

1                   IN THE UNITED STATES DISTRICT  
2                   FOR THE WESTERN DISTRICT OF TENNESSEE  
3                   WESTERN DIVISION

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4  
5 UNITED STATES OF AMERICA,

6                   Plaintiff,

7 vs.

NO. 2:17-cr-20238

8 OLUFOLAJIMI ABEGUNDE,

9                   Defendant.

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13                   SENTENCING HEARING

14  
15                   BEFORE THE HONORABLE SHERYL H. LIPMAN, JUDGE

16  
17                   Tuesday

18                   22nd day of October, 2019

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23                   CANDACE S. COVEY, RDR, CRR  
24                   OFFICIAL REPORTER  
25                   FOURTH FLOOR FEDERAL BUILDING  
                  MEMPHIS, TENNESSEE 38103

UNREDACTED TRANSCRIPT

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A P P E A R A N C E S

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1 Tuesday

2 October 22, 2019

3 The continuation of the Sentencing hearing in this  
4 case began on this date, Tuesday, 22nd day of October, 2019,  
5 at 1:00 p.m., when and where evidence was introduced and  
6 proceedings were had as follows:

7

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9

10 THE COURT: Good afternoon.

11 MS. IRELAND: Afternoon, Your Honor.

12 MR. FLOWERS: Good afternoon, Your Honor.

13 MR. PERRY: Good afternoon, Your Honor.

14 THE COURT: All right. I'm determined that this  
15 is going to be the last day that we set for this sentencing.  
16 We are going to get it done. All right. Are y'all ready to  
17 proceed?

18 MR. PERRY: Yes, Your Honor.

19 MR. FLOWERS: Yes, Your Honor.

20 THE COURT: I am going to sort of start again to  
21 reflect everything that's now in the record. So I've got a  
22 presentence report with three addenda. I've got the  
23 Government's position paper, the Government's response to the  
24 Defendant's motion that was to exclude the information they  
25 had submitted. And then the most recent Government's

1 supplemental position paper.

2 For the Defendants, I've got that initial  
3 position paper. I've got the memo to exclude the  
4 demonstrative conduct. And then I've got the most recent  
5 supplemental sentencing memo. Anything else I should have  
6 related to the sentencing?

7 MR. FLOWERS: I believe that's it, Your Honor.

8 MR. PERRY: No, Your Honor.

9 THE COURT: Mr. Perry, have you and Mr. Abegunde  
10 read and discussed the presentence report?

11 MR. PERRY: We have, Your Honor.

12 THE COURT: All right. The Defendant objected  
13 first, and I think I noted this before in the two other times  
14 we've been here. The Defendant objected to numerous factual  
15 assertions which don't go to the calculation of the  
16 guidelines. And we talked about those before. Those are  
17 noted for the record, but there's nothing for me to determine  
18 related to those objections. Do you all agree?

19 MR. PERRY: Yes, Your Honor.

20 THE COURT: Okay. So the first objection that we  
21 keep getting to -- or the next objection goes to  
22 paragraph 47. And that goes to the amount of the loss. It  
23 is my understanding from reading you all's submissions that  
24 we have additional proof today on that issue. I think that's  
25 one of the issues. Mr. Perry had mentioned at the last

1 sentencing that the Defense wanted to offer proof. I think  
2 also the Government has proof today too; is that correct?

3 MR. FLOWERS: Yes. And if I may add a point to  
4 that. We have two witnesses here, both of whom are in the  
5 courtroom. I don't know if the Court has a preference on  
6 asking them to -- one of them to sit outside the courtroom  
7 while the other testifies or anything along those lines.  
8 That's point one.

9 Point two, am I on? Are you sure you can hear  
10 me?

11 THE COURT: I can hear you. I think you're on.  
12 Yeah, you're on.

13 MR. FLOWERS: We had a third witness, Ms. Rachel  
14 Aller who missed her flight. So she was unable to make it in  
15 time. So we dismissed her from the subpoena. We would ask  
16 that Special Agent Marcus Vance relay the summary as relayed  
17 to him in an interview that he conducted with her just about  
18 her experience. It will be very brief, Your Honor.

19 THE COURT: Okay.

20 MR. FLOWERS: It was a very brief interview is my  
21 understanding. Special Agent Vance would also, depending on  
22 the two witnesses who go before him, also potentially  
23 introduce some exhibits for the Court's consideration. Just  
24 a few. No more than probably four to five, Your Honor.

25 THE COURT: Okay. As to the first question, are

1 the witnesses related to the same matter?

2 MR. FLOWERS: No more than just being the same  
3 case. But they don't have overlapping conduct or anything  
4 like that, Your Honor.

5 THE COURT: Okay. Mr. Perry, your position?

6 MR. PERRY: As it relates to the witnesses --  
7 relating, I guess, to a summary of what a witness plans to  
8 testify to, I understand that in these proceedings that some  
9 of the hearsay rules are somewhat relaxed, but if it's going  
10 to proof regarding loss in this particular instance, I think  
11 it goes -- I feel unless the proof is going to be that the  
12 witness was a part of some business e-mail compromise and  
13 that's the summary, I would say that the Court could relate  
14 that, but anything as it relates to a particular witness, the  
15 loss, how that witness had a loss that was connected to  
16 Mr. Abegunde, I don't think it's fair, Your Honor. As it  
17 relates to the missing witness.

18 Now, to the evidentiary presentation that the  
19 Government has, as long as I have the ability to cross  
20 examine, at this point I don't think I'm in a position to  
21 object to it. But as it relates to a witness that's not  
22 here, I don't think it's fair for the Court to consider that.

23 THE COURT: Okay. Let's -- I'll hear the  
24 testimony and address the weight of the testimony based on  
25 the fact that it would be hearsay as we go along. But it



1 sounds like you don't have an objection to the two witnesses  
2 who are connected, I guess, to two different things both  
3 being in the courtroom at the same -- while the others  
4 testify. The first being in the courtroom while the  
5 second is -- one being in the -- you know what I mean.  
6 You're not going to call for the rule.

7 MR. PERRY: Right. I'm not going to call for the  
8 rule in this instance.

9 THE COURT: All right. You may proceed.

10 MR. FLOWERS: Yes. Thank you, Your Honor. The  
11 Government calls Mrs. Anne Maples.

12 And may I approach, Your Honor, to be at the  
13 lectern?

14 THE COURT: Yes.

15 Come on up, ma'am. If you would, stop at that  
16 podium.

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**TESTIMONY OF ANNE MAPLES**

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\* \* \*

**ANNE MAPLES,**

was called as a witness and having first been duly sworn testified as follows:

**DIRECT EXAMINATION**

**BY MS. FLOWERS:**

Q. Good afternoon, ma'am.

A. Good afternoon.

Q. Could you please state your name and spell it for the record?

A. My name is Anne, A-N-N-E. Maples, M-A-P-L-E-S.

Q. And where are you from?

A. Mobile, Alabama.

Q. Do you also live there?

A. Yes.

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

A. 72.

Q. And what was your career?

A. I'm a retired schoolteacher.

Q. And what do you do now?

A. I sit for elderly people.

Q. What does that mean?

A. I'm a caregiver.

Q. Now, Mrs. Maples, I want to take you back to 2016. Do

**TESTIMONY OF ANNE MAPLES**

11

1 you remember getting a facebook invitation from someone you  
2 went to school with?

3 A. Yes, I do.

4 Q. Would you please explain the circumstances of that?

5 A. Well, I had gotten a facebook friend request from a  
6 former classmate, and I had forgotten that I had friended her  
7 already, so I friended her, thinking it was my classmate.  
8 And that's how it started. And I was thinking I was talking  
9 on facebook to my classmate.

10 Q. Now, Mrs. Maples, you said that is how "it" started.  
11 What do you mean by "it"?

12 A. That is how the conversation began between the scammer  
13 and myself.

14 Q. Now, were you told that you had won a prize,  
15 Mrs. Maples?

16 A. Yes. I was told I would win \$250,000 if I did certain  
17 things.

18 Q. So -- and were you sent any documentation to prove  
19 that you had won that \$250,000?

20 A. I was sent two certificates with my name on it. One  
21 saying that I could win a prize for \$250,000.

22 Q. Now, at that time, did you have any reason to doubt  
23 that message that was coming from someone you thought was  
24 your friend?

25 A. Not really. No, sir.

**TESTIMONY OF ANNE MAPLES**

12

1 Q. Why not, ma'am?

2 A. Well, I just thought my friend had received it, so I  
3 thought maybe that I could.

4 MR. FLOWERS: Your Honor, may I approach?

5 THE COURT: Yes.

6 MR. FLOWERS: May I question from the witness  
7 stand?

8 THE COURT: Yes.

9 BY MR. FLOWERS:

10 Q. Let me show you this first document. Do you recognize  
11 that?

12 A. Yes, I do.

13 Q. What is that, ma'am?

14 A. That is the certificate that they sent me that I was  
15 the beneficiary of \$250,000.

16 Q. Is that a true and accurate copy of what you saw?

17 A. Yes, sir.

18 Q. Does your name appear on that?

19 A. Yes, it does.

20 Q. Does the amount also appear on that?

21 A. Yes, it does.

22 MR. FLOWERS: Your Honor, at this time I'll offer  
23 this into evidence for the Court's consideration at  
24 sentencing.

25 THE COURT: Exhibit 1. Any objection, Mr. Perry?

**TESTIMONY OF ANNE MAPLES**

13

1 MR. PERRY: No objection. No objection, Your  
2 Honor.

3 THE COURT: Okay.

4 (WHEREUPON, the above-mentioned document was  
5 marked as Exhibit Number 1.)

6 BY MR. FLOWERS:

7 Q. It's the same with regards to this one, ma'am. I'm  
8 showing you this document. Do you recognize that?

9 A. Yes, I do.

10 Q. And what is that?

11 A. That is a winner's certificate with my name on it  
12 saying that I have won \$250,000.

13 Q. Is that a true and accurate copy of the certificate  
14 that was sent to you?

15 A. Yes, sir. It is.

16 MR. FLOWERS: Your Honor, at this time the  
17 Government moves to admit this for the Court's consideration.

18 THE COURT: Exhibit 2.

19 (WHEREUPON, the above-mentioned document was  
20 marked as Exhibit Number 2.)

21 BY MR. FLOWERS:

22 Q. I'll show you both of these, Mrs. Maples.

23 THE COURT: Could you bring them around and let  
24 her mark them, or are they already marked?

25 MR. FLOWERS: I just put the stickers on them. I

**TESTIMONY OF ANNE MAPLES**

14

1 didn't put the numbers on them, Your Honor.

2 THE COURT: Okay.

3 MR. FLOWERS: May I move this? I'm sorry. I  
4 didn't ask.

5 THE COURT: Yeah, yeah, yeah.

6 MR. FLOWERS: That's -- my apologies. I should  
7 have known to ask ahead of time. I'm sorry about that.

8 THE COURT: Thank you. I can see it over here.  
9 It's not up there.

10 MR. FLOWERS: Okay. I can see it in front of me  
11 as well, so... Mr. Perry, are you able to see it there?

12 MR. PERRY: I can see the screen. Yes. I can  
13 see your hand. Thank you.

14 BY MR. FLOWERS:

15 Q. This is what has been admitted as Government's 1. So  
16 down here in the right-hand corner, do you see my finger,  
17 Mrs. Maples?

18 A. Yes, sir.

19 Q. It mentions an Agent Horn. Do you know an Agent Horn?

20 A. No, I do not.

21 Q. And it also -- does it indicate that you have been  
22 approved?

23 A. Yes, it does.

24 Q. Okay. I'm going to switch to Government's 2 then.  
25 Are you able to see that on your screen, ma'am?

**TESTIMONY OF ANNE MAPLES**

15

1 A. Yes, sir.

2 Q. And again, I will point my finger to an Agent Horn.  
3 Is that the same Agent Horn that was on the first document,  
4 Mrs. Maples?

5 A. Yes, it is.

6 Q. Do you know that Agent Horn?

7 A. No, I do not.

8 Q. Now, Mrs. Maples, you also mentioned that you had to  
9 send things. What exactly were you asked to send?

10 A. Well, the first thing I was asked to send was \$300 so  
11 that it was a fee to be approved.

12 Q. And where were you supposed to send that money from?

13 A. I was supposed to send that from -- well, it wasn't  
14 Wells Fargo. It was from...

15 Q. Do you have notes with you, ma'am?

16 A. Yes, I do.

17 MR. FLOWERS: Your Honor, may she refer to her  
18 notes?

19 THE COURT: Yes.

20 A. It was sent from -- I do not have that on my notes.  
21 It was sent from -- not Wells Fargo but it was sent from...

22 BY MR. FLOWERS:

23 Q. Are you familiar with Western Union, ma'am?

24 A. Yes, sir. It was sent from Western Union.

25 Q. Are you also familiar with MoneyGram?

**TESTIMONY OF ANNE MAPLES**

16

1 A. Yes, I am.

2 Q. Were you told to send money from either of those  
3 services?

4 A. Yes. I was told to send to both of them. Western  
5 Union did not accept, but the MoneyGram did accept the 300.

6 Q. Now, did you know the individuals to whom you were  
7 sending money?

8 A. No, I did not.

9 Q. Were you also asked to deposit money into Wells Fargo  
10 accounts?

11 A. Yes, I was.

12 Q. What were some of the reasons you were given why you  
13 needed to send money, Mrs. Maples?

14 A. Well, I needed to send money first of all because of a  
15 registration fee, which was \$300. And then I was asked to  
16 send money to pay for television fees and cameras when they  
17 presented me the check of \$250,000.

18 Q. So can you speak a little bit more about that?  
19 Television fees, what exactly does that mean?

20 A. Well, that included the cameras coming to my house.  
21 The representatives -- the people giving me the check for  
22 \$250,000.

23 Q. Did you ever send off the money for that fee, for the  
24 TV fee?

25 A. Yes, I did.



**TESTIMONY OF ANNE MAPLES**

17

1 MR. FLOWERS: Your Honor, may I approach?

2 THE COURT: Yes.

3 BY MR. FLOWERS:

4 Q. I'm showing you a document, ma'am. Do you recognize  
5 that?

6 A. Yes, sir. I do.

7 Q. What is that?

8 A. That is a receipt from the check that I deposited into  
9 a unknown person's account.

10 Q. And for what amount?

11 A. For \$4,500.

12 Q. Now, there's a notation at the top. Do you see that?

13 A. Yes, I do.

14 Q. Do you recognize that?

15 A. Yes. That's my handwriting.

16 Q. And is this a true and accurate copy of that deposit  
17 slip?

18 A. Yes, sir. It is.

19 MR. FLOWERS: At this time the Government would  
20 move to admit this into evidence for the Court's  
21 consideration.

22 THE COURT: Exhibit 3.

23 MR. FLOWERS: Yes, ma'am.

24 (WHEREUPON, the above-mentioned document was  
25 marked as Exhibit Number 3.)

**TESTIMONY OF ANNE MAPLES**

18

1 MR. FLOWERS: And Your Honor, I have two more  
2 exhibits for Mrs. Maples.

3 THE COURT: Could you show me that one just on  
4 the screen?

5 MR. FLOWERS: Yes, absolutely. Can you see that,  
6 Mr. Perry?

7 MR. PERRY: I can see it here. I'm just trying  
8 to see if we can turn it.

9 BY MR. FLOWERS:

10 Q. Now, Mrs. Maples, do you see my finger on the screen?

11 A. Yes, I do.

12 Q. To what is it pointing?

13 A. It's pointing to the account number that belonged to  
14 the person that I put the money in.

15 Q. Did you know that individual?

16 A. No, I did not.

17 Q. And after depositing that money, did you receive  
18 \$250,000?

19 A. No, I did not.

20 MR. FLOWERS: Your Honor, may I approach?

21 THE COURT: Yes.

22 BY MR. FLOWERS:

23 Q. Do you recognize that, Mrs. Maples?

24 A. Yes, sir. I do.

25 Q. What is that?

**TESTIMONY OF ANNE MAPLES**

19

1 A. This is -- they asked me to send them some money.  
2 \$5,500 for fire services because the truck had caught on  
3 fire.

4 Q. And what was the -- I'll get to those questions in a  
5 minute. My apologies. At the top, there's handwriting.  
6 Whose handwriting is that?

7 A. That's my handwriting.

8 Q. And is this a true and accurate copy of the deposit  
9 receipt?

10 A. Yes, sir. It is.

11 MR. FLOWERS: Your Honor, at this time the  
12 Government moves to admit this into evidence for the Court's  
13 consideration.

14 THE COURT: Exhibit 4.

15 (WHEREUPON, the above-mentioned document was  
16 marked as Exhibit Number 4.)

17 MR. FLOWERS: Your Honor, I will place that on  
18 the Elmo.

19 THE COURT: Okay.

20 BY MR. FLOWERS:

21 Q. Mrs. Maples, can you see that?

22 A. Yes, sir.

23 Q. Again, my finger is pointing to an account number.  
24 What account number is that?

25 A. That's an account number that I deposited \$5,500 in

**TESTIMONY OF ANNE MAPLES**

20

1 for fire services on the truck.

2 Q. And did you deposit your money?

3 A. Yes. I deposited my money.

4 Q. And did you know the individual into whose account you  
5 were placing money?

6 A. No, sir. I did not.

7 MR. FLOWERS: Your Honor, may I approach?

8 THE COURT: Yes.

9 BY MR. FLOWERS:

10 Q. Do you recognize that, Mrs. Maples?

11 A. Yes, sir. I do.

12 Q. What is that?

13 A. This is a receipt for sending them \$15,000 -- \$15,650  
14 that they requested because the truck did not have fire  
15 insurance. So I had to pay for the truck that caught on  
16 fire.

17 Q. Now, do you see handwriting at the top of that  
18 document?

19 A. Yes, I do.

20 Q. Whose handwriting is that?

21 A. That's my handwriting.

22 Q. Now, is this a true and accurate copy of the receipt?

23 A. Yes, sir. It is.

24 MR. FLOWERS: Your Honor, at this time the  
25 Government moves to admit this into evidence.

**TESTIMONY OF ANNE MAPLES**

21

1 THE COURT: Exhibit 5.

2 (WHEREUPON, the above-mentioned document was  
3 marked as Exhibit Number 5.)

4 BY MR. FLOWERS:

5 Q. Mrs. Maples, do you see my finger?

6 A. Yes, I do.

7 Q. Could you please read those four numbers?

8 A. 7132.

9 Q. And was that the account into which you were told to  
10 deposit money?

11 A. Yes, it was.

12 Q. Did you know the individual who owned the account?

13 A. No, I did not.

14 Q. Now, when you paid the \$15,650, whose money was that?

15 A. That was my money.

16 Q. Now, in stepping back, were these the only -- the  
17 transactions we just discussed, were they the only times that  
18 you sent money, Mrs. Maples?

19 A. No, sir.

20 Q. All told, how much of your own money did you send?

21 A. I sent 70,000.

22 Q. Did you ever receive \$250,000?

23 A. No, I did not.

24 Q. Now, from where were you pulling this money, from  
25 where were you getting this money?

**TESTIMONY OF ANNE MAPLES**

22

1 A. I was getting this from my savings account, and then I  
2 was getting it from a line of credit that my husband and I  
3 set up before he passed away.

4 Q. Now, why did you ultimately stop sending money,  
5 Mrs. Maples?

6 A. Well, I had -- one of my daughters had an insurance  
7 policy for my husband and me and for me after he passed away  
8 that we could pull money from. And so I asked her if I could  
9 borrow \$30,000 from that. And with my daughter being an  
10 attorney, she was kind -- she said mom, what have you done.  
11 And I told her.

12 Q. Now, Mrs. Maples, you mentioned that your husband  
13 died. When did your husband die?

14 A. He died March the 31st, 2016.

15 Q. Now, when you were sending all this money, what was  
16 your state of mind at that time?

17 A. Well, I was in so much grief. I was not really  
18 cognizant of all that I was doing. I was just kind of like  
19 in a daze.

20 Q. And when you finally stopped sending money, how did  
21 you feel about what you had done?

22 A. Well, I felt -- I felt betrayed. I felt -- I guess I  
23 felt guilty because I knew my husband would not have allowed  
24 this to happen if he was living. And I just felt violated.

25 Q. How has -- how, if at all, has this impacted you since

**TESTIMONY OF ANNE MAPLES**

23

1 your experiences?

2 A. Well, it has affected me physically. I was in the  
3 hospital in January and in March -- or May. And it just  
4 affected me physically. I wasn't taking care of myself. I  
5 stuffed my emotions, which that's what I've done all my life.  
6 And it's affected me spiritually, and it has affected me  
7 emotionally. And I just really felt bad about doing it  
8 because I knew even though my husband is in heaven, I knew --  
9 somehow I knew he knew that I betrayed what I thought -- what  
10 he thought I should have known better.

11 Q. Now, are you still bearing the financial consequences?

12 A. Yes, I am. I have to work in order to pay my bills.

13 Q. And do you know who did this to you, Mrs. Maples?

14 A. I do not.

15 Q. If you had an opportunity to say something to the  
16 people who scammed you, what would you say?

17 A. I would let the person know that he violated my  
18 integrity. My emotional, spiritual, physical, medical issues  
19 in my body. And I do not want this ever to happen to anybody  
20 else because I know how I was very vulnerable at that time  
21 because I was not in the best state of mind. And I do not  
22 want this to happen to anybody. And I'm -- I just feel  
23 violated.

24 MR. FLOWERS: May I have a moment, Your Honor?

25 THE COURT: Yes.

**TESTIMONY OF ANNE MAPLES**

24

1 MR. FLOWERS: Your Honor, the Government passes  
2 the witness.

3 THE COURT: Mr. Perry?

4 MR. PERRY: Thank you, Your Honor.

5 MR. FLOWERS: May I retrieve my notebook? I'm  
6 sorry.

7 THE COURT: Yes.

8 MR. FLOWERS: Thank you.

9 **CROSS-EXAMINATION**

10 **BY MR. PERRY:**

11 Q. Mrs. Maples, a few moments ago you were asked about  
12 the person who might have done this to you. Do you see to my  
13 right a man that's sitting at that table in the brown  
14 uniform, do you see him?

15 A. Yes, I do.

16 Q. And you're here today, this is a sentencing hearing.  
17 He had a trial several months ago, like six or seven months  
18 ago, and he was found guilty of money laundering, amongst  
19 things, and we're here today because the Court is trying to  
20 consider what amounts of money might have had anything to do  
21 with him. Okay? Do you understand that?

22 A. Yes.

23 Q. And has it been explained to you what a sentencing  
24 hearing is? I heard you say that your daughter is an  
25 attorney?



**TESTIMONY OF ANNE MAPLES**

25

1 A. Correct.

2 Q. I'm assuming that you've also met with people from the  
3 Government?

4 A. Yes. I did this morning.

5 Q. Do you understand that Mr. Abegunde at no time during  
6 this investigation has ever been accused of sending anything  
7 via facebook or any information like that to you or anyone  
8 else? Do you understand that?

9 A. I'm not aware of that.

10 Q. Likewise, do you understand that he's never been  
11 accused of having had any sort of sweepstake or identified  
12 himself as somebody who's trying to get money from a  
13 sweepstake? Do you understand that?

14 A. I don't know anything about that.

15 Q. Okay. And here today as it relates to Mr. Abegunde,  
16 I'm going to ask some questions of you because that's my job.  
17 Do you understand?

18 A. Okay.

19 Q. All right. You said something a few moments ago about  
20 some of the receipts. And you said that something had to do  
21 with fire services. Did the fire services have something to  
22 do with a sweepstake?

23 A. Yes. Because the money was in the truck.

24 Q. What truck?

25 A. That was going to come and be delivered to Mobile.

**TESTIMONY OF ANNE MAPLES**

26

1 Q. And is that your understanding of what the sweepstake  
2 was? It wasn't, in other words, a cash sweepstake?

3 A. Yes. It was a cash sweepstake.

4 Q. You were supposed to receive a truck also?

5 A. I was supposed to -- the truck was bringing the money,  
6 they said.

7 Q. Did you ever talk to the person or anybody over the  
8 phone directly, or was it all through some application  
9 involving facebook?

10 A. All through facebook.

11 Q. Did you -- when you said that there was an insurance  
12 for a truck, did you ever actually see a truck?

13 A. No, I did not.

14 Q. And did anyone ever indicate that they were trying to  
15 sell you a truck?

16 A. No.

17 Q. You said that you sent money, and it seems that money  
18 went to two different accounts. Can you see that on your  
19 screen?

20 A. Yes, I can.

21 Q. Do you see the account that has 7132?

22 A. Yes, I do.

23 Q. That's a Wells Fargo account. Is that the account  
24 that you sent the money to?

25 A. That's the account that I sent the \$15,650 to.

**TESTIMONY OF ANNE MAPLES**

27

1 Q. Okay. And I'm going to show you another account here  
2 in a second. This 5626?

3 A. Yes.

4 Q. And did you also send money to that account?

5 A. Yes, I did.

6 Q. And it appears to be slightly different than the  
7 \$15,650 transaction?

8 A. Yes.

9 Q. All right. I want to show you just the other receipt  
10 that I see, and it's been marked as Exhibit 3. This seems to  
11 bear the same account number, that 5626 number.

12 A. Yes.

13 Q. That seems to have the same identifiers as the place  
14 where you sent the money that was allegedly for the fire  
15 services, right?

16 A. Yes. It's the same number.

17 Q. And I've just -- just out of an -- what we're trying  
18 to do, and I also want to make sure that the record is  
19 correct that on the money, the \$15,000, that seems to have  
20 gone to one specific account that's different. That's all  
21 that I'm trying to point out.

22 A. Yes.

23 Q. All right. Have you ever had any conversations with a  
24 person regarding buying and selling money or any sort of  
25 funds in another country?

**TESTIMONY OF ANNE MAPLES**

28

1 A. No, I have not.

2 Q. Related to this transaction. Not at any point in your  
3 life but as relates to these transactions that were  
4 supposedly a part of you receiving a sweepstake. Did anybody  
5 ever talk about anything as far as selling money or trying to  
6 buy money from another nation?

7 A. I'm not aware of it.

8 Q. And on the facebook post, you said you received  
9 something via facebook, I guess an invitation, and you said  
10 that you knew that person at the time. In other words, you  
11 thought you were connecting with a person on facebook, a  
12 classmate, an old friend of yours?

13 A. Yes.

14 Q. It turns out, I'm assuming, that that person was not  
15 the person who you were sending this money to, right?

16 A. Yes, sir.

17 Q. But you're clear that it was via facebook?

18 A. Yes, sir.

19 Q. Okay.

20 MR. PERRY: I don't have anything further at this  
21 time.

22 THE COURT: Thank you, Mr. Perry.

23 Mr. Flowers, any redirect?

24 MR. FLOWERS: Just very briefly, Mrs. Maples.

25 **REDIRECT EXAMINATION**

**TESTIMONY OF ANNE MAPLES**

29

1 **BY MR. FLOWERS:**

2 Q. When you were sending money, were you often sending it  
3 to different accounts bearing different names?

4 A. Yes, sir. I was sending it to different people with  
5 different accounts at Wells Fargo. I was sending it to Fast  
6 Money to different people. Many different people. Many  
7 different accounts.

8 Q. Did you ever speak to any of those individuals over  
9 the phone?

10 A. No, I did not.

11 MR. FLOWERS: Your Honor, I have no further  
12 questions, Your Honor.

13 THE COURT: All right. Thank, you Mrs. Maples.  
14 You may step down.

15 THE WITNESS: Thank you.

16 THE COURT: Next witness, Mr. Flowers.

17 MR. FLOWERS: The Government calls Mrs. Karina  
18 Rodriguez.

19

20

21

22

23

24

25

**TESTIMONY OF KARINA GARCIA**

30

1 \* \* \*

2 **KARINA GARCIA,**

3 **was called as a witness and having first been duly sworn**  
4 **testified as follows:**

5  
6 **DIRECT EXAMINATION**

7 **BY MR. FLOWERS:**

8 Q. Good afternoon, ma'am.

9 A. Good afternoon.

10 Q. Could you please state your name and spell it for the  
11 record?

12 A. It's Karina, K-A-R-I-N-A. Garcia, G-A-R-C-I-A.

13 Q. Where do you currently live?

14 A. In Phoenix, Arizona.

15 Q. How are you employed, ma'am?

16 A. I work at Banner hospital in Phoenix. I'm a medical  
17 assistant.

18 Q. What is that, ma'am?

19 A. Oh, I assist nurses with patients.

20 Q. And have you always lived in Phoenix?

21 A. No.

22 Q. When did you move there?

23 A. I moved in August 2017.

24 Q. Now, before we get into your move, can you tell us a  
25 little bit about your family?

**TESTIMONY OF KARINA GARCIA**

31

1 A. Yes. It's my husband and I, and we have ten children  
2 together. Three are in college, and we currently have seven  
3 children with us.

4 Q. Now, when you were moving from California, why were  
5 you moving?

6 A. We were in the process of moving to Phoenix. My  
7 husband got a job offer there. And we were in the process of  
8 moving from Modesto to Phoenix.

9 Q. How would you describe the circumstances of moving  
10 from California to Phoenix? What was it like?

11 A. It was very stressful.

12 Q. And did you find a place to live?

13 A. We were in the process of finding a place to live. My  
14 husband and I were looking for houses on craigslist. And we  
15 actually did find a couple of houses.

16 Q. Now, did you actually come to what you thought was an  
17 agreement for a house on craigslist?

18 A. I did.

19 Q. Could you please describe the circumstances of that?

20 A. Okay. So we found a house for rent. We were thinking  
21 of moving to the city in Phoenix, Arizona. We found a house  
22 on craigslist. It had a pretty good paragraph stating that  
23 the owner of the house was looking for somebody to take care  
24 of his home. And it was renting for 1400 rent and 1400  
25 deposit.

**TESTIMONY OF KARINA GARCIA**

32

1 Q. And did you all come to an agreement about that house?

2 A. Actually my husband spoke with this individual, I  
3 believe once. And a couple of times text each other, and we  
4 did come --

5 Q. Did you hear any of those conversations?

6 A. I did. I was in the room with my husband.

7 Q. And now, was a deposit ever made?

8 A. Yes.

9 Q. Based on that transaction?

10 A. There was two deposits made.

11 Q. Could you please describe the circumstances of those.

12 A. Yes. So the very first time, it was in the beginning  
13 of July. The individual spoke with my husband. Told him he  
14 had a house for rent in Phoenix in good condition. That if  
15 he could deposit \$700 under his account, and at that point  
16 they would communicate and maybe mail the key. My husband  
17 and I share our banks together. We have joint accounts. So  
18 my husband decided to send the individual \$700 to an account.

19 Q. Now, to your knowledge, was a text message sent  
20 confirming that transaction?

21 A. He did. The very first transaction after he deposited  
22 the money, he did send a text message confirming the \$700.

23 Q. Now, did the text message contain a photograph?

24 A. Yes, it did.

25 Q. Have you seen that photograph?



**TESTIMONY OF KARINA GARCIA**

33

1 A. Yes.

2 MR. FLOWERS: Your Honor, may I approach?

3 THE COURT: Yes.

4 A. Yes. I have seen this.

5 BY MR. FLOWERS:

6 Q. What is that?

7 A. It's a Bank of America receipt of my husband sending  
8 the individual to this account number \$700.

9 Q. Now, is it a true and accurate copy of the photograph?

10 A. Yes, it is.

11 Q. How do you know that?

12 A. Because I saw it, and I was there.

13 Q. Do you know the circumstances under which this  
14 photograph was taken? Where was it taken?

15 A. It was taken in our room after he came from the bank.

16 Q. How were you able to recognize that?

17 A. The background. We were in the process of moving.  
18 And I can tell it's the bottom of the bed.

19 MR. FLOWERS: Your Honor, at this time the  
20 Government moves to admit this for the Court's consideration.

21 THE COURT: Exhibit 6?

22 THE CLERK: Yes, ma'am.

23 (WHEREUPON, the above-mentioned photograph was  
24 marked as Exhibit Number 6.)

25 BY MR. FLOWERS:

**TESTIMONY OF KARINA GARCIA**

34

1 Q. Are you able to see that, ma'am?

2 A. Yes.

3 Q. Can you see the date on that photograph? What is the  
4 date?

5 A. It's July 7, 2017.

6 Q. Is that consistent with around the time that you were  
7 moving?

8 A. Yes.

9 Q. Do you see my finger there, ma'am?

10 A. Yes, I do.

11 Q. What are those four numbers?

12 A. 8489.

13 Q. What account is that?

14 A. That is the account number of the money sent to the  
15 individual.

16 Q. Now, after sending the \$700, what happened?

17 A. So after sending the \$700 in the picture, my husband  
18 took a picture of this and forwarded it to the individual.  
19 And they communicate among each other and stated that after  
20 this, he was going to mail the key of the house.

21 Q. Okay. Was the key ever mailed?

22 A. It was never mailed to us.

23 Q. Was the remaining \$700 ever sent? Now, you mentioned  
24 earlier that the house was for \$1400?

25 A. Correct.

**TESTIMONY OF KARINA GARCIA**

35

1 Q. This is \$700?

2 A. Correct.

3 Q. What happened to the remaining balance?

4 A. Okay. So two weeks after that, my husband -- we were  
5 in the process of moving -- was communicating with this  
6 individual. Two weeks passed by. And he decided to call my  
7 husband and say where are the remaining of the other \$700.  
8 At that point, I was the one that went to the bank. It was  
9 towards the end of the July and deposited another \$700 to  
10 this individual.

11 MR. FLOWERS: Your Honor, I may I approach?

12 THE COURT: Yes.

13 BY MR. FLOWERS:

14 Q. Do you recognize that?

15 A. Yes, I do.

16 Q. What is that?

17 A. This is a Bank of America receipt from my bank to the  
18 individual's account.

19 Q. Did you take that photograph?

20 A. I did.

21 Q. Is it a true and accurate copy of the photograph that  
22 was taken?

23 A. Yes.

24 MR. FLOWERS: Your Honor, at this time the  
25 Government moves to admit this for the Court's consideration.

**TESTIMONY OF KARINA GARCIA**

36

1 THE COURT: Exhibit 7.

2 (WHEREUPON, the above-mentioned photograph was  
3 marked as Exhibit Number 7.)

4 BY MR. FLOWERS:

5 Q. Are you able to see that, ma'am?

6 A. Yes.

7 Q. For how much was this deposit, ma'am?

8 A. For \$700.

9 Q. And into what account was this amount paid?

10 A. To Account 8489.

11 Q. Could you please note the date of that, ma'am?

12 A. It's July 25th, 2017.

13 Q. Now, was this photograph ever sent to the individual?

14 A. No, it wasn't. I actually took it just, you know, for  
15 me to have proof of something, but it was never sent to him.  
16 I had my husband, you know, take over.

17 Q. Now, you mentioned that your husband was  
18 communicating. Refresh my memory, did you also say you were  
19 there for some of the communications?

20 A. Yes, I was actually. I was there for three times that  
21 they spoke with each other.

22 Q. Now, what was this individual's name, to the best of  
23 your knowledge?

24 A. Back then I am not -- all I remember there was a  
25 Richard name involved. I am not sure what other names there

**TESTIMONY OF KARINA GARCIA**

37

1 was. But for sure I do remember Richard.

2 Q. Now, after the second \$700 was sent, did you receive  
3 the key?

4 A. No. So what happened after the \$700, my husband Oscar  
5 was in the room. He had him on speaker. I was there. I was  
6 trying to pressure my husband. I actually told him I had a  
7 bad feeling about this, but he wouldn't listen to me. They  
8 spoke and he said he changed everything. First, when we send  
9 him the \$700, he said the key was going to be mailed after we  
10 sent that. Two weeks passed by, nothing.

11 You know, we were naive enough to send him the other  
12 \$700 thinking, you know, something was going to happen.  
13 Well, what ended the conversation was that he said I'm going  
14 to have someone show you guys the house in Arizona. When are  
15 you guys able to go to Arizona and meet with this person.  
16 Oscar and I were in the process of moving, packing. I told  
17 Oscar well, tell him this date. We tried to call him back  
18 after sending the \$700. He never answered.

19 Q. Did you ever hear from that individual?

20 A. We never heard anything from him again.

21 Q. Did you ever receive your \$1400 back?

22 A. I never did.

23 Q. Did you actually live in the house that you put the  
24 deposit on?

25 A. No. We actually end up moving to Arizona in the

**TESTIMONY OF KARINA GARCIA**

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1 middle of August and a family of nine, we rented a  
2 three-bedroom apartment. We were financially not stabled.  
3 We were -- it was just very hard for us.

4 Q. And are you still feeling effects of that, ma'am?

5 A. I do. I honestly feel very angry. Very betrayed. I  
6 feel like my family and I were victims of this. Like I said,  
7 I just feel anger.

8 Q. Now, you mentioned a Richard. Do you actually know  
9 who victimized you?

10 A. I don't know.

11 Q. If you had the opportunity to speak with that  
12 individual or individuals, what would you tell them?

13 A. Like I said, I'm feeling very angry. I am a mother of  
14 seven children. My husband has two jobs. I have one job.  
15 And I just feel betrayed very -- I feel like we're victims,  
16 and I don't have nothing to say. I just feel very angry.

17 Q. Now, Mrs. Rodriguez, if someone were to tell you that  
18 it was only \$1400, how would you respond to that?

19 A. \$1400 is a lot of money for a big family like ours.  
20 We have children in college, and we have little ones that,  
21 you know, that I have to support. Like I said, my husband  
22 has two jobs. I know that that it's been over two years.  
23 Unfortunately it's taken us a long time to get back on our  
24 feet.

25 MR. FLOWERS: Your Honor, may I have a moment?

**TESTIMONY OF KARINA GARCIA**

39

1 THE COURT: Yes.

2 BY MR. FLOWERS:

3 Q. Did you ever drive past the house that you thought you  
4 were renting?

5 A. Actually, we did.

6 Q. What did you learn?

7 A. I learned that, like I said, that I had been a victim.

8 We decided to not long ago pass by there just out of

9 curiosity. We passed by there, and there was a family living

10 there. There was children playing outside. We obviously

11 didn't, you know, want to get out of the car, but we passed

12 by there. And we did notice there was a family living there.

13 Q. Did you learn anything else while you were there?

14 A. Yes. I did learn that, like I said, I'm a victim. My  
15 family and I are victims of this.

16 MR. FLOWERS: No further questions, Your Honor.

17 THE COURT: Thank you, Mr. Flowers.

18 Mr. Perry?

19 MR. PERRY: Thank you, Your Honor.

20 **CROSS-EXAMINATION**

21 **BY MR. PERRY:**

22 Q. Good afternoon, ma'am. My name is John Perry. I'm  
23 representing Mr. Abegunde in this matter. You realize you  
24 never talked to Mr. Abegunde on the phone?

25 A. I didn't but my husband did.

**TESTIMONY OF KARINA GARCIA**

40

1 Q. No, no. You talked to a person named a Richard  
2 Alhassan or something?

3 A. I didn't talk to nobody.

4 Q. Okay. And do you understand that -- you heard me ask  
5 questions from the lady that was up here before you?

6 A. Uh-huh.

7 Q. You realize that he's here on a case where he's being  
8 sentenced after being found guilty by a jury, and during that  
9 trial it was asserted and the jury found him guilty that he  
10 had received funds that other people had defrauded some  
11 people out of. Never that he had tried to defraud or take  
12 somebody's money for a deposit. Do you understand the  
13 difference in what you're here on?

14 A. I understand.

15 Q. All right. And had you ever met the person who you  
16 gave your \$1400 to, had you ever met him before?

17 A. No, I never did.

18 Q. You talked about the fact that it was a lot of money  
19 for a family of any size. \$1400 that you all earned. That's  
20 hard-earned money, right?

21 A. Correct.

22 Q. You didn't receive that money from any sort of  
23 somebody telling you that you had won a sweepstakes or  
24 anything like that, right?

25 A. Correct.



**TESTIMONY OF KARINA GARCIA**

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1 Q. You didn't receive that money from somebody who was  
2 overseas saying that they were trying to get oil and asking  
3 you to receive money and then send some back to them,  
4 correct?

5 A. Correct.

6 Q. Did any money come out of any account based on what  
7 might be a breach of that account? In other words, you had  
8 \$1400 in an account and somebody takes it out of it. None of  
9 the money was taken from you like that, right?

10 A. No.

11 Q. This was a deal where you were trying to get into a  
12 home?

13 A. Correct.

14 Q. And there was somebody who I'm assuming held  
15 themselves out as some form of a Realtor or the homeowner.  
16 I'm not quite sure from what the Government had submitted and  
17 from the questions, was this guy saying that he owned that  
18 home, or was he saying that he was a person that buys and  
19 sells and rents to individuals?

20 A. No. This individual had the house for rent on  
21 craigslist as the owner of the house.

22 Q. And you contacted him, and then that's how the  
23 exchange came?

24 A. Correct. And we Googled the house. And I mean, the  
25 house in the outside, it didn't have no sign for rent or

**TESTIMONY OF KARINA GARCIA**

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1 anything. It just looked like a decent house for a big  
2 family like us.

3 Q. And based on that though, that's how you ended up  
4 sending your money?

5 A. Correct.

6 Q. In expectations that you would get a key and be able  
7 to rent that property?

8 A. Yes.

9 Q. And do you remember, the amount was \$1400. Was there  
10 anything more than that amount?

11 A. It was 1400 rent and \$1400 deposit.

12 Q. I thought it was 700 and 700?

13 A. Right. But that was the beginning. We never sent the  
14 other half.

15 Q. Okay. And maybe I might have said the question wrong.  
16 My question is total, how much money did --

17 A. 1400.

18 Q. 1400. All right.

19 MR. PERRY: I don't have anything further.

20 THE COURT: Thank you, Mr. Perry.

21 Any redirect, Mr. Flowers?

22 MR. FLOWERS: No, Your Honor.

23 THE COURT: Thank you. Ms. Garcia, right?

24 THE WITNESS: Yes, ma'am.

25 THE COURT: Thank you.

**TESTIMONY OF KARINA GARCIA**

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1 THE WITNESS: Thank you.

2 THE COURT: I think you said Ms. Rodriguez at one  
3 point, Mr. Flowers, or maybe I just heard you wrong.

4 MR. FLOWERS: Oh, did I? I'm sorry.

5 MR. PERRY: That's why I was scared to ask your  
6 name.

7 THE COURT: Okay. I got you. Thank you.

8 MR. FLOWERS: Your Honor, at this time it's just  
9 Special Agent Marcus Vance.

10 THE COURT: Okay. Thank you. Come on up, Agent.

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**TESTIMONY OF MARCUS VANCE**

44

1 \* \* \*

2 **MARCUS VANCE,**

3 **was called as a witness and having first been duly sworn**  
4 **testified as follows:**

5  
6 **DIRECT EXAMINATION**

7 **BY MR. FLOWERS:**

8 Q. Good afternoon, Special Agent Vance.

9 A. Good afternoon.

10 Q. I feel like we've been here before, Special Agent  
11 Vance.

12 A. We have.

13 THE COURT: We all feel like that.

14 BY MR. FLOWERS:

15 Q. So I'll get right to it. Did you interview an  
16 individual named Rachel Aller?

17 A. I did. Formerly known as Rachel Grumbian.

18 Q. What were the circumstances of that interview?

19 A. I believe that she was the victim of a scam, and I  
20 reached out to her to confirm that.

21 MR. FLOWERS: I guess, Your Honor, I forgot for  
22 purposes of the record.

23 BY MR. FLOWERS:

24 Q. Could you please state your name and position for the  
25 record, Special Agent Vance?

**TESTIMONY OF MARCUS VANCE**

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1 A. I'm a special agent with the FBI named Marcus Vance.  
2 M-A-R-C-U-S V-A-N-C-E.

3 Q. And getting back to the questions about Ms. Aller,  
4 after you reached out to her, what happened?

5 A. She said that she met a man named Chris Anderson  
6 online. They began to chat. They developed what she  
7 described as a romantic relationship, and that carried on for  
8 a while.

9 Q. Did he profess to have difficulties over the course of  
10 those communication?

11 A. Yes. He told her that he worked overseas doing some  
12 type of construction work. And for whatever reason, he had  
13 trouble accessing funds. He needed to pay his employees, fix  
14 equipment. He had a lot of various costs that needed to be  
15 paid off.

16 Q. Did Ms. Aller, did she send her own money?

17 A. No. She told him sorry. I'm a working mom with three  
18 kids. I don't have any money to send basically.

19 Q. So what happened after that?

20 A. So he said no worries. I have other associates. And  
21 he explained basically that they couldn't -- for whatever  
22 reason, they could not send him the money directly, but they  
23 were able to send her the money and asked if she would be  
24 willing to accept that money and then send it on to  
25 recipients at his request.

**TESTIMONY OF MARCUS VANCE**

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1 Q. How was she communicating with this individual?

2 A. I think it was Google Hangouts. It was chats.

3 Q. And did she ever send and receive money, Special Agent  
4 Vance?

5 A. She did.

6 Q. What were the circumstances?

7 A. She did it on a few different times. Mainly money  
8 orders. Specifically one time in March of 2017, she received  
9 approximately \$4500. Was given instructions to send \$1500.  
10 So cut it three ways to three different individuals. One of  
11 those individuals being Gboyega Ajayi.

12 Q. Did she know any of those individuals?

13 A. She knew none of those individuals. I read off the  
14 three names that I knew she sent money to. She confirmed  
15 those were the names, but she didn't -- they were just -- she  
16 just took the instructions and sent them.

17 Q. Now, did she eventually stop sending money?

18 A. Yes. At one point she -- when she went to go do a  
19 money order at Walmart, they were asking her various  
20 questions, and I think they basically figured out that she  
21 was part of a scam, advised her to stop. And she did so.  
22 She changed her e-mail address so she couldn't communicate  
23 with them anymore and ceased the activity.

24 Q. Did she ever log back into her Google account?

25 A. No. Once she was warned, I think this was a few

**TESTIMONY OF MARCUS VANCE**

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1 months later, but once she was warned, she stopped.

2 Q. All right.

3 MR. FLOWERS: So I'll transition now, Your Honor,  
4 just a few exhibits, and then I'll be finished with Special  
5 Agent Vance. So may I approach the witness?

6 THE COURT: Yes.

7 BY MR. FLOWERS:

8 Q. Do you recognize that, sir?

9 A. Yes. These are chats between Mr. Abegunde and Baja  
10 Fresh.

11 Q. And are they a true and accurate copy of the chats  
12 they were pulled from the phone?

13 A. Yes.

14 MR. FLOWERS: Your Honor, at this time the  
15 Government moves to admit this into evidence for the Court's  
16 consideration.

17 THE COURT: Exhibit 8.

18 (WHEREUPON, the above-mentioned document was  
19 marked as Exhibit Number 8.)

20 BY MR. FLOWERS:

21 Q. So I'll just -- do you see my finger here, Special  
22 Agent Vance?

23 A. I do.

24 Q. What's the date on this chat?

25 A. November 7, 2016.

**TESTIMONY OF MARCUS VANCE**

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1 Q. And who is sending it?

2 A. Baja Fresh.

3 Q. What does he ask?

4 A. "You need 15K."

5 Q. And could you read the following two messages?

6 A. So he says, "You need 15K,445." Mr. Abegunde  
7 responds, "440." And Baja Fresh responds "LOL."

8 Q. Are we still on the same date, Special Agent Vance?

9 A. We are.

10 Q. Could you please read starting here?

11 A. So Baja says, "When you ready, holler." Mr. Abegunde  
12 says, "I've told you how serious I am." Goes back to saying  
13 "440." Baja responds, "I don't hear you. Mean just sell for  
14 440. Am selling 445." And then there's a phone call.

15 Q. And then towards the bottom?

16 A. "You don't remit" and then "Yep."

17 Q. So turning to this third page, do you see  
18 Mr. Abegunde's F.J. Williams account number?

19 A. Yes, I do.

20 Q. Have you reviewed that account?

21 A. I have.

22 Q. Did you specifically review that account for  
23 transactions around this time frame -- time period?

24 A. I did.

25 Q. Did you locate any?



**TESTIMONY OF MARCUS VANCE**

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1 A. I did.

2 MR. FLOWERS: May I approach, Your Honor?

3 THE COURT: Yes.

4 BY MR. FLOWERS:

5 Q. Could you take a look through those pages, Special  
6 Agent Vance?

7 A. (Witness complies.)

8 Q. Do you recognize those?

9 A. I do.

10 Q. How many pages are in that exhibit?

11 A. Three.

12 Q. And what is reflected in that exhibit?

13 A. The first one, it's a deposit ticket into the  
14 F.J. Williams account at PNC Bank ending 6791 for \$15,000  
15 dated 11/8/2016. The second page is the corresponding check.  
16 It is a check from Wells Fargo Bank, the Baja Fresh LLC  
17 account ending 7132. And it is for \$15,000 made out to  
18 F.J. Williams with the memo purchase, and the date is  
19 11/8/16. The third page is the corresponding F.J. Williams  
20 account November of 2016 statement for the account ending  
21 6791. Under the activity detail and deposit section on 11/8,  
22 there is a \$15,000 deposit made into this account.

23 Q. Are they true and accurate copies of those records  
24 from PNC Bank?

25 A. They are.

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1 MR. FLOWERS: Your Honor, at this time the  
2 Government moves to admit this into evidence.

3 THE COURT: Exhibit 9.

4 MR. FLOWERS: I believe so. Yes, Your Honor.

5 (WHEREUPON, the above-mentioned document was  
6 marked as Exhibit Number 9.)

7 BY MR. FLOWERS:

8 Q. Now, are you familiar with Ms. Anne Maples?

9 A. Yes.

10 Q. How so?

11 A. She's a victim in this case.

12 Q. And have you traced some of the moneys -- excuse me --  
13 some of the funds that she sent to individuals in this case?

14 A. We have.

15 Q. I'm going to show you what has been previously  
16 submitted as Government's 5. Show you an account number.  
17 Could you please read that last four of that account number?

18 A. Yes. This is for a Wells Fargo account ending 7132.

19 Q. Are you familiar with any other accounts at issue in  
20 this case that end in 7132?

21 A. The check written by Baja Fresh LLC is a Wells Fargo  
22 account ending 7132.

23 Q. Now, I'll point your attention to the date here. What  
24 is the date of this deposit?

25 A. November 7, 2016.

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1 Q. I'll direct your attention now back to Government's 9.

2 What is the date of that check, sir?

3 A. November 8, 2016.

4 Q. And how much is that check for?

5 A. \$15,000.

6 Q. What is in the memo line, sir?

7 A. Purchase.

8 Q. And I'll show you this page. I'll direct your  
9 attention to deposit on 11/8/2015. What is reflected here?

10 A. A \$15,000 credit into the F.J. Williams account.

11 Q. Are you also familiar with Karina Garcia Rodriguez?

12 A. I am.

13 Q. How so?

14 A. She a victim in this case.

15 Q. Now, have you reviewed financial transactions and chat  
16 messages associated with her account, with her description?

17 A. With her description of the events, yes.

18 Q. Yes. My apologies.

19 MR. FLOWERS: May I approach, Your Honor?

20 THE COURT: Yes.

21 MR. FLOWERS: Can I have just a moment to pour  
22 myself a glass of water?

23 THE COURT: Yes.

24 BY MR. FLOWERS:

25 Q. Do you recognize that, Special Agent Vance?

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1 A. I do.

2 Q. What is it?

3 A. These are chats between Money Guy Dejobo and  
4 Mr. Abegunde.

5 Q. And are they true and accurate copy of the chats  
6 between Money Guy Dejobo and Mr. Abegunde?

7 A. They are.

8 MR. FLOWERS: Your Honor, at this time the  
9 Government moves to admit this into evidence.

10 THE COURT: Exhibit 10.

11 MR. FLOWERS: Yes, ma'am.

12 (WHEREUPON, the above-mentioned document was  
13 marked as Exhibit Number 10.)

14 BY MR. FLOWERS:

15 Q. I'll direct your attention here to this date. What  
16 date is this, Special Agent Vance?

17 A. July 7, 2017.

18 Q. Then what appears to be reflected here?

19 A. It's a thumbnail of a Bank of America deposit slip.

20 Q. And what does the Defendant say that he -- what's the  
21 Defendant doing here?

22 A. He appears to be on vacation.

23 Q. So I'll direct your attention to the bottom. Starting  
24 here with Money Guy Dejobo, what does Money Guy Dejobo say?

25 A. He says, "They did 1400 to that account. I'm waiting

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1 for the second slip."

2 MR. FLOWERS: Can I go to the next page, Your  
3 Honor?

4 THE COURT: Yes.

5 BY MR. FLOWERS:

6 Q. And starting up here at the top of page 2 of this  
7 exhibit, what date is reflected here?

8 A. We're still on July 7, 2017.

9 Q. And what does Mr. Abegunde say?

10 A. "What's the account name? You foretell me ahead."

11 Q. Okay. And then what account does Money Guy Dejobo  
12 give out?

13 A. Kayode Alhassan. Bank of America account ending 8489.

14 Q. And then?

15 A. I'm sorry. "Do you know how long it took you to  
16 respond when I sent you that slip? The money would have been  
17 gone by the time you got back." And then they have a phone  
18 call.

19 Q. Now, have you also reviewed chats between Mr. Abegunde  
20 and Mr. Kayode Alhassan?

21 A. I have.

22 Q. What did they show?

23 A. Similar discussions.

24 Q. Okay. Did Mr. Abegunde send a picture of this bank  
25 slip to Mr. Alhassan?

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1 A. Yes.

2 Q. Was it around the same time as the conversation  
3 between Money Guy Dejobo?

4 A. Yes.

5 MR. FLOWERS: And Your Honor, those portions of  
6 the conversation were attached to the Government's  
7 supplemental response.

8 THE COURT: Okay.

9 BY MR. FLOWERS:

10 Q. Are you familiar with the -- Mr. Alhassan's account,  
11 Special Agent?

12 A. I am.

13 MR. FLOWERS: May I approach?

14 THE COURT: Yes.

15 BY MR. FLOWERS:

16 Q. Do you recognize that, Special Agent Vance?

17 A. I do.

18 Q. What is that?

19 A. These are chats between Mr. Abegunde and Gboyega  
20 Ajayi.

21 Q. I'll ask that later. Are they a true and accurate  
22 reflection of the chats between Mr. Ajayi and the Defendant?

23 A. They are.

24 MR. FLOWERS: Your Honor, at this time the  
25 Government moves to admit this into evidence.

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1 THE COURT: Only if you spell the name on the --

2 MR. FLOWERS: Yes, ma'am.

3 THE WITNESS: Gboyega Ajayi is G-B-O-Y-E-G-A.

4 Ajayi, A-J-A-Y-I.

5 THE COURT: Thank you.

6 MR. FLOWERS: You're welcome.

7 THE COURT: Exhibit 11.

8 (WHEREUPON, the above-mentioned document was  
9 marked as Exhibit Number 11.)

10 BY MR. FLOWERS:

11 Q. Okay. So what's the date on this, Special Agent  
12 Vance?

13 A. 9/28/2017.

14 Q. What's Mr. Ajayi appear to ask?

15 A. He says, "Are you there? What's up with the Alhassan  
16 account?"

17 Q. What does Mr. Abegunde respond?

18 A. "Closed."

19 Q. What does he say is the reason?

20 A. "Fraudulent transaction."

21 Q. Okay. And then what does Mr. Ajayi say?

22 A. "Hmm. How? How much?" He goes on. "Hmm. Don't  
23 know what to say. Hand to hand 355."

24 Q. Okay. On 9/28, what does Mr. Ajayi say?

25 A. He continues, "There is this person who will get you

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1 the entire 40K between today and tomorrow, buh it's an  
2 account and he's giving me reassurance. Say nothing will  
3 happen, O."

4 MR. FLOWERS: I had accidentally stapled two  
5 together, Your Honor. So this would be Government's 11 has  
6 one, one page.

7 THE COURT: Okay.

8 MR. FLOWERS: Just for clarification on the  
9 record.

10 THE COURT: Okay.

11 MR. FLOWERS: That is completely my fault.

12 May I approach one more time, Your Honor?

13 THE COURT: Yes.

14 BY MR. FLOWERS:

15 Q. Do you recognize that?

16 A. I do.

17 Q. What is it?

18 A. These are chats between Mr. Abegunde and Mr. Ajayi.

19 Q. Are they true and accurate reflection of the chats  
20 that appear -- that occurred between Mr. Ajayi and  
21 Mr. Abegunde?

22 A. They are.

23 MR. FLOWERS: Your Honor, at this time the  
24 Government moves to admit this into evidence.

25 THE COURT: Exhibit 12.



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1 MR. FLOWERS: Yes, ma'am.

2 (WHEREUPON, the above-mentioned document was  
3 marked as Exhibit Number 12.)

4 BY MR. FLOWERS:

5 Q. What is the date on these chats, Special Agent Vance?

6 A. July 3rd, 2017.

7 Q. Okay.

8 A. So that would be about four days before Ms. Garcia  
9 Rodriguez sent the \$700.

10 Q. And starting with this chat, what does Mr. Ajayi tell  
11 Mr. Abegunde?

12 A. He says, "Give me a Bank of America account fast,  
13 please."

14 Q. Which account does Mr. Abegunde give out?

15 A. He gives out Mr. Alhassan's 8489 Bank of America  
16 account.

17 Q. And then what does Mr. Abegunde say?

18 A. Then he says, "Let's agree on the breakdown."

19 Q. And what do they then do?

20 A. They appear to be cutting the transaction to four  
21 different individuals.

22 Q. Now, are you aware from over the course of your  
23 investigation that Mr. Alhassan goes by -- is connected to  
24 any other names?

25 A. I believe his full name is Richard Kayode Alhassan.

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1 MR. FLOWERS: May I have a moment, Your Honor?

2 THE COURT: Yes.

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

4 THE COURT: Thank you, Mr. Flowers.

5 Mr. Perry?

6 MR. PERRY: Yes.

7 **CROSS-EXAMINATION**

8 **BY MR. PERRY:**

9 Q. Has Mr. Alhassan been charged by the Government with  
10 anything?

11 A. Not that I know of.

12 Q. And has Baja Fresh or the gentleman that owns Baja  
13 Fresh, has he been charged by the Government?

14 A. I believe he's been approached by the FBI. I don't  
15 believe he's been charged yet with anything.

16 Q. If I tender to you that trying to search in the areas  
17 that they stay, at least at this point, they've never been  
18 named in this case as a codefendant and neither in any other  
19 district named as defendants in any indictment that I'm aware  
20 of. I mean, I think you just answered the question, but are  
21 you saying that there's a pending indictment at least against  
22 one if you're indicating that they were approached by  
23 somebody?

24 A. Not necessarily. They have not been named in any  
25 indictments that I'm aware of. I'm aware that he was

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1 approached by the FBI.

2 Q. And I've seen, I want to say thousands of pages of  
3 chats between different individuals in this case. When you  
4 testified at trial, you indicated that you did not see any  
5 sort of social media accounts belonging to Mr. Abegunde,  
6 right?

7 A. I don't recall any.

8 Q. Any facebook, any Instagram, things like that. Some  
9 of the people that were -- that you've testified were  
10 victimized, were victimized by facebook, for instance?

11 A. Yes, certainly.

12 Q. And none of that stuff ended up when you all searched  
13 Mr. Abegunde's computer in all of his information, none of  
14 those documents ever produced anything indicating his  
15 instructions for anyone to try to take any money nor his use  
16 of facebook or any sort of social media to try to take  
17 anybody's money or defraud anyone?

18 A. I have never seen anything associated with his social  
19 media that he would be the ringleader of that, no.

20 Q. In all of the individuals that you're talking about  
21 right now, the various WhatsApp communications, it seems to  
22 be from time to time and rather often that Mr. Abegunde is  
23 indicating, you know, do you know the sources of this income  
24 or this money and makes the questions -- I mean, answers --  
25 asks rather a series of questions of the individuals about

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1 the money that they're asking him to deposit, correct?

2 A. From time to time, does he ask them about the source  
3 of funds, yes, he does.

4 Q. He asks and wants assurances regarding the sources of  
5 the funds, right?

6 A. From time to time, yes.

7 Q. And you never hear of him indicating or asking anyone  
8 to try to take money from someone regarding, I guess, a  
9 rental agreement, right?

10 A. No. I never saw him mention anything about a rental  
11 agreement.

12 Q. And likewise, you never saw anything from Richard  
13 Alhassan indicating that I took this lady and her husband's  
14 hard-earned \$1400 from a rental agreement, right?

15 A. That was never reflected in the texts, no.

16 Q. There were texts though between the individuals  
17 discussing the value of naira and the exchange rate for  
18 naira, right?

19 A. Correct.

20 Q. And there were consistent communications between both  
21 Mr. Alhassan as well as -- and I'm just calling him Baja  
22 Fresh because I can say that better than the actual name.  
23 But the individual that owned Baja Fresh, he's constantly  
24 talking about the exchange rate regarding naira, right?

25 A. Yes.

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1 Q. In fact when there was a situation where Baja Fresh  
2 was trying to get his money under a \$10,000 amount or what  
3 have you, Mr. Abegunde told him that if what we're doing is  
4 legitimate, there's no reason to try to structure your money  
5 under \$10,000. Do you recall that?

6 A. I don't recall that -- I know there was definitely  
7 instances where they would make recommendations to stay below  
8 \$10,000. I don't remember the circumstances.

9 Q. Was it Mr. Abegunde or did Mr. Baja Fresh indicate  
10 that he was trying to stay at a certain amount under \$10,000?  
11 Because I recall seeing specific communications between  
12 Mr. Abegunde saying it doesn't matter. Source of money is  
13 legitimate money.

14 A. I do not recall that text message offhand.

15 Q. You have described, I think this morning we've seen  
16 two different types of situations. You see one situation  
17 where the first lady who testified indicated that her money  
18 was taken from her based off of a relationship with an old  
19 friend from facebook and the perception that she was to  
20 receive some form of a sweepstake, right, where a truck was  
21 going to deliver, I guess, \$75,000, and she was asked to send  
22 certain amounts of money.

23 A. Yes. She essentially thought -- met someone on  
24 facebook. She believed that she knew this individual from  
25 school. Believed that she had won \$250,000. And believed

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1 that she was then going to also win \$250,000 that was going  
2 to be delivered via a truck and some other obstacles, yes.

3 Q. None of that money was, I guess, money taken from a  
4 business e-mail compromise, correct?

5 A. No. That was Ms. Maples' money.

6 Q. Right. And none of that money that Ms. Maples had  
7 came from a business e-mail compromise, correct?

8 A. Not that I'm aware of.

9 Q. I'm sure that Ms. Maples, we're not putting words in  
10 her mouth, but she indicates that that was her hard-earned  
11 money through life, and her husband had recently passed away  
12 while she was sending this money off for the sweepstake?

13 A. Correct.

14 Q. Likewise and I believe she said -- is it Ms. Garcia or  
15 Ms. Rodriguez?

16 A. Garcia Rodriguez.

17 Q. Ms. Garcia Rodriguez indicated that her money was  
18 money that she and her husband were depositing in the  
19 attempts to rent a home, right?

20 A. That's correct.

21 Q. And that money -- there's nothing in your  
22 investigation indicating that it was part of a business  
23 e-mail compromise, correct?

24 A. And I would assume it's hard-earned money.

25 Q. Right. And it was hard-earned money. There was no

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1 romance scam involved in that money, was there?

2 A. No. I would call it a rental fee scam.

3 Q. It was a rental fee, but there's nothing that you have  
4 to indicate to this Court that Mr. Abegunde knew by a  
5 preponderance of the evidence or beyond a reasonable doubt  
6 where the source of that money had come from, is there?

7 A. Can you state that again?

8 Q. There's nothing that you have to offer this Court to  
9 indicate that Mr. Abegunde would have known whether that  
10 money was hard-earned from the family that tried to rent that  
11 money or whether or not that money was money that was earned  
12 by Mr. Alhassan as far as trying to give that house to those  
13 individuals and turn the key over. There's not a  
14 communication, in other words, indicating that there's any  
15 way that Mr. Abegunde would have known the source of those  
16 funds, is there?

17 A. I did not see a text message where he knew the exact  
18 source of those funds, no.

19 Q. But there was text messaging corroborating the fact  
20 that what Mr. Abegunde was planning to do with those funds is  
21 batch it to buy naira on the open market and do an exchange.  
22 In fact, Mr. Alhassan asked when can I expect remittance and  
23 things like that, correct?

24 A. Yes. Mr. Abegunde is certainly trying to do a  
25 financial exchange with that money.

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1 Q. And there's nothing that is innately -- that would  
2 have brought Mr. Abegunde here for sentencing, simply off of  
3 exchanging naira and buying naira, correct?

4 A. If done properly, no.

5 Q. If done properly. And I'm not saying that you're  
6 agreeing with me on whether or not it was done properly, but  
7 what I am saying is none of those funds were the product of a  
8 business e-mail compromise, right?

9 A. Can you say that again?

10 Q. None of those funds that we're talking about right  
11 now --

12 A. As of today.

13 Q. -- were the byproduct of a business e-mail compromise  
14 or anything along those lines that would make Mr. Abegunde  
15 have stood for trial back during the month of March which got  
16 us into this Court. There's nothing by Mr. Abegunde taking  
17 that money and trying to buy funds in another country that in  
18 and of itself says that he knew the source of where those  
19 funds were coming from and whether or not they were procured  
20 legally or illegally, right?

21 A. In and of itself, no, but I think when you look at it  
22 from a much larger perspective, it's clear what was going on.

23 Q. It's clear to you today having investigated. I  
24 understand that. But at that time, as far as what you have  
25 and you presented your case, you presented the fact that you



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1 investigated and spent hours investigating. And I think that  
2 we both concede the fact that I know I looked at nearly  
3 50,000 pages worth of documents. Maybe \$50,000. But  
4 50,000 pages worth of documents in this case.

5 And what I am trying to establish is that as of right  
6 now, other than that one business e-mail compromise that  
7 brings us here, do you have anything that indicates that  
8 their case was in any way interconnected with that business  
9 e-mail compromise?

10 A. No. I do not believe that they are tied to the  
11 business e-mail compromise.

12 Q. When you discuss the fact that in the communications  
13 that there were attempts to trade and sell this -- the money  
14 that was received for naira, there was nothing that I ever  
15 saw, and you can correct me if I'm wrong, that seemed to  
16 indicate that any of that money was going towards anything  
17 other than the attempts to purchase naira. Do you know of  
18 anything today that you could offer this Court that the  
19 moneys that he received, and we agree to disagree on what he  
20 might have known about the sources of it, but at any point  
21 other than purchasing naira with any of the individuals that  
22 you're saying that he was receiving these funds from, was  
23 there anything else other than purchasing this unit of money  
24 from the country of Nigeria?

25 A. Can you state that again? I'm not sure if I follow

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1 the question.

2 Q. He wasn't attempting to buy elephant tusks or  
3 anything, right?

4 A. No. He was doing financial exchanges. And he  
5 appeared to be getting -- he would negotiate the rate and get  
6 some sort of a cut based on the market as the money passed  
7 through his accounts.

8 Q. And that seemed to be a consistent thing is all that  
9 I'm saying from everybody who he was receiving these funds  
10 from. He was attempting to take that money and purchase --  
11 do an exchange regarding, I guess, trying to buy from Nigeria  
12 in naira. He wasn't, in other words, trying to buy a pound.  
13 He wasn't trying to buy yen or anything along those lines.  
14 It was all consistent with him trying to purchase from the  
15 country that he indicated, right?

16 A. The best I could tell when he was doing the exchanges,  
17 it was naira and dollars, yes.

18 Q. When you investigated Baja Fresh or at least when his  
19 name came up in it, did you not see the text that had a  
20 number of cars and things like that? Remember seeing it  
21 might be a car, a Maxima sticks out in my mind for one reason  
22 or another, for \$15,000 or for \$12,000. In other words, he  
23 was actually in the car exchange business, was he not?

24 A. He appears to be, yes.

25 Q. And you said that he had not been -- well, he had been

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1 approached, but you don't have anything indicating that that  
2 business was less than a regular business, do you?

3 A. I believe that he's operating a car business of some  
4 sort, just as Mr. Abegunde is operating a foreign currency  
5 exchange business. That's what they appear to be on the  
6 surface, at least, I'll give you that.

7 Q. Do you have anything where Mr. Abegunde would have  
8 known whether or not his cars -- the car exchange that he had  
9 was an attempt to really sell and buy and -- buy and sell  
10 cars?

11 A. I don't know what Mr. Abegunde's impression was.

12 Q. Now, you know that at one point and this was part of  
13 your investigation or at least in the discovery, Mr. Abegunde  
14 was asking for specific types of cars from him to purchase.  
15 One car for personal use, I guess I'll go back to an Acura.  
16 Do you remember the description of an Acura in that?

17 A. I don't remember the Acura, but I certainly remember  
18 them talking about vehicles. Even in the texts I was looking  
19 at today, there was something that Baja Fresh said are you  
20 interested in a truck, something like that.

21 Q. And so in other words, this just wasn't the appearance  
22 of someone trying to hold himself out as having a car to  
23 the -- or having cars for sale to the public, but this was a  
24 person who was actually actively involved in buying and  
25 trading cars?

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1 A. To the best of my knowledge, yes.

2 Q. Did you investigate Mr. Alhassan at all?

3 A. Mr. Alhassan?

4 Q. Alhassan?

5 A. I just basically essentially followed the money with  
6 him. I don't know what he does for a living.

7 Q. And you didn't investigate what type of business if he  
8 was actually in real estate and just didn't do what he was  
9 supposed to do in this instance?

10 A. I did not.

11 MR. PERRY: I don't have anything further, Your  
12 Honor.

13 THE COURT: Thank you, Mr. Perry.

14 Any redirect, Mr. Flowers?

15 MR. FLOWERS: Just very briefly.

16 **REDIRECT EXAMINATION**

17 **BY MR. FLOWERS:**

18 Q. What's an advanced fee scam, Special Agent Vance?

19 A. An advanced fee scam is a term that we use when  
20 someone is scammed into sending money in advance in hopes of  
21 getting something in return. That could be a boyfriend or  
22 girlfriend coming overseas. That could be gold. That could  
23 be a sweepstakes. That could be the down payment for a home.

24 Q. What about romance scams?

25 A. A romance scam is essentially a form of an advanced

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1 fee scam. So you're going to develop that relationship, and  
2 then you're going to make requests of that person. That  
3 person is romantically involved with you. They're invested  
4 in you, so they're going to be willing in a lot of cases to  
5 send money in hopes of helping you or getting you over here.

6 Q. Now, are you familiar with vehicle purchases being  
7 used in the course of money laundering?

8 A. Yes.

9 Q. How so?

10 A. It is not uncommon for these advanced fee scams for  
11 people to receive the money and clean it by buying a asset  
12 such as a used car and then shipping it overseas.

13 MR. FLOWERS: May I have a moment?

14 THE COURT: Yes.

15 MR. FLOWERS: No further questions, Your Honor.

16 THE COURT: Thank you. Thank you, Agent, you may  
17 be excused. Well, I don't know excused, but at least step  
18 down.

19 THE WITNESS: Yes, ma'am.

20 THE COURT: Any other proof, Mr. Flowers?

21 MR. FLOWERS: No, Your Honor.

22 THE COURT: Mr. Perry, any proof today?

23 MR. PERRY: No, Your Honor. We stand on our  
24 submission.

25 THE COURT: Okay. All right. Argument?

1           MR. FLOWERS: Just very briefly with regards to  
2 what was just shown. The incidents involving Ms. Maples and  
3 Ms. Garcia Rodriguez are two microcosms of the structure of  
4 the scheme of what we've seen throughout. I'll direct the  
5 Court's attention back to what was going on with  
6 Mr. Ramos-Alonso and the business e-mail compromise in  
7 October of 2016. It was that a fraudster procured cash, used  
8 an intermediary like Mr. Ramos-Alonso and then split it and  
9 sent the money out. Two accounts for which were destined --  
10 where the funds were destined to go were actually under the  
11 control of Abegunde.

12           With the incident involving Ms. Maples that the  
13 Government has been able to trace to Mr. Abegunde's  
14 F.J. Williams account, that's essentially what we have there.  
15 A fraudster directing a victim in this case and the  
16 Government would also remind the Court that at one point  
17 Mr. Ramos-Alonso was also there. But here, Ms. Maples a  
18 victim to direct money into various accounts, including one  
19 bearing the last four, 7132, the day before a transaction for  
20 \$15,000 with Mr. Abegunde and Mr. Baja Fresh.

21           Now, the transaction by Ms. Maples was for  
22 \$15,650. The transaction the next day between Mr. Abegunde  
23 and Mr. Baja Fresh was for \$15,000. Following and tracing  
24 the money from a known fraud victim through an intermediary  
25 to Mr. Abegunde. Now, with regards to the incident involving

1 Ms. Garcia Rodriguez, individuals who were tricked into  
2 paying fees up front went through an intermediary account and  
3 ultimately to Mr. Abegunde.

4           How do we know the intermediary or who the  
5 intermediaries were meant to be? We have a text from Money  
6 Guy Dejobo, one of the individuals with whom Mr. Abegunde was  
7 using various third party accounts, directing money into that  
8 intermediary account which was the Bank of America account,  
9 with those four ending in those particular four digits and  
10 then ultimately through Mr. Abegunde for a financial  
11 exchange.

12           Now, from all of this and the other structure of  
13 transactions, we can see that Mr. Abegunde was a one-stop  
14 shop for taking money that was in the United States and  
15 getting it to Nigeria. This and of itself is a smaller  
16 version of this debate that Mr. Abegunde had with Special  
17 Agent Kevin Hall when he went to the Defendant's residence  
18 all the way back in March of 2017. Where they discussed  
19 there's a problem with supply, and eventually the fraud money  
20 comes into it. And that's exactly what we see. Fraud money  
21 going from the United States to Nigeria. And that was the  
22 Defendant's role.

23           Mr. Perry, I appreciate Mr. Perry's advocacy.  
24 The Government does not believe and it has never been the  
25 Government's theory that Mr. Abegunde is the person behind

1 the facebook account or that Mr. Abegunde is the person  
2 behind the e-mail account, spoofing an e-mail address and  
3 redirecting real estate transactions. The Government's  
4 theory has always been that he is a downstream money  
5 launderer. Sometimes he's the man behind the curtain.  
6 Sometimes he's the man behind the curtain behind the curtain.

7           And that's why it's so difficult to identify  
8 victims. The Government concedes that Ms. Maples' name and  
9 Ms. Garcia Rodriguez's names are not on those transactions.  
10 That's because of the intermediaries that were set up to  
11 adjust the account numbers, specifically the last four  
12 account numbers. Effectively providing an environment in  
13 which individuals are able to move money, hide themselves,  
14 obfuscate their conduct before it ultimately gets to the  
15 person who could clean those funds and get it overseas.

16           And that's what we see here. Showing those  
17 individuals just strengthens the Government's theory that the  
18 individuals and transactions that are reflected in the third  
19 party account are highly probative of fraud. At least in a  
20 preponderance of evidence, highly probative of fraud. Do we  
21 know that for sure? Can we trace each individual  
22 transaction? The Government has always conceded that we  
23 cannot, but the scheme is structured that way. It is set up  
24 that way to make it difficult to track.

25           Now, the Government has also in its papers and



1 we'll largely rest on what was said in those with regards to  
2 the individuals third party accounts and clients themselves.  
3 There were numerous indicators of fraud. There were numerous  
4 indicators that the Defendant knew what he was doing was  
5 wrong. And I'll go back to the situation of Money Guy  
6 Dejobo. I certainly appreciate Mr. Perry attaching those  
7 chats to his response and saying that there were times in  
8 which Mr. Abegunde did inquire about the source of the funds.  
9 One of the chief times was in the Government's original  
10 papers in this case where we pointed to a series of  
11 conversations in which Mr. Abegunde, speaking to Money Guy  
12 Dejobo, they were discussing trade secrets of these funds.  
13 And how they did not want to discuss the particulars of  
14 transactions, and Mr. Abegunde said, "Okay. I guess we can't  
15 do business together." Unfortunately he did not follow  
16 through with that.

17 He did do business. And when he did do that  
18 business, the Government has been able, through  
19 Ms. Garcia Rodriguez, trace the structure and architecture of  
20 that scheme from Money Guy Dejobo, Mr. Abegunde, Mr. Alhassan  
21 and presumably that financial transaction that goes overseas.  
22 That's the shape that takes place.

23 Now, with all those factors considered, the  
24 Government submits that it's on a preponderance of the  
25 evidence at least considering that Mr. Abegunde was convicted

1 of conspiracy to commit wire fraud. Conspiracy to commit  
2 money laundering, that those amounts should be included. And  
3 also, Your Honor, and based on the testimony here today, that  
4 the Government respectfully requests that we include at least  
5 the \$15,000 from Mrs. Maples as well as the \$1,400 from  
6 Ms. Garcia Rodriguez, as the Government has been able to  
7 trace those transactions ultimately from their fraud source  
8 through the intermediaries and to Mr. Abegunde himself.

9           In terms of argument about all this, the  
10 Government has no doubt that Mr. Abegunde started with good  
11 intentions in his financial transactions. We have no doubt  
12 that he's a smart individual. We have no doubt that he is an  
13 educated individual. But at some point somewhere, he decided  
14 to make a bad decision and a series of bad decisions that  
15 compounded with him providing the situation was ripe for  
16 fraud funds to funnel through. And we've seen the effects of  
17 that today. The individuals who've testified of them losing  
18 money. And how it affects their well-being. How it affects  
19 their emotional state. How it effects sometimes their  
20 physical state with regards to Mrs. Maples. And that conduct  
21 absolutely should not be tolerated. Even if the conduct that  
22 he was taking part in was that of a facilitator. And with  
23 that, the Government will rest this portion.

24           THE COURT: Let me ask you one --

25           MR. FLOWERS: Yes, Your Honor.

1 THE COURT: -- specific question about the  
2 portion of the guideline that you're operating under with  
3 regard to these third party transactions. As I have gone  
4 through it, looking at relevant conduct, looking at 1B1.3.  
5 There certainly are some things in this case -- well, let me  
6 just focus on these third party transactions right now. The  
7 chart and then these additional two items. I'm assuming  
8 you're operating under 1B1.3(a)2, meaning that these are  
9 matters that would have been part of multiple count grouping.  
10 That they were part of either same course of conduct or a  
11 common scheme or plan.

12 MR. FLOWERS: That's correct, Your Honor.

13 THE COURT: Okay. All right.

14 Mr. Perry?

15 MR. PERRY: May it please the Court and Counsel  
16 opposite. As the Court is well aware and has pointed out,  
17 we've gone down every argument I think that's foreseeable  
18 down this particular tree. I've read more conspiracy cases  
19 in the last month than in years, just getting into the  
20 minutia of the cases. And Your Honor is aware of the  
21 trial -- presided over the trial fairly, I thought, and we  
22 disagreed on certain things. And I'll try to get that taken  
23 up.

24 As far as today as it relates to Mr. Abegunde, I  
25 will say this. There's a clear, I think, distinction between

1 every conspiracy sentencing case that I've looked at and what  
2 is going on here. There was not a presentation in the case  
3 that involved the -- a communication or anything that made it  
4 understandable that he should have said that well, if these  
5 funds come from this person and I ask him about these funds,  
6 I ask him are these legitimate funds, I probe and based on  
7 what I'm trying to do from a business perspective, just like  
8 Agent Vance said a few moments ago, that his thing was to  
9 sell the funds and to get a cut out of selling those funds,  
10 which is something that he learned the value of when he was  
11 in school. He's from this country that has some bad  
12 occurrences politically, and because of it, the value of that  
13 dollar diminishes to a way that he can make a good income off  
14 of. That's all that I have seen in reviewing any of this.

15           And when we talk about people like Money Guy  
16 Dejobo who's uncharged, there's not a case out there pending  
17 regarding whatever actions he was taking. Mr. Alhassan,  
18 there's not an opinion of the doctor up in Seattle. There's  
19 nothing where he went to -- that he's been charged with  
20 anything, other than what came before this Court, what brings  
21 it to Memphis, Tennessee is this business e-mail compromise  
22 and the tree that involves that case and whether or not those  
23 things were foreseeable.

24           All of the cases that I've seen, those cases that  
25 were quoted by the Government, the cases that I tried to

1 submit and tried to do a little comparison or what have you,  
2 they seem to show where it's clear. It's not something that  
3 is an assumption that well, if this person has this type of  
4 money going into these accounts and he has guys that might be  
5 listed by a nickname, Money Guy Dejobo, that means it must be  
6 something nefarious under play. These are, in the cases that  
7 I have seen, the hair-splitting part that comes down to it at  
8 sentencing is whether or not things that that person might  
9 not have engaged in within that same conspiracy effort can be  
10 counted against him for sentencing purposes.

11           What we have here is if -- and I think that the  
12 inquiry, out of fairness, should have stopped on the first  
13 day. The thing that we conceded to is that if there was some  
14 form of fraud that took place that I guess had money that  
15 ended up coming to -- or a piece of that money coming to  
16 Mr. Abegunde at some point, that it would be fair for the  
17 Court to consider things that Mr. Abegunde didn't necessarily  
18 profit from, but it was from that same conspiracy stream.  
19 Now, I plan to argue as hard as I've ever argued in life, if  
20 I'm given a chance to at the Sixth Circuit, that that was not  
21 in fact a conspiracy. But taking it in the light most  
22 favorable to what the jury found, that is the stream that the  
23 Court is supposed to consider.

24           When you start looking for unindicted things  
25 outside the course of that particular case that to this date

1 and with all due respect to both of the witnesses,  
2 Ms. Maples, I believe, is just like what she said, a  
3 hard-working individual who was at the point in life where  
4 she should be enjoying herself and for whatever reason, she  
5 gets defrauded. But there's nothing indicating that  
6 Mr. Abegunde at any point in time either did one step or  
7 another to try to help that process. And to say that well,  
8 he received \$15,000 after he asked questions about the  
9 \$15,000 for the purpose of selling it, that's the only thing  
10 that he wanted to do.

11           So if Mr. Dejobo decided to take this money. If  
12 you take the Government's argument at face value. If  
13 Mr. Dejobo decides to take this lady's money, this  
14 hard-earned money and goes to buy a car and says hey, you  
15 know, we talked last week about buying this Mercedes I want.  
16 I got the down payment today. And he goes in and buys it.  
17 There's no way that that person, if he asks the questions to  
18 Mr. Dejobo should be found to be a conspirator. There's  
19 nothing in that particular transaction that they're showing.  
20 And I'm going to isolate the money part of it.

21           But even before you get to the fact of whether it  
22 should be 15,000 or if you take Mr. Flowers' position that if  
23 it's 15,000, it has to be 80,000 that he's given credit for  
24 at this point, there's no logic to that. But more  
25 importantly, there's nothing that in the stream of cases that

1 the Court is considering from the Sixth Circuit that says  
2 that that is supposed to be a part of the calculus that goes  
3 into sentencing him.

4           Likewise, you go across country to another  
5 transaction that a person who is like -- knows Mr. Abegunde  
6 is trying to sell this money in order to buy naira that  
7 invests through Mr. Abegunde in the attempts to buy the  
8 naira. But there's nothing that indicates that Mr. Abegunde  
9 would have known that this person was taking money for a  
10 rental agreement and not giving the people the keys to that  
11 house.

12           So if you look at all the different transactions  
13 that would go on if he has \$1400 and he wants to go out and  
14 batch and buy naira, then you have to question well, what  
15 else was this person doing, and what other things was he  
16 doing once he received the funds and with whom was he  
17 spending this money. If you can't determine whom he's  
18 spending those funds with, you can't determine all of the  
19 ways that this person is taking money and then somehow  
20 linking it to this case, then it shouldn't be considered.

21           I think the Court is clear in the six-part test  
22 about the conspiracy. And how you look at whether or not  
23 they're using the same modus operandi. What Mr. Flowers  
24 wants the Court to do is say well, if money went to  
25 Mr. Abegunde, then there you go, that's it. But no, you go

1 into whether or not the funds were received from the same  
2 source. Did they come from a business e-mail compromise.

3           The first page that's involved in this particular  
4 case describes business e-mail compromise. The first time in  
5 my 46 years that I had ever heard that particular term used.  
6 I always thought it was e-mail fraud. But business e-mail  
7 compromise is a good, fancy term for taking money out of  
8 somebody's account and then spending it and knowing where  
9 that money is supposed to go. And the term -- well, he's a  
10 downstream participant in it. Well, who isn't a downstream  
11 participant in anything? You take a dollar out of your  
12 pocket, there's like a 70 percent chance that it has had  
13 something to do with drug commerce. 70 percent. That's  
14 downstream, and I'm a downstream participant probably closer  
15 to 95 percent because --

16           THE COURT: No admissions here, Mr. Perry.

17           MR. PERRY: No admission. But a downstream  
18 person that doesn't know exactly what the source of those  
19 funds are from. In this case if the jury found -- and they  
20 did, they found that they took the position that the  
21 Government says, and that's why you can go above it sometimes  
22 and ask, and they might see it the same way. And I'll be  
23 dead wrong.

24           But I know that if you don't take it from that  
25 same commerce stream, that same type of transaction within



1 that same conspiracy tree, then how do you get it -- how do  
2 you just jump and say well, he must be a conspirator with  
3 this person over here for this same similar reason. That  
4 doesn't make sense. It doesn't add up. And it's not  
5 relevant to this case.

6           And it doesn't -- and if the Court does say well,  
7 I'm going to find that Ms. Maples was defrauded from \$15,000  
8 that did end up and it being spent with Mr. Baja Fresh,  
9 that's still not conclusive proof that that same \$15,000 is  
10 what ended up with Mr. Abegunde. It's just not. But if the  
11 Court takes the position that well, that can be relevant  
12 conduct. That in and of itself cannot say that every other  
13 transaction that Money Guy Dejobo, who does have a legitimate  
14 business, that the money that he's receiving from those  
15 businesses that he's spending on trying to buy naira, which  
16 has a good exchange rate, a good return for profit, that that  
17 is a part of that conspiracy. And that's what we're asking.  
18 We're saying that well, if you say well, they did bring proof  
19 of these two people. Add those two pieces of proof up.  
20 15,000 plus 1400. That still doesn't get that whole chart  
21 into play to say that all of those transactions should be  
22 used to calculate relevant conduct in absence of the fact  
23 that we're saying that this is -- we're trying to determine  
24 how much was lost.

25           Because if Number 51 on that chart is wrong, was

1 a legitimate -- Mr. Baja Fresh was legitimately taking money  
2 that came from an arm's-length sale of a vehicle and he took  
3 that money and said hey, I want to invest it with  
4 Mr. Abegunde and if the Court jumps to the assertion or the  
5 assumptions that the Government is making, that's an  
6 atrocity. It's not supposed to happen that way.

7           There's no -- if there's no proof of the loss or  
8 that it is in fact loss, then it should not apply for  
9 relevant conduct purposes. It's a simple point I've tried to  
10 drive a nail in it or whatever. But I don't see how that can  
11 apply in this particular case to Mr. Abegunde. When looking  
12 at the factors in whole, there's no consistent scheme.  
13 There's no time proximity that's the same. There's no  
14 agreement between the parties regarding what they're trying  
15 to do, what they're going to do with the money at Level 1 or  
16 Level 2 of it or Level 10, I guess, with Mr. Abegunde. But  
17 there's no proof of it in this instance.

18           At trial, the Court considered and the jury  
19 considered the proof that they had at that particular point  
20 in time that this money came, and nobody from the jury bought  
21 the argument that it got in that account by mistake. That's  
22 an argument, like I said, we'll have down the road. But it's  
23 that amount that ended up with him connected to a person at  
24 trial that he had never met before. Never had a  
25 communications with. Never had any sort of conversation

1 whatsoever. That there was no proof that he knew anything  
2 about what business e-mail compromise would have taken place  
3 in Memphis.

4 But under the Government's theory and under the  
5 findings of the jury, it should be isolated to that and to  
6 moneys that were taken from that business e-mail compromise  
7 and from the lady who owned the mortgage company. If the  
8 Court is adding that because it was all the same. That's all  
9 the same tree. But you can't just say well, these are some  
10 other things that could have happened to these other  
11 individuals.

12 And if the Court says that I am going to take  
13 that, well, I at least ask that even though I don't agree  
14 with that, that the Court will at least not jump to the  
15 assumptions that the Government asked the Court to jump to.  
16 That if \$15,000 ended up -- if the Court says I believe that  
17 that was money spent from Mr. Dejobo, and that was part of  
18 what could happen if you're trying to sell naira, et cetera,  
19 that's fine. But that should be that \$15,000. Likewise, if  
20 Mr. Alhassan sent 1400, it should be isolated to that. You  
21 can't say all of the transactions in that case have to be a  
22 part of this scheme that the Government is trying to ask the  
23 Court to consider.

24 THE COURT: Thank you, Mr. Perry.

25 Any brief response, Mr. Flowers?

1 MR. FLOWERS: No. The only thing I will say is  
2 the Government has only asked for the \$15,000 for Mrs. Maples  
3 and the \$1400 for Ms. Garcia Rodriguez. I believe it's  
4 specified in the Government's supplemental response.

5 THE COURT: I think he's referring to the fact  
6 that you shouldn't use that to get in that whole chart or  
7 everything that went through Baja Fresh.

8 MR. PERRY: Correct.

9 THE COURT: And everything that went through  
10 Money Guy Dejobo.

11 MR. FLOWERS: So I just wanted to clarify that  
12 portion of it. But otherwise, the Government just rests on  
13 its submissions.

14 THE COURT: But you're still asking for the whole  
15 chart, right?

16 MR. FLOWERS: Yes, ma'am. Yes.

17 THE COURT: All right. First of all, I want to  
18 highlight that right now what we're talking about is the  
19 chart, the third party transactions because we're going to  
20 get to -- there's some other issues to deal with individually  
21 or another issue to deal with in terms of the Crye-Leike BEC.  
22 The 15,000 and the 1400 that we heard about today I would  
23 consider part of this group of transactions that I want to  
24 try and deal with as a whole.

25 Again, the section that the Government is

1 pointing to to say that this is relevant conduct is not the  
2 jointly undertaken criminal activity that would trigger those  
3 six factors. It's the -- it's Section 1B1.3(a)2, which  
4 involves conduct that the -- that has not been charged but  
5 that the Government contends is same course of conduct or  
6 common scheme or plan as the offense of conviction. The  
7 offense of conviction being the conspiracy to commit money  
8 laundering.

9           So I want to sort of acknowledge at first that  
10 while I've read the cases too that you all have cited me to,  
11 there really isn't another case like this. The cases that  
12 you cited me to, first, they were, for the most part,  
13 interpreting that jointly undertaken criminal enterprise.  
14 And then there's also the couple of cases that the Government  
15 uses to say that it's okay for the Court to extrapolate. I  
16 think that -- I mean, that point is clear in the case law.

17           What's weird or different -- I won't say weird.  
18 What's different about this is we're not really talking about  
19 extrapolating loss. We're talking about extrapolating  
20 conduct, which is sort of Mr. Perry's point all along, that  
21 yes, we can look at all these numbers, and we can see how the  
22 money flowed, but you can't assume fraud. I think that is  
23 sort of in essence the way I'm taking Mr. Perry's argument.  
24 Not the only part of it but, in essence, a big part of it.

25           So looking at how you interpret what a common

1 scheme or plan is or the same course of conduct, do you want  
2 to pick one, Mr. Flowers, or do you want me to analyze both?

3 MR. FLOWERS: I think it's probably safer to  
4 analyze both, Your Honor.

5 THE COURT: Okay. All right. Let's start with  
6 common scheme or plan. Under common scheme or plan, we look  
7 at whether there's a substantial connection between -- again,  
8 we're talking about what's sort of reflected in that chart,  
9 those transactions and the offensive conviction, which is the  
10 conspiracy to commit money laundering. In the trial the  
11 basis for the conspiracy to commit money laundering was the  
12 conversations on WhatsApp, an encrypted messaging platform  
13 between Mr. Abegunde, the messages between Mr. Abegunde and  
14 various other people, at least some of whom were directly  
15 connected to the business e-mail compromise.

16 The conversations talked about cleaning funds.  
17 The conversations talked about bank transfers in manipulative  
18 ways. The conversations talked about money going into the  
19 accounts, named accounts with the names of which were people  
20 who were not involved at all in the transaction. So they're  
21 going into peoples' accounts who, going by their name, have  
22 nothing to do with the transactions.

23 The evidence at trial also included  
24 Mr. Abegunde's documents from Mr. Abegunde's creation of  
25 F.J. Williams. And one of the documents included -- and I'm

1 sorry. I don't have the exhibit number, but the document  
2 that was an effort to comply with various regulations related  
3 to how a business like Mr. Abegunde's should be run. In that  
4 document, it talks about making sure you know the source of  
5 the funds.

6           There were several important key factors in  
7 the -- reflected in that document that talked about making  
8 sure that regulations were followed. That one knows that the  
9 source of the funds is legitimate. And Mr. Abegunde talks  
10 about that a fair amount on the messaging platform. The  
11 problem is he's never given an answer that he could rely on  
12 as showing that the funds came from legitimate sources. And  
13 he did the transactions anyway.

14           So if I look at that proof at trial of what he  
15 was convicted of, the offensive conviction, it was -- and  
16 this is the Government's language, but I think it's accurate.  
17 It was a downstream middleman money launderer who accepted  
18 funds where he could not verify where the funds came from.  
19 There were indications along the way that the funds weren't  
20 legitimate funds. Bank accounts closed on a regular basis,  
21 for one, as an indicator. He was running the money through a  
22 series of accounts with different peoples' names on it that  
23 had nothing to do with the underlying transactions. Again,  
24 on -- communicating on an encrypted messaging platform.

25           I'm trying to see if I've missed anything. And

1 manipulating the ways in which the moneys would be  
2 structured. Mr. Perry is right. I think I recall sometimes  
3 that conversation came from other people. And Mr. Abegunde,  
4 on occasion, would say you don't need to worry about that.  
5 But the problem is he also said other things at other times  
6 where he did worry about that.

7 I'm going to try and stay on track with this.  
8 But Mr. Perry pointed out the conversation with Money Guy  
9 Dejobo where at one point Mr. Abegunde walked away from him.  
10 Again, the problem is he walked back to him. And walked back  
11 to him without being able to verify the source of the funds.

12 So that -- and let me say one word. Again, I'm  
13 going to try and be fairly analytical in this and stay on  
14 track. But one point that Mr. Perry makes about if you go  
15 buy whatever car you're going to go buy and write a check for  
16 it and give it to the dealer, the dealer doesn't need to  
17 check to see where that money came from, and that's true. If  
18 the check is from my account, I'm writing it on my account  
19 and give it to the dealer to buy the car, I don't think the  
20 dealer is going to -- has any legal obligation to go find out  
21 whether I made that money legitimately or not. That's not  
22 the situation here.

23 In this situation, we're having moneys being  
24 moved from all sorts of different accounts with names not  
25 attached to the underlying transaction. It's moved in a way



1 that indicates by those different facts that something wrong  
2 is going on. So this is not the same as, you know, Mr. Perry  
3 may have made some of the dollars in his pockets by  
4 representing someone who may have done something wrong, and  
5 that money may have been gotten wrong. It's not the same  
6 thing. Mr. Perry earned that money legitimate and could  
7 prove to anyone he earned it legitimately.

8           Here, you know, every time the question of where  
9 the money came from comes up, and it does come up,  
10 Mr. Abegunde rightly asked the question. No one ever gives  
11 that information. No one ever provides the proof that shows  
12 oh, no, this was a legitimate transaction. This person just  
13 sold their house, and here are the proceeds from the real  
14 estate transaction. That's never shown. And given all of  
15 the other indicia of fraud, it's just not acceptable to go on  
16 with that transaction without providing that evidence.

17           So that's the offensive conviction against which  
18 we look at whether these other third party transactions are a  
19 common scheme or plan. And we have to have at least one  
20 common factor such as common victims, accomplices, purposes  
21 or similar modus operandi. Here I don't think we have common  
22 victims. We have different victims around the country. And  
23 accomplices are frankly different too. Mr. Perry rightly  
24 pointed out that this -- these people don't know the other  
25 victims. There are different other individuals involved as

1 accomplices.

2           However, the purpose is always the same. The  
3 purpose is to obtain money from people fraudulently. It  
4 happens in different ways. And I think that's another way in  
5 which this is not your average case. And you know, certainly  
6 the Sixth Circuit may disagree with me on this point. But I  
7 think that the purpose here of having a scheme that takes  
8 money from people in various fraudulent ways, there are -- I  
9 think Agent Vance has outlined through today's testimony and  
10 the proof at trial, there, I guess, may be three or so  
11 different ways. And maybe we can, I don't know, characterize  
12 them all as an advanced fee scheme, and then there's subsets  
13 within that.

14           But there are different ways it's done. It's the  
15 romance scheme. It's the business e-mail compromise. It's  
16 the rental scam. And there are different things that  
17 happened. But the goal is always the same. To fraudulently  
18 take someone's money. In terms of modus operandi, that's  
19 similar. So the money comes to someone fraudulently, and it  
20 is various people who Mr. Abegunde comes into contact with.  
21 And his role is the same. His role is to strike a deal with  
22 them to turn the dollars into -- I'm not going to say it  
23 correctly -- naira. Is that close to correctly?

24           MR. FLOWERS: Naira.

25           THE COURT: Naira. Thank you. His role is to

1 turn the dollars into naira. That's what happens, and then  
2 that moves it overseas and allows everyone to take their cut  
3 in it along the way. So applying -- well, let me say that's  
4 the common scheme or plan. So I think it is based on that  
5 description that I gave of the offensive conviction in  
6 comparing it to what's going on in the chart. In a minute  
7 we're going to go through the chart though carefully, and I  
8 want to make sure that nothing is included in the chart that  
9 doesn't fit what I'm outlining.

10 I want to emphasize -- I think I've said  
11 everything, I'm just looking at my notes. I want to  
12 emphasize that in terms of what we can see is Mr. Abegunde's  
13 knowledge of what is going on and his -- the foreseeability  
14 that he could be tagged with as to what is happening here,  
15 I'm relying a lot on his specific words that he writes in the  
16 WhatsApp messages and again, comparing those words to what he  
17 stated in the company documents as to what should be  
18 necessary in a situation like this to ensure that the funds  
19 that are the basis for these transactions are not fraudulent.

20 In terms of same course of conduct, here we have  
21 an ongoing series of transactions. To test whether something  
22 is the same course of conduct, we look at similarity,  
23 regularity and timing. The similarity is outlined -- is  
24 really the same as what I've outlined as the modus operandi.  
25 It's Mr. Abegunde serving as a middleman and as a money

1 launderer of fraudulently acquired funds. He's, quote,  
2 cleaning the funds by arranging for their deposit into  
3 accounts, giving instructions at times on the way in which  
4 those funds should come out of that account. In doing so,  
5 manipulating the funds.

6           The deposits, he's directing into accounts of  
7 people who are unrelated to the financial transaction. There  
8 are times in the messages we can see where he becomes aware  
9 that an account is closed, and he quickly directs them into  
10 another account, again, of a person unconnected to the  
11 financial transactions. His knowledge and foreseeability as  
12 to what's going on is again, shown by his own words on the  
13 messaging app. He is conducting all the business on this  
14 encrypted messaging service. And the fact that many of the  
15 accounts are closed over time for fraud is another indicator  
16 here. In terms of regularity, in the chart, we have 81  
17 transactions. And as to timing, those transactions are  
18 continuous over a two-year period. So I do think both of  
19 those criteria are met as well.

20           So in essence, I think it fits both of the  
21 definitions under this particular section of relevant  
22 conduct. However, I don't want to -- what I've done is kind  
23 of looked at the evidence that was presented as to the people  
24 involved and compared what I just outlined as a similar  
25 course of conduct to the people involved. To go through the

1 chart and ask myself whether I feel like by a preponderance  
2 of the evidence that that shows that each of those  
3 transactions should be looked at as relevant conduct.

4           So looking at the chart -- and I'm looking at the  
5 third addendum. First an overall comment. Other than where  
6 it says that the client is not available, the client and the  
7 name on the account never match. And that's one of the  
8 indicia of the fraud that I've pointed to. There are  
9 communications about each of the -- well, several of the  
10 people involved here in the Government's response to the  
11 Defendant's motion. And I relied on those descriptions and  
12 the points they made in that filing to determine which of  
13 these sort of groupings should be included in relevant  
14 conduct.

15           First, I find that by a preponderance of the  
16 evidence that the Money Guy Dejobo amount of 74,500 should be  
17 included. And I'm going to refer back to the Government's  
18 response to the Defendant's motion to exclude that evidence  
19 as the place where I found the evidence that shows that these  
20 are transactions that should be considered relevant conduct.  
21 I'll try and point out a couple of things specific to each of  
22 these groups, but for example, with Money Guy Dejobo, these  
23 transactions or at least the transactions that are included  
24 in the 74,5- occur after the FBI interview with Mr. Abegunde  
25 where the agent and Mr. Abegunde have this sort of

1 philosophical conversation about what constitutes fraud and  
2 who should be responsible for it. And frankly,  
3 Mr. Abegunde's description is just wrong as to who should be  
4 responsible in that situation. Despite that, he interacts  
5 with Money Guy Dejobo in a way where he doesn't have the  
6 proof he should have that the sources of the funds there are  
7 legitimate.

8           So what I did is went through the chart and  
9 everywhere Money Guy Dejobo was involved in the transaction  
10 on the chart, I checked that off. Frankly, I'm going to  
11 assume the Government's math is right, and if it's not, I'm  
12 going to assume Mr. Perry is going to tell me it's not right.  
13 I didn't go through the chart and add it up to make sure the  
14 numbers equalled 74,5-. As to Gboyega Ajayi, the guy we were  
15 talking about today.

16           MR. FLOWERS: Gboyega Ajayi.

17           THE COURT: Gboyega Ajayi.

18           MR. FLOWERS: Yes, ma'am.

19           THE COURT: All right. That's 155,200. I also  
20 find that by a preponderance of the evidence that the  
21 transactions that that person was involved in with  
22 Mr. Abegunde also constitute relevant conduct.

23           Again, the Government's submission points to  
24 several places that indicate conversations between the two  
25 that include those indicia of fraud or questions regarding

1 the source of the funds that should have told Mr. Abegunde  
2 that these funds were not legitimate. Bode BDC Yankee, I  
3 also find by a preponderance of the evidence that those  
4 transactions were relevant conduct, relying on the  
5 Government's motion -- or submission of those conversations  
6 again. That's 55,350. Baja Fresh Autos 80,500. Again, find  
7 by a preponderance of the evidence that those amounts should  
8 be included based on the same factors. Abioye Osiberu.

9 MR. FLOWERS: Abioye Osiberu, Your Honor.

10 THE COURT: Thank you. There I included 13,5-.  
11 I think in the Government's submission, not the most recent  
12 one but the last one, it included a larger number, but the  
13 larger number includes transactions that are included under  
14 the Bode BDC Yankee category. So those transactions from the  
15 chart that I included include 13,500.

16 Olubunmi Makinwa.

17 MR. FLOWERS: Olubunmi Makinwa, Your Honor.

18 THE COURT: There I included 10,200. There were  
19 some other transactions that could have been listed under  
20 her, but again were included in some of the categories I've  
21 already listed. But the transactions related to her accounts  
22 I also conclude had those same characteristics that would  
23 make them relevant conduct in this matter. Debo Gre MTN  
24 9,500. That was, I think, just one transaction maybe.

25 MR. FLOWERS: Yes, ma'am. Yes, Your Honor. One

1 transaction.

2 THE COURT: And again, the Government's next to  
3 last submission talks about the conversation that was had  
4 there regarding the cash that that gentleman wanted to sell.  
5 And again, indicators that it was part of that -- the same  
6 scheme, the same conduct that I've already discussed.

7 Next is Abayo \$30,750 were the total transactions  
8 I have listed for him. Again, I find by a preponderance of  
9 the evidence that his -- that these transactions have those  
10 same indicia that make them part of the same course or  
11 conduct in a common scheme or a plan. Then the money that  
12 went into Caffey's account, Edchae Caffey, \$24,840.01 also is  
13 indicative of this same types of transactions. And  
14 specifically she testified at the trial to seeing those  
15 transactions coming into the accounts that she was connected  
16 with and realizing that she wasn't connected to the  
17 transactions and didn't know -- feared that it was fraud and  
18 didn't know why those moneys were coming through her account.  
19 I think some of that 24,5- may be moneys that were paid as  
20 part of the marriage fraud itself though, which kind of puts  
21 it in a different category but still makes it part of  
22 relevant conduct.

23 MR. FLOWERS: Your Honor, do you mind if we have  
24 our phones out to use the calculator for those portions?

25 THE COURT: Mind if what?



1 MR. FLOWERS: We use our phones for the  
2 calculator?

3 THE COURT: No problem. I was using my phone a  
4 lot as I was going through all of this. So that leaves some  
5 things that I haven't addressed yet on this chart. And let  
6 me go through and tell you what that does not include. I  
7 haven't yet included Numbers 1 and 2 on the chart. I'm  
8 looking -- the chart that was attached to the Government's  
9 submission numbers the transactions, so I had been working  
10 off the addendum, but I switched because it was easier to  
11 refer to the number.

12 So for example, Number 1 is the -- 2,550 is the  
13 amount. The date is January 19, 2016. Mosummola Odunuga.  
14 Close enough. Is the person -- is the third party name. So  
15 are we all at the same place at least? All right. So one  
16 and two I've not included yet. Number 8 I have not included  
17 yet. 12 and 13, 24, 29 and 30. 31, 36 and 53. 73, 74 and  
18 79.

19 Starting with -- starting at the end first. On  
20 the last page of the chart, there are three transactions, 73,  
21 74 and 79, that -- where the third party name is Igoche Mark.

22 MR. FLOWERS: Igoche Mark, Your Honor.

23 THE COURT: That appears to be the same account  
24 that was used several times by people whose transactions I  
25 have included. For example, you can look above on that same

1 page and see that Money Guy Dejobo and Gboyega Ajayi -- close  
2 enough, Mr. Flowers -- used that account for transactions  
3 that have been included. So given the fact that that account  
4 has attached to it transactions that I believe are -- should  
5 be included as part of the common scheme or plan or same  
6 course of conduct, I will include those three transactions as  
7 well. So those three would equal 6400, if my math is right.

8 MR. PERRY: Of the Igoche Mark transactions?

9 THE COURT: Yeah. The ones that involve that  
10 account. Just the three, Numbers 73, 74 and 79. The other  
11 transactions involving that account have already been  
12 included in the number. Does that make sense?

13 MR. PERRY: That makes sense.

14 THE COURT: And you all tell me if I've gone  
15 astray because this was challenging to get through. All  
16 right. The Koko-Ete Obott account was also already used --  
17 already included in the figures through the Debo Gre MTN  
18 transaction, including an Abayo transaction. So again, that  
19 account has been shown through other transactions I have  
20 already included to be one that's been used for these types  
21 of transactions. For that reason, Number 24 and 29, which  
22 also use that account, I'll also include in the calculation.  
23 And those two equal \$10,000.

24 The Theodore Nwanne account was used at least  
25 once that I see when I included Bode BDC Yankee in the

1 calculations. That account was used as Number 9. Again, I  
2 have yet to include Bioye Yankee as a whole. The  
3 transaction -- the transaction reflected at line 8 but that  
4 same account was used, and so for that reason, I'll include  
5 Number 8.

6           And again, the basis for this is the fact that  
7 these third party accounts are ones that are used for  
8 these -- for the transfer of funds that have been gotten  
9 through fraudulent means where Mr. Abegunde could not, did  
10 not verify the source. Didn't -- and also was -- for all the  
11 other reasons I said that they were indicia of the same sort  
12 of scheme or common plan that was going on related to the  
13 underlying offense here.

14           So the Number 8 that I've now included is the  
15 \$10,510. If we look at the transaction in line 29 that I've  
16 included because the account is the same account as was  
17 previously shown to need to be included in the calculation,  
18 the client connected to that account in Number 29 is Mrs.  
19 Bee. So at some point, as I was looking at this, my  
20 conclusion was where we have a reason to include one  
21 transaction because of an account being used where that  
22 client related to that account, related to that transaction,  
23 I don't know anything about that client, but I do know that  
24 they used this account that is -- was being used for these  
25 types of transactions.

1           It leads me by a preponderance of the evidence to  
2 conclude that the client was someone who was connected to  
3 these transactions as well. And so without any other proof  
4 regarding Mrs. Bee, it calls into question all of those  
5 transactions on this chart that show that person as a client.  
6 So that would cover the transaction in line 12, line 13.  
7 Line 13, I also will note that Meredith Grundy, that's the  
8 person who Mr. Abegunde's first wife married as part of what  
9 has been alleged to have been a fraudulent marriage.

10           MR. FLOWERS: Yes, Your Honor. And Mrs. Bee is  
11 actually Ms. Makinwa. But that's how it was listed as in the  
12 phone.

13           THE COURT: As his wife?

14           MR. FLOWERS: Yeah.

15           THE COURT: Okay. Any argument related to that,  
16 Mr. Perry?

17           MR. PERRY: Same objection. No.

18           THE COURT: Nothing more? Nothing else?

19           MR. PERRY: Right. Nothing additional.

20           THE COURT: Okay. So this would include again  
21 the transaction number -- line 12, line 13. Line 29 we've  
22 already included. Line 30. And line 31. So I get 22,3- for  
23 that total. That leaves lines 1 and 2. Line 36 and line 53.  
24 Line 36 is the \$50,000 transaction that the Government  
25 alleges is Mr. Abegunde's payment to Mr. Ojo related to their

1 business in some way that went into -- Mr. Flowers, you've  
2 got a pronunciation? Opeyemi?

3 MR. FLOWERS: Opeyemi Odeyale.

4 THE COURT: Odeyale. That went into that  
5 account. And the -- let me put that amount aside for a  
6 minute. Any -- oh, I just realized that line 53 is the same  
7 account that was used by Money Guy Dejobo. So that one would  
8 be included. All right. Mr. Flowers, anything that -- any  
9 argument you would like to try and make as to Numbers 1  
10 and 2?

11 MR. FLOWERS: No, Your Honor. Other than the  
12 same modus operandi. But I'm not seeing the same overlap  
13 with those third party names as what we see throughout the  
14 chart. And I think it's been several weeks since we wrote  
15 that response, but my memory is that I said that there was  
16 limited chats surrounding those messages as well. Given  
17 that, I mean, we have just the same modus operandi, and if we  
18 extract that from the chart, the Government won't really  
19 argue against.

20 THE COURT: Okay. Well, without -- I'm going to  
21 leave those out for now. And if the Government wants to come  
22 back and try and argue to include them in at some point,  
23 well, I'll hear from you. Wants to try to point me to  
24 specific information but for now I'm going to leave them out.  
25 All right. Let's talk about the \$50,000 that is the payment

1 from Mr. Abegunde to Mr. Ojo through a third party account.

2 And let me hear from you on that, Mr. Flowers.

3 MR. FLOWERS: That follows the same modus  
4 operandi. Mr. Ojo is one of his coconspirators who was  
5 directly related to the business e-mail compromise. It's our  
6 contention that that, based on the preponderance of the  
7 evidence, represents money that, in some way, shape or form,  
8 came from fraud and was eventually transferred back to  
9 Mr. Ojo. I will concede in making that argument that the  
10 amount does stand out versus the others where they're just in  
11 variations between five and \$10,000 or some smaller amounts,  
12 but we believe based on the modus operandi and the  
13 relationship between Mr. Abegunde and the end recipient  
14 Mr. Ojo would on the preponderance of the evidence support  
15 including that.

16 THE COURT: Anything, Mr. Perry?

17 MR. PERRY: I just would like to remark this was  
18 something that I want to make sure on the dates, but from my  
19 understanding, that money, that \$50,000 was given back after  
20 the FBI came because he didn't want anything associated with  
21 something that he knew that was -- you know, that didn't come  
22 in that was wrong. And that was something that -- a point  
23 that will be made down the road as well.

24 But he paid this money back because he was trying  
25 to make sure that the business as it's getting off the ground

1 doesn't have any connection to anything that might be wrong.  
2 And that was to Ojo. Ojo came to the United States,  
3 deposited this money, and the FBI came as a part of the  
4 deposit that he -- that after the call came in and I think  
5 the testimony was pretty clear. We don't have a transcript,  
6 so it might go back and forth on that. But after the money  
7 was deposited into Mr. Ojo's account by Mr. Ojo and the  
8 Government confirms that he's the person that did it, he's  
9 the person that used that account, his connection with  
10 F.J. Williams was something that Mr. Abegunde didn't want.  
11 And he paid that money back. He paid him out of that  
12 business. And that was just, you know, I just bring that to  
13 the Court's attention.

14 THE COURT: I just don't think I have enough at  
15 this point to include that amount. I don't -- I realize that  
16 there certainly was proof that Mr. Ojo was a coconspirator.  
17 I think he was the one whose account the Whatcom money went  
18 into, and Mr. Abegunde pretended to be Mr. Ojo on the account  
19 or in the phone call, but I have no proof of how that's  
20 connected to this \$50,000. So I'm going to leave that out.

21 All right. And then I am including the 15,000  
22 related to Ms. Maples and the 1400 related to Ms. Garcia  
23 Rodriguez. So I need a calculator.

24 MR. PERRY: Your Honor, did the Court include the  
25 amount from --

1 THE COURT: Hang on one sec.

2 MR. PERRY: Okay.

3 THE COURT: Let me finish this one line.

4 Yes, sir.

5 MR. PERRY: I might have been confused, but I  
6 thought that the money from Alhassan had already been  
7 calculated. But I think I was looking at money from Alhassan  
8 to Money Guy Dejobo. \$2,000.

9 THE COURT: Yeah. I don't think so. In fact, I  
10 think that the proof was that --

11 MR. PERRY: Yeah.

12 THE COURT: -- the 1400 didn't go into one of  
13 these third party accounts. It went into F.J. Williams.

14 MR. PERRY: Right.

15 THE COURT: If I recall right. All right. I get  
16 \$528,933.01. Is that the same figure you all get?

17 MR. FLOWERS: Your Honor, I'm at 528,823. So I  
18 will re-add my numbers, but I think we're in the same place.  
19 And this is not yet including restitution to TRICARE and  
20 Whatcom, which Your Honor --

21 THE COURT: Yeah. I haven't gotten there yet.  
22 Well, let me tell you the figures -- the nine groups Money  
23 Guy Dejobo. I'm not going to try and pronounce these names  
24 again, but Ajayi. There were nine different groups that I  
25 included through Caffey. I added that up and got



1 \$454,340.01. Then the other ones we just went through where  
2 I matched people and included those figures based on common  
3 accounts used, I got \$58,193. Then I added 16,4- for the 15-  
4 plus 1400. Now, tell me if you all are getting a different  
5 figure.

6 MR. PERRY: Just read through the cumulative  
7 numbers that you just said one more time.

8 THE COURT: Do you want me to go through the nine  
9 individual that I included?

10 MR. PERRY: I think I have those all.

11 THE COURT: Okay. I added that and I got  
12 \$454,340.01.

13 MR. FLOWERS: Please, one more time, Your Honor.

14 THE COURT: 454, 340, and one cent.

15 MR. FLOWERS: Yes, ma'am. Thank you.

16 THE COURT: Then those additional. The Igoche  
17 Mark, Koko-Ete Obott, you know, those other figures that we  
18 talked about, I added those and got 58,193. And then finally  
19 is the 16,4-.

20 I've just checked it again and got the same  
21 figures.

22 MR. PERRY: I got that amount. 528,933.01.

23 THE COURT: Yeah. The Government all right?

24 MR. FLOWERS: Yes, Your Honor.

25 THE COURT: Okay. All right. I already at the

1 last hearing found that the Whatcom BEC, which I have is  
2 \$60,563.51. The Government in the most recent filing said  
3 \$63,563.51.

4 MR. FLOWERS: I think it was a typo on my part,  
5 Your Honor.

6 THE COURT: Okay.

7 MR. FLOWERS: My apologies.

8 THE COURT: All right. So the 60,563 I'd already  
9 found and TRICARE of 7429.59, which together equals  
10 \$67,993.10. So together that's \$596,926.11. Are we all on  
11 the same page?

12 MR. FLOWERS: Yes, Your Honor.

13 THE COURT: All right. The two -- I'm sorry.  
14 Just the one other issue is the Crye-Leike BEC. And the  
15 Crye-Leike BEC is \$154,371.58. This is to be evaluated under  
16 the jointly undertaken criminal conduct section of relevant  
17 conduct, as far as I'm concerned. There weren't specific  
18 actions of the Defendant that were connected to this. I  
19 guess it could be part of the common scheme or plan. But the  
20 argument that actually you both really make and address is  
21 jointly undertaken criminal conduct. I assume the Government  
22 still wants me to address this issue, even though I think  
23 we're into that category. Are we into the?

24 MR. FLOWERS: We're in 550 to 1.5, Your Honor.  
25 To the extent you take it up, the Government will simply rest

1 on its submission from its supplemental memorandum. We  
2 didn't have anything additional to add. But yes, we did --  
3 and the papers evaluated under the Donadeo factors which  
4 would be the conduct associated with others rather than the  
5 1.1 -- 1B2 factors.

6 THE COURT: Since -- let me make sure I  
7 understand. Mr. Abegunde's not connected to this in any way.  
8 There isn't proof that any of this money went through him,  
9 went through one of the accounts tied to him, correct?

10 MR. FLOWERS: Yes, Your Honor. That we could  
11 trace. We could not trace funds directly from that to  
12 Mr. Abegunde. We trace it to Mr. Ramos-Alonso.

13 THE COURT: Right.

14 MR. FLOWERS: And then from there to cash  
15 essentially.

16 THE COURT: And so given the fact that this BEC  
17 happened actually before the other one, this is the first  
18 one. I guess I'm -- I was struggling a little bit with  
19 why -- how we know he's at the point that this is done, part  
20 of this same jointly undertaken criminal enterprise or  
21 criminal scheme.

22 MR. FLOWERS: We believe he was moving money as  
23 early as, I believe it was January 2016.

24 THE COURT: Right. And actually I found that by  
25 including the other accounts. I do understand the argument

1 that the way in which this money moved, it's hard to detect  
2 whether something may -- connected to this BEC may have gone  
3 through him. I'm just -- I'm struggling more with this  
4 because it happened before the other one, and so the proof  
5 that he's really part of this jointly undertaken activity  
6 frankly doesn't quite make sense to me.

7 MR. FLOWERS: It would be the connections to  
8 Tammy. Connections to Mr. Ramos-Alonso. They were both  
9 involved.

10 THE COURT: But we connect them after, not --

11 MR. FLOWERS: Not before. Yes. That we could  
12 tie at the time. And directly trace. Yes. We just submit  
13 on the factors that we discuss in the papers.

14 THE COURT: Okay. All right. I'm not going to  
15 include this amount. I think these situations, for all I  
16 know, I think this is probably the case. There are lots of  
17 these different situations going on with lots of different  
18 people. While the proof at trial and the jury found he was  
19 certainly connected to the Whatcom BEC that happened in  
20 October, I don't think I can look backward and say that's  
21 proof that he was connected to an earlier, this earlier BEC  
22 when I don't otherwise see a connection directly to him. So  
23 I'm not going to include that amount. So the amount of the  
24 loss then is the \$596,926.11. All right. Anything else on  
25 that?

1 MR. FLOWERS: Not from the Government, Your  
2 Honor.

3 MR. PERRY: No, Your Honor.

4 THE COURT: We've tested my math skills. All  
5 right. Mr. Abegunde -- well, let me say then. So the  
6 finding on that, the total amount of the loss is adjusted in  
7 the -- we should adjust that in the presentence report, but  
8 it doesn't change, I don't think, from what -- it doesn't  
9 change the number of points for the amount of the loss, which  
10 remains at 14.

11 Mr. Abegunde also objected to paragraph 48,  
12 saying that he wasn't guilty of money laundering. We do have  
13 the jury verdict there. And the four points in paragraph 48  
14 are -- reflect that money laundering conviction. Then he  
15 objects to paragraph 51, the obstruction of justice  
16 adjustment. However, given the witness tampering conviction,  
17 that alone justifies the two points.

18 In addition, the presentence report reflects that  
19 Mr. Abegunde or states that it's the belief that Mr. Abegunde  
20 committed perjury at trial because he testified. Certainly  
21 the jury's verdict is different than what Mr. Abegunde  
22 testified to. And so from that perspective, it could be  
23 concluded that he committed perjury. That's an independent  
24 basis for the two points. Any other objections I've missed?

25 MR. PERRY: No, Your Honor.

1 MR. FLOWERS: Not from the Government, Your  
2 Honor.

3 THE COURT: I will adopt the presentence report  
4 then with the changes to the actual amount of the loss. As  
5 to all matters in the presentence report, I'll adopt them as  
6 the findings of fact. So from the presentence report, we do  
7 have the total offense level of a 28 and a criminal history  
8 category of one. We get to the 28 by starting with the base  
9 offense level of an eight. Adding 14 points for the amount  
10 of the loss. Four points for the money laundering. Two  
11 points for obstruction of justice. That gets us to 28.

12 Mr. Abegunde is criminal history category of I.  
13 So the guideline range is 78 to 97 months. Supervised  
14 release range for Count 1 is two to five years. For  
15 Counts 3, 4 and 5, it's one to three years. The fine range  
16 is 25,000 to 1 million. Restitution is sought in a total  
17 amount of \$55,011.62 broken down as for TRICARE 74,000 --  
18 excuse me -- \$7429.59. Whatcom \$34,082.03. Crye-Leike  
19 13,5-. There's a mandatory special assessment of \$400. No  
20 mandatory minimum, Mr. Flowers?

21 MR. FLOWERS: No. Your Honor, on the  
22 restitution, I apologize for interrupting. But we do have  
23 Ms. Maples' 15,650 as well as Ms. Garcia Rodriguez's \$1400  
24 that the Government would respectfully submit should be part  
25 of the restitution.

1 THE COURT: Okay. So that makes the amount  
2 sought \$71,411.62, I think.

3 MR. FLOWERS: Yes, ma'am. I believe that's  
4 correct.

5 THE COURT: All right. Any other objections for  
6 the record at this point? Any additional objections?

7 MR. FLOWERS: Not from the Government, Your  
8 Honor.

9 MR. PERRY: Nothing additional, Your Honor.

10 THE COURT: No arguments for departures are made  
11 in the filings?

12 MR. PERRY: I just made the standard -- the  
13 objections that we did to it because we went to trial. I  
14 will make an argument as it relates to him and sentencing. I  
15 don't know if this is the appropriate time or not to address  
16 it if we can.

17 THE COURT: Well, I assume your argument is a  
18 variance.

19 MR. PERRY: Variance. If you want me to hold off  
20 at this point --

21 THE COURT: Yeah.

22 MR. PERRY: -- until you go through the factors.

23 THE COURT: I ask them separately. Departures  
24 and variances separately.

25 MR. PERRY: No departure.

1 THE COURT: Okay.

2 MR. PERRY: I apologize.

3 THE COURT: No problem. All right.

4 Mr. Abegunde, in every sentencing decision, there are several  
5 things that the judge has to take into account. One is the  
6 guidelines. They're advisory but we've established now what  
7 that range is. I'm also to consider what we call the 3553  
8 factors. Those include nature and circumstances of the  
9 offense and the seriousness of it. Things about you, your  
10 history, your background.

11 A sentence that would send a message to you and  
12 to others of deterrence to not do this anymore. To respect  
13 and follow the law going forward. A sentence that would  
14 protect the safety of the community if that's an issue here.  
15 A sentence that would be a just punishment. A sentence that  
16 would help you in your life going forward. So I'm to look at  
17 all those factors and to listen to what everyone has to say  
18 at the sentencing hearing.

19 Mr. Perry just referred to variances. This is  
20 the time that the lawyers are allowed to make arguments that  
21 I should vary in some way from the guidelines, based on one  
22 of those factors or based on any argument they want to make.  
23 So what I'm going to do now is let the lawyers say anything  
24 they want to say, argue whatever they want to argue about  
25 what they think the sentence should be. After I've given the



1 lawyers a chance say anything or present anything they want  
2 to, I'm going to give you a chance to say anything you want  
3 to say. And then I'll make my decision. Okay?

4 Mr. Flowers?

5 MR. FLOWERS: I just will be very brief, Your  
6 Honor. From the moment the Defendant was first approached by  
7 law enforcement, from when he was first doing conduct in  
8 prison and when he has been before the Court and effectively  
9 lying on the stand, he has demonstrated a lack of respect for  
10 the law. As shown by the various victim testimony from  
11 Ms. Baldwin all the way back in March and the effects of  
12 cybercrime and moving the money related to the schemes as  
13 well as what is going on with Crye-Leike, as well as today  
14 with Mrs. Maples and Mrs. Garcia Rodriguez, there is a  
15 significant need to protect the public.

16 In general from these types of schemes but  
17 specifically, the movement of money is very serious here.  
18 The ease with which people could do it. The ways in which  
19 people can hide themselves. It is significant. And the  
20 Defendant's lack of remorse for all of this -- and I  
21 understand his contention that he's arguing innocence, and  
22 he'll continue to argue innocence. I'm not impugning that  
23 whatsoever. I'm simply saying that his conduct has  
24 demonstrated from day one a lack of respect for the law. So  
25 there is a need to protect the public from the Defendant's

1 actions.

2           The nature and circumstances, it can be a bit of  
3 a head scratcher, given that he's such an intelligent,  
4 educated man. Why he went down this road. Why he thought he  
5 could get away with something like this. Why he felt the  
6 need to lie. Why he felt the need to try and essentially  
7 defraud the FBI agents who were interviewing him at first.  
8 Why he would do these things.

9           It just -- all of those factors consider add up  
10 to circumstances in which there is a significant need, based  
11 on his history and circumstances, based on the individuals  
12 whom he defrauded and the consequences of all of these  
13 actions that the Defendant should be held accountable. And  
14 accordingly, the Government is respectfully asking for a  
15 guideline sentence. I believe he falls within 70 to 87, so  
16 the Government would respectfully ask for a sentence of  
17 87 months in this case.

18           THE COURT: Thank you, Mr. Flowers.

19           Mr. Perry?

20           MR. PERRY: May it please the Court. Your Honor,  
21 no matter how many times I do this, when the Court mentions a  
22 departure and if I think that a client is a -- that I'm going  
23 to ask for a variance, I always get antsy because I don't  
24 want to miss the opportunity to beg you to depart or to vary.  
25 And in this particular instance, I think a variance is not

1 only desired, but I think that the trial that the Court  
2 listened to just like I did, I argued during it. I've been  
3 involved in this case since, I think, a little bit earlier  
4 than this time last year. And because of the speed that my  
5 client wanted to go to trial, took a lot of work to get to  
6 the point of being able to try it.

7           There's a lot of submissions that we had to get  
8 on board with looking at and not only looking at, I guess,  
9 line after line after line of conversation between he and,  
10 you know, 20 different people at different points, but we're  
11 trying to find out how, in fact, is he in any way related to  
12 either a business e-mail compromise or the Whatcom theft that  
13 took place. And to be frank, I remember receiving some  
14 additional discovery after the initial round of discovery  
15 that was the computer download that the Government had done  
16 for Mr. Abegunde. And what that computer download showed was  
17 a person who had invested all that he had in the world to try  
18 to get to the United States. To make himself a better  
19 person.

20           Now that, when he took the stand, I don't think  
21 anybody in this room or anybody that heard it could indicate  
22 that he -- or could come to the belief that he was trying to  
23 perjure himself on the stand. He took the stand. The  
24 Government asked questions after I asked my questions, and  
25 the people who heard him at trial did not necessarily --

1 obviously didn't believe his version of it.

2           But I don't think there was a single point in  
3 time that the Government caught him in something that, as  
4 they're saying now, well, he lied or perjured himself in  
5 testimony from the trial. That's once again, an assumption.  
6 That's a huge assumption. Because I can testify -- and if  
7 the Court doesn't or if a jury doesn't believe that I knew or  
8 should have known something, that doesn't mean that I'm  
9 giving perjured testimony. That's me laying out what I  
10 learned and in this particular instance of putting myself in  
11 Mr. Abegunde's shoes, what he learned in school regarding  
12 finance and international finance and international arbitrage  
13 and the ability to engage in taking money from point A and  
14 sending it across the world and coming back within a number  
15 of days with a nice profit for individuals.

16           Now, when it gets to the point of well, he went  
17 down this wrong road because he's trying to open accounts,  
18 and he's trying to do the things that he should have known  
19 where the funds, based off of who he was dealing with, he  
20 should have known that these funds were being procured  
21 illegally. There's not a single person who he received funds  
22 from that the Government has named that's ever been accused  
23 of any crime. There's not one. Even with his codefendant,  
24 that codefendant who he sat in trial at, I don't think he had  
25 prior to trial any sort of felony.

1           So this codefendant who he never knew, never had  
2 an exchange of words with at all, he's supposed to have  
3 somehow known that moneys that he sent to a friend of  
4 Mr. Abegunde who in his own country is a banker that's well  
5 respected and these funds end up coming to the United States  
6 and being deposited into a source that Mr. Abegunde had no  
7 way of knowing, other than the fact that when Mr. Ojo, who  
8 flew from Nigeria to the United States was absolutely the  
9 person that opened the account.

10           But when he gets a call, instead of him talking  
11 with Mr. Ojo or saying well, let me put a three-way call  
12 together, he simply said if there's something illegal in the  
13 bank account, reverse it. That's it. That's what happened.  
14 And we're here today and the Court has added up and taken the  
15 majority of the different transactions and said that those  
16 should apply as relevant conduct. We respect that fact. We  
17 understand what the Court did and absolutely believe that the  
18 Court gave an analysis that engaged in looking at the chart  
19 and applying what the Court understood to be things that the  
20 law allowed to apply to Mr. Abegunde.

21           But that in no way says that a person with a  
22 point -- that has a one criminal point history should be at  
23 the high end of the guidelines. And like Mr. Abegunde or  
24 not. And particularly in this instance, Mr. Abegunde says --  
25 you know, I was familiar when I came into the case with the

1 fact that Mr. Abegunde had done a number of writings and had  
2 said different things at different times because he had never  
3 sat in a jail cell before. He had never been anything other  
4 than a person that when he comes to the United States, starts  
5 out at the lower end of his class and ends up towards the  
6 upper end of the middle of his class. Took him a while  
7 because of the language barriers, et cetera, to learn how to  
8 learn in the United States in a master's program and get his  
9 MBA in finance.

10 But other than that, he's always been an  
11 achiever. He'd always been a person that people said he's  
12 doing good, he's going places. And all of a sudden, that  
13 part of his world gets shaken upside down. He's supposedly  
14 tried to leave the country is what I read from the detention  
15 transcript. From day one. And he's basically doing exactly  
16 what he said. He's at the airport with a friend with a pair  
17 of shorts and a T-shirt on trying to do what he knows to do,  
18 which is to change your flight there because you save  
19 hundreds of dollars. Not trying to leave the country. They  
20 had a stakeout for him. He had no reason to think that I'm  
21 going to leave the country when he's changing his flight  
22 plans on a vacation that's four months down the road. But  
23 that is the impression that the agents gave the Court when  
24 they talked about what Mr. Abegunde was doing.

25 And then you look into the factors of what he did

1 as its relates to this particular case. He received funds  
2 from sources that he did not validate right. And the Court  
3 doing what the Court will on it -- what message is going to  
4 be sent by putting Mr. Abegunde in jail more than 70 months  
5 on a situation like that? How many individuals will go  
6 through an MBA finance program, get out and try to engage in  
7 arbitrage with individuals of the same nationality and try  
8 their best to make a buck by buying this money that he knows  
9 about and trying to turn that money around for profit?

10 That's where we are.

11 So whatever the message that the Court has to  
12 send, I think it could be done by a sentence substantially  
13 less than 70 months, let alone 80-odd months at the top end  
14 of the guidelines. I think in this particular instance,  
15 Mr. Abegunde has been in jail now since 2017. He's learned  
16 whatever there is to learn by -- regarding this. As far as  
17 it relates to looking into transactions if he's ever -- goes  
18 to another country. Because in the United States, he  
19 wouldn't be able to start the company that he has started and  
20 see that dream go far.

21 But if he's ever engaging in any sort of activity  
22 as it relates to receiving money, obviously he would know to  
23 go into the same inquiry and not allow individuals to talk  
24 him out of going into that same inquiry. Once he says I'm  
25 not going to fool with you if you can't validate these funds

1 and he's asking those questions again, the Court says well,  
2 he did go back to that person. And I agree, he did go back.  
3 What we don't see is the fact that there are phone calls  
4 between the individuals during that time.

5           Should he have allowed himself to be convinced of  
6 it at that point? No, he shouldn't. And I -- obviously he's  
7 learned that lesson. He's sitting here now in a brown outfit  
8 as opposed to the suits and the things like that that the  
9 photos that the Government got from his computer would  
10 suggest. The computers and that information suggests a  
11 person who was trying to do something in his field that he  
12 had learned in order to procure or to get funds to make a  
13 profit. Not to try to tell somebody or try to help somebody  
14 get further along from defrauding people.

15           And there's no -- there's never any mention in  
16 any of those conversations of anything that would lead one to  
17 believe that he should have known that the money was coming  
18 from sources that were illegal. There's not a conversation  
19 or a communication about yeah, I'm getting -- people are  
20 engaging in sweepstakes, wink, wink or anything like that.  
21 Or yeah, I got a guy that -- I got a family who thinks that  
22 they're going to get a key from me. You know, things like  
23 that. There's none of that in the communication. There's  
24 nothing -- and if you go -- and the Court said it better than  
25 I ever could. This case is different than every sentencing



1 case that I have seen as it relates to fraud. As it relates  
2 to fraud and conspiracies.

3           There's not a communication. There's not a  
4 codefendant coming in and saying oh yeah, we put this  
5 together, you know, two or three years ago. That I would act  
6 like I was Tammy and I was in love with Mr. Ramos-Alonso and  
7 get him to send his savings to me. And then I would get a  
8 little money, and I would say hey, I'm going to give this to  
9 you, and now I need you to send me this money back. And then  
10 I'll send this money to another source to make it clean.

11           And without those types of things, we're here  
12 today sentencing this man, and I'm just asking the Court to  
13 consider the track record prior to anything to do with this  
14 and consider that what did he make out of it. What did he  
15 benefit from any of it other than the money that was made in  
16 trying to sell naira. There was never any testimony or any  
17 proof that he received money from allowing people to use  
18 different accounts or anything like that. The money that he  
19 made was off of the exchange of naira. And in order to do  
20 it, he needed accounts to try to do that.

21           And we're here today. He understands where the  
22 law is in that regards. I don't think there's any sort of  
23 fear that he would engage in any of those types of things.  
24 You have the, I guess, the final -- when you take away the  
25 fraud count as it relates to the case and the wire fraud and

1 the money laundering counts, then you're dealing with the  
2 marriage fraud. And Your Honor, I don't think that there's a  
3 fear that he would try to marry another person if he gets  
4 back into the United States in order to lengthen his stay in  
5 the United States inappropriately.

6 In this particular instance, the Court -- the  
7 jury found him guilty of that. There's not a lot of argument  
8 with it. He married this lady. He wanted to be in the  
9 United States. He wanted to do what was best as a family.  
10 And the Court is well aware of the position that I have in  
11 that regards, that I don't think the jurisdiction possibly  
12 should have been here. That's not a sentencing  
13 consideration. I think he's learned whatever lessons  
14 regarding that based off the time that he's been in custody  
15 as of right now.

16 And Your Honor, I would just ask the Court to --  
17 if I had to give a number to the variance, what would a  
18 sentence of above 40 months serve to show him a lesson or to  
19 strike a greater fear in the public of individuals who have  
20 never received any sort of criminal history points? What  
21 lesson would a person who's similarly situated to  
22 Mr. Abegunde need more than a 30-month sentence on something  
23 like this? And I don't know how you can drive that lesson.  
24 Because he wanted to at least take his matter to trial. And  
25 that he wanted to tell his side of what happened from his

1 perspective. Those aren't things that I think that he should  
2 be penalized for.

3 He understands where he is right now. He  
4 understands that the Court holds, you know, the future as it  
5 relates to this case in Your Honor's hands. And all that  
6 we're asking for is give a sentence that makes sense for this  
7 type of case. You know, a first-time offender that was  
8 trafficking heroin might not get 80 months, depending on the  
9 amount or depending on whether or not safety valves apply and  
10 things like that. You know, to give a person an 80-month  
11 sentence. And I have all due respect for the two individuals  
12 that came in and testified today regarding what happened to  
13 them.

14 I simply say that although he's guilty of being  
15 a -- to use the Government's phrase, a down the road  
16 participant, there's nobody who's testified that he has done  
17 something to be a first-hand taker of money from anyone. Or  
18 somebody who's acting like they're somebody on the Internet  
19 trying to lure recent widows out of their money. Or trying  
20 to lure a couple with a number of children out of their  
21 money. There's nobody that's indicated that.

22 And this person who's well downstream on it, the  
23 Government is asking to punish as if he's the person that  
24 came up with the -- whatever the schemes are for the business  
25 e-mail compromises, for the scam to defraud a person out of

1 their home and rental money and things like that. And I just  
2 ask that the Court look at the person as a whole. Look at  
3 his background. Look at the individual that has come to the  
4 country to try to be educated.

5 He went down the wrong road as related to try and  
6 get married to lengthen the stay and all of those things.  
7 We're not trying to argue that. But I ask that he not be  
8 punished any greater than what's necessary to send the  
9 message that the Court will have for deterrence and also to  
10 teach the lesson, and I think that a variance to the point  
11 that I'm asking around the 40-month range would meet all of  
12 those objectives, Your Honor.

13 THE COURT: Thank you, Mr. Perry.

14 Mr. Abegunde, anything you'd like to say?

15 THE DEFENDANT: Yes, Your Honor. I've been  
16 locked up for about 20 months now.

17 THE COURT: Hang on one sec because I want to  
18 make sure. Sorry. We've been in here a long time. We're  
19 going to take a ten-minute break. Okay? And give you time  
20 to gather your thoughts and other people time to do various  
21 things. So it's five after 4:00 almost or a little bit  
22 after. Let's come back at a quarter after 4:00, and we'll  
23 finish up. Okay?

24 (Short break.)

25 MR. FLOWERS: Your Honor, when Mr. Abegunde gets

1 out here, may I correct one thing that I said when he gets  
2 out here?

3 THE COURT: Yes.

4 So Mr. Flowers wanted to correct something.

5 MR. FLOWERS: Yes, Your Honor. In the  
6 Government's sentencing recommendation, Probation alerted me  
7 to the fact that I misspoke. The range is 78 to 97, and the  
8 Government's advocating for a sentence of 87 months, right in  
9 the middle of that. I wanted to clarify that I did not want  
10 it to seem as if we're asking for the high end of the  
11 guidelines.

12 THE COURT: Okay.

13 MR. FLOWERS: The other issue is, without that  
14 big of a deal, my flight is at 6:00 to go back. There's a  
15 chance that I may slip out, depending on how long we go, and  
16 Ms. Ireland will handle the end of this with the Court's  
17 permission.

18 THE COURT: I'm hoping we don't get in the middle  
19 of that, but we'll see. All right. Mr. Abegunde.

20 THE DEFENDANT: Yes, Your Honor. As I was  
21 saying, I've been locked up for 20 months. Out of the  
22 20 months, I spent 16 months in a cell in Mason, Tennessee.  
23 And in that cell, about seven different people have come and  
24 gone, you know, but in the last five days unfortunately I've  
25 not been able to sleep. And the reason why I have not been

1 able to sleep is they brought in a new cell mate for me about  
2 a week ago. And each time I sleep, just because I have -- I  
3 don't know if I call it a deficiency or a defect. I snore,  
4 you know. So every time I'm sleeping, he always wakes me up  
5 and says if I snore, you know, he's going to keep waking me  
6 up because if he can't sleep, I shouldn't be able to sleep.

7           So as I stand before this Court today, I'm  
8 drowsy. I can't -- I don't have a feel of myself. And the  
9 main point I'm trying to drive is, you know, the Government  
10 has made this case about a lengthy sentence for me. But in a  
11 prison system, a detention system, there are lots and lots of  
12 dangers. I'm in a dilemma right now. What do I do? I need  
13 to sleep. It's natural if I want to sleep.

14           You know, I've tried to approach this gentleman  
15 and say please, you know, can we work something out. I don't  
16 mind. He's gets aggressive. He's challenging me to fight.  
17 And I can't get into a fight, you know. Should I, you know,  
18 tell the authorities, I'll be looked upon as a rat or of the  
19 police. And you know, with a lengthy sentence, only God  
20 knows the amount of dangers I face going forward.

21           Your Honor, regarding this entire case, I just  
22 want to point out something. And I don't know if that fact  
23 is missing or, you know, is being overshadowed. And is that  
24 as soon as I became aware that \$9,000 had gone into a friend  
25 of mine's account, immediately I became aware, I did

1 everything to make sure the funds were returned. It was  
2 never my intention, it was never my -- I never, I never, I  
3 never anticipated that fraudulent funds would come through  
4 me.

5           And you know, even the Government has stated its  
6 case, you know, I stated categorically it was never my  
7 intention. I didn't knowingly receive any fraudulently  
8 obtained funds. And the only fraudulently obtained funds  
9 that came into a friend's of mine account, it didn't come to  
10 my account. It didn't come to me. Right? Because as a  
11 matter of business policy, all of the facts that have been  
12 presented in this court came from my phone. Came from  
13 communications I had.

14           And there's no single communication, there's no  
15 single bank deposit slip that shows a \$9,000 transaction.  
16 That \$9,000 transaction from the presentence report, finding  
17 of fact says it came from Alika Deniga. My friend Ojo said  
18 Alika Deniga put money into his account. And I strongly  
19 admonished him for not being -- taking steps to ensure the  
20 innocence of the funds. In my view, you know, I made phone  
21 calls, made all those chats to ensure, hey, I don't want any  
22 trouble. I'm trying to stay out of trouble.

23           I made phone calls. I chatted. I was trying to  
24 make sure there was no fraudulently obtained funds done  
25 within any transaction I was involved in. However, you know,

1 I wouldn't be here right now. And you know, the Honorable  
2 Judge has a job to do right now. And I just beg, I just  
3 plead, you know. I'm not the only one doing jail time right  
4 now. My mother. My mother is a widow. She's been a widow  
5 for close to 30 years. My mother is doing -- serving jail  
6 time with me right now, you know. I have a brother that has  
7 sickle sell.

8 THE COURT: Say that again. Your mother is what?

9 THE DEFENDANT: My mother is a widow.

10 THE COURT: Right.

11 THE DEFENDANT: Has been a widow for close to 30  
12 years.

13 THE COURT: Right.

14 THE DEFENDANT: Yeah. She's doing jail time with  
15 me right now. I don't mean directly. I mean, in terms of --

16 MR. PERRY: Figuratively.

17 THE COURT: Okay. Thank you.

18 THE DEFENDANT: My brother, my older brother,  
19 sickle cell. He's about 35, you know. He's doing jail time  
20 with me right now. My first wife is doing jail time with me.  
21 My daughter is doing jail time with me right now. So I  
22 plead, with this Honorable Court, I plead that this Honorable  
23 Judge in dispersing the judgment, I plead for leniency. I  
24 plead that you give me an opportunity to go back and pick up  
25 the broken pieces of my life and restart again. Thank you.



1 THE COURT: Thank you, Mr. Abegunde. All right.  
2 Anything from anyone else?

3 MR. FLOWERS: Not from the Government, Your  
4 Honor.

5 MR. PERRY: No, Your Honor.

6 THE COURT: I assume nothing from Probation?

7 PROBATION OFFICER: No, Judge.

8 THE COURT: Thank you.

9 So my job is to consider the Advisory Sentencing  
10 Guidelines and the 3553 factors to make an individual  
11 assessment about Mr. Abegunde's sentence to impose a sentence  
12 that's sufficient but not greater than necessary to  
13 accomplish the purposes of sentencing. Looking at the 3553  
14 factors, first the nature and circumstances of the offense  
15 and the seriousness of it. This was of course an economic  
16 crime. No violence was involved. But it was still a very  
17 serious crime.

18 It's one of those, it's a series of events that  
19 affects peoples' lives for a very long time. Whether they  
20 are the people who were directly defrauded, the victims of  
21 the business e-mail compromises, wherever the victims plugged  
22 in, they were hurt in significant ways. Ms. Maples today  
23 talked about physical ways, and that certainly plays a part.  
24 But also psychological, economic, all those other ways. And  
25 I'll note that the -- we heard from the owner of Whatcom at

1 -- was that Mr. Alonso's sentencing?

2 MR. FLOWERS: Yes, ma'am. That was Mr. Alonso.

3 THE COURT: And she wrote -- they wrote a  
4 statement in the presentence report too, I think, of just  
5 what it does to a company. Because of actions like this,  
6 because of the fraud and the cleaning of the money that comes  
7 from a fraud, it all affects our banking systems. It affects  
8 our e-mail systems. It affects our social media. It makes  
9 all of those things less stable.

10 It affects the way in which ordinary people -- we  
11 all are ordinary people -- it affects the way we communicate  
12 with one other and the level of trust that we can have among  
13 us. It has lasting effects beyond the mere dollars. And  
14 the, quote, mere dollars in this case is -- I also have to  
15 point to is significant. It's, you know, just under \$600,000  
16 that I have found is relevant conduct related to  
17 Mr. Abegunde.

18 I didn't say this when I addressed that issue,  
19 but the Government has consistently argued that this is a  
20 very conservative amount. We don't know what else went  
21 through other accounts, Mr. Abegunde's business account that  
22 may have been part of fraud. So I'm just going to rely on  
23 the number that I found. That's a significant amount of  
24 money that was part of fraudulent conduct affecting a great  
25 number of people.

1 I also have to address the -- both the marriage  
2 fraud and the witness tampering counts. Those are also very  
3 serious convictions. Marriage fraud, trying to stay in this  
4 country through illegitimate ways, marrying someone in the  
5 service, certainly Ms. Caffey made her own decision. She was  
6 an adult. Mr. Abegunde didn't -- I can't tag him with her  
7 making her own decision. But he also was a part of that and  
8 made the decision to marry someone in our military, ending up  
9 ruining her career in order to stay in this country  
10 illegally. And that, it is a serious matter.

11 Frankly what's even more serious is the witness  
12 tampering though. Writing the document and making it seem as  
13 if that came from previous counsel to try and convince her  
14 not to cooperate with the authorities is making a mockery of  
15 our system. That's serious behavior that has to be  
16 recognized.

17 In terms of Mr. Abegunde's history and  
18 characteristics. No criminal history. We do know from the  
19 interview with the agents that Mr. Abegunde's view of what  
20 constitutes criminal behavior in this setting is different  
21 than frankly what the law says, and that's disturbing. I'm  
22 kind of with Mr. Flowers on the point that Mr. Abegunde is  
23 obviously very bright and very hard working. Has had and I  
24 hope still has high hopes for his life and high, big dreams  
25 about what he hopes to accomplish in his life. Still a young

1 man. 32. Are you still 32?

2 THE DEFENDANT: My birthday is tomorrow.

3 THE COURT: Your birthday is tomorrow?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Well, happy birthday, sir. Still a  
6 young man. And with a lot of your life ahead of you. And I  
7 hope that this -- all of this doesn't cause you to lose the  
8 dreams that you hope that you achieve in your life one day.  
9 But it is sort of unfortunate, and really I can't kind of  
10 wrap my arms around why you made some of the decisions you  
11 made here.

12 Born in Nigeria. Raised in a middle class  
13 environment by your parents until your dad's death. And then  
14 by your mother and other relatives. According to the  
15 presentence report, active in lots of endeavors. College  
16 degree in Nigeria and then the MBA from Texas A&M.

17 You're married to Ms. Makinwa. Had a child. And  
18 although I'm not sure we have ultimate proof, but it seems  
19 like you probably have two children with Ms. Makinwa. And  
20 certainly you mentioned her, mentioned at least the one  
21 daughter. Certainly have, it appears to have family who are  
22 very supportive of you and care a great deal about you. And  
23 I hope -- I point that out because I hope that is one of the  
24 things that helps you as you move forward. As you work  
25 through the situation, get it behind you and see that life

1 that you have for you going forward.

2 Have a good work history. Worked for other  
3 people. But more time working for yourself. I think to  
4 achieve some of those things that you've dreamed about in  
5 your life. A lot of consumer debt. I don't know if maybe  
6 some of that is tied to trying to get a business going and a  
7 way in which money was obtained to try and support the  
8 startup of a business. You're smart enough to figure out how  
9 to -- once all this is behind you, how to start a business in  
10 a legitimate way and start a legitimate business that  
11 provides those things for you in your life going forward.

12 In terms of adequate deterrence to criminal  
13 conduct, protecting the public from further crime, promoting  
14 respect for the law and providing a just punishment, I had  
15 written in my notes, I always have notes coming in, and then  
16 I listen to what everyone says. But I had written in my  
17 notes I was unclear about deterrence going forward because of  
18 some of the views you've expressed here. The view that --  
19 and I guess I'm primarily relying on this conversation you  
20 had with the FBI early on. This view that someone who  
21 touches the money way after the fraud happens is not guilty  
22 of anything.

23 And then, you know, I look to -- I look at the  
24 marriage fraud and again, even more so at the witness  
25 tampering, and I think is this a situation where this is

1 someone whose moral compass is just off. It's just not in  
2 line with the way in which, at least in this country,  
3 business operates and the way in which courts operate from a  
4 perspective of the witness tampering issue. And you know,  
5 ultimately I don't know.

6 I mean, Mr. Perry makes the point that you've  
7 learned a great lesson here and realize sort of where the  
8 mistake was made in terms of verifying the source of the  
9 funds. That's not the only lesson here. I mean, obviously  
10 that's a huge one. But it's a bigger issue here that deals  
11 with all the ways in which people are making decisions that  
12 are not in line with the law and how it is you're going to  
13 make sure -- to the extent you stay in this country, make  
14 sure that you never participate in those practices at all.  
15 And that goes to specific deterrence. Deterrence that  
16 applies to you.

17 Mr. Perry also makes the point that there aren't  
18 other people who would engage in this. It's not like there's  
19 a set of people out there who are waiting to convert money,  
20 and there needs to be a message related to those people.  
21 It's probably right. As to people who are going to exchange  
22 this -- engage in this particular act. But the larger  
23 message is people who participate in any way in these various  
24 kinds of scams that defraud people of their hard-earned  
25 money, whether it's a business e-mail scam, a romantic scam,

1 an advanced fee scam of another kind, there does need to be a  
2 message that the courts take these situations seriously and  
3 react to these situations in a serious way. And there's a  
4 price to be paid for it.

5 In terms of educational/vocational training,  
6 things we can help with. I really don't know. I mean, I  
7 don't think the Defense has asked for anything in particular.  
8 I think Mr. Abegunde has all the tools he needs to be  
9 successful in life. It's just a question of him making the  
10 decisions to do so.

11 So in determining what sentence to impose, I  
12 consider the presentence report and the other documents filed  
13 in the case as well as the positions taken by the parties.  
14 Let me say one other word about Mr. Abegunde made the point  
15 that his family is sort of in prison with him. I do --  
16 although you said it more poetically than a lot of Defendants  
17 say it, it's certainly something I hear from other people of  
18 the suffering that's done by the family because of a sentence  
19 that a defendant receives. Unfortunately, my response to  
20 that is while I'm very sympathetic, I'm very sympathetic that  
21 your mother is suffering and that your brother and the other  
22 people you love in your life, unfortunately, those are the  
23 unintended consequences of actions that people engage in.  
24 Our families often -- we often bring our families joy, and we  
25 sometimes bring our families suffering. I can't, as

1 sympathetic as I am to your family and how they feel about  
2 it, I can't adjust a sentence because of the effect on them.  
3 I have to address an appropriate sentence for you, given all  
4 the factors I've outlined.

5           Based on the factors I've outlined and the  
6 advisory guidelines, Mr. Abegunde, I'm going to sentence you  
7 to 78 months. It is a guideline sentence. It's the low end  
8 of the guidelines. I think it's an appropriate sentence,  
9 based on the different actions engaged in here. Not only do  
10 we have the conspiracy to commit money laundering, we have  
11 other actions of fraud through the marriage fraud as well as  
12 the -- what is essentially fraud in the witness tampering. A  
13 great deal of money was at issue here. And I think that's  
14 the appropriate sentence from a deterrence standpoint, both  
15 specific and general. As well as given the nature and the  
16 circumstances and the other factors I've outlined.

17           It is for counts -- excuse me -- for Count 4, it  
18 would be 60 months. 78 months as to the other counts, all to  
19 run concurrent with one another. I'm not going to impose a  
20 fine, but I will order restitution in the amount of  
21 \$71,411.62 with the amounts for the entities that I outlined  
22 at the beginning. I'll note that the TRICARE restitution is  
23 joint and several with Caffey. The Crye-Leike restitution is  
24 joint and several with Mr. Alonso. And then there's the  
25 15,000 for Ms. Maples and 1400 for Ms. Garcia. Mandatory



1 special assessment of -- excuse me -- supervised release  
2 next. Let me -- before I go on, so do we need to talk about  
3 the Crye-Leike amount of the restitution, given that I did  
4 not include that amount in the relevant conduct?

5 MS. IRELAND: First, Your Honor, you said  
6 restitution to Crye-Leike. Did you intend to say Crye-Leike,  
7 or did you mean to say Whatcom?

8 THE COURT: Well, Whatcom is in there too.

9 MS. IRELAND: Okay. I don't have an answer to  
10 that, Your Honor. I'm not sure how it should be addressed.  
11 Any ideas, any thoughts?

12 MR. FLOWERS: Perhaps it's safer not to include  
13 it and to possibly do a motion to reconsider the restitution  
14 at a later date if we find authorities that would direct  
15 that, Your Honor.

16 THE COURT: Okay. I think that is the safer  
17 course. I assume you don't have an objection, Mr. Perry?

18 MR. PERRY: No objection, Your Honor.

19 THE COURT: All right. So the 13,5- for  
20 Crye-Leike will not be included, but the TRICARE amount will  
21 be included joint and several with Caffey. The Whatcom  
22 amount joint and several with Mr. Alonso. And then the  
23 Maples and Garcia figures.

24 Supervised release, the range for Count 1 is two  
25 to five years. The range for Counts 3, 4 and 5 is one to

1 three years. I'm inclined to impose a three-year term with  
2 collection of DNA. Officer access to all financial  
3 information. No lines of credit without officer approval and  
4 the standard conditions. Does anyone wish to be heard about  
5 any of that?

6 MR. PERRY: No, Your Honor.

7 MR. FLOWERS: No, Your Honor.

8 THE COURT: Any objections before I impose the  
9 sentence?

10 MR. PERRY: No, Your Honor.

11 MR. FLOWERS: No, Your Honor.

12 THE COURT: Mr. Perry, have I addressed all of  
13 the Defendant's arguments?

14 MR. PERRY: You have, Your Honor.

15 THE COURT: Pursuant to the Sentencing Reform Act  
16 of 1984, it's the judgment of the Court that the Defendant  
17 Olufolajimi Abegunde is hereby committed to the custody of  
18 the Bureau of Prisons to be imprisoned for a term of 78  
19 months. Upon release from imprisonment, the Defendant shall  
20 be placed on supervised release for a term of three years.  
21 Within 72 hours of release from the custody of the Bureau of  
22 Prisons, the Defendant shall report in person to the  
23 probation office in the district in which the Defendant is  
24 released.

25 The Defendant shall abide by the following

1 conditions of supervised release. The Defendant shall  
2 cooperate in the collection of DNA. The Defendant is  
3 prohibited from opening additional lines of credit without  
4 the probation officer's approval. The Defendant shall  
5 provide probation officer access to all financial  
6 information. The Defendant shall not commit another federal,  
7 state or local crime. The Defendant shall not possess  
8 illegal controlled substances. The Defendant shall not be in  
9 possession of firearms. All other standard conditions shall  
10 apply. There'll be no fine.

11 Restitution in the amount of \$57,911.62 is due  
12 and owing to the following victims: \$7,429.59 to TRICARE  
13 joint and several with Caffey. \$34,082.03 to Whatcom Land  
14 Title Company joint and several with Mr. Alonso. 15,000 to  
15 Ms. Anne Maples. 1400 to Ms. Karina Rodriguez Garcia. Did I  
16 get that first name right?

17 MR. FLOWERS: Yes, Your Honor.

18 THE COURT: Restitution should be paid in monthly  
19 installments in the amount of ten percent of gross income,  
20 which is total income from all sources before deductions,  
21 exemptions and other tax reductions. Interest requirements  
22 are waived pursuant to 18 U.S.C. Section 3664(k). The  
23 Defendant shall notify the Court and the United States  
24 attorney of any material change in economic circumstances  
25 that might affect the Defendant's ability to pay restitution.

1 It's further ordered that the Defendant shall pay to the  
2 United States a special assessment of \$400 which shall be due  
3 immediately.

4 Mr. Abegunde, defendants have a right to appeal a  
5 sentence. If you wish to appeal, the notice has to be filed  
6 within 14 days of when we enter the judgment here or 14 days  
7 if the Government were to appeal. F you wish the clerk to  
8 prepare and file your notice of appeal, you can make that  
9 request. If you wish to appeal and can't afford the cost of  
10 an appeal or the cost of a lawyer, you can seek to appeal in  
11 forma pauperis without paying and seek the appointment of  
12 counsel.

13 Mr. Perry, could you come and grab that packet?

14 MR. PERRY: I'm sorry.

15 THE COURT: That's all right.

16 Mr. Abegunde, that packet has your appeal rights  
17 in it.

18 First, any mistakes or problems with the  
19 sentence?

20 MR. PERRY: I didn't hear the last part.

21 THE COURT: Any mistakes or problems with the  
22 sentence?

23 MR. PERRY: No, Your Honor.

24 MR. FLOWERS: I don't believe so, Your Honor, no.

25 THE COURT: Any issue with the sentence as

1 pronounced?

2 MR. FLOWERS: No, Your Honor.

3 MR. PERRY: No, Your Honor.

4 THE COURT: Okay. Request for the judgment,  
5 Mr. Perry?

6 MR. PERRY: Yes, Your Honor, if I may.

7 THE COURT: What do you got?

8 MR. PERRY: And I might be thrown off.

9 THE COURT: Request for the judgment, is there a  
10 location?

11 MR. PERRY: Yes.

12 THE COURT: Programs?

13 MR. PERRY: As it relates to proximity to family,  
14 I'm not sure. I know that the consulate from Atlanta is  
15 here. If I could have just a moment.

16 Your Honor, in this area just because I  
17 anticipate a pretty detailed appeal effort, I would ask that  
18 he be in an area as close as possible -- as his categories  
19 and proper -- whatever he's categorized as and I'm sorry.

20 THE COURT: It's all right. I know what you're  
21 saying.

22 MR. PERRY: Wherever he's -- that he qualifies to  
23 be as close to this area is what we want so I can travel to  
24 him if -- as possible.

25 THE COURT: So as close to Memphis as possible to

1 be near appellate counsel for a complicated appeal.

2 MR. PERRY: Correct.

3 THE COURT: Would that be good language?

4 MR. PERRY: That is precise. Thank you.

5 THE COURT: I'm not sure you want to include  
6 anything else because it might contradict that.

7 MR. PERRY: No. I guess the only other thing is  
8 the fact that, you know, I would imagine that a security  
9 level. He hasn't had any kind of infractions since he's been  
10 out. And he's a Category 1 on a finance case, so that being  
11 the case, whatever the Bureau of Prisons says in regards to  
12 that, if it's close. I don't want him, in other words, being  
13 close but in a place where it's a category he shouldn't be.

14 THE COURT: I don't think they would do that  
15 anyway. And I mean, I typically don't comment on the  
16 security classification because that's going to drive a lot  
17 of it.

18 Anything else that you all need to address, we  
19 need to address today?

20 MR. FLOWERS: No, Your Honor.

21 MR. PERRY: No, Your Honor.

22 THE COURT: Anything else?

23 Mr. Abegunde, do you have any questions for me?

24 THE DEFENDANT: No, ma'am.

25 THE COURT: All right. Thank you all.

1                   Mr. Abegunde, I do, I wish you good luck, sir.

2 Thank you.

3                   (Adjournment.)

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**C E R T I F I C A T E**

I, CANDACE S. COVEY, do hereby certify that the foregoing 144 pages are, to the best of my knowledge, skill and abilities, a true and accurate transcript from my stenotype notes of the Continuation of the Sentencing hearing on the 22nd day of October, 2019, in the matter of:

United States of America

vs.

Olufolajimi Abegunde

Dated this 3rd day of December, 2019

S/Candace S. Covey

CANDACE S. COVEY, LCR, RDR, CRR  
Official Court Reporter  
United States District Court  
Western District of Tennessee