
APPENDIX A

PUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-4427

UNITED STATES OF AMERICA,

Plaintiff – Appellee,

v.

PATRICK EMANUEL SUTHERLAND,

Defendant – Appellant.

Appeal from the United States District Court for the
Western District of North Carolina, at Charlotte.
Max O. Cogburn, Jr., District Judge. (3:15-cr-00225-
MOC-DCK-1)

Argued: March 20, 2019

Decided: April 19, 2019

Before WILKINSON, HARRIS, and
QUATTLEBAUM, Circuit Judges.

Affirmed by published opinion. Judge Wilkinson wrote the opinion, in which Judge Harris and Judge Quattlebaum joined.

ARGUED: Barry Joel Pollack, ROBBINS, RUSSELL, ENGLERT, ORSECK, UNTEREINER & SAUBER, LLP, Washington, D.C., for Appellant. Amy Elizabeth Ray, OFFICE OF THE UNITED STATES ATTORNEY, Asheville, North Carolina, for Appellee. **ON BRIEF:** Dawn E. Murphy-Johnson, MILLER & CHEVALIER CHARTERED, Washington, D.C., for Appellant. R. Andrew Murray, United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Charlotte, North Carolina, for Appellee.

WILKINSON, Circuit Judge:

Defendant Patrick Sutherland appeals from his convictions for filing three false tax returns and obstructing a grand jury proceeding. Sutherland principally contends that providing fabricated loan documents to a U.S. Attorney's office was too distant from an ongoing grand jury proceeding to meet the nexus requirement set forth in *United States v. Aguilar*, 515 U.S. 593 (1995), and *Marinello v. United States*, 138 S. Ct. 1101 (2018). The district court properly instructed the jury on the nexus

requirement, however, and the jury's determinations pursuant to that instruction were based on the substantial evidence presented at trial. For the reasons that follow, we affirm.

I.

This case involves the defendant's attempts to avoid paying taxes, and his subsequent efforts to cover up those crimes. Sutherland owned or operated several insurance businesses that sold products out of the United States and Bermuda. He routed his international transactions through Stewart Technology Services (STS), a Bermuda company. Defendant claims that his sister, Beverly Stewart, owned and controlled STS, but Sutherland actually managed all its day-to-day affairs. Despite allegedly owning a multi-million-dollar business, Stewart worked at the Best Western hotel in Cody, Wyoming for less than \$10 an hour. At one point, she was unable to pay a \$600 fee without her hotel earnings.

Between 2007 and 2011, STS sent Sutherland, his wife, or companies that he owned more than \$2.1 million in wire transfers. In each of the tax years 2008, 2009, and 2010, STS and Sutherland treated these wire transfers in inconsistent manners that provided Sutherland tax advantages. See J.A. 1252-62 (Government exhibit 12A, which compiles information from 127 wire transfers). To wit, Sutherland treated the vast majority of the wire transfers from STS to his companies as bona fide loans or capital contributions, which ordinarily are not taxable income for their recipient. By contrast,

STS treated nearly all of the wire transfers as expenses that had been paid to Sutherland. If the wire transfers were in fact expenses paid to Sutherland, as STS recorded them, then Sutherland and his companies should have reported the wire transfers as taxable income. Far from reporting them as income, however, Sutherland either treated the transfers from STS to him and his wife as bona fide loans or failed to account for them in his general ledger altogether. In the end, Sutherland did not report the \$2.1 million as income on his tax returns.

Sutherland's treatment of the STS transfers mirrored his treatment of other income. Indeed, the defendant seemed to think that marking income as a capital contribution or loan was a foolproof scheme. For example, three Sutherland companies—Insigne Consulting, Insigne, Inc., and XYZ Entertainment—sent almost \$42,000 to Kryotech Holdings, another Sutherland company, between 2007 and 2009. The paying companies recorded each transfer as a non-taxable marketing expense, while Kryotech treated the payments as non-taxable capital contributions. The net result: none of Sutherland's companies would pay taxes on those funds. Similarly, Insigne, Inc., received more than \$125,000 in taxable fees from another firm, Global Financial Synergies, between 2006 and 2010—yet Sutherland described the majority of them as nontaxable capital contributions. Come tax day, despite the millions of dollars flowing through his accounts, Sutherland reported just \$88,979 of income in 2008; \$16,669 in 2009; and \$72,415 in 2010.

But the scheme was short lived. In April 2012, Sutherland was served with grand jury subpoenas seeking financial records from his companies, including Insigne Consulting, Insigne Financial Services, Insigne, Inc., Kryotech Holdings, and XYZ Entertainment. Just three months later, Sutherland's attorney sent to the U.S. Attorney's office a letter that purported to explain away a large number of transactions relating to the subpoenaed materials. With respect to the wire transfers from STS to Sutherland's companies, the letter said that each transfer was a loan that was "contemporaneously documented by written and fully-executed loan agreements," J.A. 1309. Those agreements were attached to the letter.

In 2015, a federal grand jury indicted Sutherland for filing false returns in the tax years 2008, 2009, and 2010, in violation of 26 U.S.C. § 7206(1), and for obstructing, influencing, or impeding the 2012 grand jury investigation, or attempting to do so, in violation of 18 U.S.C. § 1512(c)(2). See also *id.* § 2 (aiding and abetting).

The evidence at trial not only outlined the financial misdeeds described above, but also demonstrated that the loan documents Sutherland sent to the U.S. Attorney's office in July 2012 had been fabricated. Read together, the documents implausibly pledged that Sutherland would give STS 120% of the proceeds of any sale of his businesses. While the documents had purportedly been signed by Sutherland's sister, evidence revealed that Sutherland commonly signed documents for her. The

loan documents from Sutherland, moreover, conflicted with internal accounting documents from STS (the purported lender). Finally, the government introduced documents in which Sutherland claimed to have made loan payments by transferring interests in his other businesses to STS. But these related documents were bogus and backdated. A document supposedly signed in 2011, for example, described how Sutherland's businesses had "received loans from [STS] in 2011, 2012, and 2013." J.A. 1333. Legitimate documents do not reference potential future transactions in the past tense, just as bona fide loans do not require fake payment trails.

The jury had little trouble seeing through Sutherland's manipulations of his accounting records and attempts to fabricate loan documents to cover his tracks. It found Sutherland guilty on all charges. And the district court ultimately sentenced Sutherland to a term of thirty-three months in prison. Defendant now appeals.

II.

Sutherland's primary challenge is to his conviction on the grand jury obstruction count under 18 U.S.C. § 1512(c)(2).^{*} Section 1512(c)(2) provides:

^{*} Sutherland also challenges the sufficiency of the evidence for his false tax return convictions, and, in a footnote, the district court's loss calculations at sentencing. We have reviewed the record and concluded that the false tax return verdicts were supported by substantial evidence, and that the district court's factual determinations at sentencing were not

“Whoever corruptly . . . obstructs, influences, or impedes any official proceeding, or attempts to do so, shall be fined under this title or imprisoned not more than 20 years, or both.” The statute includes three core elements. The government must show that the defendant (1) “corruptly” (2) “obstruct[ed], influence[d], or impede[d]” (3) an “official proceeding,” or attempted to do so. See *United States v. Young*, 916 F.3d 368, 384 (4th Cir. 2019). The government must also demonstrate a “nexus” between the obstructive act and the official proceeding, as explained in *Aguilar*, 515 U.S. 593, and *Marinello*, 138 S. Ct. 1101.

A.

Sutherland contends that the government failed to prove a nexus between his conduct and an official proceeding. He was, he says, only “attempting to influence the U.S. Attorney’s Office,” not the grand jury. Supp. Br. for Appellant, at 6. He correctly notes—and the government does not contest—that the U.S. Attorney’s investigation is not by itself an official proceeding. The term “official proceeding” is defined by 18 U.S.C. § 1515(a)(1) to include, *inter alia*, “a Federal grand jury” or “a proceeding before a Federal Government agency which is authorized by law.” FBI investigations, for example, are not official proceedings because the statutory language

clearly erroneous. See *United States v. Shephard*, 892 F.3d 666, 670 (4th Cir.2018) (describing clearly erroneous standard for factual determinations at sentencing).

including “a proceeding before a Federal Government agency which is authorized by law,” §1515(a)(1)(C), “implies ‘some formal convocation of the agency in which parties are directed to appear, instead of any informal investigation conducted by any member of the agency.’” *Young*, 916 F.3d at 384 (quoting *United States v. Ermoian*, 752 F.3d 1165, 1171 (9th Cir. 2013) (FBI investigation)); see also *United States v. Ramos*, 537 F.3d 439, 460-64 (5th Cir. 2008) (Border Patrol investigation). The same logic equally applies to the investigation by the U.S. Attorney’s office in this case, meaning that its investigation was not an official proceeding.

The term “official proceeding” thus implies something more formal than a mere investigation. That limiting term prevents a statutory sprawl in which the countless communications of citizens with one agency or another of the federal government lay the groundwork for a potential obstruction prosecution. See *Marinello*, 138 S. Ct. at 1109-10 (reading tax obstruction statute not to extend to “routine, day-to-day work carried out in the ordinary course by the IRS,” *id.* at 1110). This back and forth between citizens and government works as a general matter to the benefit of both. Much of this activity is a wholly legitimate effort to “influence” the government. See 18 U.S.C. § 1512(c)(2). And indeed it is not far-fetched to think that an obstruction statute encroaching too aggressively on innocent citizen/agency interactions would infringe the basic right to petition guaranteed by the First Amendment of our Constitution. See U.S. Const. amend. I (“Congress shall make no law . . . abridging . . . the

right of the people . . . to petition the Government for a redress of grievances.”). Then, too, a statute that chills or burdens excessively the right of persons to protest or prove their innocence in the face of a government investigation would run counter to the operation of criminal justice as we have known it.

There are thus important safeguards to prevent the abuse of § 1512(c)(2). As the Court held in *Aguilar*, “it is not enough that there be an intent to influence some ancillary proceeding, such as an investigation independent of the court’s or grand jury’s authority.” 515 U.S. at 599. Providing materially false documents with an intent only to influence the U.S. Attorney’s investigation, therefore, would not amount to a violation of § 1512(c)(2). See *Young*, 916 F.3d at 387 (“[T]he Government has similarly failed to provide evidence demonstrating that Young . . . designed his conduct to thwart [the grand jury] investigation, rather than designing his conduct to obstruct an FBI inquiry . . .”). To be clear, knowingly giving false documents to a prosecutor without the intent to obstruct a grand jury may violate other federal statutes. *E.g.*, 18 U.S.C. §§ 1001(a), 1519. Just not §1512(c)(2).

Section 1512(c)(2) also requires proof that a particular grand jury proceeding was “reasonably foreseeable” to a defendant who has been charged with obstructing that proceeding. *Young*, 916 F.3d at 386 (citing *Arthur Anderson LLP v. United States*, 544 U.S. 696, 707-08 (2005)). While the grand jury does not yet have to be convened, it is not enough for the government to argue that a defendant could have

speculated that some official proceeding lies somewhere in the offing. The *Young* case illustrates the point. In that case, the defendant had intentionally misled FBI agents. But this court vacated defendant's conviction because "the only way the jury could have concluded he foresaw a particular grand jury investigation would be through speculation." *Young*, 916 F.3d at 387.

As so often in law, there is a balance to be struck. Though obstruction statutes are susceptible to abuse, they also exist for good reason. Official proceedings are crucial to the conduct of government. They are entitled to go forward free of corrupting influences that not only delay them but increase the chances of false and unjust outcomes. The federal grand jury investigation in this case is but one example of such an "official proceeding." See J.A. 1066 (jury instruction that the grand jury was an "official proceeding"). The government has every right to prosecute those who would corrupt it. Compromised proceedings in turn diminish public confidence in the workings of government and lead to the sort of creeping cynicism toward it that affects so many nations. Section 1512(c)(2) and other like statutes help to protect against that eventuality here.

B.

Sutherland insists there was an insufficient nexus between his conduct and the grand jury. The nexus requirement that the government had to prove under § 1512(c)(2) comes from *Aguilar* and

Marinello. *Aguilar* dealt with a conviction under 18 U.S.C. §1503, another obstruction statute, for “corruptly endeavoring to influence, obstruct, and impede the grand jury investigation.” 515 U.S. at 598 (internal quotation marks and alterations omitted). The Supreme Court held that there must be a “nexus” between a defendant’s conduct and the proceeding he obstructed. This meant that his actions needed to have a “relationship in time, causation, or logic” to the obstructed proceeding. *Id.* at 599. In other words, obstruction must have been “the natural and probable effect” of the defendant’s actions. *Id.* (internal quotation marks omitted). This nexus requirement demonstrated “restraint in assessing the reach of a federal criminal statute” in order to reinforce the principles of deference to Congress and fair notice to the accused. *Id.* at 600.

The *Aguilar* nexus requirement has flown as the crow flies straight to *Marinello*. In that case, the Court interpreted the reach of 18 U.S.C. § 7212(a), which prohibits obstruction of “the due administration of [the Internal Revenue Code].” *Marinello*, 138 S. Ct. at 1105 (emphasis omitted) (quoting § 7212(a)). A jury found that *Marinello* had obfuscated his tax records with the intent to gain a personal advantage, but not that he knew of an ongoing proceeding related to his tax records or intended to interfere with it. The Court held that the government had not proven enough to sustain an obstruction charge. It noted that the principles outlined in *Aguilar* “apply . . . with similar strength” to the Internal Revenue Code obstruction statute. *Id.* at 1106. Without a nexus requirement, any

interactions with the IRS could have been subject to § 7212(a), including “day-to-day work carried out in the ordinary course by the IRS, such as the review of tax returns.” *Id.* at 1110. The Court refused to “transform every violation of the Tax Code into an obstruction charge,” *id.*, and thus required a “relationship in time, causation or logic” between a defendant’s actions and a “particular administrative proceeding.” *Marinello*, 138 S. Ct. at 1109 (quoting *Aguilar*, 515 U.S. at 599).

The jury instructions in this case drew directly from the principles in *Aguilar* and *Marinello*. The district court first instructed the jury that it must decide whether Sutherland “knew that” the grand jury proceeding “was pending” when he distributed the false loan documents. J.A. 1066. It instructed the jury that the defendant must have acted “corruptly with the intent to obstruct, influence or impede the official proceeding.” *Id.* And, finally, the district court crafted an instruction on the nexus requirement straight from *Aguilar*: “The government must prove that the defendant . . . intended or knew his actions would have the natural and probable effect of interfering with the grand jury.” *Id.*; *Aguilar*, 515 U.S. at 599 (“[I]f the defendant lacks knowledge that his actions are likely to affect the [official] proceeding, he lacks the requisite intent to obstruct.”). The jury instructions, in other words, properly stated the nexus requirement that the jury had to apply to Sutherland’s case.

The facts of Sutherland's case fit comfortably within the above *Aguilar/Marinello* criteria, especially when viewing, as we must, the trial evidence in the light most favorable to the government as the prevailing party. *United States v. White*, 810 F.3d 212, 228 (4th Cir. 2016). The official proceeding Sutherland attempted to influence was not some far-off possibility. The grand jury had in fact convened. Sutherland's actions, moreover, show a clear "relationship in time, causation or logic with the" grand jury proceedings. *Marinello*, 138 S. Ct. at 1109 (quoting *Aguilar*, 515 U.S. at 599). Indeed, Sutherland's actions are related to the grand jury in time, causation, and logic. The temporal and logical relationships are clear: Sutherland distributed the false loan documents just months after the grand jury subpoena was served upon him, and those documents attempted to explain away transactions reflected in the subpoenaed documents.

The causal relationship between Sutherland and the grand jury rests in part on the meaningful differences between the prosecutor in his case and the FBI agent in *Aguilar*. In *Aguilar*, the government had proven that the defendant had lied to an FBI agent who had "not been subpoenaed or otherwise directed to appear before the grand jury." 515 U.S. at 601. The Court held that no rational jury could find a nexus between the defendant's false statements and the pending grand jury proceeding. 515 U.S. at 600-02. At the same time, the Court acknowledged that "a jury could find [a] defendant guilty" if he lied to an

individual who had already been subpoenaed to testify before the grand jury. *Id.* at 602.

In the instant case, Sutherland gave false documents to the U.S. Attorney's office. A prosecutor tasked with presenting to the grand jury is more akin to a witness who has been subpoenaed than one who has not. As with a subpoenaed witness, there is a strong likelihood that the U.S. Attorney's office would serve as a channel or conduit to the grand jury for the false evidence or testimony presented to it. "[A]ttorneys for the government," after all, may be present while the grand jury is in session. Fed. R. Crim. P. 6(d)(1). The causal relationship between the U.S. Attorney's office and the grand jury is that envisioned by the *Aguilar* decision.

We thus join the Second Circuit in recognizing that the "discretionary actions of a third person," as here, can form part of the nexus to an official proceeding. *United States v. Reich*, 479 F.3d 179, 185 (2d Cir. 2007) (Sotomayor, J.). In *Reich*, for example, the criminal defendant had sent an opposing party in an earlier civil proceeding a forged court order that would have mooted that party's outstanding mandamus petition. The opposing party then withdrew the petition. Because it was "foreseeable" that forging a court order would cause the opposing party to withdraw its petition, the "evidence [was] clearly sufficient to establish a relationship in time, causation, or logic between Reich's transmission of the forged order and effects on the [official] proceeding." *Id.* at 186 (internal quotation marks omitted). As in *Reich*, where forwarding the fake or

forged document had the foreseeable consequence of reaching and influencing an ongoing court proceeding, a rational jury could find that Sutherland's giving false evidence to the U.S. Attorney's office in charge of presenting evidence to the grand jury in fact had one intended and foreseeable consequence: transmission of those documents to the grand jury.

At the end of the day, Sutherland's efforts to corrupt the grand jury in this case lie at the heart of the conduct prohibited by § 1512(c)(2). He had already violated the federal income tax laws multiple times, and, in an effort to cover up his crimes, he distributed phony loan documents to prosecutors with the intent to influence an ongoing federal grand jury proceeding that was closing in on him. Because the jury was properly instructed and found Sutherland guilty based on ample and substantial evidence, we affirm Sutherland's § 1512(c)(2) conviction.

III.

Sutherland also raises several issues related to the course of his trial. First, he argues that the government's closing argument was so disconnected from the evidence that he was denied a fair trial. Second, he argues that the district court improperly admitted several pieces of evidence that should have been excluded as improper character evidence under Rule 404(b). We address each contention in turn.

A.

The defendant contends that the prosecution improperly suggested that all \$2.1 million in wire transfers from STS to Sutherland or his domestic entities should have been treated as income. Because he failed to object at the time, the matter is before us on plain error review. See *United States v. Olano*, 507 U.S. 725 (1993). Sutherland has failed to identify any error, much less a plain one. The evidence supported the government's closing argument that Sutherland should have reported the STS wire transfers as income. The government proved that the wires had been sent and plainly discredited the fabricated loan documents during trial.

Even if the closing argument had somehow been improper, however, it did not affect Sutherland's "substantial rights." *Olano*, 507 U.S. at 736. Closing arguments are just that—arguments. They are prone to exaggeration; we rely on juries and the adversarial process to place them in perspective. The district court instructed the jury to trust its own recollections of the evidence, and that closing arguments were not evidence themselves. J.A. 980-81. And Sutherland had the opportunity to respond to arguments he felt were unsupported by the evidence with objections or better arguments of his own. He did neither.

B.

Sutherland also argues that the district court wrongly admitted character evidence over his

objections. Sutherland targets three pieces of evidence: Sutherland's 2007 tax return; Sutherland's statement to Michael Jones, his business partner until 2008, that his financial transactions were difficult to trace; and testimony about Jones's past lawsuit against Sutherland. We review the district court's evidentiary rulings for an abuse of discretion, and we will not vacate a conviction if an error was harmless. *United States v. Burfoot*, 899 F.3d 326, 340 (4th Cir. 2018).

Federal Rule of Evidence 404(b)(1) prohibits evidence of a "crime, wrong, or other act" from being used "to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character." But the rule does not prohibit such evidence from being used for another purpose, such as, for example, proving motive, opportunity, or intent. Fed. R. Evid. 404(b)(2). The rule also does not affect the admission of evidence that is "intrinsic to the alleged crime." *United States v. Otuya*, 720 F.3d 183, 188 (4th Cir. 2013) (internal quotation marks omitted). "[E]vidence of other bad acts is intrinsic if, among other things, it involves the same series of transactions as the charged offense," *id.* (internal quotation marks omitted), or if it is "necessary to complete the story of the crime on trial," *United States v. Basham*, 561 F.3d 302, 326 (4th Cir. 2009) (internal quotation marks omitted).

The contested pieces of evidence were properly admitted as intrinsic evidence. Sutherland's 2007 tax return, for example, involved the "same series of transactions," *Otuya*, 720 F.3d at 188, that were at

issue in tax years 2008-10. After all, STS had already begun transferring money to Sutherland in 2007, and several of the fabricated loan documents described transactions from 2007. The same is true of Jones's testimony that, during litigation between them, Sutherland said that his "accounting was very complicated" and that "funds had moved around amongst various accounts so that it would have taken [an] expert a very long time to figure out." J.A. 456. Once again, in describing his books and funding maneuvers, Sutherland was amplifying the very trial narrative before the jury.

Sutherland also argues that Jones was improperly allowed to testify about a civil lawsuit he had filed against Sutherland. But Sutherland predominately cites to salacious details of the lawsuit that were elicited during *cross examination*. See J.A. 467, 498-99. Sutherland made a strategic choice at trial to delve into the details of Jones's lawsuit against him, which demonstrated Jones's potential bias. But Sutherland cannot now lament the admission of that which he ushered into evidence. Indeed, Sutherland did not object to Jones's brief mention that he was "in litigation" with Sutherland during direct examination. J.A. 454. That limited testimony provided context for Sutherland's statement that his accounting was complex, and it was "necessary to complete the story of the crime on trial." *Basham*, 561 F.3d at 326 (internal quotation marks omitted). The district court thus did not abuse its discretion in admitting these pieces of evidence against Sutherland.

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IV.

For the foregoing reasons, the judgment is in
all respects

AFFIRMED.

APPENDIX B

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH
CAROLINA
CHARLOTTE DIVISION

UNITED STATES OF	)	DOCKET NO.
AMERICA	)	3:15-CR-225
)	
vs.	)	VOLUME IV
PATRICK EMANUEL)	
SUTHERLAND)	
Defendant.)	

TRANSCRIPT OF TRIAL PROCEEDINGS
BEFORE THE HONORABLE MAX O. COGBURN,
JR.

UNITED STATES DISTRICT COURT JUDGE
OCTOBER 27, 2016

* * *

THE COURT: You need to check and see the documents that were in.

Also, I'm trying to figure out what to do with count four in the instructions. What documents relate to the obstruction charge?

MS. SUGAR: It's going to – it's the documents provided by Mr. Wyatt, the loan documents, the

summary of loans, the loan repayments, all of the loan-related documents. It's a speaking indictment so it sets out pretty clearly, I think, what the conduct is we're talking about.

THE COURT: What numbers are those?

MR. RYAN: I believe it would be the documents covered in both of our stipulations which would be Government's 68 --

MS. SUGAR: No, to be clear, the conduct is only stipulation 1 documents, not stipulation 2. It's mentioned but it's not charged. It's only the 2012 conduct that was charged.

In stipulation 1, 68 through 89.

MR. DUNCAN: Ready for us?

THE COURT: Not yet. I'm trying to make sure we've got all the documents in that are supposed to be in. Then we can do it. Just on their case. You still have --

MR. DUNCAN: In their case.

THE COURT: I know y'all have a stipulation y'all want to do and you may have some witnesses, so...

MR. DUNCAN: Yes.

THE COURT: We've got to see where we are with regard to this case.

But you've got -- the documents that are in are in stipulation 1; is that right?

MS. SUGAR: Yes.

THE COURT: All right. So those documents are in. Those are the documents that they turned -- Mr. Wyatt turned over to your office.

MS. SUGAR: Yes, including the letter itself with the representations made in the letter.

THE COURT: All right. Now, let me -- while I'm doing this, while we're on this, what -- let me ask this question. What is the -- what is the government's problem with the defense's version versus the government's version? What are they adding to this that you think is not necessary?

MS. SUGAR: Well, I think that the whole notion of they didn't provide the documents to the grand jury. I think it was really in response to the grand jury --

THE COURT: It is --

MS. SUGAR: -- investigation --

THE COURT: It is in response --

MS. SUGAR: -- in response to the grand jury subpoena. I just think that that's not the elements. But as long as the "in response to" is put in there, I think we're fine.

THE COURT: A grand jury subpoena.

MS. SUGAR: Grand jury subpoena, yes.

THE COURT: What do you say about that?

MS. SHAH: I would take issue with putting "subpoena" in there. The charge is 1512(c) which is interference with a grand jury proceeding, and so I think -- I think investigation is just not itself a charge. The way it's written is accurate.

THE COURT: After receiving a grand jury subpoena --

MS. SHAH: We would object.

THE COURT: -- that's what occurs. That's the whole -- if he hadn't received a subpoena, then, you know, he wouldn't know there was a proceeding. So, I mean, why would they have ever charged him?

MS. SHAH: The evidence is that -- or the stipulation states that documents were provided by our client's lawyer, prior lawyer, to the U.S. Attorney's Office.

THE COURT: I understand that's the stipulation. But in terms of the charge, they have to -- it's going to be -- I mean, he had received a grand jury subpoena.

MS. SHAH: The custodian of records for those entities had received a grand jury subpoena.

THE COURT: Right. I'm sure it could have been one of the other massive number of employees there.

What about -- so what are you saying? What are you saying, Ms. Sugar? I want to make sure we get this right. I think there's got to be some specificity in this because there was a grand jury subpoena issued.

MS. SHAH: And just to point out, Mr. Wyatt did not represent the entities. He represented Mr. Sutherland in his individual capacity.

THE COURT: I understand that. But he didn't show up in a vacuum. You can argue that he just showed up, had no idea anything was going on and it was a good day to go to the U.S. Attorney's Office, but they can also argue otherwise.

MS. SHAH: I mean, either way the documents in our view were not provided to the grand jury. They were provided to the U.S. Attorney's Office.

THE COURT: But in reading the cases, in reading the cases, if the person knew -- the case where they're talking about giving it to an FBI agent is not necessarily giving it to the grand jury, there wasn't a grand jury subpoena. It wasn't a grand jury investigation at that particular point. And so the -- but the question was did he give them to the FBI agent -- and I'm sure that judge may well have known that these things could lead to the grand jury, but they said it wasn't enough that he just gave it to the agent. That he had -- but that was different than there actually being a known proceeding going on.

MS. SHAH: And also what's different about our situation is that our client gave it pursuant to a rule that based on -- based on representations made by the lawyer in the -- his prior lawyer meant that it was not going to go to the grand jury. It was just going to go to the U.S. Attorney's Office for preindictment discussions.

MS. SUGAR: Well, Your Honor, the reason these came in and they weren't kept out under 408 is there's a specific exception to 408 if there is obstruction. These were the documents that were provided and I don't think that that issue they're raising has anything to do --

MS. SHAH: It has everything to do with the intent element.

THE COURT: But here's the deal. You've alleged not just a proceeding, but a grand jury. I mean, it could just be, you know, in relation to a proceeding, but it's a grand jury proceeding.

MS. SUGAR: Yes, Your Honor.

THE COURT: And so that's what the indictment charges. So the -- the elements of the offense have got to include what we're dealing with here. She's right in that respect. It's got -- that has -- it has to follow that.

MS. SUGAR: All right. So the proposed language That's in the draft now, "misleading documents in response to" -- I don't think that there's anything that said it had to go directly to the grand jury.

THE COURT: It doesn't have to go to the grand jury, but he has to be aware there's a grand jury investigation and he provides the documents to corruptly influence that grand jury. We've got to have -- you've got to have -- it's charged to the grand jury. There's got to be something that ties the grand jury to this case.

MS. SUGAR: Well, element number 1 is that the official proceeding identified in count four was pending at the time. That's already included in element one. If you want to write out "grand jury," we don't have any issue.

THE COURT: I know it's included -- I know it's included in count one.

So how do you say number three needs to read?

MS. SHAH: I say it needs to read consistent with our original instruction, which I'm trying to find.

THE COURT: I don't think it has to be to the grand jury, but there's got to be some -- it doesn't have to be -- in other words, it's not obstruction of the grand jury to -- let's suppose he gave documents to a grand jury witness and that grand jury witness went to the grand jury, that's obstruction -- that would put him in obstruction of the grand jury and there's case law to that effect.

By the same token -- in other words, he is influencing the grand jury. He doesn't have to directly turn those over to the grand jury himself. But there has to be some nexus in terms of the

elements and they're going to argue, as I would argue, that it's not -- that it's not here and you're going to argue that it is.

MR. DUNCAN: I mean, maybe this is the appropriate time to make our --

THE COURT: I know you're going to be making a motion on this too. I understand.

MR. DUNCAN: For most of the reasons that we've been discussing here. I think there has to be not only knowledge that there's a grand jury proceeding pending, but intent to influence the grand jury --

THE COURT: Yes, you do.

MR. DUNCAN: -- with the submission.

THE COURT: Yes, you do.

MR. DUNCAN: And I don't see that in the submission. And Ms. Sugar may be right -- may or may not be right that 408 doesn't preclude them from putting them in front of the grand jury, but if that's what the lawyer intended in --

THE COURT: We don't have any -- we don't have any evidence the other way.

MR. DUNCAN: We don't.

THE COURT: In other words, here's what's happening. You've got a grand jury investigation going on and in the light most favorable to the

government he provided these to stop the presses, to get them not to charge him, these documents. And the -- you know, that alone, if there's a known grand jury investigation going on, gets it to the jury. Now, whether they get to the -- whether they get to the -- what the instruction's going to say, I don't know.

MR. DUNCAN: I don't agree that it gets him to the jury.

THE COURT: I understand.

MR. DUNCAN: I think in order to get to the jury, it's not enough that you know there's a grand jury and that you provide the documents to the U.S. Attorney's Office. It has to be done with a particular intent and that is utterly --

THE COURT: I agree. It has to be -- there has to be a specific -- an intent to influence the grand jury. The question is, is there enough evidence to do that when there's an investigation of the grand jury going on and you give it to the federal prosecutor? I think at that point you are in -- you are intending to influence the grand jury. If you don't know that there's one -- if they come out and interview you out at your house and you lie to the officers and you don't know any investigation is going on, that's not enough to get it.

MR. DUNCAN: Well, I disagree. I think that an intent to influence a U.S. attorney not to bring charges is not identical to an intent to influence or obstruct a grand jury proceeding regardless of whether a grand jury is sitting. If what you're trying

to do is say please don't indict me, just believe me, you don't need to do this, that's saying you don't even need to go to the grand jury. And I don't think

--

THE COURT: And I understand. I understand that is the argument. But I think they can make the same argument that with a grand jury investigation going on, the doing of that was to influence the grand jury investigation itself.

MR. DUNCAN: Well, I think legally it's insufficient so we do move under Rule 29 for a required finding on count four.

For the record, we move for a required finding on counts one through three as well. I'm not going to argue those.

THE COURT: Okay. Let me hear from the government both on this instruction and on this particular argument.

MS. SUGAR: With regard to the argument, taking the evidence in the light most favorable to the government, I believe we have met all the elements of the offense.

The grand jury subpoenas were served on companies owned by the defendant. Subsequently, his attorney reached out and told the U.S. Attorney's Office conducting that investigation that please do not charge my client, and provided loan documents. The grand jury is the only place we can indict anything, Your Honor. And I think that taking the

facts most favorable to us, that we have met our burden and can go to the jury on this count.

THE COURT: All right. David, get me 1512. Get me the actual statute.

MR. DAVIS: Yes, sir.

MR. DUNCAN: By the way, I agree that the grand jury is the only place they can go to indict, but not going there is not influencing the grand jury.

THE COURT: In other words, you think he just has to pretty much show up at the grand jury and lie or present the documents; and if that -- if that is the case, then we'll have one -- if they get -- if I let it go and they get a conviction, we'll have a case --

MR. DUNCAN: We will.

THE COURT: -- on that issue. On that issue. We don't have one now. If we had one that said that, you win. It's a little odd that we don't have one yet, where they just said, look, if he's not standing there at the grand jury presenting the documents -- I would think we would have one by now. I mean, this can't be the first time that this has ever come up. I've looked -- I've read the cases. I've read the cases and you have some arguments.

MR. DUNCAN: You know, most times they'll charge under a different statute and you don't have this issue because corruptly intending to influence an investigation, you know, if that's what they indicted, we wouldn't be standing up here.

MS. SHAH: The government has at its disposal a number of obstruction statutes. It charged the wrong one in this instance.

MR. ZALKIND: Let me just raise something to Your Honor. This happened to me in a case. Your client goes to the grand jury, he gives a statement to the grand jury. He comes back and he says to you, I misstated. You have a right to go back to the grand jury and change that statement. That -- I did that in a case. He wasn't indicted for lying to the grand jury.

In this case this defendant doesn't know that this is going to the grand jury. He doesn't know he has a right to come back and say, look, I gave you the wrong documents. I want you to take these documents out. He doesn't have that right, and we have that under the -- I know you know this, that we have this under grand jury proceedings.

So that really is separating what they're arguing which is we're not dealing with the grand jury because with the grand jury you've got certain rights, which we don't have certain rights here when you're giving it to the U.S. attorney.

Now, there's an issue, do you lie to a U.S. attorney? That's a different question. But this is what you have here in this case and you should find a Rule 29 on this particular count.

THE COURT: David, get me the statute.

Let me ask a practical question. What witnesses do you have?

MR. ZALKIND: We have a number of witnesses, Your Honor.

MR. DUNCAN: We have either four or five, we're not sure yet. Most of them are short. One of them is long.

(Documents were tendered to the Court.)

THE COURT: All right. I'm going to -- for the time being I'm going to deny that. I'm going to take it under advisement. I'm going to deny it at this time and -- what I've got here is this -- I guess this is the statute. Let's see here.

1512(c)(2), "Whoever corruptly alters, destroys, mutilates or conceals a record, document or other object, or attempts to do so, with the intent to impair" -- is that it?

MR. DAVIS: Subsection 2.

THE COURT: Oh, number 2, excuse me.

"Whoever corruptly otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so."

And in this case it specifically states the proceedings are the grand jury proceedings, not just a government investigation or a 1001 violation.

Okay. I'll look at it. Right now it's going to be denied.

I guess we'll go into evidence, then. But -- yeah, I'm going to -- you know, I'm going to go ahead and work on this. And I'm going to work off of the defense version here on this instruction should we go there.

Yes, sir.

MR. DUNCAN: Could I just add one argument to our Rule 29 that my colleague pointed out to me, which is that under the interpretation that the Court has, and the government has laid out, I think there's a fair notice/due process issue. I just don't think that people have fair notice of what is prohibited if these Rule 408 proffers can constitute obstruction of a grand jury proceeding.

THE COURT: Okay. That will be considered. At the present time it's denied and you will start your witnesses when we bring the jury back in.

On your other -- on the other counts it's denied.

MR. DUNCAN: Thank you, Your Honor.

* * *

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CERTIFICATE OF REPORTER

I, Cheryl A. Nuccio, Federal Official Realtime Court Reporter, in and for the United States District

Court for the Western District of North Carolina, do hereby certify that pursuant to Section 753, Title 28, United States Code, that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 21st day of August 2017.

s/Cheryl A. Nuccio

Cheryl A. Nuccio, RMR-CRR

Official Court Reporter

APPENDIX C

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH
CAROLINA
CHARLOTTE DIVISION

UNITED STATES OF	)	DOCKET NO.
AMERICA	)	3:15-CR-225
)	
vs.	)	VOLUME V
PATRICK EMANUEL)	
SUTHERLAND)	
Defendant.)	

TRANSCRIPT OF TRIAL PROCEEDINGS
BEFORE THE HONORABLE MAX O. COGBURN,
JR.

UNITED STATES DISTRICT COURT JUDGE
OCTOBER 28, 2016

* * *

THE COURT: Yeah. In fact, we'll probably -- I know the defense is going to want to use a podium to argue; is that correct?

MR. DUNCAN: Correct.

THE COURT: So we need to move that into position.

Oh, and at the end of all the evidence, the defense renews its motion on all counts that they -- Rule 29 to dismiss.

MR. DUNCAN: Yes. There's a particular part of the Rule 29 that I don't think I put in the first time but I will renew it that way, which is that the -- we contend that there is not sufficient evidence of a false statement with respect to signatory authority on the 2008, 2009 or 2010 tax returns because there is no form and no assertion.

THE COURT: Okay. Those will be -- those will be denied. The Court also denies the obstruction of justice at this time and will allow the defense to renew all those motions at the end of the case if there is an adverse verdict against the defendant. But I understand and those will be denied at this time.

* * *

THE COURT: All right. Is everybody ready for the most exciting part of the trial?

MS. RAUSCHER: It's my favorite part.

THE COURT: Me reading the instructions.

MR. DUNCAN: Your Honor, I just want to be sure, that colloquy we had about the Rule 29, did you consider that our renewal at the close of the case?

THE COURT: Uh-huh.

MR. DUNCAN: You did.

THE COURT: I did. Yeah, you're on the record as -- you made the -- you made the motion at the end of the government's evidence and that's why I brought it up, to make sure -- and you've made it now at the close of all the evidence with the -- an additional argument.

MR. DUNCAN: Correct.

THE COURT: The reason being as stated.

MR. DUNCAN: Okay. Good. Thank you.

THE COURT: So all that's on the record, every bit of it. If you have a bad verdict, you'll have another shot of making it too, so...

MR. DUNCAN: Right. Thank you.

* * *

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CERTIFICATE OF REPORTER

I, Cheryl A. Nuccio, Federal Official Realtime Court Reporter, in and for the United States District Court for the Western District of North Carolina, do hereby certify that pursuant to Section 753, Title 28, United States Code, that the foregoing is a true and

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correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 21st day of August 2017.

s/Cheryl A. Nuccio

Cheryl A. Nuccio, RMR-CRR
Official Court Reporter

APPENDIX D

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH
CAROLINA
CHARLOTTE DIVISION

UNITED STATES OF	)	DOCKET NO.
AMERICA	)	3:15-CR-225
)	
vs.	)	VOLUME V
PATRICK EMANUEL)	
SUTHERLAND)	
Defendant.)	

TRANSCRIPT OF TRIAL PROCEEDINGS
BEFORE THE HONORABLE MAX O. COGBURN,
JR.
UNITED STATES DISTRICT COURT JUDGE
OCTOBER 28, 2016

* * *

THE COURT: Motions?

MR. DUNCAN: We move for a judgment notwithstanding the verdict on all four counts.

THE COURT: All four counts. I'm going to -- I will give you time on the -- I'm still interested in the -- in count four. I'm going to deny the motion as to the first three counts. I understand the theory of

argument there. I think there's plenty of evidence on which a jury -- properly instructed jury could find the defendant guilty. And I also think so on count four, but I wanted to -- I want to look -- I'm going to give you -- how long would it take you to do a -- you're going to do an appeal, so essentially to let me hear what your arguments are as to count four, the obstruction of justice.

MR. DUNCAN: Two weeks, Your Honor.

THE COURT: Two weeks. And then how long would the government need to respond on that motion?

MS. SUGAR: If we could just have the standard ten days, that would be fine.

THE COURT: Ten days will be fine. What we'll do is I understand you made the motion. I am denying it as to counts one, two, and three. But as to count four, I will withhold ruling on that until I have read the documents on that. I understand what the -- what your theory is on that. Essentially your theory is that the government charged the wrong thing in terms of obstruction by charging grand jury in this fact situation. That's what I understand.

MR. DUNCAN: Right.

THE COURT: And I would certainly like to hear what You're saying about that, have the government respond to that specifically, and then I can make a determination on that particular count.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CERTIFICATE OF REPORTER

I, Cheryl A. Nuccio, Federal Official Realtime Court Reporter, in and for the United States District Court for the Western District of North Carolina, do hereby certify that pursuant to Section 753, Title 28, United States Code, that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.


Dated this 21st day of August 2017.

s/Cheryl A. Nuccio

Cheryl A. Nuccio, RMR-CRR
Official Court Reporter

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Signed: December 5, 2016


Max O. Cogburn Jr.
United States District Judge



APPENDIX F

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH
CAROLINA
(CHARLOTTE DIVISION)

UNITED STATES OF	)	Criminal Action:
AMERICA	)	3:15-CR-225
Plaintiff,)	
vs.)	
PATRICK)	
SUTHERLAND,)	
Defendant.)	

Wednesday, June 21, 2017
Charlotte, North Carolina

The above-entitled action came on for a Sentencing Hearing Proceeding and Forfeiture Proceeding before the HONORABLE MAX O. COGBURN, Jr., United States District Judge, commencing at 9:34 a.m.

* * *

MS. SUGAR: Your Honor, if I may. Before we get I didn't know if the Court wanted to rule on the -- hear about the JNOV before we got to the PSR objection.

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THE COURT: Yeah. It's denied. It's denied.

MR. DUNCAN: The JNOV is denied without argument.

THE COURT: It's denied.

MR. DUNCAN: Again, note our objection, Your Honor.

THE COURT: I understand.

* * *

CERTIFICATE

I, Tracy Rae Dunlap, RMR, CRR, an Official Court Reporter for the United States District Court for the Western District of North Carolina, do hereby certify that I transcribed, by machine shorthand, the proceedings had in the case of UNITED STATES OF AMERICA versus PATRICK SUTHERLAND, Criminal Action Number 3:15-CR-225, 8 on June 21, 2017.

In witness whereof, I have hereto subscribed my name, this 28th day of August, 2017.

/S/ Tracy Rae Dunlap
TRACY RAE DUNLAP, RMR, CRR
OFFICIAL COURT REPORTER

APPENDIX G

FILED: May 17, 2019

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-4427
(3:15-cr-00225-MOC-DCK-1)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

PATRICK EMANUEL SUTHERLAND

Defendant - Appellant

ORDER

The petition for rehearing en banc was circulated to the full court. No judge requested a poll under Fed. R. App. P. 35. The court denies the petition for rehearing en banc.

For the Court

/s/ Patricia S. Connor, Clerk

APPENDIX H

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH
CAROLINA
CHARLOTTE DIVISION

UNITED STATES OF	)	DOCKET NO.
AMERICA	)	3:15-CR-225
)	
vs.	)	VOLUME IV
PATRICK EMANUEL)	
SUTHERLAND)	
Defendant.)	

TRANSCRIPT OF TRIAL PROCEEDINGS
BEFORE THE HONORABLE MAX O. COGBURN,
JR.

UNITED STATES DISTRICT COURT JUDGE
OCTOBER 27, 2016

* * *

LINDA POLK, GOVERNMENT WITNESS,

SWORN,

DIRECT EXAMINATION

* * *

BY MS. SUGAR:

Q. All right. And ultimately, I'm going to show you what's marked for identification as Government's Exhibit 12A.

Generally, what is in this document?

A. This is a document we compiled to make it easier for people to look and see the information that we've gathered because it was extensive. So we just started putting the information in and sorting it by date, and it's much easier to find what you're looking for when you do something like that. And we wanted to show what was reported on the wires and also what might be related to it within the books and records.

Q. Is this a summary chart of the wires from Stewart Technology and Bermuda accounts to Sutherland related accounts in 2006 to 2010?

A. It is.

Q. Would it be helpful to the jury knowing what happened in the bank accounts and the general ledgers?

A. Yes.

MS. SUGAR: We'd offer 12A into evidence.

MR. DUNCAN: No objection.

THE COURT: Let it be admitted.

(Government's Exhibit No. 12A was received into evidence.)

Q. All right. And let's just focus on the top. If you could tell the jury, what are they looking at here?

A. We're looking at the date of the transaction, the amount of the transaction, what account it was put into or deposited into. That would be the name of the company, and the last four digits of the account number, the originator, which is Stewart Technology Services, Bank of Bermuda. If there is any description I tried to put something in there. And then there are bank exhibits that are exhibit numbers that the Court has that we put on here.

Q. Just for example, Exhibit 160A, is it a bank transaction showing this --

A. Yes.

Q. -- money transfer?

A. Yes.

Q. And then what is in the next column?

A. And this has to do with the loan chart and that relates back to the exhibit we just saw, Exhibit 80, which were lists of loans.

And then the last two are related to the QuickBooks general ledger, how it was treated on the general ledger and the number, the exhibit number for that page.

Q. All right. So if they're blank, that means you just didn't have that information?

A. We did not have that information, yes.

Q. So what does an "N" mean in this column right here?

A. It means no.

Q. So what does that mean in relationship to this wire --

A. That means we don't have that information on that wire.

Q. So that wire was not listed on the loan chart?

A. Correct -- well, no wait. On the loan chart, yes.

Q. Well, the "N" is underneath --

A. Yes. No, it was not listed on the loan chart.

Q. All right. So there were some wires from the Stewart bank account in Bermuda that you identified through bank records that were not also on the list of loans that was Exhibit 80.

A. Yes.

Q. All right. And there's different colors of these lines here. Does that have any significance in this particular chart?

A. Well, there's so many different entities that we thought that might make it easier to kind of remember and find as you go through things.

Q. So green reflects deposits into Kryotech?

A. Kryotech.

Q. And blue to XYZ, and so on?

A. Yes, ma'am.

Q. All right. And I'm going to scroll through it. You said description, if any. So, for example, if we see consulting fees written, does that mean that if we look at the exhibit listed here, that's what we would see as the description?

A. It would -- yes, it would.

Q. All right. And if we see 'N' here, that means it's not on the chart?

A. Not on the loan chart.

Q. And then what -- what does this mean?

A. That's -- whatever -- the treatment on the general ledger is really the QuickBooks and so I looked for the related entity -- or the related transaction; and if there was something in the general ledger, that's what I put down.

Q. Okay.

A. Loans, deposits or capital contributions, whatever. That's what's there.

Q. Is a loan -- is a bona fide loan taxable to the recipient?

A. No.

Q. And what's a capital contribution?

A. Well, a capital contribution is the equity or the owner's money that he's put into the business.

Q. And when an owner puts money into a business, is that that business's income?

A. No.

Q. All right. So both loans and capital contributions are non-income items; is that fair?

A. That's correct.

Q. All right. Let's keep looking through. That yellow line, what account was that deposited into?

A. That's Patrick Sutherland's information.

Q. It was a personal bank account?

It says deposited to and there's a Patrick Sutherland.

A. Right.

Q. Does that correspond to a bank account?

A. Yes.

Q. All right. So going down to the last page, what was the total of all of these wire transfers you identified?

A. There were 127 wires and they totaled \$2,197,619.18.

* * *

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CERTIFICATE OF REPORTER

I, Cheryl A. Nuccio, Federal Official Realtime Court Reporter, in and for the United States District Court for the Western District of North Carolina, do hereby certify that pursuant to Section 753, Title 28, United States Code, that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 21st day of August 2017.

s/Cheryl A. Nuccio

Cheryl A. Nuccio, RMR-CRR
Official Court Reporter

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APPENDIX I

GOVERNMENT EXHIBIT 12A

Wires from Stewart Technology Bermuda Accounts to SUTHERLAND accounts 2006 to 2010

Date	Amount	Deposited to:	Originator	Description (if any)	Bank Exhibits	On loan chart? (Exhibit 80)	Treatment on General Ledger	General Ledger Exhibit
3/14/2006	\$65,035.00	Kryotheth Holdings *9413	Stewart Technology Services/Bank of Bermuda		EX 160A	N		
12/20/2006	\$95,035.00	Kryotheth Holdings *9413	Stewart Technology Services/Bank of Bermuda		EX 218 / EX 160B	Y (in 2007)		
5/16/2007	\$70,000.00	Kryotheth Holdings *9413	Stewart Technology Services LTD via Marine Bank		EX 215 / EX 219, p. 29	Y	Capital Contribution	EX 50, p.3
7/19/2007	\$105,000.00	Kryotheth Holdings *9413	Stewart Technology Services LTD via HSBC Bank USA		EX 215 / EX 219, p. 34	Y	Capital Contribution	EX 50, p.4
10/19/2007	\$69,000.00	Kryotheth Holdings *9413	Stewart Technology Services via HSBC Bank USA		EX 215 / EX 219, p. 53	N	Capital Contribution	EX 50, p.4
12/7/2007	\$31,000.00	XYZ Entertainment *7749	Stewart Technology Services/HSBC Bermuda		EX 232A	Y	Loan Deposit	EX 54, p.5
12/7/2007	\$29,000.00	Insigne Consulting Inc.	Stewart Technology Services/Bk of Bermuda		EX 258D	Y	Capital Contribution	EX 62, p.5
12/31/2007	\$5,000.00	Insigne Consulting Inc.	Stewart Technology Services/Bk of Bermuda		EX 258A	N	Loan	EX 62, p.6
1/15/2008	\$33,000.00	XYZ Entertainment *7749	HSBC Bermuda/395108G36		EX 236A	Y	Loan Deposit	EX 55, p.6
1/15/2008	\$37,000.00	Kryotheth Holdings *9413			EX 220, p.1 (origin not specified)	Y	Capital Contribution	EX 51, p.3
2/20/2008	\$15,000.00	Insigne Inc. *7236	Stewart Technology Services/Bank of Bermuda 0501		EX 240A	N	Loans Deposits	EX 59, p.4

Government
Exhibit
12A

JA1252

Date	Amount	Deposited to:	Originator	Description (if any)	Bank Exhibits	On loan chart? (Exhibit 80)	Treatment on General Ledger	General Ledger Exhibit
4/22/2008	\$43,000.00	XYZ Entertainment *7244	Stewart Technology Services/Bk of Bermuda		EX 229A	Y	Loan Deposit	EX 55, p.4
4/22/2008	\$47,000.00	Kryotheth Holdings *9413			EX 220, p.26 (origin not specified)	Y	Capital Contribution	EX 51, p.3
5/20/2008	\$71,000.00	Kryotheth Holdings *9413			EX 220, p. 37 (origin not specified)	Y	Capital Contribution	EX 51, p.4
5/22/2008	\$66,000.00	XYZ Entertainment *7244	Stewart Technology Services/Bk of Bermuda		EX 229B	Y	Loan Deposit	EX 55, p.4
6/23/2008	\$59,000.00	Kryotheth Holdings *9413	Stewart Technology Services LTD/395108G36		EX 216 / EX 220, p. 55	Y	Capital Contribution	EX 51, p.4
7/23/2008	\$68,000.00	XYZ Entertainment *7244	Stewart Technology Services/Bk of Bermuda		EX 229C	Y	Loan Deposit	EX 55, p.4
7/25/2008	\$78,500.00	Kryotheth Holdings *9413	Stewart Technology Services LTD/395108G36		EX 216 / EX 220, p. 59	Y	Capital Contribution	EX 51, p.5
8/19/2008	\$15,000.00	Insigne Inc. *7236	Stewart Technology Services/Bk of Bermuda 0501	Salient Commissions	EX 240B	N	Capital Contribution	EX 59, p.6
8/25/2008	\$3,500.00	Kryotheth Holdings *9413	Stewart Technology/BMHBBM010070720501	Service Fees	EX 216 / EX 220, p. 66	N	Capital Contribution	EX 51, p.5
11/25/2008	\$25,500.00	XYZ Entertainment *7244	Stewart Technology Services/Bank of Bermuda 6479		EX 229D	Y	Loan Deposit	EX 55, p.5
12/12/2008	\$40,500.00	Kryotheth Holdings *9413	Stewart Technology Services LTD/395108G36		EX 216 / EX 220, P. 97	Y	Capital Contribution	EX 51, p.6

Date	Amount	Deposited to:	Originator	Description (if any)	Bank Exhibits	On loan chart? (Exhibit 80)	Treatment on General Ledger	General Ledger Exhibit
12/17/2008	\$9,475.55	Kryotheth Holdings *9413	Stewart Technology/BMHBBM010070720501	Commission Payments Salient 3	EX 216 / EX 220, p. 97	N	Capital Contribution	EX 51, p.6
12/18/2008	\$45,500.00	XYZ Entertainment *7244	Stewart Technology Services/Bank of Bermuda 6479		EX 229E	Y	Loan Deposit	EX 55, p.5
1/5/2009	\$19,600.00	Kryotheth Holdings *9413	Stewart Technology Services/ 39520063653		EX 216 / EX 221, p. 1	Y	Capital Contribution	EX 52, p.3
1/15/2009	\$15,000.00	Insigne Inc. *7236	Stewart Technology Services/Bank of Bermuda 0501	Salient Fees	EX 241A	N	Capital Contribution	EX 60, p.3
2/23/2009	\$37,500.00	XYZ Entertainment *7244	Stewart Technology Services/Bk of Bermuda		EX 230A	Y	Loan Deposit	EX 56, p.3
2/24/2009	\$41,600.00	Kryotheth Holdings *9413	Stewart Technology/39520063653		EX 216 / EX 221, p. 7	Y	Capital Contribution	EX 52, p.3
3/24/2009	\$23,200.00	Kryotheth Holdings *9413	Stewart Technology Ser/39520386479		EX 216 / EX 221, p. 12	Y	Capital Contribution	EX 52, p.3
3/26/2009	\$800.00	Insigne Inc. *7236	Stewart Technology Services/Bank of Bermuda 0501	Consulting Fees	EX 241B	N	Loans Deposits	EX 60, p.4
3/31/2009	\$21,500.00	XYZ Entertainment *7244	Stewart Technology Services/Bank of Bermuda 6479		EX 230B	Y	Loan Deposit	EX 56, p.3
4/17/2009	\$55,400.00	Kryotheth Holdings *9413	Stewart Technology Ser/39520386479		EX 216 / EX 221, p. 16	Y	Capital Contribution	EX 52, p.3
4/24/2009	\$65,400.00	XYZ Entertainment *7244	Group Private Banking Bermuda/39520386479		EX 230C	Y	Loan Deposit	EX 56, p.4
5/1/2009	\$16,900.00	Insigne Inc. *7236	Stewart Technology Services/ Bank of Bermuda 6479		EX 241C	Y	Loans Deposits	EX 60, p.5

Date	Amount	Deposited to:	Originator	Description (if any)	Bank Exhibits	On loan chart? (Exhibit 80)	Treatment on General Ledger	General Ledger Exhibit
5/22/2009	\$69,400.00	Kryotheth Holdings *9413	Stewart Technology Ser/39520386479		EX 216 / EX 221, p. 23	Y	Capital Contribution	EX 52, p.4
6/1/2009	\$18,400.00	XYZ Entertainment *7244	Stewart Technology Services/Bank of Bermuda 6479		EX 230D	Y	Loan Deposit	EX 56, p.4
6/4/2009	\$1,200.00	Kryotheth Holdings *9413	Stewart Technology/BMHBBM010070720501	Consulting Fees	EX 216 / EX 221, p. 29	N	Capital Contribution	EX 52, p.4
6/19/2009	\$54,800.00	Kryotheth Holdings *9413	Stewart Technology Ser/39520386479		EX 216 / EX 221, p. 29	Y	Capital Contribution	EX 52, p.4
6/24/2009	\$24,900.00	Insigne Inc. *7236	Stewart Technology Services/Bank of Bermuda 6479		EX 241D	Y	Loans Deposits	EX 60, p.5
7/13/2009	\$2,000.00	Insigne Inc. *7236	Stewart Technology Services/Bank of Bermuda 0501	Consulting Fees - IC	EX 241E	N	Loans Deposits	EX 60, p.6
7/23/2009	\$26,300.00	XYZ Entertainment *7244	Stewart Technology Services/Bank of Bermuda 6479		EX 230E	Y	Loan Deposit	EX 56, p.4
8/3/2009	\$8,300.00	Patrick Sutherland *9433	Stewart Technology Services/Bank of Bermuda 0501	P Sutherland Actuarial Fees	EX 264A	N	n/a	
8/25/2009	\$24,500.00	Kryotheth Holdings *9413	Stewart Technology Services/39520386479		EX 216 / EX 221, p. 40	Y	Capital Contribution	EX 52, p.5
9/10/2009	\$4,200.00	Insigne Inc. *7236	Stewart Technology Services/Bank of Bermuda 0501	Consulting Fees	EX 241F	N	Loans Deposits	EX 60, p.6
9/15/2009	\$2,900.00	Insigne Inc. *7236	Stewart Technology Services/Bank of Bermuda 0501	Consulting Fees	EX 241G	N	Loans Deposits	EX 60, p.7
9/21/2009	\$1,700.00	Kryotheth Holdings *9413	Stewart Technology/BMHBBM010070720501	Consulting Fees	EX 216 / EX 221, p. 44	N	Capital Contribution	EX 52, p.5

Date	Amount	Deposited to:	Originator	Description (if any)	Bank Exhibits	On loan chart? (Exhibit 80)	Treatment on General Ledger	General Ledger Exhibit
9/28/2009	\$ 8,105.20	XYZ Entertainment *7244	Stewart Technology Services/Bank of Bermuda 0501	Marketing Services	EX 230F	N	Marketing Fees	EX 56, p.4
9/28/2009	\$6,500.00	Kryotheth Holdings *9413	Stewart Technology/BMHBBM010070720501	Consulting Fees	EX 216 / EX 221, p. 44	N	Capital Contribution	EX 52, p.5
9/29/2009	\$8,400.50	Kryotheth Holdings *9413	Stewart Technology/BMHBBM010070720501	Marketing Services Invoice	EX 216 / EX 221, p. 44	N	Capital Contribution	EX 52, p.5
10/14/2009	\$2,000.00	XYZ Entertainment *7244	Stewart Technology Services/Bank of Bermuda 0501	XYZ Consulting Fees	EX 230G	N	Marketing Fees	EX 56, p.4
10/26/2009	\$9,020.00	Kryotheth Holdings *9413	Stewart Technology/BMHBBM010070720501	Consulting Fees	EX 216 / EX 221, p. 48	N	Capital Contribution	EX 52, p.5
10/28/2009	\$8,500.00	XYZ Entertainment *7244	Stewart Technology Services/Bank of Bermuda 0501	Marketing Fees	EX 230H	N	Marketing Fees	EX 56, p.4
11/2/2009	\$5,000.00	Kryotech Holdings *7543	Stewart Technology Services/Bank of Bermuda 0501	Consulting Fees	EX 212A	N	Capital Contribution	EX 52, p.6
11/6/2009	\$1,600.00	XYZ Entertainment *7244	Stewart Technology Services/Bank of Bermuda 0501	Marketing Fees	EX 230I	N	Loan Deposit	EX 56, p.4
11/20/2009	\$ 900.00	Patrick Sutherland *9433	Stewart Technology Services/Bank of Bermuda 0501	Consulting Fees	EX 264B	N	n/a	
11/24/2009	\$9,050.23	Insigne Inc. *7236	Stewart Technology Services/Bank of Bermuda 0501	Consulting Fees	EX 241H	N	Loans Deposits	EX 60, p.8
11/24/2009	\$8,890.55	Kryotheth Holdings *9413	Stewart Technology/BMHBBM010070720501	Consulting Fees	EX 216 / EX 221, p. 51	N	Capital Contribution	EX 52, p.9

Date	Amount	Deposited to:	Originator	Description (if any)	Bank Exhibits	On loan chart? (Exhibit 80)	Treatment on General Ledger	General Ledger Exhibit
11/30/2009	\$8,650.00	XYZ Entertainment *7244	Stewart Technology Services/Bank of Bermuda 0501	Consulting Fees	EX 230J	N	Loan Deposit	EX 56, p.4
12/15/2009	\$2,300.00	XYZ Entertainment *7244	Stewart Technology Services/Bank of Bermuda 0501	Consulting Fees	EX 230K	N	Loan Deposit	EX 56, p.4
12/23/2009	\$8,350.00	Insigne Inc. *7236	Stewart Technology Services/Bank of Bermuda 0501	Consulting Fees	EX 241I	N	Loans Deposits	EX 60, p.8
12/24/2009	\$7,500.00	Kryotheth Holdings *9413	Stewart Technology/BMHBBM010070720501	Consulting Fees	EX 216 / EX 221, p. 55	N	Capital Contribution	EX 52, p.5
12/29/2009	\$7,960.00	Insigne Inc. *7236	Stewart Technology Services/Bank of Bermuda 0501	Consulting Fees	EX 241J	N	Loans Deposits	EX 60, p.8
12/30/2009	\$8,750.00	XYZ Entertainment *7244	Stewart Technology Services/Bank of Bermuda 0501	Marketing Fees	EX 230L	N	Loan Deposit	EX 56, p.5
1/5/2010	\$8,070.55	XYZ Entertainment *7244	Stewart Technology Services/Bank of Bermuda 0501	Marketing and Advertising Fees	EX 231D	Y	Marketing Fees	EX 57, p.3
1/11/2010	\$3,200.00	Insigne Inc. *7236	Stewart Technology Services/Bank of Bermuda 0501	Consulting Fees	EX 242A	Y	loans deposit	EX 61, p.3
1/15/2010	\$1,200.00	XYZ Entertainment *7244	Stewart Technology Services/Bank of Bermuda 0501	Marketing and Adv Fees	EX 231B	Y	Marketing Fees	EX 57, p.3
1/20/2010	\$850.00	XYZ Entertainment *7244	Stewart Technology Services/Bank of Bermuda 0501	Marketing Fees	EX 231C	Y	Marketing Fees	EX 57, p.3
1/22/2010	\$11,820.00	Kryotheth Holdings *9413	Stewart Technology/BMHBBM010070720501	KHL Loan Disbursement	EX 216 / EX 222, p. 1	Y	Capital Contribution	EX 53, p.3
1/26/2010	\$8,250.00	Insigne Inc. *7236	Stewart Technology Services/Bank of Bermuda 0501	Actuarial Consulting Fees	EX 242B	Y	Loans Deposits	EX 61, p.3

Date	Amount	Deposited to:	Originator	Description (if any)	Bank Exhibits	On loan chart? (Exhibit 80)	Treatment on General Ledger	General Ledger Exhibit
1/26/2010	\$7,810.00	XYZ Entertainment *7244	Stewart Technology Services/Bank of Bermuda 0501	Marketing Fees	EX 231A	Y	Marketing Fees	EX 57, p.3
2/2/2010	\$3,000.00	Insigne Inc. *7236	Stewart Technology Services/Bank of Bermuda 0501	January Consulting Fees	EX 242C	Y	Loans Deposits	EX 61, p.3
2/18/2010	\$2,200.00	Insigne Inc. *7236	Stewart Technology Services/Bank of Bermuda 0501	Consulting Fees	EX 242D	Y	Loans Deposits	EX 61, p.3
2/24/2010	\$7,900.00	XYZ Entertainment *7244	Stewart Technology Services/Bank of Bermuda 0501	Advertisement and Marketing Fees	EX 231E	Y	Marketing Fees	EX 57, p.3
2/24/2010	\$7,100.00	Insigne Inc. *7236	Stewart Technology Services/Bank of Bermuda 0501	Consulting Fees	EX 242E	Y	Loans Deposits	EX 61, p.4
2/25/2010	\$8,850.00	Kryotheth Holdings *9413	Stewart Technology/BMHBBM010070720501	January Consulting Fees	EX 216 / EX 222, p. 6	Y	Capital Contribution	EX 53, p.3
3/18/2010	\$8,975.50	Insigne Inc. *7236	Stewart Technology Services/Bank of Bermuda 0501	March Consulting Fees	EX 242F	Y	Loans Deposits	EX 61, p.4
3/23/2010	\$6,660.00	Kryotheth Holdings *9413	Stewart Technology/BMHBBM010070720501	March Consulting Fees	EX 216 / EX 222, p. 10	Y	Capital Contribution	EX 53, p.3
3/25/2010	\$4,955.00	Insigne Inc. *7236	Stewart Technology Services/Bank of Bermuda 0501	Consulting Fees	EX 242G	Y	Loans Deposits	EX 61, p.4
3/29/2010	\$8,850.00	XYZ Entertainment *7244	Stewart Technology Services/Bank of Bermuda 0501	Marketing and Advertisement Fees	EX 231F	Y	Marketing Fees	EX 57, p.4
4/19/2010	\$2,900.00	Insigne Inc. *7236	Stewart Technology Services/Bank of Bermuda 0501	Consulting Fees Falbaum	EX 242H	Y	Loans Deposits	EX 61, p.4
4/22/2010	\$8,550.00	XYZ Entertainment *7244	Stewart Technology Services/Bank of Bermuda 0501	Advertisement Fees April	EX 231G	Y	Loan Deposit	EX 57, p.4
4/26/2010	\$9,200.00	Insigne Inc. *7236	Stewart Technology Services/Bank of Bermuda 0501	April Consulting Fees	EX 242I	Y	Loans Deposits	EX 61, p.4

Date	Amount	Deposited to:	Originator	Description (if any)	Bank Exhibits	On loan chart? (Exhibit 80)	Treatment on General Ledger	General Ledger Exhibit
4/26/2010	\$8,900.00	Kryotheth Holdings *9413	Stewart Technology/BMHBBM010070720501	Marketing Fees	EX 216 / EX 222, p. 13	Y	Capital Contribution	EX 53, p.3
4/30/2010	\$9,250.75	XYZ Entertainment *7244	Stewart Technology Services/Bank of Bermuda 0501	Advertisement and Marketing Fees	EX 231H	Y	Loan Deposit	EX 57, p.4
5/13/2010	\$3,100.00	Insigne Inc. *7236	Stewart Technology Services/Bank of Bermuda 0501	Consulting Fees	EX 242J	Y	Loans Deposits	EX 61, p.5
5/19/2010	\$2,000.00	Insigne Inc. *7236	Stewart Technology Services/Bank of Bermuda 0501	Consulting Fees	EX 242K	Y	Loans Deposits	EX 61, p.5
5/25/2010	\$8,860.00	Kryotheth Holdings *9413	Stewart Technology/BMHBBM010070720501	Consulting Charges	EX 216 / EX 222, p. 17	Y	Capital Contribution	EX 53, p.3
5/27/2010	\$9,175.50	Insigne Inc. *7236	Stewart Technology Services/Bank of Bermuda 0501	May Consulting Fees	EX 242L	Y	Loans Deposits	EX 61, p.5
5/28/2010	\$7,500.00	XYZ Entertainment *7244	Stewart Technology Services/Bank of Bermuda 0501	May Advertising and Marketing Fees	EX 231I	Y	Loan Deposit	EX 57, p.4
6/1/2010	\$3,190.00	Insigne Inc. *7236	Stewart Technology Services/Bank of Bermuda 0501	Consulting Fees	EX 242M	Y	Loans Deposits	EX 61, p.5
6/3/2010	\$3,990.00	Insigne Inc. *7236	Stewart Technology Services/Bank of Bermuda 0501	Consulting Fees	EX 242N	Y	Loans Deposits	EX 61, p.5
6/8/2010	\$4,000.00	Kryotheth Holdings *9413	Stewart Technology/BMHBBM010070720501	Consulting Fees	EX 216 / EX 222, p. 22	Y	Capital Contribution	EX 53, p.4
6/18/2010	\$3,100.00	Kryotheth Holdings *9413	Stewart Technology/BMHBBM010070720501	Consulting Fees	EX 216 / EX 222, p. 22	Y	Capital Contribution	EX 53, p.4
6/23/2010	\$9,065.00	XYZ Entertainment *7244	Stewart Technology Services/Bank of Bermuda 0501	Advertisement/Marketing Fees	EX 231J	Y	Loan Deposit	EX 57, p.4
6/23/2010	\$8,500.00	Kryotheth Holdings *9413	Stewart Technology/BMHBBM010070720501	Consulting Fees/Marketing	EX 216 / EX 222, p. 22	Y	Capital Contribution	EX 53, p.4

Date	Amount	Deposited to:	Originator	Description (if any)	Bank Exhibits	On loan chart? (Exhibit 80)	Treatment on General Ledger	General Ledger Exhibit
6/29/2010	\$7,690.00	Insigne Inc. *7236	Stewart Technology Services/Bank of Bermuda 0501	Consulting Fees for June	EX 242O	Y	Loans Deposits	EX 61, p.6
7/8/2010	\$7,465.00	XYZ Entertainment *7244	Stewart Technology Services/Bank of Bermuda 0501	Marketing/Advertisement Fees	EX 231K	Y	Loan Deposit	EX 57, p.4
7/19/2010	\$8,950.85	Insigne Inc. *7236	Stewart Technology Services/Bank of Bermuda 0501	Consulting Fees	EX 242P	Y	Loans Deposits	EX 61, p.6
7/26/2010	\$8,390.00	XYZ Entertainment *7244	Stewart Technology Services/Bank of Bermuda 0501	Marketin and Advertisement Fees	EX 231L	Y	Loan Deposit	EX 57, p.4
7/28/2010	\$8,600.00	Kryotheth Holdings *9413	Stewart Technology/BMHBBM010070720501	Consulting Fees	EX 216 / EX 222, p. 26	Y	Capital Contribution	EX 53, p.4
8/2/2010	\$3,985.00	Insigne Inc. *7236	Stewart Technology Services/Bank of Bermuda 0501	Consulting Fees for July	EX 242Q	Y	Loans Deposits	EX 61, p.6
8/2/2010	\$8,490.00	XYZ Entertainment *7244	Stewart Technology Services/Bank of Bermuda 0501	Marketing and Advertisement Fees	EX 231M	Y	Loan Deposit	EX 57, p.4
8/3/2010	\$7,386.28	Insigne Inc. *7236	Stewart Technology Services/Bank of Bermuda 0501	Consulting Travel and Exp Reimburse	EX 242R	Y	Loans Deposits	EX 61, p.6
8/24/2010	\$8,540.00	XYZ Entertainment *7244	Stewart Technology Services/Bank of Bermuda 0501	Marketing and Advertisement Fees	EX 231N	Y	Loan Deposit	EX 57, p.4
8/24/2010	\$7,500.00	Kryotheth Holdings *9413	Stewart Technology/BMHBBM010070720501	July-Aug Consulting Fees	EX 216 / EX 222, p. 29	Y	Capital Contribution	EX 53, p.4
8/30/2010	\$8,965.72	Insigne Inc. *7236	Stewart Technology Services/Bank of Bermuda 0501	Consulting Fees	EX 242S	Y	Loans Deposits	EX 61, p.7
9/2/2010	\$9,277.00	XYZ Entertainment *7244	Stewart Technology Services/Bank of Bermuda 0501	Advertisement and Media Fees	EX 231O	Y	Loan Deposit	EX 57, p.4
9/16/2010	\$4,390.00	XYZ Entertainment *7244	Stewart Technology Services/Bank of Bermuda 0501	Marketing and Advertising Fees	EX 231P	Y	Loan Deposit	EX 57, p.5

Date	Amount	Deposited to:	Originator	Description (if any)	Bank Exhibits	On loan chart? (Exhibit 80)	Treatment on General Ledger	General Ledger Exhibit
9/22/2010	\$8,883.60	XYZ Entertainment *7244	Stewart Technology Services/Bank of Bermuda 0501	Advertisement and Marketing	EX 231Q	Y	Loan Deposit	EX 57, p.5
9/23/2010	\$8,950.00	Kryotheth Holdings *9413	Stewart Technology/BMHBBM010070720501	Loan Advance	EX 216 / EX 222, p. 33	Y	Capital Contribution	EX 53, p.4
10/5/2010	\$8,200.00	Kryotheth Holdings *9413	Stewart Technology/BMHBBM010070720501	Loan Advance	EX 216 / EX 222, p. 33	Y	Capital Contribution	EX 53, p.5
10/14/2010	\$7,600.00	Kryotheth Holdings *9413	Stewart Technology/BMHBBM010070720501	Loan Advance	EX 216 / EX 222, p. 39	Y	Capital Contribution	EX 53, p.5
10/21/2010	\$8,975.00	Kryotheth Holdings *9413	Stewart Technology/BMHBBM010070720501	Loan Advance	EX 216 / EX 222, p. 39	Y	capital contribution	EX 53, p.5
10/29/2010	\$7,890.00	XYZ Entertainment *7244	Stewart Technology Services/Bank of Bermuda 0501	Advertisement Fees	EX 231R	Y	Loan Deposit	EX 57, p.5
10/29/2010	\$4,990.00	Insigne Advisor Consulting *7923	Stewart Technology/BMHBBM010070720501		EX 255, p. 2	Y		
11/12/2010	\$8,090.00	XYZ Entertainment *7244	Stewart Technology Services/Bank of Bermuda 0501	Loan Advance	EX 231S	Y	Loan Deposit	EX 57, p.5
11/19/2010	\$1,290.00	Insigne Inc. *7236	Stewart Technology Services/Bank of Bermuda 0501	IC Loan 8.99	EX 242T	Y	Loans Deposits	EX 61, p.8
11/23/2010	\$8,360.00	Kryotheth Holdings *9413	Stewart Technology/BMHBBM010070720501	Loan Advance	EX 216 / EX 222, p. 44	Y	Capital Contribution	EX 53, p.5
11/30/2010	\$8,442.75	Insigne Advisor Consulting *7923	Stewart Technology Services – HSBC Bermuda		EX 255, p.3	Y		

Date	Amount	Deposited to:	Originator	Description (if any)	Bank Exhibits	On loan chart? (Exhibit 80)	Treatment on General Ledger	General Ledger Exhibit
12/3/2010	\$3,690.50	XYZ Entertainment *7244	Stewart Technology Services/Bank of Bermuda 0501	Marketing and Advertisement Fees	EX 231T	Y	Loan Deposit	EX 57, p.5
12/8/2010	\$7,830.65	Kryotheth Holdings *9413	Stewart Technology/BMHBBM010070720501	Loan Advance 7345	EX 216 / EX 222, p. 49	Y	Capital Contribution	EX 53, p.5
12/10/2010	\$5,082.50	Yanique Lawrence *8770	Stewart Technology/BMHBBM010070720501	Credit Line Advance	EX 216, p.3 / EX 266, p. 513	N		
12/15/2010	\$6,500.00	Insigne Advisor Consulting *7024	Stewart Technology Services/Bank of Bermuda 0501	Loan Advance	EX 254A	N		
12/20/2010	\$6,200.00	XYZ Entertainment *1136	Stewart Technology/BMHBBM0100707205	Marketing Fees	EX 234A	N	Not reflected in records	
12/24/2010	\$8,030.00	Kryotheth Holdings *9413	Stewart Technology/BMHBBM010070720501	Loan Advance 61243	EX 216 / EX 222, p. 49	Y	Capital Contribution	EX 53, p.5
12/29/2010	\$1,650.00	XYZ Entertainment *1136	Stewart Technology/BMHBBM0100707205	Marketing and Advertisement Fees	EX 234A	N	Not reflected in records	
12/30/2010	\$3,340.00	Kryotheth Holdings *9413	Stewart Technology/BMHBBM010070720501	Loan Advance	EX 216 / EX 222, p. 49	Y	Capital Contribution	EX 53, p.5
Total:	\$2,197,619.18 (127 wires)							

APPENDIX J

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH
CAROLINA
CHARLOTTE DIVISION

UNITED STATES OF	)	DOCKET NO.
AMERICA	)	3:15-CR-225
)	
vs.	)	VOLUME II
PATRICK EMANUEL)	
SUTHERLAND)	
Defendant.)	

TRANSCRIPT OF TRIAL PROCEEDINGS
BEFORE THE HONORABLE MAX O. COGBURN,
JR.

UNITED STATES DISTRICT COURT JUDGE
OCTOBER 25, 2016

* * *

RAJENDER WEST

DIRECT EXAMINATION (Cont'd.)

BY MR. RYAN:

Q. Agent West, I'm going to show you what has been previously admitted as Government's Exhibit 81.

Is this a document that was provided on behalf of Patrick Sutherland to the government?

A. Yes.

Q. What is this document?

A. It's a transfer or assignment of property interest between Patrick Sutherland and Stewart Technology Services dated December 28, 2007.

Q. And what's the first paragraph provide?

A. It says that "Patrick Sutherland, a resident of North Carolina, hereby grants Stewart Technology Services, a Bermuda based company, the following interest in the properties listed below and owned by me." And that is #10 Mount Hardy in St. Lucia and then 00 Steel Creek Road in Brevard, North Carolina. The interest granted with respect to the St. Lucia property is .04 percent, I'm assuming, interest granted, and then .06 percent interest granted in the Steel Creek Road property in Brevard, North Carolina.

Q. And you know -- you said you presume it's .04 percent. Do you know if it's 4 percent or .04 percent?

A. I don't know from the way it's written.

Q. And who is this document purportedly signed by?

A. P. Sutherland above the Patrick Sutherland typed signatory line.

Q. Can you make out --

A. And then Beverly -- or B. Stewart in the lower right hand -- or left-hand corner.

Q. Show you what's been previously admitted as Government's Exhibit 83.

Is this a similar document for 2009?

A. It is. It's a similar "Transfer/assignment of property interest between Patrick Sutherland and Stewart Technology Services" dated June 30, 2009.

Q. Is this also a document that was provided on behalf of Mr. Sutherland to the government?

A. Yes.

Q. And who's it purportedly signed by?

A. P. Sutherland and B. Stewart.

Q. And does this document purport to grant interest in certain properties to Stewart Technology?

A. It does.

Q. What are those properties?

A. The first is 113 Seaview Gardens, Phase 1, Kingston, Jamaica. And the interest granted is 27 percent. And the second is Lot 7136, Darliston, Jamaica. And the interest granted is 26 percent.

Q. And the address there, 113 Seaview Gardens, Phase 1, Kingston, Jamaica, is that the same

address we saw as the home address listed for Beverly Stewart on the HSBC Bermuda documents?

A. Yes, it is.

Q. And what's this paragraph provide in Government's Exhibit 83?

A. It says that "the above interests are being granted as payments in kind to offset 144,000 of year 2009 outstanding loan obligations owed by me to Stewart and this agreement will be fully enforceable by any court of law."

Q. Did Patrick Sutherland provide similar documents or were similar documents provided on behalf of Patrick Sutherland for the years 2008, 2009, and 2010?

A. Yes.

Q. Was a chart prepared summarizing those documents?

A. Yes.

Q. Let me show you what's been marked as Government's Exhibit 11.

Do you recognize it?

A. I do.

Q. What is it?

A. It's a summary chart of the transfer and assignment property interest documents that were provided on behalf of Patrick Sutherland, and it reflects the percentages that were transferred purportedly through those documents between Patrick Sutherland and Stewart Technology Services.

Q. And this -- this chart assumes that when it said .04, .04, that that was actually a percentage, correct?

A. Correct.

MR. RYAN: I would offer Government's Exhibit 11 as a summary chart.

MR. DUNCAN: No objection.

THE COURT: Let it admitted.

(Government's Exhibit No. 11 was received into evidence.)

Q. Agent West, again, could you explain for the jury what's reflected here for 2007.

A. So for 2007, assuming that what we reviewed on the previous document is indicative of percentage, it's that the transfer agreement transferred 4 percent interest in the #10 Mount Hardy, St. Lucia property, and the 00 Steel Creek Road property in Brevard, North Carolina, 6 percent in that respect in 2007.

Q. And then that information comes from what's been marked as Government's Exhibit 81?

A. That's correct.

Q. And for 2008?

A. 5 percent in the #10 Mount Hardy property and 6 percent for the Steel Creek Road property.

Q. And for all those years combined, how much percentage was purportedly granted in the Mount Hardy, St. Lucia property?

A. 18 percent.

Q. And for the Steel Creek Road property?

A. 23 percent.

Q. For the Seaview Gardens property?

A. 27 percent.

Q. And for the Darliston, Jamaica property?

A. 26 percent.

* * *

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CERTIFICATE OF REPORTER

I, Cheryl A. Nuccio, Federal Official Realtime Court Reporter, in and for the United States District Court for the Western District of North Carolina, do

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hereby certify that pursuant to Section 753, Title 28, United States Code, that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 21st day of August 2017.

s/Cheryl A. Nuccio

Cheryl A. Nuccio, RMR-CRR
Official Court Reporter

APPENDIX K

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH
CAROLINA
CHARLOTTE DIVISION

UNITED STATES OF	)	DOCKET NO.
AMERICA	)	3:15-CR-225
)	
vs.	)	VOLUME V
PATRICK EMANUEL)	
SUTHERLAND)	
Defendant.)	

TRANSCRIPT OF TRIAL PROCEEDINGS
BEFORE THE HONORABLE MAX O. COGBURN,
JR.

UNITED STATES DISTRICT COURT JUDGE
OCTOBER 28, 2016

* * *

THE COURT: Members of the jury, thank you very much for your patience. You've been very patient during this trial and I appreciate it. And very attentive, too. Thank you.

We've now come to the part of the case that's the closing arguments. The parties now can argue what they say you should think the evidence shows. What the evidence does show is up to you. They are

entitled and will properly make argument about their contentions to you and you should listen to those. But in the end it is your decision to make with regard to how you view the evidence in the case. If they argue something that your memory differs from, you take your memory, not their memory.

Also, remember at all times that what the attorneys say is not evidence. They're arguing their contentions. They can argue what they say the evidence showed. But the evidence has told its story from the stand and you'll have to make the decision when you hear their arguments as to how you should view the evidence. And you should listen to this because they may be persuasive to you in one regard or another. You should listen to these things. But in the end it is your call to determine what the evidence is.

Now, when we finish with the arguments, I will give you the law. I will give you the law in all respects that you're to apply to the facts that you find.

So once that's happened and the judges of the facts are ready to make their call on the facts and you've got the law from me, then you'll be ready to make your verdict in the case.

So let's go ahead -- the government has the opening and the close because they have the burden of proof.

Yes, sir.

MR. DUNCAN: Your Honor, I'm not sure that we did it, but the defense rests.

THE COURT: Oh, I'm sorry. The defense -- yes. We did that out of your presence and I should have had it also done in your presence. We were -- we did all those things while you were out. So thank you very much for bringing that up.

MR. DUNCAN: Thank you.

THE COURT: Appreciate it.

And the government has no rebuttal.

MR. RYAN: Correct, Your Honor.

THE COURT: All right. So we now move forward into the closing arguments and the government will have the opening and the closing because they have the burden of proof. The jury is with the government for closing.

MR. RYAN: Thank you, Your Honor.

May it please the Court:

This is a simple case, a simple case about cheating and lying. The defendant lied on his tax returns and he cheated Uncle Sam. And when the government came calling and issued some grand jury subpoenas to his companies, he lied to cover up his tracks and to obstruct justice.

The defendant lied on his tax returns by failing to report all of the income, both the domestic income

you heard about and income from those -- from that bank account in Bermuda, from that company that he controlled, Stewart Technology.

Through those lies the defendant cheated. He cheated Uncle Sam out of his fair share of taxes. In fact, in 2009, the defendant actually got a payment from the U.S. Treasury by claiming the earned income credit, a credit intended for the poor and disadvantaged.

Are those the houses of a man who qualifies for the earned income credit?

Patrick Sutherland wasn't poor and he wasn't disadvantaged. He ran a business empire, numerous businesses. Too many for most people to keep track of. And he was living large.

His sister, Beverly Stewart, she wasn't living large. While the defendant was building an empire of companies selling complex life insurance products to sophisticated banks and financial institutions and earning a pretty penny along the way, his sister was spending her summers working as a maid and a cook at a Best Western in Cody, Wyoming, and she was barely making above minimum wage.

While the defendant was living in a million dollar home and vacationing in his house in St. Lucia by the ocean, his sister was living in a house in Jamaica that he owned. She spent her summers living in a cabin next to the Best Western in Cody, Wyoming.

The defendant sent his daughter to an expensive private school here in Charlotte and in the years in question he spent over \$84,000 out of his own pocket on that tuition. \$84,000. That's almost \$21,000 a year.

His sister was in school too. You heard about that. She was a full-time student at a community college in Bermuda studying hospitality. And she needed to borrow money just to afford that 600 bucks so she could go on that program for the opportunity to work at that Best Western in Wyoming.

The defendant was living large, but the taxes he was paying, well, those were pretty small in comparison.

Beverly Stewart was not living large. But on his papers -- on paper, his tax returns, his bank accounts, his emails, his insurance contracts, well, it would be easy to confuse him with his sister in more ways than one.

Now, most people don't like paying taxes. And nearly everybody wishes they paid less. But paying taxes is the price we all have to pay to keep this country running. The law requires everybody who makes income to pay taxes, to pay their fair share. And this defendant failed to do so.

From 2007 to 2010, despite receiving a substantial income and more than 2.1 million in wires from Bermuda, the defendant reported a total of \$276,697 in income. And he was assessed a total

of \$12,483 in taxes. Now, it's assessed. That's not taxes paid. If you think about taxes paid after all the credits the defendant claimed, he paid a total in these four years of \$7,322 in taxes. Let's take a closer look at some of his returns.

2007. 2007 he reports income of 98,000 and change. But once you factor in all of his deductions for his mortgage, his property taxes, things like that, his income goes down to 782 dollars -- or 62 dollars. How much taxes did he have to pay? Well, after his credits, zero. Zero dollars in taxes for 2007. Not a penny.

2008. While he reports almost \$89,000 in income - - of course, you heard where most of that came from. \$84,000 of that was a withdrawal from his IRA account. But even after that withdrawal, with all his deductions, no taxable income and no tax.

Now, he did have to pay some taxes on that IRA as a penalty and I'm sure you're going to hear about that. You might ask why -- why did the defendant do that? Why would he pay a penalty? Well, it wasn't because the companies needed the money because you saw where that money went. Agent West showed you those wires. Came in from the IRA. Went out to some guy named Michael Gizaw. Michael Gizaw doesn't run his companies. Has nothing to do with his companies.

2009, \$16,669 in income. Obviously his deductions erased that. So no tax. He did have some self-employment tax; but with all the credits,

including that earned income credit there of 3,000 and change, Uncle Sam cut him a check for \$2,171.

2010, 62,000 and change in income reported. After deductions, taxable income was \$146. Tax was \$14, which, of course, was offset by his credits. Zero dollars. Zero dollars in taxes.

I submit to you, ladies and gentlemen, these taxes are absurd on their face. They don't make any sense. But even putting aside that they're absurd on their face, what else don't they include that you know about?

They don't include that domestic income you heard about, the rental income from Sean Cahill. You remember he testified. He paid defendant monthly checks for that rent. \$41,000 during the relevant period.

Mr. Adler, he talked about the checks that his company, Global Financial Synergies, wrote to the defendant for his insurance work. That's another \$38,000 in income. That's not on there.

Then you've got another 30,000 plus in payments from Innovation Partners to the defendant's wife. That's not on there.

That stuff alone is another \$110,000 in income. Not on those tax returns.

Those tax returns also don't include all those business payments you heard about for the benefit of his daughter. Remember, that was Exhibit 19B if I

recall. That was the one that showed that on her birthday, one of the businesses cut her a \$1,300 check.

You saw a check there to Charlotte Country Day for her school.

And then, of course, the elephant in the room. We've got to talk about that money from Bermuda. \$2.1 million in wires from the Stewart Technology account to the defendant and his companies from 2007 to 2010. More than 125 different wires going to all kinds of accounts, all kinds of companies. The evidence is clear that these were not loans and that the defendant had no intention of paying that money back. How do you know? Well, let's count the ways.

We know Beverly Stewart didn't have that money.

We know the loan documents on their face are facially absurd.

We know that the defendant was not living the lifestyle of someone who needed to borrow all this money.

We saw the books and records of Stewart Technology. They don't have those loans on them.

We saw defendant's books and records. They don't even treat these payments consistently.

We saw the defendant's companies, some of their books and records and their balance sheets. They didn't need the money. We'll get into that.

You saw how those payments were made. All over the place. Frequency varied monthly, daily, weekly. That's not how loans operate.

You also heard all that evidence from all those nice men in insurance -- that used to be in the insurance business that like to talk. You heard about all the work they did on insurance contracts with Patrick Sutherland and how they got paid for that work and they got paid from Stewart Technology, but somehow he didn't.

You also heard all that evidence about how defendant was the one controlling Stewart Technology.

And then finally, how do we know these loans were a sham? Well, they were never paid back.

So let's get into some of this in more detail.

Beverly Stewart, by all accounts a wonderful woman. Hard working woman. A driven woman. She did well at her job. You heard Mr. Garlow. He would have had her back any summer she wanted to come. And she came those three summers. And she earned every penny of that money for her hard work. She tried to come two more summers but was denied for various reasons.

Did she really have a company with \$2 million laying around that she could just loan to the defendant? Not require any payment for seven years. Not really care about the interest. Not really care when it went out or came in. That's just absurd. The defendant never intended to pay any of that money back.

I mean, when you go back in that jury room to deliberate, the judge is going to instruct you. You'll get the judge's law. You'll get the facts that were admitted. You'll get the documents. You'll get the testimony that came in. But you get your common sense. You get your reasoning. You don't have to check that at the door. When you use that, you know what those payments were.

Beverly Stewart wasn't some quirky, secret millionaire who alternated her time flying around Europe selling software like Mr. Price said and then spent some time in Bermuda running this insurance company and then spent some time in Charlotte signing papers, apparently, and then spent another fair amount of time in Jamaica going to school full-time, but then spending her summers in Cody, Wyoming, working at Best Western. Does that sound like any rational person that existed ever?

You heard from Mr. Garlow and Ms. Kerfoot. They both met the woman personally. Both had wonderful things to say about her. But they were both very consistent. She didn't seem like a woman who had millions of dollars laying around or owned a

company that had millions of dollars laying around. That testimony is uncontroverted.

Why else do you know the defendant's loans were a sham? Well, the loan documents themselves. Let's look at them.

Beverly Stewart didn't sign those loan documents. You know that. This is Beverly Stewart's signature. These are the documents from Mr. Garlow, the ones that Beverly Stewart personally provided to his company when she was getting employed there. Her passport. Look at her maiden name. It's Sutherland. Look at her occupation. Cosmetologist. Look at all these other documents she signed. That signature is entirely consistent and it's pretty distinct.

The records from Ms. Kerfoot, she had some records too with the exact same signature. That's in evidence.

Let's look at those loan documents. That doesn't look like the same signature, I submit. Does that look the same to you?

Who signed those documents? Was it Beverly Stewart, the cosmetologist, or was it Beverly Sutherland Stewart, the cosmetologist, or was it Beverly Stewart, the cos? Who signed those documents? We know it wasn't Beverly Stewart. Maybe it was the same person who signed the HSBC Bermuda records. Let's look at those signatures side by side.

What happens if we put one on top of the other? Pretty telling. Not that. It's not Beverly Stewart's signature. We know that.

Here's some other documents from HSBC Bermuda. That's not Beverly Stewart's signature.

How else do you know those loan documents were just kind of absurd? The amounts on them. They don't make any sense. You heard from Ms. Polk. She testified that one of the loan lists that was provided to the government on behalf of the defendant, that was missing 35 of those wires from Bermuda totaling approximately \$283,000. If these were loans, how is it those didn't make the list? Were those just gifts? If they're gifts, they're income. There's no logical explanation for that.

They also don't make any sense. You heard Agent West add that up for you. If you add up all those documents, how much money was Stewart Technology Services entitled to from the sale of defendant Sutherland's companies? 120 percent, plus principal, plus interest. That doesn't make any sense.

And think about what you heard -- the other thing those loan documents say. What was the term? Seven years. What was the payment plan? Zero. Didn't have to pay a dime for seven years. Each one. Then the next one, seven years, seven years.

Is that how loans that you know work? Do you have any loans where you don't have to pay

anything for seven years? You get to withdraw it whenever you want. No interest. No worries.

How else do you know these loans were a sham? The Defendant's lifestyle. He didn't live like a guy who was surviving on loans, whose companies were on the brink. If you look at his itemized deductions from 2007 to 2010, just his itemized deductions and the money spent on that private school, he spent \$93,165 more than his reported income. How does that work? I mean, it can work. It's possible, I guess. But all told, those four years he spent -- let me get this right -- \$370,000 on his deductions and his private school and his state taxes. So Schedule A deductions and the private school, you add those up, over \$370,000.

2009 alone he spent more on his daughter's private school education than he reported as income. 16,669 in income, 21,479 in private school tuition.

Now, like I said, it's certainly possible for people to live beyond their means. It happens every day in this country. But you would expect that if someone was living beyond their means and needed to borrow this much money, that their lifestyle would reflect it in some way.

Let's look at some of his other expenses. Now, we didn't go through that, but let's just talk about the expenses that we know he must have had because as humans you have these expenses.

Other housing expenses. Those were big houses. Got to have lights. Got to have electricity, heat, air

conditioning, maintenance. He traveled. He needed insurance. Got to insure those houses. Shopping, cars, gas. You know what it takes to live. Just to live. Groceries. None of those expenses are included in that \$93,000 deficit.

But that's not all the expenses that the defendant Sutherland had, personal. Now, we didn't go through his bank records in detail with the witnesses to show you, but they're in evidence so if you wanted to, you could flip through. But let me just go through those just to highlight some of that stuff.

You saw this one. 2007, \$22,499.97, signed by the defendant, Lions Jewelers.

That's not all. Look at this. Also in 2007, Yanique Lawrence's credit card. Ballantyne Jewelers, almost 7500 bucks. But there's more. Lions Jewelers, 1700 bucks. \$32,000 in jewelry stores in 2007 alone. \$32,000.

Another 30,000 in retail purchases: Belk, Victoria Secret, White House Black Market. If you flip through those, you'll see it all. And of course, as you would expect, thousands more at other retailers: Target, Lowe's, Best Buy, just like everybody else. Maybe not like everybody else in terms of the quantities, but certainly the stores.

The defendant certainly was not living the lifestyle of a person needing \$2 million from his sister. To the contrary, he was living the lifestyle of somebody who was treating that \$2 million as his

own personal income and never had any intention of paying that money back.

How else do we know the loans were shams? Like I said, Stewart Technology didn't account for the payments as loans. I think you remember, let me just show you the examples. These two exhibits, Government's Exhibits 162 and 167, those are balance sheets provided by Stewart Technology to HSBC Bermuda. One of them is even notarized here in Union County, of course. The other one is signed by, among others, Patrick Sutherland. See any loans on there? See any indication of loans on there?

Defendant's own books and records didn't treat them as loans consistently. You heard that. Over \$53,000 in transfers from Bermuda were recorded on defendant's books as commissions and fees rather than loans. How do you explain that? Couldn't even keep his own lies in order.

And you heard that the defendant's companies didn't need the money. You saw some of their financial records. You heard Mr. Jones. He was a part of those companies for a while. We weren't in dire straits. We were at least breaking even. Certainly didn't know about \$2 million in loans we needed. I think that's what he told you.

How else do you know? Payments were haphazard and scattered. I've already covered that. I'm not going to cover that again. But unlike any loan I'm sure most people heard about.

How else do you know it? Many of the loans -- well, just to go into those. Look who got those. Five different companies, the defendant directly -- these are the wire transfers from Bermuda -- his wife directly. And which two entities of his got the most money? Was it the ones who were doing all the work, the ones you heard so much about in the life insurance world? No, it's the two that no one could explain. They heard of them. No one knew what they did. Those are the ones where all the money went to. How did that make any sense? And then they sometimes got immediately transferred to one of the other entities for no apparent reason.

How else do you know the loans are shams? Well, you heard all those guys get up there and tell you about the insurance work they did for Patrick Sutherland and you saw all those examples where the wire transfers or the checks say exactly what the money is for. It was for insurance work. It wasn't a loan. The wire says "insurance" or it says "Salient" or a guy's name, Murphy or Daley. That was for particular work done. That wasn't a loan.

You heard Jim Price talk about that. You heard Mr. -- I know you remember Mr. Dunker. You heard Mr. Dunker talk and talk and talk about some of that stuff. Mr. Dunker told you, I only get paid if he gets paid. I only get paid if he gets paid. Well, we saw -- we know Mr. Dunker got paid. So what does that mean? That means he got paid.

You heard Mr. Price talk about all his clients and similar arrangements. It's clear what those payments were. That was defendant's income.

And you also know those loans were a sham because the defendant was the one controlling Stewart Technology. Again, I don't want to belabor this. You saw enough. But you know that the defendant was forging -- you know that Beverly Stewart's name was forged. And you know defendant was controlling Beverly Stewart's email address. Doug Boik told you that. But even if he hadn't, you saw those examples where it was clear as day it was Patrick Sutherland writing those emails on behalf of Beverly. Do you remember this example? One minute apart. Almost the exact same email. Same email address, Beverly Stewart. Oops, I signed it Patrick. Is that something you would do? You ever sign somebody else's name accidentally on an email?

What about the email she sent about Citizens Home Loans? You heard Mr. Dunker and Mr. Jones talk about that. She had no involvement in Citizens Home Loans. Why is she sending emails about Citizens Home Loans? It's because it wasn't her, it was him.

You saw how the defendant was the primary contact at HSBC Bermuda. Got the statements. He had online access throughout the entire period. He also had signatory authority from the very beginning.

Here's February 19, 2007. Officer and a director. He's got signatory authority.

Same thing in 2010. May 17, 2010, director, officer, power to sign over on that account. Was that ever disclosed on his tax returns? Nope. You heard Agent West testify about that.

How else do you know that defendant was running Stewart Technology? Well, you heard that evidence about the FedEx -- FedEx stuff. I don't know if you caught it, but when Mr. Price needed Beverly Stewart's signature, he would send the documents here to Charlotte and that very same day they'd get FedExed out by the defendant to the intended recipient bearing her signature when we know she wasn't here. She was either in Cody, Wyoming, or she was in Jamaica or she was galavanting around the world, I guess, maybe. But she wasn't in Charlotte.

And finally, Mr. Jones told you. Mr. Jones told you that Mr. Sutherland told him he created Stewart Technology so they could do their offshore work because, as you heard time and time and time and time again, you had to have someone in Bermuda to do this work. Had to be in Bermuda.

The defendant never intended to repay these loans. And he never did.

Now, you've seen some documents where, I mean, the loans were paid off, but there wasn't money changing hands. And you know about those documents. Those were the documents that showed

up in 2015 after the 2007 loan was supposedly due and should have been paid according to the original loan documents.

Grand jury subpoenas were issued to the defendant's companies, and in return the government was provided with the payoff documents. Those are absurd too. You know they're absurd because the original loan documents gave Stewart Technology Services a 20 percent interest, plus -- it gave them principal payments, interest payments, plus a 20 percent interest. Each loan document gave her a 20 percent interest in the sale of any of defendant's entities in the future. That's what they say. You can look at them. Principal, interest, plus -- plus 20 percent of any of his entities. And she decides maybe I got too good a deal, apparently, so she agrees -- she agrees for much less. Much less.

If you look at the ones they showed you, I think the most -- most interest she ever got in less than all of those companies, in particular companies, two particular companies, was 15 percent. And you heard their expert testify about how worthwhile that was at the time she purportedly signed these documents. A couple hundred bucks.

How else do you know those loans were a complete farce, those loan payoffs were a complete farce? Let's look at these two, Government's Exhibits 104 and 105 dated December 31, 2011, December 31, 2012. What do they talk about? Whereas, certain entities in which Patrick Sutherland has an

ownership interest received, received loans from Stewart Technology Services in 2011, 2012, and 2013. They know the future? Received loans, interest due and payable in two years. That doesn't make any sense.

Now, ladies and gentlemen, you're going to be asked to consider four counts against the defendant. And the first three are for filing a false tax return in the years 2008, 2009, and 2010, and the last one is for obstructing the grand Jury's investigation on those tax accounts. And I want to briefly go over those elements with you. And the judge, as he already indicated, he's the one who can instruct you on the law. If he says anything that's different than me, you listen to him. But I think it's going to be something like this.

For the false tax counts, the defendant made or caused to be made and subscribed to a tax return for the year in question that contained false information as to a material matter.

Subscribed, you'll be instructed, that's a fancy word for signed. In today's world that can be e-signed. There's no question that defendant subscribed to these tax returns.

Material. That just means important to the IRS. Could be important in a variety of ways, and you'll get an instruction on that, but one of the ways it could be important to the IRS is if it could have affected the taxes.

Defendant knew the information was false. I think you've seen that.

The tax return was made under the penalties of perjury. We know that's the case. Agent West told you about that. The jurat, remember it's called a jurat. Under penalties of perjury I declare that I have examined this return and accompanying schedules and, and to the best of my knowledge and belief, they are true, correct and complete. And that's his electronic signature right there.

The last thing you've got to find in order to convict the defendant on the tax charges is that he acted willfully. And willfully, you'll be instructed, I believe, means the intentional violation of a known legal duty. In other words, did the defendant intentionally violate the law by failing to report all of his income? Did he know he was required and did he intentionally fail to do it?

How do you know he acted willfully? Well, all the obstruction evidence is also willful evidence. If he's providing fake loan documents, that's pretty good evidence that he knew they weren't loans. But before we get -- actually, let's walk through his tax returns and why they're false in detail.

2008, again, reported income, 88,979. That doesn't include at least 66,000 in domestic income. And also during that year, nearly \$650,000 in wires from Bermuda.

2009, 16,669 reported. At least 49,840 in domestic income not included. Another 550 some and change in wires from Bermuda that year.

2010, 72,415 reported. Another 39,300 in domestic income not included. And 400 plus -- 400,000 plus in wires from Bermuda that year.

So how do you know he acted willfully? Well, he wasn't disclosing control of the Bermuda account as was required. Forged signatures, including his sister's. He doctored her passport. And then he lied and he tried to cover up his tracks. He tried to conceal his behavior.

You heard the stipulation. In April -- around April of 2012 the defendant's companies received grand jury subpoenas. Shortly thereafter, what started happening? This one from Doug Boik August 16, 2012: Hey, let's try to get Stewarttechnology.com off our invoice. That's weird.

February 18, 2015, Doug Boik: Hey, let's change the ownership for Stewarttechnology.com to Stewart Technology Services. We don't want it in Innovation Partners' name anymore.

Bank of Bermuda. Let's rewrite history. August 6, 2012, please make Beverly Stewart the primary contact person. Maybe that's signed by Beverly Stewart.

April 2013, "Ms. Stewart and I had several telephone conversations over the past few days. She wanted us to provide a letter indicating that she and

Ms. King are the only authorized signatories on the Stewart Technology account and have been the only signatories on the account since inception.”

That’s not true and you know that’s not true. And HSBC knew it wasn’t true.

What’s the next highlighted portion? “I was able to provide the letter stating only that she and Ms. King are the current authorized signatories.’ We’re not going to stick our neck out.

Then you got that top email. I’m a U.S. citizen. I don’t want you sharing taxes -- my information with the IRS.

Here’s the elements of the obstruction count. They boil down to this. Did the defendant intentionally provide documents to the U.S. Attorney’s Office here to obstruct their grand jury’s investigation? Did he cause or provide -- did he provide or cause to be provided documents that impeded or influenced the grand jury investigation?

At the end of the day, ladies and gentlemen, this is a simple case. The defendant lied on his taxes and he cheated Uncle Sam. He intentionally failed to report all of his income; and when he was called on that failure, he lied about it and he fabricated documents to cover it up.

All the evidence in this case points in one direction. Not only the evidence I just summarized, but all the evidence you’ve heard over the last few days, your common sense, it all points in one

direction. This number and the numbers on the 2008, 2009, and 2010 tax returns were false. They were materially false and the defendant intended them to be materially false.

So I ask you on behalf of the United States of America to go back into that room and render the only verdict That's consistent with all the evidence that you've seen and find the defendant guilty on all the counts. Thank you.

THE COURT: The jury is with the defense.

MR. DUNCAN: Thank you, Your Honor.

Ms. Sugar, Mr. Ryan, ladies and gentlemen of the jury:

Thank you very much for your attention and the time You've taken out of your lives to consider this case. It is obviously very, very important for Mr. Sutherland and we appreciate your careful consideration of the evidence, which certainly we think does not point only in one direction. We think it points in the other direction.

I want to very quickly before I forget remark to you that Mr. Ryan put up for you the elements of what it takes to obstruct. And the judge will, as he said, instruct you. You decide. But one of those is provide documents to the grand jury. And if you look at the stipulation, the documents that the government relies on were not submitted to the grand jury. They were submitted to the U.S. Attorney's Office.

If you look at Exhibit 79, and I urge you to do that, which is a letter from Mr. Wyatt who was Mr. Sutherland's attorney at the time, he makes it clear that he is submitting those under a rule of evidence which he hopes will persuade the United States attorney not to indict. They were not submitted to the grand jury.

Now, Mr. Ryan said everything that I say here is argument. Everything that you conclude is fact. You are the judges of the evidence. If you don't agree with anything I say about what you heard, it's what you remember that controls.

The judge is the ruler of the law. He's the one that gives you the law. If I say something that he contradicts, you don't come back and say, well, Mr. Duncan said one thing, you said another, which is true? Whatever the judge says is what you have to follow.

But what do they have to show? They have to show willful and intentional false statements, and that means not negligence, not mistake. And they must show this all beyond a reasonable doubt. You must all be satisfied, unanimously, beyond a reasonable doubt of Mr. Sutherland's willful and intentional false statement.

And what is it? It's line 22 of the tax returns for 2008, 2009, 2010. And I wanted to stress, because they have an exhibit, the 2007 tax return. Mr. Ryan talked about jewelry purchases in 2007 to establish a high flying lifestyle. But they haven't put a

scintilla of evidence, not a scintilla of evidence on to show any change in lifestyle from this money that's coming in from Stewart Technology Services. And I submit to you that it's clear why.

Can we put that up?

While it's coming up, it's clear the companies and these two individuals, Yanique Lawrence and Patrick Sutherland, were in heavy debt during these years. Heavy debt.

So who is Patrick Sutherland? And again, you can look at Exhibit 79, and Mr. Wyatt laid out some of the biography. He was born in Jamaica. He's an immigrant. He's now a citizen. He was living the American dream. He comes from poverty and he did well. He excelled in school. He was awarded a commonwealth scholarship, which is a very prestigious scholarship in the West Indies. Went to Canada. Studied at the University of Waterloo. He became an actuary. I want to be clear, he became an actuary. He didn't become an MBA. He didn't become an accountant.

Roger Dunker, you heard he recruited him to Charlotte in 1999 or so and he's been here ever since. And He's built up a successful company. And the government says, oh, with all this money and this high lifestyle, what do you think this money is for? And the government says they're giving these paybacks that are worth nothing, \$110.

Well, I want you to think about those valuations that you heard just this morning. And in 2012 the

company was worth \$10,000. Does that suggest to you that 2008 to 2010 weren't very good years? Then it goes up and it goes up to the point where it's worth \$7 million in 2016. A lot of work, but he builds this company up. If you were -- if your brother said to you, Can you loan me some money and I'll pay you back with a piece of my company and you watch your brother and you think your brother is good and you think his company is going somewhere, would you take it?

And it's your brother or your sister. You've got to remember that these are loans between family members. These aren't loans from AIG or from the Bank of America. They're loans from a sister to a brother.

And you should consider the stellar reputation that Mr. Sutherland has with everyone he works with. Everyone he works with. Mr. Moison you heard, Mr. Nowotny you heard, Ms. Gilliam who worked for him you heard.

Peter Barnett, government witness, said my company forbids me from contacting him so I didn't. But he gets laid off, he contacts Patrick Sutherland to look into annuities.

Mr. Dunker says he did the highest quality work he'd seen. And when Mr. Dunker retires, where does he go to work? He goes to work for Patrick Sutherland. And he says he gets his commissions when they're supposed to come.

And by the way, the government says, What about those commissions? Doesn't that tell you it has to be coming from Stewart Technology Services? You heard Mr. Moison testify that there was a very, very important piece of their company which is the reinsurance that Mr. Sutherland got from it and that he was paid quarterly, and you have the exhibits with those payments. And they went to Innovation Partners and Roger Dunker was entitled to a percentage of those.

You heard that Mr. Sutherland did underwriting, \$1,965 per person, and that some of them paid individually. One of them got paid through CastleRE.

You heard Mr. Price say the same thing. Mr. Sutherland did some of the underwriting. Mr. Dunker was entitled to his percentage of those.

So no, it didn't have to come from Stewart Technology Services.

And you notice all of the government witnesses that knew him seemed to like and respect him except one: Michael Jones. We'll return to Mr. Jones.

I want you to think about this. 2008 through 2010, I mean, I suppose you could say use your common sense, but also use your life experience. We all lived through that. It was called the Great Recession and it came very close to being a second depression. And you heard even from Mr. Jones that there was a \$9 million sale that was scheduled of a company that they owned to AIG and that Mr. Jones

-- I can't remember -- he was going to take about 2-1/2 million or 2.6 million and Mr. Sutherland was going to get about 3 million. Went no where. But never mind, Mr. Jones says those companies were doing okay. They just lost a \$9 million sale, but they were doing okay. Lost Citizens Home Loans. Does it have the ring of truth when Mr. Jones says, Oh, Citizens Home Loans was doing okay in 2008. Was there a single mortgage company in this country that was doing well in 2008? And the proof of the pudding is it gets shut down.

Can you put that on now.

MS. RAUSCHER: Yes, it's on now.

MR. DUNCAN: So you should -- you have to ask yourself, this company -- and Linda Polk said it. She's never seen anything like it. They are borrowing against their credit cards to the tune of 2 - - 150, 200 thousand dollars a month and cycling back and paying it back. Why do you think they're borrowing all that money at credit card rates? Because the companies don't need it? Where is it going? I submit to you it's going to pay for the operations of those companies. And I submit to you that the money coming in for STS is to allow him to pay those back.

The government hasn't given you one piece of evidence that Mr. Sutherland is suddenly buying fancy cars or a mansion somewhere. He's got a house. It's a nice house. It's a very nice house. I don't want to suggest that he wasn't doing well in the

early 2000s. He was. And he did have a nice house. But by the time you get out in 2011, he's got a company that's valued at \$10,000.

The credit card -- if you look you'll see, starting in January of 2008, we're looking at \$250,000 in debt. Now, this is combined, individual and company. It gets as bad by February of 2009 as \$350,000 in debt. And then we get to Jun and July, it levels off at a mere \$150,000 in debt. And if you add it all up, it's going to come pretty close, I think, to that \$2.2 million that came from STS.

I'm going to eliminate what I think are some red herrings Mr. Ryan threw at you.

This isn't a case about whether Patrick Sutherland was hiding his involvement in STS from an insurance company. And it's not about whether he was signing his sister's name on a document or using her email address. It's about tax fraud. It's about tax fraud. They don't have any evidence. And I submit to you this is his sister. She knows him. He knows her. Why wouldn't he have permission to sign her name? Why wouldn't he? Has she ever -- you can look through all the documents that they submitted from the bank, on the treaty, and you can look at that telephone conversation Mr. Ryan put up where she's calling and complaining and saying I want this, I want that. Is that someone who said, Oh, my God, my name has been forged? No, it's not.

All right. What do we have here? We have a valid corporation in Bermuda. It performs a valid function.

There is no dispute about that. It's a separate taxpayer. The money that comes into Stewart Technology Services is income to Stewart Technology Services. It's not income to Patrick Sutherland. And it is not income to the shareholders and the shareholders are Beverly Stewart and Kelly-Ann King. You can look at Exhibit D21 if you want, documents provided by this treaty, and the owners are listed, Beverly Stewart and Kelly-Ann King. They want to suggest, well, they're not really the owners because she goes and spends her summers in Cody, Wyoming. She's got the stock certificate. I mean, I could be running a company and I could be running it for my 79-year-old mother who doesn't have a clue, but she owns all the stock. She's the owner, not me.

The shares tell you who the owner is. If the owner wakes up one morning and says, You know what, I'm having a falling out with my brother. I don't like him anymore. You call up the bank and say stop the presses. Nobody else can take money out except for me. Where is all the money? It's with her.

And by the way, what -- what commissions are we talking about? Mr. Ryan suggests, oh, this \$2 million is all income of Patrick Sutherland. It isn't. They have Jim Price stand up and say -- he's got a whole list and it's -- I don't remember what exhibit it is. I'm sorry. I thought I had written it down. But do you remember his handwritten list of all of the monies he got wired from Stewart Technology Services? About \$400,000 in 2008, 2009, 2010. And maybe about a third of that 140, 150 thousand dollars is the amount

that's retained in Stewart Technology Services. That's it. That's the only evidence you have of commissions. That ain't \$2.1 million.

So what is the money coming out? I submit to you it's loans. Mr. Ryan says, Oh, he never intended to repay it, but he controls it they say. He controls it, but he never intended to repay it. Why not if he controls it? You have to ask yourself if this money is coming over to avoid taxes, why do you run toward the problem? You got the money in Bermuda. It's sitting in a corporation that is not taxed by the United States. Instead of leaving it there, instead of saying, okay, things are bad here, I'll shut my companies down and I'll go to Bermuda and live off that, you wire it in. What did he say, 200 some odd wires. You want to attract the attention of the authorities, wire money from overseas to the United States month after month after month after month after month in 30, 40 thousand dollar quantities. They did it openly.

And they had an investment account, and you can look at Exhibit 143, again, provided by the treaty. These are the bank's documents. They had a \$3.2 million investment account. Okay. So there's \$3.2 million. Forget about income. Forget about anything else. There's \$3.2 million sitting there.

But that's not all. You can look at Exhibit 139. There's a \$750,000 credit line. And you heard Linda Polk say monies came out of that credit line. These aren't commissions.

Every bit of that \$2.1 million could have been paid out without looking at those commissions.

And we don't have any evidence in the case about whether the company was profitable or not, very profitable, so so. It's doing work. It's doing work. It's getting paid. We don't know how much.

I submit to you that, yes, Patrick Sutherland was pretty heavily involved in that company. Yes, he was an officer. Yes, he negotiated contracts for them. They want to say he did everything. Well, did he? They're kind of conflating, as they did his actuarial work that he did with Mr. Moison, with this work, intermediary work, that Stewart Technology Services did.

Is it so difficult that a college graduate, Beverly Stewart -- put Exhibit 1 up.

She gets very, very high accolades when she goes out to Wyoming. And by the way, she's in a college program and she's got to do this for college credits, experience. Anybody not want to go and spend a summer in Cody, Wyoming? I don't know. Maybe, you know, she's never seen horses, never seen broncos, never seen anything. It's not such a bad thing. It's not such a difficult thing. And the government suggests she couldn't be doing what she was doing and still go out to Cody, Wyoming. But Mr. Moison who runs an insurance company in Bermuda lives in Colorado. You can do it. There's the internet. There are telephones.

And by the way, you heard Mr. Price say he's on the phone with Ms. Stewart several times a month. Asks her questions. Answers her questions. Gets forms. She arranges for loans for his clients. She's not incompetent. She's not incompetent. And she's not a maid.

Do you have that picture up?

I mean, you can see -- what do we have up? Why don't you put the second one up too.

Living in a nice house.

JUROR: We don't see it.

MR. DUNCAN: You don't see anything?

JUROR: There it is.

MR. DUNCAN: Now you do.

That's her, Beverly Stewart.

So Stewart Technology Services is not doing actuarial work. Very clearly actuarial work is complicated. I don't understand it. But -- and it pays well. Mr. Moison told you that for getting a reinsurer on board which was Patrick's doing, they paid him all of their rebates for the first year and a percentage after that.

And I want to be clear, by the way, because all of the money that went from Mr. Moison went to Innovation Partners. You saw he had a separate contract with Innovation Partners. Innovation

Partners is an audited broker-dealer and there's no issue it paid its taxes. Taxes were paid for this work. Mr. Dunker was entitled to his share of it.

What proof do they offer you that this money isn't loans? That the loan documents don't look right because it says 20 percent of the company in each one of them. So they copied the loan document. I submit to you what that means is 20 percent total. Doesn't mean 120 percent.

If he took the money intending to repay it, that makes it a loan. Is there any reason you wouldn't even on their view of what this company was, why wouldn't he repay the loan? Going back to exactly where he controls it. Why wouldn't he?

And they say there's no evidence of repayment. Well, you look at Government's Exhibit 11 which is a summary chart of money -- not monies, but of properties that were transferred, interest in properties. And one of them is that fancy villa in St. Lucia that he pointed to as Mr. Sutherland, without evidence, taking vacations in. The only evidence we have that anybody took a vacation in there was Doug Boik who took a vacation. So they did pay that back.

And then we have the transfer of interest, 15 percent interest in Innovation Partners and Insigne Advisor Consulting. Oh, you know, would you trade your \$2.2 million plus interest for a 15 percent interest in this company which as of 2016 was valued at about \$1.244 million? And if you look at the growth rate from 2011 to 2016, it's a pretty good bet

that it's going to be worth a lot more going forward. A lot more. And much, much more than \$2.1 million. Much, much more than \$2.1 million plus 6 percent interest.

And he says have you ever gotten a loan that let you go for 7 percent -- 7 years at 6 percent? You know, people loan their family members all the time. Sometimes it's zero percent. Sometimes they never see the money back, but they loan it. And they loan it without saying, oh, you have to pay me back now. I'll loan you the money for your college education and you pay me back when you can. I'll loan you money for medical school, you pay me back when you can. Isn't that something people do?

And you heard from Mr. Smith. You don't even need a writing for a loan. Again, they make a big deal. Did he forge Beverly Stewart's signature on those loan agreements? Does that make them obstructive? They weren't even presented to the grand jury. Well, they may have been presented, we don't know. There's no evidence of that. What there is evidence of is they were presented to the U.S. Attorney's Office. But forged. You don't think Beverly Stewart would say, Yeah, he can sign my name?

So why did he borrow \$2.1 million? We saw. His credit card debt was enormous. Did he keep his daughter in private school where she had started and been since 2001? Yes, he did. He found a way to do that, yes, he did. Did he have purchases, the life purchases that they're talking about on top of, I

think in their chart, about \$23,000 a year in excess of reported income while they were carrying about a hundred thousand dollars in credit card debt? I asked Linda Polk, can you live on credit cards? Yeah. People do it. Some people -- maybe some of you have done it some of your lives, I don't know. But I know people do.

Do you keep your daughter in private school where she's been since 2001? Yes. Yes. What do you do for your children? You try to keep your children in the best place possible for them. Absolutely. They haven't given you any evidence of big purchases, just big debt. That's all.

And Mr. Ryan is right, you are going to hear about that \$84,000 in 2008. Do you remember that? He took \$84,000 out of his IRA and he says, Well, it went to Mr. Gizaw. I believe they showed that \$60,000 of it went to Insigne Consulting. In other words, he took it out of his IRA and he shot it into his company. Now, if you've got on tap \$2.1 million and you can just turn the spigot on and get it, why are you doing that and paying a 10 percent penalty, 10 percent penalty right up front, and all of the tax deferred benefits of that money is gone? You have \$84,000. You don't pay taxes on the gains of that. You don't pay taxes on the interest on that. It sits there and grows without taxation until you withdraw it at age 59-1/2 or later and then you pay ordinary income tax on it. Why do you give that up if you've got all this other money coming around? I submit to you you give it up because you're desperate, because it's 2008, 2009, 2010. The economy is in free fall.

Your companies – you're scrambling to keep them going. That's why. You just don't do that if millions are rolling in.

And then there was -- I think I pointed out to Ms. Polk on Exhibit -- well, no. I'm not sure -- I took -- I pointed out to Ms. Polk that there were some transfers from Citizens Home Loans to Kryotech in 2008. You can look at the books. Maybe some of you are better at looking at these than I am. But there were Citizens Home Loans transfers. And Mr. Smith testified that the audited financials for CHL in 2007, the year before it collapsed, there was a million dollars in paid-in capital. He took some of his paid-in capital out of one business and he moved it to the others. He didn't take it out and buy a home in the Bahamas. He didn't take it out and buy a home in Montana. He put it in his businesses.

So you have the books of the company, and you heard Linda Polk say these books are pretty bad. They're a mess. Nothing is done right. You heard Mr. Smith say Phillip Sutherland was keeping the books. Not very good at it.

And I went through with Linda Polk that the credit cards, these 125,000, 150,000, 50,000 dollar credit card payments were being booked as negative capital. That's not where they're supposed to be booked. None of the payments inside of them are broken out. None of the finance charges were broken out. You put that in as a big lump and you're losing deductions.

I pointed her to a \$79,000 payment to the IRS from someone who is trying to avoid his taxes like the plague. \$79,000 to the IRS from a tax evader. Could have been payroll taxes. It would have been deductible. Could have been a tax the company owed. We don't know what it was. But it went to the IRS. Why? Why are you trying to hide your income from the IRS here and just giving it to them over there and not taking the deduction if you're entitled to it? Does that make sense to you? Doesn't make sense to me.

And remember, you see these mistakes and the mistakes go both ways and they're big both ways. You've got to find willfulness. You've got to find a willful, intentional, knowing violation of the law. And all of these mistakes affect these entities. And the entities pass their income or their loss through to Mr. Sutherland. I believe they talked about Schedule E, and that flows into line 22. So line 22 is true or false depending on what comes out of these companies. And willfulness depends on whether there was willful violation in the monies coming from STS, were they loans or not? And in these other monies, were these deductions willfully foregone? Doesn't make sense.

What about obstruction? Well, the obstruction is obstruction -- well, first of all, I submit to you you can't find obstruction because these documents weren't provided to the grand jury. They were provided to the U.S. attorney. His lawyers were hoping what they could do was keep Ms. Sugar from walking down the corridor to the grand jury and

indicting him. They were directed to her. They were not directed to the grand jury. And I submit to you on that basis alone, you have to acquit.

But what about the documents? They're only obstructive if they're false. And I submit to you you cannot find beyond a reasonable doubt that they're false.

They're loan agreements. Are they sloppy? Yeah, they're sloppy. Did maybe he sign for his sister? Maybe, but what does it matter. The money came. If they say, well, the money came because he controlled it, then why wouldn't he repay it? He controls it there, he controls it here. They're saying he's not going to repay it? He's using it for his companies.

He gave these documents knowing there was an investigation going on, but that's not all he gave. He gave them all of his bank account numbers. All of the checks that they've shown you, all of the jewelry -- by the way, the jewelry in 2007 that they gave you, all of that was on his bank accounts which he gave them and they went and found. Do you think he thought when the grand jury subpoenaed his companies' documents and he said, okay, I'll give you those, and here, by the way, are all my bank accounts, that they weren't going to go look at them? Maybe they won't go look at them, but I'll give them to them.

They make a big deal out of the fact that the list of loans that they got from Stewart Technology is smaller than what the -- I don't know how many agents working on this case for I don't know how

many years, we started in 2012, here we are in 2016 -- came up with. They came up with all of them combing through that data. Didn't have them all.

What about Jones? Jones says STS, it was formed to do our offshore work. We formed it. I was in on all of this. You know, I was talking to all those people. He calls up Price and says, You owe me money, buddy. Price says, I don't owe you any money. I don't have anything to do with you. I don't have anything to do with you. There's nobody that you heard -- all the people he said he talked to, they didn't talk to him or they didn't say they did.

He says he owns STS now. He says he owns the software that STS licenses to people. Where was that in his lawsuit? I mean, you heard some of the emails that he sent to Mr. Sutherland, you know, Seaview dog, diluted, Seaview thug, liar, your family are liars, where you come from they're liars. He hates him. But he's not going to put it in because his lawyer says, Well, we can't prove there is any money there so we can't certify it. Was that nonsense? He never owned STS. He didn't own anything about STS. And he was lying, I submit to you, lying about everything he said.

He lied to get his, what did he call, a Jamaican niece, that's right. He says she's his niece. I'm sponsoring my niece to come into the country. She gets here. He marries her. Now she's his Jamaican niece.

He lies about his income to get his nephew in.

He works out a kickback scheme with a colleague to get insurance from his own company that they don't allow and keeps the commission.

He files a \$1 million suit plus punitive damages and says, I'm going to get everything from you. I'm going to back my truck up to your house and take all of your furniture except I'll leave your daughter's.

Then he settles it for a hundred fifty thousand over time. And as soon as he signs the agreement, the ink isn't dry, he reneges on it. He says that wasn't me; that was USA Holdings. I filed a FINRA arbitration on their behalf because they were owed money.

So Mr. Sutherland has to go back, file a second suit. He signs a second settlement agreement and that FINRA arbitration is dismissed because it's the same thing. And he's still trying. He's still trying. You don't think he hopes for a conviction and hopes that maybe he can somehow leverage that to get money?

And you can look at the software agreement that's Exhibit D4. STS owns and licenses the software. You can't believe it. He's the only person who came in here and said bad things about Patrick Sutherland. Only one.

So what about these other bits and pieces that the government comes up with? Adler, Cahill, Yanique. I mean, you look at the Adler payments and they're booked three different ways. You know, if what you're trying to do is hide that income, why not just

book it all as capital contributions? But no, about half of it is booked as income. Some of it is booked as capital contributions. Some of it is booked as credit card loans. That doesn't suggest that someone is doing something intentional. That's just nuts.

And what about Sean Cahill? He pays his money to Kryotech and it gets booked as capital contributions, \$2,000 a month. And you'll have some exhibits -- okay. So you will have the Exhibits 56, 57, 58, 59, 60, 61, 62, 63, and I'm assuming property tax is 64, to show you that there were mortgages on their property. There were property taxes paid. None of those things got deducted against it. And that's what you do. You heard Linda Polk say if you get income from a rental property, you're allowed to deduct expenses against it. We have no idea. There may have been no tax due on that. But it was certainly -- the checks went to Kryotech. The checks got booked by Kryotech. There was not a very good bookkeeper there.

And what about Yanique Lawrence? Well, first of all, Yanique Lawrence is not on trial here. Patrick Sutherland is on trial. She got money paid out as commissions. And you saw that I showed several checks that went right back into the companies. So it's not all income. And whatever it is, that's Yanique Lawrence. You cannot hold that against Patrick Sutherland and it's not clear that there was anything intentional.

What about payments for his daughter? A few thousand, 15,000, 10,000. I can't remember what it

was. And you heard Linda Polk say you can make payments for other people out of your capital account. \$15,000.

So in the end, ladies and gentlemen of the jury, I have tried to tell you what I see in the evidence, but it's up to you what you see in the evidence. I've tried to tell you what I think the evidence is. It's up to you what the evidence is. It's up to you who to believe. I tell you – I submit to you Mr. Jones is a liar. If you think he's telling the truth, that's your decision.

I ask, because this is a very, very, very important decision for Mr. Sutherland, that you give it all the diligence that I know you have, that you bring all your life experiences to this, and that you come back with a verdict which I think you should of not guilty on all counts. Thank you.

THE COURT: All right. The jury is with the government for rebuttal.

MS. SUGAR: Thank you, Your Honor.

The burden is on the government for every element of each of these crimes beyond a reasonable doubt. We embrace that burden and we have met it.

First I want to talk about the obstruction count because what you just heard is silly. Grand jury subpoenas went to the defendant's companies and what happens next? A letter comes to the U.S. Attorney's Office that says don't indict him, here's these loan documents. Here's the list about the bank

accounts for the very same companies listed on the subpoenas. Who indicts? The grand jury.

The judge will instruct you that it's also charged as aiding and abetting. So even if he didn't directly give it to the jury, if he aided and abetted, you convict him. That's just silly, ladies and gentlemen.

What is Stewart Technology Services? It morphs into whatever the defendant needs to keep his own name off of stuff. It's the ICAS computer system. It's Stewart Information Services. It sells insurance. But it's just used as a shell to hide the money that the defendant gets.

Then there's sort of a new story coming here. Of course he controls it. Of course he's involved heavily. But that's not what's on the Bermuda documents. When they asked about know your client, describe the source of these funds, what does it say? This is from Beverly Stewart and here is her background. Covering up that she is a cosmetologist.

That's not what Mr. Price thought. He thought that Beverly Stewart was off traveling around the globe, was actually signing these documents. Why is it being concealed?

And it's still being concealed today. The defendant's own exhibits, Defendant's 65, a correspondence submitted to FINRA in 2016 asks for information about Beverly Stewart and Yanique Lawrence, and what does it say? What is the professional background of Beverly Stewart?

Response: "Beverly Stewart is an entrepreneur and international business professional. She holds a bachelor's degree and various other professional certifications. Beverly Stewart went to similar educational institutions as Patrick Sutherland up to the secondary level," and provides similar information about Kelly-Ann King. The lie continues, ladies and gentlemen.

What about these credit card loans? Now, your recollection controls, but what I submit to you Ms. Polk said is it was just a float. We saw the checks deposited into the U.S. based Stewart Technology Services account, then it went to Kryotech and then Kryotech paid the money back. Nothing was happening. It was just looping around. And these weren't funds used to run the businesses. You can look at the income and expense items on any of those general ledgers. Those numbers are pretty low. The big numbers are what's going back to him. If you look at a lot of those general ledgers, money comes in. Where does it go? Out to Patrick Sutherland. Money comes in. Where does it go? Out to pay for one of his personal expenses.

If we could pull up Exhibit 13D.

It shows the notations on that money coming from Bermuda. There was some discussion, what is that money from? What is this all about? Well, I'll tell you -- or I submit to you this is what those bank exhibits show. That money wired in in 2010, it says it's for marketing and advertising fees. Whoops, this is on the loan list but it's booked as marketing fees. The

next one comes in, it says consulting fees on the wire. Loans deposited. It's all over the place. How could you do the books? How could you do the books for a company if things are written to checks that say they're consulting fees?

JUROR: We can't see it.

THE COURT: You're seeing it, but nobody else is.

There we go.

MS. SUGAR: Sorry about that.

The descriptions on the bank wires say fees. How can anyone know to book those as loans?

And then to suggest that the government's scouring the records found all these wires and that's why they were on the loan records. If you get -- if you loan someone a hundred thousand dollars, would you just miss it? No, because that's not what happens in a real loan because that's not what they were.

And of course, there was an investment account. Certainly some of the money coming to Patrick Sutherland was money not just from commissions. You see in the bank records the purpose of that account was to generate a revenue stream, and they said it's going to go to Kryotech Holdings.

Defense was also pretty dismissive of 130,000 in commissions. Oh, that's just 130,000. That's real money. Maybe not to the defendant. But when you're

making \$16,000 dollars a year, you can't just overlook it.

Remember Mr. Nowotny, the defendant's own witness: I only work with Innovation Partners. That's who I work with. Then what did you see? He got paid from Stewart Technology Services.

Look at Exhibit 14. We didn't even talk about this one in closing. But remember, there were checks written to Stewart Technology Services and then deposited into the Kryotech Holdings account. This was just a name they used to get certain payments.

You notice those loan deposits went into every bank account except for one: Innovation Partners. Why? Because it was being audited. Because the defendant knew when people were looking to do things right -- and that goes back to that whole IRA distribution which is just silly. Why would you take out your IRA? Because you could make more money somewhere else. And the fee, that was the only money he paid to the IRS that year. That didn't seem that big in the scheme of things. That was the only money he reported on his tax return. And the money came into Insigne just like all these loans that were supposedly to Patrick Sutherland personally. I don't know why they needed to go to 12 different accounts, but money went back out and you saw from that Doug Boik email, that was about a whole nother investment.

Is this the fault of a bad bookkeeper? You heard from Mr. Smith. I submit to you that he said there

weren't that many changes to make from what Phillip Sutherland did. If you let someone do your books continuously for ten years who is that bad, then you have your head in the sand.

There was also talk of the defendant's reputation in this industry, and it's stellar. He came up with Bermuda insurance products, which I submit to you means -- and that shows it's likely that this is his money and not the sister's. But it also means who are good businessmen? The ones who are making people money.

Of course the defendant's records and accounts are confusing. When you have a foreign bank account in someone else's name, you don't have a problem doctoring a passport to open, when you lie about being involved in TLIB contracts, when you send emails pretending to be your sister, when you forge documents in Mike Jones' and Roger Dunker's and Beverly Stewart's name, of course you want to make things confusing. Don't let him confuse you, ladies and gentlemen.

Now, this whole repayment thing is silly. The way it's first set up, she gets all of the money back and interest and 20 percent of the sale. And now based on these new documents of transfer, she's going to get 15 percent. Virtually, anything she was supposed to get went away. It's nonsense.

THE CLERK: You have five minutes.

MS. SUGAR: Thank you.

And I would submit to you that you can look at the credit card records that are in evidence to see the way the defendant was living in the later years. You may have only seen examples in 2007, but you have the records. Look at what was being spent in 2008, 2009, and 2010. And you'll see charges in St. Lucia made by the defendant.

What about Jones? Even if he's a bad guy, that's who the defendant decided to do business with for more than ten years. And the best they got is that he lied on an immigration document back in '99. What was his testimony that wasn't supported by other records you saw? That Patrick Sutherland used Beverly Stewart's email? Well, that certainly happened. That Patrick Sutherland forged documents? That certainly happened.

Did he go back and recreate what the Bermuda documents said, what the defendant's tax return said? No way.

Defendant could have applied for a scholarship for his daughter. He didn't because he didn't need one.

Even if the defendant did give shares of his companies, 15 percent, to Stewart Technology Services, that's a little silly as a repayment, isn't it? It's like taking money out of one pocket and putting it in the other. It's ridiculous.

The defendant has an excuse for everything. He lives a lifestyle that most people dream of and doesn't pay his fair share. Millions of dollars coming into his account marked as fees but treated as

nontaxable. There's a word for it, ladies and gentlemen. It's appalling. Find the defendant guilty on all counts.

* * *

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CERTIFICATE OF REPORTER

I, Cheryl A. Nuccio, Federal Official Realtime Court Reporter, in and for the United States District Court for the Western District of North Carolina, do hereby certify that pursuant to Section 753, Title 28, United States Code, that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 21st day of August 2017.

s/Cheryl A. Nuccio

Cheryl A. Nuccio, RMR-CRR
Official Court Reporter