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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

v. No. 2:17-cr-20238-SHL

OLUFOLAJIMI ABEGUNDE and
JAVIER LUIS RAMOS ALONSO,
Defendants.

EXCERPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE SHERYL H. LIPMAN
MARCH 11, 2019

CATHY BEST, RPR
Official Court Reporter
167 North Main Street, Suite 242
Memphis, Tennessee 38103

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APPEARANCES

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Also Present:

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EXHIBITS

NO.	DESCRIPTION	MARKED/ADMITTED
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(None Entered)

1 BE IT REMEMBERED that the above-captioned
2 cause came on for jury trial this, the 11th day of March,
3 2019, at 4:25 p.m., in the above court, before the
4 Honorable Sheryl H. Lipman, presiding, when and where the
5 following excerpt of the proceedings was had in the
6 presence of the jury, to wit:

7 (All parties and defendants present.)

8 * * * * *

9 **THE COURT:** Are we ready to start?

10 **MS. IRELAND:** Yes, Your Honor.

11 **THE COURT:** Ms. Ireland, opening statement?

12 **MS. IRELAND:** Yes, Your Honor. May it please
13 the Court, counsel.

14 Intense desires and very high hopes are what
15 brought us here today. In 2016, Mr. Ramos Alonso was in
16 love, passionately, powerfully in love. And at about
17 that same time, Mr. Abegunde had finished his MBA in
18 Texas, at Texas A&M, had a young family and had big plans
19 for a business. He was an entrepreneur, and he had a
20 plan in place to provide for his family and operate a
21 money transfer service, something like Western Union or
22 MoneyGram. Both had plans. Both were invested in their
23 plans. Both had great desires. And it's that passion
24 and that intensity that led both of them, we believe the
25 evidence will show, to cross the line, to cross a line

1 and engage in conduct that amounts to conspiracy to
2 commit the crimes that the judge just set out for you.

3 The indictment is an allegation, and what I'm
4 doing right now is telling you what the government
5 believes the evidence will show. The United States
6 believes that once the testimony is in, you will have
7 sufficient evidence before you to, beyond a reasonable
8 doubt, find each of these men responsible for the
9 incidents that they have been charged with in the
10 indictment.

11 Over the next several days you'll hear a lot
12 of testimony. You'll hear from people who have been
13 victimized by intrusions, computer intrusions, hacks,
14 whatever you would like to call them. One of the
15 technical words for that is "business email compromise."
16 You'll hear how investigators tried to investigate -- I
17 suppose that makes sense -- what happened and figure it
18 out.

19 So when something happens on the Internet,
20 when something happens online, what do you do? You don't
21 know where it came from, so you have to follow the trail.
22 And we believe the evidence will show that's exactly what
23 happened here: Agents with the FBI followed the money.

24 Because when something occurs that affects
25 other people financially, there's always a record.

1 There's a transaction to follow. There's another
2 transaction to follow. There are communications that
3 surround those transactions. And little by little the
4 pieces came together. The United States believes that
5 you will be able to see this pattern develop over the
6 course of the next couple of days.

7 Witnesses will be here to explain to you how
8 intrusions occurred, what intrusions occurred, and when.
9 The ones that start this case began in Memphis in 2016.
10 There were two intrusions involving real estate
11 transactions, one in July and one in October.

12 And once the intrusions were recognized, the
13 task was to find who committed those offenses. By
14 following the money, investigators were led, in both of
15 those instances, to Mr. Ramos Alonso. He had bank
16 accounts in California. And the money that was diverted
17 from transactions designed for the purchase of homes
18 wound up in his bank account and then it went elsewhere.
19 People who were involved in this investigation will
20 tell you how they followed it, how they pieced it
21 together.

22 Now, you need corroborating evidence as well,
23 and we anticipate that evidence will be here for you too.
24 We'll have bank records. You'll see text messages.
25 You'll hear from individuals who spoke with both

1 Mr. Abegunde and Mr. Ramos Alonso about what was
2 happening. They'll tell you what occurred, they'll tell
3 you what they observed, and you'll have the opportunity
4 to observe other details.

5 Now, conspiracy is complex. It's complicated
6 and it's messy. We believe the evidence will show there
7 is a structure in place. And we believe that you will
8 also see that each person played a part. Whether they
9 knew everybody who was involved or not, they chose
10 to engage in the conduct that they took upon
11 themselves: to move the money, to move the money
12 around, to get it somewhere else, to take their cut,
13 to play their part in a wide web of activity that
14 resulted in individuals, here and elsewhere, being
15 defrauded.

16 Now, something else you need to look for is
17 knowledge. That's going to be a big issue in this case.
18 How do you know what someone knew? How do you know what
19 someone intended? We believe the evidence will give you
20 that information. Bits and pieces come together. Things
21 from text messages, again, from emails, from what people
22 do, from what they say, and as a juror your own common
23 sense.

24 Beyond a reasonable doubt is a high burden,
25 and we expect you to hold us to that. That's what we're

1 here for. That's why we do this. Beyond a reasonable
2 doubt, that's how this system works.

3 We welcome that scrutiny, and we believe at
4 the conclusion of all the evidence there will be
5 sufficient evidence for you to find both Mr. Ramos Alonso
6 and Mr. Abegunde guilty of the crimes of which they're
7 charged.

8 **THE COURT:** Thank you, Ms. Ireland.

9 Mr. Perry.

10 **MR. PERRY:** May it please the Court.

11 Good afternoon. I stand before you on behalf
12 of Mr. F.J. Abegunde. That's the name he's gone by since
13 he's been in the United States because it's easier to
14 pronounce than Olufolajimi Abegunde.

15 Mr. Abegunde is a person who is standing here
16 before the first tribunal that he's stood before in his
17 life based on incidents that the government has indicated
18 just a few moments ago were supposedly or allegedly had
19 something to do with him. I think the proof is going to
20 show a few different things.

21 Number one, Mr. Abegunde and Mr. Ramos Alonso
22 don't know each other, have never had any communications
23 with each other, have never had any sort of dealings with
24 each other, period.

25 The second part, Mr. Abegunde in his own

1 nation grew up trying to be an entrepreneur and had the
2 idea to get to the United States to pursue that dream.
3 Along the way he set up five different businesses. Never
4 had any accusations of anything. Properly registered
5 both in Nigeria and when he was in the United States.

6 After getting a master's in finance from the
7 University of Texas A&M, he then set up a business that
8 was registered with the Department of Banking in Georgia,
9 met with the president of a banking firm in Nigeria. He
10 also is set up with the IRS. He went through an
11 intensive background check. He did everything that
12 you're supposed to do to fulfill an American dream.

13 You will see that there is zero evidence that
14 Mr. Abegunde went into anybody's account. You'll see how
15 his life since February of 2018 has been shaken upside
16 down by the United States Government, but he's waited for
17 this day patiently since that time.

18 You'll see that as of February of 2018, the
19 first time that he comes into contact with any court,
20 days earlier he was taken away from an airport in
21 Atlanta.

22 A year earlier, he had spoken with agents at
23 his house regarding a transaction that was supposed to
24 have taken place in October of 2016, which would have
25 been six months prior to the time that the agents came to

1 his house asking him questions. He invites them in and
2 talks to them and lays out answers to those questions
3 that have not been shaken at all until this day.

4 You'll find that in October of 2016,
5 Mr. Abegunde got a call regarding an account that was
6 going on that had something to do with a former friend, a
7 roommate from college, a person who he had written as a
8 director in his company, a person who had visited his
9 home during the month of August and set up a bank account
10 because he's Nigerian and didn't have the ability to put
11 a check into a bank that was local.

12 Mr. Abegunde went into that bank with the
13 friend, his name was put on the record, his address and
14 telephone number as a United States contact. Nobody
15 hiding anything.

16 Mr. Abegunde leaves. In August 2016, his
17 friend goes back home to -- they leave the bank. He
18 stays for his two-week visit. He goes back home to
19 Nigeria. While he's here, he's here for the purpose of
20 trying to -- his wife is pregnant, Mr. Ojo we're talking
21 about. His wife is pregnant. She's here with him.
22 They're here for two weeks because of the medical care
23 and services that they can get in the United States is
24 better than Nigeria. They leave. No question.

25 During that time, Mr. Abegunde is going about

1 the business of doing what he does, and you'll see what
2 the evidence shows that business to be.

3 This case is simply about the fact that
4 Mr. Abegunde does a legitimate business that has a great
5 deal of money. He hasn't gone into anybody's account.
6 And I don't think the government has anybody to show that
7 he went into a business email compromise with any person
8 in the Western District of Tennessee, let alone in
9 Nigeria, let alone in Texas, let alone in any state in
10 the United States or anyplace else in the world.

11 The witness -- I guess the evidence is also
12 going to show that they executed a search warrant when
13 Mr. Abegunde is taken from that airport, arrested while
14 he's there trying to change flight plans. He goes to the
15 airport in Atlanta back in February of 2018, changing
16 flight plans with a friend for a vacation. The evidence
17 is going to show that when he's taken away from that
18 airport the only thing he has with him is his laptop that
19 he went in with to change the flight plans. They're
20 having a good time, talking about going to the Dominican
21 Republic, yadda, yadda, yadda.

22 He gets arrested, attempts to hand his laptop
23 to his friend while he's getting arrested, and all of a
24 sudden he's a flight risk. His immigrant status is good.
25 His visa is good.

1 The evidence is also going to show that when
2 agents testify as to his flight risk, that they're kind
3 of misleading, that they're indicating that he might be a
4 flight risk because "we think he was trying to leave the
5 country to abscond a case" that he had no idea existed.

6 I think the evidence is also going to show
7 that this same entrepreneur, who has the ability to have
8 a lot of money in different accounts, simply conducted
9 his business and he reported everything that he was doing
10 along the way.

11 The evidence is also going to show that when
12 agents came to his home and were discussing a transaction
13 that took place by his friend Mr. Ojo that had something
14 to do with a person who he had never met before, he was
15 candid.

16 He talked to them about the fact that he had
17 designed systems on the Internet to avoid fraudulent
18 transactions, that he was FinCEN trained, that not only
19 was he FinCEN trained but he was a person who talked to
20 them about the different schemes that some people from
21 his native country had been doing.

22 The evidence is going to show that from this
23 day he has been waiting -- or from that day, rather, he's
24 been waiting for this day, for this week.

25 So what I ask that you do is that you listen

1 intensely, not only to the fact that there might be piles
2 of evidence regarding whatever they say that they might
3 have regarding money being taken or, I guess, an email
4 account being breached.

5 We're not going to attack any of that. There
6 are going to be times that I'm going to listen, listen,
7 and I'm going to listen just like you-all, take notes,
8 and I might not ask a single question because I don't
9 have any doubt that some email was compromised in
10 Memphis, Shelby County, Tennessee.

11 But when they say that it had something to do
12 with Mr. Abegunde, then there will be attacks on that
13 because to this day I haven't seen it, and I'm confident
14 that over the next four or five days you won't see it.

15 I would sit down normally at this point
16 because I'd say that's all that the evidence is going to
17 show. But you notice that there wasn't any information
18 regarding what the government was planning to show as it
19 relates to marriage fraud.

20 While Mr. Abegunde is sitting in jail for the
21 first time in his life as a Nigerian immigrant in the
22 United States, the person who he had married and then
23 been married to for two years and had a contractual
24 relationship to be married with, he was contacting her
25 regarding this case.

1 While he's talking to her, there's certain
2 data and information that he's sharing with her that had
3 nothing to do with any sort of email compromise, stealing
4 money, hiding anybody else's money, et cetera, and all of
5 a sudden the compass changes. It's not so much that
6 there was a breach of an email in -- or some sort of
7 money from the Western District of Tennessee as much as
8 an exploration into whether or not he's properly married.

9 And I think the evidence is going to also show
10 that the person who he's talking to, who's still his
11 lawfully married wife, who can't get any sort of
12 annulment or anything like that because that marriage is
13 lawful, ends up pleading guilty because she's in the
14 military based on her information regarding what the
15 government can prove as it relates to her. I'm assuming
16 she's going to come and testify to that fact.

17 Her testimony will have not one scintilla of
18 evidence regarding a breach of an email, any sort of
19 theft or anything at all that Mr. Abegunde is supposed to
20 have done, and Mr. Garrett can speak on behalf of his
21 client, but nothing regarding what he's supposed to have
22 done at all.

23 So by the end of the day, the term "fishing
24 expedition" will be used consistently because you will
25 see what this case is about by the end of this week.

1 Thank you, Your Honor.

2 **THE COURT:** Thank you, Mr. Perry.

3 Mr. Garrett.

4 **MR. GARRETT:** Thank you, Your Honor. May it
5 please the Court, counsel.

6 **THE COURT:** Why don't you move that mike up
7 your lapel some.

8 **MR. GARRETT:** Is that better, Your Honor?

9 **THE COURT:** Yeah. Thank you, Mr. Garrett.

10 **MR. GARRETT:** Thank you.

11 Ladies and gentlemen, I have the honor of
12 coming before you to represent Mr. Ramos Alonso along
13 with the assistance of Mr. André Thomas. Our case, our
14 position, our involvement in this case is completely
15 different from, I suggest to you, what you've heard from
16 the government and what you've heard from counsel for the
17 codefendant in this case. Because, you see, we're not
18 complicated. We're not sophisticated. We haven't
19 figured out yet why we're here.

20 Mr. Ramos Alonso fell in love with
21 Tammy Dolan. Mr. Alonso is the victim of an online
22 dating scam. Mr. Alonso is not complicated.

23 In July of 2014 when this conspiracy
24 supposedly started, Mr. Alonso was working as a
25 dishwasher cook at a Japanese restaurant in Seaside,

1 California.

2 He knows nothing about Mr. Perry's client.

3 He knows nothing about any other conspirator or
4 co-conspirator in this case. He is a conspirator,
5 allegedly. He is a co-conspirator with whom? Can you be
6 a co-conspirator with an unknown person? Probably so,
7 legally.

8 But, you see, the government, in the
9 indictment in this case, alleged that Mr. Alonso
10 committed conspiracy, engaged in a conspiracy to commit
11 wire fraud.

12 But as a part of the description in the
13 indictment at paragraph 28 that was read to you by the
14 Court before this case started, it says that it was a
15 part of the conspiracy that members of the conspiracy
16 would seek out and identify potential money deals, both
17 witting and unwitting, through the perpetration of
18 various online scams, including romance scams. They just
19 described Mr. Alonso.

20 If he was a conspirator or a co-conspirator,
21 he was an unwitting conspirator or co-conspirator.
22 Unwitting. Not knowing. He didn't know that he was
23 engaging in any fraudulent conduct. Unaware. He was not
24 aware that he was engaging in any fraudulent conduct.
25 All he knew was that he was in love with Tammy. He was

1 hopelessly in love, because he had fallen victim to an
2 online dating scam and fell in love with Tammy Dolan.

3 He didn't know until the government came to
4 visit him in July of 2016 Tammy Dolan didn't even exist.
5 There was no Tammy Dolan. They exchanged emails over a
6 three-year period, professing their undying love for each
7 other, how they can't wait to get together.

8 She's in Africa. He's in California. But,
9 you see, her father died and left her a huge sum of
10 money. She's got problems getting back to the United
11 States because of -- her family has abandoned her. She
12 has no one. She caught her best friend having sex with
13 her boyfriend in her bed. She was victimized and she
14 needed help. And she was looking for someone and she
15 found Mr. Alonso, who was working as a dishwasher and a
16 cook at a Japanese restaurant. Twenty-five years old,
17 had no social life, living in an apartment with his
18 uncle -- two uncles, coming home in the evening, bored
19 and lonely, get on the Internet trying to find a
20 relationship, and he fell into this trap. Tammy got him.

21 He spent every dime he had in savings sending
22 money to Tammy for her to come to America to be with him.
23 See, Tammy was born, according to her on the online scam,
24 in Brockton, Massachusetts. Her father worked for an oil
25 company as a big executive all over the world. Tammy was

1 his auditor. But then her father died.

2 Her father left her a huge sum of money, but
3 it was in Nigeria and she couldn't get it back to the
4 states. She needed assistance. But within a week after
5 they met online, she started asking Mr. Alonso for
6 assistance, \$900, \$1,000, \$2,000, \$5,000.

7 Mr. Alonso depleted all of his savings,
8 borrowed all he could borrow, bought tickets from Nigeria
9 to California five times trying to get Tammy. He fell in
10 love with a dream. He didn't know anything about any
11 scam. He did whatever Tammy asked him to do. We are
12 going to send money to -- this is the -- this money, I
13 need you to send it to these individuals because this is
14 what's necessary to get the big money that we got coming.
15 Mr. Alonso, "I don't care about that. I just want you to
16 come. I want to be with you. I want to have your
17 children. I want to run" -- hopelessly in love.

18 I don't know why he is here. He never knew
19 that he had done anything wrong. He doesn't know
20 Mr. Abegunde. He knows nobody else. He's never
21 deposited a dime in an account. Tammy had him to give
22 her his account numbers so she could send money there so
23 he could give the money to the individuals that was
24 assisting her in getting to America and getting back to
25 the states and getting her inheritance back to the

1 states. And he fell for the whole thing.

2 And when the government agents first
3 interviewed him is when they first found out that he had
4 been victimized, that Tammy Dolan did not exist. And
5 they admonished him: Have nothing else to do with Tammy
6 Dolan. You have been victimized. This -- you are the
7 victim of a scam.

8 He had nothing else to do with Tammy Dolan.
9 He cooperated with the government. He gave them all of
10 the emails and communications that he had had between
11 them and never knew until they knocked on the door, "You
12 come go with us." He's still trying to figure it out.

13 **THE COURT:** Mike, Mr. Garrett.

14 **MR. GARRETT:** Thank you, Judge.

15 **THE COURT:** It's not picking you up.

16 **MR. GARRETT:** Is that better, Your Honor?

17 **THE COURT:** I think it may be backwards.

18 **MR. GARRETT:** I'll hold it, Judge.

19 **THE COURT:** Okay. You got it.

20 **MR. GARRETT:** But in any event, we don't know
21 a thing about what they're talking about about these high
22 finance situations. He is a simple, uneducated,
23 hard-working young man that fell victim to an online
24 romance scam, and here he is charged with major felonies
25 and been in prison and arrested for these charges that he

1 knows nothing about. Never been arrested before. Never
2 been in trouble before. But he is now in your hands.

3 Mr. Alonso is a victim here. We don't have a
4 clue as to what these high finance situations they're
5 talking about, what that's all about. We shouldn't be on
6 that side of the table. We should be over here.

7 Thank you.

8 **THE COURT:** Thank you, Mr. Garrett.

9 It's a quarter to five. There's at least one
10 issue with a car at five. Does anyone else have an issue
11 with a car at five? Several. All right. We need to
12 take that break and let people deal with the car. We are
13 going to come back. There's at least one witness we need
14 to get on today.

15 So it's a quarter to five. I'm going to give
16 you until 5:00. Go get it done in 15 minutes? Yeah.
17 All right. So we're going to take a 15-minute break.
18 Don't talk to anybody about the case, including each
19 other. Keep the juror badge on. Don't talk to the
20 people involved in the case. Back in 15 minutes. Thank
21 you.

22 (Jury out at 4:50 p.m.)

23 **THE COURT:** Mr. Garrett, I'm going to take
24 your mike, get a hammer out and destroy it because it
25 doesn't seem to be working and was driving me nuts. It

1 was coming in and out. I know it was driving everyone
2 else nuts too.

3 **MR. GARRETT:** It was suggested to me that
4 maybe my battery is gone, Your Honor.

5 **THE COURT:** We've got some sort of a dead zone
6 issue somewhere. I don't know. But we need to get that
7 one out of commission.

8 Anyone have anything else before the break?

9 **MS. IRELAND:** No, Your Honor.

10 **THE COURT:** All right. Fifteen minutes.
11 Thank you.

12 **THE CLERK:** All rise. This court is now in
13 recess.

14 (Recess taken at 4:52 p.m.)

15 **THE COURT:** Anything before we bring the jury
16 back?

17 **MS. IRELAND:** No, Your Honor.

18 **MR. PERRY:** No, Your Honor.

19 (Jury in at 5:07 p.m.)

20 **THE COURT:** You all may be seated. All right.
21 We're good to go for another half-hour or so? Yeah?

22 **THE JURY:** (Affirmative response.)

23 **THE COURT:** Okay. Ms. Ireland, call your
24 first witness.

25 **MS. IRELAND:** Yes, Your Honor. The United

1 States calls James Traynor.

2 **THE CLERK:** Please raise your right hand and
3 be sworn.

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JAMES TRAYNOR,

having been first duly sworn, was examined
and testified as follows:

THE CLERK: You may take the witness stand.

THE COURT: You may proceed.

MS. IRELAND: Thank you, Your Honor.

DIRECT EXAMINATION

BY MS. IRELAND:

Q. Good evening -- or afternoon. Would you make sure
that the microphone is close to your mouth so that the
court reporter and the jury can hear you well.

A. Hi.

Q. Very good. Would you, please, introduce yourself.

A. I'm James Traynor.

Q. How do you spell your last name?

A. T-R-A-Y-N-O-R.

Q. Mr. Traynor, what do you do?

A. I'm a freelance technologist.

Q. What do you mean when you say "technologist"?

A. I help people with their computers and their
websites --

Q. Okay.

A. -- and their email.

Q. How long have you been doing that?

A. Fifteen years.

DIRECT - JAMES TRAYNOR

25

1 Q. Okay. Were you doing this in 2016 then?

2 A. Definitely.

3 Q. What kind of problems do you help people with?

4 A. Well, I help drive customers to your business, or
5 I'll build a website, or I will help you have better
6 email, or depending who you are -- I have a wide range of
7 clients that have different needs.

8 Q. Okay. What about things like hacking or problems
9 with intrusions?

10 A. I don't specialize in that, but I encounter that a
11 lot, and I have experience in that.

12 Q. Okay. In 2016, July specifically, did any of your
13 clients contact you about an intrusion?

14 A. Yes, and specifically Angie Kirkpatrick did.

15 Q. How do you know Angie Kirkpatrick?

16 A. I've been helping her with her computers for a
17 while. She's got a tablet, an iPhone, and a MacBook.

18 Q. Okay. Do you know what Angie does for a living?

19 A. She's a real estate agent.

20 Q. And where does she practice her craft?

21 A. I believe at Crye-Leike.

22 Q. And is that in Memphis, Western District of
23 Tennessee?

24 A. It is.

25 Q. Okay. When Ms. Kirkpatrick contacted you, did she

DIRECT - JAMES TRAYNOR

26

1 explain the nature of her problem?

2 A. Yes.

3 Q. What did she tell you?

4 A. That she had been hacked and robbed and needed
5 help.

6 Q. Okay. What was the first thing you did in order to
7 help her figure things out?

8 A. Sure. Well, even before this happened, I advised
9 her to get off of Yahoo! Mail because it's really
10 insecure, and it's hacked all the time. And I tell all
11 my customers who are on Yahoo! to get off Yahoo!

12 So she had moved to Gmail. And at this point she
13 was on Gmail, but she was using a weak password. And
14 that, I think, led to her being hacked. And so I told
15 her to make a stronger password and enable two-step
16 verification.

17 Q. Were you able to verify whether or not her Gmail
18 was, in popular terms, "hacked"?

19 A. Yes. Google has tools that you can use. You can
20 login and see where people have logged into your account
21 from other places. So there were logins to her account
22 that were not from Tennessee.

23 Q. And does the Google tool tell you where those
24 logins occur from?

25 A. Yes. In this case, there was a login from the

1 continent of Africa.

2 Q. Okay. And did anything else stand out when you
3 looked at the history of logins to the account that
4 Angie Kirkpatrick had?

5 A. No, that was enough. That really stands out,
6 yeah.

7 Q. Did you take any other actions in this case?

8 A. I did speak with Google to confirm what I had
9 already read from the tool, and then I made sure that she
10 made a stronger password, and I talked her through the
11 setting up of her two-factor authentication.

12 Q. To the best of your knowledge, is she using that
13 now?

14 A. Yes. She told me today she hates it.

15 **MS. IRELAND:** Okay. Mr. Traynor, I don't
16 think I have any further questions for you. The other
17 attorneys may have some questions for you.

18 Your Honor, we'll pass the witness.

19 **THE COURT:** Thank you, Ms. Ireland.

20 Mr. Perry, any questions?

21 **MR. PERRY:** No cross-exam, Your Honor.

22 **THE COURT:** Thank you.

23 Mr. Garrett, any questions?

24 **MR. GARRETT:** None, Judge.

25 **THE COURT:** Thank you.

1 Sir, you may be excused.

2 (Witness excused.)

3 **THE WITNESS:** Thank you.

4 **THE COURT:** Thank you.

5 Next witness.

6 **MR. FLOWERS:** The United States calls

7 Angie Kirkpatrick.

8 Your Honor, do you have a preference whether

9 I'm at the front lectern or the back lectern?

10 **THE COURT:** I don't. I'll go with your
11 preference.

12 **THE CLERK:** Please raise your right hand to be
13 sworn.

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ANGIE KIRKPATRICK,

having been first duly sworn, was examined
and testified as follows:

DIRECT EXAMINATION

BY MR. FLOWERS:

Q. Good late afternoon, Ms. Kirkpatrick. Could you,
please, state your name and spell it for the record.

A. Angie Kirkpatrick. A-N-G-I-E,
K-I-R-K-P-A-T-R-I-C-K.

Q. And how are you employed, ma'am?

A. I'm self-employed.

Q. In what capacity?

A. I'm an independent contractor as a realtor, and I'm
affiliated with Crye-Leike.

Q. When you say "independent contractor," what do you
mean by that?

A. It means that I'm responsible to pay my own taxes,
to earn my own money and everything else that one has to
take care of.

Q. So what are your responsibilities as a real estate
agent for Crye-Leike?

A. My job is finding and helping buyers and sellers
buy and sell homes.

Q. And in what region do you work?

A. I work in the Greater Memphis Area.

DIRECT - ANGIE KIRKPATRICK

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1 Q. Is that in the Western District of Tennessee?

2 A. That's in Tennessee.

3 Q. Okay. So I want to direct your attention to
4 July 25, 2016. On or around that date, were you involved
5 in the sale of a property at 115 Brookhaven Circle in
6 Oakland, Tennessee?

7 A. I was. I represented the seller in that.

8 Q. And who was the seller?

9 A. John Hester.

10 Q. And based on your role in the transaction, do you
11 have personal knowledge of the circumstances surrounding
12 it?

13 A. You mean the circumstances that --

14 Q. Around the sale of the house, ma'am.

15 A. That involved coming -- my being in court today or
16 just the general --

17 Q. Yes, ma'am, involving you being in court today.

18 A. Okay. The seller went to the attorney's office,
19 and I was present with him for the closing.

20 Q. Okay. Let's back up here. You mentioned the word
21 "closing." What do you mean by "closing"?

22 A. Closing is when he signs all the documents over so
23 that the property can be sold to the buyer. If he
24 doesn't release the documents and release the house, the
25 buyer is not going to be able to buy it.

DIRECT - ANGIE KIRKPATRICK

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1 Q. You also mentioned an attorney. Who is the
2 attorney you're talking about?

3 A. The attorney was William Maxwell.

4 Q. Where is Mr. Maxwell located? Where was he
5 located?

6 A. He was located at 51 North Cooper, Memphis,
7 Tennessee 38104.

8 Q. Could you, please, briefly describe the closing
9 process of this particular transaction?

10 A. This particular transaction was a little bit
11 different from most transactions. Invariably when you go
12 to a closing, the seller is armed with the information to
13 give to the attorney to know where the funds will be
14 transferred to. The seller did not have his checking
15 account information with him, so he couldn't give the
16 attorney the routing information for the funds to be
17 wired to him.

18 I had previously done another transaction with the
19 seller where he had been a purchaser, and I had in my
20 file at my office a copy of an earnest money check that
21 he had given me. So it was agreed upon that I would get
22 that information and email it to the attorney so he would
23 have the routing number.

24 Q. Do you remember what email address you used,
25 Ms. Kirkpatrick?

DIRECT - ANGIE KIRKPATRICK

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1 A. I do. I used my Gmail account.

2 Q. What was that email address?

3 A. Angie@angiesellsmemphis.com.

4 Q. Okay. And you said you emailed that to the
5 attorney. To whom did you email it?

6 A. I emailed the information on that with the routing
7 information to William Maxwell.

8 Q. Now, with the transaction we're talking about, did
9 everything finish as planned with that transaction,
10 Ms. Kirkpatrick?

11 A. Other than the seller getting any money, yes.

12 Q. Okay. What do you mean by that?

13 A. Well, after I had emailed Mr. Maxwell, apparently,
14 he received another email that looked as though it came
15 from me. It had the same signature. And in it, it
16 stated "Would you, please, forward the funds to the Bank
17 of -- I think it was Bank of America account in
18 California." I didn't see that at that time. This took
19 place, I think, on a Friday.

20 So it might have been Monday or Tuesday that
21 Mr. Maxwell told me that he had been notified by Bank of
22 America that they had put a hold on the account because
23 of unusual activity. And when he showed me the email, I
24 was horrified because it didn't come from me. So he had
25 sent the money to the wrong account.

UNREDACTED TRANSCRIPT

DIRECT - ANGIE KIRKPATRICK

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1 Q. Do you happen to remember the name that was on the
2 account to where he sent it?

3 A. Yeah, the name -- and this is why I was surprised
4 that he sent it: The name said John Hester Alonso.

5 Q. And was there --

6 A. John Hester was, in fact, the seller, but he was
7 certainly not an Alonso.

8 Q. Was there any particular Alonso connected with the
9 transaction?

10 A. Absolutely not.

11 Q. When you spoke to Mr. Maxwell, you said you
12 believed, if I'm understanding you correctly, that you
13 spoke to him either on Monday or Tuesday after the 25th.

14 A. Uh-huh.

15 Q. Was that close in time to where he found out about
16 the hold on the bank?

17 A. That was pretty much as soon as he had found out, I
18 think.

19 Q. What was his reaction?

20 A. Well, I mean, he was horrified and devastated. I
21 mean, he had sent \$154,000 off out into the world to, you
22 know, some unknown person.

23 Q. And who was the intended recipient, again, of those
24 funds, Ms. Kirkpatrick?

25 A. John Hester.

DIRECT - ANGIE KIRKPATRICK

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1 Q. Now, did Mr. Hester ever receive those funds?

2 A. He finally received, I think, approximately
3 100,000, which was not withdrawn from the account. It
4 took him more than ten months. Bank of America,
5 acknowledging it was his money, because it was under
6 federal investigation couldn't release it for a long
7 time.

8 The remainder, Mr. Maxwell acknowledged
9 responsibility for. And I think he gave him about 14 or
10 \$15,000. He also gave him an IOU, which was a promissory
11 note, which was to be due on the 1st of February, 2016.

12 Q. Now, to your knowledge, was that IOL -- IOU, pardon
13 me, ever realized in any way?

14 A. Well, Mr. Maxwell died January the 28th of that
15 year.

16 Q. So how has this whole episode affected you?

17 A. Well, obviously I was devastated, devastated for my
18 seller who was not a wealthy man. This was a huge amount
19 of money. He did put a claim against Mr. Maxwell's
20 estate, which only came out of probate a couple of weeks
21 ago, and was advised by the attorney that there was
22 insufficient funds for him to be paid and any money
23 available from the estate would go to the attorneys.

24 Q. And have you had to change your practices at all as
25 a result of these circumstances?

CROSS - ANGIE KIRKPATRICK

35

1 A. I think I, as well as many other people, have. We
2 now instruct people that under no circumstances do we
3 ever give routing information in any form of writing. It
4 has to be done verbally or in person.

5 **MR. FLOWERS:** Your Honor, at this time, I
6 believe I don't have any additional questions for
7 Ms. Kirkpatrick.

8 **THE COURT:** Thank you, Mr. Flowers.

9 Mr. Perry, any questions?

10 **MR. PERRY:** Just a few questions.

11 **THE COURT:** Okay.

12 **CROSS-EXAMINATION**

13 **BY MR. PERRY:**

14 Q. Your name is pronounced Ms. Kirkpatrick?

15 A. Yes, sir.

16 Q. Ms. Kirkpatrick, just going back to that
17 transaction, you were the actual realtor involved,
18 correct?

19 A. I was.

20 Q. And you said it went through a closing attorney's
21 office?

22 A. It did.

23 Q. And you were there and, I guess, you had the
24 settlement transcripts and all those different documents
25 and things like that. Y'all had transferred all of that

CROSS - ANGIE KIRKPATRICK

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1 back and forward, in other words. You had provided your
2 side of the deal by the time you got to the closing --

3 A. My purpose there -- actually, I'm the least
4 important person in that event. I'm really there just as
5 a courtesy to the seller to say thank you and to be there
6 were there any questions. But the process of the
7 documentation has got nothing to do with me at that
8 point.

9 Q. That's my understanding as well. The loan
10 originator and all of that type of --

11 A. Everybody else is important, not me.

12 Q. All right. And you're here today to testify as to
13 the fact that your email was compromised.

14 A. It was.

15 Q. And you said that there was a name related to that
16 email, correct, that you're aware of?

17 A. That there was...

18 Q. That there was some name that you said that -- the
19 email that evidently had breached or compromised, you
20 indicated somebody's name a few moments ago. You said
21 that the email was associated with another place.

22 A. I'm not sure that I understand the question.

23 Q. Let me ask it this way: Had you ever been aware
24 of, back during that time, when the breach was occurring,
25 anything to do with the name F.J. Abegunde?

CROSS - ANGIE KIRKPATRICK

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1 A. I had not.

2 Q. And did the email that was used, to your knowledge,
3 or any -- in any way that misappropriated anything that
4 you're here on today have anything to do with the name
5 Abegunde or F.J. Williams or anything along those lines?

6 A. No. The only name that was on an email that I was
7 unfamiliar with was the name Alonso.

8 Q. Okay. That was kind of the question that I'm
9 getting at.

10 A. I see.

11 Q. It had nothing to do, from my understanding, with
12 Mr. Abegunde that sits to my left right here at the
13 table?

14 A. It did not.

15 **MR. PERRY:** Thank you.

16 **THE COURT:** Thank you, Mr. Perry.

17 Mr. Garrett, any questions?

18 **MR. GARRETT:** Yes, ma'am. May I ask for some
19 assistance with my equipment?

20 **MR. FLOWERS:** Coleman, do you just want mine?

21 **MR. GARRETT:** I think I just don't know how to
22 turn it on.

23 **THE COURT:** We can help with that.

24 **MR. GARRETT:** As you can tell, I'm not an
25 IT person. I don't even know where this off-and-on

1 button is.

2 **CROSS-EXAMINATION**

3 **BY MR. GARRETT:**

4 Q. Ms. Kirkpatrick, my name is Coleman Garrett, ma'am.

5 Let me ask you a couple of questions. You mentioned an
6 email that you said had the name John Hester Alonso on
7 it.

8 A. Yes, sir.

9 Q. Do you know where that email came from?

10 A. It looked as though it came from my email account.
11 The signature and the address, it purportedly came from
12 me.

13 Q. Do you know who created that email?

14 A. Well, it certainly wasn't me.

15 Q. Do you know who did it?

16 A. No, sir.

17 Q. Do you know where it originated from? I know you
18 said it looked right from your account, but do you know
19 where it originated from?

20 A. I don't understand technology enough to have any
21 idea where it originated from, no.

22 Q. Do you know who was responsible for sending that
23 email?

24 A. All I know is that it wasn't me.

25 Q. Did you ever meet anyone by the name of Alonso?

REDIRECT - ANGIE KIRKPATRICK

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1 A. No.

2 Q. Ever heard the name Ramos Alonso?

3 A. No.

4 Q. Do you know whether that person named Ramos Alonso
5 had anything to do with the creation of this email?

6 A. No, I only know that his name was on the email,
7 asking for the money to be sent to an account in his
8 name.

9 Q. And you don't know who put that name on the email,
10 do you?

11 A. I don't know who sent the email.

12 Q. Or where that name came from?

13 A. No.

14 **MR. GARRETT:** That's all, Your Honor.

15 **THE COURT:** Thank you, Mr. Garrett.

16 Any redirect?

17 **MR. FLOWERS:** Maybe just two questions, Your
18 Honor, if I may.

19 **REDIRECT EXAMINATION**

20 **BY MR. FLOWERS:**

21 Q. Ms. Kirkpatrick, did you ever go back at a later
22 date to try and find that email again?

23 A. I did.

24 Q. And what did you find in that situation?

25 A. I can't find any record of it. I can't find any

1 record of it in my Trash, in my spam, or anywhere. It's
2 all been wiped out of my Inbox.

3 **MR. FLOWERS:** No further questions, Your
4 Honor.

5 **THE COURT:** Thank you, Mr. Flowers.
6 You may step down, Ms. Kirkpatrick.

7 **THE WITNESS:** Thank you.

8 **THE COURT:** Thank you.

9 (Witness excused.)

10 * * * * *

11 (END OF REQUESTED PROCEEDINGS)

12 I certify that the foregoing is a correct transcript, to
13 the best of my skill and ability, from the record of
proceedings in the above-entitled matter.

14 /s/ Cathy Best December 13, 2019
15 Official Court Reporter

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