intention.

3 Anything else that we need to address before we go
4 to closings?

5 Mr. Garvis, are you ready to close?

6 MR. GARVIS: I don't think there's much of a
7 choice now, Your Honor.

8 THE COURT: There is not. There is only one
9 answer to that.

10 MR. GARVIS: Yes.

11 THE COURT: All right. I'm just going to step off
12 for a few minutes. You can get set up, and then we'll be
13 ready to go.

14 All right. Thank you, everyone.

15 THE CLERK: All rise.

16 (Recess taken at 9:28 a.m. till 9:36 a.m.)

17

18 **IN OPEN COURT**

19 **(JURY PRESENT)**

20 THE COURT: You may all be seated.

21 At this time we are prepared to continue with our
22 closing arguments.

23 And, Mr. Garvis, you may proceed.

24 MR. GARVIS: Thank you, Your Honor.

25 Counsel. Ladies and gentlemen of the jury.

1 Good morning to you. Thank you for that sort of
2 brief interlude that we had to do.

3 You know, this is the time, as I think you learned
4 on Friday, that I get to stand in front of you and give you
5 why I believe the government has not proved their case
6 beyond [sic] my client beyond a reasonable doubt.

7 Obviously, you've heard from other lawyers in this
8 case. And you heard from the government on Friday, and we
9 all know that they are going to have another bite at the
10 apple, so to speak, after all the defense gives you their
11 arguments.

12 Now, an old lawyer once told me that there are
13 three closing arguments you give, the one that you prepared
14 to give the night before or nights before, the one you
15 actually give, and then the one that you think about when
16 you sit down about all the things that you forgot to tell
17 them.

18 Now, I won't lie to you. I'm not sure how this is
19 going to go. I'm going to use a PowerPoint. It's not
20 usually my style. But I'll tell you what, after the length
21 of this trial, if nothing else, if I wasn't the old lawyer,
22 I am now.

23 Now, to remind you, my name is Andrew Garvis. I
24 represent Abdiwahab Maalim Aftin. And Mr. Aftin is not
25 guilty of the charges that he's been accused of.

1 And Mr. Schleicher, when he stood up, he talked to
2 you at the beginning about the saying downstairs on the
3 wall. Equal Justice Under The Law. And I wanted to really
4 actually give an understanding of the importance of you
5 sitting there, how we got there in those chairs. So I need
6 to have you take a step back with me a little bit about how
7 we got to this system, because it wasn't always a jury trial
8 of our peers.

9 We get our law from England. We know that. And
10 in medieval times individuals who were charged with crimes,
11 they were prosecuted and so forth by the king, and the king
12 had absolute power.

13 And oftentimes individuals were subjected to
14 ordeals, and their guilt or innocence was determined about
15 how they handled those ordeals. They were put into water;
16 and whether or not they floated or whether or not they came
17 to the top, their guilt or innocence was determined. They
18 were given a hot poker to hold and walk certain steps and
19 determining their guilt or innocence depending upon how the
20 blisters took place.

21 But things changed and it changed in 1215 with
22 King John and the Magna Carta. Now, the Magna Carta was a
23 great document. It's actually, I mean, literally Latin for
24 Great Charter. And it's deemed really the first
25 Constitution of Europe, and it created important rights.

1 Number one, it limited the power of the king, who
2 was no longer absolute. He had to abide by the law of the
3 land.

4 It allowed noblemen and barons to be consulted as
5 it related to taxing, because prior to that the king taxed
6 at his will.

7 It allowed women and children to finally own
8 property after your husband or father passed away, because
9 prior to that the king just took it.

10 And, importantly, it created the framework for
11 those accused of a crime. No free man shall be seized or
12 imprisoned or stripped of his rights or his possessions or
13 outlawed or exiled or deprived of his standing in any other
14 way, nor will we proceed with force against him or send
15 others to do so, except by the lawful judgment of his equals
16 or by the law of the land.

17 Now, obviously, this didn't apply to at the time,
18 arguably, unfortunately, women. It didn't apply to those
19 who weren't in that class. But when the colonies broke from
20 England, one of the reasons they did so was because of this
21 system of the jury trial.

22 So the British through the Navigation Acts
23 demanded that all trade go through British ships. And the
24 Americans, the colonists didn't -- not only didn't
25 appreciate it, they knew that it was injurious towards

1 economies, and so they tried to not abide by it. And when
2 individuals were prosecuted, jurors refused to convict; and
3 so the English set up specialty courts that did not use
4 jurors.

5 After the Revolution, we know that, arguably
6 speaking, the aspects of the Magna Carta, those concepts,
7 were put into the Sixth Amendment, the amendment that gives
8 you the right to have a trial by an impartial jury.

9 And afterwards Thomas Jefferson wrote to Thomas
10 Paine and said, "I consider the trial by jury as the only
11 anchor ever yet imagined by man by which a government can be
12 held to the principles of its Constitution."

13 Now, you are asking yourself, Mr. Garvis, thank
14 you for this albeit short history of the jury trial. What's
15 the importance? And it's really just simple. This system
16 is the bedrock of our democracy. There's nothing honestly
17 more important, maybe outside of voting, than a right to a
18 trial by a jury of their peers. No king. No ordeal. It is
19 a tremendous responsibility. You are what stands between
20 the government and its desire to convict my client.

21 And it hasn't been lost on any of us how you have
22 done this service. Everybody in this courtroom has noticed
23 it. Every one of you has paid attention. You have taken
24 notes. It has been a long trial. You and I can agree on
25 one thing; we can hold up how long each one of us has been

1 in a trial of six weeks, and it's one time.

2 And I really want you to understand that for my
3 client, Mr. Abdiwahab Aftin, and myself I appreciate your
4 service, and I do tell you that as part of the American
5 experience.

6 Now, others, they've talked to you about the
7 presumption of innocence alone is sufficient to find the
8 defendant not guilty. Obviously, each defendant is to be
9 treated, you know, separately, and there's no burden upon
10 us. We've had those conversations the other day.

11 And I've always explained it this way. When you
12 came in here and you sat down for the voir dire process with
13 the judge, and at the time you'd understood that my client
14 had been charged with a crime, and you knew that the
15 government was prosecuting him, and the court told you that
16 he was presumed innocent, and at that time if the court had
17 asked you for a verdict, the answer wouldn't be "I don't
18 know." The answer is "not guilty," because the presumption
19 of innocence shields my client. It shields my client up and
20 until the government proves each and every element of the
21 crime against him beyond a reasonable doubt.

22 And we learned about beyond a reasonable doubt.
23 Words on the paper. Reasonable doubt is based upon reason
24 and common sense. It could arise from lack of evidence.
25 It's this doubt, this -- reasonable doubt is proof of such

1 convincing character that a reasonable person, after
2 consideration, would not hesitate to rely and act upon that
3 proof in life's most important decisions.

4 Now, we all know that it's not proof beyond all
5 possible doubt. Right? I mean, Mr. Schleicher gave you
6 that nice little chart. We talked about, you know,
7 reasonable suspicion, and then we went up to probable cause,
8 and then we went up to clear and convincing, and then up
9 here was reasonable doubt, and then no doubt was up here.
10 That's not their burden. Okay? But it is a heavy burden.
11 It's a high burden. It's these decisions that we make in
12 life where we really put thought to it.

13 Now, I sat here in opening, and I didn't use a
14 PowerPoint, but I told you about some things. And I said,
15 first of all, you're going to have to compartmentalize.
16 There are seven defendants on trial here, and each one of
17 them deserves individualized application to the facts to
18 their charges.

19 I think you kind of heard me, but I don't know
20 that you understood it, but you understand now with the
21 dearth of evidence that's been presented in this case on
22 what that means.

23 I told you that there was going to be context. We
24 were going to hear about the pandemic. We were going to
25 hear about waivers.

1 I told you that there was going to be aspects of
2 conduct, how the government investigated this case or failed
3 to investigate, failed to produce evidence against my
4 client, my client's good faith business practices.

5 And then I told you that you were going to hear
6 from Dr. Vaaler and he was going to give you information as
7 related to these East African business practices.

8 Now, the court, after we're done with these
9 closing arguments, is going to give us these instructions.
10 And they are long, and they are wordy, and, yes, lawyers put
11 them together, and that's a problem. And I've tried
12 throughout this case to sort of synthesize things
13 periodically, and I'll try to do it this way.

14 My client is charged with three counts, conspiracy
15 to commit wire fraud, conspiracy to commit money laundering
16 and a stand-alone money laundering count.

17 And as to the conspiracies, they are similar in
18 nature, the similar elements that two or more people engaged
19 in an agreement to do something fraudulent or money
20 laundered, that the defendant voluntarily then joined with
21 intent that agreement, and at the time he did so, or she did
22 so, he or she knew of the purpose of that agreement. And
23 then there's always some overt act that's necessarily
24 required by somebody.

25 Now, in this setting, just so we are clear, "knew"

1 means "knew." It means knowledge. It's not should have
2 known, could have known. It is known.

3 The money laundering conspiracy has an additional
4 element. It requires a component of concealment, that the
5 individual took, the defendant took an effort, took some
6 step to conceal the money.

7 And in this case there just was no wire fraud
8 conspiracy. And, for God's sake, there was no evidence
9 presented that my client joined the wire fraud conspiracy,
10 nor was there evidence that there was a money laundering
11 conspiracy that was proven, nor that my client joined a
12 money laundering conspiracy.

13 And with all due respect, my client didn't launder
14 anything. The truth is the evidence showed that my client
15 engaged in good faith business practices; and then, yes, he
16 did send money to Kenya, but he did so out of lawful moneys
17 that was earned and he did so in his own name.

18 Now, when we talked about the pandemic -- we
19 talked at length about how it started in March and how it
20 changed our world. It altered the food program. We all
21 understand that.

22 The private sector was kind of involved in it, but
23 the reality is with the waivers that came into place -- we
24 know there were 113 additions, subtractions or extensions.
25 We know for a fact that the private sector was then brought

1 in and had a bigger role. They had a bigger opportunity to
2 fill the void.

3 We all understand that the rules associated with
4 how the food program was, was to work changed, that we no
5 longer had to do it in congregate settings, and we could
6 have bulk deliveries of things, and they could be packaged
7 in more than, you know, one package, you know, meals in more
8 than one bag for multiple days, so to speak. We understood
9 all that.

10 And just so we're clear, so did the Minnesota
11 Department of Education. They knew about it. They knew
12 about absolutely what was to be expected, and the
13 government's put it into evidence for you. All those C
14 documents that have all the contracts between the vendors
15 and the sponsors have it laid out exactly how many meals
16 were supposed to be delivered, the days they were supposed
17 to be delivered, what was supposed to be earned, and they
18 knew it. They knew that millions of dollars was going to be
19 made.

20 And just so we are clear, we know for a fact they
21 paid them. They paid them before the stop pay, after the
22 stop pay and all the way through until the search warrants
23 were issued.

24 And just so we are clear, they've never asked for
25 any of the money back. They've never asked to claw it back,

1 even though we heard from Ms. Honer that that was a
2 possibility and an avenue that they had the right to do.

3 And we heard about the lawsuit between Feeding Our
4 Future and obviously the Minnesota Department of Education,
5 about how this matter started with, you know, at first it
6 was restaurants that were involved, and then Ms. Honer put a
7 stop to that. And it literally was her that put a stop to
8 it. And then the sponsors, they obviously pivoted and they
9 began applying for various sites.

10 And just to remember the testimony, the Minnesota
11 Department of Education approved all the sites. It's not as
12 if they were just opened up down the street by somebody.
13 They had to approve them, and they did.

14 And the fight that took place between Feeding Our
15 Future and the Minnesota Department of Education, it went on
16 obviously for a period of time because they slow -- they
17 slow approved some of these sites, and then on top of it
18 they stopped the pay. Right? We all heard it. At least
19 from the period the end of 2020 all the way through at least
20 April of 2021, they had a stop pay in place, and they only
21 lifted it because a judge in Ramsey County told them that
22 they weren't following their rules.

23 But this investigation obviously came about
24 because, as we heard Ms. Honer, she filed a complaint. Now,
25 maybe it was Christine Twait in February, but at some point

1 in time in February or March it was Ms. Honer who approached
2 the FBI. And the FBI I think told us that they officially
3 got involved in roughly in April of 2021.

4 Now, if you remember Ms. Honer's testimony, what
5 she was doing was she was getting the Secretary of State
6 documents for these businesses that were opening them up,
7 and then she was opining that they shouldn't be able or
8 couldn't be able to do that. And it got her in trouble, if
9 you remember her testimony, with her superiors.

10 But this is what she passed along to the FBI, and
11 this is why in this case we've heard nothing but pattern
12 testimony about businesses opening up LLCs. The government
13 just adopted it. And then their approach was to get bank
14 records.

15 There are 50 sites in this case. There was no
16 physical surveillance done of these sites during the time
17 frame from April 2021 all the way through the search
18 warrants. There was some testimony about somebody doing a
19 drive-by, but I'll let you decide whether or not you find
20 that to be credible or not.

21 That's unprecedented in today's world. An
22 investigation of a food program about whether or not they're
23 actually delivering food? People are getting meals? Not
24 one iota of an agent going to a site, making an effort to
25 look to see whether or not food was actually being

1 delivered?

2 And remember they know the dates. It's in the
3 contracts. You don't think that Ms. Honer told them the
4 places that she thought maybe were at issue, and they didn't
5 go to any of them? Didn't make an effort to take pictures
6 or a video? Didn't approach anybody at a site and say, Let
7 me look in your bag, Let me see what you got?

8 I mean, you heard last week from Mr. Sapone there
9 was no -- they could have used pole cameras. Right? And we
10 know for a fact that there were certain sites that were at
11 places that actually had surveillance cameras that they
12 didn't pull and they let lapse.

13 And, importantly, they didn't speak to anybody
14 contemporaneously at this time frame. Everybody that you
15 heard on the stand was somebody that they spoke to three
16 years later who had already heard of this case, because it
17 had been plastered all over the media. They brought people
18 in here to give you testimony after this trial had already
19 started.

20 And the government, I submit to you, did this
21 failure to investigate because in their mind it was just too
22 much money. And as Mr. Sapone told you last week, they just
23 followed the money instead of the food.

24 I mean, we heard in the government's opening, oh,
25 there was almost little to no food bought, a bag of rice

1 here, a pallet of potatoes there, but yet, as you found out
2 in this trial, millions of dollars was spent on food,
3 millions, that turned into millions of meals.

4 And as others have told you -- you heard it from
5 Mr. Birrell and Mr. Schleicher -- this is what we call
6 confirmation bias. This is the human tendency to seek out
7 to use only the information which confirms the earlier
8 assumption. And what it does is it results in uncritical
9 acceptance of the information that confirms that assumption.

10 The government saw the picture, and they saw the
11 two people staring at each other, and they refused to see
12 the chalice. They didn't want to see the chalice. That was
13 their assumption. And as it relates to my client, it played
14 out.

15 The government's position as it related to my
16 client was that Bushra was a shell company, he signed meal
17 counts, he submitted fake rosters, and he wired money to
18 Kenya and laundered it. But the reality is, is that the
19 investigation against my client was nothing more than a
20 non-investigation. It was confirmation bias.

21 Bushra Wholesalers was not a shell company. My
22 client literally acted in good faith in his business. There
23 was absolutely no evidence my client signed a meal sheet,
24 and we'll talk about it. And there was no evidence that the
25 list of names that my client provided was not real and that

1 those people didn't get food. And, yes, he invested money
2 in Kenya, but it was lawful money.

3 So what didn't they do? Well, we know for a fact
4 there was no search warrant or surveillance of my client. I
5 mean, Mr. Kary was on the stand. And I asked him where was
6 my client living, and he said I don't know, and I literally
7 had to pull up a bank statement with his address.

8 1 West Lake Street, Apartment 302. He's in a one-bedroom
9 apartment.

10 A conversation between Mr. Thompson and Mr. Kary
11 about my client's email account. It was a Yahoo account.
12 And we got some strange conversation about how hard it was
13 to get Yahoo or they were longer to get or something along
14 those lines. But he, number one, he flat out admitted,
15 well, we should have done it.

16 My God, you charged him with a crime. Go get the
17 information if it's there. Who cares if it takes you a few
18 extra months or a month or so. It's not like you didn't
19 have it in April. You didn't charge these people till
20 September of 2022.

21 No evidence that they made an effort to seize his
22 phone, and we know they made no effort to actually get his
23 email.

24 So what did they do? What did they try to present
25 to you to show my client's involvement? Right? H-3, his

1 immigrant experience. Right?

2 This was supposed to be, honestly, some great, I
3 think, reveal from Mr. Bobier as he was going through the
4 testimony about the search and seizure at Abdiaziz Farah's
5 house, when we went through all the things that were found,
6 and they came across this, this affidavit of support, where
7 they sponsored my client to come to the country ten years
8 ago.

9 But they want to use it for some concept of
10 criminal intent, the fact that they know each other. And
11 I'm going to tell you that the corollary, the converse is
12 true. It's trust. My client was in a trusting
13 relationship, as all these defendants were. My client was
14 in entrepreneurial businesses with Mr. Said Farah prior to
15 Bushra.

16 I went through these checks with Ms. Roase on the
17 stand, Minnesota Foods, Golden Care LLC, Derman Senior Care,
18 all of them small entrepreneurial businesses that they were
19 involved in together prior to anything related to Bushra.
20 In all due respect, Bushra was just nothing more than
21 another venture between them.

22 And Dr. Vaaler told us -- and the reason we needed
23 to have some testimony, because things over here looked a
24 little suspicious, as we like to say, to us in the western
25 world, but it isn't in their community. He talked to us

1 about that experience of the immigrant, of the migrant, of
2 the refugee, how they come here. They live together. They
3 form partnerships together. They stay in their communities.
4 They do businesses with family and clan.

5 I asked Agent Pitzen about the concepts. This is
6 why in this world we have Little Italys, we have Chinatowns.
7 We have the Hmong community in St. Paul. Cedar-Riverside is
8 Little Mogadishu. This is where these people come and where
9 they live, and it's no different than when we came or when
10 our forebearers came.

11 And they open businesses together, and they take
12 risks together; and then, yes, they do send wealth back
13 home, and it's an informal business structure. Yeah, it is.
14 Yes, they form LLCs, they own bank accounts, but the
15 engagement between the parties is extremely informal. If
16 somebody needs money, they give them money. It doesn't
17 necessarily matter what account it came out of. And it's
18 based on trust. Islamic law. They're not allowed to charge
19 any interest. You ask me for money, I give you money. It's
20 understood that you will get paid back at some point in
21 time.

22 And Bushra, Bushra wasn't a shell company. You
23 learned that. It was a food supplier. It bought food, sold
24 food, delivered food, paid costs, paid employees. They had
25 a full-time employee. Idriss Omar. They had operations.

1 They had logistics.

2 And remember my client, when he formed this, if
3 you recall the testimony, he's actually out of the country
4 from all of fall of 2020, and he comes back at the time of
5 formation. And at the time of formation, so we're clear,
6 it's during the stop pay.

7 So what did my client do? Well, he put his own
8 money in. I went through these checks with Ms. Roase. He
9 paid payroll. He paid costs of food. This was a
10 representative portion of what my -- what I presented to
11 her.

12 We talked about the fact that Said Farah and
13 Abdiaziz Farah, they had a text message about the money that
14 was outlaid by them individually during the stop pay.
15 Because why? Because MDE had stopped pay during this time
16 frame, and they had not paid the money, but they had outlaid
17 the money to do the business.

18 The court's going to give you another instruction.
19 It's called good faith. And good faith is a complete
20 defense to the crimes charged if the defendant did not act
21 with the specific mental state as specified in the
22 instructions for each offense charged. And the essence is
23 that one who acts with honest intentions and without the
24 requisite mental state, knowledge, cannot be convicted of
25 the crime charged.

1 I submit to you that the evidence presented about
2 my client starting this business, putting his own money into
3 this business, is nothing more than a good faith intention.
4 And it's, actually, actual knowledge that he's not involved
5 in any type of conspiracy.

6 Now, the government, they hinted at it, and I'm
7 sensing they're going to come back with this concept of
8 willful blindness that they're going to talk to you about.
9 But as Mr. Schleicher told you, that takes an affirmative
10 step by the defendant to somehow try to avoid the truth, to
11 avoid hearing about it. There was no evidence presented
12 whatsoever in this case of that of my client.

13 And I won't lie to you. I really believe that if
14 there was willful blindness involved in this case, it was on
15 the part of the government as it related to my client.

16 The government not only, as we know, didn't do any
17 search or seizure or surveillance of my client -- we
18 understand that, and maybe he wasn't a big fish, quote,
19 unquote -- but they didn't do it at all as it related to
20 Bushra Wholesalers, his business, the one he is standing on
21 trial for.

22 I mean, this is a criminal case, and they're
23 trying to convict him of it. And just like they didn't go
24 to the sites and do any surveillance, either physical or
25 electronic, they didn't do it at Bushra Wholesalers. No

1 drive-bys, no stopping in to see whether or not it's an
2 actual warehouse, no actually looking to see, hey, is there
3 food in there, are there employees, what are they doing.

4 You understand they alleged it was a shell
5 company. I mean, how easy would that have been? That would
6 be pretty much easy to show. Hey, guess what, we went
7 there, there wasn't anything there. That would be some good
8 testimony, but they didn't do it.

9 And actually Ms. Roase, as you heard from
10 Mr. Schleicher, got on the stand and said they didn't need
11 to. With all due respect to Ms. Roase -- she was the
12 forensic accountant -- she's not the lead investigator of
13 the FBI in this case or maybe she was.

14 This was after she had already admitted on the
15 stand that Bushra was an actual location that bought food,
16 stored food, delivered food, had employees. I went through
17 those checks with her as well.

18 This is that stuff that mister -- you know, and
19 really what ended up happening was that Ms. Roase -- they
20 just focused on the money. Right? Where did the money go?
21 They talked about the fact, well, yeah, the money went to
22 buy various things.

23 And as Mr. Birrell told you, they missed the boat.
24 It's just that part of that confirmation bias. You missed
25 the concept that they put all the money out upfront. And,

1 yeah, they made a profit at it. They were allowed to make a
2 profit at it. MDE knew they were going to make a profit at
3 it.

4 And when they put together these charts related to
5 what went on at Bushra, M-10, as Mr. Schleicher told you,
6 they chose these categories. They decided what was to go in
7 certain things.

8 And I want you to remember the testimony, because
9 the testimony was, well, here's the deal, in particular, as
10 it related to several things, Manmabuyu's account was not
11 put into any concept of a food account. And that was
12 because when they looked at the bank records, they
13 determined that they couldn't see where the food came from
14 from them. Okay?

15 But they never spoke to the owner Khatra Mohamed.
16 They had no idea how she either did or didn't buy it. I
17 mean, it's just a pattern that went on in this case that
18 they didn't speak to anybody, anybody associated with my
19 client as it related to Bushra. And, by the way, I mean,
20 they knew exactly where Bushra was.

21 My client -- literally, there are two emails that
22 my client sends in this case, both of them from this email
23 address. abdiwahabmaalimaft@yahoo.com. And it's an email
24 forwarding or responding to Mr. Nur about, please, address
25 for Bushra. Put it there. How hard would have that have

1 been?

2 I need to take a step now, and we need to talk
3 about Mr. Ahmed, Hadith Ahmed, the cooperator. And the
4 reality is that Mr. Ahmed is absolutely not credible.

5 In all due respect, Hadith Ahmed has every
6 incentive to lie, and he actually told you that that's what
7 he did, was he was lying. He lied all the way through up
8 and until he got caught, and then all of a sudden now he was
9 being truthful. We saw it on the stand, how he's polished
10 and easy-going on direct and then on cross he wouldn't even
11 agree what color the sky was, whether it was blue. And I'll
12 tell you what, I don't believe the government believed him.

13 And he knows for a fact that the more people that
14 he implicates and inculpates gets him a better deal. That's
15 the reality. So the more people he can turn on.

16 And I'm going to focus in on these consulting
17 contracts to Bushra. Maybe you remember the testimony with
18 Mr. Jacobs.

19 "After that, did someone reach out to you to
20 discuss consulting agreements?"

21 "Yes."

22 "Who was that?"

23 "Abdiwahab."

24 Abdiwahab? Mr. Aftin?

25 "Do you know his last name."

1 "No."

2 Well, then I waited, waited. Surely, Mr. Jacobs
3 was going to do what I expected them to do. Really great
4 lawyers over here, very smart. I mean, they knew --
5 Mr. Ahmed knew who was on trial here. It wasn't that --
6 right? We already knew, we already heard that he had twelve
7 proffer sessions, plenty of trial prep. He had talked about
8 the paper trail being so clear, this, that and the other.
9 So did Mr. Jacobs ask him to identify the Abdiwahab in the
10 courtroom? No.

11 Do you remember when Agent Kary was on the stand
12 and we saw the meal counts? And I'm going to talk about the
13 meal counts in a minute. But do you remember when
14 Mr. Thompson and him were going over those meal counts and
15 they came across Abdiwahab Aftin? And he said, Mr. Kary, do
16 you see Abdiwahab Aftin in the courtroom? And he said, yes,
17 he's sitting over there, and he identified him.

18 And then on cross-exam I came up and I said, well,
19 that was pretty easy, you guys were sitting across from each
20 other for the last six days. It was six days, not six
21 weeks. And it got a little bit of a chuckle. It got an
22 objection from Mr. Thompson. It got an admonition from the
23 judge and an apology from me. That's not the important
24 part. The important part is the witness identified the
25 defendant in the courtroom.

1 That's what didn't happen, but they wanted to
2 leave you with the insinuation that it was Abdiwahab Aftin.
3 They didn't identify him, but they wanted you to believe he
4 did. And if you checked your implicit bias at the door like
5 we asked and everybody did, you wouldn't have done it.

6 And how was that paper trail then that led to --
7 so clear? It was so clear on everything else. And was it
8 clear on Mr. Abdiwahab?

9 Q-15. Akram Elmi. This is not -- I won't lie to
10 you, but I can't even remember who this man was or if it is
11 a man. I apologize. I just don't remember that testimony.
12 But I do remember that Mr. Ahmed said, I was told to send it
13 back to bushrawholesalers2020@gmail.com.

14 Well, we know one thing. That ain't my client's
15 email address. He's Abdiwahab Maalim Aftin. And it isn't
16 Said Farah's email address either. That's Bushra's email
17 address from the Secretary of State documents. There isn't
18 one piece of evidence in this case that has
19 bushrawholesalers@gmail.com.

20 Well, how easy could have that been to corroborate
21 if they knew it? It's not one of those difficult Yahoo
22 emails. It's a Gmail. Could have picked that up easily.
23 Well, let's go find it. Let's go see whether or not that
24 was sent back to Bushra Wholesalers and who owned it, who
25 had it. But did they do it? No.

1 Don't forget, folks, my client doesn't even own
2 Bushra at this time. He signed it over in September.

3 And let's remember, what are my client's charges
4 again? Conspiracy to commit money laundering, conspiracy to
5 commit wire fraud and a stand-alone money laundering count.
6 Is he charged with conspiracy to engage in bribery in the
7 Food Nutrition Program? No. You know why? Because the
8 government didn't believe him; and if the government didn't
9 believe him, you can't believe him.

10 What about those meal counts? Remember the meal
11 counts, and we went through them. And the concept isn't
12 related to my client, but it was shown again in closing that
13 my client signed these meal counts.

14 You remember when I had -- and we're dialing back
15 again, back five weeks, we dialed it back, and I said --
16 that was when they identified my client Mr. Abdiwahab.
17 Mr. Kary did. And then on cross-examination I said, well,
18 wait a minute, what evidence do you have that he actually
19 signed it. Well, no, that's just his name. Well, clearly,
20 somebody put his name there, clearly. But was it him? I
21 said, wait a minute, that's not his signature. And then
22 Agent Kary said, well, I don't know what it is. So I pulled
23 up the check. Of course, it's not his signature.

24 And then we went through the whole rigamarole
25 about whether or not that "A" was that "A" from

1 the Alabama -- it kind of reminded me of the Alabama Crimson
2 Tide, if you remember.

3 It's not the concept of whether or not the meal
4 counts are legitimate or not, just so we are clear, because
5 they didn't present one piece of evidence about Albright
6 Townhomes at all, not one, that it wasn't real. That's not
7 the point.

8 The point of this whole exercise is the fact that
9 the government just made a giant assumption, and they had
10 the assumption in their mind, and it didn't matter. They
11 weren't going to check it out anyways, just like everything
12 else.

13 So what about the rosters? The argument is that
14 all the rosters were fake. Well, first off, that's not
15 true, not true at all. That wasn't presented to you. They
16 took a select number of them, and they went through them.

17 But I'm going to focus in really on the one from
18 Albright, because that's the one my client actually
19 apparently sent or did send from his address. The email
20 address said Abdiwahab. He actually sent it to, I think,
21 Mr. Farah, who then sent it to Ms. Nur, who then submitted
22 it.

23 And the rosters, by the way, E-83, is full of
24 names of children, dates of birth, then their parents. And
25 then that far right side, what is that? Well, those are

1 phone numbers. Phone numbers? We could have called people?
2 We could have asked whether or not they actually were in the
3 program or getting the food or had food delivered or these
4 are their children? Did they present any evidence that they
5 made any phone calls to you? No.

6 Their only argument was, well, we compared them to
7 the number of kids who were in the Minneapolis School
8 District, and a quarter of those kids on that roster were
9 part of it, so, therefore, ergo, that means they are fake.
10 No.

11 This was an open site. Albright. Anybody could
12 go there, not to mention, my God, the open enrollment in
13 Minneapolis -- there's all sorts of people who actually
14 enroll elsewhere that go to school outside of it. There are
15 plenty of kids that are not of the age -- in the school age,
16 you know, arena, so to speak. I promise you there are more
17 than 33,000 kids in Minneapolis.

18 Well, what about there was some testimony by the
19 agent about comparing it to the 193,000 kids that were all
20 in the school districts in Minneapolis -- or Minnesota? Did
21 they do that? No.

22 Well, what about duplications? Were there some
23 duplications on this, on this Albright list provided? Well,
24 they didn't do that either.

25 They didn't do anything. They didn't present any

1 evidence whatsoever that the names on this roster that were
2 sent were not real and that these people didn't actually get
3 food.

4 And as an aside, can we see a theme? I mean,
5 Albright is the prime example. I mean, this -- I think we
6 kind of cleared it of any aspect related to my client, this
7 site he's tied to to some degree. Any evidence presented
8 about Albright Townhouses? Any witness come in saying, I
9 didn't see any food at all? No. But like the apartment,
10 like his phone, like his email, like Bushra, they didn't
11 bother.

12 And just so you're clear, when you go back in that
13 jury room -- and Agent Pitzen -- remember he was on the
14 stand, and he gave all this testimony about all the places
15 that he took pictures of, and we put them into evidence?
16 They didn't put a picture of Albright Townhouses into
17 evidence.

18 Well, what about those text messages, right? Ah,
19 let's tie them back. We got to bring them back in. Let's
20 bring them back. Relationship evidence. The first thing I
21 think we can all agree upon is that my client was not a
22 party to any of the text messages.

23 Folks, there were 1300 exhibits. There were 35
24 witnesses in this case. And that's just a small portion.
25 And there's not one text message from my client, not one

1 sent, not one received? That's almost impossible. Not
2 even, "I love you, bro"? I mean, he's allegedly involved in
3 a conspiracy for fraud.

4 It's not like they didn't have the phones. We had
5 Abdiaziz's phone. We had Mr. Nur's phone. We had
6 Mr. Ismail's phone. We had Mr. Said Farah's phone.

7 Now, we all know that my client was with part of
8 Bushra. We all know it. And so these text messages, hey,
9 bro, checks are ready, give them to Bushra, bring them to
10 Abdiwahab, hey, Bushra, check, check.

11 Remember, this is the time frame just after MDE
12 has lifted the stop pay, number one. Number two, they are
13 no longer just automatically paying. There is a delay in
14 payment. They are requiring verification, and so moneys
15 that are outlaid are paid later. But, more importantly, was
16 there any evidence presented that my client actually got a
17 check, that he took it? No.

18 What about this? And I realize my, my sort of
19 sites and my PowerPoint isn't as pretty as the government's,
20 because I don't have the pictures, but this is between
21 Ahmednaji Maalim Aftin and Mr. Abdiaziz Farah. Hey,
22 Abdiwahab will send you 5 grand tomorrow. Buy him a Lexus,
23 bro.

24 What? Did they present any evidence that my
25 client sent him a check, anybody got sent the check? No.

1 Oh, yeah, we have pictures of some car. But there was no
2 evidence my client got a car, not to mention, by the way,
3 that Ahmednaji Maalim Aftin is in Kenya and my client is in
4 America. This is from 1/19 of 2022.

5 What about this? H-54f. This was put up by
6 Mr. Ebert in the opening, expecting -- and it was also
7 presented in the trial. And I was expecting, well, surely,
8 this is a specific number. This isn't some big round
9 number.

10 This is some conversation between Mahad Ibrahim
11 and Abdiaziz Farah. Oh, look, 36,537. Not sure if that's
12 what my client was owed, not sure if, you know, my client
13 was supposed to pay it. But were you presented a check that
14 my client got anything? No, you weren't, because it didn't
15 exist.

16 Forget about the context for a minute. The real
17 problem, what I'm trying to tell you, they're trying to
18 infer criminal intent from other people's conversations. My
19 client isn't saying anything. He's not texting anything.
20 He's not receiving anything. It's innuendo. It's
21 supposition.

22 If I sent a text to Mr. Schleicher right now and I
23 said, Clayton Carlson stole my wallet, well, there would be
24 a text. It doesn't mean it happened. It's an accusation.
25 It would be sitting there in the ether for us, but it

1 doesn't make it true, but that's what they've done.

2 Why did we hear hours of testimony between
3 Ahmednaji Maalim Aftin and Abdiaziz Farah? I mean, they
4 could have literally presented the investments in about an
5 hour, what Mr. Abdiaziz Farah, Abdiaziz Farah invested in
6 Kenya with his money. But we did, didn't we? We spent
7 hours, almost a day on these text messages.

8 And as much as we all loved and, you know, enjoyed
9 hearing Mr. Thompson and Mr. Pitzen, Agent Pitzen, talk
10 about "I love yous" and "bros" and so forth, it wasn't to
11 show you the investments. Right? It really wasn't. I
12 mean, obviously, the investments showed that they actually
13 were engaged in hiring lawyers, doing contracts, buying
14 actually land, putting out prospectuses, trying to get
15 others to be involved. It kind of sounds like maybe what
16 you would do to be involved to an investment.

17 No. It was just so that you would hear that name
18 Maalim Aftin over and over again, so you would draw that
19 inference, just like they tried to draw the inference about
20 BBI, about where money from Bushra went after they had it
21 and they gave it away -- after they spent it on their own,
22 just so you would infer like the meal count, like the
23 roster, like the other text messages, and the claim that
24 Bushra is just illegitimate, because they didn't have any
25 other evidence presented to you of my client.

1 Did the government present any evidence that my
2 client didn't engage in any honest, good faith business?
3 Any? I mean, I've shown you the two emails. G-217. That
4 was literally him telling Mr. Nur, hey, bring the product to
5 our warehouse. E-83 was him sending a roster that was
6 required apparently from the Minnesota Department of
7 Education. He put his own money out. It sounds like
8 business.

9 And Bushra was a real place, with real food, with
10 real people. There's no evidence presented my client didn't
11 enter into this endeavor and engage in this endeavor in
12 anything but good faith. And when you couple it with the
13 fact that they didn't even bother to do an investigation of
14 him, I tell you that that's not fraud at all.

15 And if we're really going to play the game that
16 the government's wanted to play about money, what did they
17 provide to you about what my client got? Was there any
18 evidence presented to you that he got cars and boats and
19 took fancy vacations? No, no evidence whatsoever. In fact,
20 they didn't even put a summary chart in as to what he
21 earned.

22 Mr. Thompson in closing put up a chart that said
23 Mr. Aftin got -- Bushra got \$4.5 million. Huh? Gross
24 monies that went in? That's what it is? No. Their great
25 reveal was Capital View Apartments.

1 Well, how did the government get this J-160?
2 Well, we know for a fact it wasn't done in a search warrant
3 from my client. We know that for a fact. It wasn't found
4 on Mr. Nur's Google, you know, Google Drive. It wasn't
5 found at Abdiaziz Farah's, you know, house. No. It came
6 from my client. It's why it's a cobbled-together exhibit
7 when you look at it. My client was telling them, This is
8 what I did with the money. This document includes,
9 obviously, this picture, this prospectus. Right?

10 And just so we step back. You know, we've talked
11 about this, and I think it's important to note. I think
12 it's pretty clear at this point in time that people
13 engage -- this community engages in business somewhat
14 differently. Right? I mean, they send over big chunks of
15 money and invest in things. We saw it.

16 We heard it from Ms. Hassan in her investment in
17 Afrique, hundreds of thousands of dollars out of her own
18 pocket. It wasn't money that she borrowed. This is money
19 that they keep together and that they then invest. We heard
20 from Said, you know, Said Farah that prior to this pandemic
21 he sent hundreds of thousands of dollars over. So don't get
22 lost in the money at all.

23 But when we look at this exhibit, and when you
24 pull it apart, there are things in it. Yes, there was a
25 contract with Abdiaziz Farah. Yes, there was information

1 related to my client's ownership in Capital View Apartments.
2 And, yes, in this exhibit was my client's actual
3 documentation that he wired the money over. And what did he
4 wire it over for? Bushra supplies for Bushra Wholesale.

5 On Friday Mr. Thompson said that didn't happen.
6 And my answer to you is, well, that was the intention,
7 because in this document, if you look, you are going to see
8 the minutes that was presented in the document. Capital
9 View Limited received 200 grand from Mr. Abdiwahab Maalim
10 Aftin on the 18th of May. The above funds were meant to
11 procure and ship supplies for food stuff; but because of
12 COVID, they couldn't do it, so it was converted. Yes, it
13 was. That was the intent. It turned out that it turned
14 into an investment.

15 But what do we know? Well, first off, we know for
16 a fact that it was wired by my client in his own name.
17 Well, that's not concealment.

18 And remember how this money, you know, this money
19 comes. Right? It's in his own name. He had to present it
20 at the bank with -- Abdiwahab Maalim Aftin had to show his
21 actual picture ID.

22 And where does that money trace to? Well, it's
23 traced to Somali Community Resettlement. That's what
24 Ms. Blackwell did when she did the tracing. FIFO, LIFO.
25 I'm not sure how that works, but that's how she was doing

1 it. Right? MDE paid the sponsor, who then paid Somali
2 Community Resettlement, who then pays Bushra down the line.
3 No evidence whatsoever presented that that money was
4 illegitimate. None. The money was lawful, and it wasn't
5 concealed.

6 There's no money laundering conspiracy. There's
7 no conspiracy at all. And there's absolutely no evidence
8 whatsoever that my client sent over \$200,000 in laundered
9 money. It's money that Bushra earned from delivering food,
10 cost of doing business.

11 So we go back. We go back to where we started.
12 And when you go back into that room and you compartmentalize
13 and you look at the evidence against my client and you apply
14 it to the elements of the charges and you think of the
15 context that we've talked about and what you remember about
16 how this investigation started, about what was being done to
17 investigate my client, about how my client acted in good
18 faith, about him doing business, and you take into
19 consideration that last scene, that confirmation bias, you
20 see the chalice, I see the chalice, and, if you see the
21 chalice, I tell you that's doubt and I tell you it's
22 reasonable doubt.

23 So I'm going to go back to what Thomas Jefferson
24 said. "I consider the trial by jury as the only anchor ever
25 yet imagined by man by which a government can be held to the

1 principles of its Constitution."

2 You have the power. And when you go into that
3 room and you pull out the verdict form, I'm going to ask you
4 to check the boxes, conspiracy to engage in wire fraud,
5 Count 1, not guilty; conspiracy to engage in money
6 laundering, Count 20, not guilty; and money laundering, not
7 guilty, as it relates to my client Abdiwahab Maalim Aftin
8 because, ladies and gentlemen of the jury, Abdiwahab Maalim
9 Aftin is not guilty.

10 Thank you.

11 THE COURT: Thank you, counsel.

12 We're going to take a ten-minute break.

13 And those of you in the gallery, there are people
14 who are coming in to hear closings. It's an open courtroom.
15 I want them to be able to do that and to have room. So
16 pretend you are in church and be aware of that and slide
17 down to make room for others who want to come in.

18 I do not have an overflow courtroom. We haven't
19 needed one throughout the trial. And so please just all be
20 aware of that and let others come in, even if it is during a
21 closing.

22 All right. Thanks, everyone. Ten minutes.

23 THE CLERK: All rise.

24 (Recess taken at 10:29 a.m. till 10:52 a.m.)

25

IN OPEN COURT**(JURY PRESENT)**

1 THE COURT: You may all be seated.

2 And, Mr. Mohring, you may proceed.

3 MR. MOHRING: Thank you, Your Honor.

4 Judge Brasel. Counsel. Mukhtar. And people of
5 the jury.

6 They said follow the money, and they did, but they
7 did not follow the food; and if they had done so, as we did,
8 they would have found Mukhtar Shariff.

9 The evidence has not established the elements of
10 any of the offenses charged against him. Not surprisingly,
11 I'm going to go into that in some detail here and --

12 (Juror indicated could not hear Mr. Mohring)

13 MR. MOHRING: Better? Let me see if I can --
14 thank you for saying that. It's not normally a problem that
15 I have, but -- better?

16 The evidence won't establish -- the evidence will
17 not establish the elements of the offenses that have been
18 charged against Mr. Shariff. I'm going to talk about that
19 in some detail, but the evidence will fall short for the
20 simple reason that he is not guilty of the charges against
21 him.

22 He's not guilty because he did not act with
23 criminal intent. He's not guilty because he acted in all
24
25

1 ways in good faith. And as Judge Brasel will tell you in
2 the jury instructions that you've seen some of them, and you
3 are going to see a bunch more of in a little while, good
4 faith is a complete defense to the charges in this case.

5 He didn't commit fraud or participate in a
6 conspiracy to defraud anybody. He believed and acted in
7 good faith.

8 He didn't participate in a bribery conspiracy or
9 bribe anyone. His payments to Ikram Mohamed was a business
10 loan and investment, just as the agreement of that same day
11 said and identified.

12 He didn't launder money or participate in a
13 conspiracy to launder money. The money that he paid to
14 Ikram Mohamed was money that he properly earned and
15 legitimately paid, and it was seen by him as legitimate.

16 He genuinely and reasonably believed in what he
17 did, that the information that he forwarded was reliable,
18 from reliable people and reliable sources. That information
19 was supported by what he and, as you saw from the witnesses,
20 other people saw. Food purchases, storage, warehousing,
21 packaging, trucks, transportation to and from. He believed
22 based on what he saw with his own eyes, what he made happen
23 with his own skills and what he did with his own hands.

24 I'm Andrew Mohring. And if there's any confusion,
25 it has been my privilege to represent, along with Frederick

1 Goetz and Kaitlyn Falk, to represent Mukhtar Shariff for the
2 more than 18 months that these charges have hung over his
3 head.

4 There's a school of thought among lawyers that
5 spend time in courtrooms that you don't thank the jury for
6 their participation and for their attention, that showing up
7 for jury service is one of the obligations and duties of
8 citizenship, and that paying attention is what jurors are
9 supposed to do. I'm going to break that line. I'm going to
10 cross that line.

11 What you folks have done is extraordinary. And my
12 predecessors have spoken about that, but we watch, and I see
13 it in each and every one of you.

14 And on my own behalf, as a participant in this
15 system and on behalf, most especially, of Mr. Mukhtar
16 Shariff, I just want to thank you for the work that you have
17 done and for the work that I expect that you will continue
18 to do. You have done all that we could have asked.

19 But I have one more request and that is that, as
20 you go back to review the evidence and deliberate on the
21 charges against Mukhtar Shariff, that you consider him as an
22 individual and those charges as an individual and the
23 evidence against him individually -- Counts 1 and 8, wire
24 fraud conspiracy and an email sent on October 21st, '21;
25 Counts 13 and 15, bribery conspiracy and a \$250,000 check on

1 June 9th of '21; Counts 21 and 30 -- 20 and 31, money
2 laundering conspiracy and that same check -- that you
3 consider that evidence against him individually.

4 There's a concern that judges and good and decent
5 prosecutors and defense counsel and, most especially,
6 defendants have in multi-defendant cases and that is that
7 evidence that is presented in a collective proceeding that
8 really doesn't relate to their individual, that individual
9 will be nonetheless considered in the wash and volume of
10 evidence. And that evidence -- that concern is multiplied
11 by seven in this case, and it's multiplied by an
12 extraordinary volume of evidence and testimony, exhibits.

13 So we fear that. And so my request of you is that
14 you resist that and you resist any invitation to do that
15 that comes from anybody in this process.

16 Individual consideration of the charges against
17 him is no more or less than Mukhtar Shariff or anybody else
18 deserves -- it's what you would want, if it was you; it is
19 what I would want, if it was me -- who sat in that chair.

20 And the prosecution has made this more difficult.
21 I lost count of the number of times just in their closing
22 argument the words "the defendants" and, even more
23 chillingly, "them" were mentioned. The defendants. A group
24 of defendants who took advantage. The defendants helped
25 themselves. The defendants thought. How the defendants

1 spent that money. The defendants. Them. The defendants.
2 The defendants. The defendants.

3 We heard the defendants opened, as was said, the
4 defendants opened 50 sites all over Minnesota. Defendants
5 exchanged -- including five or six sites in Faribault. The
6 defendants exchanged messages about splitting up the pot.
7 The defendants sent \$2 million to China. The defendants
8 wired \$911,000 to Capital View Properties in Kenya. The
9 defendants spent money on real estate. They spent money on
10 cars. They spent money on houses. They stashed money
11 abroad. The defendants. The defendants. The defendants.

12 Well, here's the deal. Not one of those things is
13 true about Mukhtar Shariff. Not one. So it's a real
14 concern. These frequent references to "the defendants" are
15 frightening.

16 Defendants didn't buy food, no food, little food.
17 Shell companies. The defendants. Extensive evidence and
18 testimony about Mahad Ibrahim, a person who isn't even here
19 in the courtroom.

20 So this repeated and sweeping use of accusations
21 against "the defendants," accusations that don't apply,
22 including accusations that don't apply to Mukhtar Shariff,
23 false narratives about no food and little money on food and
24 shell companies, those give rise to concern and worry on the
25 part of an individual who is facing charges in a proceeding

1 like this.

2 And so on behalf of Mr. Mukhtar Shariff, most
3 especially, but the rest of us also, I ask that you consider
4 him and the charges against him and the evidence in
5 connection with those charges individually and separately.

6 Okay. I want to spend some time talking about the
7 charges, not surprisingly, and the charges in some detail.
8 Charges: Conspiracy and wire fraud, conspiracy and bribery,
9 conspiracy and money laundering.

10 But in assessing those charges and the evidence
11 related to them, I want to first talk about the burden of
12 proof and the burden of proof beyond a reasonable doubt.

13 We all talk about this. You've seen, I think,
14 pretty much every defense lawyer mention this and pull up
15 this instruction or parts of it. And we do that because it
16 is so centrally important to the process and to obtaining a
17 just result out of that process.

18 And so, as my predecessors have said, "Reasonable
19 doubt is a doubt based on reason and common sense and not
20 based on speculation. Proof beyond a reasonable doubt is
21 proof of such a convincing character that a reasonable
22 person, after careful consideration, would not hesitate to
23 rely and act upon that proof in life's most important
24 decisions."

25 I'm going to come back to that in a minute, a few

1 minutes.

2 Mr. Schleicher gave you a chart and a description,
3 a diagram of legal standards of evidence and standards of
4 proof. You remember reasonable suspicion enough to stop a
5 car, probable cause enough to search your house, all of
6 that.

7 I want to give you a different template, trying to
8 translate some of those ideas into something at least closer
9 to the language that we speak. No offense.

10 And so ultimately you will go back into the jury
11 room and begin deliberations, and you will take votes --
12 that's how it is generally done -- and you will discuss and
13 reason with each other. In those discussions if your
14 conclusion and your view of things is Mukhtar Shariff is
15 innocent, then the end result is not guilty. And I believe
16 that that's where you will, where you will be.

17 On the other hand, if you say he might be guilty,
18 the answer is still not guilty; he may be, not guilty;
19 50/50, remember talking about a preponderance of the
20 evidence, not guilty; probably, not guilty; clear and
21 convincing evidence, not guilty.

22 The only, the only point at which a guilty verdict
23 is permitted under this standard is if you believe that
24 there's proof beyond a reasonable doubt. And in those
25 discussions if you reach a point where you think, well,

1 yeah, but -- okay, that's hesitation. I'm going to come
2 back to that.

3 Okay. So conspiracy and wire fraud, conspiracy
4 and bribery, conspiracy and money laundering. The heart of
5 these charges is fraud. And intent is an element of each
6 one of these charges. Intent to conspire and fraud, intent
7 to conspire and bribe, intent to conspire and launder money.

8 And in considering intent and Mukhtar Shariff's
9 intent, I'm going to point to another instruction. Others
10 have quoted from it. And you will get all of the
11 instructions as you review -- as you go back to begin
12 deliberations.

13 And this is Jury Instruction 53. Apologies,
14 folks. That's not the last of them. But in the instruction
15 about good faith, Judge Brasel will tell you, "Good faith is
16 a complete defense to the crimes charged."

17 As Mr. Garvis quoted, "The essence of the good
18 faith defense is that one who acts with honest intentions
19 and without the requisite mental state cannot be convicted
20 of the crimes charged."

21 But the instruction also says, "Good faith
22 includes, among other things, an opinion or belief that is
23 honestly held, even if the opinion is in error or the belief
24 is mistaken. The requisite mental state for each crime
25 requires more than proof that a defendant only made a

1 mistake in judgment or management or was careless."

2 What Mukhtar Shariff did, the evidence of his good
3 faith, is to act as a man without criminal intent. And he
4 acted without criminal intent because he had none. He
5 forwarded documents that submitted claims in a time period
6 that is much narrower than the case focus and the focus of
7 the evidence as a whole.

8 One of those was an email to
9 claims@feedingourfuture. You've seen it. It's the heart of
10 Count 8 against him -- I will come back to that in a
11 second -- forwarding documents, remember, that he had
12 received the day before. He forwarded meal claim forms and
13 invoices about multiple sites, including the site that he
14 worked more closely with, the Dar Al-Farooq mosque.

15 But these were not documents that he prepared.
16 These were not documents that he signed. These are
17 documents that he forwarded. And so the fundamental issue
18 about those is his state of mind, his intention in doing so.
19 The evidence demonstrates that he acted in good faith, and
20 good faith is a complete defense.

21 So I want to talk about some of the ways that he
22 acted in good faith in the face of the suggestion that he
23 participated in a fraud.

24 The claims that he forwarded were under-approved
25 amounts. And so you've seen this document and others like

1 it, but this is the Summer Food Service contract for vended
2 meals between Feeding Our Future and Afrique Hospitality
3 Group. This was the contract between him and the sponsor.

4 And that contract then was followed by these two
5 emails. The prosecution has focused on L-8. That is the
6 email that is charged in Count 8 of the indictment. That is
7 an email that was sent by Mukhtar Shariff to an address at
8 Feeding Our Future on Thursday October 21st and just after
9 noon. And that included a whole bunch of documents. The
10 first page is one of these weekly consolidated meal count
11 forms. You've seen a bunch of them. We will look at just a
12 few here during the course of my remarks, but you see these
13 are the numbers.

14 But what I want to point out is that Government
15 Exhibit C-345, also in evidence, both of these things in
16 evidence, was the email that Mukhtar Shariff received just
17 the day before, just over 24 hours before that, in which he
18 received those same attachments. So what he did, what he
19 did, was to take attachments that he had received and send
20 them off a day later.

21 Those claims in these documents, in these meal
22 claim forms -- and I will tell you in each and every one of
23 the meal claim forms that relate to the Dar Al-Farooq site,
24 forged signatures and all, those claim numbers are under the
25 amounts approved by the Minnesota Department of Education

1 for that site. We're not going to look at too many CLiCS
2 forms, but I do want to call these ones to your attention.

3 Government Exhibit C-93 and Government
4 Exhibit C-100 are CLiCS form data and printouts for the
5 Dar Al-Farooq site. One of these is for the Child and Adult
6 Care Food Program. That's the one on the left, C-93. The
7 other is for the Summer Food Service Program, the one on the
8 right, C-100.

9 And these show that the Dar Al-Farooq site was
10 approved by the State of Minnesota by the Minnesota
11 Department of Education to submit and process and help 6,000
12 people a day, up to 6,000 people a day, under the Child and
13 Adult Care Food Program and up to 4,000 a day for the Summer
14 Food Service Program, approved by the state for those
15 numbers.

16 The claims that were submitted in connection with
17 that site, including the claim forms that Mukhtar Shariff
18 received on one day, the 20th of October, and forwarded the
19 next day, those claims are always and were always under
20 those numbers, numbers approved by the state.

21 Mukhtar Shariff's -- the evidence of Mukhtar
22 Shariff's good faith in connection with his limited
23 involvement in this whole process is also reflected in the
24 text exchanges that have been offered in evidence. This one
25 is Government Exhibit H-50a.

1 And you will see in this an exchange in which
2 Mr. Shariff is told, "So we doing 6,000 this month?" And
3 Mr. Shariff responds, "Not this month." "At least we should
4 hit 4000." "That should be reasonable."

5 And so if this were a conspiracy, and if this were
6 a conspiracy to extract money fraudulently from the State of
7 Minnesota and ultimately from the Department of Agriculture,
8 getting us into federal court, he would have agreed to the
9 higher number. And the numbers that were submitted on
10 behalf of his site would have hit that number, the number
11 that was approved by the state, but he did not. He pushed
12 back, focusing on what was being done at the site and what
13 could be done.

14 He said 4,000 was reasonable, a higher number
15 would not be. And they didn't even go to 4,000 ever in the
16 claims that were submitted for the Dar Al-Farooq site.

17 Okay. I want to talk now about some of the
18 investments and the money in connection with the Afrique
19 project, because there's evidence of Mukhtar Shariff's good
20 faith there also.

21 Now, there's an unspoken, I think, suggestion
22 being made that, okay, Mukhtar Shariff didn't buy a house,
23 didn't send money to Kenya, didn't buy a Porsche, no fancy
24 purchases, nothing like that. What he did, his incentive, I
25 think the government may suggest, was Afrique and his

1 dedication to Afrique. And make no mistake, he was
2 dedicated to the Afrique project deeply.

3 But he did not need food program money to make
4 Afrique happen. I'll say that again. He did not need food
5 program money to make Afrique happen. There was substantial
6 nonfood program investment, more than enough to complete the
7 build, and certainly more than enough to cover what Afrique
8 spent on the build.

9 So this is Government Exhibit J-178. It's in
10 evidence. You can look at it as much as you like when you
11 are deliberating, but I want to call your attention to two
12 things in this chart.

13 On the left there's a discussion of, among other
14 things, of the amount that Afrique Hospitality Group
15 contributed to this build the project, and that amount is
16 \$440,075.42. Afrique spent \$445,000 towards the total price
17 on the lower right of \$1.9 million. Okay. So Afrique
18 contributed \$445,000 to a total of \$1.9 million for the
19 build-out.

20 We saw these documents, now looking on the
21 first -- the page of those that was on the left, in the
22 discussions with the accountants as they testified.

23 But what is shown here and what the document shows
24 is that Bridgewater Bank, that was the bank associated with
25 the building owner, contributed \$605,000 to the same pot out

1 of which the 1.9 million was used to build the project --
2 Bridgewater Bank, the owner, \$605,000 -- and 1701 American
3 Boulevard LLC, the landlord, contributed another \$925,000.
4 That's the total there. So for a total of \$1.5 million of
5 contributions just from the building landlord and owner
6 towards the project that cost 1.9 million.

7 That's not the only source of nonfood program
8 money, though. Government Exhibit M-6 is a summary chart,
9 but with all of the attachments, attachments that were taken
10 from the banking records, about the Afrique checking
11 account.

12 And those banking records, if you want to take
13 that additional step, appear at Exhibit O-20, thoughtfully
14 organized to make them easier for you to review.

15 But what this shows, this chart shows, is that in
16 the opinion of the forensic accountant \$886,000 of
17 investments went into the Afrique checking account. There's
18 a suggestion that \$200,000 of that shouldn't be counted.
19 Okay. Take it down to 686,000. Those are numbers on a
20 chart, but these are deposits and contributions from real
21 people.

22 We heard from Sulekha Hassan, remember, who
23 testified about her contributions. And this is what they
24 looked like, \$460,000 in checks to Afrique Hospitality, no
25 contract, no receipts, no shares, but a real investment done

1 by somebody who believed in the project and invested
2 \$460,000 of money, having come to the United States 15 to
3 18 years earlier, working night shifts at Target.

4 So there was real investment, nonfood program
5 investment. There's no suggestion that any of this money
6 had anything to do with federal food program money.

7 Other investments too. These are documents.
8 Again, these are from O-20. These are all in evidence. A
9 total of, in the prosecution's calculation, 886 or maybe
10 \$686,000 of investments. Ms. Hassan responsible for nearly
11 500,000 of that on her own. And none of that was food
12 money.

13 Adding all of that together, over \$2 million of
14 nonfood money were in the account for the Afrique build,
15 more than enough to cover both Afrique's contribution to
16 that, 445,000, so more than enough to cover the build in its
17 entirety.

18 So the point is, the bottom line of this all is
19 that there was more than enough nonfood program money to
20 accomplish this project. Mukhtar Shariff did not need food
21 program money and was not involved in the food program to
22 try to make that not. It just wasn't necessary.

23 An additional component of this, though, in the
24 analysis of money and the flow of money, came from the
25 testimony of the second of the accountants. Ms. Blackwell.

1 And she testified and she showed you this demonstrative
2 exhibit.

3 This is not in evidence, but I want to point to
4 the central point of her conclusion from the analysis that
5 she went for, which was, in her opinion, that \$240,000 went
6 from Empire to West Title -- of federal food money that
7 Empire Cuisine & Market received went to West Title for this
8 build on January 5th of 2022.

9 But her analysis of that point ignored that just
10 nine days later Afrique paid well over that sum back to
11 Empire, \$447,000 on January 14th, 2022. She stopped her
12 analysis before reaching that conclusion that that money
13 that did go into the Afrique account and to West, to the
14 title company, that that sum and more was paid back to
15 Afrique just nine days later.

16 She also chose -- and we heard about FIFO, the
17 first in, first out methodology to reach that conclusion.
18 So facing the challenge of money coming in from multiple
19 different sources and going out to multiple different
20 activities, counting the angels on a pin, which dollar -- if
21 you got this collection of dollars that came out of that,
22 what was the source to which that can be attached? And so a
23 theory, a methodology, a construct, one of a number, as you
24 heard, that accountants use is the theory of first in, first
25 out.

1 And so she reached that conclusion. The food
2 program money went to the title company based on a first in,
3 first out analysis. And she acknowledged that there are
4 other methodologies, last in, first out, for example,
5 different methodologies that produce different results.

6 Again, the bottom line is that it's not clear that
7 any food program money went into this project, but also that
8 there's abundant nonfood program money available to Mukhtar
9 Shariff and Afrique to build the construction. Motivation
10 was, in his limited interface with the food program, was not
11 to get money for Afrique. He didn't need it.

12 Still talking about evidence of Mukhtar Shariff's
13 good faith, which is a defense to all of the charges and
14 particularly to the fraud charges, he relied on others, but
15 his observations and what he saw, what his reliance was
16 based on was corroborated and confirmed, verified by the
17 observations of others. Food bags prepared, delivered,
18 distributed, and he was around for much of that.

19 This in a context where, as we heard from waivers
20 and the regulations -- I'm not going to go too far down that
21 rabbit hole, but where multiple meals were okay, where meals
22 for more than one day were okay, where nonprepared meals
23 were okay, where it was perfectly permissible and certainly
24 was done to provide food for multiple people once a week in
25 a collection of materials.

1 There's been a lot said about the lack of
2 contemporaneous surveillance, and that is disturbing, right,
3 but -- and so they did not look. They just didn't look.

4 There was no site surveillance at Dar Al-Farooq.
5 There was no site surveillance that we heard of, except for
6 one drive-by at a park, not related to Mukhtar Shariff, of
7 any kind during this time frame.

8 There was a suggestion that, you know, we don't
9 want to mess with a religious place, and Dar Al-Farooq is a
10 religious place. There's nothing -- these activities
11 happened in the parking lots. Nothing prevented anybody
12 from parking a surveillance car and sitting outside or
13 sending somebody else in.

14 So there was no surveillance, and that's
15 disturbing, but we know, because you heard from the
16 witnesses about what people would have seen, what the agents
17 would have seen had they bothered to go look.

18 What they would have seen was verified by the
19 witnesses that you heard from from the Dar Al-Farooq mosque
20 itself. Khalid Omar, the director of the mosque. Imam
21 Kariye, one of the imams at the mosque. Amina Adan and
22 Abdikadir Haji, people who were both members of the
23 congregation, but also people who themselves benefitted from
24 the very food that was provided by this program and with the
25 assistance of Mukhtar Shariff. Lines of cars three blocks

1 long said Ms. Adan. Trucks of packaged food. Food was
2 given on Saturdays week in and week out, said Imam Kariye
3 and Khalid Omar and Amina Adan.

4 And Dinna Wade-Ardley, the prosecution's witness,
5 one of the witnesses, remember, she was the person who was
6 associated with the Bloomington School System, but also with
7 the Oak Grove Middle School site distribution location that
8 was part of the Dar Al-Farooq process and project, she said,
9 when you sift through the emails back and forth, that a
10 thousand children at Oak Grove was, was a reasonable number
11 to her.

12 So that was food that was given to parents of
13 families of children, real food given to real people, who as
14 you heard from witnesses that came and testified really
15 benefitted from it.

16 So had they gone and looked, they would have seen
17 what these congregates saw. And so you have in evidence
18 photos and videos. I'm going to show you a couple.

19 Had they gone and looked, they would have seen
20 this and this and this. (Pictures displayed)

21 They would have seen the solicitation for
22 volunteers and the photographs that were used in that that
23 as you heard were taken by a photographer for that process.
24 (Pictures and video displayed)

25 This is what they would have seen had they gone

1 and looked. (Pictures displayed)

2 And had they gone on a day that he was there and
3 involved, they would have seen Mukhtar Shariff right in the
4 middle of it. (Pictures displayed)

5 The witnesses from Dar Al-Farooq described the
6 images and photos -- and this is just a sample, you've got
7 more -- show what the agents would have seen had they gone
8 and looked.

9 And these people told you, the witnesses told you
10 that, although they weren't involved in the counting
11 process, they weren't running clickers or checking boxes,
12 that the numbers on the government's summary of what
13 happened at the Dar Al-Farooq site -- and remember this
14 embraces both, two distribution locations, Oak Grove Middle
15 School and the Dar Al-Farooq mosque site -- they looked at
16 these numbers, they looked at this chart, and they said,
17 based on what they saw, those numbers looked reasonable.
18 They looked reasonable to the eyewitnesses, the only
19 eyewitnesses that you heard from in relation to this site,
20 and they looked reasonable to Mukhtar Shariff.

21 Dinna Wade-Ardley said maybe a thousand each week.
22 She was talking about the Oak Grove site, not about the
23 Dar Al-Farooq site. She didn't participate in the Oak Grove
24 site, but she was there and recognized these images of the
25 Oak Grove site as accurate reflections of things that

1 happened there. And she said a thousand kids was reasonable
2 to her just for that site.

3 So this, folks, is both the central question and
4 the central answer. Based on his involvement in what he
5 saw, just like based on what the witnesses who testified
6 saw, the numbers, the government's numbers, N-24, the
7 summary numbers of that site were reasonable and he
8 reasonably relied on them and forwarded them. What he saw,
9 what was verified, an enormous amount of food, packages,
10 meals, logistics, and in numbers that made, again, the
11 claims that he forwarded reasonable. There was no
12 conspiracy, and there was no fraud.

13 Okay. The next set of charges is bribery.
14 Bribery, most fundamentally, did not happen. It did not
15 happen with Ikram Mohamed, not as a conspiracy and not as a
16 bribe.

17 So this bribe that the government is claiming --
18 Hadith Ahmed testified and he testified, among other things,
19 but in some detail, about Ikram Mohamed, so I want to talk
20 about that a bit.

21 He didn't offer a real explanation about his
22 process and how he set rates. Every check that he looked at
23 was a kickback, but on Ikram Mohamed he was very clear and
24 did not vary at all.

25 Ikram Mohamed was very careful about the bribes

1 that she received. She did it only in cash. She did it
2 through multiple people. Remember there's a reference to
3 ayuuto as a process of money going from person to -- cash
4 money going from person to person to person to its ultimate
5 recipient, Ikram Mohamed. And that process is done to
6 distance the recipient, Ms. Mohamed, from the person who was
7 paying the cash, just as Hadith Ahmed testified that he did
8 by channelling payments through Mizal Consulting. It was
9 done to conceal, in his part, and he said in hers, to hide
10 their identities.

11 So the Ikram Mohamed check. It's one check,
12 \$250,000, June 9th, 2021, from Mukhtar Shariff to Ikram
13 Mohamed. That's the bribe. This supposed bribe matches
14 none of Ikram Mohamed's ways of operating, according to the
15 government's own witness.

16 Now, the prosecution in their closing argument,
17 when they talked about this, what Mr. Thompson said was it
18 was a kickback just like the others. This is not like any
19 of the others, not in any way.

20 It was not cash. She worked in cash. It was not
21 paid through a chain of other people. It is an amount that
22 is much larger than any of the other bribes alleged in this
23 indictment. It is out of whack. It was paid by check with
24 people's names.

25 It was an investment, a loan, and that reality was

1 documented by a legitimate -- that legitimate purpose was
2 documented by a written agreement dated and signed the same
3 day of the check. June 9. That agreement, D7-62, I'll show
4 it to you in a minute.

5 So it was a kickback just like the others. It was
6 nothing like the others. And it was different from the
7 others because this was not bribery.

8 On June 9th, 2021 -- that's when the check is
9 dated -- that's nearly two months before Hadith Ahmed's
10 final email from Feeding Our Future, at least final that we
11 know of. Now, remember he testified that he was fired and
12 that his email access to -- his access to his email address
13 ended with his termination. And there's an email, I'll show
14 it to you in a minute, of July 29th.

15 So the check is confirmed. Government
16 Exhibit L-15. There's a bunch of -- the same check appears
17 in a bunch of different, under a bunch of different exhibit
18 labels, same document, multiple locations, but the central
19 one for purposes of this charge is L-15. L-15 dated
20 June 9th.

21 Also in evidence, Defense Exhibit D7-62, is a
22 small business loan agreement, the document that discusses
23 the purpose of this check, dated the same day, prepared and
24 signed the same day, not after the fact. It wasn't a loan.
25 It was an investment. It was not a bribe.

1 There's additional confirmation of the fact that
2 this was not a bribe in any way from other points of the
3 government's evidence and case. And so in considering that,
4 I want to go back to the jury instructions that relate to
5 this bribery charge against Mukhtar Shariff. This is
6 Instruction Number 21.

7 Again, you will get a full set of these, and the
8 judge will be reading them to you likely sometime this
9 afternoon.

10 But in the instruction about federal programs
11 bribery it says -- it says two things that I want to
12 highlight. One, the government has to prove beyond a
13 reasonable doubt that Ikram Mohamed was an agent of Feeding
14 Our Future at the time that this money was paid.

15 And the instruction gives you a definition. Okay.
16 That she was an agent. What is an agent? The instruction
17 will tell you that to establish that she was an agent the
18 government has to prove beyond a reasonable doubt that she
19 was a person authorized to act on behalf of Feeding Our
20 Future for purposes of administering funds in connection
21 with the Federal Child Nutrition Program.

22 So in order to establish and prove this bribery
23 charge, they have to establish that Ikram Mohamed was an
24 agent, meaning that she had authority and authorization to
25 act for purposes of administering funds, in order for there

1 to be a conviction of that. So, so that's what an agent is
2 and has to be for purposes of the, of the charge.

3 Ikram Mohamed was not an agent of Feeding Our
4 Future. She doesn't meet that definition. There's been no
5 evidence to suggest that she meets that definition at any
6 point in time, let alone at the point in time that this
7 payment was made. Even in the government's disproven
8 narrative, it doesn't establish that she was an agent.

9 Mr. Ahmed testified that Ikram Mohamed replaced
10 her as the supervisor of site supervisors -- that's about
11 all that we got out of the job description -- and that that
12 happened after he was gone, and he was still there over a
13 month and a half after this payment was made.

14 There's no evidence that either Hadith Ahmed or
15 Ikram Mohamed ever had authorization to administer money,
16 federal food programs money as an agent. So the suggestion
17 is that money in connection with a sponsorship and
18 fraudulent participation in the food program, that that was
19 why the money was being paid, that is just not so.

20 That is shown to be not so also because the
21 government's offered timeline about Hadith Ahmed at Feeding
22 Our Future just doesn't work in connection with the timing
23 of this payment. Ikram Mohamed, as I said, under Hadith
24 Ahmed's testimony, replaced him at Feeding Our Future in the
25 summer of 2021, so said the prosecution. That was after the

1 June 9th, '21, check.

2 Her timing is a little -- there's some additional
3 information about the timing of her presence there. Let me
4 see if I can go back to that. Here we go.

5 So among the many text exchanges in evidence,
6 Government Exhibit H-54q is a discussion between two people
7 about Ikram Mohamed and Ikram Mohamed at Feeding Our Future.
8 And this is a discussion that happens on June 25th, 2021.
9 "Ikram is upfront at least." Not sure about Ikram. This on
10 June 25th, 2021. Again, the payment was on June 9th.

11 So the evidence only shows that at most that Ikram
12 Mohamed was at Feeding Our Future some time in late June,
13 weeks after the payment and after this check was given.

14 And, again, although Hadith Ahmed waffled some on
15 time and talked about June and July and May and June, the
16 evidence also establishes, and D7-189 is in evidence, an
17 email from Hadith Ahmed out on July 29th, 2021. And, again,
18 as he testified, his access to his email was cut off when he
19 was fired. He was at, at Feeding Our Future at least as
20 late as July 29th, 2021.

21 So the government's, the government's timeline
22 just doesn't add up, doesn't add up to connect this check to
23 any bribery.

24 So the bottom line is the money was paid as a
25 loan, an investment, not as a bribe. That was documented in

1 a contemporaneous document. Ikram Mohamed was never an
2 agent, never proven to be an agent for purposes of the legal
3 definition, and she was not at Feeding Our Future. She
4 wasn't even there at the time this payment was made. There
5 was no bribe.

6 There's also a bribery conspiracy charge. I want
7 to turn to that. As to that, the evidence shows that Hadith
8 Ahmed's testimony and his statement and explanation of
9 supposedly why bribes were being paid in connection with the
10 Dar Al-Farooq site, that there's a fundamental premise of
11 his tale that is just plain false.

12 Remember he talked about VIP treatment and that he
13 was paid for VIP treatment, but he talked specifically about
14 what he claimed that treatment was about for the
15 Dar Al-Farooq site. And what he said was that they were
16 taking money for the Dar Al-Farooq site to help
17 Dar Al-Farooq transfer to the Feeding Our Future program for
18 sponsorship. Remember there's MDE. There's two sponsors,
19 Partners in Nutrition and Feeding Our Future. And he said
20 under oath repeatedly that the VIP treatment for
21 Dar Al-Farooq was to help them get to Feeding Our Future.

22 The evidence shows without any lack of clarity
23 that they were already there. They were already there.
24 They were there before Hadith Ahmed, they were there during
25 Hadith Ahmed, and they were there after Hadith Ahmed.

1 These are two site approval forms, the CLiCS forms
2 that we looked at. Government's C-97 and C-93. Again,
3 there are a bunch of these, but these are two of them. And
4 these show that the Dar Al-Farooq site was under the
5 supervision of Feeding Our Future for one of the programs
6 from September 2020 on and for the other programs from at
7 least January '21 on.

8 He said that they, that the bribes related to
9 getting them transferred to Feeding Our Future. They were
10 already there. They were there the whole time. Indeed, at
11 the time that this was going on, they were trying to get
12 out.

13 ThinkTechAct -- and remember ThinkTechAct was a
14 nonprofit intermediary between the Dar Al-Farooq locations
15 and the sponsor Feeding Our Future. ThinkTechAct was trying
16 to transfer out of Feeding Our Future and to Partners in
17 Nutrition.

18 One of the first documents of any kind of Mukhtar
19 Shariff's involvement in this investigation was his sending
20 a site transfer request to Feeding Our Future on
21 December 18th of 2020, attaching a site transfer request
22 form. And the discussions then that followed showed that
23 that application, that effort to transfer out of Feeding Our
24 Future was ultimately unsuccessful.

25 So Hadith Ahmed's explanation of this supposed

1 bribery payment is refuted by, by the government's own
2 evidence, the State of Minnesota's own evidence. It's, it's
3 just wrong. So he said they were getting paid for the VIP
4 treatment of transferring the site. The site was already
5 there. Indeed, they were trying to transfer away from that
6 site, not to it.

7 And there's a notion in the law -- I'm not the
8 first one to comment on it and maybe I'm not going to be the
9 last -- that if you find that a witness has lied about
10 something, is false about something, that's a basis not to
11 just discredit that particular testimony, meaning the
12 bribery charge and the bribery conspiracy charge against
13 Mukhtar Shariff, but to discredit the entirety of that
14 person's testimony.

15 And I point out that we're not talking about
16 somebody who said Monday when it was Wednesday or June when
17 it was May. This is about the central reason for the
18 supposed bribery process.

19 There was no bribery. There was no conspiracy,
20 which brings me to money laundering. And as to money
21 laundering, it just was not.

22 Money laundering is a crime only if the proceeds
23 are illegal and known to be illegal and, in connection with
24 the conspiracy charge, only, as charged in this case, only
25 if the money laundering was done specifically to conceal the

1 nature and illegal nature of the proceeds themselves.

2 So another jury instruction. Judge Brasel will
3 tell you that an element of this is that the defendant
4 conducted the financial transaction knowing that it was
5 designed, in whole or in part, to conceal or disguise the
6 nature, location, source, ownership or control of the
7 proceeds. Only if it was designed to conceal.

8 Mukhtar Shariff had no such knowledge. He acted
9 as someone with no criminal intent because he had none.

10 And there was nothing wrong with Afrique or
11 Mukhtar Shariff receiving legitimate food program money,
12 when he did not and had no reason to know or believe, when
13 he reasonably relied on the numbers and the information that
14 he had access to.

15 So it was not a conspiracy. Concealment money
16 laundering, the evidence just does not establish that. His
17 actions showed no state of mind suggesting any effort to
18 conceal. He acted in good faith. The check itself used the
19 names of everybody. There was no concealment.

20 And the things that he did, things that were done
21 with the money, that he did with the money that he received,
22 give no rise to any suggestion or inference of money
23 laundering or conspiracy. There was no fancy spending. He
24 did not make any foreign investments, talked about them.
25 Indeed, no forfeiture activity was even tried for any of his

1 bank accounts or any of his property. You heard that from
2 Agent Kary. And there was no concealment.

3 So that's on the conspiracy piece, but he's also
4 charged with money laundering.

5 And to prove and establish and convict him of
6 money laundering, the government, among the things that the
7 government has to show, they have to show that he knew that
8 the purchase of the cashier's check involved proceeds of a
9 criminal offense. Knowledge that it was proceeds of a
10 criminal offense. There's no knowledge -- no evidence to
11 suggest that he had any of that knowledge because he did
12 not.

13 He had income, he made investments, but it's okay
14 to make money for hard work, and he worked hard. I want to
15 touch on that in a bit.

16 So this check and the contract, this was not money
17 laundering. He wrote the check to another person for a
18 legitimate purpose.

19 Long and short, folks, the evidence in this case
20 does not support any of the charges against Mukhtar Shariff,
21 not wire fraud for the email and the documents that he
22 forwarded in October of 2021, not conspiracy to commit wire
23 fraud, not bribery for the \$250,000 loan, investment,
24 documented as such, not money laundering and not conspiracy
25 to money laundering -- launder money.

1 Okay. I want to take some time to step back and
2 talk about other evidence relating to Mukhtar Shariff and
3 his interface with the Federal Food Nutrition Program. And
4 I want to start by talking about he had limited involvement
5 and responsibility for the Dar Al-Farooq site in connection
6 with that program.

7 He was the CEO. He was the logistics guy. He was
8 not the money guy. The money guy was Mahad Ibrahim,
9 Dr. Mahad to Mukhtar Shariff. And he functioned as a CEO
10 does. It wasn't just a title. His involvement was with
11 logistics and overseeing logistics for two distribution
12 points under the umbrella of the Dar Al-Farooq site, a
13 distribution point at the mosque itself and a distribution
14 point at the Oak Grove Middle School.

15 And he navigated those logistics on Monday and
16 Tuesday, as he described. They were on the receiving end
17 taking in the food, storing it in a series of warehouses
18 that they cycled through as the build-out of Afrique made
19 space that was initially available not available anymore, so
20 a series of warehouses, but the food came in Mondays and
21 Tuesdays and into Wednesdays.

22 On Wednesdays, Thursdays, Fridays they assembled
23 and packaged the food. On Saturdays the food was
24 transported, the packages were transported to those two food
25 distribution points. The food was assembled under a bag

1 content formula that they got from ThinkTechAct, and it was
2 distributed at those two locations.

3 And his involvement in that process was verified
4 from a number of different perspectives. You heard from the
5 Dar Al-Farooq witnesses who saw him and saw him there. You
6 also heard about Dinna Wade-Ardley and the thousand children
7 that she verified is reasonable just for that subpart of
8 that site. His involvement is verified by the photographs
9 that you've seen and by his own testimony. He was the
10 logistics guy.

11 He also had a limited involvement in the claims
12 and the submission of claims for the Federal Nutrition
13 Program. He didn't have anything, as you heard, to do with
14 any of the documentation, billings, programs, claims between
15 January and June of 2021. And even after that, he had no
16 involvement in the preparation of forms, not the meal counts
17 with the forged signatures and his misspelled name, not the
18 delivery receipts, not any.

19 And, most centrally, the document that outlies the
20 wire fraud charge -- I'm sorry -- the document underlying
21 the wire fraud charge he received in attachments and sent
22 them on. That's it.

23 He also had limited involvement in the circulation
24 of these lists of names that we've heard so much about, the
25 rosters. The evidence shows in evidence that he sent out

1 two documents. Government Exhibits E-3 and E-4. He sent
2 these to Mahad Ibrahim, Dr. Mahad Ibrahim, to him. One of
3 these is a, subject, Bloomington schools list and the other
4 is Dar Al-Farooq names.

5 Now, if you look at these documents, you will see
6 that the prosecution's timeline and theory about these
7 documents and these emails is just plain off.

8 Remember that we have heard that in March and
9 April, into April the Minnesota Department of Education did
10 a stop payment. They just stopped paying the process. And
11 that lasted for at least a number of weeks, until a Ramsey
12 County judge told them they had to start it up again.

13 And so the prosecution's theory about the rosters
14 is that these were developed and sent around and used to
15 paper up claims that were pending in the aftermath of that
16 whole stop payment process, because as a part of the stop
17 payment process MDE and sponsors starting asking for more
18 documentation.

19 And you saw from the, among other things, from the
20 records and the photocopies of the records that were
21 obtained from the Feeding Our Future search -- remember the
22 copies of manilla folders with lists and check boxes, not
23 this nice a color, but lists and check boxes and sticky
24 notes checking off the contents of those folders in
25 connection with the claims.

1 So the government's theory is rosters became
2 necessary and used in response to things that happened in,
3 in and after April.

4 Mukhtar Shariff told you something different. And
5 what he said was he was asked to get these lists and send
6 them on, and he did, and that they would be used. And the
7 reason for that was as a part of just assessing the number
8 and capacity for these two distribution sites.

9 Remember we heard a couple things about the
10 function of rosters, that there can be lists of people,
11 people receiving food and names -- or names on behalf of
12 people for whom food is taken, but they can also be lists of
13 participants in programs, and those can function as the same
14 thing.

15 The goal in this process, though, one of the goals
16 in the administration of this process, the distribution of
17 food, was to minimize and reduce the amount of face-to-face
18 interaction that there was. We didn't know about this
19 disease and how it was communicated, and we took steps to be
20 very careful about that.

21 But Mukhtar Shariff submitted these before there
22 was any activity, before the lawsuit reached its resolution,
23 before the stop payment, before the request and demands for
24 additional documentation. He sent those for an entirely
25 different purpose at an entirely different time.

1 So the fundamental question about these is not,
2 Were there irregularities in these lists of names? Of
3 course, there were. The fundamental question was, Was food
4 provided? And to Mukhtar Shariff, based on what he saw in
5 his limited involvement, he acted reasonably and in good
6 faith. That's an answer to the question that you will get
7 to decide. And what others may have done months later with
8 those documents and that information, that's not on him.

9 There's also -- remember the evidence of -- I
10 think there were two emails in evidence where invoice
11 documents, food invoices were submitted on behalf of and to
12 different entities, same invoices. There's a perfectly
13 reasonable explanation for that. A lot of food coming in,
14 food going to different sites. It really couldn't be
15 otherwise, but, again, also important, Mukhtar Shariff
16 didn't have anything to do with any of that, the submission
17 of those things.

18 So Mukhtar Shariff had limited involvement in the
19 food program itself, forwarded a collection of documents in
20 October, sent lists of names in January to other people,
21 people who he relied on and trusted. And he did these
22 things as a small part of a much larger undertaking on his
23 part, which is the cultural campus of Afrique.

24 The food program and income from that program were
25 not identified in any of the discussions that he had with

1 the investors who believed in that. You heard from Sulekha
2 Hassan and Khalid Omar, who said exactly that.

3 Food program and income from it weren't a part of
4 the development of the project, including to the lawyer,
5 Jake Steen, who was working on that process. And they
6 weren't a part of that because this was not his focus and
7 not his priority; Afrique was.

8 Afrique was an all-consuming, multifaceted
9 process. It was serious, and he took it seriously. A
10 cultural campus. And he was involved at every stage of the
11 implementation, from the initial contracts, to the design
12 process, to the work with the Bloomington zoning commission,
13 to its construction.

14 So his COVID, his interface, his involvement with
15 the COVID food program activity is a small part of a very
16 much larger thing. It was his -- the food program was his
17 part-time job, second job, on top of the full-time job, as
18 his lawyer said, that was Afrique.

19 The food program involvement with the Afrique site
20 happened because they had unused space during slow
21 construction, construction impeded by processing delays and
22 delivery delays that we all experienced in the supply chain
23 during COVID.

24 So Afrique was a big deal. On paper, in reality,
25 Afrique was not just Mukhtar Shariff. You've seen a bunch

1 of these. They will all be there for you. B-8 of the
2 Secretary of State records is the filing document where
3 Afrique Hospitality Group was registered in the State of
4 Minnesota on December 14th, 2021.

5 The organizer is not Mukhtar Shariff. It's Mahad
6 Omar, although Mukhtar Shariff's email is listed and
7 identified as the contact point. He's identified certainly
8 in other, other documents as the CEO of Afrique.

9 But it wasn't just him. Remember, during
10 testimony and questions of a number of witnesses, several
11 times the question was asked and reference was made to
12 Afrique Hospitality Group being owned by Mukhtar Shariff --
13 that is not true -- and it being Mukhtar Shariff's company.
14 It was a company that he shared and operated with a number
15 of other individuals.

16 So calling it owned by Afrique -- or calling it
17 owned by Mukhtar Shariff or owned by his company, those
18 statements are both misleading and inaccurate.

19 That's shown also in the design document. J-177,
20 Government Exhibit J-177. It's a lengthy document, a
21 contract between Afrique and the architects.

22 The owner of Afrique in this contract document is
23 Mahad Ibrahim, CFO, not Mukhtar Shariff. Mukhtar Shariff
24 was the CEO, the logistics guy. The CFO is the person,
25 Dr. Mahad, responsible for the financial operations. And

1 those are positions that the two men filled, not just in
2 title, but very much in reality.

3 We heard a number of times during the testimony
4 and the evidence in this case and the opening argument that
5 Mukhtar Shariff created Afrique to be a shell company and
6 that he set it up for the purpose of defrauding the federal
7 food program. Afrique Hospitality, an entity created to
8 defraud the USDA? I mean, we've seen it wasn't just created
9 by him. But created to defraud the USDA? He created
10 Afrique to carry out a fraudulent scheme? That is
11 offensively wrong.

12 The reality is the opposite. Afrique could not be
13 more real. Jake Steen testified about that, the company's
14 lawyer for the design and zoning project. Mukhtar Shariff
15 and the government's exhibits themselves show that.

16 There's an operating agreement that was signed,
17 Exhibit D7-1. There is a design document, D7-008. You
18 remember Mr. Steen showed us -- and this is a long document
19 too, but showed us the interior of the project and the
20 various zones of the project that would be devoted to the
21 activities of this cultural campus, the workplace incubator
22 space, the restaurant space, the child care space, the event
23 center space, the library space. And it really happened.
24 It really exists, could not be more real.

25 And it exists because of the support and the

1 investment of community members, some of whom you saw
2 testify, because -- members of the very community that the
3 organization, that the operation serves, and because of
4 their support before, during and after its construction, and
5 it also exists very much because of the dedication and hard
6 work of Mukhtar Shariff.

7 Mukhtar Shariff created Afrique. He did not --
8 the government's documents and defense documents show that
9 this was an idea that had been around for years, Mahad
10 Ibrahim's idea that had been around for years.

11 Defense Exhibit D7-199 is an email from Mahad
12 Ibrahim forwarded in 2020, in which he attached back in
13 2018 -- sorry -- in which he attached the project proposal
14 and the design elements that were a part of the ultimate
15 project, including the pitch deck that Dr. Mahad, Mahad
16 Ibrahim, sent to Mukhtar Shariff on December 31st of 2020.

17 Mukhtar Shariff was on the receiving end of this
18 pitch deck, not the sending end, but you can see that the
19 design elements are the same.

20 So this is -- he created Afrique. The idea of
21 Afrique had existed for years before these people took steps
22 with Mr. Shariff's help to bring it into reality.

23 We spent some time talking about the pitch
24 document itself. Government Exhibit G-110. Remember this
25 is a pitch document that was sent to Mukhtar Shariff, not

1 the other way around.

2 And the government would ask you to conclude and
3 draw some conclusions from things on this, on this document
4 that I would submit to you, folks, are just, just not a
5 proper conclusion. The document doesn't mean that.

6 So the government has talked about how this pitch
7 document -- no indication or suggestion that it was ever
8 used, by the way, but how this pitch document included a
9 discussion of and reference to the food service's program,
10 CACFP and SFSP, as a part of the revenue model.

11 But what it also includes is a clear statement
12 that, in connection with that process, this would be done in
13 the "Presence of high-end commercial kitchen" which "makes
14 catering delivery easy and efficient." Hot meals, not bags
15 of groceries.

16 And this wasn't just something on a pitch
17 document. Having a commercial kitchen was a part of the
18 design and the Afrique concept from the very beginning.
19 This Attachment B is an attachment to that very design
20 contract, Government Exhibit J-177. Ultimately, it was a
21 thousand-square-foot commercial kitchen, as a part of this
22 project, was intended from the beginning.

23 So this food income that they're talking about is
24 directly connected to a kitchen. There's obviously no need
25 for a kitchen to pack large quantities of groceries and

1 formula that are provided. You need a kitchen to cook food.

2 And so I will remind you and I will remind you
3 that at the time that this was going on -- so the pitch
4 document was sent in the end of December. At that time a
5 number of things were happening around COVID. And COVID was
6 the central phenomenon that everything that we have heard
7 about in connection with this case was taking place then.

8 Vaccines were -- had been developed. I remember
9 waiting in line, when I got my turn as an older person, to
10 have access. So vaccines were very much real and becoming
11 real. Kids were going back to school.

12 And so the discussion of these programs in
13 connection with the Afrique project was part of a
14 forward-looking process, not a part of what had been
15 happening in the past.

16 And central to that, even in the pitch deck, the
17 pitch deck said and noted, "Food service revenue" is "not
18 included in the profit and loss" calculations and
19 projections even then.

20 So this is a false narrative that Afrique was a
21 shell company created to defraud the food program, false in
22 both the suggestion that Mukhtar Shariff created it -- it
23 was an idea that had been around for years -- and also false
24 in the suggestion that it was created to carry out the
25 fraudulent scheme. Just not so.

1 It was a real place created with pride and
2 contributions from investors, city council members, city
3 licenses, the lawyer who worked and law firm that worked on
4 it, to be a community resource with a high-end kitchen,
5 catering participation and not bags of groceries.

6 So I've talked about a number of different ways
7 that Mukhtar Shariff's interface with the food program were
8 limited, limited in terms of time, limited in terms of
9 involvement, being the logistics person and all of that, but
10 within that lane I want to touch on, again, what he actually
11 did.

12 What he did was oversee the construction of bags
13 of groceries, prepared in accordance with contents and
14 instructions that they received, formula that were provided
15 to them, multiple meals for multiple people for multiple
16 days, all as allowed by the waivers at MDE, coverage for a
17 week, picked up weekly, given to people who came and asked.
18 And remember this was about, as Ms. Wade-Ardley said, about
19 removing barriers to access to food. One site,
20 Dar Al-Farooq; two distribution locations. That's what he
21 did.

22 And on the central issues of this case,
23 Dar Al-Farooq and with Afrique's assistance provided
24 enormous amounts of food in quantities, again, that made his
25 reliance on those numbers, the government's own numbers,

1 both reasonable and innocent. And all of that is shown not
2 just by him and his testimony, but by the only eyewitnesses,
3 the ones that we heard from, who testified about, about the
4 site and the operations there.

5 I want to take a step further back and to talk
6 about Mukhtar Shariff from the perspective of the
7 information that we learned and heard from Professor Vaaler.
8 Remember Professor Vaaler talked about a number of aspects
9 of refugee migrants, in particular, East African refugee
10 migrants, even more in particular, and in the ways that they
11 conduct interactions and business.

12 Bless you.

13 First and foremost, he talked about
14 entrepreneurship and how entrepreneurship is a central
15 aspect and component of how refugee immigrants and Somali
16 refugee immigrants, in particular, enter the United States
17 and engage with lives here. Mukhtar Shariff is a clear
18 example of that.

19 Wadani Consulting. Now, Wadani was registered in
20 the State of Minnesota after Mukhtar Shariff arrived here.
21 But you have heard -- and if they had looked, they would
22 know -- that it was active for years before that, active and
23 successful with invoices and clients, clients including the
24 government of Somalia, the Somalia, the Somalia Embassy,
25 projects including the Somalia Diaspora Conference, a

1 recurring conference.

2 And if you want, you can look at the bank records
3 of Wadani Consulting. You will see deposits coming into
4 that for that conference and checks going out. I think we
5 saw a check to Northfield Lines for transportation. That
6 was an expense in connection with those conferences.

7 Also, Nomadic Group and Nomadic Ventures, SNABPI,
8 his professional association, the podcasts that were
9 associated with that.

10 So these are the registration documents for
11 Wadani -- or, rather, for Nomadic, the two Nomadic
12 organizations.

13 Documents in evidence, D7-202, that talk about the
14 work he did for the embassy.

15 A snapshot from a discussion of the conference.

16 Podcasts, Nomadic Hustle, a surgeon that testified
17 about her experiences. Real activities.

18 And, ultimately and most particularly, Afrique
19 Hospitality Group.

20 With the exception of Afrique, Mahad Ibrahim's old
21 idea, Mukhtar Shariff new to it, none of these entities is
22 new in terms of their activity.

23 So Mukhtar Shariff had a history of
24 entrepreneurship extending way back before his arrival in
25 Minnesota and before the registration in Minnesota of these,

1 these entities. And although it's entrepreneurship to be
2 sure, this was entrepreneurship that was done to serve his
3 community and to serve ours through that. Labors of both
4 head and heart.

5 Professor Vaalar also talked about a couple of
6 other concepts that relate to this community and its
7 business dealings, both internally and with what he calls
8 the host country, the United States of America.

9 He talked about transactional informality and
10 transnationality. Transactional informality with the idea
11 being that business dealings and inner relationships are
12 based on connections and relationships, first and foremost,
13 and not on documentation. As it was explained to me, with
14 trust you don't need documents, and without trust there is
15 no amount of documentation that is sufficient.

16 Transnationality. Remember the Venn diagrams that
17 we looked at. People who have feed and ties and connections
18 in really three realms, the host country, the migrant
19 community in the host country, and the home country. And
20 those, those aspects, those realities are shown in Mukhtar
21 Shariff, are shown in the investments in Afrique, very real
22 large sums done quite informally, investments ultimately
23 that total \$1.2 million by our calculation, and his
24 investment in Ikram Mohamed, which was, although documented,
25 real and informal.

1 And underneath all of that, as Professor Vaaler
2 talked about, was the centrality and the concept and the
3 operation of trust in this. Trust was everything. Trust is
4 everything. And Mukhtar Shariff trusted Dr. Mahad.

5 Mahad Ibrahim was ThinkTechAct, not an entity that
6 Mukhtar Shariff was associated with. Mahad Ibrahim is Mind
7 Foundry, as MIB Holdings. Mukhtar Shariff is not an officer
8 or on the board of directors or anything about any of those
9 things. He was a part of exactly none of those.

10 But Mahad Ibrahim, Dr. Mahad to Mukhtar Shariff,
11 was clearly a trusted elder to Mukhtar. Dr. Mahad, a PhD
12 from Berkeley, one of the great institutions of higher
13 learning, public institutions of higher learning on this
14 planet -- I'm an alum and grateful when I say that -- a PhD
15 from Berkeley, who fits exactly -- and Mukhtar's reliance on
16 and trust of Dr. Mahad fits exactly the pattern and the
17 characteristics that Professor Vaalar talked about.

18 Remember that he talked about the use of
19 consultants and how consulting work and use of consultants
20 and looking to consultants are a part of how Somali
21 immigrants conduct business and deal with the business
22 interface with the institutions of the host country, the
23 United States of America.

24 And it makes perfect sense when you think about it
25 that you would look to somebody who was -- who came from

1 where you came from, but is steps, steps ahead of where you
2 are in terms of learning and knowing how to conduct business
3 and deal with the institutions and the processes and the
4 bureaucracies that are a part of the work that you are
5 doing. It makes perfect sense that you would look to
6 somebody who had been there and had figured those things
7 out, and you would look to them as a consultant.

8 And as Professor Vaalar said, consultants are
9 often paid for that; but you would also look to that as
10 Mukhtar said, look to that person as a mentor. So Mahad
11 Ibrahim was someone that Mukhtar Shariff trusted and trusted
12 deeply, looked up to. He was all of that.

13 And so there's been discussion and I expect that
14 there will be more about this concept of deliberate
15 ignorance or willful blindness. And I am asking you to
16 consider that concept through the lens of that information
17 about both culturally what consultants and the use of
18 consultants is and about the trust relationship and the
19 central importance of trust and how that played out between
20 Mukhtar Shariff and Mahad Ibrahim.

21 So deliberate ignorance or willful blindness.
22 First, it requires that you find beyond a reasonable doubt
23 that there was deliberate ignorance or willful blindness.
24 Right? And in discussing about, discussing willful
25 blindness, it says willful blindness is somebody who takes

1 deliberate actions to avoid confirming a high probability of
2 wrongdoing. Deliberate actions to avoid confirming a high
3 probability of wrongdoing.

4 So think about the steps that -- the evidence that
5 the prosecution is using to try to convict Mukhtar Shariff,
6 forwarding some attachments, forwarding some lists of names.
7 Deliberate actions to avoid confirming a high probability of
8 wrongdoing.

9 Mukhtar Shariff saw and processed a great deal of
10 food. Afrique was the largest Sysco -- or at least Derek
11 Czapiewski's largest food program account. Quantities,
12 again, I've talked about, that he and others confirm made
13 the meal counts seem reasonable. And in all of that he
14 trusted a widely respected person, somebody he looked to as
15 a mentor. He acted reasonably and in good faith. And those
16 are not deliberate actions to avoid confirming something,
17 and the circumstances are not ones that had a high
18 probability of wrongdoing.

19 So those are things that the prosecution, in order
20 for this to apply, has to establish beyond a reasonable
21 doubt. The facts simply don't support the elements, not
22 beyond a reasonable doubt, not at all.

23 I want to talk a little bit about Mukhtar
24 Shariff's history and character that you heard about from
25 his testimony. His actions show a deep commitment to his

1 community, a deep commitment. And his commitment and
2 engagement with the Afrique process, his full-time job,
3 stems from that.

4 He had an opportunity to help address food
5 insecurity at the Dar Al-Farooq community, a community that
6 extended way beyond Bloomington, as you heard, and he
7 stepped up week after week. And in this his behavior is
8 consistent with the highest and best cultural norms and
9 practices of his culture and with the noblest tenets of his
10 faith.

11 People have talked about -- so I want to change
12 gears and talk a little bit about the Minnesota Department
13 of Education in this process. There's been a lot of
14 discussion of that. I'm not going to go into the amount of
15 detail that I would. Other of my predecessors have talked
16 about that. But there were real structural impediments. We
17 heard about the communication problems and kind of the
18 communication barriers that existed.

19 So USDA talked to MDE; MDE talked to sponsors;
20 sponsors talked to nonprofit intermediaries, if they were
21 any, and sponsors talked to sites. And all of that
22 communication process broke down during the pandemic.

23 MDE we heard actually got a waiver so they didn't
24 have to send people out. And you can sort of understand
25 that because we're trying to reduce people's exposure to

1 each other during the pandemic.

2 We heard about changes that happened on the fly,
3 some real operational confusion. We heard about waivers and
4 extensions, but it wasn't just waivers and extensions. We
5 also heard from Ms. Honer, oh, that was a COVID flexibility.
6 So there were not just waivers and extensions. There were
7 COVID flexibilities. There were modifications. And then
8 there were things that were changed under the principle and
9 what she testified about about general reasonableness, which
10 I guess we can be thankful for.

11 So a lot of operational confusion. But what it
12 all amounted to and how it all played out, particularly for
13 purposes and from the standpoint of Mukhtar Shariff, was a
14 fundamental failure to communicate. I don't know if any of
15 you remember the movie Cool Hand Luke, the warden in the
16 movie. What we have is failure to communicate. And there
17 was failure to communicate.

18 And there's a contrast to that to consider. Bill
19 Menozzi testified. He was the Shakopee School District
20 finance guy. And he talked about the level of support that
21 their food program received from the USDA, from the MDE, and
22 it was extensive during this time period. He talked about
23 guidance and memos and communications. He talked about
24 audits, annual and otherwise, regular feedback.

25 The circumstances that Mukhtar Shariff experienced

1 at the site level and the vendor level were completely
2 different, could not have been more different, in his own
3 phrase "not even close."

4 So there was failure to communicate. And how that
5 played out and what that meant was that the people who were
6 operating as vendors, the people who were assisting in the
7 operation of sites, did so with no guidance, no instruction.
8 And in that -- and certainly there were opportunities to
9 say, hey, wait a minute, maybe you should do it this way.
10 Those opportunities were missed. But more fundamentally and
11 deeply than that, there was just no guidance or instruction
12 provided to them. There was failure to communicate.

13 Even with that, their processes operated very much
14 in the ways that the school process described. Didn't ask
15 for names.

16 Remember Gretchen Hawk testified. She was one of
17 the people who participated, and I forget which site. She
18 testified in connection with -- I forget which site, but one
19 of the things that she said was that she had a neighbor in
20 the apartment complex, and the neighbor would go to the
21 distribution site and get food for everybody, so for her
22 kids not showing up. Names weren't taken. Dinna
23 Wade-Ardley said we didn't take names at Oak Grove Heights.

24 This was, again, about removing barriers to access
25 to food, and all of that is as it should be. MDE site

1 visits, which were never abundant, stopped completely.

2 So in the face of that, were there regulatory
3 noncompliance issues? It would be astonishing if there were
4 not. But we're not here about suggestions of regulatory
5 noncompliance, about food that was not pre-prepared meals
6 being given, when that was the box that was checked, about
7 multiple meals being given, when other boxes were checked.
8 We're not here about regulatory noncompliance.

9 The end result was that Mukhtar Shariff received
10 no guidance and no construction -- instruction. And it is
11 profoundly unfair to criticize regulatory noncompliance on
12 his part, in the absence of guidance and instruction and
13 communication. No instruction on claims or forms or rosters
14 or meals or packaging or spoodles -- remember spoodles --
15 instructions to children about microwaves. There was no
16 guidance about any of that.

17 So regulatory compliance -- noncompliance, not
18 surprising at all, not criminal, not charged, not a part of
19 this case.

20 But, if anything, MDE's actions showed the
21 opposite of concerns about regulatory noncompliance. The
22 message that was given was that what was happening at
23 Dar Al-Farooq was in compliance or at least close enough,
24 because the claims that were submitted by Feeding Our Future
25 were paid, the claims were approved by MDE, and that was the

1 only feedback they got.

2 Okay. I want to turn to a couple of ways in which
3 fundamental aspects and components of the prosecution's
4 narrative are just false, false in general, false
5 specifically with respect to Mukhtar Shariff.

6 You've heard -- a number of the defense lawyers
7 have talked about it on Friday and this morning -- one of
8 their central narratives was there was no food or there was
9 little food or -- and then there was not enough food, little
10 to no money spent on food, almost none of this money was
11 used to feed children. That was in the opening statement.
12 They followed the direct -- but remember they followed the
13 money. They followed the O documents through the banking
14 records. They did not follow the food, but we did and you
15 can.

16 Afrique Hospitality Group bought food from
17 multiple sources. We heard about US Halal, Costco, Sam's
18 Club. Derek Czapiewski talked about -- the Sysco
19 representative -- talked about Afrique getting food from all
20 of those locations. That was part of the meal planning
21 process that he engaged with Dr. Mahad about and also Sysco.
22 No transactional informality with the Sysco purchases and
23 documents.

24 The prosecution talked about how Sysco was -- or
25 Dar Al Farooq was the largest of these sites. Afrique was

1 Mr. Czapiewski's largest food program customer. Mahad
2 Ibrahim did nearly all of the planning and procurement and
3 ordering from Sysco.

4 And what came out of that are two collections of
5 documents -- actually, I think there are more in the
6 Government Exhibits too. But you can look, if you want to
7 see what the Sysco stuff looks like in reality, you can
8 look at Defendant's Exhibit D7-23, where there are I
9 believe -- I'm not going to take you through them all --
10 192 pages of invoices reflecting deliveries of food from
11 Sysco to Afrique at its various warehouse locations over the
12 course of just shy of a year. 192 pages.

13 Also in evidence, though, is a separate set of
14 records, same, same underlying data, but a little more -- a
15 little easier to assess, which are Sysco's summaries of
16 deliveries to Afrique, four different locations again, they
17 changed warehouses over the course of time, with at the
18 bottom right of each of these a total amount of money
19 reflected in the deliveries for these.

20 So D7-23 is the full set. D7-24 is this set of
21 deliveries to locations summaries.

22 But what they show is delivery of \$1.592 million
23 of food from Sysco alone, only one of the providers, to
24 Afrique. And they show also, when you look at the, at the
25 times of these deliveries, that over \$400,000 of those food

1 purchases happened in December 21 and January 22.

2 So following the money, the analysts only looked
3 at the bank accounts and looked at payments. Following the
4 food, the real purchases, the real data shows a much
5 significantly larger number, \$1.592 million of food from
6 Sysco alone to Afrique.

7 Those are uncontested facts about the value of the
8 food that was obtained, processed, packaged, delivered,
9 uncontested facts that were not reached by the prosecution
10 because they did not look. They looked at the money. They
11 didn't look at the food. You don't get this information,
12 you don't get these numbers from following the money. You
13 only get there by following the food.

14 So no food, little money spent on food. The
15 evidence shows that that's just not true. It's certainly
16 not true for Afrique. It's certainly not true for Mukhtar
17 Shariff.

18 A second fundamentally wrong and misguided part of
19 the government's narrative is shell companies. And we heard
20 about it a bunch in the opening statement. Shell companies;
21 shell companies; they set up shell companies; Afrique was a
22 shell company. We heard about it with decreasing frequency
23 through the testimony of the witnesses. I don't recall
24 hearing a whole lot about it on Friday morning, but shell
25 companies.

1 One of the accountants -- I believe it was
2 Ms. Blackwell -- gave us a definition or accepted a
3 definition of what a shell company is. She accepted the
4 definition that comes from the Securities and Exchange
5 Commission, the SEC, that it's a company with no or nominal
6 operations or, and/or, a company with no or nominal assets
7 or and a company with assets consisting of cash or cash
8 equivalents with nominal other assets. So no operations, no
9 assets or only cash is the assets.

10 And they claim that Mukhtar Shariff created
11 Afrique to be a shell company, set up for the purpose of
12 defrauding the food system. The reality, as I've talked
13 about, is exactly the opposite. It was not.

14 In the discussion of shell companies and in
15 connection with this, we heard about, from the other of the
16 accountants, about a pattern. Ms. Roase talked about a
17 pattern that she observed, looked for and observed, and
18 found, not surprisingly, in entities, she said, a pattern
19 that indicates fraud. And the pattern looks like this:

20 First, there's a newly formed business. Then
21 there's a new bank account or at least a newly activated
22 bank account that had been dormant. And then there's an
23 immediate or very prompt deluge of money that comes in from
24 the Food Nutrition Program. Remember that. And that's then
25 followed by lavish spending. So newly formed business, new

1 or newly activated bank account and a whole bunch of food
2 program money coming in. That's the fraud pattern.

3 I want to look then at the summary of Afrique's
4 banking materials, checking account. That's Government
5 Exhibit M-6. M-6, as we will see, there's the summary chart
6 on the top, and then there's pages and pages and pages of
7 information taken from the underlying banking documents that
8 follow that.

9 So, first, in the Afrique account you will see
10 that the account was opened, and it was opened in January,
11 but the first thing that comes into that -- it's not food
12 program money. It is investments, community investments,
13 investment income that they calculate at \$886,000. I think
14 that's underinclusive. But investment income is the first
15 thing that comes in.

16 And you see that -- this is a sum -- the summary
17 chart doesn't give you the dates, but the selections of
18 information that follow taken from the bank account
19 documents themselves do. And so this is the first page --
20 the second page of Exhibit M-6.

21 And so let's take a look at what this shows. This
22 shows on the top that over half a million dollars in
23 investments were the first deposits that came into the
24 Afrique account. Not much of that was spent. None of that
25 was Federal Child Nutrition Program money. None of it.

1 We then see regular expenses that are highlighted
2 again here, rent, payments to Sysco, all in the first stages
3 and first month of this account being in -- month and a half
4 of this account being in operation.

5 The first food program money comes in, as the
6 agent testified, on April 1st. The check was written a
7 little earlier, deposited into the account on April 1st,
8 \$95,000, CACFP food.

9 So there's a fraud pattern, a pattern that
10 indicates fraud. Afrique doesn't fit that pattern. The
11 first money that came in was investment money, not food
12 program money. The expenses were related to the Afrique
13 business, not any fancy spending or anything like that. And
14 the first food program money comes in not in as a deluge and
15 not immediately or shortly after the account was opened, but
16 nearly three months later. This was not a shell company.
17 This is not the fraud pattern.

18 And the same is true as you heard from the
19 testimony about Wadani Consulting. It was active for years
20 in Washington state. They didn't look, but it was. Real
21 clients, Somalia Embassy; real projects, making an
22 interactive website for passports and more; real work by a
23 real entity. Emphatically not a shell, not a shell company,
24 not the fraud pattern.

25 So those are false narratives. It's wrong to

1 suggest that there was no food or little to no food or no
2 money spent on food. That violates the actual evidence,
3 documentary evidence in the case, and it's wrong to suggest
4 that Afrique was a shell company. And the narrators were
5 wrong, Hadith Ahmed, on the fundamental premise of their
6 testimony.

7 I want to now turn to a theme that some of my
8 colleagues have talked about before. I want to talk a
9 little bit about the burden of proof, but also proof beyond
10 a reasonable doubt and why we have it and what it means.

11 So the burden of proof requires that each element
12 of the charged offense has to be proven beyond a reasonable
13 doubt; otherwise, you must find that defendant not guilty.
14 The burden of proof is on the prosecution.

15 And as I talked about before, proof beyond a
16 reasonable doubt is proof of such a convincing character
17 that a reasonable person, after careful consideration, would
18 not hesitate to rely and act on it in the most important --
19 in life's most important decisions.

20 We put the burden of proof on the prosecution, on
21 the government, and we make that burden of proof the highest
22 level of proof that we have in our legal system for several
23 reasons. We do it to avoid convicting the innocent; but in
24 connection with that, we do that in recognition of a basic
25 aspect of human nature that is good and decent, but also

1 problematic in this setting.

2 In the face of charges and criminal charges, there
3 are two possibilities, one of them tolerable and the other
4 one of them not. Either people who are accused by the
5 government and the Department of Justice are guilty as
6 charged or innocent people are subjected to treatment that
7 you've only seen the tip of the iceberg.

8 In this case the charges, as you have heard, have
9 been pending since December of 2022. We are now one day
10 into the seventh week of a trial.

11 So either people are guilty as charged or they are
12 innocent charged with crimes that they did not commit.
13 Those are the two possibilities. And we have a justifiable
14 and reasonable and understandable horror at the notion of
15 people being wrongly accused. And so that makes us, as good
16 and decent people, want to believe the prosecution because
17 the alternative means that something that could happen --
18 something that may happen here could happen to you, could
19 happen to me.

20 The alternative is terrible to contemplate. It's
21 terrible to contemplate in the abstract; innocent people
22 accused, innocent people convicted. It's even more terrible
23 in the context that we're standing in now; the analysis and
24 consideration of the guilt of another citizen, of another
25 human being.

1 So these constitutional protections stand both as
2 a protection against the conviction of the innocent, but
3 also as a reaction to our natural inclination to want to
4 believe these folks, because the alternative to that is not
5 comfortable, is not easy. So unless the government proves
6 beyond a reasonable doubt, you have to find Mukhtar Shariff
7 not guilty.

8 The question is whether the evidence -- the
9 analytical question is whether the evidence taken
10 collectively, viewed and considered by you, under and
11 through the instructions given by the judge that you will
12 hear about in a bit, whether that evidence establishes each
13 of the individual elements of the charges beyond a
14 reasonable doubt. Those are complicated questions,
15 difficult questions perhaps, but the Constitution and the
16 instructions make that straightforward.

17 Mr. Birrell in his remarks on Friday morning
18 talked about suggesting tools and giving you tools. Well,
19 this is a tool that is given by the instruction and the tool
20 is, "Would you hesitate."

21 So you remember the lists of levels of certainty
22 and the end result, that "not guilty" applies and how many
23 of those levels of certainty apply -- a "not guilty"
24 conclusion applies to those.

25 As you go back into the room and begin discussing

1 the evidence and voting about it on the charges, you may
2 say -- I can imagine a conversation that may go, you know,
3 Joe Thompson is a charming guy, and there was an enormous
4 amount of evidence that was presented over the six weeks
5 that we've been sitting together. And the response to those
6 discussions, you know, all the bank accounts and days and
7 days of testimony about text exchanges and back and forth
8 and all of that, a lot of evidence, a lot of time, if the
9 response to that is, "yeah, but what about," okay, that is
10 hesitation. And it begins even with just "yeah, but."
11 That's hesitation.

12 And if there is hesitation, there is reasonable
13 doubt; and if there is reasonable doubt, the evidence
14 doesn't rise to the level that it has to under our system.
15 So hesitation is a tool.

16 I want to talk just very briefly, because others
17 have covered it in greater detail, and I'm not going to take
18 you through all of what I would otherwise have said, but
19 about some of the grounds for hesitation that exist in this
20 case, "Would you hesitate."

21 The bribery charges fail for several reasons, but
22 they depend -- as we talked about, it wasn't a bribe. It
23 was an investment. The timing didn't happen at a time when
24 it even could have been a bribe. Ms. Mohamed was not an
25 agent in a way that is necessary for all of that, but they

1 depend on Hadith Ahmed.

2 And you've heard about -- and other of my
3 predecessors have talked about how that is just not a
4 credible source of information. He is not reliable
5 specifically, and for reasons that include, specifically
6 because a fundamental premise of his discussion of the bribe
7 was shown by the evidence just to be not true.

8 Dar Al-Farooq didn't need to be transferred to Feeding Our
9 Future. They already were.

10 In considering his testimony, there are a number
11 of the jury instructions that apply. He is an accomplice.
12 And Judge Brasel will tell you that such testimony must be
13 examined and weighed with greater care, as well it should
14 be.

15 And she will also tell you in connection with his
16 testifying as a cooperating witness that the court has no
17 power to reduce his sentence for substantial assistance
18 unless the prosecution, asking through the United States
19 Attorney, files a motion for a downward departure.

20 So the prosecutor said in their closing argument
21 that he hopes Judge Brasel sentences him to less time. I
22 have no doubt that that is true. But the people that hold
23 the key to that is not -- are not Her Honor. They are these
24 folks right here. They are the people that he has to
25 please. They are the version of events that he has to

1 document and testify about.

2 And that version, the prosecution's version is
3 warped. It's warped by an incomplete investigation. You
4 have heard a lot about that. But also by a culturally
5 uninformed lens, and I'm going to talk about that in a bit.

6 The investigation was flawed. They went in with
7 an objective approving or disproving a hypothesis of guilt.
8 That's their prerogative. They can go in with whatever
9 objective they want, but that's not, that's not a
10 presumption of innocence. They didn't gather surveillance
11 tapes. They didn't do searches and search available
12 evidence. They didn't search Hadith Ahmed's cell phone, not
13 even his phone.

14 I'm reminded of a line from a song that I like a
15 lot. "You ain't gonna learn what you don't wanna know."
16 This is someone who is cooperating with them, working with
17 them. They didn't bother to look at his phone? Look at all
18 the other phone records that we got.

19 Site witnesses were questioned years after the
20 fact. Sites not visited that could have been. Reports that
21 weren't written. Emails that weren't obtained because the
22 email service providers are difficult. Handwriting
23 examples. Exemplars in handwriting analysis not done. And
24 the most glaring of all was no contemporary surveillance for
25 my concerns at Dar Al-Farooq, but many other locations too.

1 Fortunately, as I've talked about, we know what
2 they would have seen. We heard about that from the
3 eyewitnesses. We have seen the pictures and the videos.
4 Food and volumes and bags and quantities with regularity
5 that made the numbers that were claimed reasonable to
6 Mukhtar Shariff.

7 Flaws in the government's investigation are
8 grounds to hesitate full stop. There are others also.

9 I want to talk now a little bit about the cultural
10 context in which all of these things happened and about the
11 Department of Justice's willful blindness of that context,
12 taking deliberate actions to avoid confirming something with
13 a high probability.

14 Remember Professor Vaaler talked about
15 entrepreneurship within the enclave and beyond. He talked
16 about transactional informality. He talked about
17 transnationalism.

18 I want to make it clear the law applies to
19 everybody equally. It does. And I'm not here and nobody
20 should be here to suggest that the cultural context of what
21 we're talking about is somehow an excuse or justification
22 for criminal conduct. It is not. The law applies to
23 everybody.

24 But it is worse than shortsighted not to learn
25 about and consider the cultural context of the people in the

1 community that's being investigated, the cultural context of
2 the evidence, the cultural context of the behaviors in
3 assessing what inferences that can be made and from the
4 interactions between people and ultimately in assessing the
5 people's intent.

6 I'm going to touch on an obvious and so far
7 unspoken truth, and that is that each and every one of the
8 defendants in this case is a Somali refugee and that every
9 agent and every prosecutor is not. Now, there's nothing
10 wrong about that. That's, certainly, that's true of the
11 defense lawyers too. There's nothing wrong about that.

12 But what is wrong is if you don't have that
13 knowledge and that experience and that context on the team,
14 then it would behoove you to get that perspective from
15 somewhere, as we did. If it's not on the team, you should
16 get it from somewhere. And as we heard from Professor
17 Vaaler, there are trainings available, there are primers and
18 documents and training programs and things like that.

19 So it's just plain wrong to analyze culturally
20 specific evidence and behavior and patterns without an
21 understanding of the culture and the cultural context and
22 the cultural behaviors that exist, especially, especially in
23 this case, because of the central importance of trust and
24 trust relationships to this community as woven through their
25 business interactions.

1 So the Department of Justice was willfully blind.
2 They did not educate themselves. They saw legitimate --
3 what they saw were legitimate practices we heard, evidence
4 of legitimate practices centuries deep, but they saw those
5 through a culturally uninformed lens. And they drew false
6 conclusions about Mukhtar Shariff as a result, conclusions
7 about no food, conclusions about shell entities. And those
8 things are simply not true.

9 Now, you can look at that, and they may, and say
10 that this is just Monday morning quarterbacking. And it's
11 easy for us to look from the calm of our post-COVID lives
12 and circumstances back on the chaos of that era, Monday
13 morning quarterbacking; but if so, it is Monday morning
14 quarterbacking of a very badly played game. And that's
15 grounds for hesitation.

16 Okay. I want to end, and I am ending, on some of
17 the things that my colleagues began with. I want to talk
18 about three fundamental principles of the American system of
19 criminal justice and not just as lofty and wonderful things,
20 which they are, but how they relate to us and especially to
21 you and about what you are about to undertake.

22 These are things that come from the Constitution
23 and from the Declaration of Independence and the idea that
24 the assurance of rights of individuals and as individuals is
25 critically important as we are engaged in and exercised the

1 right to the pursuit happiness. These are inalienable
2 rights. Say that five times, inalienable rights. And they
3 exist on paper, but they also need to exist in this
4 courtroom and in this court process.

5 And what they mean, applied to Mukhtar Shariff, is
6 that he like all accused people in America must be presumed
7 innocent, presumed innocent by you. An example that I've
8 seen given is, I mean, if you hear something about somebody
9 that you know and your response is, nah, he wouldn't do
10 that, that's a presumption of innocence. And that's what
11 the law entitles Mukhtar Shariff to get and to get in this
12 process.

13 That presumption is one of the things that sets
14 America apart as a principled and civilized society, and the
15 day that it fails anybody is the day that we lose our
16 special place in history. Presumption of innocence.

17 The second piece is that the government has the
18 burden of proof, and the third is that that must be shown by
19 a -- not by a preponderance, not by more likely than not,
20 not by any of those stages that you've seen, but by proof
21 beyond any reasonable doubt, which means proof without
22 hesitation, proof beyond hesitation.

23 Now, it might sound odd, but the very existence of
24 those principles depends on you folks now. The presumption
25 of innocence does not exist unless you begin your

1 deliberations and your evaluation of the evidence and the
2 elements of the charges presuming Mukhtar Shariff and the
3 other defendants in this case -- believing them to be
4 innocent.

5 The government has no burden of proof unless you
6 folks put it there. And as surely as we can move from light
7 to darkness, people can be convicted on inadequate evidence
8 and inadequate proof, if juries allow that to happen. Don't
9 let that happen.

10 Unless the government proved beyond a reasonable
11 doubt each element, you must find Mukhtar Shariff not
12 guilty.

13 I've talked about false narratives and narrators.
14 I want to just summarize the ones that we've discussed here
15 this morning.

16 No food, little food. Not true.

17 No money spent on food, little money spent on
18 food. Also not true.

19 Shell companies set up to defraud the federal food
20 programs. Not Afrique, not Mukhtar Shariff.

21 The fraud pattern of business formation, how money
22 was spent. Ikram Mohamed, employed at Feeding Our Future.
23 Not so. Agent of Feeding Our Future. Not so.

24 Hadith Ahmed, a profoundly and unreliable
25 individual, upon whom the bankruptcy [sic] charges rest.

1 And an incomplete investigation, conducted through
2 a culturally uninformed assessment.

3 False narratives and narrators. These are false
4 narratives.

5 And we ask that you reject them and that you find
6 Mukhtar Shariff not guilty, not guilty because he did not
7 commit fraud or participate in a conspiracy to defraud, not
8 guilty because he did not participate in a bribery
9 conspiracy or bribe anyone, not guilty because he did not
10 launder money or participate in a conspiracy to conceal
11 illegitimate proceeds. He genuinely and reasonably believed
12 and acted in good faith, and he is not guilty.

13 Thank you.

14 THE COURT: Thank you, counsel.

15 At this time we will take our lunch break. We are
16 going to return at 1:30.

17 All rise for the jury.

18 12:43 p.m.

19 **IN OPEN COURT**

20 **(JURY NOT PRESENT)**

21 THE COURT: Everyone, be seated for one minute,
22 please.

23 As I have noted, I am, when I instruct the jury
24 and charge them this afternoon, I am going to sequester
25 them. I've given the attorneys by email a proposed

1 sequestration instruction for you to look at.

2 I wanted to note that the procedure of
3 sequestration is obviously one of the most burdensome tools
4 the court can use. I don't do it lightly. But I want to
5 assure a fair trial; and given the credible allegations of
6 improper contact with a juror here, I see no other option
7 available and that is the reason that I am sequestering the
8 jury.

9 So take a look at that instruction. If you have
10 any objections to it or corrections or thoughts on it that
11 you wish to present on the record, you can do so before I
12 charge.

13 Again, because the detention request is pending,
14 and I intend to hold that hearing after I charge the jury, I
15 want to remind the defendants of my earlier order and that
16 is that you are not to leave the courthouse. That is so
17 that I can conduct these proceedings in an orderly manner.

18 This is a direct order of the court. Violating it
19 would place you in contempt of court. And I have authorized
20 the marshals that you may be arrested upon leaving the
21 courthouse for contempt of court.

22 So I want to make sure that my order is clear.
23 You are free to move about the courthouse; but, again, I
24 want to make sure that until you receive my permission or
25 after the detention hearing is over, you may not leave the

1 courthouse, and a violation of that would be contempt.

2 That's all I have for now. We will see you all at
3 1:30.

4 THE CLERK: All rise.

5 (Recess taken 12:46 p.m. till 1:36 p.m.)

6

7

IN OPEN COURT

8

(JURY NOT PRESENT)

9 THE COURT: Before the lunch break, I did not give
10 the media instruction on the record, so I wanted you all to
11 know that I had staff give them that instruction again off
12 the record as a reminder.

13 So I wanted to place that on the record so that
14 everyone knew that, and that was my error. All right.

15

16

IN OPEN COURT

17

(JURY PRESENT)

18 THE COURT: You may all be seated.

19 And, Ms. Kettwick, you may proceed.

20 MS. KETTWICK: This case, this case has been
21 portrayed --

22 The mic is off. How's this?

23 THE JURY: Good.

24 MS. KETTWICK: Thank you.

25 This case has been portrayed as a grand tale of

1 following the money; but when you follow the money trail
2 concerning Hayat Nur, you will find it's a brief and
3 uneventful story that leads to a dead end. It's a story
4 that goes nowhere. There's no grand scheme here, no hidden
5 riches, no criminal mastermind, just a hard-working
6 individual doing clerical tasks swept into a whirlwind of
7 accusations by association.

8 The government's case against Hayat is built on
9 assumptions and associations, rather than evidence. They
10 are quick to label everything she does as guilt, rather than
11 seeking the truth or looking for an alternate explanation.
12 They didn't look for the truth. They just looked for
13 anything they could to call guilt. No search for context.
14 No search for why. There are lots of examples of this, but
15 let's walk through a few.

16 This, members of the jury, is the cornerstone of
17 the government's case against Hayat Nur. This is the big
18 piece of evidence they have against Hayat. Their last and
19 final witness, Ms. Blackwell, who testified, she's the one
20 that tied this case together for Hayat and talked to you
21 about this car. Let's talk a little bit about it.

22 The government presented this car to you, gave a
23 brief explanation about it. This is the basis for the money
24 laundering charge. When this topic was introduced to you,
25 the way it was first introduced was through two driver's

1 license photos, my client's, Hayat Nur, and her brother.

2 I'm sure you know she's her brother -- she's his
3 brother. The government made sure to point that out many
4 times. I'm going to call her Hayat Nur, so as not to
5 confuse the two. Hayat.

6 They brought them up with these two photos to
7 introduce this. Guilt by association. They told you she
8 bought the vehicle. They told you it was paid for with a
9 check. The check was received from Federal Child Nutrition
10 Program funds. And there you have it. She's guilty of
11 money laundering. That is not the full story, and it's
12 certainly not the truth.

13 The government didn't present you, though, with
14 this information; but once we started asking some questions,
15 you learned she had nothing to do with this car.

16 You learned that the government had actually
17 looked into this. They had sent out an agent to find out
18 who was driving it. It was not Hayat Nur. You found out
19 she had nothing to do with this Nissan. She cosigned a
20 loan, and she was on the title. She did not drive it. She
21 did not pay for the insurance on it. She didn't make a
22 single payment toward the loan.

23 Lots of families, including parents, support their
24 loved ones as they're emerging into adulthood. They support
25 them by cosigning loans for students going off to college,

1 loans for vehicles, maybe even a mortgage. Cosigning a loan
2 is something that a lot of families do to support each
3 other.

4 You may have even pieced together the timing of
5 this. As you can see from Exhibit J-106, Hayat Nur was the
6 co-applicant on the loan in November of 2020. Nur
7 Consulting was created six months later, April of 2021, Nur
8 Consulting that paid the final payment that's the basis for
9 these money laundering charges against Hayat.

10 And, by the way, helping your 19-year-old brother
11 cosign a loan for a car is an act of kindness, not a crime.

12 The government didn't bother to tell you about her
13 car that she had purchased, which they knew about when I
14 asked them. That wasn't offered to you on direct testimony.
15 You learned that her car that she purchased, her older
16 brother cosigned her loan back in 2018. This is
17 Defendant 8's Exhibit 49.

18 You also learned that she paid \$15,000 down on the
19 purchase of her vehicle in 2018. Apparently, Ms. Blackwell
20 knew all about this, never gathered any paperwork on it,
21 never mentioned it to you. They kept that from you until I
22 asked about it.

23 Can you imagine what the government would have
24 said if this \$15,000 down payment had happened during this
25 alleged time frame of this alleged fraud, if she had put

1 \$15,000 down on a new RAV4 that she purchased?

2 You've heard a lot of information about the jury
3 instructions; and as you know by now, you will get a copy of
4 those. I want to talk just a little bit about the money
5 laundering one.

6 I'm going to talk about two elements that are
7 bolded here. First, the first element, Hayat Nur knowingly
8 caused a payment. That's the basis, this check. That's the
9 first element the government has to prove to you beyond a
10 reasonable doubt.

11 There is zero evidence that she caused this
12 payment. In fact, the government's evidence was the
13 opposite. They agreed she did not make the payment; Nur
14 Consulting made the payment. She didn't have signatory
15 power on it. She wasn't affiliated with it. She wasn't on
16 their board. She wasn't on their documents, on their
17 Secretary of State records. She had nothing to do with that
18 payment, and that was their testimony.

19 And they're still bringing this charge forward to
20 you asking you to find her guilty beyond a reasonable doubt,
21 when their own evidence shows this didn't happen. Hayat had
22 nothing to do with this car, nothing to do with this
23 payment.

24 The third element was that she knew that proceeds
25 were from a criminal offense. They have introduced no

1 evidence of this either, but we will come back to that.

2 Let's move on to another example.

3 The government presented to you that she created
4 fake rosters, presented this to you as if she was making
5 these up and forming them. That's the conclusory statement
6 they want you to assume and believe. No looking into why,
7 no context, no explanation. She sent fake rosters, so she's
8 part of the conspiracy. This was not the full story.

9 Upon doing some digging, we found out where this
10 came from, where these rosters came from, and you can see
11 she was following direction.

12 We looked for an email and found this luckily
13 showing that someone sent her a list of names. This
14 handwritten list with names, phone numbers, ages, dates of
15 birth, was sent to Ms. Nur.

16 And, by the way, that was 22 out of the 65 pages.
17 This is Exhibit E-51. Her response to E-51 is E-53.

18 When we asked Agent Kary about this, Agent Kary
19 suggested that she scanned this to herself. Who would drive
20 to Office Depot, scan something to themselves, which you
21 probably have to pay for, drive home and pull up the scan
22 that you just sent to yourself? I can hardly even say that
23 and keep a straight face. It's so preposterous.

24 Obviously, someone else sent this to her. She
25 didn't drive to Office Depot and scan herself a piece of

1 paper that she could have just looked at at home. But the
2 government's theory has to be that she sent it to herself
3 because that's what fits guilt. It makes no sense.

4 Obviously, someone sent that to her.

5 This is what the other attorneys have been talking
6 about. It has to fit guilt, so they make some assumptions.

7 The government also talked to you about lots of
8 fake names. This document is the one that relates to Hayat.
9 They listed all sorts of fake names. Look through these
10 65 pages. I didn't count every single name, but I estimated
11 it's over 5,500 names, handwritten names, that she then
12 typed in. Her job was to type in these handwritten names.
13 One of those names was John Doe.

14 And the government is asking you to assume someone
15 whose third language is English to have questioned her boss
16 on this, to have said, gee, as I'm hand typing all of these
17 names, you should have critically analyzed this, you should
18 have questioned your bosses, you should have been smarter.
19 The government wants you to say one out of about 5,500 names
20 is so suspicious she should have known this whole thing was
21 a fraud.

22 Another example. Fake invoices. Again, this was
23 presented to you as something she made up, she created. No
24 search into why she did this. But when you put it into
25 context and look into it, again, you can see she was

1 following direction. Exhibit D-57. She was sent an email,
2 told to create invoices, which she did.

3 The government wants you to assume, and the
4 government assumed, she wanted in on this fraud. But maybe
5 her impression was that this was a legitimate business, like
6 many other witnesses testified to and presumably many other
7 employees felt too. Maybe like other witnesses testified
8 to, she had heard Abdiaziz Farah was a successful person in
9 the community with many business ventures.

10 Another example. Her email. She's asking for
11 sites to be updated. She was following direction. You can
12 find the email behind that telling her what to do and she
13 did.

14 Another example. The government has talked quite
15 a bit about "easy trick." The government highlighted this
16 in their closing statement. An "easy trick." The fact that
17 the word "trick" is in this email, they want you to assume
18 this is a fraud because it says "trick." "Trick" might be
19 shortcut, template, way to save time. And that's what this
20 email says. Here's a way to save some time as you are hand
21 typing in all of these things that are being asked of you.

22 The government claimed in its closing argument
23 that her brother recruited her. Don't fall into the trap of
24 accepting any government claims without evidence.

25 Hayat may be an immigrant, but in America we treat

1 every defendant with fairness. And as you've heard, you
2 look at each defendant individually. Each and every person
3 is examined on its own, and the judge will instruct you to
4 do that.

5 Do not let the government in its closing arguments
6 fill in any gaps without evidence, to fill in any gaps with
7 assumptions. The government didn't prove anything relating
8 to what Hayat knew.

9 Here's another one in its closing argument. She
10 knew her brother was getting rich. They produced zero
11 evidence of that. They didn't get her phone, didn't go to
12 her house, didn't follow her, didn't find a single email
13 acknowledging that, joking about it, texting about it,
14 nothing. No evidence of that. In fact, the government's
15 evidence showed that her brother was living with his parents
16 until he got married.

17 And there's many more examples of her being asked
18 to do clerical work.

19 While the government talked of others enjoying
20 luxury and opulence, Hayat continued her ordinary life,
21 burdened by student loans and devoid of sudden wealth.

22 In its opening statement, these are a few of the
23 things that the government told you. Defendants' own bank
24 records show they took child food money to become
25 millionaires themselves. They want you to lump all these

1 defendants in as one. Hayat never became a millionaire, not
2 even close. Her financial records are 0-129. You can take
3 a look.

4 They told you defendants' fraud brought them easy
5 luxury all around the world. Not Hayat. You didn't hear
6 any evidence of any travel around the world, any travel
7 anywhere, no first-class tickets, no coach tickets, no
8 travel. Period. You can't lump all these defendants in as
9 one.

10 And the government also told you the more bits of
11 truth they had, the more believable it might look. Do not
12 let that confuse you. Why was the government worried about
13 you being confused? Maybe because this is complicated.
14 This case has been very complicated.

15 In its closing argument, the government said you
16 saw defendant after defendant, you saw a lot of defendants,
17 and it is easy to lose track of them. This process was
18 complicated. Submitting an application for a site to be a
19 vendor, waiting to be approved, buying food, serving meals,
20 getting meal counts, getting rosters, submitting claims,
21 submitting invoices, ways to get paid.

22 Emily Honer testified this was very complicated.
23 Ms. Roase testified this was very complicated. It took her
24 months to figure this out, a trained investigator whose
25 full-time job is to investigate. It took her months to

1 figure this out. Admitted that somebody new coming in, it
2 would take them a long time to figure this out.

3 So how can Hayat be expected to know? Why is she
4 expected to question this and understand how her bits of
5 pieces applied into this bigger scheme and to know it was
6 fraudulent? There is no evidence that she knew or
7 understood how her work fit into any of this or that she
8 even knew what it meant, as she is typing it in.

9 How many times did you hear "follow the money"?
10 They were trained to do that. Well, it was a short trip
11 when it got to Hayat. Did she get some money? Yes, for
12 work she did. Just as the government admitted in its
13 closing argument, she got paid to create invoices. Is it
14 anything like we are talking about here? No, not even
15 close.

16 The government did an incredibly meticulous job
17 going through these records. They studied it for years.
18 These agents knew so much information off the top of their
19 heads about all of these entities and these people and the
20 numbers.

21 They're asking you to assume and fill in gaps
22 where they didn't. They never looked into why. They didn't
23 know if her brother owed her money from his wedding. They
24 didn't know if they went in on a family gift, especially
25 with their cultural differences.

1 It's important to look at the why, and the
2 government didn't do that with Hayat, and that's because
3 there's an explanation for all of it. And if the government
4 had brought it up, we could have explained it.

5 Hayat had no extravagant purchases, no travel, no
6 houses. They said when they were counting the food money,
7 they were giving the defendants the benefit of the doubt
8 being conservative. They did the opposite with Hayat.
9 Everything they could count against her, they did, just like
10 cosigning a car loan for your brother that you don't get or
11 have anything to do with.

12 There's a couple of other things the government
13 didn't show you or tell you about, when they were
14 meticulously going through these bank records.

15 O-129. The records go back to 2018, and I want to
16 show you some of the things she was paying in 2018. Great
17 Lakes student loan, payments for \$1,000, \$2,000, \$500.
18 Again, imagine if she had made these payments during the
19 time of this alleged fraud, paying back her student loans.

20 Fast-forward to 2021, the time frame where this
21 alleged fraud started, making \$200 payments every single
22 month. And the records go into 2022 as well, \$200 payments.

23 There is no burden of proof upon a defendant to
24 prove that he or she is innocent. Instead, the burden of
25 proof remains on the government throughout the trial. This

1 is an instruction you will get from the judge. But here's
2 the crucial point: The defendant does not have to prove a
3 single thing.

4 This is an incredibly important concept. I know
5 you've heard a lot about it from a lot of different
6 attorneys, but it can't be overstated. The defendant has
7 zero burden of proof.

8 It's the government's job to prove their case
9 beyond a reasonable doubt, but the government didn't ask
10 why. They didn't dig deeper. They didn't provide context.
11 You are missing vital information.

12 Consider this. The government didn't show you any
13 of the text messages between Abdiaziz Farah and Hayat Nur.
14 Let's examine one of them.

15 Hey, Abdiaziz, quick question. I forgot to ask
16 you earlier. Is it gonna be 1099 or W-2 regarding the
17 payments? Thanks again for today.

18 That's from Hayat to Abdiaziz. Does this look
19 like someone trying to join a fraudulent conspiracy or
20 someone simply doing clerical work? The government didn't
21 bother to investigate this angle.

22 Again, you are going to get the jury instructions,
23 but I want to highlight a few important parts of the
24 instructions as they relate to Hayat Nur.

25 First, the wire fraud conspiracy. I'm asking you

1 to take a close look at elements 2 and 3. The government
2 has to prove beyond a reasonable doubt that she voluntarily
3 and intentionally joined the agreement and that she knew the
4 purpose. That's element 3.

5 There's some direction for you on how to interpret
6 these jury instructions. Number one, you can consider only
7 the acts and statements of that defendant. You can't lump
8 them all in, as the government has suggested you do. You
9 can only consider what Hayat did against her, not what
10 anyone else did.

11 Number two, a person joins an agreement to commit
12 wire fraud by voluntarily and intentionally participating
13 with the intent to commit wire fraud. That has to be her
14 intention when she's doing it.

15 Number three, evidence that a person acted in the
16 same way or associated with others does not alone prove that
17 they joined a conspiracy.

18 Number four, a person who has no knowledge of a
19 conspiracy, but happens to act in a way that advances it,
20 does not thereby become a member. Even if what she did
21 advanced this alleged conspiracy, that's not enough.

22 The defendant must have known of the existence and
23 purpose of the agreement. Without such knowledge, the
24 defendant cannot be guilty of conspiracy, even if her acts
25 further the conspiracy.

1 In its closing argument the government said, How
2 can you not know? It's their burden of proof. Their proof
3 is apparently, How can you not know? That's not proof.
4 They haven't proved a thing. It's their burden. They have
5 produced no proof what Hayat knew, much less proof beyond a
6 reasonable doubt. We don't have to prove that she did not
7 know; they have to prove that she did.

8 The government may argue willful blindness. You
9 have heard a little bit about that; but as you've heard,
10 that requires a deliberate action on her part. They have
11 proved no deliberate actions.

12 Moving on to the second charge against Hayat,
13 Count 4 of wire fraud. There are three counts of wire fraud
14 against Hayat. For Count 4, I'd like you to look at all
15 three elements.

16 Number 1, that she voluntarily and intentionally
17 either devised or made up a scheme or participated in a
18 scheme to defraud. She had to know of the scheme's
19 fraudulent nature.

20 Number 2, she had to have the intent to defraud.

21 And, Number 3, and this is just unique to Count 4,
22 the government has to show and prove beyond a reasonable
23 doubt that she used or caused to be used an interstate wire.
24 Count 4 is an email she received. She did not use or cause
25 to be used an interstate wire when she received an email.

1 There's some more direction, and I know you've
2 heard this a lot. They have to prove her intention; she
3 acted knowingly; her intention was to deceive.

4 With any false statements, even if she made false
5 statements, she had to know the statement was untrue.
6 Making a false statement isn't enough. She had to know it
7 was untrue.

8 The second wire fraud count against her, which is
9 Count 10, I'm asking you to focus on elements 1 and 2, which
10 I've already talked about.

11 With respect to Count 11, I'm asking you to look
12 at all three. Again, we've talked about counts -- elements
13 1 and 2; but with number 3, in this one the government has
14 to prove this was an interstate wire communication.

15 You may recall the government bringing in lots of
16 witnesses from all over the country to come in and testify
17 about the interstate nature of certain things, including
18 checks, wires, how there are certain servers in certain
19 states that they have to go through.

20 With respect to the emails, they brought in Luke
21 Morris who worked for Google. And what he said was in
22 Minnesota during this time frame there were no servers; so
23 if somebody sent an email from Minnesota or opened it in
24 Minnesota, it had to go through another state. But what he
25 also said was he didn't look into other states in terms of

1 whether they had servers or surrounding states.

2 He also said you could find someone's IP address,
3 and you could find out where they were when they opened or
4 sent an email, and the government didn't do that. They
5 didn't prove that this was an interstate wire.

6 Count 10, one of the recipients of the email was
7 Kara Lomen, who worked at Partners in Nutrition, which was
8 in Minnesota. Count 11, though, they don't have that.

9 You've heard that after all of the defense
10 attorneys give their closing argument, the government gets
11 the last word. And maybe the government can come up and
12 explain to you what proof they have that this traveled
13 interstate.

14 In its closing argument, the government
15 acknowledged you might be wondering about her role in the
16 case, in its final argument.

17 The government called 33 witnesses. Six of the
18 witnesses mentioned Hayat. Two of the witnesses really had
19 nothing to do with her. One was the Luke Morris from
20 Google, who read her email address and her name. The other
21 was a site person who similarly read her name. The other
22 four were FBI and IRS agents. We didn't bother
23 cross-examining most of them, not because we weren't
24 interested, but because they had nothing to do with our
25 client.

1 The government's case and presentation of their
2 case took -- I'm going to be very conservative and
3 generous -- let's say four and a half weeks. Say it was six
4 hours a day, which I think is pretty generous, taking out
5 lunch and breaks. I used a calculator for this. 22 and a
6 half days, six hours a day. That's 135 hours of information
7 presented to all of you. I used a calculator for this too,
8 but times 60 that's 8,100 minutes.

9 I would estimate that they presented about 10
10 minutes relating to Hayat. That comes out to .0012 percent
11 of its case on Hayat. Let's be generous and double it.
12 .0024 percent. This is nowhere near enough for proof beyond
13 a reasonable doubt.

14 They expect you to find my client guilty beyond a
15 reasonable doubt after testifying about her for about 10
16 minutes. And I didn't even do the math because it's so
17 blaringly obvious that the \$30,000, which has not been
18 proven, and relies on a lot of assumptions, more assumptions
19 than even the government presented.

20 In its opening statement the government gave you
21 this slide. These are tools of the defendants' fraud,
22 again, lumping in all the defendants together for you.

23 Foods sites, first. Her name was not put on any
24 meal counts. No evidence of it. No suggestion she was at a
25 site, had anything to do with the sites. She wasn't a site

1 supervisor. They didn't even assume she was at the food
2 sites.

3 False records. We've gone over this. Everything
4 that she typed up, she was told what to do. She wasn't
5 creating or making anything. She was a data entry clerical
6 person doing her job.

7 Fake children. We've talked about that. The
8 government wanted you to think that she was creating
9 rosters, sharing them with all these people. I gave you the
10 exhibit number. E-51. I'm sure a person typing up over
11 5,500 Somali names may not catch one that seems suspicious
12 to others.

13 Bribes and kickback payments. Nope, nothing to do
14 with Hayat. She's not accused of that. There's no
15 information of that whatsoever.

16 Moved around fraud money. Not that either.
17 Nothing to do with that.

18 No Secretary of State records. No bank records.
19 No bank records created with a shell company. No shell
20 company. No pattern. No opulence. No text messages. No
21 entities related to defendants. No getting money from the
22 pot, like Hadith Ahmed testified everyone was talking about,
23 the community pot that everyone had hands in, texting about
24 how to divide them up. No Hayat. No joking about getting
25 rich. No foreign investments. No transferring money.

1 The government spent thousands of hours pouring
2 over every record, but didn't bother to show you a summary
3 chart for Hayat or look for alternative explanations, only
4 guilt. No travel. No jewelry. No houses. No cars, well,
5 except the car she cosigned a loan on. Well, I persist, no
6 cars. No millions of dollars. No Ritz-Carlton. No
7 courtside seats. No sending money to China. No sending
8 money to Kenya. No sending money to home builders. No
9 bribes. No kickbacks. No creating a thing.

10 You get to deliberate as you wish; but when you go
11 back into your deliberations, I have a suggestion. When I
12 have a big decision to make, I try to make the easiest
13 decision first. And I'm asking you to decide Hayat's case
14 first, because it's the easiest, because she is not guilty
15 of anything.

16 Thank you.

17 THE COURT: Thank you, counsel.

18 Government rebuttal, Mr. Thompson.

19 MR. THOMPSON: Thank you, Your Honor.

20 Well, let's start where we left off with Hayat
21 Nur. Okay?

22 So you heard about what Hayat didn't do and she
23 didn't get rich. First off, the judge is not going to tell
24 you you have to get rich to commit wire fraud or participate
25 in a conspiracy, because that's what a conspiracy is.

1 Different people acting together to commit a crime. And
2 that's exactly what Hayat Nur did, along with everyone else.

3 She talked about meal counts. I didn't submit
4 meal counts. I didn't sign meal counts. That's absolutely
5 false. She did send in meal counts, as you saw. She just
6 put her brother's name on them when she sent them in.

7 She sent in rosters that were fake. She created
8 fake invoices. And, you know, Ms. Kettwick didn't talk
9 about the most egregious one, the Afro Produce one. She
10 emailed to herself the master document, Afro Produce
11 invoice. Why would you do that? She says you can edit it,
12 don't save it as a PDF. Why would you create a fake invoice
13 if you didn't need a fake invoice? Why do you need a fake
14 invoice? Because you're lying.

15 They lied on the meal counts, on the rosters, on
16 the invoices. They were lying to get money. They were
17 lying to submit their fraudulent claims. You don't need to
18 do that unless you are lying.

19 And the reason you have people like Hayat Nur in
20 there is -- so you heard eight hours of defense closings.
21 Oh, meal counts, I didn't know anything about those. My
22 client, that's not his name. You can't tell that's his
23 name. You don't know that that's his signature. Oh, I
24 didn't know the invoices. Oh, I didn't do that. I wasn't
25 part of that role.

1 Defense lawyer after defense lawyer after defense
2 lawyer stood up here and said, oh, my guy didn't know about
3 that. I'm not saying it's false. I don't know. I'm just
4 saying my client didn't know. That's what a conspiracy is.
5 That's why you have different roles.

6 And that's why the judge will instruct you that
7 defendants can have different roles in a conspiracy and you
8 are still guilty. You don't have to be involved in all of
9 it. You don't have to be involved in it from day one.
10 Everyone has its role. If you know what's going on, you are
11 guilty. And I tell you if people know what's going on here,
12 that's why they submitted fake invoices.

13 I want to be clear about a couple of things here.
14 First, this case is not about whether or not any kids were
15 fed. Claiming that you fed some kids some days, some places
16 is not a defense in this case.

17 The defendants here claimed to have served more
18 than 18 million meals. They claimed to MDE that they were
19 entitled to reimbursement for serving more than 18 million
20 meals, nearly \$50 million worth of reimbursements, Federal
21 Child Nutrition Program funds, taxpayer dollars. When you
22 claim that you're entitled to reimbursements for serving
23 2,000 kids a day, that's what you have to do; otherwise, you
24 are committing fraud.

25 And it shouldn't be that hard if you are actually

1 doing it. You know, a photo of a bag of onions, a bag of
2 potatoes, that's the opposite of that. If you are actually
3 serving 2,000 kids a day, it's the easiest thing in the
4 world.

5 You know, for hours upon hours upon hours you
6 heard defense lawyers get up here and ignore the evidence
7 largely. They pointed the finger at everyone else. It was
8 MDE's fault. MDE should have stopped them. MDE should have
9 provided them an explanation, should have, should have given
10 them more instructions, more guidance. The system was too
11 complicated.

12 It wasn't complicated. It's not complicated. Not
13 creating a list of 2,000 fake names of kids is not
14 complicated. Not claiming that you are entitled to millions
15 of dollars and then using it to buy cars, real estate and
16 property in Kenya, that's not complicated. That's the
17 easiest thing in the world.

18 They blame the sponsors, as if the sponsors -- it
19 was their fault. They didn't communicate. I mean, these
20 are the sponsors, mind you, to whom they are paying
21 kickbacks for overlooking their fraud scheme. And they are
22 saying it's the sponsors' fault? Well, yeah, it is the
23 sponsors' fault too. They're a part of it too. I agree
24 with that, but I don't think blaming Hadith Ahmed is the
25 answer when you have him on your payroll.

1 You know, the defense counsel spent hours talking
2 about what wasn't done here. You heard surveillance. There
3 was no surveillance in this case. But as you heard, there
4 were -- the defense here had 50 sites, and there was
5 hundreds and hundreds more, more than 800 under the
6 sponsorship of Feeding Our Future and Partners in Nutrition.
7 You heard about how these sites moved around all the time
8 and how these claims were submitted two months later. So
9 the real question is, What was going to be surveilled?

10 Whenever someone testified about meals being
11 served or not or someone said, I didn't see any served, I
12 lived there, I didn't see any meals, you heard defense
13 counsel. Mr. Cotter said, Oh, it was around the corner. It
14 was down the block. It was actually somewhere else. It
15 wasn't at Tot Park. It was at Mary's Montessori. 2,506
16 kids a day, not at Tot Park, but at Mary's Montessori. So
17 what kind of surveillance would have seen that? Or The
18 Landing, it wasn't actually at The Landing. It was actually
19 at Empire or somewhere else in Shakopee.

20 There's no evidence of that, mind you, but there's
21 no surveillance in the world that's going to see that.
22 Surveil the whole world? Even the defendants' own witnesses
23 couldn't keep it straight. When were the meals distributed?
24 You saw the meal counts that said that meals were
25 distributed every single day, Monday, Tuesday, Wednesday,

1 Thursday, Friday, 2000, 2000, 2000, 2000, 3500, 3500, 3500.

2 Well, that's embarrassing. It made this shorter,
3 anyway. Anyway, that's why we have someone like that.

4 It's been a long day, ladies and gentlemen. It's
5 been a long trial.

6 There you go. Afro Produce. Ask yourself, Why
7 would Hayat Nur create this invoice, when counsel gets up
8 there and say the government charged her with nothing,
9 didn't ask why. I know why she did this. You know why she
10 did this. There's only one reason in the world that you
11 create a fake invoice for the purchase of -- purporting to
12 document the purchase of food from a company you don't work
13 for, and that's because you didn't purchase the food and you
14 want to submit the fraudulent invoice in support of the
15 fraudulent claims. Simplest thing in the world. My boss
16 told me to do it, someone else, my brother; oh, I didn't
17 know. Give me a break.

18 That, ladies and gentlemen, is absurd. That's not
19 close to the line. That's not good faith. That's not "I
20 didn't know what I was doing." That is obviously
21 fraudulent, and it goes along with everything else that
22 Hayat Nur submitted that was fraudulent. Meal counts,
23 rosters, invoices.

24 You saw other things. Save it, save as the meal
25 counts, the same thing every day, every day, every day,

1 putting someone else's name on it. What boss asks you to do
2 that? No one.

3 Abdimajid Nur, the same thing. Meal count after
4 meal count after meal count, thousands of them. His lawyer
5 called them a gimmick. These things are so ridiculous that
6 they're a gimmick. The government is looking at the
7 evidence as a gimmick. No, it's not. This is the evidence.
8 Use your common sense, as the judge will tell you. It's
9 fraudulent. The only reason to do this sort of thing is
10 because you are committing fraud.

11 Let's talk a little bit more about these meal
12 counts. You saw them. Every single day was the same
13 amount. 500, 500, 500, 500, 1,000, 1,000, 1,000, 1,000,
14 2,000, 2,000, 2,000, 2,000, 2,506, 2,506, 2,506, 3500, 3500,
15 3500. That's ridiculous.

16 I don't know what is up with Tot Park that exactly
17 2,506 kids come every single day to get food or every
18 Saturday to get 2,506 times 7, which you do the math is
19 something like 14,000 meals and each one weighs half a pound
20 or a quarter pound. Literally tons of thousands of pounds
21 of food. No one saw a thing. It's ridiculous.

22 The defendants' own witnesses couldn't figure it
23 out. You know, you heard from Dar Al-Farooq. Some of the
24 witnesses said meals were distributed on Saturdays, some at
25 Dar Al-Farooq, some at Oak Grove Middle School. And then

1 the imam got up there, and he didn't apparently get the
2 memo, because he said he saw food every day he was there, on
3 Mondays and on Tuesdays and on Wednesdays, every single day.
4 So which is it?

5 The reality is, what we know is it wasn't nearly
6 what they were claiming, and the money showed that, and
7 everything else showed that. And they can complain all day
8 long about how MDE should have done better with the sponsors
9 or the FBI. At the end of the day, the defendants committed
10 this fraud. No one told them to do this. No one forced
11 them to do this. They knew what they were doing. And you
12 saw their text messages. You saw their emails. You saw
13 their blatantly fraudulent documents that showed that.

14 So let's talk about the accounting in this case,
15 okay, because you heard a lot about the accountants and
16 following the money. And you saw the spreadsheets, and you
17 saw the bank records.

18 And you heard the defense attorneys suggest that
19 the FBI's accounting was wrong and those summary charts are
20 somehow inaccurate, but, mind you, they never explained to
21 you how. They said it. They never went through those
22 bank -- and you saw Ms. Roase go through check by check with
23 some of those accounts. Check by check by check. They had
24 those same bank records. They had those charts. They had
25 the underlying information.

1 MR. COTTER: Objection. Shifting the burden.

2 THE COURT: Overruled.

3 You may continue.

4 MR. THOMPSON: Defense has no burden to put on any
5 evidence, ladies and gentlemen; but when they suggest that
6 the numbers that Ms. Roase came up with were wrong, you can
7 certainly consider when they suggested that to her, Did they
8 go in and explain how. Did they go through those bank --
9 those records, those checks, the spending and explain to you
10 how it is mischaracterized? They did not.

11 Don't be fooled. You've seen the bank records.
12 You saw the money that went into those accounts that was all
13 food money, and you saw the money that went out. That was
14 overwhelmingly not food. It was spending. It was cars. It
15 was real estate. It was sent abroad, millions of dollars
16 abroad.

17 You know, the defendants complain that the
18 government didn't look at invoices. Again, I would ask you,
19 Which invoices? Those invoices? The government did go
20 through the invoices. The government went through the food,
21 and you saw those were government exhibits.

22 You heard in closing Mr. Schleicher and others
23 talk about Manmabuyu, Mr. Aftin's lawyer today, Manmabuyu, a
24 company created by Idriss Omar, and suggested that somehow
25 Manmabuyu actually purchased food. Well, look at it right

1 there. The \$382,000 from Bushra Wholesalers to Manmabuyu
2 wasn't food. It wasn't spent on food. It was sent abroad.
3 It was withdrawn in cash. It was used to purchase cars.

4 But what did the checks say? Groceries,
5 groceries. There it is. \$118,000 for groceries,
6 September 14th, the very same day that those very same funds
7 were used to buy a car and six days later another.

8 Ladies and gentlemen, that's not good faith.
9 That's not close to the line. That's money laundering.
10 That's why Bushra was created, to launder money.

11 You know, there's two types of money laundering
12 counts here, ladies and gentlemen, and I want to make sure
13 you understand them. There's the conspiracy to commit money
14 laundering and then those individual counts we went through
15 the other day.

16 Now, the conspiracy is concealment money
17 laundering. That means you're using entities and other
18 things to conceal the source, the ownership, to control the
19 use of proceeds. That's what this is. They created a
20 company, a food vendor company. They poured money into it
21 to make it look like they were buying groceries.

22 Now, it doesn't matter -- there's a lot of talk
23 about shell companies. That doesn't actually matter.
24 That's an SEC thing. Whether it's purely a shell or started
25 as a shell or used as a shell, this is what they used that

1 company for and you can judge for yourself on the bank
2 records. But, ladies and gentlemen, that's what this
3 company was used for. "Groceries" is what the check memo
4 line says. Actually used for cars. There it is. Idriss
5 Omar, the employee apparently of Bushra Wholesalers. I
6 don't know. That's what they said.

7 You also heard about Diis Transportation.
8 Mr. Schleicher suggested that Diis Transportation was
9 somehow mischaracterized and the money that was spent from
10 Bushra to Diis Transportation was actually money that should
11 have been counted for the food program.

12 Well, look at it right there. There it is.
13 \$485,000 from all these fraudie food companies. And where
14 does it go to? Well, a hundred grand goes right to Mr. Diis
15 himself, buy a car for 70 grand, 60 grand gets sent abroad.
16 That's not food. That's laundering.

17 You also heard about Lafey Plaza. If there's any
18 doubt, \$152,000 on October 14th from Bushra Wholesalers to
19 Lafey Plaza, which, as you heard, was Said Farah's company.
20 He owned some sort of real estate, some sort of building on
21 that. He had a contract for deed. Got \$152,000 for
22 groceries, was used to pay off the contract for deed. It
23 wasn't groceries. It was real estate. Ladies and
24 gentlemen, that's money laundering. That's what you saw
25 again and again and again in this case.

1 As long as we're on Bushra, let's talk about
2 Mr. Aftin, the other coowner of Bushra Wholesalers. And you
3 heard a lot this morning about Mr. Aftin and suggesting that
4 he wasn't involved in this. Not true.

5 There you go. Bushra right there. \$200,000 from
6 Bushra Wholesalers, Abdiwahab Aftin, to Capital View
7 Properties, that real estate venture with the family members
8 and siblings in Nairobi. He says supplies for Bushra
9 Wholesale.

10 And he had some sham contract suggesting that the
11 money was sent over to buy food, and they couldn't buy food,
12 so he put it in real estate. Give me a break. They sent
13 \$900,000 to Capital View Properties in total, a bunch of
14 them did, Abdiaziz Farah, Said Farah, Abdiwahab Aftin.
15 That's not for food. Give me a break. They're buying real
16 estate. You saw text message after text message after text
17 message.

18 And, again, I understand Mr. Garvis wants you to
19 think that those are inflammatory text messages. Don't
20 blame us. Blame them. Their text messages, their spending
21 of money, not ours.

22 And the judge will instruct you conspiracy to
23 commit money laundering, conducted a financial transaction
24 knowing that it was designed in whole or in part to conceal
25 or disguise the nature, location, source, ownership or

1 control of the proceeds. That's all. It doesn't matter
2 whether it was successful.

3 You heard a lot about, oh, they did this in their
4 own names. They started an LLC in their own names. They
5 used the banking system. Well, yeah, you have to because
6 there's a limit to how much you can hawala. If you want to
7 buy a house in Prior Lake, you are going to have to use a
8 real bank. You are going to have to use a real entity.

9 Same here. It doesn't matter. The fact that they
10 were trying to conceal it -- and they did largely. It took
11 Ms. Roase -- it took us days to get through it all going
12 entity to entity to entity. Checks said groceries. You
13 would think it was groceries until you looked. That's money
14 laundering. It doesn't matter that we were able to untangle
15 it. It's not a defense to a crime that "they caught me, so
16 I must not have committed it." That's the nature of every
17 crime.

18 There's other money laundering counts too, and I'm
19 going to -- the conspiracy is concealment. Those other
20 money laundering counts, the cars, the individual counts
21 about purchasing cars or real estate, that has nothing to do
22 with concealment. Those are different crimes.

23 As the judge will instruct you, it's a crime to
24 engage in a financial transaction with more than \$10,000 in
25 the proceeds of the crime. That's it. You don't have to

1 have concealed it. You don't have to have hidden it. If
2 you buy something, you do a transaction involving -- using
3 more than \$10,000 in the proceeds of a crime and you know
4 you are doing that, you are guilty of those stand-alone
5 money laundering counts. Full stop. There's no excuses, no
6 defense to say that you didn't hide it, you didn't conceal
7 it.

8 THE COURT: Mr. Thompson.

9 MR. THOMPSON: Yes.

10 THE COURT: One moment.

11 There's an overflow courtroom. For those who
12 can't fit in the courtroom, there's an overflow courtroom
13 down the hall. Thank you.

14 You may continue.

15 MR. THOMPSON: Thank you, Your Honor.

16 Now, ladies and gentlemen, let's talk a little bit
17 more about Dr. Paul Vaaler, the defense expert in this case,
18 because he took the stand and you heard lots of people talk
19 about him. What was he an expert in? East African business
20 practices and remittances.

21 And he told you all about his research he's done
22 about remittances and people -- an example he gave is
23 someone that sends 2 or \$300 a month home to their family in
24 their home country, sometimes to fund a micro business, you
25 know, a taxi business or textile company.

1 That is such a far cry from what happened here,
2 and he admitted it as much. What happened here had nothing
3 to do with that. He wasn't talking about sending millions
4 of dollars to Kenya to build a 12-story apartment building.
5 Not at all.

6 And it's notable. He told you he knew nothing
7 about the evidence in this case. He wasn't shown a single
8 exhibit. He wasn't shown any of the bank records. Ask
9 yourself why. Why didn't he look at the evidence if he's
10 the expert on this? If the evidence would have fit in this,
11 you know, unusual or uncommon to the Western eye, but fully
12 legitimate model of his, why didn't he just look at the
13 evidence? Why wasn't he shown the evidence and just opine
14 and say that?

15 MR. MOHRING: Objection. Misstates the burden.

16 THE COURT: Overruled.

17 MR. THOMPSON: Because it doesn't. It doesn't
18 fit, and he told you as much. He's talking about small
19 amounts. These are huge amounts here. This case involved
20 \$50 million, ladies and gentlemen.

21 Let's talk about Hadith Ahmed. You heard a lot
22 about Hadith Ahmed, the former Feeding Our Future employee
23 who accepted kickbacks. And why did he accept kickbacks?
24 For giving -- he told you -- for giving people the VIP
25 treatment at Feeding Our Future, for not looking at their

1 sites, for not scrutinizing their claims, for not looking at
2 their fake or obviously fake rosters, for overlooking them.

3 You know, the defense told you at length what a
4 scumbag and fraudster Hadith Ahmed is again and again. And
5 you might ask yourself, If he's such a scumbag and a
6 fraudster, why did they have him on the payroll? Why were
7 they paying him tens and then over a hundred thousand
8 dollars in consulting payments? You know why? Because he
9 was a fraudster, because they wanted the VIP treatment,
10 because they wanted Feeding Our Future to sponsor their
11 fraudulent claims, their ridiculous numbers, to overlook
12 their fake rosters, not to look at their sites. That's why.
13 That is why.

14 Everything he said to you makes sense. He told
15 you it's the Bank of Feeding Our Future. Come and get your
16 money. And that's exactly what the defendants did, and they
17 paid him. They paid him kickbacks.

18 We talked about some of the specific kickbacks and
19 defense counsel did too. One of them they said wasn't
20 actually a kickback, it was a loan, \$12,000 from Said
21 Farah's personal account to Hadith Ahmed as a loan.

22 Well, ladies and gentlemen, you saw the bank
23 records. Hadith Ahmed was the last person on earth who
24 needed a loan in February of 2021. That guy got almost over
25 \$2 million that year. He had a fraudulent site that claimed

1 to be serving 2500 kids a day. He was getting kickbacks
2 from a rogues' gallery of fraudulent Federal Child Nutrition
3 Program companies and people involved in the fraud scheme,
4 as he told you. He didn't need a \$12,000 loan, nor did
5 Ikram Mohamed. A loan for a day care? Give me a break.
6 She too was getting -- making bank in kickbacks and fraud
7 working at Feeding Our Future.

8 You heard that Hadith Ahmed -- there was also a
9 suggestion that later when he sent money to Abdiaziz Farah
10 and Empire that that showed it was a loan. No. Hadith
11 Ahmed told you. He gave that money -- he actually closed
12 out a bank account, if you look at the records. He emptied
13 out one of his bank accounts, gave it to Abdiaziz Farah to
14 buy property in Kenya. And you know he's the right guy
15 because Abdiaziz Farah, you know, those were experts in
16 Kenyan real estate. They bought real estate over there all
17 the time. They sent money over there. That's what happened
18 there. These were kickback payments disguised as consulting
19 payments, check after check after check.

20 There was also some suggestion about if he'd
21 actually left the company in June. I think Mr. Schleicher
22 said he left on June 20th, and so the payment that Said
23 Farah and Bushra made to him in July wasn't a kickback
24 because he already left. And then today Mr. Mohring said
25 no, no, no, he was there till July 29th. You saw an email.

1 And so the kickback, the payment to Ikram couldn't have been
2 a kickback because Hadith was still there.

3 Ladies and gentlemen, they were both there at the
4 time. You saw the text messages -- I think Mr. Mohring put
5 it up today -- where Abdiaziz and others were complaining
6 about Hadith and Ikram, and Ikram is at least better than
7 Hadith, but we kind of hate them both, and then he called
8 them dumb-asses.

9 They were both there for a while. They were both
10 accepting kickbacks. And certainly in July it sounds like
11 Hadith was still there. He sent an email. And Ikram was
12 certainly there too because before that they were talking
13 about Ikram and how they didn't like her, but at least she's
14 better than Hadith because at least she's upfront in her
15 solicitation of kickbacks.

16 In any event, as the court will tell you, with the
17 kickback, even if Hadith had left Feeding Our Future, and at
18 some point he did, some of the kickbacks were after he left,
19 it doesn't matter. If the payments are for what he did in
20 helping them, even if they are after the fact, they're still
21 guilty. And that's what the testimony was and that's what
22 the evidence was.

23 Let's talk about Afrique Hospitality Group. Okay?
24 Mukhtar Shariff testified in this case, and his testimony
25 flew entirely in the face of all the evidence.

1 He told you that he had nothing to do with this
2 PowerPoint. And I think he said, Oh, I didn't send that.
3 This is December 31st of 2020. We didn't mean that. We
4 didn't really -- we weren't planning to use food money to do
5 this. I don't know what that meant.

6 He said at one point, I didn't know what the CACFP
7 or SFSP was at that time. I wasn't aware of the food
8 program. And then you saw two weeks earlier, he had
9 actually sent an email about the site moving then from
10 Feeding Our Future to Partners in Nutrition. And then the
11 very next day, one day after this PowerPoint was sent, they
12 claim to be serving meals to 2,000 kids a day at the
13 Dar Al-Farooq site.

14 And you saw how they used Afrique to fund things.
15 In fact, here in a text message Abdiaziz Farah and Mahad
16 Ibrahim talk about it.

17 Mahad Ibrahim, the CFO of Afrique. I'm going to
18 get you into Afrique. It doesn't hurt to have a spot at
19 both places. Empire and Afrique. It's the hedge in the
20 oligarchy.

21 What does Abdiaziz Farah say? Okay, let's do it,
22 use DAR funds, profits to fund it, capitalism at its finest.

23 Ladies and gentlemen, this was not capitalism at
24 its finest. This was a fraud scheme. And, again, take a
25 step back. This was designed -- this was a program designed

1 to feed kids. And there were waivers in place, yes, during
2 COVID designed to make sure that the kids got fed, not
3 designed to get people rich, but that's what they did.

4 And you heard Mukhtar Shariff and Abdiaziz Farah
5 later even talk about it. You know, I heard Mr. Mohring say
6 that Mukhtar Shariff didn't invest money in Kenya. Yeah,
7 not yet. But here's what they were talking about near the
8 end of the scheme.

9 When are you going to bring me and Mahad into the
10 apartment deal? LOL.

11 This is Abdiaziz Farah. They are talking about
12 Kenya. This is -- he had sent pictures of the renderings of
13 the apartments. I've got two lands we can develop. Afrique
14 Apartments and Empire Apartments. The same thing, the same
15 thing.

16 You also heard about UADEEG and the suggestion
17 that those photos that were taken were just a part of a --
18 this was designed for a promotional bulletin to try to get
19 more volunteers. Well, you saw -- and it said UADEEG on it,
20 if you noticed. U-A-D-E-E-G. And you saw Abdiaziz Farah
21 and Abdimajid talk about that.

22 They shared these social media posts, warning
23 parents that their kids' names were being exploited and
24 used. These names -- you know, they took advantage, saying
25 it is a basketball program. They collected names of every

1 player's siblings that had nothing to do with basketball.
2 "These names were used to con the federal government of a
3 federal budget through a federal COVID-19 food program
4 relief, a/k/a UADEEG."

5 MR. MOHRING: Objection, Your Honor. This was
6 admitted not for the truth.

7 MR. THOMPSON: This was what the defendants were
8 talking about, Your Honor.

9 THE COURT: The jury will recall. This was
10 admitted. The jury will recall the evidence.

11 You may continue.

12 MR. THOMPSON: Abdiaziz Farah and Abdimajid Nur
13 talking about their coconspirators, talking about this
14 program.

15 Ladies and gentlemen, you heard the defendants
16 again and again talk about willful blindness. They don't
17 like that instruction, right, but that instruction is just
18 common sense.

19 And the judge is going to tell you about willful
20 blindness, this idea that the defendants didn't know. I
21 didn't know about the meal counts. I didn't know about the
22 rosters. I didn't know about the food. Mr. Shariff got up
23 there and said he didn't know about the checks, the CEO of
24 the company. A \$500,000 check came in; it's otherwise not
25 an operational company; I didn't know.

1 Willful blindness, as the judge will tell you, can
2 mean knowledge can be inferred if the defendant deliberately
3 closed his or her eyes to what would otherwise have been
4 obvious. You can't just say, I didn't look, I didn't know.

5 The idea that Mukhtar Shariff acted in good faith
6 and didn't know or didn't know that something was wrong
7 here? He paid himself over a million dollars in 2021 out of
8 the Afrique account, consulting payments to Wadani
9 Consulting. Nomadic Ventures got a thing. He was getting
10 paid by Empire Cuisine & Market, consulting payments
11 80 grand at a pop, yet he claimed not to know anything about
12 it. Hundreds of thousands of dollars into his Coinbase
13 account.

14 Ladies and gentlemen, you don't have to sit there
15 and think, oh, the defendant, they might not know. They
16 absolutely knew. You know they knew because they talked
17 about it when they thought no one was listening. You know
18 because it was blatantly obvious to everyone in the world,
19 and you know because they made millions and millions and
20 millions of dollars. The government doesn't have to prove
21 that, but the money was flowing like crazy. Cars, real
22 estate, international wire transfers.

23 Let's talk about the wire fraud here. There was
24 some suggestion that the defendant has to -- that some of
25 the defendants -- I think it was Ms. Nur and Mr. Said

1 Farah didn't actually, didn't actually send the emails, they
2 just received them, and somehow that makes them improper.

3 Not so.

4 An email in furtherance of a wire fraud email
5 doesn't have to be itself fraudulent. The defendant doesn't
6 have to have sent it. In fact, as the judge will tell you,
7 it is not necessary that the defendant himself or herself
8 contemplate the use of an interstate wire communication or
9 specifically intend that an interstate wire communication be
10 used. It is sufficient if an interstate wire communication
11 was in fact used to carry out the scheme and it was
12 reasonably foreseeable. And that's exactly what you saw.

13 And you heard Mr. Schleicher talk about an email
14 on January 3rd from Said Farah. I think there was two.
15 First, Hayat Nur, she got the list of invoices, and she went
16 back and made over \$10 million in invoices, backdated all
17 the way to February 2021. The idea that that wasn't
18 reasonably foreseeable or that wasn't part of the fraud
19 scheme is absurd. She turned around and created \$10 million
20 worth of backdated invoices, sent them to her brothers and
21 others. And then a few days after the search warrant, they
22 were sent to Said Farah. Definitely in furtherance of this
23 scheme. You heard that. They were trying to figure out
24 what to do.

25 And you heard after this that there was fake

1 invoices created, fake ones with Nur Consulting, fake ones
2 with Hadith Ahmed's. Said Farah went to talk to Hadith
3 Ahmed. That was the evidence. That was absolutely in
4 furtherance.

5 Ms. Kettwick, speaking of wire fraud counts, just
6 said there's no evidence that the wire was sent in
7 interstate commerce. You heard that. It was sent --
8 whether it was sent from Minnesota or was it not sent from
9 Minnesota, but it passed through Google service located
10 outside the State of Minnesota, but how do you know that it
11 was sent from Minnesota. And she challenged me. Maybe
12 Mr. Thompson will get up and tell you. Well, yes, I will.

13 If you look at her bank records, which is O-129 at
14 page 236, this is Hayat Nur's personal bank account, you
15 will see in early January of 2022, January 5th, January
16 12th, 11th, when those wires, charge wires were sent, she
17 was using her debit card in Minnesota. Eden Prairie,
18 Shakopee, Burnsville. That's where she was when she sent
19 that email, and it passed through servers located outside
20 the State of Minnesota.

21 I could go through them all, but I won't because I
22 don't think it's a real issue; but every other defendant who
23 is similarly, if you look at their bank records, you will
24 see they are in Minnesota when they sent the charge wires.

25 Ladies and gentlemen, this has been a long, long

1 trial. I know it's not easy to sit there. I appreciate, we
2 appreciate your time. This case shouldn't be hard to
3 decide. Use your common sense.

4 You have heard -- it makes me sad sometimes
5 sitting through this trial because I have heard good people
6 get slandered and blamed for this.

7 MDE, Emily Honer who got up there for days and
8 told you about everything she did in this trial to try to
9 make sure the kids got fed, to try to make sure that the
10 program had integrity, and she got blamed.

11 The FBI agents, again and again, IRS got blamed as
12 if they had made up the fraud, as if everything -- all the
13 way up to the very end, They are misleading you, They aren't
14 telling you the truth. None of that's true.

15 The reality is you saw overwhelming evidence of
16 the defendants' fraud scheme from the moment this trial
17 began all the way to the end.

18 You saw not hundreds, but thousands of pages of
19 fraudulent meal counts, the same numbers every single day,
20 by Abdimajid Nur, who signed as the site supervisor at
21 dozens of sites on every single day. He wasn't there.
22 These are fake. He sent them to his sister. Here's the
23 list, just hit them up, save as. Thousands.

24 You saw fake invoices again and again and again,
25 invoices claiming millions of dollars sometimes at a time,

1 fake food invoices.

2 You saw fake rosters. That was called a gimmick,
3 the fake rosters, those ridiculous rosters. Why would you
4 ever go to the trouble to list 2,000 names or 3,000 fake
5 names? If you actually had kids, you would just list the
6 names. Those were fake. That wasn't a gimmick. That was
7 overwhelming evidence of the fraud, and that certainly
8 wasn't good faith.

9 You know, when you lie on meal counts again and
10 again, that's not good faith. When you submit fake rosters
11 and create and submit them, that's not good faith. When you
12 create fake food invoices, that's not good faith. When you
13 submit the same food invoices to different sponsors,
14 purporting to document different claims for different meals
15 served to different kids at different sites by different
16 entities, that's not good faith.

17 None of this was good faith. It was an
18 overwhelming fraud scheme. That's what you saw. That's
19 what you heard. And for those reasons, I ask that you
20 return the only verdict that's consistent with all of the
21 evidence in this case, a verdict of guilty on all counts.

22 Thank you very much.

23 THE COURT: Thank you, counsel.

24 At this time we're going to take an afternoon
25 break. I'll have you come back at ten minutes after three,

1 and I'll charge the jury at that time and give you your
2 instructions.

3 All rise for the jury.

4

5

IN OPEN COURT

6

(JURY NOT PRESENT)

7

8

9

THE COURT: Anything for the record before
instructions? All right. Ten minutes after three,
everyone. I will see you then.

10

Mr. Goetz.

11

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13

MR. GOETZ: Your Honor, I did submit a proposed
instruction regarding sequestration. I'd like to be heard
on that.

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THE COURT: All right. You may all be seated.
The instruction that you submitted is from the
Michigan courts, I believe. The instruction that I gave to
you on sequestration was a modification from the Sixth
Circuit, I believe.

19

20

And so just to be clear, you've seen mine. You
like yours better?

21

22

MR. GOETZ: With this caveat. I took a lot of
your language and --

23

24

25

THE COURT: Okay.

MR. GOETZ: -- put it in the pattern Michigan
instruction and crafted that. So it's a hybrid, Your Honor.

1 It's a hybrid of your language and the language from the
2 Michigan pattern instruction. Sequestration, of course, is
3 not a unique concept to federal court.

4 THE COURT: Right.

5 MR. GOETZ: The issue respectfully with the
6 proposed instruction, respectfully, it's some -- in my
7 reading, I think it unfairly signals to the jury that
8 something concerning happened that warrants this and on top
9 of the individual voir dire, which I understand was
10 necessary, on top of the fact that we lost one juror, which
11 the jury doesn't know why, but I think unfairly signals that
12 something, something inappropriate is going on here.

13 In particular, the second paragraph. "I have
14 ordered you sequestered and kept together not because of any
15 lack of confidence in you, but so that no one in the future
16 will be able to claim that anything that occurred outside of
17 court during the trial or your deliberations could have had
18 any influence on your verdicts." I think that suggests that
19 something happened.

20 The pattern instruction from Michigan talks more
21 broadly in the concept of pretrial publicity, which the jury
22 is familiar with. So I think it's a, it's a more neutral
23 instruction that doesn't figure out or doesn't signal that
24 something bad has happened.

25 So respectfully -- and I tried to take as much of

1 your language as possible -- this has just come up -- and
2 work on the hybrid instruction, but that's the issue that I
3 have, Your Honor.

4 THE COURT: Understood.

5 Does anyone from the government wish to address?

6 Anyone else?

7 All right. I think what I'm going to do is to --
8 I am uncomfortable saying, "because this case has gotten so
9 much public attention," because that is not the only reason
10 that I am sequestering and my own credibility with the jury
11 matters. The court's credibility with the jury matters. So
12 I'm not going to say just because it's a public attention.
13 The public attention has been there all along.

14 And so I think it's best if I remove the language
15 that you don't like, but also remove the clause that you've
16 indicated, "because this case has gotten so much attention."
17 There are more reasons than that. I don't want to indicate
18 to them otherwise. I don't think that's honest. It's just
19 not candor to them, and that's important to me.

20 So I think I'll just remove all language that
21 indicates why, tell them that I have made this decision. I
22 have indicated on the record why, and everyone in this
23 courtroom knows why. But I will just remove the language
24 that you don't like, and then also just remove the public
25 attention, and then I'll give it at the end.

1 MR. GOETZ: I think that makes sense, Your Honor.

2 THE COURT: All right. Thank you.

3 Anything else?

4 All right. We'll come back at ten after three
5 then, and I'll charge the jury at that time.

6 Thank you, everyone.

7 THE CLERK: All rise.

8 (Recess taken at 2:51 p.m. till 3:14 p.m.)

9

10 **IN OPEN COURT**

11 **(JURY PRESENT)**

12 THE COURT: You may all be seated. Thank you.

13 Members of the jury, the instructions that I gave
14 you at the beginning of the trial and during the trial
15 remain in effect. I am now going to give you some
16 additional instructions, and the law requires that I read
17 these instructions to you.

18 You must, of course, continue to follow the
19 instructions I gave you earlier, as well as those that I
20 give you now. You must not single out some instructions and
21 ignore others, because all are important. This is true even
22 though some of those I gave you at the beginning of or
23 during trial are not repeated here.

24 The instructions I'm about to give you, as well as
25 those I gave you earlier, in writing and will be available

1 to you in the jury room. These instructions I guess are in
2 writing. The preliminary instructions that I gave you
3 during voir dire and after you were sworn in are not
4 available to you in the jury room. All instructions that I
5 have given, whether they are in writing and whenever they
6 have been given, must be followed.

7 It is your duty to find from the evidence what the
8 facts are. You will then apply the law as I give it to you
9 to those facts. You must follow my instructions on the law,
10 even if you thought the law was different or should be
11 different.

12 You should not be influenced by any person's race,
13 color, ethnicity, national origin, religion, gender, gender
14 identity, sexual orientation, disability or economic
15 circumstances. You must decide the case solely on the
16 evidence and the law before you and must not be influenced
17 by any personal likes or dislikes, opinions, prejudices,
18 sympathy or biases, including unconscious bias. Unconscious
19 biases are stereotypes, attitudes or preferences that people
20 may consciously reject, but may express without conscious
21 awareness, control or intention. Like conscious bias,
22 unconscious bias too can affect how we evaluate information
23 and make decisions.

24 The law demands of you a just verdict, unaffected
25 by anything except the evidence, your common sense and the

1 law as I give it to you.

2 I have mentioned the word "evidence." The
3 "evidence" in this case consists of the testimony of
4 witnesses, the documents, other things received as exhibits
5 and the facts that have been stipulated, that is, formally
6 agreed to by the parties.

7 You may use reason and common sense to draw
8 deductions or conclusions from facts which have been
9 established by the evidence in this case.

10 Certain things are not evidence. I will list
11 those again for you now.

12 Statements, arguments and questions by lawyers are
13 not evidence.

14 Objections are not evidence. Lawyers have a right
15 to object when they believe something is improper. You
16 should not be influenced by that objection. If I sustained
17 an objection to a question, you must ignore the question and
18 must not try to guess what the answer might have been.

19 Testimony that I struck from the record or told
20 you to disregard is not evidence and must not be considered.

21 Anything you saw or heard about this case outside
22 the courtroom is not evidence.

23 Finally, you were instructed that some evidence
24 was received for a limited purpose only, and you must follow
25 that instruction.

1 In deciding what the facts are, you may have to
2 decide what testimony you believe and what testimony you do
3 not believe. You may believe all of what a witness said or
4 only part of it or none of it.

5 In deciding what testimony to believe, consider
6 the witness's intelligence, the opportunity the witness had
7 to have seen or heard the things testified about, the
8 witness's memory, any motives that witness may have had for
9 testifying a certain way, the manner of the witness while
10 testifying, whether that witness said something different at
11 an earlier time, the general reasonableness of the
12 testimony, and the extent to which the testimony is
13 consistent with any evidence that you believe.

14 In deciding whether or not to believe a witness,
15 keep in mind that people sometimes hear or see things
16 differently and sometimes forget things. Therefore, you
17 need to consider whether a contradiction is an innocent
18 misrecollection or lapse of memory or an intentional
19 falsehood, and that may depend on whether it has to do with
20 an important fact or only a small detail.

21 You should judge the testimony of defendant
22 Shariff in the same manner as you judge the testimony of any
23 other witness.

24 You have heard testimony from a person described
25 as an expert. Persons who, by knowledge, skill, training,

1 education or experience, have become expert in some field
2 may state their opinions on matters in that field and may
3 also state the reasons for their opinion.

4 Expert testimony should be considered just like
5 any other testimony. You may accept or reject it and give
6 as much weight as you think it deserves, considering the
7 witness's education and experience, the soundness of the
8 reasons given for the opinion, the acceptability of the
9 methods used and all other evidence in the case.

10 You will remember that certain summary charts were
11 admitted into evidence. You may use those summary charts as
12 evidence, even if all of the underlying documents and
13 records are not here.

14 Certain other charts and summaries have been shown
15 to you, but not put into evidence, in order to help explain
16 the facts disclosed by the books, records or other
17 underlying evidence in the case. Those charts or summaries
18 are used for convenience. They are not themselves evidence
19 or proof of any facts. If they do not correctly reflect the
20 facts shown by the evidence in the case, you should
21 disregard those charts and summaries and determine the facts
22 from the books, records or other underlying evidence.

23 You have heard testimony -- or sorry -- heard
24 evidence that Hadith Ahmed made a plea agreement with the
25 prosecution. His testimony was received in evidence and may

1 be considered by you. You may give his testimony such
2 weight as you think it deserves. Whether or not his
3 testimony may have been influenced by the plea agreement is
4 for you to determine.

5 Mr. Ahmed's guilty plea cannot be considered by
6 you as any evidence of these defendants' guilt. His guilty
7 plea can be considered by you only for the purpose of
8 determining how much, if at all, to rely upon his testimony.

9 You have heard evidence that Hadith Ahmed hopes to
10 receive a reduced sentence on criminal charges pending
11 against him -- that should just say "him" -- in return for
12 their cooperation with the prosecution in this case. This
13 witness entered into a plea agreement with the prosecution
14 that provides, among other things, an agreement that the
15 prosecution will recommend a less severe sentence than
16 Mr. Ahmed would have faced had he not cooperated. The court
17 has no power to reduce a sentence for substantial assistance
18 unless the prosecution, acting through the United States
19 Attorney, files a motion for downward departure. If such a
20 motion is filed by the prosecution, it is up to the court to
21 decide whether to reduce the sentence at all and, if so, how
22 much to reduce it.

23 You may give the testimony of Mr. Ahmed such
24 weight as you think it deserves. Whether or not the
25 testimony of the witness may have been influenced by their

1 hope of receiving a reduced sentence is for you to decide.

2 An alleged accomplice is someone who claims to
3 have participated in the commission of a crime. Such
4 testimony must be examined and weighed with greater care
5 than the testimony of a witness who does not claim to have
6 participated in the commission of a crime.

7 The witness who fits this description is Hadith
8 Ahmed.

9 You must determine whether the testimony of the
10 alleged accomplice has been affected by self-interest or by
11 an agreement made with the government or by his or her own
12 interest in the outcome of the case or by prejudice against
13 the defendants.

14 The fact that an alleged accomplice has entered
15 into or agreed to enter a plea of guilty to the offense
16 charged is not evidence of the guilt of any other person,
17 including the defendants. The witness's guilty plea cannot
18 be considered by you as evidence of these defendants' guilt.
19 The witness's guilty plea can be considered by you, again,
20 only for the purpose of determining how much, if at all, to
21 rely upon his testimony.

22 The indictment in this case collectively charges
23 the defendants with 41 crimes set forth below.

24 As to Abdiaziz Shafii Farah, the indictment in
25 this case charges Abdiaziz Farah with 24 different crimes,

1 namely, wire fraud conspiracy in Count 1; wire fraud in
2 Counts 2, 5, 6, 7, 9, 10 and 11; conspiracy to commit
3 federal programs bribery, Count 13; federal programs bribery
4 in Counts 14 and 17; conspiracy to commit money laundering
5 in Count 20; money laundering in Counts 22, 23, 24, 25, 26,
6 29, 32, 33, 37, 39 and 42; and false statement in a passport
7 application in Count 43.

8 Mohamed Jama Ismail. The indictment in this case
9 charges Mohamed Ismail with 4 different crimes, namely, wire
10 fraud conspiracy in Count 1; wire fraud in Count 2;
11 conspiracy to commit money laundering in Count 20; and money
12 laundering in Count 28.

13 Abdimajid Mohamed Nur. The indictment in this
14 case charges Abdimajid Mohamed Nur with 13 different crimes,
15 namely, wire fraud conspiracy in Count 1; wire fraud in
16 Counts 3, 4, 6 and 12; conspiracy to commit money laundering
17 in Count 20; and money laundering in Counts 24, 25, 29, 34,
18 35, 38 and 41.

19 Said Shafii Farah. The indictment in this case
20 charges Said Farah with 9 different crimes, namely, wire
21 fraud conspiracy in Count 1; wire fraud in Count 12;
22 conspiracy to commit federal programs bribery in Count 13;
23 federal programs bribery in Counts 16, 18 and 19; conspiracy
24 to commit money laundering in Count 20; and money laundering
25 in Counts 21 and 40.

1 Abdiwahab Maalim Aftin. The indictment in this
2 case charges Abdiwahab Aftin with 3 different crimes,
3 namely, wire fraud conspiracy in Count 1; conspiracy to
4 commit money laundering in Count 20; and money laundering in
5 Count 27.

6 Mukhtar Mohamed Shariff. The indictment in this
7 case charges Mukhtar Shariff with 6 different crimes,
8 namely, wire fraud conspiracy in Count 1; wire fraud in
9 Count 8; conspiracy to commit federal programs bribery in
10 Count 13; federal programs bribery in Count 15; conspiracy
11 to commit money laundering in Count 20; and money laundering
12 in Count 31.

13 Hayat Mohamed Nur. The indictment in this case
14 charges Hayat Nur with 5 different crimes, namely, wire
15 fraud conspiracy in Count 1; wire fraud in Counts 4, 10 and
16 11; and money laundering in Count 34.

17 The defendants have each pleaded not guilty to
18 each of these crimes with which they've been charged.

19 The indictment is simply the document that
20 formally charges the defendants with the crime for which
21 they are on trial. The indictment is not evidence, nor is
22 the chart of the counts that the court provided to you. At
23 the beginning of the trial, I instructed you that you must
24 presume that the defendants to be innocent. Thus, the
25 defendants began the trial with a clean slate with no

1 evidence against them.

2 The presumption of innocence alone is sufficient
3 to find the defendants not guilty. This presumption can be
4 overcome as to each charge only if the government proved
5 during the trial, beyond a reasonable doubt, each element of
6 the crime charged.

7 Keep in mind that you must give separate
8 consideration to the evidence about each individual
9 defendant. Each defendant is entitled to be treated
10 separately, and you must return a separate verdict for each
11 defendant. Also keep in mind that you must consider
12 separately each crime charged against each individual
13 defendant, and you must return a separate verdict for each
14 of those crimes charged.

15 There is no burden upon a defendant to prove that
16 he or she is innocent. Instead, the burden of proof remains
17 on the government throughout the trial. The fact that a
18 defendant did not testify must not be considered by you in
19 any way or even discussed in arriving at your verdict.

20 If, for any given count charged in the indictment,
21 each element of that charged offense has been proved beyond
22 a reasonable doubt as to a defendant, then you must find
23 that defendant guilty of the crime charged under that count;
24 otherwise, you must find that defendant not guilty of the
25 crime charged under that count.

1 Reasonable doubt is doubt based upon reason and
2 common sense and not doubt based upon speculation. A
3 reasonable doubt may arise from careful and impartial
4 consideration of all the evidence or from a lack of
5 evidence. Proof beyond a reasonable doubt is proof of such
6 a convincing character that a reasonable person, after
7 careful consideration, would not hesitate to rely and act
8 upon that proof in life's most important decisions. Proof
9 beyond a reasonable doubt is proof that leaves you firmly
10 convinced of the defendant's guilt. Proof beyond a
11 reasonable doubt does not mean proof beyond all possible
12 doubt.

13 The indictment charges that the offenses alleged
14 in each count were committed "in or about" or "on or about"
15 a certain date. Although it is necessary for the government
16 to prove beyond a reasonable doubt that the offense was
17 committed on a date reasonably near the date alleged in the
18 indictment, it is not necessary for the government to prove
19 that the offense was committed precisely on the date
20 charged.

21 As to wire fraud conspiracy. It is a crime for
22 two or more people to agree to commit a crime. The crime of
23 wire fraud conspiracy as charged in Count 1 of the
24 indictment has four elements, which are:

25 One, on or before April 2020 through in or about

1 2022, two or more people reached an agreement to commit the
2 crime of wire fraud;

3 Two, the defendant voluntarily and intentionally
4 joined in the agreement either at the time it was first
5 reached or at some later time it was still in effect;

6 Three, at the time the defendant joined in the
7 agreement, the defendant knew the purpose of the agreement;

8 Four, while the agreement was in effect, a person
9 or persons who had joined in the agreement knowingly did one
10 or more acts for the purpose of carrying out or carrying
11 forward the agreement.

12 Count 1 of the indictment charges conspiracy to
13 commit wire fraud. For you to find that the government has
14 proved a conspiracy, you must unanimously find that there
15 was an agreement to act for this purpose.

16 The agreement between two or more people to commit
17 the crime of wire fraud does not need to be a formal
18 agreement or be in writing. A verbal or oral understanding
19 can be sufficient to establish an agreement.

20 It does not matter whether the crime of wire fraud
21 was actually committed or whether the alleged participants
22 in the agreement actually succeeded in accomplishing their
23 unlawful plan.

24 If you have determined that two or more people
25 reached an agreement to commit wire fraud, you must next

1 decide whether the defendant voluntarily and intentionally
2 joined that agreement either at the time it was first formed
3 or at some later time while it was still in effect.

4 Earlier, in deciding whether two or more people reached an
5 agreement to commit the crime of wire fraud, you could
6 consider the acts and statements of each person alleged to
7 be part of the agreement. Now, in deciding whether a
8 defendant joined the agreement, you must consider only the
9 acts and the statements of that defendant.

10 A person joins in an agreement to commit wire
11 fraud by voluntarily and intentionally participating in the
12 unlawful plan with the intent to further the crime of wire
13 fraud. It is not necessary for you to find that the
14 defendant knew all the details of the unlawful plan.

15 It is not necessary for you to find that the
16 defendant reached an agreement with every person you
17 determine was a participant in the agreement.

18 Evidence that a person was present at the scene of
19 an event or events, or acted in the same way as others or
20 associated with others, does not alone prove that the person
21 joined a conspiracy. A person who has no knowledge of a
22 conspiracy, but who happens to act in a way that advances
23 the purpose of the conspiracy, does not thereby become a
24 member. A person's mere knowledge of the existence of a
25 conspiracy, or mere knowledge that an objective of a

1 conspiracy was being considered or attempted, or mere
2 approval of the purpose of a conspiracy, is not enough to
3 prove that the person joined in a conspiracy.

4 The agreement may last a long time or a short
5 time. The members of an agreement do not all have to join
6 it at the same time. You may find that someone joined the
7 agreement even if you find that person did not know all the
8 details of the agreement.

9 A person may be a member of the agreement even if
10 the person does not know all of the other members of the
11 agreement or if the person agreed to play only a minor part
12 in the agreement.

13 To decide whether the defendant agreed to commit
14 the crime of wire fraud, you should consider the elements of
15 that crime, wire fraud, which I will describe in a moment.

16 You may consider these elements in determining
17 whether the defendant agreed to commit the crime of wire
18 fraud, keeping in mind that this count of the indictment
19 only charges a conspiracy to commit wire fraud and does not
20 charge that wire fraud was committed.

21 A person knows the purpose of the agreement if he
22 or she is aware of the agreement and does not participate in
23 it through ignorance, mistake, carelessness, negligence or
24 accident. It is seldom, if ever, possible to determine
25 directly what was in the defendant's mind. Thus, the

1 defendant's knowledge of the agreement and its purpose can
2 be proved like anything else, from reasonable conclusions
3 drawn from the evidence.

4 It is not enough that the defendant and other
5 alleged participants in the agreement to commit the crime of
6 wire fraud simply met, discussed matters of common interest,
7 acted in similar ways or perhaps helped one another. The
8 defendant must have known of the existence and purpose of
9 the agreement. Without such knowledge, the defendant cannot
10 be guilty of conspiracy even if his or her acts furthered
11 the conspiracy.

12 The defendant does not have to personally commit
13 an act in furtherance of the agreement, know about it or
14 witness it. It makes no difference which of the
15 participants in the agreements did the act. This is because
16 a conspiracy is kind of a partnership so that under the law
17 each member is an agent or partner for every other member
18 and each member is bound by or responsible for the acts of
19 every other member done to further their scheme.

20 The act done in furtherance of the agreement does
21 not have to be an unlawful act. The act may be perfectly
22 innocent in itself.

23 It is not necessary that the government prove that
24 more than one act was done in furtherance of the agreement.
25 It is sufficient if the government proves one such act; but

1 in that event, in order for you to return a verdict of
2 guilty, you must all agree which act was done.

3 If all of the elements for conspiracy to commit
4 wire fraud for Count 1 have been proved beyond a reasonable
5 doubt, then you must find the defendant guilty of the crime
6 charged under that count; otherwise, you must find the
7 defendant not guilty of the crime charged under that count.

8 The indictment charges that the defendants were
9 members of one single conspiracy to commit the crime of wire
10 fraud.

11 One of the issues you must decide is whether there
12 were really two or more separate conspiracies with different
13 purposes and scopes. The government must convince you
14 beyond a reasonable doubt that each defendant was a member
15 of the conspiracy to commit the crime of wire fraud to the
16 scope alleged in the indictment. If the government fails to
17 prove this as to a defendant, then you must find that
18 defendant not guilty of the conspiracy charge, even if you
19 find that he or she was a member of some other conspiracy,
20 including conspiracy among a subset of the smaller group to
21 commit the crime of wire fraud. Proof that the defendant
22 was a member of some conspiracy other than the one alleged
23 in the indictment is not enough to convict.

24 The crime of wire fraud, as charged in Counts 2
25 through 12 of the indictment, has three elements, which are:

1 One, the defendant voluntarily and intentionally
2 devised or made up a scheme to defraud, or participated in a
3 scheme to defraud with knowledge of the scheme's fraudulent
4 nature, another out of money or property by means of
5 material false representations or promises;

6 Two, the defendant acted with the intent to
7 defraud;

8 Three, the defendant used or caused to be used an
9 interstate wire communication, that is, an email or a wire
10 transfer of funds, in furtherance of or in an attempt to
11 carry out some essential step in the scheme.

12 The phrase "scheme to defraud" includes any plan
13 or course of action intended to deceive or cheat another out
14 of money or property by employing material falsehoods,
15 concealing material facts or omitting material facts. It
16 also means the obtaining of money or property from another
17 by means of material false representations or promises. A
18 scheme to defraud need not be fraudulent on its face, but
19 must include some sort of fraudulent misrepresentation or
20 promise reasonably calculated to deceive a reasonable
21 person.

22 A statement or representation is "false" when it
23 is untrue when made or effectively conceals or omits a
24 material fact.

25 A fact, falsehood, representation or promise is

1 "material" if it has a natural tendency to influence or is
2 capable of influencing the decision of a reasonable person
3 in deciding whether to engage or not to engage in a
4 particular transaction. However, whether a fact, falsehood,
5 representation or promise is "material" does not depend on
6 whether the person was actually deceived.

7 To act with "intent to defraud" means to act
8 knowingly and with the intent to deceive someone for the
9 purpose of causing some financial loss to another or
10 bringing about some financial gain to oneself or another to
11 the detriment of a third party. With respect to false
12 statements, the defendant must have known the statement was
13 untrue when made or have made the statements with reckless
14 indifference to its truth or falsity.

15 An "interstate wire communication" is a wire
16 communication that crosses a state line. A "wire
17 communication" includes telephone calls, electronic signals
18 sent by wire, such as a fax or a financial wire, the use of
19 the internet to send a message, such as an email, and
20 communicating with a website via the internet.

21 It is not necessary that the defendant himself or
22 herself contemplate the use of an interstate wire
23 communication or specifically intend that an interstate wire
24 communication be used. It is sufficient if an interstate
25 wire communication was in fact used to carry out the scheme

1 and the use of an interstate wire communication by someone
2 was reasonably foreseeable.

3 The wire fraud counts of the indictment charge
4 that each defendant, along with the other defendants,
5 devised or participated in a scheme. The government need
6 not prove, however, that the defendants met together to
7 formulate the scheme charged or that there was a formal
8 agreement among them in order for them to be held jointly
9 responsible for the operation of the scheme and the use of a
10 wire transfer or email transmission for the purpose of
11 accomplishing the scheme. It is sufficient if only one
12 person conceives the scheme and the others knowingly,
13 voluntarily and intentionally join in and participate in
14 some way in the operation of the scheme in order for such
15 others to be held jointly responsible.

16 It is not necessary that the government prove all
17 the details alleged in the indictment concerning the precise
18 nature and purpose of the scheme, that any interstate wire
19 communication was itself false or fraudulent, that the
20 alleged scheme actually succeeded in defrauding anyone or
21 that the use of an interstate wire communication was
22 intended as the specific or exclusive means of accomplishing
23 the alleged fraud.

24 It is not necessary that the government prove that
25 any interstate wire communication was an essential part of

1 the scheme. A wire communication may be routine or sent for
2 a legitimate purpose so long as it assists in carrying out
3 the fraud.

4 If all of the elements for wire fraud for Counts 2
5 through 12 have been proved beyond a reasonable doubt for
6 the count you are considering, then you must find the
7 defendant guilty of the crime charged under that count;
8 otherwise, you must find the defendant not guilty of the
9 crime charged under that count.

10 The crime of conspiracy to commit federal programs
11 bribery, as charged in Count 13 of the indictment, has four
12 elements, which are:

13 One, two or more people reached an agreement to
14 commit the crime of federal programs bribery;

15 Two, the defendant voluntarily and intentionally
16 joined in the agreement either at the time it was reached or
17 at some later time it was still in effect;

18 Three, at the time the defendant joined in the
19 agreement, the defendant knew the purpose of the agreement;
20 and

21 Four, while the agreement was in effect, a person
22 or persons who had joined in the agreement knowingly did one
23 or more acts for the purpose of carrying out or carrying
24 forward the agreement.

25 For you to find that the government has proved a

1 conspiracy, you must unanimously find that there was an
2 agreement to act for this purpose. The agreement between
3 two or more people to commit the crime of federal programs
4 bribery does not need to be a formal agreement or be in
5 writing. A verbal or oral understanding can be sufficient
6 to establish an agreement.

7 It does not matter whether the crime of federal
8 programs bribery was actually committed or whether the
9 alleged participants in the agreement actually succeeded in
10 accomplishing their unlawful plan.

11 If you have determined that two or more people
12 reached an agreement to commit federal programs bribery, you
13 must next decide whether the defendant voluntarily and
14 intentionally joined that agreement, either at the time it
15 was first formed or at some later time while it was still in
16 effect. Earlier, in deciding whether two or more people
17 reached an agreement to commit the crime of federal programs
18 bribery, you could consider the acts and statements of each
19 person alleged to be part of the agreement. Now, in
20 deciding whether a defendant joined the agreement, you may
21 consider only the acts and statements of that defendant.

22 A person joins an agreement to commit federal
23 programs bribery by voluntarily and intentionally
24 participating in the unlawful plan with the intent to
25 further the crime of federal programs bribery. It is not

1 necessary for you to find that the defendant knew all the
2 details of the unlawful plan.

3 It is not necessary for you to find that the
4 defendant reached an agreement with every person you
5 determine was a participant in the agreement.

6 Evidence that a person was present at the scene of
7 an event or events or acted in the same way as others or
8 associated with others does not alone prove that the person
9 joined a conspiracy. A person who has no knowledge of a
10 conspiracy, but who happens to act in a way that advances
11 the purpose of the conspiracy, does not thereby become a
12 member. A person's mere knowledge of the existence of a
13 conspiracy, or mere knowledge that an objective of a
14 conspiracy was being considered or attempted, or mere
15 approval of the purpose of the conspiracy, is not enough to
16 prove that the person joined in a conspiracy.

17 The agreement may last a long time or a short
18 time. The members of an agreement do not all have to join
19 at the same time. You may find that someone joined the
20 agreement even if you find that person did not know all of
21 the details of the agreement.

22 A person may be a member of the agreement even if
23 the person does not know all of the other members of the
24 agreement or the person agreed to play only a minor part in
25 the agreement.

1 To decide whether the defendant agreed to commit
2 the crime of federal programs bribery, you should consider
3 the elements of that crime, which I will describe in a
4 moment.

5 You may consider these elements in determining
6 whether the defendant agreed to commit the crime of federal
7 programs bribery, keeping in mind that this count of the
8 indictment only charges a conspiracy to commit federal
9 programs bribery and does not charge that federal programs
10 bribery was committed.

11 A person knows the purpose of the agreement if he
12 or she is aware of the agreement and does not participate in
13 it through ignorance, mistake, carelessness, negligence or
14 accident. It is seldom, if ever, possible to determine
15 directly what was in the defendant's mind. Thus, the
16 defendant's knowledge of the agreement and its purpose can
17 be proved like anything else, from reasonable conclusions
18 drawn from the evidence.

19 It is not enough that the defendant and other
20 alleged participants in the agreement to commit the crime of
21 federal programs bribery simply met, discussed matters of
22 common interest, acted in similar ways, or perhaps helped
23 one another. The defendant must have known the existence
24 and purpose of the agreement. Without such knowledge, the
25 defendant cannot be guilty of conspiracy, even if his or her

1 acts furthered the conspiracy.

2 The defendant does not have to personally commit
3 an act in furtherance of the agreement, know about it or
4 witness it. It makes no difference which kind of
5 participants in the agreement did the act. This is because
6 a conspiracy is a kind of "partnership" so that under the
7 law each member is an agent or partner of every other member
8 and each member is bound by or responsible for the acts of
9 every other member done to further their scheme.

10 The act done in furtherance of the agreement does
11 not have to be an unlawful act. The act may be perfectly
12 innocent in itself.

13 It is not necessary that the government prove that
14 more than one act was done in furtherance of the agreement.
15 It is sufficient if the government proves one such act; but
16 in that event, in order to return a verdict of guilty, you
17 must all agree which act was done.

18 If all of the elements for conspiracy to commit
19 federal programs bribery for Count 13 have been proved
20 beyond a reasonable doubt, then you must find the defendant
21 guilty of the crime charged under that count; otherwise, you
22 must find the defendant not guilty of the crime charged
23 under that count.

24 The indictment charges that defendants Abdiaziz
25 Farah, Said Farah and Mukhtar Shariff were members of one

1 single conspiracy to commit the crime of federal programs
2 bribery.

3 One of the issues you must decide is whether there
4 really were two or more separate conspiracies with different
5 purposes and scopes. The prosecution must convince you
6 beyond a reasonable doubt that each of the defendants named
7 above was a member of the conspiracy to commit the crime of
8 federal programs bribery to the scope alleged in the
9 indictment. If the prosecution fails to prove this as to a
10 defendant, then you must find that defendant not guilty of
11 the conspiracy charge, even if you find that he or she was a
12 member of some other conspiracy, including a conspiracy
13 among a subset of the smaller group to commit the crime of
14 federal programs bribery. Proof that the defendant was a
15 member of some conspiracy other than the one alleged in the
16 indictment is not enough to convict.

17 The crime of federal programs bribery, as charged
18 in Count 14 of the indictment, has four elements, which are:

19 One, Hadith Ahmed was an agent of Feeding Our
20 Future;

21 Two, Abdiaziz Farah corruptly gave, offered or
22 agreed to give \$10,000 to Hadith Ahmed in connection with
23 Feeding Our Future's sponsoring his and his co-conspirators'
24 fraudulent participation in the Federal Child Nutrition
25 Program;

1 Three, the transaction involved something of value
2 of \$5,000 or more; and

3 Four, Feeding Our Future received benefits in
4 excess of \$10,000 in the one-year period beginning on or
5 about February 1, 2021, pursuant to the Federal Child
6 Nutrition Program.

7 As used in this instruction, the term "agent"
8 means a person authorized to act on behalf of Feeding Our
9 Future for purposes of administering funds in connection
10 with the Federal Child Nutrition Program.

11 As used in this instruction, the term "corruptly"
12 means that Abdiaziz Farah acted voluntarily and
13 intentionally, and at least in part, influence or -- to
14 influence or induce Hadith Ahmed to cause, or reward Hadith
15 Ahmed for causing, Feeding Our Future to sponsor Abdiaziz
16 Farah and his co-conspirators' fraudulent participation in
17 the Federal Child Nutrition Program.

18 If all of the elements for federal program bribery
19 for Count 14 have been proved beyond a reasonable doubt,
20 then you must find Abdiaziz Farah guilty of the crime
21 charged under that count; otherwise, you must find Abdiaziz
22 Farah not guilty of the crime charged under that count.

23 The crime of federal programs bribery, as charged
24 in Count 15 of the indictment, has four elements, which are:

25 One, Ikram Mohamed was an agent of Feeding Our

1 Future;

2 Two, Mukhtar Shariff corruptly gave, offered or
3 agreed to give \$250,000 to Ikram Mohamed in connection with
4 Feeding Our Future sponsoring his and his coconspirators'
5 fraudulent participation in the Federal Child Nutrition
6 Program;

7 Three, the transaction involved something of value
8 of \$5,000 or more; and

9 Four, Feeding Our Future received benefits in
10 excess of \$10,000 in the one-year period beginning on or
11 about June 9, 2021, pursuant to the Federal Child Nutrition
12 Program.

13 As used in this instruction, the term "agent"
14 means a person authorized to act on behalf of Feeding Our
15 Future for purposes of administering funds in connection
16 with the Federal Child Nutrition Program.

17 As used in this instruction, the term "corruptly"
18 means that Mukhtar Shariff acted voluntarily and
19 intentionally, and at least in part, to influence or induce
20 Ikram Mohamed to cause, or reward Ikram Mohamed for causing,
21 Feeding Our Future to sponsor Mukhtar Shariff and his
22 co-conspirators' fraudulent participation in the Federal
23 Child Nutrition Program.

24 If all of the elements for federal programs
25 bribery for Count 15 have been proved beyond a reasonable

1 doubt, then you must find Mukhtar Shariff guilty of the
2 crime charged under that count; otherwise, you must find
3 Mukhtar Shariff not guilty of the crime charged under that
4 count.

5 The crime of federal programs bribery, as charged
6 in Count 16 of the indictment, has four elements, which are:

7 One, Hadith Ahmed was an agent of Feeding Our
8 Future;

9 Two, Said Farah corruptly gave, offered or agreed
10 to give \$65,250 to Hadith Ahmed through Mizal Consulting in
11 connection with Feeding Our Future sponsoring his and his
12 co-conspirators' fraudulent participation in the Federal
13 Child Nutrition Program;

14 Three, the transaction involved something of value
15 of \$5,000 or more; and

16 Four, Feeding Our Future received benefits in
17 excess of \$10,000 in the one-year period beginning on or
18 about July 15, 2021, pursuant to the Federal Child Nutrition
19 Program.

20 As used in this instruction, the term "agent"
21 means a person authorized to act on behalf of Feeding Our
22 Future for purposes of administrating funds in connection
23 with the Federal Child Nutrition Program.

24 As used in this instruction, the term "corruptly"
25 means that Said Farah acted voluntarily and intentionally,

1 and at least in part, to influence or induce Hadith Ahmed to
2 cause, or reward Hadith Ahmed for causing, Feeding Our
3 Future to sponsor Said Farah and his co-conspirators'
4 fraudulent participation in the Federal Child Nutrition
5 Program.

6 If all of the elements for federal child --
7 sorry -- for federal programs bribery for Count 16 have been
8 proved beyond a reasonable doubt, then you must find Said
9 Farah guilty of the crime charged under that count;
10 otherwise, you must find Said Farah not guilty of the crime
11 charged under that count.

12 The crime of federal programs bribery, as charged
13 in Count 17 of the indictment, has four elements, which are:

14 One, Julius Scarver was an agent of Partners in
15 Nutrition;

16 Two, Abdiaziz Farah corruptly gave, offered or
17 agreed to give \$10,000 to Julius Scarver in connection with
18 Partners in Nutrition sponsoring his and his
19 co-conspirators' fraudulent participation in the Federal
20 Child Nutrition Program;

21 Three, the transaction involved something of value
22 of \$5,000 or more; and

23 Four, Partners in Nutrition received benefits in
24 excess of \$10,000 in the one-year period beginning on or
25 about August 13, 2021, pursuant to the Federal Child

1 Nutrition Program.

2 As used in this instruction, the term "agent"
3 means a person authorized to act on behalf of Partners in
4 Nutrition for purposes of administrating funds in connection
5 with the Federal Child Nutrition Program.

6 As used in this instruction, the term "corruptly"
7 means that Abdiaziz Farah acted voluntarily and
8 intentionally, and at least in part, to influence or induce
9 Julius Scarver to cause, or reward Julius Scarver for
10 causing, Partners in Nutrition to sponsor Abdiaziz Farah and
11 his co-conspirators' fraudulent participation in the Federal
12 Child Nutrition Program.

13 If all of the elements for federal programs
14 bribery for Count 17 have been proved beyond a reasonable
15 doubt, then you must find Abdiaziz Farah guilty of the crime
16 charged under that count; otherwise, you must find Abdiaziz
17 Farah not guilty of the crime charged under that count.

18 The crime of federal programs bribery, as charged
19 in Count 18 of the indictment, has four elements, which are:

20 One, Hadith Ahmed was an agent of Feeding Our
21 Future.

22 Two, Said Farah corruptly gave, offered or agreed
23 to give \$35,000 to Hadith Ahmed through Mizal Consulting in
24 connection with Feeding Our Future's sponsoring his and his
25 co-conspirators' fraudulent participation in the Federal

1 Child Nutrition Program;

2 Three, the transaction involved something of value
3 of \$5,000 or more; and

4 Four, Feeding Our Future received benefits in
5 excess of \$10,000 in the one-year period beginning on or
6 about September 9, 2021, pursuant to the Federal Child
7 Nutrition Program.

8 As used in this instruction, the term "agent"
9 means a person authorized to act on behalf of Feeding Our
10 Future for purposes of administrating funds in connection
11 with the Federal Child Nutrition Program.

12 As used in this instruction, the term "corruptly"
13 means that Said Farah acted voluntarily and intentionally,
14 and at least in part, to influence or induce Hadith Ahmed to
15 cause, or reward Hadith Ahmed for causing, Feeding Our
16 Future to sponsor Said Farah and his co-conspirators'
17 fraudulent participation in the Federal Child Nutrition
18 Program.

19 If all the elements for federal programs bribery
20 for Count 18 have been proved beyond a reasonable doubt,
21 then you must find Said Farah guilty of the crime charged
22 under that count; otherwise, you must find Said Farah not
23 guilty of the crime charged under that count.

24 The crime of federal programs bribery, as charged
25 in Count 19 of the indictment, has four elements, which are:

1 One, Hadith Ahmed was an agent of Feeding Our
2 Future;

3 Two, Said Farah corruptly gave, offered or agreed
4 to give \$20,000 to Hadith Ahmed through Mizal Consulting in
5 connection with Feeding Our Future sponsoring his and his
6 co-conspirators' fraudulent participation in the Federal
7 Child Nutrition Program;

8 Three, the transaction involved something of value
9 of \$5,000 or more; and

10 Four, Feeding Our Future received benefits in
11 excess of \$10,000 in the one-year period beginning on or
12 about October 11, 2021, pursuant to the Federal Child
13 Nutrition Program.

14 As used in this instruction, the term "agent"
15 means a person authorized to act on behalf of Feeding Our
16 Future for purposes of administrating funds in connection
17 with the Federal Child Nutrition Program.

18 As used in this instruction, the term "corruptly"
19 means that Said Farah acted voluntarily and intentionally,
20 and at least in part, to influence or induce Hadith Ahmed to
21 cause, or reward Hadith Ahmed for causing, Feeding Our
22 Future to sponsor Said Farah and his co-conspirators'
23 fraudulent participation in the Federal Child Nutrition
24 Program.

25 If all the elements for federal programs bribery

1 for Count 19 have been proved beyond a reasonable doubt, you
2 must find Said Farah guilty of the crime charged under that
3 count; otherwise, you must find Said Farah not guilty of the
4 crime charged under that count.

5 The crime of conspiracy to commit money
6 laundering, as charged in Count 20 of the indictment, has
7 four elements.

8 One, two or more people reached an agreement to
9 commit the crime of money laundering;

10 Two, the defendant voluntarily and intentionally
11 joined in the agreement, either at the time it was first
12 reached or at some later time it was still in effect;

13 Three, at the time the defendant joined in the
14 agreement, the defendant knew of the purpose of the
15 agreement; and

16 Four, while the agreement was still in effect, a
17 person or persons who had joined in the agreement knowingly
18 did one or more acts for the purposes of carrying out or
19 carrying forward the agreement.

20 Count 20 of the indictment charges conspiracy to
21 commit money laundering. For you to find that the
22 government has proved a conspiracy, you must unanimously
23 find that there was an agreement to act for this purpose.

24 The agreement between two or more people to commit
25 the crime of money laundering does not need to be a formal

1 agreement or be in writing. A verbal or oral understanding
2 can be sufficient to establish an agreement.

3 It does not matter whether the crime of money
4 laundering was actually committed or whether the alleged
5 participants in the agreement actually succeeded in
6 accomplishing their unlawful plan.

7 If you have determined that two or more people
8 reached an agreement to commit money laundering, you must
9 next decide whether the defendant voluntarily and
10 intentionally joined that agreement either at the time it
11 was first formed or at some later time while it was still in
12 effect. Earlier, in deciding whether two or more people
13 reached an agreement to commit the crime of money
14 laundering, you could consider the acts and statements of
15 each person alleged to be part of the agreement. Now, in
16 deciding whether a defendant joined the agreement, you may
17 consider only the acts and statements of that defendant.

18 A person joins in an agreement to commit money
19 laundering by voluntarily and intentionally participating in
20 the unlawful plan with the intent to further the crime of
21 money laundering. It is not necessary for you to find that
22 the defendant knew all the details of the unlawful plan.

23 It is not necessary for you to find that the
24 defendant reached an agreement with every person you
25 determine was a participant in the agreement.

1 Evidence that a person was present at the scene of
2 an event or events, or acted in the same way as others or
3 associated with others, does not alone prove that the person
4 joined a conspiracy. A person who has no knowledge of a
5 conspiracy, but who happens to act in a way that advances
6 the purpose of the conspiracy, does not thereby become a
7 member. A person's mere knowledge of the existence of a
8 conspiracy, or mere knowledge that the objective of a
9 conspiracy was being considered or attempted, or mere
10 approval of the purpose of a conspiracy, is not enough to
11 prove that the person joined in a conspiracy.

12 The agreement may last a long time or a short
13 time. The members of an agreement do not all have to join
14 it at the same time. You may find that someone joined the
15 agreement even if you find that the person did not know all
16 of the details of the agreement.

17 A person may be a member of the agreement even if
18 the person does not know all of the other members of the
19 agreement or the person agreed to play only a minor part in
20 the agreement.

21 To decide whether the defendant agreed to commit
22 the crime of money laundering, you should consider the
23 elements of that crime, which are as follows:

24 One, the defendant conducted a financial
25 transaction, which in any way or degree affected interstate

1 or foreign commerce;

2 Two, the defendant conducted the financial
3 transaction with money that involved the proceeds of
4 unlawful activity;

5 Three, at the time the defendant conducted the
6 financial transaction, the defendant knew the money
7 represented the proceeds of some form of unlawful activity;
8 and

9 Four, the defendant conducted the unlawful
10 transaction knowing that the transaction was designed in
11 whole or in part to conceal or disguise the nature,
12 location, source, ownership or control of the proceeds of
13 the unlawful activity.

14 Note that the money laundering elements are
15 different -- these money laundering elements are different
16 than the money laundering elements associated with Counts 21
17 through 42, which I will get to in a moment. You may
18 consider these elements in determining whether the defendant
19 agreed to commit the crime of money laundering, keeping in
20 mind that this count of the indictment only charges a
21 conspiracy to commit money laundering and does not charge
22 that money laundering was committed.

23 A person knows the purpose of an agreement if he
24 or she is aware of the agreement and does not participate in
25 it through ignorance, mistake, carelessness, negligence or

1 accident. It is seldom, if ever, possible to determine
2 directly what was in the defendant's mind. Thus, the
3 defendant's knowledge of the agreement and its purpose can
4 be proved like anything else, from reasonable conclusions
5 drawn from the evidence.

6 It is not enough that the defendant and other
7 alleged participants in the agreement to commit the crime of
8 money laundering simply met, discussed matters of common
9 interest, acted in similar ways or perhaps helped one
10 another. The defendant must have known of the existence and
11 purpose of the agreement. Without such knowledge, the
12 defendant cannot be guilty of conspiracy even if his or her
13 acts furthered the conspiracy.

14 The defendant does not have to personally commit
15 an act in furtherance of the agreement, know about it or
16 witness it. It makes no difference which of the
17 participants in the agreement did the act. This is because
18 conspiracy is a kind of "partnership" so that under the law
19 each member is an agent or partner of every other member and
20 each member is bound by or responsible for the acts of every
21 other member done to further their scheme.

22 The act done in furtherance of the agreement does
23 not have to be an unlawful act. The act may be perfectly
24 innocent in itself.

25 It is not necessary that the government prove that

1 one or -- that more than one act was done in furtherance of
2 the agreement. It is sufficient if the government proves
3 one such act; but in that event, in order to return a
4 verdict of guilty, you must all agree which act was done.

5 If all of the elements for conspiracy to commit
6 money laundering for Count 20 have been proved beyond a
7 reasonable doubt, then you must find the defendant guilty of
8 the crime charged under that count; otherwise, you must find
9 the defendant not guilty of the crime charged under that
10 count.

11 The indictment charges that defendants Abdiaziz
12 Farah, Mohamed Ismail, Abdimajid Nur, Said Farah, Abdiwahab
13 Aftin and Mukhtar Shariff were members of one single
14 conspiracy to commit the crime of money laundering.

15 One of the issues you must decide is whether there
16 really were two or more separate conspiracies with different
17 purposes and scopes. The prosecution must convince you
18 beyond a reasonable doubt that each of the defendants named
19 above was a member of the conspiracy to commit the crime of
20 money laundering to the scope alleged in the indictment. If
21 the prosecution fails to prove this as to a defendant, then
22 you must find that defendant not guilty of the conspiracy
23 charge, even if you find that he was a member of some other
24 conspiracy, including conspiracy among a subset of the
25 smaller group to commit the crime of money laundering.

1 Proof that the defendant was a member of some conspiracy
2 other than the one alleged in the indictment is not enough
3 to convict.

4 The crime of money laundering, as charged in
5 Count 21 of the indictment, has five elements.

6 One, on or about March 11, 2021, Said Farah
7 knowingly caused a payment of a check for \$118,258;

8 Two, that check was of a value greater than
9 \$10,000 derived from wire fraud;

10 Three, Said Farah knew that the check involved
11 proceeds of a criminal offense;

12 Four, the payment of the check took place within
13 the United States; and

14 Five, the check in some way or degree affected
15 interstate commerce.

16 If all of the elements of money laundering for
17 Count 21 have been proved beyond a reasonable doubt, then
18 you must find Said Farah guilty of the crime charged under
19 that count; otherwise, you must find Said Farah not guilty
20 of the crime charged under that count.

21 For all money laundering counts, the following
22 rules and definitions apply.

23 A defendant may be found to have attempted to
24 conduct a financial transaction if he or she intended to
25 conduct a financial transaction and voluntarily and

1 intentionally carried out some act which was a substantial
2 step toward conducting that financial transaction, even if
3 the transaction was never completed.

4 The term "conducted," as used in this instruction,
5 includes initiating, concluding or participating in
6 initiating or concluding a transaction.

7 The phrase "financial transaction," as used in
8 this transaction, means a transaction which in any way or
9 degree affects interstate or foreign commerce involving the
10 movement of funds by wire or other means and/or a
11 transaction involving the use of a financial institution
12 which is engaged in, or the activities of which affect,
13 interstate or foreign commerce in any way or degree.

14 The phrase "financial institution" includes each
15 agent, agency, branch or office within the United States of
16 any person doing business, whether or not on a regular basis
17 or as an organized business concern, as a bank and/or money
18 services business. Individuals, groups of individuals and
19 businesses not formally established as financial
20 institutions may be in fact a financial institution if they
21 act in one of the capacities I have listed.

22 The phrase "interstate commerce," as used above,
23 means commerce between any combination of states,
24 territories and possessions of the United States, including
25 the District of Columbia.

1 The term "commerce" includes, among other things,
2 travel, trade, transportation and communication.

3 It is not necessary for the government to show
4 that the defendant actually intended or anticipated an
5 effect on interstate or foreign commerce. All that is
6 necessary is that interstate or foreign commerce was
7 affected as a natural and probable consequence of the
8 defendant's actions.

9 The term "proceeds" means any property or any
10 interest in property that someone derives from or obtains or
11 retains, either directly or indirectly, as a result of the
12 commission of wire fraud. It includes gross receipts of
13 wire fraud. Proceeds can be any kind of property, not just
14 money. It can conclude personal property, like a car or a
15 piece of jewelry or real property, like an interest in land.
16 So, for example, if someone robs a bank, the money he takes
17 from the teller is the proceeds of bank robbery; and if
18 someone steals a car, the car is proceeds of the theft.

19 The government is not required to trace the
20 property it alleges to be proceeds of wire fraud to a
21 particular underlying offense. It is sufficient if the
22 government proves the property was the proceeds of wire
23 fraud generally.

24 The government need not prove that all of the
25 property involved in the transaction or the transmission or

1 transfer was the proceeds of wire fraud. It is sufficient
2 if the government proves that at least part of the property
3 represents such proceeds.

4 The phrase "knew the money represented the
5 proceeds of some form of unlawful activity" means that the
6 defendant knew the property involved in the transaction
7 represented proceeds in some form, though not necessarily
8 which form, of activity that constitutes a felony offense
9 under state or federal law. Thus, the government need not
10 prove that the defendant specifically knew that the money
11 involved in the financial transaction represented the
12 proceeds of wire fraud or any other specific offense. It
13 need only prove that the defendant knew it represented the
14 proceeds of some form, though not necessarily which form, of
15 felony under state or federal law. I instruct you as a
16 matter of law that wire fraud is a felony under federal law.

17 The crime of money laundering, as charged in
18 Count 22 of the indictment, has five elements.

19 One, on or about March 15, 2021, Abdiaziz Farah
20 knowingly caused to be made a payment for approximately
21 \$500,000;

22 Two, that payment was of a value greater than
23 \$10,000 derived from wire fraud;

24 Three, Abdiaziz Farah knew that the payment
25 involved proceeds of a criminal offense;

1 Four, the payment took place within the
2 United States; and

3 Five, the payment in some way or degree affected
4 interstate commerce.

5 If all of the elements for money laundering for
6 Count 22 have been proved beyond a reasonable doubt, then
7 you must find Abdiaziz Farah guilty of the crime charged
8 under that count; otherwise, you must find Abdiaziz Farah
9 not guilty of the crime charged under that count.

10 The crime of money laundering, as charged in
11 Count 23 of the indictment, has five elements.

12 One, on or about April 15, 2021, Abdiaziz Farah
13 knowingly caused to be made a wire transfer of approximately
14 \$575,000;

15 Two, that wire transfer was of a value greater
16 than \$10,000 derived from wire fraud;

17 Three, Abdiaziz Farah knew that the wire transfer
18 involved proceeds of a criminal offense;

19 Four, the wire transfer took place within the
20 United States; and

21 Five, the wire transfer in some way or degree
22 affected interstate commerce.

23 If all of the elements for money laundering for
24 Count 23 have been proved beyond a reasonable doubt, then
25 you must find Abdiaziz Farah guilty of the crime charged

1 under that count; otherwise, you must find Abdiaziz Farah
2 not guilty of the crime charged under that count.

3 The crime of money laundering, as charged in
4 Count 24 of the indictment, has five elements.

5 One, on or about May 4, 2021, Abdiaziz Farah
6 knowingly caused to be made a wire transfer of approximately
7 \$204,795;

8 Two, that wire transfer was of a value greater
9 than \$10,000 derived from wire fraud;

10 Three, Abdiaziz Farah then knew that the wire
11 transfer involved proceeds of a criminal offense;

12 Four, the wire transfer took place within the
13 United States; and

14 Five, the wire transfer in some way or degree
15 affected interstate commerce.

16 If all of the elements for money laundering for
17 Count 24 have been proved beyond a reasonable doubt, then
18 you must find Abdiaziz Farah guilty of the crime charged
19 under that count; otherwise, you must find Abdiaziz Farah
20 not guilty of the crime charged under that count.

21 The crime of money laundering, as charged in
22 Count 24 of the indictment, has five elements as to
23 Abdimajid Nur.

24 One, on or about May 4, 2021, Abdimajid Nur
25 knowingly caused to be made a wire transfer of approximately

1 \$204,795;

2 Two, that wire transfer was of a value greater
3 than \$10,000 derived from wire fraud;

4 Three, Abdimajid Nur knew that the transfer
5 involved proceeds of a criminal offense;

6 Four, the wire transfer took place within the
7 United States; and

8 Five, the wire transfer in some way or degree
9 affected interstate commerce.

10 If all of the elements for money laundering for
11 Count 24 have been proved beyond a reasonable doubt, then
12 you must find Abdimajid Nur guilty of the crime charged
13 under that count; otherwise, you must find Abdimajid Nur not
14 guilty of the crime charged under that count.

15 The crime of money laundering, as charged in
16 Count 25 of the indictment, has five elements.

17 One, on or about May 11, 2021, Abdiaziz Farah
18 knowingly caused to be made a wire transfer of approximately
19 \$300,000;

20 Two, that wire transfer was of a value greater
21 than \$10,000 derived from wire fraud;

22 Three, Abdiaziz Farah knew that the wire transfer
23 involved proceeds of a criminal offense;

24 Four, the wire transfer took place within the
25 United States; and

1 Five, the wire transfer in some way or degree
2 affected interstate commerce.

3 If all of the elements of money laundering for
4 Count 25 have been proved beyond a reasonable doubt, then
5 you must find Abdiaziz Farah guilty of the crime charged
6 under that count; otherwise, you must find Abdiaziz Farah
7 not guilty of the crime charged under that count.

8 The crime of money laundering, as charged in
9 Count 25 of the indictment as to Abdimajid Nur, has five
10 elements.

11 One, on or about May 11, 2021, Abdimajid Nur
12 knowingly caused to be made a wire transfer of approximately
13 \$300,000;

14 Two, that wire transfer was of a value greater
15 than \$10,000 derived from wire fraud;

16 Three, Abdimajid Nur then knew that the wire
17 transfer involved proceeds of a criminal offense;

18 Four, the wire transfer took place within the
19 United States; and

20 Five, the wire transfer in some way or degree
21 affected interstate commerce.

22 If all the elements for money laundering for
23 Count 25 have been proved beyond a reasonable doubt, then
24 you must find Abdimajid Nur guilty of the crime charged
25 under that count; otherwise, you must find Abdimajid Nur not

1 guilty of the crime charged under that count.

2 The crime of money laundering, as charged in
3 Count 26 of the indictment, has five elements.

4 One, on or about May 15, 2021, Abdiaziz Farah
5 knowingly caused to be made a payment of approximately
6 \$250,000;

7 Two, that payment was of a value greater than
8 \$10,000 derived from wire fraud;

9 Three, Abdiaziz Farah knew that the payment
10 involved proceeds of a criminal offense;

11 Four, the payment took place within the
12 United States; and

13 Five, the payment in some way or degree affected
14 interstate commerce.

15 If all of the elements for money laundering for
16 Count 26 have been proved beyond a reasonable doubt, then
17 you must find Abdiaziz Farah guilty of the crime charged
18 under that count; otherwise, you must find Abdiaziz Farah
19 not guilty of the crime charged under that count.

20 The crime of money laundering, as charged in
21 Count 27 of the indictment, has five elements.

22 One, on or about May 17, 2021, Abdiwahab Aftin
23 knowingly caused to be made a wire transfer of approximately
24 \$200,000;

25 Two, that wire transfer was of a value greater

1 than \$10,000 derived from wire fraud;

2 Three, Abdiwahab Aftin knew that the wire transfer
3 involved proceeds of a criminal offense;

4 Four, the wire transfer took place within the
5 United States; and

6 Five, the wire transfer in some way or degree
7 affected interstate commerce.

8 If all of the elements for money laundering for
9 Count 27 have been proved beyond a reasonable doubt, then
10 you must find Abdiwahab Aftin guilty of the crime charged
11 under that count; otherwise, you must find Abdiwahab Aftin
12 not guilty of the crime charged under that count.

13 The crime of money laundering, as charged in
14 Count 28 of the indictment, has four elements.

15 One, on or about May 27, 2021, Mohamed Ismail
16 knowingly caused to be made a payment of approximately
17 \$137,270;

18 Two, that payment was of a value greater than
19 \$10,000 derived from wire fraud;

20 Three, Mohamed Ismail knew that the payment
21 involved proceeds of a criminal offense;

22 Four, the payment took place within the
23 United States; and

24 Five, the payment in some way or degree affected
25 interstate commerce.

1 If all the elements for money laundering for
2 Count 28 have been proved beyond a reasonable doubt, then
3 you must find Mohamed Ismail guilty of the crime charged
4 under that count; otherwise, you must find Mohamed Ismail
5 not guilty of the crime charged under that count.

6 The crime of money laundering, as charged in
7 Count 29 of the indictment, has five elements.

8 One, on or about June 1st, 2021, Abdiaziz Farah
9 knowingly caused to be made a wire transfer of approximately
10 \$206,428;

11 Two, that wire transfer was of a value greater
12 than 10,000 derived from wire fraud;

13 Three, Abdiaziz Farah knew that the wire transfer
14 involved proceeds of a criminal offense;

15 Four, the wire transfer took place within the
16 United States; and

17 Five, the wire transfer in some way or degree
18 affected interstate commerce.

19 If all the elements for money laundering for
20 Count 29 have been proved beyond a reasonable doubt, then
21 you must find Abdiaziz Farah guilty of the crime charged
22 under that count; otherwise, you must find Abdiaziz Farah
23 not guilty of the crime charged under that count.

24 The crime of money laundering, as charged in
25 Count 29 of the indictment, has five elements.

1 One, on or about June 1, 2021, Abdimajid Nur
2 knowingly caused to be made a wire transfer of approximately
3 \$206,428;

4 Two, that wire transfer was of a value greater
5 than \$10,000 derived from wire fraud;

6 Three, Abdimajid Nur knew that the wire transfer
7 involved proceeds of a criminal offense;

8 Four, the wire transfer took place within the
9 United States; and

10 Five, the wire transfer in some way or degree
11 affected interstate commerce.

12 If all the elements for money laundering for
13 Count 29 have been proved beyond a reasonable doubt, you
14 must find Abdimajid Nur guilty of the crime charged under
15 that count; otherwise, you must find Abdimajid Nur not
16 guilty of the crime charged under that count.

17 The crime of money laundering, as charged in
18 Count 31 of the indictment, has five elements.

19 One, on or about June 9, 2021, Mukhtar Shariff
20 knowingly purchased a cashier's check for approximately
21 \$250,000;

22 Two, the cashier's check was of a value greater
23 than \$10,000 derived from wire fraud;

24 Three, Mukhtar Shariff knew that the purchase of
25 the cashier's check involved proceeds of a criminal offense;

1 Four, the purchase of the cashier's check took
2 place within the United States; and

3 Five, the purchase of the cashier's check in some
4 way or degree affected interstate commerce.

5 If all of the elements for money laundering for
6 Count 31 have been proved beyond a reasonable doubt, then
7 you must find Mukhtar Shariff guilty of the crime charged
8 under that count; otherwise, you must find Mukhtar Shariff
9 not guilty of the crime charged under that count.

10 The crime of money laundering, as charged in
11 Count 32 of the indictment, has five elements.

12 One, on or about July 7, 2021, Abdiaziz Farah
13 knowingly caused a payment of approximately \$1,041,986;

14 Two, that payment was of a value greater than
15 \$10,000 derived from wire fraud;

16 Three, Abdiaziz Farah knew that the payment
17 involved proceeds of a criminal offense;

18 Four, the payment took place within the
19 United States; and

20 Five, the payment in some way or degree affected
21 interstate commerce.

22 If all the elements for money laundering for
23 Count 32 have been proved beyond a reasonable doubt, you
24 must find Abdiaziz Farah guilty of the crime charged under
25 that count; otherwise, you must find Abdiaziz Farah not

1 guilty of the crime charged under that count.

2 The crime of money laundering, as charged in
3 Count 33 of the indictment, has five elements.

4 One, on or about July 31, 2021, Abdiaziz Farah
5 knowingly caused a payment for approximately \$29,083;

6 Two, that payment was of a value greater than
7 \$10,000 derived from wire fraud;

8 Three, Abdiaziz Farah knew that the payment
9 involved proceeds of a criminal offense;

10 Four, the payment took place within the
11 United States; and

12 Five, the payment in some way or degree affected
13 interstate commerce.

14 If all the elements for money laundering for
15 Count 33 have been proved beyond a reasonable doubt, then
16 you must find Abdiaziz Farah guilty of the crime charged
17 under that count; otherwise, you must find Abdiaziz Farah
18 not guilty of the crime charged under that count.

19 The crime of money laundering, as charged in
20 Count 34 of the indictment, has five elements.

21 One, on or about August 9, 2021, Abdimajid Nur
22 knowingly caused a payment for approximately \$11,504;

23 Two, that payment was of a value greater than
24 \$10,000 derived from wire fraud;

25 Three, Abdimajid Nur knew that the payment

1 involved proceeds of a criminal offense;

2 Four, the payment took place within the
3 United States; and

4 Five, the payment in some way or degree affected
5 interstate commerce.

6 If all the elements for money laundering for
7 Count 34 have been proved beyond a reasonable doubt, then
8 you must find Abdimajid Nur guilty of the crime charged
9 under that count; otherwise, you must find Abdimajid Nur not
10 guilty of the crime charged under that count.

11 As to Hayat Nur, the crime of money laundering, as
12 charged in Count 34 of the indictment, has five elements.

13 One, on or about August 9, 2021, Hayat Nur
14 knowingly caused a payment for approximately \$11,504;

15 Two, that payment was of a value greater than
16 \$10,000 derived from wire fraud;

17 Three, Hayat Nur knew that the payment involved
18 proceeds of a criminal offense;

19 Four, the payment took place within the
20 United States; and

21 Five, the payment in some way or degree affected
22 interstate commerce.

23 If all of the elements for money laundering for
24 Count 34 have been proved beyond a reasonable doubt, then
25 you must find Hayat Nur guilty of the crime charged under

1 that count; otherwise, you must find Hayat Nur not guilty of
2 the crime charged under that count.

3 The crime of money laundering, as charged in
4 Count 35 of the indictment, has five elements.

5 One, on or about August 17, 2021, Abdimajid Nur
6 knowingly caused a payment for approximately \$64,406;

7 Two, that payment was of a value greater than
8 \$10,000 derived from wire fraud;

9 Three, Abdimajid Nur knew that the payment
10 involved proceeds of a criminal offense;

11 Four, the payments took place within the
12 United States; and

13 Five, the payment in some way or degree affected
14 interstate commerce.

15 If all the elements for money laundering for
16 Count 35 have been proved beyond a reasonable doubt, then
17 you must find Abdimajid Nur guilty of the crime charged
18 under that count; otherwise, you must find Abdimajid Nur not
19 guilty of the crime charged under that count.

20 The crime of money laundering, as charged in
21 Count 37 of the indictment, has five elements.

22 One, on or about August 21, 2021, Abdiaziz Farah
23 knowingly caused a payment for approximately \$65,005;

24 Two, that payment was of a value greater than
25 \$10,000 derived from wire fraud;

1 Three, Abdiaziz Farah then knew that the payment
2 involved proceeds of a criminal offense;

3 Four, the payment took place within the
4 United States; and

5 Five, the payment in some way or degree affected
6 interstate commerce.

7 If all the elements for money laundering for
8 Count 37 have been proved beyond a reasonable doubt, then
9 you must find Abdiaziz Farah guilty of the crime charged
10 under that count; otherwise, you must find Abdiaziz Farah
11 not guilty of the crime charged under that count.

12 The crime of money laundering, as charged in
13 Count 38 of the indictment, has five elements.

14 One, on or about September 1, 2021, Abdimajid Nur
15 knowingly caused a payment for approximately \$30,000;

16 Two, that payment was of a value greater than
17 \$10,000 derived from wire fraud;

18 Three, Abdimajid Nur knew that the payment
19 involved proceeds of a criminal offense;

20 Four, the payment took place within the
21 United States; and

22 Five, the payment in some way or degree affected
23 interstate commerce.

24 If all the elements for money laundering for
25 Count 38 have been proved beyond a reasonable doubt, then

1 you must find Abdimajid Nur guilty of the crime charged
2 under that count; otherwise, you must find Abdimajid Nur not
3 guilty of the crime charged under that count.

4 The crime of money laundering, as charged in
5 Count 39 of the indictment, has five elements.

6 One, on or about September 20, 2021, Abdiaziz
7 Farah knowingly caused a payment for approximately \$150,000;

8 Two, that payment was of a value greater than
9 \$10,000 derived from wire fraud;

10 Three, Abdiaziz Farah knew that the payment
11 involved proceeds of a criminal offense;

12 Four, the payment took place within the
13 United States; and

14 Five, the payment in some way or degree affected
15 interstate commerce.

16 If all the elements for money laundering for
17 Count 39 have been proved beyond a reasonable doubt, then
18 you must find Abdiaziz Farah guilty of the crime charged
19 under that count; otherwise, you must find Abdiaziz Farah
20 not guilty of the crime charged under that count.

21 The crime of money laundering, as charged in
22 Count 40 of the indictment, has five elements.

23 One, on or about September 21, 2021, Said Farah
24 knowingly caused a payment for approximately \$66,506;

25 Two, that payment was of a value greater than

1 \$10,000 derived from wire fraud;

2 Three, Said Farah knew that the payment involved
3 proceeds of a criminal offense;

4 Four, the payment took place within the
5 United States; and

6 Five, the payment in some way or degree affected
7 interstate commerce.

8 If all the elements for money laundering for
9 Count 40 have been proved beyond a reasonable doubt, then
10 you must find Said Farah guilty of the crime charged under
11 that count; otherwise, you must find Said Farah not guilty
12 of the crime charged under that count.

13 The crime of money laundering, as charged in
14 Count 41 of the indictment, has five elements.

15 One, on or about September 30th, 2021, Abdimajid
16 Nur knowingly caused a payment for approximately \$34,777;

17 Two, that payment was of a value greater than
18 \$10,000 derived from wire fraud;

19 Three, Abdimajid Nur knew that the payment
20 involved proceeds of a criminal offense;

21 Four, the payment took place within the
22 United States; and

23 Five, the payment in some way or degree affected
24 interstate commerce.

25 If all the elements for money laundering for

1 Count 41 have been proved beyond a reasonable doubt, then
2 you must find Abdimajid Nur guilty of the crime charged
3 under that count; otherwise, you must find Abdimajid Nur not
4 guilty of the crime charged under that count.

5 The crime of money laundering, as charged in
6 Count 42 of the indictment, has five elements.

7 One, on or about October 12, 2021, Abdiaziz Farah
8 knowingly caused a payment for approximately \$334,632;

9 Two, that payment was of a value greater than
10 \$10,000 derived from wire fraud;

11 Three, Abdiaziz Farah knew that the payment
12 involved proceeds of a criminal offense;

13 Four, the payment took place within the
14 United States; and

15 Five, the payment in some way or degree affected
16 interstate commerce.

17 If all the elements for money laundering for
18 Count 42 have been proved beyond a reasonable doubt, then
19 you must find Abdiaziz Farah guilty of the crime charged
20 under that count; otherwise, you must find Abdiaziz Farah
21 not guilty of the crime charged under that count.

22 The crime of false statement in a passport
23 application, as charged in Count 43 of the indictment, has
24 three elements.

25 One, Abdiaziz Farah submitted a passport

1 application;

2 Two, Abdiaziz Farah willfully and knowingly made
3 in that application a false statement; and

4 Three, Abdiaziz Farah acted with the intent to
5 induce or secure the issuance of a passport under the
6 authority of the United States, either for his own use or
7 the use of another, contrary to the laws and/or rules
8 regulating the issuance of passports.

9 If all the elements of false statement in a
10 passport application for Count 43 have been proved beyond a
11 reasonable doubt, then you must find Abdiaziz Farah guilty
12 of the crime charged under that count; otherwise, you must
13 find Abdiaziz Farah not guilty of the crime charged under
14 that count.

15 One of the issues in this case is whether each
16 defendant acted in good faith. Good faith is a complete
17 defense to the crimes charged. If a defendant did not act
18 with the requisite mental state as specified in the
19 instructions for each crime charged, then that defendant is
20 not guilty of the charged offenses. The essence of the good
21 faith defense is that one who acts with honest intentions
22 and without the requisite mental state cannot be convicted
23 of the crimes charged.

24 Good faith includes, among other things, an
25 opinion or belief that is honestly held, even if the opinion

1 is in error or the belief is mistaken. However, even though
2 a defendant honestly held a certain opinion or belief, such
3 as a belief that a business venture would ultimately
4 succeed, that investors would make a profit, or that
5 investors would not lose money, a defendant does not act in
6 good faith if he or she also knowingly made false or
7 fraudulent representations or promises, corruptly gave
8 money, or knowingly paid using the proceeds of a criminal
9 offense. The requisite mental state for each crime requires
10 more than proof that a defendant only made a mistake in
11 judgment or management or was careless.

12 The government has the burden of proving beyond a
13 reasonable doubt that the defendant acted with the requisite
14 mental state for each crime charged. Evidence that the
15 defendant acted in good faith may be considered by you,
16 together with all of the other evidence, in determining
17 whether or not a defendant acted with the requisite mental
18 state.

19 Intent may be proved like anything else. You may
20 consider any statements made and acts done by the defendant
21 and all the facts and circumstances in evidence which may
22 aid in a determination of the defendant's knowledge or
23 intent.

24 You may, but are not required to, infer that a
25 person intends the natural and probable consequences of acts

1 knowingly done or knowingly omitted.

2 You may find that a defendant acted knowingly if
3 you find beyond a reasonable doubt that he or she believed
4 there was a high probability that a certain fact or set of
5 facts existed and that he or she took deliberate actions to
6 avoid learning those facts. Knowledge may be inferred if
7 the defendant deliberately closed the defendant's eyes to
8 what would otherwise have been obvious to the defendant. A
9 willfully blind defendant is one who takes deliberate
10 actions to avoid confirming a high probability of wrongdoing
11 and who can almost be said to have actually known the
12 critical facts. You may not find the defendant acted
13 "knowingly" if you find the defendant was merely negligent,
14 careless, reckless or mistaken as to the facts in question.

15 Some of you may have heard the terms "direct
16 evidence" and "circumstantial evidence." You are instructed
17 that you should not be concerned with those terms. The law
18 makes no distinction between direct and circumstantial
19 evidence. You should give all evidence the weight and value
20 you believe it is entitled to receive.

21 A separate crime is alleged against each defendant
22 in each count of the indictment. Each alleged offense and
23 any evidence pertaining to it should be considered
24 separately by the jury. The fact that you find the
25 defendant guilty or not guilty of one of the offenses

1 charged should not control your verdict as to any other
2 offense charged against him or her. You must give separate
3 and individual consideration to each charge.

4 In conducting your deliberations and returning
5 your verdict, there are certain rules you must follow. I'm
6 going to list those for you now.

7 First, when you go to the jury room, you must
8 select one of your members as your foreperson. That person
9 will preside over your deliberations and discussions and
10 speak for you here in court.

11 Second, it is your duty as jurors to discuss this
12 case with one another in the jury room. You should try to
13 reach agreement if you can do so without violence to
14 individual judgment, because a verdict, whether guilty or
15 not guilty, must be unanimous.

16 Each of you must make your own conscientious
17 decision, but only after you've considered all the evidence,
18 discussed it fully with your fellow jurors and listened to
19 the views of your fellow jurors.

20 Do not be afraid to change your opinions if the
21 discussion persuades you that you should, but do not come to
22 a decision simply because other jurors think it is right or
23 simply to reach a verdict.

24 Third, if the defendant is found guilty, the
25 sentence to be imposed is my responsibility. You may not

1 consider punishment in any way in deciding whether the
2 government has proved its case beyond a reasonable doubt.

3 Fourth, if you need to communicate with me during
4 your deliberations, you may send a note to me through the
5 court security officer, signed by one or more jurors. I
6 will respond as soon as possible either in writing or orally
7 here in open court. You should not tell anyone, including
8 me, how your votes stand numerically.

9 Fifth, your verdict must be based solely on the
10 evidence and on the law which I have given to you in my
11 instructions. The verdict, whether guilty or not guilty,
12 must be unanimous as to each count. Nothing I have said or
13 done is intended to suggest what your verdict must be.
14 That's entirely for you to decide.

15 Finally, the verdict form is simply the written
16 notice of the decision that you reach in this case. You
17 will take the form to the jury room. When each of you has
18 agreed on the verdicts, your foreperson will fill in the
19 form, sign and date it, and advise the court security
20 officer that you're ready to return to the courtroom.

21 Finally, members of the jury, I have reluctantly
22 decided that you will not be allowed to go home at the end
23 of the day. Instead, you will stay together and be
24 sequestered until you reach verdicts.

25 We all realize that this will be a hardship on you

1 and that you had no opportunity to plan for it. We all
2 continue to be grateful for your service in this case.

3 You may wonder why this is necessary. In fairness
4 to both sides, it's necessary for you to stay together and
5 away from outside information.

6 You may contact your families to let them know
7 that you are sequestered until a verdict has been reached,
8 but remember you are not allowed to talk to them or anyone
9 else and they are not allowed to talk to you about anything
10 that they may have heard about this case during trial. And
11 your responsibility to avoid all media remains in place.

12 We will do everything that we can to make you as
13 comfortable as possible. The clerk of court's office is
14 going to give you more detailed information about how this
15 sequestration will be handled.

16 This is one of my least favorite parts of the
17 trial and maybe yours too. I'm going to excuse our
18 alternate jurors from deliberations as contributing jurors
19 to deliberations.

20 Now, what do I mean by that? What I mean is after
21 I excuse you, you should go to the jury room and gather your
22 belongings.

23 And I'm happy to talk to you for a few minutes,
24 although I have a legal matter that I must take into
25 consideration as well. After getting your belongings, stay

1 in the hallway. I will address you once I'm out of court.

2 What I mean by "you're excused from deliberations
3 as a contributing juror" is the following:

4 You are considered to be a "retained juror." It
5 is possible that you will be re-called to deliberate in this
6 case if one of the jurors is unable to continue. If that
7 happens, I will instruct the jury to begin the deliberations
8 anew.

9 So that means until we let you know that you are
10 completely discharged from the jury service, you must not
11 discuss the case with anyone, you must stay off social
12 media, you must not look at any media. You must follow all
13 of the instructions that I have given you throughout the
14 trial.

15 And please let Ms. Wegner know how we can reach
16 you.

17 As to the alternates, I want you to know you have
18 served equally with all of the other jurors who are going to
19 discuss the case and deliberate. You have, as you know, the
20 enormous thanks of the court and of the parties for your
21 time, for your patience and for your incredible contribution
22 to this matter.

23 Our alternate jurors are as follows: Juror
24 Numbers 91, 87, 85, 82 and 78. I will excuse you now.

25 Thank you.

1 (Alternate jurors exit courtroom)

2 THE COURT: I'll have the court security officer
3 come forward to be sworn.

4 Before I do that, are there any corrections that
5 the attorneys wish to make to the jury instructions that I
6 read?

7 MR. THOMPSON: No, Your Honor.

8 MR. IAN BIRRELL: No, Your Honor.

9 THE COURT: All right. Thank you.
10 I'll have you be sworn.

11 COURTROOM DEPUTY: Please raise your right hand.

12 (Oath administered)

13 COURT SECURITY OFFICER: I do.

14 COURTROOM DEPUTY: Thank you.

15 THE COURT: Thank you.

16 All right. Members of the jury, again, you are
17 going to get more information about the sequestration order
18 that I have made. You'll get that from the clerk's office
19 now. I'll excuse you to deliberate. Thank you, all.

20 All rise for the jury.

21

22 **IN OPEN COURT**

23 **(JURY NOT PRESENT)**

24 THE COURT: I'm going to take five minutes off the
25 bench and come back for a detention hearing.

1 (Recess taken at 4:38 p.m. till 4:46 p.m.)

2
3 **IN OPEN COURT**

4 **(JURY NOT PRESENT)**

5 THE COURT: You may all be seated.

6 Does the government wish to be heard?

7 MR. THOMPSON: Yes, Your Honor.

8 THE COURT: Go ahead.

9 MR. THOMPSON: Your Honor, the government moves to
10 detain all seven defendants in this case.

11 What happened today is really beyond the pale and
12 outrageous, and it really calls into question the integrity
13 of our courthouse and our system. The defendants here
14 intended to bribe a juror. They did bribe a juror. They
15 left a bag of \$120,000 with a juror last night and offered
16 more if that juror voted to acquit.

17 I know the defendants aren't going to stand up --
18 counsel is going to say up here, We don't know who did it.
19 Let me just say this, Your Honor. The person that went to
20 the juror's door didn't call her Juror Number 52. They said
21 her name. And if you remember back to jury selection, we
22 never spoke the jurors' names aloud. Only the parties and
23 the lawyers know the names of the jurors. So it's someone
24 in this room. And it's not, obviously, not a prosecutor.
25 It's not one of the defense counsel.

1 This case has been something that has really shook
2 the state. It's called into question our state government,
3 our system and our way of life, these defendants who during
4 COVID attacked the system, attacked a program meant to feed
5 kids systematically. And it wasn't just these seven
6 defendants and Mr. Ibrahim. There was a group of 70 people
7 and more that were involved in this broader scheme to
8 defraud the Federal Child Nutrition Program.

9 And as Your Honor knows, when MDE tried to stop
10 it, they were sued by Feeding Our Future and accused of
11 being racist and accused of being biased against defendants,
12 these defendants and others who were participating in the
13 program fraudulently.

14 And you saw that during the trial even as recently
15 as this afternoon, allegations, failed accusations of
16 racism, accusations throughout this trial against MDE,
17 against Emily Honer, against the FBI, accusations that
18 everyone -- it was everyone else's fault. That's what these
19 defendants did, and they did it throughout this case.

20 And, in fact, after the search warrants were
21 executed, two of the defendants, Abdiaziz Farah and Mohamed
22 Ismail, committed passport fraud.

23 Your Honor, they went to the passport office just
24 across the street over here, and they said, We need to get
25 an expedited passport. We have a flight booked out of the

1 country next week. And they lied about where they were --
2 what happened to their passports. Mohamed Ismail said it
3 had been stolen, and he said he had filed a police report.

4 And they tried to leave the country. Mohamed
5 Ismail was arrested at the airport. He actually drove down
6 to Rochester and flew through Minneapolis and was arrested
7 boarding a flight to Amsterdam at Minneapolis/St. Paul
8 International Airport.

9 These defendants have millions abroad -- many of
10 the defendants, not all of them, have millions of dollars
11 stashed overseas, Your Honor. And one thing you need to
12 think about with that --

13 MR. GOETZ: Your Honor, I object to this. Could
14 we limit our discussion to 3148 and those relevant factors,
15 rather than grandstanding?

16 MR. THOMPSON: This is incredibly relevant, Your
17 Honor.

18 THE COURT: I'm going to listen to everybody.

19 MR. THOMPSON: It's absolutely relevant that the
20 defendants, including Mukhtar Shariff who has sent hundreds
21 of thousands of dollars in cryptocurrency abroad, had money
22 stashed abroad.

23 And I want the court to understand that that money
24 that is stashed abroad can never be returned to the
25 United States. If the defendants try to repatriate it, it's

1 subject to seizure. It's subject to forfeiture.

2 There is now at this point an incredible risk of
3 flight because, even if the defendants are acquitted,
4 they're facing additional charges for jury tampering and
5 bribery.

6 If we figure out who did it, when we figure out
7 who did it, it's not even clear double jeopardy, if they
8 were to be acquitted, would bar their re-prosecution, I
9 don't know, but certainly they will be facing potential
10 other additional charges.

11 At this point, Your Honor, the defendants have to
12 be taken into custody. The jury's now been taken into
13 custody. These poor jurors are going to be sequestered
14 until the end of the trial. At this point there's no other
15 question.

16 And I would note one other thing, Your Honor, that
17 this morning we asked Your Honor to have the defendants turn
18 over their cell phones. And you asked them and you ordered
19 them to put them in airplane mode and hand them over to the
20 FBI.

21 Six of the seven defendants didn't put them in
22 airplane mode, they turned their phones off, which means
23 that it's going to be very difficult, if not impossible, for
24 the FBI to get into those phones ever. I'm not saying --
25 I'm just going to say that's what happened, Your Honor.

1 These defendants have worked together. They are
2 members of a conspiracy. This is a joint defense agreement.
3 They should be taken into custody, Your Honor.

4 There's no conditions or combination of conditions
5 that will assure either of their appearance in court now or
6 tomorrow or ever or, frankly, the safety of the community
7 and the integrity of this process.

8 THE COURT: So just a couple of questions. You're
9 not moving for revocation under 3148. You are moving for
10 reconsideration of detention?

11 MR. THOMPSON: Yes.

12 THE COURT: Okay. And the reasons for
13 reconsideration of detention, can you give me that statute
14 and the governing principles that you're moving under?

15 And, specifically, I understand what you just said
16 about safety, but whether you're saying that there are
17 different -- that it's risk of non-appearance or safety or
18 both.

19 MR. THOMPSON: It's both, Your Honor.

20 THE COURT: Okay.

21 MR. THOMPSON: It's both.

22 And I know that there's different standards. It's
23 a clear and convincing standard as to safety of the
24 community. That's clearly been met. There's been a
25 literally tampering with a jury. And the risk of flight

1 is -- it was already present, and it's only amplified.

2 THE COURT: And so this morning you had indicated
3 that the money was given to the custody of, I think, the
4 Spring Lake Police Department and that the FBI was going to
5 retrieve it.

6 Have you confirmed and can you represent to the
7 court that there is actually a bag of money that has been
8 retrieved and that it is in the amount that you stated
9 earlier?

10 MR. THOMPSON: We have, Your Honor. We've
11 retrieved the bag. It was in a Hallmark gift bag, \$120,000
12 in cash. It was a combination of 100s, 50s and 20s, I
13 believe. It's actually available on a publicly-filed search
14 warrant at this point.

15 THE COURT: And so the next question I have is
16 whether -- I had asked you to, or the FBI, to present a
17 search warrant to the duty judge to obtain permission to
18 actually search the cell phones that I had frozen. And I
19 have not looked at that warrant, and I'm curious whether
20 that has been signed and, if so, for how many of the
21 defendants.

22 MR. THOMPSON: It was sworn out earlier this
23 afternoon as to all seven defendants -- or the phones of all
24 seven defendants.

25 THE COURT: The phones that were handed over this

1 morning?

2 MR. THOMPSON: Correct.

3 THE COURT: All right. Thank you.

4 All right. Anything else?

5 MR. THOMPSON: Your Honor, I just want to say, I
6 guess one last thing, that there remains a serious risk that
7 the defendants will obstruct justice, and that's why they
8 need to be taken into custody.

9 It's extraordinary, if you think about it, and
10 it's easy -- I'll take a step back. Someone showed up at a
11 juror's house last night and left a bag of \$120,000 in cash.
12 Thank God that juror called 911. She could have kept it.
13 And she was promised another bag if she voted to acquit, and
14 no one would have known. And it may have occurred to her by
15 now that \$120,000 would buy you a car, a down payment on a
16 house, pay for college. If it was -- assuming the second
17 bag was the same amount, you are talking a quarter of a
18 million dollars. This can't be allowed. It can't be
19 allowed.

20 And, you know, this is a huge case. There's 70
21 defendants. 18 have pled guilty. These seven just went on
22 trial. There's 45 left. This strikes at the integrity of
23 our system. How will anyone trust any verdict in these
24 cases ever again after what's happened here today?

25 Thank you, Your Honor.

1 THE COURT: Thank you.

2 Mr. Birrell.

3 MR. ANDREW BIRRELL: So just to clarify, is the
4 government moving under 3145?

5 THE COURT: That's what it sounds like. It's not
6 a revocation issue under 3148.

7 MR. ANDREW BIRRELL: For review, okay.

8 THE COURT: It's a review.

9 MR. ANDREW BIRRELL: Well, let me begin by
10 acknowledging that the claims about a juror being approached
11 in this way are beyond shocking. They're un-American. They
12 do strike at the heart of our system. They are, I imagine,
13 especially troubling to people like us who toil in this
14 vineyard and, you know, rely on the integrity of our
15 opposing counsel and the courts and the agents. I mean,
16 it's very troubling. That said, you know, we're Americans
17 and we follow the law.

18 And what is going on here is that my client has
19 been out since November of 20 -- 2022, I believe. He's
20 attended faithfully on time every court appearance in this
21 trial. He has been respectful in every way to the court.

22 These things about the MDE suit -- I mean, these
23 are things that aren't talked about in trials. They are not
24 matters that are properly considered in terms of the release
25 or detention of a criminal defendant. I mean, he's got

1 nothing to do with that.

2 The passport issue as to, as to Mr. Abdiaziz Farah
3 is that the jury has been given an instruction on the charge
4 in the indictment, and we will see what they do with it.
5 The agent, who testified, testified that Mr. Farah never
6 tried to leave, flee, used the passport to go anywhere, as
7 best I remember his testimony.

8 I do remember that when the indictment, the first
9 indictment came out, it was a passport fraud false statement
10 case only. And when we were informed of it, Mr. Farah
11 returned from -- I think it was somewhere on the East Coast,
12 surrendered himself, and was detained for some period of
13 time until there was a change in circumstances. And he was
14 released, as I said, November 2022.

15 He has a child six years old here, a child two
16 years old here, a child six months old here, and I'm told
17 his wife is five months pregnant. So in terms of him going
18 anywhere, I think that lessens the chance that will happen.
19 It's true that he has some family in Kenya, but he's pretty
20 well planted here in the United States.

21 And what Mr. Thompson said is true. I'm going to
22 get up and say, you know, we don't know what happened. I
23 mean, I heard what happened with the juror. I'm horrified
24 and shocked. I didn't hear any evidence that said that
25 Mr. Farah had anything to do with it that would be grounds

1 for a detention change under 3145.

2 Thank you, Your Honor.

3 THE COURT: Thank you.

4 Mr. Cotter.

5 MR. COTTER: Thank you, Your Honor.

6 I'll share in Mr. Birrell's comments regarding the
7 shocking nature of finding this out and that it is
8 unprecedented. And certainly Mr. Thompson has every right
9 to, you know, be upset.

10 However, that is not -- the shocking nature of it,
11 in and of itself, especially something that is so public and
12 so being watched with other cases that come behind it,
13 should not be considered by you in determining -- and I'm
14 not suggesting you will, but it would be easy. We're all
15 human. We should not consider all of those factors.

16 The sole consideration is what evidence is there
17 now that's different than there has been for the last -- in
18 my client's case, I believe he was released in January of
19 2023, so well over a year ago, and certainly over the course
20 of the last now in our seventh week of trial, regarding two
21 things. One, some sort of new, changed risk of flight that
22 hasn't been in place all this time leading up to and through
23 this trial or the new risk posed to an individual or the
24 community at large.

25 And I'll address the flight first, because

1 obviously my client just got pointed at. You know, I've
2 been arguing this issue in hearings now for two years.

3 My client pled guilty to what he did. He served
4 his sentence, and then yet it's still going to be hung over
5 his head like he's a flight risk because of it. That, if
6 anything, is un-American and that gets me upset.

7 He's also been on a GPS monitoring that he still
8 has on his ankle right now that tracks everywhere he goes --
9 these people don't know that in the back -- everywhere that
10 he goes, and that can determine whether he has gotten out of
11 line. And he hasn't once. He has been a model pretrial
12 release candidate for now whatever it is. We're in June, so
13 a year and a half. That was after serving his sentence,
14 Your Honor.

15 There is absolutely and utterly not one iota of a
16 fact, short of the shocking nature of this allegation that
17 has yet not to even establish reasonable suspicion that my
18 client had anything to do with it, that he is currently a
19 flight risk.

20 THE COURT: Can you tell me -- understanding what
21 you just said about reasonable suspicion, the argument is
22 that a judge has found probable cause for search of all, all
23 seven defendants' cell phones for evidence of this crime,
24 and obviously a judge feels that the probable cause standard
25 has been met.

1 So can you address that issue?

2 MR. COTTER: Certainly. And I haven't seen the
3 affidavit --

4 THE COURT: Okay.

5 MR. COTTER: -- in support of that search warrant,
6 so I can't speak to -- I can assume what's in it, based on
7 the representations that have just been made.

8 Obviously, I think the basis is that we know
9 certain facts. We know a juror in this case has been
10 approached by a female, apparently. We know that that
11 person has been -- or not her -- her father-in-law was
12 offered a bag full of cash. We know that father-in-law was
13 advised that there would be another bag of cash provided
14 should there be a favorable verdict.

15 To my knowledge, that's -- and we know that
16 obviously these seven people are on trial at this particular
17 time, and therefore one could draw an inference that someone
18 that's involved in this case might have had something to do
19 with it.

20 However, Your Honor, I don't know what the tether
21 is specifically to Mr. Ismail. There is, you know, a myriad
22 of ways where this could have happened without any of these
23 people's knowledge whatsoever.

24 And the search warrant, I would say, is not for a
25 commission of a crime. It's not even for stopping them. It

1 is a search warrant for cell phone information to try to
2 ascertain whether there might be some evidence that would
3 therefore cause -- give this court cause to detain my
4 client.

5 So I think that's a key distinction for Your
6 Honor, is a search warrant for a cell phone to try to
7 ascertain if there's any evidence versus a search or an
8 arrest warrant, number one, or a search warrant for an
9 individual, like my client specifically, because there's
10 probable cause that he in fact was involved in a crime.

11 I think under the law and as it applies to this
12 case, those are two very different things as a matter of
13 law. And, therefore, I stand by my statement that while
14 there's probable cause to search cell phones, that doesn't
15 mean that there's probable cause that my client's engaged in
16 any criminal or nefarious activity whatsoever as we stand
17 here right now.

18 THE COURT: Okay. I have two other questions.

19 Number one is under 3145 one of the issues or one
20 of the factors that I need to consider is the strength of
21 the evidence, the weight of the evidence. I have now seen
22 more evidence than the magistrate judge saw at the detention
23 hearing.

24 MR. COTTER: Certainly.

25 THE COURT: Without rearguing your case, that's

1 one thing that I think I need to look at because it's a
2 factor that's set forth in the statute.

3 The second question I have is whether anybody
4 has -- is to respond to the argument made by Mr. Thompson,
5 which is that the name and address of a juror, who has been
6 referred to in court only by number for a very specific
7 reason, has gotten out to someone, to the community.

8 And those lists were at these tables, they were
9 numbered, and they were returned immediately after voir
10 dire. And I have concerns about that, and I have concerns
11 about the integrity of the process because of that.

12 MR. COTTER: Understandable. So I'll try to
13 address those concerns in turn.

14 With regard to the weight of the evidence, that is
15 a factor. And obviously there's now been a nearly
16 seven-week or whatever jury trial, and there's been a lot of
17 evidence presented.

18 But we're also at the precipice of the crux of
19 this system, which is this has been presented to a jury to
20 actually make the determinations as to how that evidence
21 should be applied to the law and what the verdict should be,
22 and I trust that they are going to do their job and do it
23 well.

24 As it pertains to flight risk, at this particular
25 juncture there are an incredible number of impediments to

1 Mr. Ismail having any opportunity. And I think that
2 juxtaposed to just that there's a weight of evidence against
3 him, especially when that is only one of the factors, is not
4 great enough to take him into detention, given his
5 compliance over a year and a half and the way that he's
6 complied after serving his sentence.

7 THE COURT: All right.

8 MR. COTTER: As it pertains to the issue of the --
9 I guess I don't know as much information as the government
10 does, so in some respect I'm arguing from the blind here,
11 Your Honor, in all fairness, but apparently there is
12 information that this -- whoever showed up at this door
13 provided a name or knew the person's name.

14 I don't have information that I can present
15 specifically. It certainly is a concern. But, again, is it
16 a concern sufficient enough to take my client into custody
17 when there's not yet been any search of any phones to
18 determine if there's any connection to my client? I'd argue
19 that there's not, Your Honor.

20 THE COURT: All right. Thank you.

21 MR. COTTER: Thank you.

22 THE COURT: Mr. Sapone.

23 MR. SAPONE: Yes. Thank you, Your Honor.

24 Your Honor, I wonder out loud what it must be like
25 for Abdi Nur, age 23, to wake up this morning, after he's

1 participated in a process for the last six weeks, I say
2 perfectly, without flaw, did nothing wrong, was on time
3 every day, although we gave a little scare this morning by a
4 few minutes, I say in jest --

5 THE COURT: We have an elevator issue.

6 MR. SAPONE: Right.

7 And the next thing he knows, the next thing he
8 learns is that someone did something reprehensible.

9 And I say publicly whoever approached that juror
10 with a bag full of cash is not only stupid, but belongs in
11 prison.

12 But imagine being Abdi Nur and you woke up this
13 morning, you've done everything right, not only for the last
14 six weeks, but since he was arrested back in September of
15 '22 and he was detained just for a matter of hours before
16 released, and he finds out that this thing happened, and now
17 his liberty might be stripped from him. How terrible that
18 must be and how wrong it is in fact, if in fact he had
19 nothing to do with it.

20 Now, we make decisions here, Your Honor, based on
21 evidence. And it was said, I say this respectfully -- you
22 know we have a very good relationship across the aisle
23 here -- that these defendants approached a juror with a bag
24 full of cash. Well, there's no evidence that Abdi Nur
25 approached anyone with anything. There's no evidence that

1 Abdi Nur even knew about it or had anything to do with it.

2 THE COURT: I think we can all agree that there's
3 been no specific allegation tying any one defendant any
4 closer to this event than any other at this point in time.

5 MR. SAPONE: Yes.

6 THE COURT: At least that has been presented to
7 me.

8 MR. SAPONE: Yes, Your Honor.

9 And without evidence, I feel respectfully that
10 it's wrong to strip someone of their liberty if they in fact
11 have done nothing wrong, if nothing has changed, and if
12 there's not one iota of evidence that they even knew about
13 it and didn't find out about it until the moment they got
14 off the 13th floor and there was a buzz because the
15 government, you know, started to tell us what was happening.

16 I think about the Bail Reform Act of 1984. And
17 the way I read it is that folks who are arrested, indicted,
18 facing charges should be at liberty unless they shouldn't
19 be, unless there's no condition or combination of conditions
20 that could reasonably assure the two-part test.

21 I think about Abdi, 23 years of age, joined the
22 U.S. Army at age 17. He's still a member of the U.S. Army.

23 In terms of his family ties, he lives here in
24 Minneapolis with his mother and his father, two of his
25 brothers and two of his sisters, and in town are six

1 siblings. They couldn't be closer as a family unit. And in
2 town are his grandparents and in town is his whole immediate
3 family.

4 In other words, he'd have no place to go and I
5 might add no means to go anywhere, because Your Honor knows
6 the circumstances which led to a certain motion that I made
7 because he couldn't even pay me.

8 And so if we think about financial resources, I
9 will share that he has three bank accounts. One at Navy
10 Federal Bank, which has nothing to do with his being in the
11 U.S. Army. It just happens to be that there's an account at
12 Navy Federal Bank. How much money is in the account? A few
13 cents, cents, not even dollars. So I don't know why they
14 don't even close the account; they should. U.S. Bank
15 there's \$90 or \$100 in that account. And Think Bank,
16 T-H-I-N-K, Think Bank where there are zero dollars in the
17 account. So he has no resources to go anywhere.

18 He's a U.S. citizen. He has a history of working
19 in the community. At age 17 he worked at JCPenney and at
20 age 18 Walmart. He's always been here and close to
21 everyone.

22 And you know, Your Honor, in his history there's
23 something very sad. He was forced to flee Somalia in 2005
24 with his, with his mother and go to Egypt, because there was
25 a civil war, and he was 4 years of age. And he knows the

1 history, although he barely remembers it. But what happened
2 was he was uprooted from his life at age 4, and now he's in
3 a different country in Egypt. At age 9 he left Egypt to
4 come to Minnesota. What's the reason? Because a civil war
5 broke out there too.

6 In other words, the history is sad and this is his
7 home. The United States of America is his home. Minnesota
8 is his home. Minneapolis is his home. He appreciates so
9 much these United States that he joined the Army because he
10 wanted to give back.

11 And he's a bright young man, and he has no
12 criminal history. He's in a criminal history category I
13 with zero criminal history points.

14 And the only thing that changed, Your Honor, and
15 this is my last point, the only thing that changed is that
16 in the wake of doing everything right since his arrest,
17 someone thought it was appropriate to go and deliver a bag
18 of cash to a juror; but it has nothing to do with him, and
19 there's no evidence that he even knew of it.

20 And so to strip him of his liberty seems wrong to
21 me, I say respectfully. But if Your Honor feels that
22 something has to happen, even though this bag of cash is
23 disconnected to him and we don't know who did it and there
24 are -- you know, I don't want to blame other people, but
25 there are 70 people indicted. Lots of motives. Lots of

1 places. It's not just a spotlight on Abdi Nur. We could --

2 THE COURT: There were only seven sets of
3 addresses given out to the defendants in this case.

4 MR. SAPONE: Yes. Yes, that's right. But even
5 there -- and I'm never going to point the finger at these
6 tables. I didn't do it in the trial. I'm not going to
7 start now.

8 THE COURT: I'm not asking you to, but I'm
9 concerned.

10 MR. SAPONE: No, I know, but that has -- excuse
11 me?

12 THE COURT: I'm concerned.

13 MR. SAPONE: Yes, I understand that. But even
14 that, Your Honor, is not Abdi Nur, because there were other
15 people in the courtroom. And so I just don't -- to me it
16 doesn't feel right to just put Abdi Nur in detention.

17 But if Your Honor feels that something has to
18 happen to Abdi Nur, even though I argue respectfully he has
19 nothing to do with it, not even knowledge, there are other
20 things that we could do, such as home confinement with
21 electronic monitoring and any special condition the court
22 sees fit.

23 So, in sum, given his age, given his spotless
24 record, given his lack of resources, given that there's not
25 one iota of evidence or information that he even knew about

1 it until he got off the elevator on the 13th floor, I ask
2 the court to consider very strongly not taking away his
3 liberty.

4 THE COURT: Thank you.

5 MR. SAPONE: Thank you.

6 THE COURT: Mr. Schleicher.

7 MR. SCHLEICHER: Thank you, Your Honor.

8 We oppose the government's motion to take Mr. Said
9 Farah into detention. I believe that really the issues
10 before the court are whether or not there's a threat to
11 public safety or whether or not he now presents a risk of
12 flight.

13 As to the risk of flight, the conditions are no
14 different, the circumstances are no different than they were
15 or have been throughout the pendency of these proceedings.
16 He does not have a passport. He cannot travel abroad. He
17 has a wife and five children. He has deep connections to
18 this community, and he's employed.

19 And I can tell the court not only is he employed,
20 but throughout this entire trial every day after session he
21 goes to work and puts in a full shift, whether it's after
22 court or on the weekends. He does not and has not taken a
23 day off and continued to do that throughout the pendency of
24 these proceedings.

25 He is a very steady, diligent person, and there's

1 no reason to believe that he is at all a flight risk.

2 As to the public safety concern, Your Honor has
3 sequestered the jury. And so the safety concerns that have
4 been raised with, specifically, with respect to jury
5 tampering no longer exist, as they would have had the jury
6 not been sequestered.

7 And so I maintain there is no reason under the
8 statutory analysis that the court must undertake to find
9 that there's a flight risk or a risk to public safety as
10 caused by Said Farah.

11 I would also ask the court to consider -- do not
12 defer to the magistrate's determination as to probable cause
13 in the search warrant. It really doesn't have anything to
14 do with your determination here. You would have to make
15 your own assessment based on the facts that you have in the
16 record in this proceeding.

17 THE COURT: Okay.

18 MR. SCHLEICHER: Thank you.

19 THE COURT: Fair. Good point. Thank you.

20 Mr. Garvis.

21 MR. GARVIS: Well, Your Honor, I obviously mirror
22 many of the sentiments that my colleagues have made.

23 And I'm trying to make sure I understand it. This
24 has obviously been a whirlwind day, trying to make sure,
25 grasping what's going on.

1 So the court is, in essence, reevaluating the
2 release conditions under 3142, is what I'm getting at. Is
3 that what's happening here, Your Honor? Is that -- make
4 sure I understand what's happening.

5 THE COURT: Yes, the reconsideration comes under
6 3145.

7 MR. GARVIS: I understand that, but we apply the
8 factors of 3142?

9 THE COURT: The factors are 3142.

10 MR. GARVIS: Well, and under those factors, Your
11 Honor, as the court's well aware, the Bail Reform Act
12 requires that pretrial release of the defendants take place
13 unless no condition or combination of conditions will
14 reasonably assure their appearance. That's the standard.
15 And then we start with the least restrictive and then go to
16 the most restrictive.

17 And, you know, I mirror what Mr. Schleicher just
18 said about the public safety aspect. Obviously, with the
19 sequestration of the jurors, that solves that issue.

20 THE COURT: Well, it doesn't solve the issue. It
21 solves the issue as to the individual jurors. It does not
22 as to their families, who are at addresses that are
23 apparently known to someone.

24 MR. GARVIS: I guess I don't know --

25 THE COURT: I just want to push back on that just

1 a little bit.

2 MR. GARVIS: Understood, Your Honor. I just
3 don't -- I don't know if that's true. I obviously don't. I
4 don't know that we have those facts. And we're somewhat
5 dealing with this in a giant vacuum.

6 And I'm not aware -- there's no way for any one of
7 these defendants or myself to sit here and tell you how, how
8 this name got out and the address. I have no idea. And
9 it's almost -- we've been put into an impossibility of
10 trying to explain it. And so for that aspect, I'm like I
11 don't know, I'm not sure.

12 It's obviously, as everybody said, horrific,
13 honestly, in this system and it's ridiculous and it -- and I
14 mirror what Mr. Sapone said; this individual should be
15 prosecuted to the full extent.

16 But if we go back to the concept of 3142 analysis
17 for my client, and we talk about the least restrictive, you
18 know, I'll start out with the concept that obviously, and
19 I'll make an offer of proof, and Mr. Thompson knows this,
20 that at the time of this indictment my client actually was
21 in Kenya and he flew home voluntarily. He then made his
22 appearance. He then was released on conditions, and he has
23 completely and utterly abided by those conditions. And just
24 like all the other defendants here, he has come here, he's
25 shown up and he's been present.

1 As it turned out, Your Honor, at that time my
2 client's wife was in Kenya, but she has now immigrated to
3 the United States. She's got her green card. She came here
4 in November.

5 My client has been here for the last ten years.
6 This is his home. He's got a job. Obviously, like almost
7 all these defendants here, there is no prior criminal
8 history whatsoever.

9 And so there are conditions and sets of conditions
10 that I think the court could impose, short of detention,
11 when we don't know specifically exactly what took place.

12 So if the court decides that there has to be
13 something that takes place, then I would ask the court to
14 consider the next steps. We do have GPS monitoring. We
15 have home detention. There's all sorts of other aspects
16 that can be employed under the statute, short of just
17 detaining people because there was a reaction. So I'd ask
18 the court to consider that.

19 THE COURT: Thank you.

20 Mr. Goetz.

21 MR. GOETZ: Your Honor, I'd ask the court to focus
22 on the law and the facts and, with all due respect, not the
23 justifiable, but baseless, moral outrage of Mr. Thompson.

24 The law is important here, Your Honor. And I
25 don't think we even have a situation before the court where

1 there's a basis for a detention hearing in the first place.

2 THE COURT: Can you talk about that?

3 MR. GOETZ: 3142(f) provides basically there can
4 be a detention hearing in two circumstances.

5 Number 1, upon motion of the attorney for the
6 government, in a case that involves a crime of violence. We
7 don't have that.

8 An offense for which the maximum sentence is life
9 imprisonment. We don't have that.

10 An offense for a maximum term of imprisonment of
11 ten years or more is prescribed by the Controlled Substances
12 Act. This is not a drug case.

13 Any felony if such person has been convicted of
14 two or more offenses. That doesn't apply to Mr. Shariff. I
15 expect it doesn't apply to any other defendant.

16 (E) any felony that is not otherwise a crime of
17 violence that involves a minor victim, that involves
18 possession or use of a firearm.

19 So we don't have that detention hearing under
20 (f) (1).

21 Then we go to (f) (2). Upon motion of the attorney
22 for the government or upon the judicial officer's own
23 motion, in a case that involves

24 (A) a serious risk that such person will flee; or

25 (B) a serious risk that such person will obstruct

1 or attempt to obstruct justice or threaten, injure, or
2 intimidate, or attempt to threaten, injure or intimidate, a
3 prospective witness or juror.

4 I expect it's under that last section that the
5 government attempts to travel.

6 However, I would note to the court that, number
7 one, when you are looking at the 3142(g) factors, you have
8 to overlay that with the 3142(f)(2) serious risk
9 enhancement, if you will, and, number two, the assessment by
10 law must be individualized. 3142(f)(2) talks about "such
11 person." 3142(g) talks about "the person."

12 So for the government to stand here as, as
13 outraged and outrageous as this incident was, but just to
14 look at all these people and say they are all guilty because
15 we know, judge, nobody else could have done it, it is
16 lacking the individualized assessment that the court must
17 apply under 3142(f) and (g).

18 As to that, Your Honor, the court is also familiar
19 that in addition to the requirement being a serious risk of
20 danger to the community safety, that must be shown by clear
21 and convincing evidence, evidence, not argument, evidence.

22 And all we have is that a bag of cash was
23 delivered to the juror's family and that, well, it must have
24 come from one of these people. Well, we don't know that. I
25 can tell you Mukhtar Shariff never had that list in his

1 possession. He didn't. He didn't take notes, nothing like
2 that.

3 So we haven't had any kind of hearing, Your Honor,
4 to present the evidence before the court where this drastic
5 remedy is appropriate.

6 And if I may address, having had the benefit now
7 to listen to the court's questions of my colleagues,
8 probable cause, that is that an offense was committed in
9 general and that evidence would be found in the place to be
10 searched. It is not probable cause that any specific
11 defendant, in particular Mukhtar Shariff, committed any
12 offense.

13 Weight of the evidence, Your Honor, that is a
14 3142(g) factor, but I submit that is not appropriate for a
15 3145 conditional release reconsideration, just because
16 you've heard the evidence in the case. If that was the
17 case, any time the government tried any case, it would be
18 saying let's reconsider detention, judge, because you've now
19 heard all the evidence. So it has to be more than that.

20 One thing I would as an offer of proof -- it may
21 or may not be. I don't know the result of those turned off
22 the phone versus putting on airplane mode. I can tell the
23 court that -- and I'm not throwing Mr. Mohring under the
24 bus. He told me to tell you this, that he mistakenly told
25 Mr. Shariff just turn off your phone quickly. He wanted to

1 get it there.

2 We will do whatever the government wants to get
3 access to that phone. They want us to turn it on, we will
4 do it. They want a passcode, we will give it to them. So
5 that is not an issue; and if it is, that's on the fault of
6 counsel.

7 Lastly, Your Honor, we're not in a Korematsu
8 situation. That obviously was much, much broader than that.
9 But we are in a case where you are taking a very
10 prophylactic approach, without any individualized suspicion,
11 upon a broad group of people. And under the -- as
12 concerning that this would be, there has to be some remedy,
13 but it's not taking all these defendants into custody at
14 this point. It is not.

15 THE COURT: Thank you.

16 Mr. Brandt.

17 MR. BRANDT: Thank you, Your Honor.

18 And I would start out my comments by agreeing with
19 Mr. Thompson and the prosecution team that it is indeed an
20 indictment on the integrity of our judicial system what is
21 alleged to have happened here. And I certainly agree with
22 that, the outrage in that.

23 Just to, I guess, echo some of the comments of my
24 colleagues, they're obviously -- and this has been brought
25 up already, that there's no individual suspicion on any one

1 specific defendant here. I understand the court's concern
2 and Mr. Thompson's concern that somebody supposedly may have
3 given out this information, but certainly keep in mind that
4 there's no individual suspicion on anyone.

5 The court had asked Mr. Cotter, and I will address
6 it too, about the issue of, you know, one of the factors the
7 court should consider is the strength of the evidence
8 against the defendant.

9 And I know that the court has sat through this
10 trial, has heard all the evidence, and it's certainly
11 something that I would ask you to consider regarding Ms. Nur
12 and in terms of the evidence against her and the role that
13 she had allegedly in this entire case.

14 This court presumably has the information that was
15 in that warrant, in terms of what's being alleged here.
16 There may have been more information obviously in the
17 affidavit, but certainly this court is aware of what's being
18 alleged here, and it's been brought up numerous times.

19 Cell phones. We likewise advised Ms. Nur to turn
20 her phone off. We thought it was going to preserve the
21 evidence. But we likewise will give the government access
22 to her phone. We have nothing to hide, and we're happy to
23 do that.

24 As far as the two big factors, flight risk and
25 public safety risk, number one is she has significant ties

1 to the community. This is probably in the initial pretrial
2 report. She's married. Her husband has been in court most
3 of the days here. She's got significant family here, her
4 mother, her father, siblings.

5 She has been consistently employed throughout the
6 pendency of these cases. She achieved her master's degree
7 shortly before these things came about and has been
8 consistently employed up until the trial, when she had to
9 take a leave to be present for the trial. Her and her
10 husband own a home. So they're certainly not a flight risk
11 by any stretch of the imagination here.

12 As a matter of fact, pretrial services did an
13 update on her pretrial detention on April, April 22nd, and
14 they noted that she was in compliance. There was one, one
15 albeit minor thing and that is she had failed to notify the
16 new address when they moved into their home.

17 But other than that, they did not recommend
18 detention, even if there were to be a conviction in this
19 case. And that was pretrial services. Like many of the
20 other defendants, she's got a clean record. She's been here
21 every day on time and has been very cooperative.

22 And so much like the -- I guess the jury's been
23 instructed to consider each individual defendant
24 individually. I'd ask the court to do that here as well.

25 And to echo Mr. Garvis's comments, there are less

1 restrictive alternatives than taking her into detention in
2 terms of assuring public safety and assuring that she return
3 to court.

4 Thank you.

5 THE COURT: Thank you.

6 Mr. Thompson.

7 MR. THOMPSON: I guess I've heard the argument
8 before that lots of people were involved and you can't tell
9 it was me. It sounds similar to the trial defense.

10 I got to say it's aggravating to stand here, Your
11 Honor, after the defendants or someone on their behalf --
12 and let's be honest; it wasn't someone outside of this.
13 Only the people in this room had the access to the list of
14 jurors and only they have the motive to bribe a juror, which
15 is what happened.

16 A bag containing \$120,000 in cash was dropped off
17 at a juror's house last night with the promise of more if
18 the juror acquitted the defendants, not a single defendant,
19 which would be an easier ask, frankly, the defendants.

20 This is not a game, Your Honor. Oh, the jurors
21 are now sequestered, so it's okay. My attempted bribery
22 didn't work, so it's okay. No, it's not, because it's not
23 just about this case.

24 You know, depending on how this jury comes back,
25 no one will have trust in it. No one will have faith in it.

1 We will never know whether another juror was approached.
2 They said they weren't. I hope -- I'm going to believe that
3 they weren't. I hope to God they weren't. But we will
4 never know for sure.

5 I got called un-American. There was a reference
6 to Korematsu, the internment of Japanese Americans during
7 World War II?

8 These defendants bribed a juror, Your Honor, or
9 someone on their behalf. Do I know which one? I don't,
10 sitting here right now at this moment, but I know that
11 they've worked together throughout this trial, that we heard
12 at length testimony at this trial about this is a community
13 of trust, that they work together, the transnational, that
14 they're -- suddenly the defendants here are all-American,
15 but during trial even as recently as this morning it was
16 they've a foot in two cultures.

17 This is what I know, Your Honor. There's every
18 reason to reassess and every reason to detain the defendants
19 here. A juror was bribed. The integrity of this process is
20 in doubt. This is the least we can do here.

21 THE COURT: Can you tell me what a person who
22 might be charged would be facing in terms of prison time?

23 MR. THOMPSON: I believe, ridiculously, it's only
24 a ten-year statutory maximum for bribing a juror, which
25 seems outrageous.

1 THE COURT: Okay. But part of my assessment is
2 additional charges mean additional risk, and part of my
3 assessment of risk of flight is an additional charge and
4 potential additional prison time.

5 MR. THOMPSON: Yes. Absolutely, Your Honor.

6 THE COURT: So that's why I ask.

7 MR. THOMPSON: Yes.

8 THE COURT: All right. Thank you.

9 I'm going to take a few minutes off the bench. I
10 will return.

11 THE CLERK: All rise.

12 (Recess taken at 5:33 p.m. till 5:46 p.m.)

13

14

IN OPEN COURT

15

(JURY NOT PRESENT)

16

THE COURT: You may all be seated.

17

The court is making the following findings.

18

The government has met its burden to show by a

19

preponderance of the evidence that no condition or

20

combination of conditions will reasonably assure that each

21

defendant's presence is assured in court as required.

22

The government has also met its burden to show by

23

clear and convincing evidence that no condition or

24

combination of conditions will reasonably assure the safety

25

of the community as to each defendant.

1 I will make written findings as to each defendant.
2 For now, let me say the following.

3 I am aware of and take seriously my responsibility
4 to treat all of these defendants individually, and I will do
5 so in orders.

6 Each of them started with significant risks of
7 nonappearance; and I have reconsidered those risks of
8 nonappearance, given in part what has happened during trial
9 and in part what has happened over the weekend.

10 I am also aware that it would be easy to react and
11 overreact to what happened over the weekend and to take
12 steps that wouldn't be appropriate.

13 But the fact that there are only seven defendants
14 and only seven people, other than attorneys, who had the
15 information to get to a juror and attempt to bribe that
16 juror doesn't relieve me of my responsibility to manage risk
17 to the community and manage risk of nonappearance.

18 The fact that I can't tell and the government
19 can't tell which of those seven are involved, if any, or one
20 or two doesn't relieve me of my responsibility to protect
21 the community and doesn't relieve me of my responsibility
22 under the Bail Reform Act. And so I am detaining all seven
23 pending a verdict in this case.

24 This juror was terrified. This juror remains at
25 risk for retaliation.

1 The jurors themselves are sequestered. They know
2 how unusual that is. They are very concerned for themselves
3 and for their families.

4 And for that reason, and for the reasons that I'll
5 set forth in a written order, I am detaining all seven
6 defendants pending verdict in this trial, based on my
7 reconsideration of detention conditions and considerations
8 under the Bail Reform Act.

9 The marshals are in the courtroom to carry out my
10 order.

11 Is there anything else that will come before the
12 court at this time with respect to the detention hearing?
13 If not, I want to address the deliberations themselves and
14 the logistics of those deliberations. Anyone?

15 MR. THOMPSON: No, Your Honor.

16 MR. GOETZ: Your Honor, just a request.

17 I understand this is an ongoing investigation, at
18 least I hope it is. I ask that the court also order that as
19 the government acquires more information that might show a
20 more particularized assessment that that be shared with the
21 defense immediately, so we can address appropriate relief
22 before the court.

23 THE COURT: I agree.

24 And I think there could be appropriate relief,
25 including a reconsideration of this decision, and would

1 welcome that. And so I will trust that the government will
2 do exactly as Mr. Goetz is --

3 MR. THOMPSON: Of course, Your Honor.

4 If at any point we determine that one or more
5 defendants was not involved in this, we will let the court
6 know immediately and we would join in a motion to
7 reconsider.

8 THE COURT: Right. All right. So I will take any
9 motion for reconsideration upon additional information.

10 Mr. Birrell.

11 MR. ANDREW BIRRELL: Well, Your Honor, I wanted to
12 talk about the jury deliberation a little bit.

13 THE COURT: We can do that. Let's do that briefly
14 because of the hour, but --

15 MR. ANDREW BIRRELL: Well, I just -- excuse me.

16 THE COURT: Yes, go ahead.

17 MR. ANDREW BIRRELL: I just wondered what the
18 process that the court envisioned about time and how close
19 we should be and that sort of thing.

20 THE COURT: So I am going to inform the jury that
21 they can deliberate in the evening, if they wish.

22 The marshals have given me assurances that they
23 will be present to keep the jury together for deliberations,
24 if the jury wishes to deliberate in the evening.

25 But I won't allow them to return a verdict in the

1 evening or on the weekend, and so a jury verdict will come
2 during business hours.

3 But I am allowing them to deliberate during the
4 evening, which means that if in the event there is a
5 question, we'll have you on cell phones as counsel.

6 And so during business hours, I want you within
7 30 minutes of the courthouse, all of you. Okay?

8 MR. ANDREW BIRRELL: Thank you.

9 MR. SAPONE: May I ask a quick question, Your
10 Honor?

11 THE COURT: Yes.

12 MR. SAPONE: We were going to be off Wednesday,
13 Thursday and Friday. And I wonder, just because of plane
14 tickets and such, what's the story with Wednesday, let's
15 say?

16 THE COURT: Wednesday, Thursday and Friday the
17 jury will deliberate.

18 MR. SAPONE: Wednesday, Thursday and Friday?

19 THE COURT: Yes.

20 MR. SAPONE: Thank you, Your Honor.

21 THE COURT: In addition, I know we have exhibits
22 and normal posttrial issues to resolve. My suggestion is
23 that representatives from -- well, you will need to address
24 that. You are all going to have to come, I guess, tomorrow
25 morning to address exhibits so that we get the exhibits in

1 the jury's hands.

2 But let's address that off the record so that
3 I ensure that we have sufficient coverage for that issue,
4 because we'll give the exhibits to the jury tomorrow
5 morning. Okay?

6 All right. Thank you, everyone.

7 MR. MOHRING: Before the record is closed --

8 THE COURT: Yeah, go ahead, Mr. Mohring.

9 MR. MOHRING: -- just a housekeeping matter,
10 judge.

11 THE COURT: Yes.

12 MR. MOHRING: But I want to renew the objections
13 that we made to the jury instructions. I'm not going to
14 argue them, but just renew those. The Eighth Circuit's
15 creativity in finding waiver is impressive, and so renewing
16 the objections that we made on the instructions.

17 That's all.

18 THE COURT: All right. I also wanted to note, and
19 I ended up liking Mr. Goetz's instruction better and used it
20 almost -- so I wanted to note that, and thank you.

21 All right. Thank you, everyone.

22 Attorneys, please stay around so we can discuss
23 the exhibits.

24 Thanks, everybody.

25 Go ahead.

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THE CLERK: All rise. Court is in recess.

(Court adjourned at 5:53 p.m., 06-03-2024.)

* * *

I, Renee A. Rogge, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Certified by: /s/Renee A. Rogge
Renee A. Rogge, RMR-CRR