

No. _____

=====

IN THE
SUPREME COURT OF THE UNITED STATES

ATTICUS SLITER-MATIAS,

Appellant.

v.

UNITED STATES OF AMERICA,

Appellee.

**On Petition for Allowance of Appeal To The
United States Court of Appeals for the Third Circuit**

APPENDIX TO PETITION FOR WRIT OF CERTIORARI

JAMES W. KRAUS, ESQUIRE
Counsel for Atticus Sliter-Matias
PIETRAGALLO GORDON ALFANO BOSICK &
RASPANTI, LLP
The Thirty-Eighth Floor
One Oxford Centre
Pittsburgh, PA 15219
(412) 263-4370
(412) 261-5295 (Fax)

TABLE OF CONTENTS

	Page No.
Notice of Appeal	A 0001
Judgment of Conviction and Sentence.....	A 0002
Memorandum Order Regarding Pretrial Motions – 1/31/2018	A 0011
Order Denying Motion for New Trial – 6/18/2018	A 0015
Indictment	A 0016
Motion in Limine	A 0027
Motion for Dismissal	A 0029
Verdict.....	A 0032
Motion for New Trial.....	A 0033
Transcript of Proceedings – Trial – May 23, 2018.....	A 0038
Transcript of Proceedings – Trial – May 24, 2018.....	A 0213
Transcript of Proceedings – Trial – May 29, 2018.....	A 0351
Transcript of Proceedings – Trial – May 30, 2018.....	A 0564
Transcript of Proceedings – Trial – May 31, 2018.....	A 0760
Trial Court Docket (2:17-cr-00034-BRW).....	A 0767
Non Precedential Opinion of Third Circuit – December 2, 2020.....	A 0781
Judgment of Third Circuit – December 2, 2020	A 0789
Sur Petition for Rehearing of Third Circuit – Dated December 28, 2020.....	A 0793

NOTICE OF APPEAL TO
UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

U.S. District Court - Western District of Pennsylvania (Pittsburgh)

Circuit Court Docket No. _____

FULL CAPTION IN DISTRICT COURT:

UNITED STATES OF AMERICA

District Court
Docket No. 17-cr-34

V.

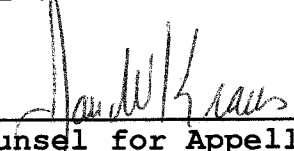
Atticus Sliter-Matias

District Court
Judge Bill R. Wilson

Notice is hereby given that Atticus Sliter-Matias
appeals to the United States Court of Appeals for the Third Circuit
from [☒] Judgment; [] Order; [] Other (Specify) _____

entered in this action on 4/12/2019 .

DATED: 4/24/2019



(Counsel for Appellant-signature)

James W. Kraus (56881)
(Name of Counsel-Typed)
38th Floor, One Oxford Centre
(Address)
301 Grant Street

Pittsburgh, PA 15219

412-263-4370-jwk@pietragallo.com
(Tel. No. - FTS or Other)

(Counsel for Appellee)

(Address)

(Tel. No. - FTS or Other)

UNITED STATES DISTRICT COURT

Western District of Pennsylvania

UNITED STATES OF AMERICA

v.

ATTICUS SLITER-MATIAS

JUDGMENT IN A CRIMINAL CASE

Case Number: CR 17-34-1

USM Number: 38352068

James W. Kraus

Defendant's Attorney

THE DEFENDANT:

☐ pleaded guilty to count(s) _____☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.☒ was found guilty on count(s) 1 & 2
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. 1341	Mail Fraud	11/16/2015	1
18 U.S.C. 1341	Mail Fraud	12/9/2015	

The defendant is sentenced as provided in pages 2 through 9 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.☐ The defendant has been found not guilty on count(s) _____☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

4/12/2019

Date of Imposition of Judgment

Signature of Judge

Bill R. Wilson, Senior United States District Judge

Name and Title of Judge

4/12/2019

Date

DEFENDANT: ATTICUS SLITER-MATIAS
CASE NUMBER: CR 17-34-1

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of:

46 months at each of Counts 1 & 2 with such terms to run concurrently.

☒ The court makes the following recommendations to the Bureau of Prisons:

Defendant shall receive mental health treatment while imprisoned.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

- ☐ at _____ ☐ a.m. ☐ p.m. on _____ .
☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

- ☐ before 2 p.m. on _____ .
☐ as notified by the United States Marshal.
☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: ATTICUS SLITER-MATIAS

CASE NUMBER: CR 17-34-1

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of :

3 years at Counts 1 & 2 with such terms to run concurrently.

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
 - ☒ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. ☒ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

DEFENDANT: ATTICUS SLITER-MATIAS
CASE NUMBER: CR 17-34-1

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____

Date _____

DEFENDANT: ATTICUS SLITER-MATIAS
CASE NUMBER: CR 17-34-1

ADDITIONAL SUPERVISED RELEASE TERMS

14. The defendant shall report any change of address within 30 days to the United States Attorney's Office while any portion of the restitution remains outstanding.
15. The defendant is prohibited from incurring new credit charges or opening additional lines of credit without prior written approval of the probation officer.
16. The defendant shall participate in a mental health assessment and/or treatment program approved by the probation officer, until such time as the defendant is released from the program by the Court. The defendant shall be required to contribute to the costs of services in an amount determined by the Probation Office. These costs shall not exceed the actual cost of the service. The Probation Office is authorized to release the defendant's presentence report to the treatment provider if so requested.
17. The defendant shall pay restitution that is imposed by this judgment that remains unpaid at the commencement of the term of supervised release at a rate of not less than 10 percent of his gross monthly earnings. The first payment shall be due within 30 days from the defendant's release from the custody of the Bureau of Prisons.
18. The defendant is permitted to possess or use a computer and is allowed access to the Internet. The defendant shall consent to the installation of any hardware or software to monitor any computer, or other electronic communication or data storage devices used by the defendant to confirm compliance with this condition. The defendant shall pay the monitoring costs as directed by the probation or pretrial services officer. Furthermore, the defendant shall consent to periodic unannounced examinations by the probation or pretrial services officer of any computers, cell phones, or other electronic communication or data storage devices that the defendant has access to, to confirm compliance with this condition. Additionally, the defendant shall consent to the seizure and removal of hardware and data storage media for further analysis by the probation or pretrial services officer, based upon reasonable suspicion of a violation of the conditions imposed in this case, or based upon reasonable suspicion of unlawful conduct by the defendant. Failure to submit to the monitoring or search of computers and other electronic communication or data storage devices used by the defendant may be grounds for revocation.
19. If the defendant's employment requires the use of a computer, the defendant may use a computer in connection with the employment approved by the probation or pretrial services officer, provided the defendant notifies their employer of the nature of the conviction or charge. The probation or pretrial services officer shall confirm compliance with this notification requirement.
20. The defendant shall provide the U.S. Probation Office with accurate information about the defendant's entire computer system (hardware or software) and other electronic communication or data storage devices or media to include all passwords used and the name of the Internet Service Provider(s). The defendant also shall abide by the provisions of the Computer Restrictions and Monitoring Program approved by the Court.
21. The defendant shall submit his person, property, house, residence, vehicle, papers, business or place of employment, to a search, conducted by a United States Probation or Pretrial Services Officer at a reasonable time and in a reasonable manner based upon reasonable suspicion of contraband or evidence of a violation of a condition of supervision. Failure to submit to a search may be grounds for revocation. The defendant shall inform any other residents that the premises may be subject to searches pursuant to this condition.
22. The defendant shall provide the probation officer with access to any requested financial information.
23. The defendant shall cooperate in the collection of DNA as directed by the probation officer, pursuant to 28 C.F.R. § 28.12, the DNA Fingerprint Act of 2005, and the Adam Walsh Child Protection and Safety Act of 2006.

DEFENDANT: ATTICUS SLITER-MATIAS
 CASE NUMBER: CR 17-34-1

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>JVTA Assessment*</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 200.00	\$	\$	\$ 379,591.95

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

Name of Payee	Total Loss**	Restitution Ordered	Priority or Percentage
eBay Inc.		\$292,630.00	
Attn: GAP Ref: Case614712			
583 West eBay Way			
Draper, UT 84020			
PayPal Inc.		\$86,158.46	
c/o Janina Hillgruber			
9999 N. 90th Street			
Scottsdale, AZ 85258			

TOTALS	\$	803.49	\$	378,788.46

☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: ATTICUS SLITER-MATIAS
CASE NUMBER: CR 17-34-1

ADDITIONAL TERMS FOR CRIMINAL MONETARY PENALTIES

The defendant shall make restitution payments from any wages he/she may earn in prison in accordance with the Bureau of Prisons' Inmate Financial Responsibility Program. Any portion of the restitution that is not paid in full at the time of the defendant's release from imprisonment shall be paid as a condition of supervised release. The victim's recovery is limited to the amount of its loss, and the defendant's liability for restitution ceases if and when the victim receives full restitution. The defendant shall apply all moneys received from income tax refunds, lottery winnings, inheritance, judgments and any anticipated or unexpected financial gains to the outstanding court ordered financial obligation within 10 days of receipt, unless excused from doing so by Order of the Court. The Court finds that the defendant does not have the ability to pay interest. Therefore, interest is waived.

DEFENDANT: ATTICUS SLITER-MATIAS
CASE NUMBER: CR 17-34-1

ADDITIONAL RESTITUTION PAYEES

[illegible]

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: ATTICUS SLITER-MATIAS
CASE NUMBER: CR 17-34-1

ADDITIONAL FORFEITED PROPERTY

Pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), the defendant will forfeit to the government all property constituting, or derived from, proceeds obtained directly or indirectly as a result of such offenses, including but not limited to: specific property, which includes \$116,141.32 in United States currency and numerous gold and silver coins and bars, all of which were seized from the defendant's residence on July 5, 2016; and, a money judgment equal to at least approximately the total amount of proceeds in United States currency from the fraud described in Counts 1 and 2.

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA,	)	
	)	
v.	)	Criminal No. 17-34
	)	Judge Nora Barry Fischer
ATTICUS SLITER-MATIAS,	)	
	)	
Defendant.	)	

MEMORANDUM ORDER

This white collar fraud case is set for jury selection and trial to commence on March 12, 2018 at 9:30 a.m. as to the two pending counts of mail fraud against Defendant Atticus Sliter-Matias. (Docket No. 39). This matter is before the Court on a series of pretrial motions filed by Defendant, (Docket Nos. 40; 41; 42; 43; 44; 45; 47), and the Government's omnibus response thereto, (Docket No. 48). Having reviewed these matters in light of the deadlines set forth by the Court in the Pretrial Order, the Court makes the following summary rulings:

1. Defendant's Motion for Pretrial Access to Witnesses [40] is DENIED, as moot, the Government having provided the requested information during discovery and supplied additional detail in its response advising of the locations of the specific information about which Defendant requests, (including the identities of the two victims, and the data from the seized hard drives), within such materials, (*see* Docket No. 48 at 6-8). Insofar as defense counsel is unable to locate such materials, the attorneys shall meet and confer in order to resolve the issue prior to bringing same to the attention of the Court;
2. Defendant's Motion in Limine Regarding Government's Notice of Intent to Use Evidence of Other Crimes Wrongs or Acts Under Federal Rule 404(b) [41] is DENIED, as premature and without prejudice, the Court having set a deadline in its Pretrial Order

- for the Government to provide Rule 404(b) notice to the defense by February 21, 2018, (see Docket No. 39 at ¶ 4);
3. Defendant's Motion for Interviews of Government Witnesses [42] is DENIED, as moot, the Government having agreed to provide its witness list to the defense in advance of trial, (despite the Court's order permitting such list to be filed *ex parte* and under seal), (see Docket No. 48 at 10), and Defendant citing no authority in support of his request that the Government supply contact information for such witnesses;
 4. Defendant's Motions for Dismissal of the Indictment or Request for Bill of Particulars, filed at [43] and [44] are DENIED, as Defendant has been provided with sufficient discovery materials to understand the charges against him and prepare for trial such that a bill of particulars is unnecessary. See *e.g.*, [United States v. Manfredi](#), 628 F. Supp. 2d 608, 634 (W.D. Pa. Jan. 21, 2009) (quoting [United States v. Rosa](#), 891 F.2d 1063, 1066 (3d Cir. 1989)) (denying bill of particulars because "Defendants have not demonstrated that the allegations in the indictment, when considered in light of the significant discovery; the Government's proffers as to its chosen method of proof at trial and its presentation of voluminous evidence related to the allegedly unlawful transactions at trial, are so general as to 'significantly impair' their ability to prepare for their defense or that the denial of their motion will lead to 'prejudicial surprise at trial.'"); [United States v. Urban](#), 404 F.3d 754, 771 (3d Cir. 2006) (where a defendant has access to information being relied upon by the Government to construct its case, a request for a bill of particulars is significantly weakened). Further, there is no basis to dismiss the Indictment on vagueness grounds as the charges are sufficiently pled consistent with the pleading standards set forth in the Federal Rules. See [United States](#)

- v. Taylor*, 232 F. Supp. 3d 741, 748-750 (W.D. Pa. Feb. 2, 2017) (quoting *United States v. Bergrin*, 650 F.3d 257, 264 (3d Cir. 2011) (“[A]n indictment [is] sufficient so long as it ‘(1) contains the elements of the offense intended to be charged, (2) sufficiently apprises the defendant of what he must be prepared to meet, and (3) allows the defendant to show with accuracy to what extent he may plead a former acquittal or conviction in the event of a subsequent prosecution.’”)) (internal quotation omitted).
5. Defendant’s Motion for Government to Divulge Confidential Informants [45] is denied, as moot, insofar as the Government asserts that it has not utilized confidential informants in this prosecution, (*see* Docket No. 48 at 14-15), and, as premature and without prejudice, to the extent that Defendant seeks the production of *Brady* materials, the Court having established a deadline for same of February 21, 2018, (*see* Docket No. 39 at ¶ 4); and,
 6. Defendant’s Motion to Dismiss the Indictment for Destroying Evidence [47] is DENIED, as Defendant has failed to demonstrate the circumstances of the lost evidence in this case violated his due process rights. To this end, he bears a heavy burden to show: (1) “the potentially exculpatory nature of the evidence was apparent at the time of destruction or loss,”; (2) “there is a lack of ‘comparable evidence by other reasonably available means,’”; and, (3) “the government acted in ‘bad faith.’” *United States v. Kennedy*, No. 15-4009, 2017 WL 6422348, at *3 (3d Cir. Dec. 18, 2017) (quoting *California v. Trombetta*, 467 U.S. 479, 489, 104 S.Ct. 2528, 81 L.Ed.2d 413 (1984) and *Arizona v. Youngblood*, 488 U.S. 51, 58, 109 S.Ct. 333, 102 L.Ed.2d 281 (1988)). Here, Defendant has not specifically alleged that the materials were exculpatory; the Government has advised that the case agents have located photographs of some of the

evidence such that the lost materials may be available, albeit in a different form, (see Docket No. 48 at 15, n.3); and most importantly, there is no indication that law enforcement acted in bad faith by placing the materials in the mail to send to its processing center for the purpose of scanning the materials for ease of use, as is documented in the Memo attached to the Government's response. *See e.g., Youngblood*, 488 U.S. at 58 (“unless a criminal defendant can show bad faith on the part of the police, failure to preserve potentially useful evidence does not constitute a denial of due process of law.”); *Kennedy*, 2017 WL 6422348, at *3-4 (finding that loss of a dashcam video did not violate the defendant's due process rights because the defendant “does not even contend the officers intentionally destroyed the video, but only that the loss of the footage indicates a failure to follow standard procedure, and that the attempts to recover the data were insufficient.”). Accordingly, this motion must be denied.

s/Nora Barry Fischer
Nora Barry Fischer
U.S. District Judge

Dated: January 31, 2018

cc/ecf: All counsel of record.

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA
PITTSBURGH DIVISION**

UNITED STATES OF AMERICA

VS. 2:17-CR-00034-BRW

ATTICUS SLITER-MATIAS

ORDER

After careful consideration, Defendant's Motion for New Trial or to Set Aside Jury Verdict (Doc. No. 83) is DENIED.

IT IS SO ORDERED this 18th day of June, 2018.

/s/ Billy Roy Wilson
UNITED STATES DISTRICT JUDGE

1544

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

FEB - 7 2017

CLERK U.S. DISTRICT COURT
WEST. DIST. OF PENNSYLVANIA

UNITED STATES OF AMERICA

v.

ATTICUS SLITER-MATIAS

)
)
)
)
)

Criminal No. 17-34
(18 U.S.C. § 1341)

INDICTMENT

The grand jury charges:

INTRODUCTION

- 1) At all times material to this Indictment, the defendant, ATTICUS SLITER-MATIAS, was a resident of the Northern District of Ohio.
- 2) At all times material to this Indictment, PayPal was a business involved in interstate commerce as a location for online money transfers by means of wire communications.
- 3) At all times material to this Indictment, an individual can engage in online money transfers through PayPal by opening an account. To open an account, PayPal requires the individual to provide basic personal information including a personal name, email address, and contact information.
- 4) At all times material to this Indictment, www.ebay.com was an internet website that was involved in interstate commerce as a location where individuals can purchase goods and services, such as electronic devices, through online auctions or fixed-priced sales from sellers who are registered with the website.
- 5) At all times material to this Indictment, an individual can become a seller on www.ebay.com by opening an account. To open an account, eBay requires the individual to provide basic personal information including an online username, a personal name, and contact

information.

6) At all times material to this Indictment, the payment methods that were available on eBay included the use of credit cards and PayPal.

7) Click-N-Ship was an online service by the United States Postal Service that allowed customers to create pre-paid shipping labels.

SCHEME AND ARTIFICE

8) From in and around June 2015, and continuing thereafter to on or about July 5, 2016, the defendant, ATTICUS SLITER-MATIAS, did devise and intend to devise a scheme and artifice to defraud private individuals, and to obtain money by means of materially false and fraudulent pretenses, representations, and promises, well knowing at the time that the pretenses, representations, and promises were false and fraudulent when made.

9) It was part of the scheme and artifice to defraud that the defendant, ATTICUS SLITER-MATIAS, opened numerous PayPal accounts that were registered with different false names, different email addresses, and different prepaid gift cards.

10) It was further part of the scheme and artifice to defraud that the defendant, ATTICUS SLITER-MATIAS, opened numerous eBay accounts with different false names, different email accounts, and different PayPal accounts.

11) It was further part of the scheme and artifice to defraud that the defendant, ATTICUS SLITER-MATIAS, would advertise on www.eBay.com that he had electronic devices or other items for sale on these numerous eBay accounts.

12) It was further part of the scheme and artifice to defraud that the defendant, ATTICUS SLITER-MATIAS, actually did not intend to sell the advertised merchandise.

13) It was further part of the scheme and artifice to defraud that victims

purchased the advertised merchandise, through PayPal or some other payment method, from the numerous eBay accounts that belonged to the defendant, ATTICUS SLITER-MATIAS.

14) It was further part of the scheme and artifice to defraud that the defendant, ATTICUS SLITER-MATIAS, did not send the purchaser the advertised merchandise but used United States Postal Service to mail empty boxes to the purchaser so that it appeared as though the merchandise was stolen by the United States Postal Service.

15) It was further part of the scheme and artifice to defraud that the defendant, ATTICUS SLITER-MATIAS, used Click-N-Ship to create pre-paid mailing labels to ship these empty boxes.

16) It was further part of the scheme and artifice to defraud that the defendant, ATTICUS SLITER-MATIAS, received over \$250,000 from the victims.

17) It was further part of the scheme and artifice to defraud that the defendant, ATTICUS SLITER-MATIAS, bought gold bar/coins, silver bars/coins, and other items with the money received from the victim purchasers.

COUNTS ONE THROUGH TWO

The grand jury further charges:

18) Paragraphs 1 through 17 above are hereby realleged and incorporated by reference herein, as if fully stated.

19) On or about the dates set forth below, in the Western District of Pennsylvania and elsewhere, the defendant, ATTICUS SLITER-MATIAS, for the purposes of executing the aforesaid scheme and artifice to defraud and to obtain money by means of false and fraudulent pretenses, representations, and promises, and in attempting to do so, did knowingly cause to be delivered, by the United States mail to the Western District of Pennsylvania, according to the directions thereon, empty packages, addressed to the locations described below, with each mailing being a separate count:

Count	Date of Delivery	Addressed To
1	On or about 11/16/2015	Individual known to the grand jury as M.A. and address known to the grand jury to be located in Johnstown, PA 15909-1727
2	On or about 12/9/2015	Individual known to the grand jury as R.O. and address known to the grand jury to be located in Bethel Park, PA 15102

In violation of Title 18, United States Code, Section 1341.

FORFEITURE ALLEGATIONS

1) The grand jury realleges and incorporates by reference the allegations contained in Counts One and Two of this Indictment for the purpose of alleging criminal forfeiture pursuant to Title 18, United States Code, Sections 981(a)(1)(C), and Title 28, United States Code, Section 2461(c).

2) The United States hereby gives notice to the defendant charged in Counts One and Two that, upon his conviction of such offense, the government will seek forfeiture in accordance with: Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c), which requires any person convicted of such offense to forfeit any property constituting or derived from proceeds obtained directly or indirectly as a result of such offenses, including but not limited to the following:

a. SPECIFIC PROPERTY

See Exhibit A.

b. MONEY JUDGMENT

A sum of money equal to at least approximately the total amount of proceeds in United States currency from the fraud described in Counts One and Two.

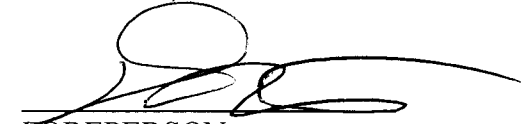
3) If any of the forfeitable property, as a result of any act or omission of the defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred, sold to, or deposited with a third person;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or

(e) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), to seek forfeiture of any property of such defendant up to the value of the forfeitable property described in this forfeiture allegation.

A True Bill,



FOREPERSON

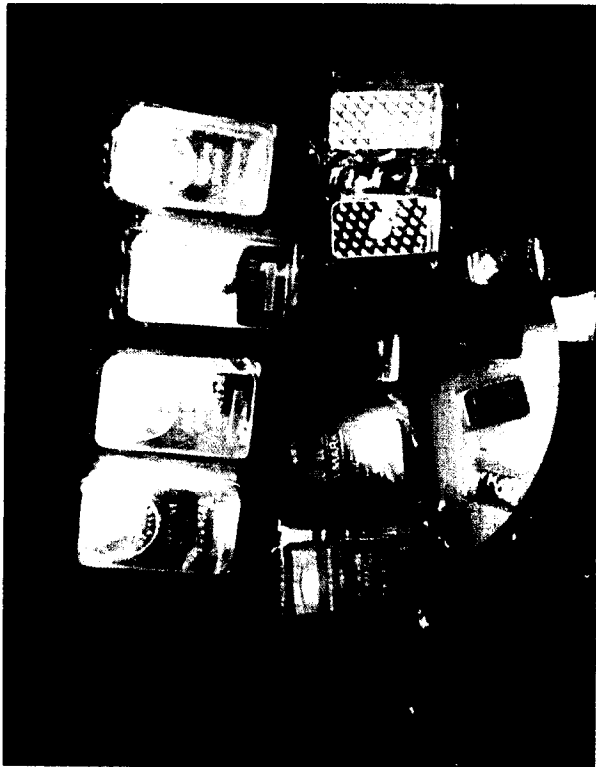


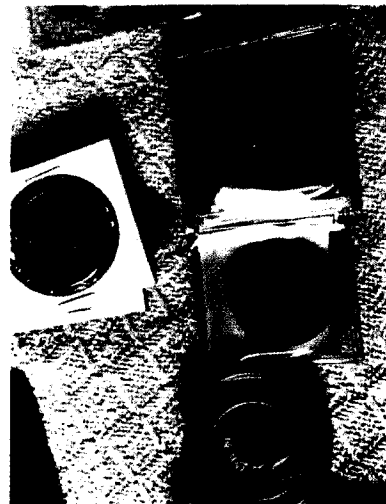
SOO C. SONG
Acting United States Attorney
DC ID NO. 457268

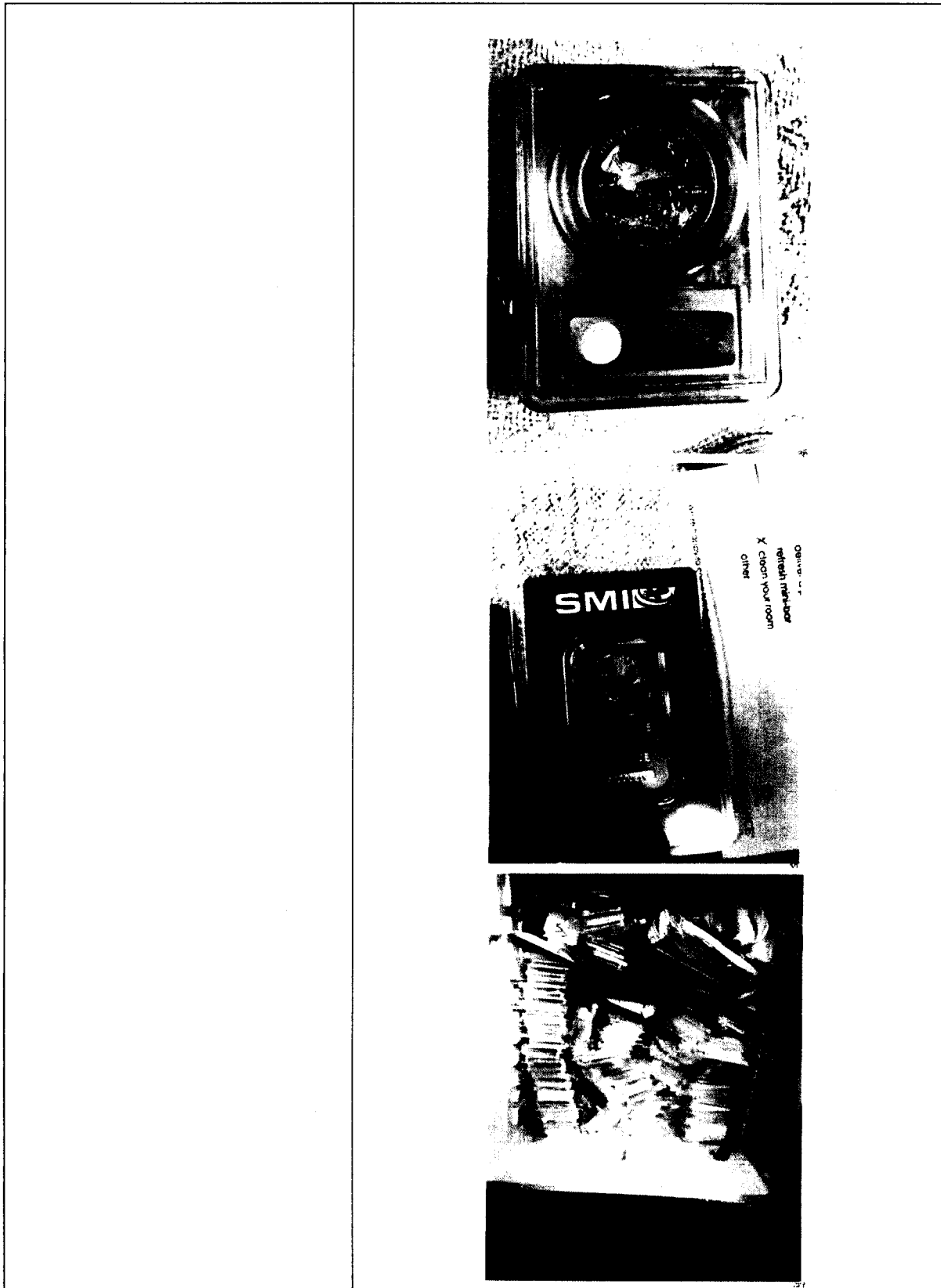
EXHIBIT A

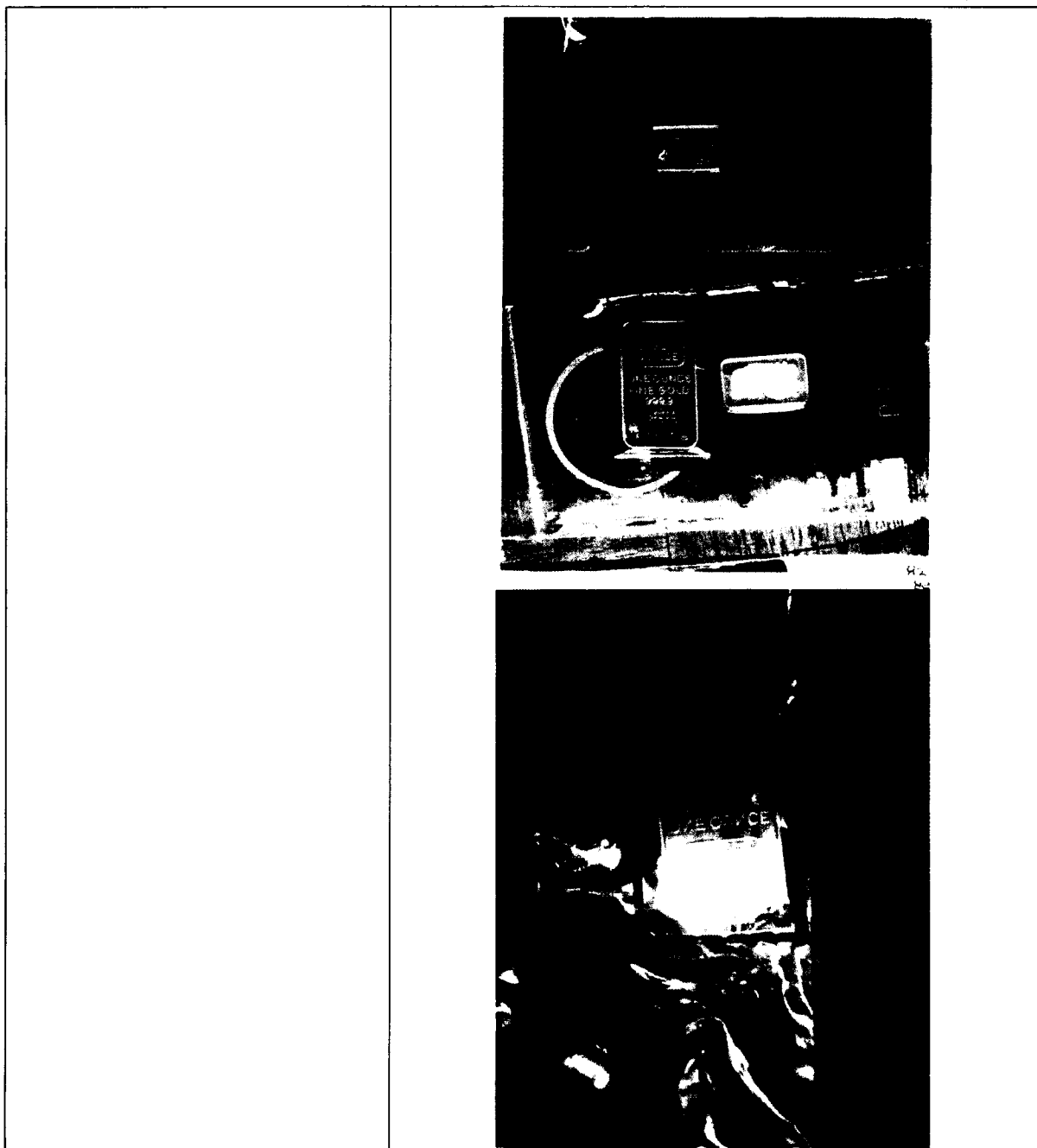
Items Subject to Forfeiture

DESCRIPTION	PHOTO (if available)
\$176,100 in cash seized by law enforcement from the residence of the defendant, ATTICUS SLITER-MATIAS, on July 5, 2016	
Gold and Silver coins and bars seized by law enforcement from the residence of the defendant, ATTICUS SLITER-MATIAS, on July 5, 2016	









IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	)	Criminal No. 17-34
	)	
-v-	)	DEFENDANT’S MOTION IN LIMINE
	)	REGARDING GOVERNMENT’S NOTICE
	)	OF INTENT TO USE EVIDENCE OF
	)	OTHER CRIMES WRONGS OR ACTS
ATTICUS SLITER-MATIAS	)	UNDER FEDERAL RULE 404 (b)

Defendant, by counsel, hereby moves the court, pursuant to Rule 12 of the Federal Rules of Criminal Procedure and the Fourth and Sixth Amendments to the United States Constitution, to order the government to provide defendant pretrial notice of whether it intends to attempt to introduce “evidence of [defendant’s] other crimes, wrongs or acts” under Federal Rule of Evidence 404 (b) “to prove [defendant’s] motive, intent, preparation, planning, knowledge, identity or absence of mistake or accident” in his alleged commission of the two indicted offenses. There are multiple acts of defendant that the government is alleging as wrong. However, defendant has not been indicted for the commission of these acts. The court will have to make multiple rulings as to whether such evidence is relevant to the two crimes alleged in the two count indictment, whether said evidence is inadmissible as irrelevant, or whether the prejudicial effect of such proffered evidence substantially outweighs what minimal relevance the evidence may have. These pretrial rulings are critical to how defendant will prepare and proceed with his defense.

It is in the interest of fairness that the government provide defendant with pretrial notice of the government’s intent to introduce 404 (b) evidence. Such notice will enable defendant to prepare his legal arguments as to the admissibility of such evidence. The particular facts of this case, the complexity and vague nature of the investigation make pretrial notice of 404(b) evidence essential.

For all of the foregoing reasons, defendant is asking the court to issue an order compelling the government to provide defendant with 404 (b) information well in advance of the trial.

Respectfully submitted,

/s/ Mark A. Kaiser (0029637)

Admitted *Pro Hac Vice*
P. O. Box 702
Geneva, Ohio 44041
Office: 440-415-0695
Cell: 440-840-1323
Email: ronanskies@hotmail.com
Counsel for defendant

SERVICE

The foregoing will be served this day upon Shardul Desai, Esq. via email.

/s/ Mark A. Kaiser

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	)	Criminal No. 17-34
	)	
-v-	)	DEFENDANT’S MOTION FOR
	)	DISMISSAL OF THE INDICTMENT
	)	OR REQUEST FOR BILL OF
	)	PARTICULARS
ATTICUS SLITER-MATIAS	)	

Defendant, by counsel, hereby moves the court, pursuant to Rule 12 (b) of the Federal Rules of Criminal Procedure and the fifth and sixth amendments to the United States Constitution, to dismiss the indictment on the basis that said indictment is vague. In the alternative, defendant moves the court for an order directing the government to provide defendant with a bill of particulars.

The reason for this motion is that the indictment does not state in plain, concise, and definite words the essential facts constituting the two alleged offenses. Moreover, the vagueness of the indictment makes it extremely difficult, if not impossible, for defendant to prepare a defense. Specifically, the government has not provided defendant with information sufficient to analyze his dealings with the two alleged victims. Defendant’s contention is that he regularly mailed empty packages to persons from fictitious persons he would create. If the packages went through and were not returned to defendant, then defendant would sell the stealth account to

persons looking to increase their business through EBay by using fictitious accounts. The key to these transactions is that defendant NEVER took money from the persons receiving the click and ship deliveries. Rather, if the stealth account was deemed by defendant because the package was not returned, then defendant would sell the stealth account to a person looking to circumvent EBay's strict account monetary limits. Instead of having one account with a \$500 limit the people purchasing these stealth accounts would have multiple accounts, each with a \$500 limit. In so doing, defendant NEVER took money from the persons receiving the empty click and ship packages. Instead, he would receive a one-time fee for the creation of the viable stealth account. Interestingly, EBay benefitted from these stealth accounts as EBay would receive fees from the persons using said accounts.

The indictment is so vague that defendant is unable to know the identities of the two alleged victims. Moreover, their addresses have not been divulged. To make matters even worse, the government has taken all of defendant's business records so it is impossible for him to review said records to learn about how he dealt with the two accounts that form the bases for the two count indictment.

Alternatively, defendant requests that the court order the government to provide defendant with a bill of particulars setting forth in particularity the identities of the alleged victims, the addresses of the alleged victims, how defendant violated the statute, and the specific acts that set forth said alleged violations. For example, did the alleged victims pay defendant for the click and ship packages and, if so, how and how much did they pay defendant. It is defendant's position that he never stole money from people that he sent fictitious click and ship packages to and that the government should be required to set forth in its indictment or bill of particulars the manner in which the two alleged victims paid defendant.

For all of the foregoing reasons, defendant is asking the court to issue an order dismissing the case against defendant because of vagueness of the indictment violates his due process rights to prepare a viable defense. Alternatively, defendant requests that the court order the government to provide him with a bill of particulars specific enough for him to understand the nature of the two count indictment.

Respectfully submitted,

/s/ Mark A. Kaiser (0029637)

Admitted *Pro Hac Vice*
P. O. Box 702
Geneva, Ohio 44041
Office: 440-415-0695
Cell: 440-840-1323
Email: ronanskies@hotmail.com
Counsel for defendant

SERVICE

The foregoing will be served this day upon Shardul Desai, Esq. via email.

/s/ Mark A. Kaiser

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA
PITTSBURGH DIVISION

UNITED STATES OF AMERICA

VS.

2:17-CR-00034-BRW

ATTICUS SLITER-MATIAS

VERDICT

Count 1: For the crime of mail fraud on or about November 16, 2015, as set out in
Count 1 of the Indictment, we, the jury, unanimously find Atticus Sliter-
Matias:

____ Not guilty

X Guilty

Count 2: For the crime of mail fraud on or about December 9, 2015, as set out in
Count 2 of the Indictment, we, the jury, unanimously find Atticus Sliter-
Matias:

____ Not guilty

X Guilty


PRESIDING JUROR

Alex Turcotte
Juror #8

5-31-18
DATE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	)	CASE NO. 17-cr-34
	)	
	)	JUDGE BILL ROY WILSON
-v-	)	
	)	MOTION FOR NEW TRIAL OR
ATTICUS SLITER-MATIAS	)	TO SET ASIDE THE JURY VERDICT

Defendant, by counsel, hereby moves the court under Federal Criminal Rule 33 for an order granting defendant a new trial or to set aside the jury's verdict. There are five grounds for this motion.

First, the court erred in denying defendant's motion for acquittal made both at the conclusion of the government's case in chief and at the conclusion of the evidence. The government failed during its case in chief to show that defendant was the person who committed mail fraud. Specifically, there was no evidence to show that defendant had accessed eBay's website by uploading any of the advertisements for sale of the I-phones or Mac Pro computers, any of the photos of the I-phones or Mac Pro computers depicted in the advertisements, or any of the communications between the seller of the goods or the victims on the eBay website regarding the non-delivery of the purchased goods.

Chris Wilkins, the government's computer expert and Inspector Weckerly, the government's lead investigator, both admitted on cross examination that Mr. Wilkins had discovered no such images on any of the apparatuses seized by the government from defendant's home and that they knew of no such images elsewhere that could be connected to defendant.

Mr. Wilkins, eBay representative Mr. Hunke, and victims, Ray Offner and Michael

Appley, all testified that the normal way to place an ad or photo on the eBay website was via upload from a cell phone or computer. The government failed to establish that defendant made any such uploads, thereby failing to establish that he was the seller of the goods on eBay that were involved in the alleged fraudulent transactions.

Government witnesses, Weckerly, Hunke, Wilkins, Offner, Appley, and Ferguson all testified that they knew of no email, text, phone, in-person, or mail communication that had occurred between defendant and any of the 161 victims. In short, there was no evidence that defendant had ever met or communicated in any way with any of the victims.

It is illogical that defendant could be convicted of mail fraud where, as here, there was no evidence of any contact between him, the eBay website, any of the advertisements or photos depicted in the advertisements responded to by the victims, any of the emails among the seller of the goods on eBay and the victims, or any of the victims. It is only logical that the seller of the goods to these victims would have logged onto eBay's website to upload these advertisements, pictures, or email communications among the seller of the goods and the victims. It is illogical that the perpetrator of the fraud scheme could have had no contact with any of the victims.

Second, the verdict is contrary to the weight of the evidence. The government failed to establish that defendant had ever placed any advertisements onto the eBay website to sell goods to the victims. The government failed to establish that defendant uploaded any of the pictures onto the eBay website to supplement the advertisements for sale. The government failed to establish that defendant had communicated with any of the victims through the eBay website. Moreover, the government failed to establish that defendant had any contact with any of the victims in relation to the eBay sales. There was no proof that defendant had ever accessed the eBay website. None. The government's expert, Mr. Wilkins, admitted on cross examination that

he could establish no such connection between the defendant and the eBay website from any of the apparatuses he examined that were seized by the government from defendant's residence. In short, the government failed to prove beyond a reasonable doubt that defendant was the person who perpetrated the mail frauds upon the alleged victims.

Third, the verdict is not supported by substantial evidence. The government presented much evidence to show that defendant had created the false information that was used to perpetrate the frauds upon the victims; however the government did NOT prove that it was the defendant who used the aforesaid false information to defraud the victims. Again, there was no evidence of any connection among defendant and the victims related to the alleged fraudulent scheme. This begs the question, how can defendant defraud the victims without having any connection to them or any communication with them?

Fourth, over objection, the court erred in admitting testimony of Inspector Weckerly regarding a "fraud scheme." The court asked the undersigned the basis of his objection and the undersigned indicated on the record, in front of the jury, that the jury, not Inspector Weckerly, was obligated to determine whether there had been a fraud scheme. The court overruled the objection. Thus, Inspector Weckerly was permitted to use the term "fraud scheme" repeatedly in her testimony and the undersigned was faced with the decision: continue to object, be overruled, and leave the jury with the impression that the judge may agree that there was a "fraud scheme" or simply ignore the testimony so as to not place greater emphasis on same. The court's ruling on this point was especially confusing since the court had earlier sustained the undersigned's first objection as to the government's attorney using the term "fraud scheme" and the court specifically told him on the record in the presence of the jury that "the jury will make that determination." Moreover, the court later sustained the undersigned's second objection on the

issue, and at a sidebar conference the government's attorney agreed to characterize the dealings as "improper" instead of "fraudulent."

Fifth, the court erred in charging the jury that it was not necessary for the government to prove that the victim of the alleged fraud scheme had lost money. Neither Mr. Appley nor Mr. Offner had lost money. Mr. Offner was reimbursed by PayPal and Mr. Appley's money was never sent to any third party by eBay or PayPal, and was returned to him. The instruction was given over objection by the undersigned as it led the jury to believe that profiting from the fraud scheme was not relevant. In so doing, the instruction likely mislead the jury to believe that the victim not losing money was wholly irrelevant to the determination as to whether defendant had committed mail fraud, though the factor itself is wholly relevant to said determination.

This motion is predicated on all of the records and files admitted into evidence in this case.

WHEREFORE, for all of the foregoing, the defendant requests, pursuant to Federal Criminal Rule 33, that the court grant him a new trial or set aside the jury's verdict against him and order him acquitted of the two charges of mail fraud for which the jury convicted him on May 31, 2018.

Respectfully submitted,

/s/ Mark A. Kaiser
Mark A. Kaiser (0029637)
Admitted Pro Hoc Vice
P. O. Box 702
Geneva, Ohio 44041
Phone: 440-415-0695
Cell: 440-840-1323
E-mail: ronanskies@hotmail.com

SERVICE

A copy of the foregoing will be served by email upon Shardul Desai, Esq. on June 14, 2018.

/s/ Mark A. Kaiser
Mark A. Kaiser

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

vs.

Criminal No. 17-34

ATTICUS SLITER-MATIAS,
Defendant.

- - -

Transcript of proceedings on May 23, 2018 United States
District Court, Pittsburgh, Pennsylvania, before Judge Bill
Wilson.

APPEARANCES:

For the Government: U.S. Attorney's Office
Shardul S. Desai, Esquire
Colin J. Callahan, Esquire
U.S. Courthouse
700 Grant Street
Pittsburgh, Pennsylvania 15219

For the Defendant: Mark A. Kaiser, Esquire
P.O. Box 632
Painesville, Ohio 44077

Court Reporter: Barbara Metz Leo, RMR, CRR
700 Grant Street
Suite 6260
Pittsburgh, Pennsylvania 15219

Proceedings recorded by mechanical stenography;
transcript produced by computer-aided transcription.

1 P R O C E E D I N G S

2 8:56 a.m.

3 (In open court, Defendant present with counsel.)

4 THE COURT: Be seated, please. We are here in U.S.
5 against Atticus Sliter-Matias. Does he go by Mr. Matias?

6 MR. KAISER: He does, Your Honor.

7 THE COURT: Case No. 217-CV00034. Parties ready?

8 MR. DESAI: The government is ready, Your Honor.

9 MR. KAISER: Defendant is prepared, Your Honor.

10 THE COURT: All right. Have both sides read the
11 guidelines for trial carefully?

12 MR. DESAI: We have, Your Honor.

13 MR. KAISER: Looked at them, Your Honor.

14 THE COURT: All right. The government has asked that
15 I ask the prospective jurors if someone is retired or their
16 spouse is retired, so forth, to ask them what they are retired
17 from. I think that's a legitimate request. How will I know
18 whether they've listed that they are retired or not?

19 MR. DESAI: Your Honor, on the form sheets, generally
20 they indicate retire or it's blank. Oftentimes when it's
21 blank, it also means they are retired. If they don't have
22 anything on there in the form for an occupation, we just ask
23 that we inquire what their occupation would be.

24 THE COURT: Do I have that form?

25 THE CLERK: You won't get it until we bring the

1 jurors up.

2 THE COURT: All right. I understand there are no
3 objections to the opening instructions; is that correct?

4 MR. DESAI: Your Honor, I think the government made a
5 few alterations which we sent in to the law clerk. I assume
6 those were incorporated. Then, yes, there's no objections.

7 THE COURT: Matt, did we incorporate those?

8 THE CLERK: Yes, sir.

9 THE COURT: Does the defense object?

10 MR. KAISER: No, Your Honor. No objection.

11 THE COURT: What about the exhibits? Have they
12 been -- are there stipulations?

13 MR. DESAI: There are five stipulations on record
14 custodians that help reduce the number of witnesses in the
15 trial, but there are not stipulations on relevancy to any of
16 the exhibits, and we are going to lay foundations on a number
17 of them without witnesses.

18 THE COURT: Okay. Anything else we need to tend to
19 before we bring the jurors up?

20 MR. DESAI: Only thing, Your Honor, just so it's on
21 the record, the government did file a motion for reciprocal
22 discovery of anything that defense, exhibit-wise, they want to
23 use in case in chief. Prior to us being on record, I think
24 Mr. Kaiser indicated there are no exhibits the defense intends
25 to present in the case in chief.

1 THE COURT: Is that correct?

2 MR. KAISER: Your Honor, we intend to introduce no
3 exhibits.

4 THE COURT: Anything else we need to tend to before
5 we bring the jury up?

6 MR. DESAI: Not from the government.

7 MR. KAISER: Nothing.

8 THE COURT: We're in recess until we get them up.

9 THE CLERK: This court is now in recess.

10 (Recess taken.)

11 THE COURT: Well, if you jurors are happy, you forgot
12 to tell your faces. But you should be happy because 14 of you
13 are going to be lucky enough to be selected as jurors, and two
14 alternates, twelve regulars and two alternates, and if you
15 want to see a trial by a randomly selected jury, you'll have
16 to go to one of the 50 states in the United States of America.
17 We're the only country in the world that has a trial by a
18 randomly selected jury. I think that's crucially important.

19 I think the trial by jury is a cornerstone of our
20 democracy. It is really government reposed in the people.
21 Perfect example.

22 I think that in the United States, we have the best
23 justice system in the world, primarily because citizens,
24 includes corporations, have a right to a trial by jury,
25 randomly selected jury. And I'll go one step further, and I

1 mean, this. I think because of that right to a trial by a
2 randomly selected jury, we have the best justice system that
3 there's ever been in the world. I'm not telling you I think
4 it's perfect because we have humans involved in it, so it's
5 got some -- it will have some glitches, but it's the best, in
6 my opinion, and I say that with all sincerity.

7 All right. This trial -- I'm going to find my
8 summary here in a second. This case is a criminal case in
9 which a citizen is accused of mail fraud. Notice I said
10 accused. The defendant is presumed innocent unless and until
11 the government can prove him guilty beyond a reasonable doubt.
12 Now, the trial may last three or four days. We're going to
13 try the case today and tomorrow until about 4:00 o'clock, and
14 then we will recess until Tuesday, the day after Memorial Day.

15 So now, I'm going to ask for a show of hands, do we
16 have -- I'm going to ask for a show of hands on several
17 things. If you show your hand, we'll hand you a mic and I'll
18 ask you to speak and identify yourself, and if you forget,
19 I'll remind you to state your name, because the court reporter
20 has to get the name of everyone who speaks and what they say.
21 She has to get 100 percent of it verbatim.

22 Do any of you have any conflicts or personal problems
23 of any nature that would keep you from giving us your
24 undivided attention maybe through next Tuesday or even
25 possibly Wednesday, not likely, but through next Tuesday?

1 Before you raise your hand, I want to say this: It is jury
2 duty. I also consider it jury privilege, and I think those of
3 you who get selected will be glad that you did after it's all
4 over. It's a great exercise in democracy.

5 Whether you come up with that final idea or not, it
6 is jury duty, and if you ask to be excused, I will try to give
7 you every serious consideration, but I won't excuse you
8 lightly for two reasons. Number one, it is duty, and number
9 two, if I excuse you, that means somebody else is going to
10 have to serve. I know every last one of you has something
11 else you need to do or at least something else you would
12 rather be doing. And when you got your jury duty, you said
13 oh, but I think it is a great privilege to serve on a jury.
14 When I was a practicing lawyer back in prehistoric times, I
15 got called twice and served.

16 If you have a personal problem you would rather
17 discuss up here with me and the lawyers and the court reporter
18 rather than in front of everybody, don't hesitate, we'll have
19 you up here, but if you have a personal problem or a conflict,
20 raise your hand now because we need to hear from you.

21 All right. We got one. If you'll stand up and state
22 your name and speak loudly, if you will. Like I said, the
23 court reporter has to get everything and I'm going to let you
24 in on something else, your judge is kind of deaf.

25

1 PROSPECTIVE JUROR 13: My name is Heather Derise. My
2 number is 13. The only thing I'm asking is if I would get
3 chosen, my daughter is graduating on Friday, the 1st, and I
4 just want to make sure that I will not have to be here
5 because --

6 THE COURT: This Friday?

7 PROSPECTIVE JUROR 13: June 1st, next Friday.

8 THE COURT: A week from Friday?

9 PROSPECTIVE JUROR 13: Yes, sir.

10 THE COURT: We won't be here then, I promise. Thank
11 you very much. We got some more hands here. Give us your
12 number, if you will, rather than your name.

13 PROSPECTIVE JUROR 48: My number is 48.

14 THE COURT: What is your issue?

15 PROSPECTIVE JUROR 48: My daughter is three. She's
16 having her adenoids taken out Friday so that won't be a
17 problem, but she does have seizures, so she is a little tricky
18 case. If she would have problems, you know, Tuesday might be
19 an issue. I have three other kids as well, so hopefully it
20 wouldn't be an issue, but I can't say until it's done.

21 THE COURT: In other words, she's having her adenoids
22 out this Friday?

23 PROSPECTIVE JUROR 48: Correct.

24 THE COURT: You are worried about post surgery
25 problems that might go into Tuesday?

1 PROSPECTIVE JUROR 48: Possibly, yes.

2 THE COURT: All right. What is your number again?

3 PROSPECTIVE JUROR 48: 48.

4 THE COURT: By the way, when I'm looking at this, I'm
5 getting a verbatim transcript of what you are saying, and I
6 have a ouija board up here that tells me. I'm going to take
7 that under consideration. Have a seat. I'll get back to you.

8 PROSPECTIVE JUROR 48: Thank you.

9 THE COURT: There was another hand.

10 PROSPECTIVE JUROR 37: My name is Jennifer Kovar, No.
11 37.

12 THE COURT: What is your number?

13 PROSPECTIVE JUROR 37: 37.

14 THE COURT: All right.

15 PROSPECTIVE JUROR 37: I also have a high schooler
16 who is graduating, but it's the 31st, May 31st.

17 THE COURT: The 31st, when is the 31st?

18 PROSPECTIVE JUROR 37: Thursday.

19 THE COURT: A week from Thursday?

20 PROSPECTIVE JUROR 37: Yes.

21 THE COURT: We'll be through by then. Thank you.

22 MR. DESAI: Your Honor, may I have a quick sidebar on
23 that point?

24 THE COURT: All right.

25 (At sidebar.)

1 MR. DESAI: Your Honor. We anticipate the trial will
2 be done by late Tuesday or midday by Wednesday, but if
3 defendant does testify, it's possible the jury will get
4 dismissed to deliberate later in the afternoon on Wednesday
5 and the deliberations could potentially go into Thursday,
6 so...

7 THE COURT: If that happens, we'll take an alternate.

8 MR. DESAI: Okay. That's fine.

9 (In open court.)

10 THE COURT: Are there other hands? I got another
11 hand back here.

12 PROSPECTIVE JUROR 111: 111, William Mitlo. I'm an
13 elementary school teacher. I teach fourth grade. At the end
14 of the year, we have a lot of events, field trips, field day
15 and other special award presentations. I've been with my
16 fourth grade students all year and we're really having trouble
17 getting subs, and I would like to be there for them with these
18 special events. I would really hate to miss it.

19 I have two weeks left with them and we have all
20 special events and I would like to be with them at this time,
21 if it's possible.

22 THE COURT: Well, my parents were school teachers and
23 administrators. I had five uncles and aunts on my daddy's
24 side. All of them were school teachers and administrators. I
25 was a schoolteacher before I lost my head and went to law

1 school, so I'm going to excuse you. Good luck with your kids.
2 Like to see dedicated teachers.

3 PROSPECTIVE JUROR 111: Thank you, Your Honor.

4 THE COURT: Thank you for coming in. You are
5 excused. Anybody else? All of you have become
6 schoolteachers.

7 Your number, please?

8 PROSPECTIVE JUROR 100: 100.

9 THE COURT: What's that number?

10 PROSPECTIVE JUROR 100: 100. My name is Mari Webel.
11 I have a doctor's appointment tomorrow morning, a specialist
12 doctor's appointment tomorrow morning that would require a
13 delay in rescheduling.

14 THE COURT: You are excused. Thank you very much for
15 coming in.

16 PROSPECTIVE JUROR 48: I'm 48 again. I'm sorry to
17 bother you. I'm also a schoolteacher. I teach high school
18 history. I would actually like to go through this process. I
19 talked to you about my daughter so that is a legit concern. I
20 also have events. Senior grades are due tomorrow. They
21 graduate on June 1st. I'm just throwing that out there. I
22 teach AP U.S. history, so I actually do want to be here and go
23 through it.

24 THE COURT: You win. We'll excuse you. Other hands?
25 Raise your hand now, not later. I get hard hearted later. I

1 see no other hands. I'm going to give you another
2 instruction. I'm going to give it to all of you, and then
3 we'll call 32 folks to do the voir dire. That's the
4 questioning by me and the lawyers. I'm going to give you a
5 long instruction. It will be the longest instruction of the
6 trial, and I'll tell you why I have to give this instruction
7 after I've given it. It involves modern day communications.

8 I am a computer illiterate so I'm going to be reading
9 you things that I don't know what they are but I'm sure you
10 will. During the trial, while you are in the courthouse and
11 after you leave for the day, do not provide any information to
12 anyone by any means about this case. For example, do not talk
13 face-to-face or use any electronic device or media, such as a
14 telephone, a cell or smartphone, Blackberry, PDA, computer,
15 the Internet, any Internet service, any text or instant
16 messaging service, any Internet chat room, blog or website
17 such as Facebook, MySpace, YouTube or Twitter to communicate
18 or anyone, any information about this case until I accept your
19 verdict at the end of the trial.

20 Don't do any research about this case on the
21 Internet, in libraries, in the newspaper or any other way.
22 Don't do any investigation about the case on your own. Do not
23 visit or view any place discussed in this case and do not use
24 Internet maps or Google Earth or any other program or device
25 to search for or to view any place discussed in the testimony.

1 Also, do not research any information about the case,
2 the law or people involved, including the parties and
3 witnesses or the lawyers. Don't read any news articles or
4 watch television about it or listen to the radio. I have no
5 idea whether there will be any media coverage or not, but I
6 promise you this, at the end of the trial, you'll know about
7 the evidence admitted in this courtroom better than the best
8 media expert, best reporter in the world.

9 Don't go out and get secondhand information. Don't
10 go to the secondhand store. Get it right here in the
11 courtroom. These parties are entitled to have this case
12 decided solely on the evidence that they are able to test,
13 cross-examine and examine here in the courtroom.

14 If you got any information outside that they didn't
15 know about, they would be denied a fair trial and you would
16 violate your oath if you do that, and I'm satisfied you won't.

17 When you go home today after the trial, the 14
18 selected, your friends and family are going to ask you about
19 the case. You need to tell them you can't talk about it.
20 It's unnatural not to do that, but it's important because
21 you'll start making up your mind if you start talking about
22 the case, and you are obliged to only start making up your
23 mind until you heard all the evidence, closing argument and
24 closing instructions, and I'll instruct you throughout the
25 trial not to talk about the case with anybody, including other

1 jurors, until you get to the end of the trial and go back to
2 deliberate.

3 Now, the reason I give you that long instruction
4 about the PDA and Google Earth and those sorts of things, in
5 St. Louis, two or three years ago, they had a long trial.
6 After the trial was over, one of the jurors wrote the judge a
7 letter and said another juror during deliberations had
8 communicated about the case by some form, electronic form.

9 Well, the judge had to call those two jurors in and
10 found out in fact that it happened. He had to declare a
11 mistrial and set the verdicts aside and try the case again,
12 long trial. Terrible expense to the government and the people
13 and the persons involved.

14 We don't want that to happen. I'm satisfied it
15 won't. In the eighth circuit, I'm from Arkansas, the Eastern
16 District of Arkansas, and the judges up here are shorthanded,
17 and they put out a call for volunteers, and I volunteered to
18 come up here, and I'm thoroughly enjoying Pittsburgh. I've
19 been to Philadelphia and the various other places in
20 Pennsylvania, Amish country, for example, but I've never been
21 to Pittsburgh.

22 I'll tell you this about your zoo. When you walk
23 around it, which I did yesterday, you get confused. You walk
24 back around the other way. It's a pretty long walk, but I saw
25 both sides of the elephants and gorillas.

1 All right. I believe we're ready to call 32 names if
2 you will, madam clerk. As you are called, come up and she'll
3 direct you where to sit up here.

4 I understand that the 32 have already been randomly
5 selected. I need to know who they are. Can you point out
6 where they are sitting?

7 THE CLERK: If I call your name, please raise your
8 hand and keep it up. 9, 5, 28, 21, 115, 18, 51, 1, 109, 97,
9 65, 78, 7, 83, 55, 11, 13, 36, 40, 90, 45, 87, 53, 24, 49, 57,
10 99, 37, 64, 102, 15, 2.

11 THE COURT: Thank you, ma'am. All right. The
12 question that I asked you during voir dire and the questions
13 asked by the lawyers will be directed to the 32, but those of
14 you that are not in the 32, it's very important that you
15 listen up, because if we excuse one of these 32, we'll call
16 another number, and at that time, I will ask you if any of the
17 questions by me or the lawyers would have caused you to raise
18 your hand, and if so, we'll find out what it was that caused
19 you to raise your hand.

20 All right. Do any of you -- and like I said, these
21 are directed to the 32. There are people, in case of doubt,
22 who usually hesitate to raise their hand, but in this case, in
23 case of doubt, raise your hand. Raise your right hand to make
24 sure everybody can. I see some of you not in the 32 raised
25 your hand, but you get an A too, because I said in case of

1 doubt, raise your hand.

2 I'll ask now the prosecutor identify himself and -- I
3 need to talk to the lawyers very briefly here. Something I
4 forgot.

5 (At sidebar.)

6 THE COURT: Do you have any objection to identifying
7 your potential witnesses?

8 MR. DESAI: I do not. She has my list of witnesses.
9 I'll be happy to do that.

10 THE COURT: Now, the defense is not obliged to do it.
11 Do you have any objection to identifying your potential
12 witness or would you --

13 MR. KAISER: I would rather remain silent.

14 THE COURT: You are entitled to do that. All right.
15 But I'll have you identify yourself and your client.

16 MR. KAISER: That would be good.

17 (In open court.)

18 THE COURT: At this time, I'll ask the prosecutor to
19 identify himself and the persons at the counsel table and your
20 potential witnesses. You may need this microphone to do that.
21 Make sure you talk right into it, if you will, so everyone can
22 hear.

23 MR. DESAI: Yes, Your Honor. My name is Shardul
24 Desai. I'm one of the federal prosecutors in this case. My
25 colleague, Colin Callahan, is also a federal prosecutor in

1 this case, and sitting between us is our case agent, Postal
2 Inspector Weckerly. Our witnesses are Chris Wilkins, Bradley
3 Parish, Jeffrey Silvas, Eric Dirksen, Pablo Bejarano, Darleen
4 Ferguson, Ray Offner, Stephen Huhnke, Dorothy Anne
5 Hearhington, Misty Thelen and Dawn Cirell.

6 THE COURT: Thank you. Do any of the 32 know or know
7 of any of those individuals? If so, raise your hand. I see
8 no hands.

9 All right. For the defense, would you identify
10 yourself and your client, please?

11 THE CLERK: Please speak into the microphone.

12 MR. KAISER: My name is Mark Kaiser. I represent
13 Atticus Sliter-Matias, who is the defendant. This is Atticus.

14 THE COURT: Do either of you know either of these two
15 individuals? If so, raise your hand. No hands. Thank you.

16 Do any of you, talking to the 32 now, do any of you,
17 your spouse or close friend work for the postal service?
18 We'll need to take the mic back there. Or if you have worked
19 for the postal service in the past, raise your hand.

20 PROSPECTIVE JUROR 13: Yes, Your Honor. My number is
21 13, and my brother-in-law is the postmaster in the town that I
22 live in.

23 THE COURT: What town do you live in?

24 PROSPECTIVE JUROR 13: Big Run, Pennsylvania.

25 THE COURT: All right. Would that cause you to lean

1 one way or the other if you are selected as a juror in this
2 case?

3 PROSPECTIVE JUROR 13: I don't know that.

4 THE COURT: You can't tell me that it will not cause
5 you to lean?

6 PROSPECTIVE JUROR 13: Yes, I would probably lean
7 towards their side, yes.

8 THE COURT: I'm going to excuse you. Thank you very
9 much. Let's call another juror.

10 THE CLERK: No. 8.

11 THE COURT: Would any of those questions cause you to
12 raise your hand?

13 PROSPECTIVE JUROR 8: Me, no.

14 THE COURT: It would?

15 PROSPECTIVE JUROR 8: No.

16 THE COURT: Join us.

17 PROSPECTIVE JUROR 7: Juror No. 7, Virginia
18 Somplatsky, and my sister, Bonnie Ferguson, worked for the
19 post office in Prosperity, Pennsylvania.

20 THE COURT: Would that cause you to lean one way or
21 the other if you are selected as a juror in this case?

22 PROSPECTIVE JUROR 7: I'm not sure I could be
23 objective.

24 THE COURT: I'm going to excuse you.

25 THE CLERK: You are excused. You can go back to the

1 third floor and check in with those folks down there. Sir,
2 what's your number?

3 PROSPECTIVE JUROR 106: 106.

4 THE COURT: Would any of the questions cause you to
5 raise your hand? Would any of the questions I've asked so far
6 cause you to raise your hand?

7 PROSPECTIVE JUROR 106: Probably the first one.

8 THE COURT: He'll need the mic.

9 PROSPECTIVE JUROR 106: Probably the first one that
10 you asked initially.

11 THE COURT: You have a conflict?

12 PROSPECTIVE JUROR 106: No. Problems of a personal
13 nature.

14 THE COURT: Would you like to come up and discuss it?

15 PROSPECTIVE JUROR: Yes.

16 (At sidebar.)

17 PROSPECTIVE JUROR 106: I have a ninth grade
18 education and my whole young life I had listening
19 comprehension and reading comprehension problems. That is to
20 say, most of what they were telling me downstairs and what you
21 have said, even though I listen carefully, I have problems. I
22 can only pick out certain things that you are saying.

23 Even your story, I can hardly remember it right now,
24 but I'm sorry about that it, but I can remember you are from
25 Arkansas. I remember that.

1 THE COURT: I'm going to excuse you. Your number
2 again?

3 PROSPECTIVE JUROR 106: 106.

4 THE COURT: You don't need to apologize.

5 PROSPECTIVE JUROR 106: I have my own business. It's
6 okay.

7 THE COURT: You are excused.

8 (In open court.)

9 THE COURT: Call another, please.

10 THE CLERK: 94.

11 THE COURT: Would any of the questions cause you to
12 raise your hand?

13 PROSPECTIVE JUROR 94: No, sir.

14 THE COURT: All right. Join us. Do we have anyone
15 else with postal connections? Do any of you work in federal
16 law enforcement or do you have a member of your immediate
17 family or your spouse or a close personal friend that works in
18 federal law enforcement? If so, raise your hand. Give us
19 your number, please, sir.

20 PROSPECTIVE JUROR 28: Number 28, Ron Gribbin. I
21 have a personal friend that works for the FBI.

22 THE COURT: Would that cause you to lean for or
23 against the government or the defense in this case?

24 PROSPECTIVE JUROR 28: Probably.

25 THE COURT: I'm going to excuse you.

1 PROSPECTIVE JUROR: Thank you.

2 THE COURT: Call another number, if you will.

3 THE CLERK: Number 4.

4 PROSPECTIVE JUROR 4: I have no conflict.

5 THE COURT: Nothing that would cause you to raise
6 your hand?

7 PROSPECTIVE JUROR 4: No.

8 THE COURT: Join us if you will over there.

9 PROSPECTIVE JUROR 55: Number 55, Your Honor. Joelle
10 Orris.

11 THE COURT: What is your connection?

12 PROSPECTIVE JUROR 55: My brother is a DEA agent.

13 THE COURT: Would that cause you to lean for or
14 against the government if you are selected as a juror?

15 PROSPECTIVE JUROR 55: It could.

16 THE COURT: You are excused. Thank you very much.
17 Call another number, please.

18 THE CLERK: 35.

19 PROSPECTIVE JUROR 35: I have no conflict, Your
20 Honor.

21 THE COURT: If you'll stand and give us your number.

22 PROSPECTIVE JUROR 40: 40.

23 THE COURT: What connection?

24 PROSPECTIVE JUROR 40: My cousin-in-law was a local
25 police officer. Now he's a security guard at the prison.

1 THE COURT: Not a federal agent?

2 PROSPECTIVE JUROR 40: No.

3 THE COURT: Would that affect you, that connection,
4 if you are selected as a juror?

5 PROSPECTIVE JUROR 40: Maybe. I'm not sure.

6 THE COURT: You are the only person in the world that
7 knows. Can you assure ME it will not affect you?

8 PROSPECTIVE JUROR 40: I can't confirm it.

9 THE COURT: I'm going to let you go.

10 PROSPECTIVE JUROR 40: Thank you.

11 THE COURT: Just a minute. We need to get another
12 juror.

13 THE CLERK: What's your number?

14 PROSPECTIVE JUROR 50: 50.

15 THE COURT: Would any of the questions cause you to
16 raise your hand?

17 PROSPECTIVE JUROR 50: No.

18 THE COURT: Join us.

19 PROSPECTIVE JUROR 53: I'm juror No. 53, Evelyn
20 Levine. My partner, Commander Freeman, just died. His best
21 friend was in the FBI. All his friends were in law
22 enforcement.

23 THE COURT: Is that going to cause you to lean one
24 way or another?

25 PROSPECTIVE JUROR 53: Yes.

1 THE COURT: I'll excuse you.

2 THE CLERK: 76.

3 THE COURT: Would any of those questions cause you to
4 raise your hand?

5 PROSPECTIVE JUROR 76: No.

6 THE COURT: Have a seat with us. Anyone else? No
7 other hands? All right. As I indicated, this is a criminal
8 case which comes to you by reason of an indictment. The
9 accused has pled not guilty to the charge and this raises
10 questions of fact, which under our Constitution, must be tried
11 out and decided by a jury.

12 I'll tell you at the front end, an indictment
13 returned by a grand jury is a formal document by which the
14 prosecution starts a case against the accused. The indictment
15 serves as an accusation or charge which the prosecution makes
16 against the accused of the crime for which he's charged. The
17 indictment serves no other trial purpose whatsoever. The
18 indictment is not evidence against the defendant and no
19 inference of guilt should be drawn from the filing of an
20 indictment.

21 He is presumed innocent and the prosecution has a
22 burden of proving him guilty beyond a reasonable doubt. Now,
23 this voir dire examination by me and the lawyers, I'm told by
24 some of my intellectual friends that voir dire is a Latin
25 phrase that means to speak the truth. I'm told also by those

1 same intellectual friends that verdict means to speak the
2 truth. This means that we start out with the idea of you
3 speaking the truth about your background connections or your
4 leanings and then we end with your verdict based on the
5 evidence and the law speaking the truth. Those are very
6 important concepts.

7 A trial by jury is a very serious fact finding
8 mission. That doesn't mean we won't have humor during the
9 trial. You know, we humans have humor in our most somber
10 occasions. At funerals, for example. So there may be humor
11 in the trial, but in the end, it's a very serious fact finding
12 mission, the trial by jury.

13 How many of you have served as a juror in a criminal
14 trial previously? Give us -- we'll get the mic to you. Give
15 us your number, please.

16 PROSPECTIVE JUROR 11: No. 11.

17 THE COURT: What was your experience in a criminal
18 jury trial?

19 PROSPECTIVE JUROR 11: What it was about?

20 THE COURT: Where was it?

21 PROSPECTIVE JUROR 11: Down here last year.

22 THE COURT: In federal court?

23 PROSPECTIVE JUROR 11: Yes.

24 THE COURT: Was it any kind of mail fraud type case?

25 PROSPECTIVE JUROR 11: No.

1 THE COURT: Would anything in that case affect you
2 one way or the other if you are selected here?

3 PROSPECTIVE JUROR 11: No.

4 THE COURT: Thank you very much. Anyone else? I see
5 no other hand.

6 Now, the lawyers are entitled, in addition to
7 striking a juror or moving a juror for cause, that is, if
8 you've got some connection or leaning or so forth, they have a
9 very limited number of automatic or peremptory strikes, and
10 they can strike a prospective juror for any reason in the
11 world, for no good reason as long as it's not a discriminatory
12 reason. Your answers to our voir dire questions may help them
13 exercise their judgment in the peremptory challenges.

14 Now, all humans have fixed notions. I like to give
15 two examples. My staff at home probably wants to run out of
16 the courtroom when I give them because I've been giving these
17 examples for 25 years, but they are true.

18 I grew up over in western Arkansas in the Ouchita
19 Mountains in a very isolated county. In the county seat, we
20 had a municipal judge, and when one neighbor would bring a
21 complaint against another neighbor because their dogs were
22 barking too much at night, that judge would step aside. He
23 would recuse. He said he liked dogs better than any people.
24 Let them bark. Leave them alone.

25 There wasn't anything wrong with him having that

1 fixed notion as long as he let everybody know and disqualified
2 himself.

3 Another true example is my mother who was born in
4 1895. I was kind of a late baby. Was raised by a
5 whiskey-hating, shouting circuit-riding Methodist preacher,
6 and that was back in the old days when the Methodist church
7 was a leader in bringing about prohibition, and my mother
8 absolutely hated alcohol. She wouldn't eat a rum cookie.
9 When she would take some of us to Fort Smith, Arkansas to a
10 swimming pool or play miniature golf, she wouldn't stop at a
11 root beer stand, because she thought that might be a gateway
12 drug. It didn't work on me, but she tried.

13 Now, I'm not saying you'll have that strong of a -- I
14 wouldn't take my mother on a jury -- if I sued a tire
15 manufacturer for a blown out tire, and my client -- the
16 blowout occurred at 7:30 at night, and that guy -- my client
17 had had a half a beer at lunch, I wouldn't take my mother on
18 the jury because she would be satisfied that beer was tied up
19 in that blowout somehow or another.

20 I'm not saying you'll have that strong of a
21 preexisting idea about something, but you may have something.
22 If you do, let us know. You might be the best juror in the
23 world for the next trial, but this particular case, you
24 wouldn't be able to sit fairly.

25 Do any of you know or know of anybody in the U.S.

1 Attorney's Office? Yes, sir.

2 PROSPECTIVE JUROR 87: Hi. I'm No. 87, William
3 Lyons.

4 THE COURT: Who do you know?

5 PROSPECTIVE JUROR 87: I think she goes by Laura
6 Irwin. That's a married name. She was an assistant U.S.
7 Attorney here.

8 THE COURT: Are you talking about this particular
9 assistant U.S. Attorney?

10 PROSPECTIVE JUROR 87: I don't know if she is still
11 here or not. She had breast cancer a couple years ago and
12 I've been out of touch.

13 THE COURT: Is that person in the U.S. Attorney's
14 Office?

15 MR. DESAI: That individual is at the U.S. Attorney's
16 Office.

17 THE COURT: Would that connection cause you to lean
18 for or against the government?

19 PROSPECTIVE JUROR 87: No.

20 THE COURT: Thank you, sir. Anyone else? No other
21 hands.

22 Any of you have any connection whatsoever with
23 defense counsel? No hands.

24 All right. As I mentioned, the case being prosecuted
25 followed an investigation by the United States Postal

1 Inspection Service with assistance from other law enforcement
2 agencies. I take it that none of you, no one left remaining
3 has any strong feelings about those agencies? If I'm wrong,
4 raise your hand.

5 The government alleges that the accused in this case
6 engaged in a fraud scheme that involved the use of eBay,
7 PayPal, United States Postal Service. Other than using these
8 services, do either any of you have any immediate family or
9 have any relationship or strong feelings about eBay, PayPal?
10 If so, raise your hand? No hands.

11 If you or your spouse is retired, raise your hand.
12 I'm going to ask each one of you what you or your spouse is
13 retired from, who they worked for.

14 PROSPECTIVE JUROR 115: My number is 115 and my wife
15 worked for a speech therapist that's retired.

16 THE COURT: Thank you.

17 PROSPECTIVE JUROR 18: Carl Dietrich, juror 18. I'm
18 retired. I have no spouse.

19 THE COURT: What are you retired from?

20 PROSPECTIVE JUROR 18: Self-employed trucking.

21 THE COURT: Thank you, sir.

22 PROSPECTIVE JUROR 109: No. 109, David Vaughn. Your
23 Honor, I'm one of the Methodist preachers you mentioned
24 earlier. I'm retired.

25 THE COURT: You know, the problem with Methodist

1 preachers, we used to have them at our house, my parents both
2 went to Methodist school and Hendrix College, and we had
3 visiting Methodist preachers on Sunday dinner regularly.

4 Mama would kill two chickens and fry them. I loved
5 the pulley bone. I never saw no Methodist preacher wouldn't
6 eat no pulley bone. My mother would tell me she is going to
7 spank me if I reached for one of them. Other than that, I
8 like y'all.

9 PROSPECTIVE JUROR 65: Juror No. 65. My name is
10 Kathy Himes. My husband is retired as a draftsman from an
11 architectural firm and I am retired from a school district as
12 an administrative assistant.

13 THE COURT: Thank you. Anyone else? We got someone
14 else.

15 PROSPECTIVE JUROR 83: No. 83, Lynn Mastrean. My
16 husband is retired from the construction industry.

17 THE COURT: Retired from what?

18 PROSPECTIVE JUROR 83: The construction industry.

19 THE COURT: Anyone else? Your number?

20 PROSPECTIVE JUROR 35: 35. I'm a retired flight
21 attendant.

22 THE COURT: Thank you, ma'am.

23 PROSPECTIVE JUROR 90: Juror No. 90. My name is
24 Vanessa Washington. My ex-husband of 30 years has retired
25 from the United Parcel Service, and I'm also retired. I

1 worked in the hospital profession as a medical secretary and
2 also retired from being a therapeutic foster parent.

3 THE COURT: Thank you.

4 PROSPECTIVE JUROR 87: No. 87 again. William Lyons.
5 I'm a retired bond trader from BNY Mellon.

6 THE COURT: Thank you. All of y'all look too young
7 to be retired. No other hands. Any of you know anything
8 about this case before you came into the courtroom this
9 morning? If so, raise your hand. No hands.

10 Are any of you involved in a dispute, current dispute
11 with the U.S. government? If so, raise your hand? No hands.

12 Now, some people, because of their religious belief
13 or personal philosophy, do not believe they should judge
14 others, but for the purpose of this case, you'll have to make
15 a judgment. Anybody have a problem with that? If so, raise
16 your hand. No hands.

17 Do any of you have the opinion that this particular
18 charge is unusual or shouldn't be pursued with any
19 extraordinary vigor as opposed to other crimes? If so, raise
20 your hand. No hands.

21 I'm getting close to my last question. I have rarely
22 met a person in the United States that didn't know what the
23 law is on about any subject or know what it ought to be.
24 That's one of our wonderful rights under the First Amendment,
25 but for the purposes of this trial, you are obliged under your

1 oath to follow the law as I give it to you in my instructions.

2 Will any of you have any problem with that? In other
3 words, if you thought the law was something different but I
4 give you an instruction that's different than what you thought
5 the law is or should be, will you have any problem following
6 my instructions? If so, raise your hand.

7 Your number, please?

8 PROSPECTIVE JUROR 83: 83.

9 THE COURT: You would have trouble following
10 instructions?

11 PROSPECTIVE JUROR 83: Well, Your Honor, I know that
12 the law says that you are innocent until proven guilty, but I
13 really have a problem with that, and I know that's what our
14 country says.

15 THE COURT: I'm going to excuse you.

16 PROSPECTIVE JUROR 83: I just wanted to be honest.

17 THE COURT: Appreciate it. Your number?

18 PROSPECTIVE JUROR 6: 6.

19 THE COURT: Any questions I've asked cause you to
20 raise your hand?

21 PROSPECTIVE JUROR 6: No, sir.

22 THE COURT: Have a seat.

23 Anyone else? Not anything wrong if you have feelings
24 like the last juror as long as you let us know. No hands.
25 I've got -- this is my hardest question. What is your answer

1 to the question I have not asked. In other words, are you
2 sitting there thinking, surely, he's going to ask me about
3 this but he hasn't yet. If so, raise your hand. No hands. I
4 think that's the last of my questions.

5 Will the lawyers come up, please?

6 (At sidebar.)

7 THE COURT: Any other questions you want me to ask?

8 MR. DESAI: Your Honor, the only thing is No. 36 and
9 No. 6, there's no employment or any information about what
10 they do.

11 THE COURT: Number what?

12 MR. DESAI: No. 36 and 6.

13 THE COURT: There's no employment information.

14 MR. DESAI: No information about what they do.

15 THE COURT: Anything else?

16 MR. DESAI: That's it. If you can call those guys to
17 sidebar.

18 THE COURT: Well, why do we need a sidebar?

19 MR. DESAI: That's fine.

20 THE COURT: I remember 36 and 6, I think. I ask
21 y'all not to be redundant now. Don't cover any plowed ground.

22 MR. KAISER: I would be interested, Your Honor, in if
23 you would like to ask them perhaps if they have any
24 preconceived notions about online businesses.

25 THE COURT: Okay.

1 MR. KAISER: I think you covered it on eBay and
2 PayPal, but preconceived notions.

3 THE COURT: Online businesses. I remember that.
4 (In open court.)

5 THE COURT: Do any of you have any fixed notion about
6 online businesses? If so, raise your hand. No hand.

7 All right. No. 36, will you stand, please? I don't
8 believe you listed anything as far as employment. Are you
9 unemployed?

10 PROSPECTIVE JUROR 36: I'm unemployed.

11 THE COURT: Thank you, ma'am. 6, No. 6. You don't
12 have anything about employment. Are you employed?

13 PROSPECTIVE JUROR 6: I'm employed.

14 THE COURT: Where are you employed?

15 PROSPECTIVE JUROR 6: Kona Ice and St. Clair Fitness.

16 THE COURT: Okay. Thank you. For the prosecution,
17 do you wish to conduct voir dire?

18 MR. DESAI: We have no further questions than what
19 the court already asked, Your Honor.

20 THE COURT: For the defense?

21 MR. KAISER: Yes, Your Honor.

22 THE COURT: Speak into the mic. Make sure that green
23 light is on.

24 MR. KAISER: Can everybody hear me? Can you hear me,
25 Your Honor?

1 THE COURT: What? I got to get wired up here. You
2 may proceed.

3 MR. KAISER: Now, His Honor did cover this topic, but
4 I think it's an important one, but I want to revisit it on
5 another angle. That's the presumption of innocence. One of
6 the jurors said she had a problem with that, and I think that
7 I can speak for all of the attorneys that we appreciated that
8 honesty. We appreciated it because, you know, we know now
9 that she couldn't decide the case fairly and she was honest
10 about it. It's something that's very difficult for people to
11 admit, that they have preconceived notions about the
12 presumption of innocence. Perhaps they are afraid to look
13 like they are not fair and impartial or afraid to look bad in
14 front of people, but it's extremely important to the
15 government and also to my client that we absolutely know for
16 sure if any of you have any preconceived notions about the
17 presumption of innocence or about the fact that the government
18 has to prove this case beyond a reasonable doubt as to each
19 and every element of the offense.

20 Please let us know now. I'm going to assume from
21 your lack of response that none of you have a problem with
22 that.

23 Now, His Honor is going to be instructing you as to
24 the law in this case, and there's going to be some
25 instructions, and we are dealing with pretty much the facts,

1 and so I know His Honor asked, but I think it's very important
2 again. If you have an instruction from the judge, do each of
3 you understand you cannot replace that instruction with your
4 personal opinion, that you have to follow His Honor's
5 instructions, legal instructions? Does everybody fully
6 appreciate that? Is there anybody who doesn't fully
7 appreciate that? And again, we ask for you to please be
8 honest.

9 Thank you. Now, His Honor asked about online
10 businesses. I think some of the evidence in this case is
11 going to show that the defendant was operating an online
12 business, and I need to know, and I know this has been asked,
13 but I'm going to ask it again because it's very important.
14 Does anybody in this room have any issues with online
15 businesses, any preconceived notions, any prejudices against
16 it?

17 Is there anybody here who has any inklings, any
18 problems with online businesses?

19 Thank you. Nothing further, Your Honor.

20 THE COURT: All right. Ladies and gentlemen, in a
21 minute or two here, we're going to take a break, where the
22 lawyers can exercise their strikes, and when you come back,
23 have a seat in the courtroom, and we'll call the lucky 14 and
24 have them up in the jury box.

25 Meanwhile, I'm going to -- in a minute, I'm going to

1 ask all prospective jurors to leave the courtroom. We'll
2 start back at 11:00 o'clock by the clock on the wall. We
3 might be a little later, but I think we can get started by
4 then.

5 Don't talk about the case or anybody involved in it
6 whatsoever. You can talk about crop prices, price of oil and
7 gas, anything else, but don't talk about the case or anybody
8 involved. Let the prospective jurors leave the courtroom.
9 Everybody else remain seated. You all may leave the
10 courtroom.

11 (Jurors excused.)

12 THE COURT: With the jurors out of the courtroom, is
13 there anything the lawyers need to bring up before we recess
14 for you all to exercise your strikes?

15 MR. DESAI: Nothing from the government, Your Honor.

16 THE COURT: I'm in recess. Be at ease.

17 (Recess taken.)

18 THE CLERK: This court is now in session.

19 THE COURT: Would you call the 14 names, please,
20 ma'am?

21 THE CLERK: Yes, Your Honor. When I call your name,
22 please come forward, and I will tell you where to sit in the
23 jury box. No. 99, you are now alternate No. 2. 87, please
24 come forward. You are now juror No. 12. 45, you are now
25 juror No. 11. No. 11, you are now juror No. 10. 65, you are

1 now juror No. 9. 97, you are now juror No. 8. No. 1, you are
2 now juror No. 7. No. 24, you are now alternate No. 1. 51,
3 you are now juror No. 6. 18, you are now juror No. 5. 115,
4 you are now juror No. 4. 21, you are now juror No. 3. 5,
5 juror No. 2 and No. 9, juror No. 1.

6 The jury has been seated, Your Honor.

7 THE COURT: I beg your pardon?

8 THE CLERK: The jury has been seated.

9 THE COURT: Will you swear them, please?

10 THE CLERK: Everybody please rise and raise your
11 right hand.

12 (Jury duly sworn.)

13 THE COURT: For those of you who were not selected, I
14 want to let you know that this is a public courtroom. It
15 belongs to you taxpayers. If you want to stay and watch the
16 proceedings, you can. On the other hand, you can leave now,
17 if you want to. Thank you for coming in.

18 I'm going to take a few moments and give you the
19 initial instructions about the case and your duties as jurors.
20 At the end of trial, I'll give you some more instructions.

21 During the course of the trial, I may give you some
22 instructions. Unless I specifically tell you otherwise, all
23 instructions, those I give you now and those I give you later,
24 are equally important and must be followed.

25 You'll need to leave your cell phones or similar

1 wireless communication devices in the jury room during the
2 trial, and you can use them during breaks. However, you are
3 not allowed to take the -- have a cell phone in the jury room
4 during deliberations. We'll take them off of you at that time
5 and give them back to you after you return with your verdict.

6 As I said, this is a criminal case brought against
7 the defendant by the United States Government. The charges
8 against the defendant are set forth in what's called an
9 indictment, which I will now summarize.

10 The prosecution alleges that from June 2015 through
11 July 5, 2016, in the Western District of Pennsylvania and
12 elsewhere, Mr. Matias, knowingly devised a scheme to defraud
13 or to obtain money or property by materially false or
14 fraudulent pretenses, representations or promises.

15 To advance the scheme, on or about November 16, 2015,
16 as alleged in Count 1 and December 9, 2015 as alleged in Count
17 2, he used the mail or caused the mail to be used, also known
18 as mail fraud.

19 You should understand that an indictment is simply an
20 accusation. It is not evidence of anything. The accused has
21 pled not guilty and he's presumed to be innocent unless and
22 until proven guilty beyond a reasonable doubt. The
23 presumption of innocence stays with him unless and until he's
24 proven guilty beyond a reasonable doubt.

25 It will be your duty to decide from the evidence

1 whether the defendant is guilty or not guilty of the crimes
2 charged. From the evidence, you will decide what the facts
3 are. You are entitled to consider that evidence in the light
4 of your own observation and experiences in the affairs of
5 life.

6 You may use reason and common sense to draw
7 deductions or conclusion from facts which have been
8 established by the evidence. You will then apply those facts
9 to the law which I give you and in my other instructions, and
10 that way, you reach a verdict.

11 You are the sole judges of the facts. The jury is
12 the sole judges of the facts. But on the other hand, you must
13 follow the law as stated in my instructions, whether you agree
14 with it or not. Do not allow sympathy or prejudice to
15 influence you. The law demands of you, demands of you a just
16 verdict unaffected by anything except three things: The
17 evidence, your common sense and the law as I give you in my
18 instruction. The evidence, your common sense and the law as I
19 give it to you in my instructions.

20 You should not take anything I say -- I may say or do
21 during the trial as indicating what I think of the evidence or
22 what I think your verdict should be. Please remember that
23 only the defendant, not anyone else, is on trial here and he's
24 on trial only for the crime charged and not for anything else.

25 Now, I mentioned the evidence. Evidence includes the

1 testimony of witnesses, documents, and other things received
2 as exhibits and any facts that might be agreed upon, that is,
3 stipulated to, by the parties.

4 Some things are not evidence. I'll outline those.
5 Statements, arguments, questions and comments by lawyers
6 representing the parties in the case are not evidence. This
7 doesn't mean they are not important. They are, but they're
8 simply not evidence.

9 For example, after I finish these instructions, the
10 lawyers will be permitted to make an opening statement if they
11 want to which will outline what they expect the evidence to
12 be, but as I said, their opening statements, like closing
13 arguments, are not evidence.

14 Objections are not evidence. Lawyers have a right to
15 object, sometimes a duty to object, to something they believe
16 is improper. If I sustain an objection, you should disregard
17 the objection. Not try to guess what the answer would be.
18 Any testimony that I strike from the record or tell you to
19 disregard is not evidence and can't be considered properly.
20 Anything you see or hear outside this courtroom, unless I tell
21 you otherwise, is not evidence.

22 Sometimes a particular item of evidence is admitted
23 for a limited purpose only. If that happens, I'll give you
24 what we call a limiting instruction telling you what limited
25 purpose that evidence can be used for.

1 I know all of you have heard the term direct evidence
2 and circumstantial evidence. You are instructed that you
3 should not be concerned with those terms. The law makes no
4 distinction between direct and circumstantial evidence. You
5 should give all evidence the weight and value you believe it
6 is entitled to receive.

7 In deciding what the facts are, you may have to
8 decide what testimony you believe and what testimony you do
9 not believe. You may believe all of what a witness says, part
10 of what a witness says or none of what a witness says. In
11 deciding what testimony of any witness to believe, consider
12 the witness's intelligence, the opportunity that the witness
13 had to have seen or heard the thing testified about, the
14 witness's memory, any motive that a witness may have for
15 testifying in a certain way, the manner of the witness while
16 on the witness stand, whether that witness said something
17 different at an earlier time, the general reasonableness of
18 the testimony and the extent to which the testimony is
19 consistent with other evidence that you believe.

20 At the end of the trial, you'll be required to make
21 your decision based on what you recall of the evidence. You
22 will not have a written transcript and it will not be
23 practical for the court reporter to read back lengthy
24 testimony. You must pay close attention to the testimony as
25 it is given.

1 You may, if you want to, you can take notes to help
2 you remember what the witness said. If you do take notes,
3 please keep them to yourself until you and the fellow jurors
4 go to the jury room to decide the case. Don't let note taking
5 distract you so you do not hear other answers by the
6 witnesses.

7 In other words, don't look at anybody else's notes.
8 Don't talk about anybody else's notes until you go to the jury
9 room at the very end. Then you can compare notes if you want
10 to.

11 Whether or not you take notes, you'll need to rely on
12 your own memory of what was said. Notes are only to assist
13 your memory. You should not be overly influenced by the
14 notes. In your deliberations, do not give any more or less
15 weight of the views of your fellow juror just because that
16 juror did or did not take notes. Do not assume that just
17 because something is in someone's notes, it necessarily took
18 place in court. Notes are not entitled to any greater weight
19 than these juror's independent memory of the evidence. You
20 should rely on your individual and collective memories when
21 you deliberate and reach a verdict.

22 Now, ladies and gentlemen, it's up to you whether you
23 want to take notes or not. Some people do and some people
24 don't, but don't let note taking distract you. It's very
25 important that you pay keen attention to what the witnesses

1 said. I used to take a lot of notes myself, but now that I
2 have this Ouija board, I can see what's testified. I can run
3 that back and read earlier testimony, so I don't take many
4 notes. If you look up here and you think I'm gathering wool
5 or counting my change, I'm probably paying pretty close
6 attention, but let's assume for a moment that I have my mind
7 in neutral and I'm not listening like I might be.

8 There's a very important difference between me and
9 you. I don't have to go to the jury room and decide what the
10 evidence is. You do. So it's important to keep your mind in
11 gear.

12 Now, I've sometimes read about editors talking about
13 all this jurisdiction that a federal judge is supposed to
14 have. I haven't been able to find all that jurisdiction, but
15 I know this much. I don't have any jurisdiction over a
16 thermostat, and sometimes it gets too warm in the courtroom
17 and what happens? The sleep monster tends to jump off on us.

18 If you feel yourself about to nod off or losing your
19 concentration, raise your hand, get my attention. We'll
20 either take a seventh inning stretch or we'll take a short
21 break. That's another thing. We don't do breaks based on
22 democratic needs. If one person needs a break, you raise your
23 hand, get my attention, and we'll have a break. Keep that in
24 mind. We don't go by majority vote.

25 We usually, in the general course of things, we start

1 at 9:00 in the morning and quit at 5:00 in the afternoon. We
2 take at least one 15 break in the morning and one 15 minute
3 break in the afternoon. Does anybody have a problem with
4 going until 5:00 o'clock in the afternoon? If so, raise your
5 hand now and let me know. Anybody have a problem starting at
6 9:00 in the morning? We'll probably quit at about 4:00 or
7 4:30 tomorrow.

8 Jurors can ask questions. When the lawyers have
9 finished their examination of witnesses, you may ask questions
10 in this manner. Write out your question and we'll take them
11 up. This is after the lawyers have finished all their
12 questions, we'll take up your question, I'll meet with the
13 lawyers and we'll go over your question. It might be asked
14 and it might not. It depends. It may be something I've
15 already ruled on. It may be something that will be answered
16 by a later witness. Don't get your feelings hurt if your
17 question is not asked. Feel free to ask questions.

18 I don't want anybody to become a detective and go
19 wild with your questions, but if there's something important
20 to you, feel free to write it out, and we'll take it up and
21 consider it. If I forget to ask you if you have questions,
22 get my attention before a witness gets out of the courtroom.

23 Now, as you've already seen, sometimes it's necessary
24 for me to talk to the lawyers in what we call a sidebar out of
25 your hearing. As a general rule, a sidebar conference is

1 short in trial. Not always, but they are generally short, so
2 we'll try to keep them to a minimum. I don't want y'all
3 calling me Judge Ito when this trial is over.

4 To ensure fairness, you as jurors must obey the
5 following rules: Do not talk or communicate among yourselves
6 about the case or anyone involved with it until the end of the
7 case when you go to the jury room to decide on your verdict.

8 Don't talk to other jurors. Don't say how wonderful
9 witness so-and-so is going to be called. Somebody has been
10 mentioned. Don't talk about the case. Talk about anything
11 else you want to as long as it's proper. Don't talk with
12 anyone else. If anyone should try to talk to you outside the
13 courtroom about the case, let me know immediately. I don't
14 think anybody will, but let me know.

15 Now, this is something that's a little unnatural.
16 Don't speak to the lawyers or witnesses or parties in this
17 case. If you run into them in the passageway or elevator or
18 out on the sidewalk, just ignore them. That's a little
19 uncomfortable, but I've told them not to talk to you. If they
20 don't speak to you, it doesn't mean they are not friendly.
21 They've been instructed not to talk to you. That's important,
22 because you got two missions here. One is to do justice and
23 another one is to have the appearance of doing justice.

24 If one side sees you down the hall talking to
25 somebody from the other side, even though you might be talking

1 about the weather or crop prices or something like that, an
2 unwarranted suspicion about your fairness would be aroused, so
3 just don't talk to them. They won't speak to you. You
4 shouldn't speak to them. I'll speak to you. You speak to me,
5 but we won't talk about the case.

6 Another thing, when you go home tonight, your friends
7 and family are going to want to talk to you and ask you what
8 you are doing. You are on your oath not to talk to them.
9 That's hard, but it's important because, you know, we
10 humans -- the behavioral science will prove without any doubt
11 that we humans tend to start making up our mind when we first
12 start getting information, so you have to consciously avoid
13 it. Trial is not like sitting around the supper table at
14 night. One side gets to go and then the other side has an
15 opportunity to do.

16 If you are sitting around the supper table, one
17 member of the family might say something and the other member
18 might say wait a minute. I didn't see or hear it that way.
19 Here, one side gets to go before the other side has an
20 opportunity. So it's important that you consciously avoid
21 starting to make up your mind until you've heard all the
22 evidence, closing instructions and closing arguments. Go in
23 the jury room and deliberate and then you can start talking
24 about the case and start making up your mind.

25 I'm not going to give you that long instruction about

1 YouTube and all that again, but it's still in force and
2 effect.

3 Don't do any research about the case. Don't visit
4 anyplace discussed in the case. Don't use Internet maps or
5 Google Earth, any other program to search for or view anyplace
6 discussed in the testimony. Don't research any information
7 about the law, the people involved, the parties, the
8 witnesses, the lawyers. No news media. Don't listen or watch
9 that.

10 I want to emphasize to you that the parties in this
11 case are entitled to have this case decided on the evidence
12 that is admitted in this courtroom that they have had a chance
13 to examine and cross-examine.

14 Here's how the trial will proceed in a general way.
15 The prosecution will have an opportunity to make an opening
16 statement that outlines what the prosecution expects the
17 evidence to be and the defense can make an opening statement
18 and those are not evidence. They are just simply outlines of
19 what they expect the evidence will be.

20 Then the prosecution can call witnesses and the
21 defense lawyer can cross-examine those witnesses and then the
22 defense may call witnesses. If so, the prosecutor will be
23 allowed to cross-examine them, and then we'll have closing
24 instructions that I'll give you and closing arguments, and at
25 that time, you go to the jury room and start talking about the

1 case and start making up your mind.

2 Does either side wish to approach the bench regarding
3 the opening charge?

4 MR. DESAI: No, Your Honor.

5 MR. KAISER: No, Your Honor.

6 THE COURT: Do you wish to make an opening statement?

7 MR. DESAI: The government does, Your Honor, but we
8 can have a 15 minute recess? We need to get the technology
9 person in the courthouse and move all the stuff so we can get
10 it all set up.

11 THE COURT: Let me think about that. The lawyers
12 come up just a minute. I want to discuss that with you.

13 (At sidebar.)

14 THE COURT: You think you'll take more than 15
15 minutes in opening statement?

16 MR. CALLAHAN: I'm going to open, Your Honor. It
17 should be right at 20 minutes.

18 THE COURT: How long for you?

19 MR. KAISER: Maybe 20. Maybe longer.

20 THE COURT: What?

21 MR. KAISER: Maybe a little longer.

22 THE COURT: I'll warn you you need to stop at 20,
23 because I usually give 15, but I'm going to be big and easy.
24 I'm going to ask the jurors if anybody has dietary needs.
25 They may need to break for lunch now. We'll see.

1 (In open court.)

2 THE COURT: Members of the jury, we may, with the
3 opening statements, we might go until 12:30. Does anybody
4 have any dietary problem if we go to 12:30 or 12:35? We can
5 furnish you with peanuts or candy or something. We'll go
6 ahead. We won't break for -- I call it dinner. Y'all
7 probably call it lunch. We'll break about 12:30 then. We'll
8 be in recess for 15 minutes. That will be until about seven
9 till by this clock on the wall. Let the jury stand down.
10 Everybody else remain as you are.

11 (Recess taken.)

12 THE CLERK: This court is now in session.

13 THE COURT: You may proceed.

14 MR. CALLAHAN: Thank you, Your Honor. In early
15 November of 2015, a gentleman by the name of Michael Appley
16 was sitting in his home in Johnstown, Pennsylvania looking for
17 a good deal on a website called eBay. When he came across an
18 online auction where somebody was auctioning off an Apple
19 laptop computer for around \$800. An Apple laptop computer was
20 exactly what Michael Appley was looking for for quite a while.

21 He was excited when he saw it. It was at a price
22 that he thought was affordable and it was a good deal. When
23 he saw this listing, he went ahead and bid \$880 for the Apple
24 laptop computer, and he actually stayed up until 1:00 o'clock
25 in the morning, a little bit past his normal bedtime, to see

1 if he was the high bidder to see if the computer was going to
2 be his or not. 1:00 o'clock in the morning comes and goes,
3 and Mr. Appley is pleased because he is in fact the high
4 bidder and the Apple laptop computer is his.

5 So he logs on to his eBay account and he makes a
6 transfer of \$880 using PayPal, a secure way to buy stuff
7 online so you don't have to put your credit card out there
8 directly. Acts as a buffer.

9 Couple days pass. Some days pass. He gets by e-mail
10 a tracking number in the mail which lets him know when the
11 package is going to be delivered. Again, Mr. Appley is just
12 over the moon about this. Very excited. Actually takes off
13 from work. Decides he's going to be there on the day that the
14 Apple laptop computer is actually going to be delivered. Also
15 has to sign for it, as it turns out.

16 That day comes. Mr. Appley is there. The mail
17 comes. No computer is delivered. No box that could even
18 plausibly contain a computer is in fact delivered. Instead,
19 all that he gets is this normal letter sized envelope.

20 Do you know what that is, ladies and gentlemen? For
21 Mr. Appley, that was an \$880 empty envelope. And by the time
22 that he received the empty envelope and realized that he had
23 been cheated, the defendant, Atticus Sliter-Matias, had
24 already taken the \$880 out of his own PayPal account so PayPal
25 couldn't reverse the charges once they realized fraud had

1 occurred, and Michael Appley's money was gone.

2 May it please the court? Mr. Kaiser, ladies and
3 gentlemen of the jury. My name is Colin Callahan, and along
4 with my colleague and fellow assistant United States Attorney,
5 Shardul Desai, I represent the United States of America in
6 this case.

7 This is a case that is about the defendant's lies and
8 deception that he used to rip off Michael Appley and numerous
9 other victims through an eBay scheme, and the lies and the
10 deception that he used ultimately to rip off the two
11 companies, eBay and PayPal, who stepped in and reimbursed
12 these individual victims like Michael Appley for the money
13 that had been taken from them by the defendant through his
14 fraud scheme.

15 So we're talking about fraud and the defendant's
16 scheme in particular. Let's get an overview of what
17 particular fraud scheme was being used here. It had four
18 basic steps. It's not particularly complex.

19 The first step, and depending on where you are
20 situated, ladies and gentlemen, you can look either to your
21 left or to your right, whichever is easiest for you. There
22 will be a handful of slides here we'll work through.

23 The first step of the defendant's fraud scheme, he
24 would go ahead and log on to the eBay site and he would create
25 user accounts. Only instead of signing up for one account

1 using his own name, the defendant would actually go on to
2 eBay -- and let me take a step back. Let me say for those of
3 you who may not be familiar -- I'm sure many of you are. In
4 fact, perhaps most of you are. eBay is essentially an online
5 marketplace. I like to describe it as the online version of a
6 flea market where, instead of, if you want to sell something,
7 paying for a table and putting out goods that can sell
8 directly to other customers, instead, you get an account.

9 Once you have that account, you can interact directly
10 with other people. No middleman. You can sell things. You
11 can buy things. But you do have to sign up for an account.

12 So the defendant here, the first step of his fraud
13 scheme was actually to log on, and again, instead of just
14 signing up for one account using his own name, you are going
15 to see evidence during the course of this trial that the
16 defendant instead signed up for more than 100 eBay accounts
17 using completely fictitious and made up names, which, amongst
18 other things, you'll also hear and see -- hear testimony and
19 see evidence made it impossible for the folks who were trying
20 to buy things from him to know who they were really dealing
21 with. It's a way of hiding your identity.

22 He would link these fraudulent or fake eBay accounts
23 to corresponding PayPal accounts.

24 Again we talked a little bit earlier, PayPal is also
25 a web application that allows you to purchase things online.

1 You are going to hear that the defendant created corresponding
2 PayPal accounts using these same made up names.

3 Second step of the fraud scheme, he would then use
4 these eBay accounts that he had created to go ahead and list
5 and sell generally electronic products on eBay, like the Apple
6 laptop computer that you are going to hear Michael Appley
7 attempted to purchase before he got the envelope right there
8 sitting on the desk.

9 The third step of the fraud scheme, the defendant,
10 and this is really where the defendant was smart, after a
11 transaction had happened, after the Michael Appleys of the
12 world had gone ahead and paid their \$880, you are going to
13 hear evidence that the defendant would mail out envelopes to
14 the victims that were empty.

15 Why would he do this? Two reasons, and they are
16 related, but they're also the same. One, when you mail an
17 envelope, even if it's got nothing in it, you are going to
18 learn it creates a tracking number. Some of you may have
19 clicked online and tracked your own packages. The tracking
20 number does something important when you are dealing with eBay
21 and PayPal purchases.

22 When you upload that on to the website, it speeds up
23 the time -- there's a hold on the funds that have been
24 transferred. When that \$880 first comes in from Michael
25 Appley, he can't use it right away. It's frozen for a couple

1 of days. When you get a tracking number, that hold goes away
2 more quickly.

3 The second related thing that getting that tracking
4 number does, you can send it out to the person who's bought
5 your product and it makes them think the product is actually
6 coming. Puts them at ease and delays any fraud reporting that
7 might otherwise happen.

8 Fourth step, once the transaction happens, the money
9 goes into the PayPal account of the defendant, and the funds
10 have actually been unfrozen. At that point, you are going to
11 hear evidence over the course of the trial that the
12 defendant's protocol was to pull those funds out of the PayPal
13 account as quickly as he could. That way, if the fraud is
14 eventually discovered, PayPal can't reverse the charges. They
15 can't take the money back.

16 You are going to hear that he most frequently did
17 that by using the proceeds of the fraud, the money that he got
18 from the fraud, to buy gold and silver from an online retailer
19 by the name of Liberty Coin. That's just a preview. We'll
20 talk about that more in a second.

21 Those are the basic four steps of the fraud. Pretty
22 simple, as I mentioned, but let's talk a little bit about the
23 specific evidence that you are going to hear that's going to
24 show that the defendant, Atticus Sliter-Matias, ran exactly
25 the fraud scheme that I just described for you.

1 You are going to hear testimony over the course of
2 the next four or five days. You are going to see a lot of
3 documents from a variety of sources. This is going to give
4 you an overview of some of the sources you are going to hear
5 from. You are going to hear about and see documents from a
6 search of the defendant's apartment that was conducted in the
7 greater Cleveland area where he lives.

8 You are going to hear from Click-N-Ship. It's kind
9 of a fun name. Click-N-Ship, for those of you who may not be
10 familiar, is actually an online application of the United
11 States Postal Service. In short, it's something that lets you
12 create mailing labels at home and you can print them from home
13 and pay for them so you don't have to go to the post office.

14 You are going to hear evidence from Dollar Bank.
15 Dollar Bank, you will learn, is the defendant's bank where he
16 did his banking and had his credit card. You are going to
17 hear from eBay, PayPal and Liberty Coin. That name, I
18 mentioned a little bit earlier, which is the online retailer
19 of the gold and silver. You are going to hear somebody from
20 the UPS store that was close to the defendant's home in the
21 first-ring suburbs of the Cleveland area.

22 You are going to hear from five of the victims. Not
23 all of the victims. Five, including Michael Appley, who I
24 obviously started talking about first thing this morning and
25 some other victims who have come in from all over the country

1 for purposes of testifying.

2 Finally, you are going to hear from law enforcement.
3 Specifically, you are going to hear from Postal Inspector
4 Lindsay Weckerly, who was the lead federal investigator,
5 postal inspector in this case. So those are the general
6 categories of evidence you are going to hear.

7 Let's talk about each one in turn in a little bit
8 more detail.

9 On July 5 of 2016, early in the morning, you are
10 going to hear that federal investigators executed a search
11 warrant on the defendant's apartment, again the Cleveland
12 area, and there's no doubt it was the defendant's apartment,
13 by the way. He was found there early in the morning, looked
14 like he had just woken up, and he later admitted that he had
15 resided in that apartment for more than ten years.

16 Along with the defendant, what you are going to hear,
17 and this is important, is that investigators found documents
18 at the defendant's home that really served as essentially the
19 cheat sheets for the defendant's fraud scheme. By "cheat
20 sheets," I mean it in the sense that one might say in our own
21 lives. I mentioned earlier he had signed up for 100 plus eBay
22 and PayPal accounts. These documents that were found during
23 the course of this search, they actually appear to be the way
24 he kept all these various accounts straight.

25 They had the made up names listed on them. They had

1 corresponding made up addresses listed on them. They had the
2 user name and password for each of these 100 plus accounts and
3 they also listed e-mail addresses.

4 These same documents that were found at the
5 defendant's apartment also listed and kept track of when eBay
6 packages had been mailed out. They tracked when money from
7 fraudulent eBay transactions would be cleared, so that moment,
8 when that hold would disappear, he could actually use the
9 funds.

10 And very notably, very importantly, these documents
11 that are found in the defendant's home list by name each of
12 the five testifying victims that you all are going to hear
13 from during the course of this trial. They list the
14 transactions, the sales and when these empty envelopes that
15 you are going to hear more about for those victims were going
16 to go out.

17 In addition to the cheat sheets that were found in
18 the defendant's house, you are going to hear and you are going
19 to see that more than 100 gift cards were found in the
20 defendant's apartment. By "gift cards," I mean, generic sort
21 of Visa gift cards of the sort you might buy at a drugstore,
22 the kind that are preloaded for set amounts of money, \$50,
23 \$100, whatever the case may be.

24 You are going to hear testimony that these gift cards
25 were used as part of the defendant's fraud scheme, and

1 specific cards could be traced back to the transactions
2 involving the victims that you are going to hear from over the
3 course of the next several days.

4 Also as part of the search of the house, you are
5 going to hear that large amounts of gold and silver were found
6 in a safe that was locked in the defendant's closet. The
7 picture on the left there is actually the safe that's stacked
8 chockful of gold and silver. Some of the silver coins, after
9 they had been taken out of the safe, are in the picture to the
10 right.

11 You are also going to hear as part of this search
12 that open and unopened United States Postal Service tracking
13 packages were found, and you are going to hear testimony that
14 some of those packages tie back directly to the defendant's
15 made up eBay and PayPal accounts, including accounts that had
16 committed fraud.

17 So that's the search that some of the information
18 that you are going to hear about of the search of defendant's
19 apartment.

20 In addition, you are going to see records and hear
21 testimony from Click-N-Ship who I mentioned earlier. It's a
22 United States Postal Service program that lets you print out
23 labels at home so you don't have to go into the with post
24 office and from his bank account, his Dollar Bank account.
25 These are important records. In fact, these are extremely

1 important records, because taken together, the Click-N-Ship
2 and the Dollar Bank account records are going to show it was
3 the defendant's credit card, nobody else's, the defendant's
4 credit card that was used to ship the empty packages that went
5 to Michael Appley and the other victims from whom you are
6 going to hear during the course of this trial.

7 You are also going to hear from eBay, PayPal and
8 Liberty Coin. You are going to see account records from eBay
9 for hundreds of these fraudulent accounts, and you are going
10 to hear from a eBay witness who is going to say that these
11 bank accounts were connected, they were all connected, and
12 were part of the defendant's fraud scheme.

13 And specifically, that includes the accounts that
14 ripped off the testifying victims, so the assumed name that
15 was the seller for Michael Appley and sent that envelope out,
16 you are going to hear testimony that that account was used in
17 part of a fraud scheme.

18 You are going to hear from PayPal and about the
19 various PayPal accounts that used these same assumed, made up
20 names that the PayPal accounts were linked and also part of
21 the fraud, and you are going to hear that the victims' money,
22 like Michael Appley's \$880, was used out of the PayPal
23 accounts to buy gold and silver from Liberty Coin.

24 Again, he wanted to pull that money out as quickly as
25 possible so the charges wouldn't be reversed so the money

1 wouldn't be lost to him once the fraud was actually
2 discovered.

3 More broadly, with respect to eBay and PayPal, you
4 are also going to hear when witnesses for both of those
5 companies testify about the financial loss that they both
6 suffered when they did go ahead and reimburse victims, like
7 Michael Appley, for the loss that they had suffered, and you
8 are going to hear specifically that that amount exceeded
9 \$100,000 during the indictment period.

10 So the slides that I put up here, this really shows
11 the pattern that is going to repeat itself again and again and
12 again during the course of this trial, and it really starts
13 with an eBay sale, a fraudulent sale in exchange for an empty
14 envelope. The cash from that sale goes into a PayPal account
15 using the same assumed names, the same made up names, and then
16 the purchase out of the account, you know, for the gold and
17 silver.

18 The next piece of evidence that really goes to
19 complete that cycle, to complete that pattern is actually
20 going to come from the UPS store. You are going to hear
21 evidence from the UPS store that's located in the suburbs of
22 Cleveland. Important status for a UPS store in the suburbs of
23 Cleveland, but it is, as it turns out.

24 What you are going to see in these records are that
25 the gold and silver that was ordered out of these PayPal

1 accounts was actually delivered to a mailbox, like a PO box
2 that you can lease at these UPS stores located near the
3 defendant's home that was leased to one of the defendant's
4 businesses, and you are going to hear from the UPS store
5 witness, the manager of the store, that the defendant
6 regularly picked up mail from that mailbox.

7 And so we've got an extra box in this slide, if you
8 look. So you have got a cycle that starts with that
9 fraudulent eBay sale, Michael Appley paying \$880 for his empty
10 envelope. Now that cycle ends not just with gold and silver
11 being purchased but that gold and silver actually being
12 delivered to the defendant, Atticus Sliter-Matias, himself.

13 Additionally and as I mentioned earlier, you are
14 going to hear from Inspector Weckerly. She is going to talk
15 about the search warrant at the defendant's house and is going
16 to testify about the myriad of ways that the evidence connects
17 the defendant to the crimes that are charged in this case.

18 And you are going to hear victim testimony. In fact,
19 the first witness that you are going to hear from after we
20 reconvene this afternoon is going to be Michael Appley
21 himself, who I mentioned at the top of this opening.

22 You are also going to hear from other victims, a
23 gentleman by the name of Ray Offner who lives in the Bethel
24 Park area of Pittsburgh, the South Hills of Pittsburgh. You
25 are going to hear that in 2015, December of 2015 specifically,

1 about a month after Michael Appley, he also was online on eBay
2 looking for an iPhone in his case that he thought was at a
3 decent price that he paid about \$800 for that iPhone, and in
4 return, he got the same thing that Michael Appley did. His
5 was only an 800 dollar empty envelope, so I guess he got a
6 good deal.

7 In addition to Offner and Appley, you are going to
8 hear from three other victims who have similar stories, all
9 occurring in 2015 and 2016. All involving purchases on eBay
10 that were never delivered to them. That's just a summary of
11 some of the evidence that you are going to hear over the
12 course of the next several days through both witnesses and
13 through documents that are going to be presented.

14 Just to summarize, you are going to hear victim
15 testimony establishing that a mail fraud certainly did occur.
16 You are going to see these cheat sheets that I referenced that
17 were found in the defendant's apartment that let him keep
18 those accounts straight, that track when shipments went out on
19 eBay and tell him when the funds were going to clear and be
20 available.

21 You are going to see and hear testimony about the
22 gift cards in the apartment.

23 You are going to see and hear about the Click-N-Ship
24 records and the Dollar Bank records that together again show
25 that it was the defendant's credit card that was used to send

1 out those empty envelopes.

2 You are going to hear from eBay and PayPal and
3 Liberty Coin. That's just a summary of some of the most
4 important evidence that you are going to hear over the course
5 of this trial.

6 Together, ladies and gentlemen, I would submit to you
7 that the evidence that you are going to hear, it's going to
8 really give you a clear sense of what the defendant's fraud
9 scheme was, how it worked and how the defendant used that
10 fraud scheme, how he used those lies and deception to cheat
11 Michael Appley, Ray Offner, other individual victims and
12 ultimately eBay and PayPal who had to step in and route, at
13 the end of the day, more than \$100,000 because of that fraud
14 scheme.

15 I thank you very much for your attention so far, and
16 I thank you in advance for your attention during the course of
17 this important matter. Thank you.

18 THE COURT: Mr. Kaiser?

19 MR. KAISER: Thank you, Your Honor.

20 Good afternoon. I'm Mark Kaiser. I represent the
21 defendant, and I would ask that you remember that there are
22 two sides to every story. Two sides to every story.

23 The story we're going to present has to do with a
24 young man by the name of Atticus Matias who, at a very early
25 age, when he was at a teenager, a young teenager, became an

1 entrepreneur and he devised ways of making money at an early
2 age and he started doing business on eBay at an early age, 14,
3 15, 16 years of age.

4 He's now 29, and he continued to do business in
5 online businesses for years, and he never had a problem, and
6 then he started doing more and more business on eBay, and he
7 started dealing more and more with PayPal, and he began to
8 realize there were serious issues that a lot of people were
9 dealing with with respect to eBay and with respect to PayPal.

10 The issues involved monetary limits that eBay would
11 place on accounts. A lot of people were very angry. He found
12 out that they wanted to do more business than just the
13 monetary limit that eBay would allow. A lot of people were
14 angry because PayPal would hold up money for lengthy periods
15 of time. He began to see that there was a serious market out
16 there. He actually began to research it. And in fact he
17 found that there was a market.

18 It's called the stealth account market. He's going
19 to tell you about the stealth account market and what the
20 stealth account market is. It's people that they devise
21 accounts, if you will, fake accounts, and they have fake
22 names, fake user names, fake account numbers and things like
23 that, and then he devises them. He's going to explain to you
24 how he would devise them.

25 He would send out packages to local businesses, and

1 let's just look at the two counts in the indictment. He would
2 send out packages to local businesses and see if they would
3 pass muster with eBay and then he would develop an account.
4 He would actually form an account, create an account and he
5 would then sell these accounts. He would sell these stealth
6 accounts, he's going to testify, from the year 2014 on.
7 That's primarily how he made all of his money. He sold
8 stealth accounts. He would sell them for 300 to \$350 a pop.

9 The important thing you need to know is he was not
10 trying to rip anybody off by selling these stealth accounts.
11 He's going to testify that indeed what he was trying to do is
12 to help people do business on eBay and do business with PayPal
13 without dealing with these unconscious restrictions that he's
14 going to talk about. Restrictions that made it very difficult
15 to do business. Very difficult to do business.

16 And in fact, a lot of people agreed with him, and
17 that's why they would purchase his stealth accounts so they
18 could form, you know, more business with eBay.

19 Let me give you an example. Let's say you had one
20 account through eBay. It was your account, and it was for a
21 \$500 limit and you wanted to do more business than \$500.
22 Defendant is going to testify what he would do is he would
23 create stealth accounts and somebody could buy four or five of
24 them, maybe. Maybe more. Some people bought more.

25 Let's say you buy five. Now you've got \$2,500 as

1 your limit, plus the \$500 you had before and you can do
2 business at \$3,000 instead of \$500.

3 The important thing to realize is that helps the
4 person who gets more business, it helps him, because now,
5 instead of having a \$500 limit, he can do a \$3,000 limit. It
6 also helps eBay because eBay gets a percentage of the money
7 from -- if a person does \$3,000 worth of business on eBay,
8 eBay gets more money than if that person had done \$500 worth
9 of business.

10 You are going to hear testimony that these stealth
11 accounts are sold all over the country and that there was
12 never an intent on the part of Mr. Matias to steal anybody's
13 money. In fact, just the opposite was true.

14 You are going to find that he was very successful in
15 his stealth account business. He did very well, but you are
16 also going to hear that Mr. Matias has a tremendous mistrust
17 for the United States Government. He lives with his mother in
18 a small apartment in South Euclid, Ohio near where I'm from,
19 and they together formed a tremendous with mistrust for the
20 United States Government, and so they also have a tremendous
21 mistrust for the economic system of the United States
22 Government.

23 So you are going to hear testimony from Mr. Matias
24 that he kept all of his money, his mother's money -- his
25 mother was a teacher at the Tri-C, the community college near

1 Cleveland, Cuyahoga County Community College, Tri-C. All of
2 her life savings was in there. They kept the money because
3 they felt the banking system was going to collapse and they
4 didn't want to end up losing all of their money.

5 So Mr. Matias is going to tell you that his mother
6 kept all of her money from all of her savings, from all of her
7 work that she had done throughout all of her life at Cuyahoga
8 Community College in that apartment.

9 Also, he's going to tell you that he didn't trust the
10 United States Government's economic system and so he would get
11 paid by the stealth accounts in gold and in silver. He would
12 literally ask the people to send him gold and silver instead
13 of money. Very, very bright actually. He just felt that the
14 economic system was not going to sustain itself. It's \$22
15 trillion in debt. So he got gold and silver sent to his
16 apartment.

17 So one day after operating his business successfully
18 for a number of years and doing well economically, he is
19 raided by the United States Government, members of the postal
20 service, and they came in and they took everything. They took
21 his mother's life savings. They took everything he had earned
22 over the course of his life savings, and they just took it and
23 he has never gotten it back.

24 Now, let's look at the two counts in the indictment
25 very briefly. He's alleged to have ripped off a Michael

1 Appley and a Ray Offner in Pennsylvania, but the evidence is
2 going to show that it isn't true. The evidence is going to
3 show that this gentleman actually was trying to help these
4 people.

5 He did indeed send out Click-N-Ship packages.
6 There's no question about that. That was part of developing
7 his stealth account. He'll admit that. He sent them out for
8 the reason of trying to develop the accounts to make sure that
9 they would pass muster with eBay a PayPal.

10 The evidence is going to show in this case that, with
11 respect to Mr. Appley, he paid PayPal \$896.34. The evidence
12 is going to show that the defendant never received \$896.34
13 from Mr. Appley. The evidence is going to show that PayPal's
14 account on this has a zero balance. There's no evidence that
15 you will hear that Mr. Appley is owed any money. There's no
16 evidence that you will hear that Mr. Appley lost any money.

17 Now, you are also going to see that Mr. Appley bid on
18 a MacBook Pro. I'm not a -- I'm 62. I'm a little past my
19 prime when it comes to MacBook Pros. Don't even know what one
20 is. But they have pictures on the eBay accounts of this
21 MacBook Pro.

22 You are going to find that nothing, nothing from this
23 man's apartment that was seized by the United States
24 Government, which includes his cell phone, several computers,
25 everything that he conducted his business on, there's nothing

1 that has the pictures of this Mac Pro, whatever it is, Mac Pro
2 Book or whatever it is. He has nothing.

3 So the person who put that ad out on eBay had to have
4 had access to that picture but there's no evidence, none, that
5 Mr. Matias ever had that picture on any apparatus in his
6 apartment. None.

7 You are also going to find out Mr. Appley has never
8 met Mr. Matias. They never had any in-person business
9 dealings. You are going to find out that there was never any
10 communication between Mr. Appley and Mr. Matias. None. No
11 e-mail, no text, no telephone conversations. None.

12 Now, there's an exhibit, the Government Exhibit MA5
13 that Mr. Appley e-mailed a Bensou_MS6245@eBay.com, asking for
14 the status of the sale of the MacBook Pro.

15 Now, you are not going to see anything that's linked
16 to the defendant. There's an e-mail that is sent back saying
17 what the status is. The e-mail actually says the item has
18 been shipped and should start tracking in 24 hour. Thanks.
19 But there's nothing from defendant's apartment that was ever
20 taken by this United States Government that shows that he ever
21 sent that. Nothing shows that he ever had access to the
22 picture of the thing that was being sold. Nothing shows that
23 he ever e-mailed back. Nothing. There's nothing.

24 And the reason for that, ladies and gentlemen, is you
25 are going to hear testimony he had sold the stealth account.

1 Whoever had the stealth account is the person who did that
2 e-mail. Whoever had the stealth account is the person who put
3 that picture up on eBay, and let me tell you, the government
4 took everything. You are going to see a multitude of
5 documents of what they took, and they don't have either of
6 those things, and that's because he didn't do the deal.

7 With respect to -- another thing is this \$896.34 was
8 never sent by PayPal to Atticus Matias. You'll see the
9 evidence will show that. There's no bank account of Atticus
10 that was ever linked to this transaction. No credit card of
11 his that was ever linked to this specific transaction.

12 He was also indicted for, as esteemed counsel
13 indicated, ripping off a Ray Offner of an iPhone 6. It was an
14 iPhone 6, and it was being auctioned for 814 bucks. Ray
15 Offner won the bid. There's a picture of the iPhone 6 on
16 eBay. Again, that was -- hey, here's the phone you are
17 buying. Again, there's nothing that was ever found on the
18 defendant. Nothing to show that he ever had that picture, and
19 believe me, these experts, they go through these computers.
20 They can find anything. If you've deleted it, anything. And
21 they could find nothing.

22 You are going to find that they searched every single
23 computer and every single apparatus in his house and that
24 picture was nowhere to be found.

25 You are going to find that there was a -- PayPal

1 received \$830 from Mr. Offner, but PayPal paid nothing on this
2 account. Nothing. They never sent any money out. They got
3 the money from Mr. Offner and they never sent it to anybody.
4 There's no evidence that the defendant received one penny, and
5 I believe the government will admit that on the Ray Offner
6 case. Never paid a penny. Never received a penny. There's a
7 zero balance on that account as well.

8 There's no evidence that any bank account was ever
9 involved -- of Atticus was ever involved in that dealing.
10 Again, he had sold the stealth account. The person at the
11 stealth account had done the deal. He is innocent.

12 Again, nothing that was taken from anything in his
13 apartment will link him to that picture that was put up on
14 that eBay deal. I'm not an eBay guy, but eBay, I guess you
15 put an ad out that had a picture of the iPhone, nothing that
16 was taken from this government, nothing that was seized,
17 nothing will link that picture to him, not on any apparatus
18 that they took.

19 And there's nobody that lost any money on that deal.
20 Nobody. No money was ever sent out by PayPal on that deal.

21 Now, with respect to the other testimony that you are
22 going to hear from people, I guess, that are coming from
23 outside of this jurisdiction, I would only ask you to consider
24 that this is the only jurisdiction that has charged Atticus
25 with a crime. He's not been charged by any other jurisdiction

1 in this country. Just keep that in mind. He's not been
2 charged by any other jurisdiction in this country.

3 The evidence, ladies and gentlemen of the jury, is
4 going to be weak. It's going to be voluminous. It's going to
5 be a lot, but it's going to lack in some very, very important
6 areas. If you keep your eye on the ball, you look closely, I
7 think you are going to find that there's reasonable doubt all
8 over this case.

9 I think you are going to find that Atticus Matias is
10 just an entrepreneur out trying to make a living who had a
11 mistrust for the American government, who then had that same
12 American government come into his apartment and take every
13 dime he owned and every asset he and his mother had, and we'll
14 ask that you consider all of the evidence and I know that you
15 will.

16 I share the same love for this system that His Honor
17 expressed to you. We'll ask that you return a verdict of not
18 guilty. Thank you.

19 THE COURT: Ladies and gentlemen, don't talk about
20 the case, anybody involved in it, don't start making up your
21 mind. We'll start back at 1:45, 1:45 by this clock here on
22 the wall, so synchronize your watch with this one here. Let
23 the jury stand down. Everyone else remain seated.

24 THE CLERK: This court is now in recess.

25 (Recess taken.)

1 (Jury excused.)

2 THE COURT: Jury is out, but I'm going to ask the
3 prosecutors to keep a keen eye on the number of witnesses and
4 time, because like I've told you, I need to shut it down
5 tomorrow at 4:00, no later than 4:30 at the very latest. I'm
6 going to stop at 4:30 if you are in the middle of the word if.

7 Mr. Callahan, my lawyer has done some background
8 check on you. I understand you clerked for Judge Brooks
9 Smith.

10 MR. CALLAHAN: I did, Your Honor, yes, sir.

11 THE COURT: Was that circuit bench or district bench?

12 MR. CALLAHAN: Third circuit, Your Honor.

13 THE COURT: Have you overcome that? He's a long time
14 friend of mine. You were with Williams and Conley?

15 MR. CALLAHAN: Yes, sir.

16 THE COURT: Did you know Lane Heard or Steve
17 Urbanczyk?

18 MR. CALLAHAN: Absolutely, yes, both, Your Honor.

19 THE COURT: How about John Vardaman?

20 MR. CALLAHAN: Didn't have the pleasure, but I've
21 heard stories.

22 THE COURT: They were before me in an MDL case for
23 seven years in Little Rock.

24 MR. CALLAHAN: I think I've heard tell of that
25 particular case, Your Honor.

1 THE COURT: I bragged that I was going to get it over
2 in two weeks, but unfortunately the drug involved in that
3 kept -- stayed on the market so I kept getting new cases. My
4 two years turned into seven. All right. Anything before we
5 recess? The lawyers get back about five minutes before, about
6 1:40 in case something pops in your mind you want to bring up.
7 We're in recess. You can be at ease.

8 (Luncheon recess taken 12:33 p.m.-1:48 p.m.)

9 THE CLERK: Remain seated. This court is now in
10 session.

11 THE COURT: Looks like I have all 14 jurors back.
12 Everyone else. Call your first witness.

13 MR. CALLAHAN: Thank you, Your Honor. The
14 United States would call Michael Appley.

15 THE CLERK: Sir, please raise your right hand.

16 (Witness sworn.)

17 THE CLERK: Please state and spell your name for the
18 record, and please speak right into that microphone.

19 THE WITNESS: It's Michael James Appley, and it's
20 M-I-C-H-E-A-L, James, J-A-M-E-S, Appley, A-P-P-L-E-Y.

21 THE CLERK: Thank you.

22 JAMES APPLEY, a witness herein, having been first
23 duly sworn, was examined and testified as follows:

24 DIRECT EXAMINATION

25 BY MR. CALLAHAN:

1 Q. Good afternoon, sir.

2 A. Good afternoon.

3 Q. I'm going to ask you to state your name one last time, and
4 we'll ask you eight more times after that. Just the one will
5 suffice. Please state your name for the record.

6 A. Michael James Appley.

7 Q. Where did you grow up, Mr. Appley?

8 A. Johnstown, Pennsylvania.

9 Q. In what town or community do you currently reside?

10 A. Johnstown, Pennsylvania.

11 Q. Do you live by yourself?

12 A. No.

13 Q. Who do you live with?

14 A. I live with me fiancée.

15 Q. Are you currently employed?

16 A. Yes.

17 Q. By whom are you currently employed?

18 A. I work for the Commonwealth of Pennsylvania.

19 Q. What do you do for the Commonwealth?

20 A. I'm a construction project manager.

21 Q. What did you do before that, sir?

22 A. I was a master plumber, so I worked for companies. I
23 worked for a union company, union plumber and pipefitter.

24 Prior to that, I was a United States Air Force veteran. I was
25 in the United States Air Force.

1 Q. Are you familiar with the website called eBay, Mr. Appley?

2 A. Yes.

3 Q. In general terms, sir, how would you describe eBay?

4 A. It's a place where people will sell and buy things online.

5 Q. Have you yourself sold or purchased things on eBay?

6 A. Yes, I have.

7 Q. Purchased, sold or both?

8 A. Purchased.

9 Q. And do you have an eBay account then?

10 A. Yes, I do.

11 Q. What's your eBay account user name?

12 A. Elliottvmax.

13 Q. How do you spell that?

14 A. E-L-L-I-O-T-T-V-M-A-X.

15 Q. And fair to say, sir, that you have to have an account in
16 order to buy or sell things on eBay?

17 A. Yes.

18 Q. What kind of information do you have to share in order to
19 sign up for an account?

20 A. Well, you have to share your name and your address. You
21 have to have an e-mail account and a PayPal account.

22 Q. PayPal, can you again, in general terms, sort of describe
23 what that is for us, sir?

24 A. Well, it's a place where I give my credit card
25 information, and it's pretty much like a buffer so the seller

1 wouldn't know personal information about myself.

2 Q. So if you are buying something on eBay, you would use your
3 PayPal account?

4 A. Yes.

5 Q. Thank you, sir. Did you make any significant eBay
6 purchases, Mr. Appley, in 2015?

7 A. Yes, I did.

8 Q. What did you purchase, sir?

9 A. I purchased an Apple MacBook Pro laptop computer.

10 Q. So I'm going to call that the Apple laptop. Is that all
11 right?

12 A. Yes.

13 Q. Approximately how much did you pay for the laptop in 2015?

14 A. About \$900.

15 Q. Mr. Appley, I'm going to show you a document that's
16 previously been marked for identification purposes as
17 Government's Exhibit MA7.

18 MR. CALLAHAN: Defense counsel has copies of all
19 these documents, Your Honor.

20 Q. Take a moment, sir. Do you recognize that document?

21 A. Yes.

22 Q. What is that, sir?

23 A. That's the actual listing for the MacBook Pro that I bid
24 on and purchased.

25 Q. And have you seen this eBay listing prior to today?

1 A. Yes.

2 Q. And when did you previously see it, sir?

3 A. It would have been when I was bidding on it back in
4 November of 2015.

5 Q. And is Government's Exhibit MA7 a true and correct copy of
6 the listing you saw on eBay in 2015 after you purchased the
7 laptop?

8 A. Yes, it is.

9 MR. CALLAHAN: Your Honor, at this time the
10 United States would move to admit Government's Exhibit MA7.

11 MR. KAISER: No objection, Your Honor.

12 THE COURT: Admitted.

13 MR. CALLAHAN: Permission to publish, Your Honor?

14 THE COURT: You may. You mean show it to the jury?
15 Is that what publishing is?

16 MR. CALLAHAN: Show it to the jury, Your Honor, yes,
17 sir. Ms. Maher, if you could pull up MA7. If you could
18 expand the top third portion that shows the actual listing
19 there.

20 Q. Mr. Appley, you'll have the screen right up there in front
21 of you. Is that displaying okay, sir?

22 A. Yes, sir.

23 Q. Looking at Government's Exhibit MA7, is this a picture of
24 the Apple laptop that you purchased in November of 2015?

25 A. Yes.

1 MR. CALLAHAN: And, Ms. Maher, if you could go ahead
2 and highlight the seller row of the eBay listing there.

3 Q. Looking again at the listing, Mr. Appley, does it indicate
4 the user name of the person who sold you the laptop?

5 A. Yes, it does.

6 Q. Could you go ahead and read that user name for us, sir?

7 A. Yeah. I'm not sure how to pronounce it so I'm going to
8 spell it. It's B-E-N-S-O-U-S-9-C-N-5-J-A-X.

9 Q. Thank you, sir.

10 MR. CALLAHAN: Ms. Maher, if you could highlight the
11 winning bid and the shipping rows.

12 Q. Does this document indicate the amount you paid to
13 purchase that Apple laptop computer?

14 A. Yes.

15 Q. And what was that amount, sir?

16 A. \$880.

17 Q. Was there any additional funds that were expended?

18 A. Yes. There was shipping for \$16.34.

19 Q. What about the line there that says winning bid?

20 Do you see that?

21 A. Yes.

22 Q. What does the term winning bid refer to?

23 A. That means that I was the one that won the bid, so at the
24 time that the item ends, the date and time, whoever has the
25 highest bid gets the product.

1 Q. You said when the item ends. What exactly do you mean
2 there, sir?

3 A. Well, it's like an auction, so they usually set a time
4 limit. There's a certain amount of days and there's a clock
5 that actually counts down and people keep bidding on it, and
6 whoever is the highest bidder at that time, then they won it.

7 Q. In this particular case, do you recall what time the end
8 of the auction was scheduled to be?

9 A. Yeah. I kind of do recall that, yeah, because it was
10 early.

11 Q. You are chuckling to yourself a little bit. Could you
12 tell us what time that was?

13 A. It was at 1:00 a.m.

14 Q. How did you find that you actually won this bid?

15 A. Because I was up watching it and bidding on it.

16 Q. You yourself was up at 1:00 in the morning?

17 A. Oh, yes.

18 Q. Were you excited to win this bid, sir?

19 A. I was real excited. I was looking forward to it because I
20 had been looking at these for a while and it seemed like a
21 reasonable price. I kind of knew where I wanted to be on the
22 bid, so I wanted to be awake, and I usually stay up late
23 anyway, so it wasn't anything that was hard for me to do
24 actually.

25 Q. Mr. Appley, just to confirm, looking at this exhibit, what

1 specific day at 1:00 o'clock in the morning did you actually
2 win the bid?

3 A. That was November 6 of 2015.

4 Q. Thank you.

5 MR. CALLAHAN: Ms. Maher, you could take that exhibit
6 down.

7 Q. Mr. Appley, after you purchased the Apple laptop in
8 November of 2015, did there come a time when you received a
9 tracking number from the seller?

10 A. Yes, but it was quite a time later though, because
11 usually -- actually, as soon as I won that bid, at 1:00 a.m.,
12 I was actually so excited to get it, I actually paid for it
13 right at that time, so generally, you would get a tracking
14 number within a day or so, but I didn't see anything for a
15 while.

16 Q. So this took a little bit longer than your normal
17 experience?

18 A. Yes.

19 Q. Were you starting to get nervous when you hadn't received
20 a tracking number?

21 A. Yes.

22 Q. What did you do at that point?

23 A. At that point, I actually sent an e-mail correspondence
24 through eBay to the seller asking him when are you shipping
25 this out.

1 Q. Did the seller respond?

2 A. Yes, he did.

3 Q. What was the substance of that response, sir?

4 A. He said that it was shipped and he provided me with a USPS
5 tracking number.

6 Q. Sir, I'm going to shortly walk up and hand you what's been
7 marked for identification purposes as Government's Exhibit
8 MA5. Let me ask you, Mr. Appley, as part of the United States
9 investigation, did you provide Inspector Weckerly with any
10 documents that had been in your custody?

11 A. Yes, I did.

12 Q. And what I've just showed you, Government's Exhibit MA5,
13 is that one of the documents that you provided to Inspector
14 Weckerly?

15 A. Yes, it is.

16 Q. What is it, sir?

17 A. This is the e-mail correspondence between myself and the
18 seller through eBay.

19 Q. So that would be a record that you saved after purchasing
20 the laptop in November of 2015?

21 A. Correct.

22 Q. Is Government's Exhibit MA5 a true and correct copy of the
23 messages that you exchanged with the seller in 2015?

24 A. Yes, it is.

25 MR. CALLAHAN: Your Honor, at this time, the

1 United States would move to admit Government's Exhibit MA5.

2 MR. KAISER: No objection.

3 THE COURT: Admitted.

4 MR. CALLAHAN: Thank you, Your Honor. Permission to
5 show it to the jury?

6 THE COURT: You may.

7 MR. CALLAHAN: Thank you, Your Honor. Ms. Maher, if
8 you could pull up Government's Exhibit MA5, and if you could
9 expand the message at the bottom of that first page.

10 Q. Mr. Appley, is this the message that you sent to the
11 individual who sold you the laptop in 2015?

12 A. Yes.

13 Q. Can you tell the date that you contacted the seller,
14 looking at that exhibit, sir?

15 A. Yes.

16 Q. What date was that?

17 A. It was November 12, 2015.

18 Q. So about six days after you had purchased the laptop?

19 A. Correct.

20 Q. Can you read for us the message you sent?

21 A. "Dear" -- however you pronounce that -- "was wondering
22 when you are shipping this item, Elliottvmax."

23 Q. Thank you, sir.

24 MR. CALLAHAN: Ms. Maher, if you could expand the
25 next message higher on that same document, Government's

1 Exhibit MA5.

2 Q. Is that displaying okay for you, Mr. Appley?

3 A. Yes.

4 Q. Looking at this exhibit, sir, can you tell what date the
5 seller responded?

6 A. Yes.

7 Q. What date is that, sir?

8 A. It's November 13 of 2015.

9 Q. Could you go ahead and read the response for us as well?

10 A. Yes. It says "Dear Elliottvmax, USPS priority mail No.
11 9407803699300020478191. Item has been shipped and should
12 start tracking in 24 hours. Thanks."

13 Q. Mr. Appley, you had testified earlier that, prior to
14 receiving a tracking number for this purchase, that you were
15 starting to get nervous about the transaction; is that right?

16 A. Yes.

17 Q. When you received this e-mail message that provided you
18 with a tracking number, did that make you feel more secure
19 with the transaction?

20 A. Yes, it did.

21 Q. If you hadn't received this response and a tracking number
22 on November 13, 2015, do you think you would have reported a
23 problem with the transaction earlier?

24 MR. KAISER: Objection.

25 A. Yes.

1 THE COURT: Overruled.

2 Q. Thank you, Mr. Appley. Bear with me one moment.

3 MR. CALLAHAN: Your Honor, at this time, the parties
4 in this case have reached a stipulation with respect to
5 certain records that I would like to go ahead and show
6 Mr. Appley. May I read that into the record, Your Honor?

7 THE COURT: You may.

8 MR. CALLAHAN: Thank you. The United States and
9 Atticus Sliter-Matias stipulate and agree that Government's
10 Exhibit USPS1 to USPS7 are in fact true and accurate copies of
11 business records that are made at or near the time of the act
12 and that are kept as part of the normal course of United
13 States Postal Services activity. Therefore, the parties agree
14 that Government's Exhibit Exhibits USPS1 to USPS7 are
15 authentic. That is, that said exhibits represent true and
16 correct copies of records generated and kept by the United
17 States Postal Service and that no further witness or evidence
18 needs to be offered in support of the exhibit's authenticity.

19 THE COURT: Are you moving for the admission?

20 MR. CALLAHAN: I intend to in a moment. I was going
21 to establish their relevance, if that's all right.

22 Q. I'm going to walk up in a minute here and show you an
23 exhibit that's been marked for identification purposes as
24 Government's Exhibit USPS2.

25 Mr. Appley, have you had a chance to take a look at that?

1 A. Yes.

2 Q. Do you recognize that document, sir?

3 A. Yes.

4 Q. What is it?

5 A. This is the USPS tracking information for the Apple
6 MacBook Pro computer that I purchased on eBay.

7 Q. Is that the same tracking number, sir, that you are
8 looking at, that was in the previous e-mail that we were just
9 reviewing?

10 A. Yes, it is.

11 Q. Thank you.

12 MR. CALLAHAN: Your Honor, at this time the
13 United States would move to admit Government's Exhibit USPS2.

14 THE COURT: What says the defense?

15 MR. KAISER: No objection, Your Honor.

16 THE COURT: Admitted.

17 MR. CALLAHAN: Thank you, Your Honor. Permission to
18 show to the jury?

19 THE COURT: You may.

20 MR. CALLAHAN: Thank you. Ms. Maher, if we could
21 pull up United States USPS2 and expand the first column there.

22 Q. Mr. Appley, looking at the exhibit, can you identify the
23 listed tracking number?

24 A. Yes.

25 Q. Could you read that into the record, sir?

1 A. Yes, it's 94078036993000020478191.

2 Q. Mr. Appley, is that the same tracking number that the
3 seller of the Apple laptop gave to you?

4 A. Yes.

5 MR. CALLAHAN: And, Ms. Maher, could we expand the
6 fifth and sixth columns of that exhibit?

7 Q. And, Mr. Appley, does the exhibit indicate the date on
8 which this package was shipped and the city from which it was
9 shipped?

10 A. Yes.

11 Q. Where and when was it shipped from, sir?

12 A. I want to say it's Cleveland, Ohio, but there's one above
13 it, so I don't know if it's Sardinia, Ohio, but it was shipped
14 on 11-13 of 2015.

15 Q. And I apologize, Mr. Appley.

16 MR. CALLAHAN: We cut that column off a little bit.
17 If we can grab the column to the left in its entirety there.
18 Back and forth.

19 Q. Looking at that document, at a size of font where you can
20 actually read it, can you tell from this exhibit, sir, where
21 and from where and on what date the package was shipped?

22 A. Yeah. It looks like it was Cleveland, Ohio on 11-13 of
23 2015.

24 Q. Thank you, Mr. Appley. Looking down, further down on that
25 same set of columns and rows, can you see where and when it

1 was delivered, sir?

2 A. Yes.

3 Q. Where and when was that?

4 A. It was delivered to Johnstown, Pennsylvania on 11-16 of
5 2015.

6 Q. Thank you, sir.

7 MR. CALLAHAN: And, Ms. Maher, if we could do column
8 No. 3. Back and forth.

9 Q. Mr. Appley, looking at this column, can you see the
10 specific address to which this package was delivered?

11 A. Yes.

12 Q. What address is that, sir?

13 A. That's 361 Kenwood Avenue.

14 Q. Do you recognize that address?

15 A. Yes.

16 Q. Whose address is that?

17 A. That's my address.

18 Q. In Johnstown?

19 A. Yes, in Johnstown, Pennsylvania.

20 Q. What date does the exhibit indicate that the package was
21 delivered?

22 A. That's 11-16 of 2015.

23 Q. Thank you. We can put that exhibit down.

24 Mr. Appley, did you in fact receive a mailing of some sort
25 on November 16 of 2015?

1 A. Yes.

2 Q. Was it a computer?

3 A. No.

4 Q. What did you receive on November 16 of 2015?

5 A. I received a USPS envelope. The only thing that was
6 inside was another USPS envelope that was ripped in half.

7 Q. So an empty envelope with an empty ripped envelope in it?

8 A. Yes.

9 Q. Sir, if you could walk the members of the jury through
10 what happened that day after you received an empty envelope
11 instead of a computer.

12 A. Okay. Well, I mean, I can recall definitely that I took
13 off that day because I was excited to get this and, you know,
14 it's a lot of money. Plus I knew that I had to sign for it,
15 so I actually took off work that day, and I was really
16 excited, and I see the USPS truck coming.

17 So he comes to my driveway, and I was expecting to him get
18 out with some sort of box, you know. He come out with an
19 envelope. I'm thinking oh, boy, maybe I'm getting something
20 else. I didn't even know. Here I sign for the package and it
21 was just an empty envelope.

22 So at that point, I realize I got scammed, so what I did
23 at that point is I contacted the Johnstown Post Office to let
24 them know and then I contacted eBay.

25 Q. Thank you, Mr. Appley. I'm going to go ahead and show you

1 two additional exhibits here. The first has been marked for
2 identification purposes as Government's Exhibit MA1 which is a
3 physical exhibit, and the second is an exhibit that has been
4 marked for identification purposes as Government's Exhibit
5 MA2. I'm going to walk both of those up to you right now,
6 sir.

7 Mr. Appley, you mentioned you provided Inspector Weckerly
8 with certain documents that had been in your custody, sir; is
9 that right?

10 A. Yes.

11 Q. And MA1, the physical exhibit that I just handed you, is
12 this one of the documents that you provided Inspector Weckerly
13 during the course of the United States investigation?

14 A. Yes, it is.

15 Q. And Government's Exhibit 2, is this another of the
16 documents that you provided to Inspector Weckerly during the
17 course of the United States investigation?

18 A. Yes.

19 Q. And what is Government's Exhibit MA1, sir?

20 A. This is the actual envelope that I received.

21 Q. And looking at it today, sir, is that envelope in the same
22 or substantially the same condition as when you provided it to
23 Inspector Weckerly?

24 A. Yes.

25 Q. And if I could refer you back to Government's Exhibit MA2.

1 What is Government's Exhibit MA2, sir?

2 A. This is a photo of this same envelope that I took and sent
3 to the postal inspector.

4 Q. And is that photograph Government's Exhibit MA2 a true and
5 correct depiction of the envelope that you received?

6 A. Yes.

7 MR. CALLAHAN: Your Honor, at this time, the
8 United States would move to admit both Government's Exhibit
9 MA1 and MA2.

10 MR. KAISER: No objection.

11 THE COURT: Admitted.

12 MR. CALLAHAN: Permission to show to the jury, Your
13 Honor?

14 THE COURT: Yes.

15 MR. CALLAHAN: Thank you, Your Honor.

16 Ms. Maher, so the jury can follow along, can you pull
17 up Government's Exhibit MA2 and sort of blow up the face of
18 that as much as you can, and if it would go bigger, that would
19 be great. Thank you.

20 Q. Mr. Appley, just because I think it may be easier on your
21 eyes and since you have testified, sir, that Government's
22 Exhibit MA2 is a picture of MA1, why don't you go ahead and
23 look at the actual physical exhibit, Government's Exhibit MA1.
24 I'm going to ask you a couple questions.

25 Who is this envelope addressed to, sir?

1 A. Michael Appley.

2 Q. And does it list your home address?

3 A. Yes.

4 Q. Looking at the exhibit, sir, can you tell who supposedly
5 sent this package?

6 A. Yes.

7 Q. Who is that?

8 A. Andrew Benson.

9 Q. Thank you. Finally, sir, looking at the envelope, can you
10 tell when it was shipped?

11 A. Yes.

12 Q. When was that, sir?

13 A. 11-13 of 15.

14 MR. CALLAHAN: Thank you. We can go ahead and put
15 MA2 down now.

16 Q. Mr. Appley, you had mentioned earlier, sir, that inside of
17 MA1, there was actually an additional empty torn envelope; is
18 that right?

19 A. Yes.

20 Q. Could you go ahead and open that up, sir? Is that what
21 you meant, sir? The second empty envelope?

22 A. Yes.

23 Q. Can you show that to the jury, please? Thank you very
24 much, sir. You can set that down.

25 Mr. Appley, I just want to go back briefly, before we show

1 the exhibit we're getting that admitted, you had described for
2 the members of the jury what you had done after you realized
3 that all you had gotten was this empty envelope; is that
4 right?

5 A. Yes.

6 Q. And I think that you had testified earlier that you called
7 the post office?

8 A. Yes.

9 Q. What else did you do?

10 A. I called eBay and I reported that I got an envelope with a
11 torn envelope inside and no computer.

12 Q. When you say you reported that to eBay, were you
13 essentially filing a fraud report?

14 A. Yes.

15 Q. Did there come a time, sir, where you were reimbursed
16 eventually for your purchase?

17 A. Yes.

18 Q. After your experience, Mr. Appley, getting defrauded in
19 2015, has your approach to buying things on eBay changed at
20 all?

21 A. Yes.

22 Q. How so?

23 A. Well, you know, I put a lot of trust in eBay and PayPal,
24 and even though I got my money back, it was just going through
25 that whole experience. And I bought a lot of big products on

1 eBay. I mean, I bought vehicles, motorcycles, and this is a
2 big product to me also, but now, I second-guess, you know, so
3 I kind of really don't buy much from there at all. Just
4 through the experience and all the time it's taken. That's
5 pretty much how I feel about it.

6 Q. Mr. Appley, would it be fair to say that eBay is getting
7 less of your business than they used to because of this?

8 A. Yes.

9 MR. CALLAHAN: Thank you, sir. I have no further
10 questions. One moment, sir. I may have one.

11 Q. Mr. Appley, I've committed the cardinal sin of lawyerdom.
12 I told you I had no further questions when of course I have
13 one further question for you.

14 THE COURT: You know there was a mule trader, famous
15 mule trader in Mississippi and Memphis that said he never did
16 ring no backup bells, but you rung a backup bell.

17 MR. CALLAHAN: I'm going to give it a shot, Your
18 Honor. Thank you for the indulgence.

19 Q. Mr. Appley, we were looking at Government's Exhibit MA1
20 and MA2 before. Do you still have MA1 in front of you?

21 A. Yes.

22 Q. Towards the bottom of that exhibit, sir, do you see a
23 tracking number for that particular package?

24 A. Yes.

25 Q. Can you go ahead and read that into the record for us?

1 A. Yes, it's 9407803699300020478191.

2 Q. Thank you, sir. I know that's a long thing to read into
3 the record, but is that the same tracking number that was on
4 USPS2, Government's Exhibit USPS2 that we looked at before?

5 A. Yes.

6 Q. Is that the same tracking number the seller sent you by
7 e-mail?

8 A. Yes.

9 Q. Thank you.

10 MR. CALLAHAN: No further questions.

11 CROSS-EXAMINATION

12 BY MR. KAISER:

13 Q. Hi, Mr. Appley. My name is Mark Kaiser. I represent the
14 defendant in this case.

15 A. Okay.

16 Q. Atticus Matias. You don't know Atticus, do you?

17 A. No.

18 Q. You never met him, have you?

19 A. No.

20 Q. Now, the 896.34 you paid in relation to this deal, that's
21 what you paid, wasn't it, 896.34?

22 A. Yes.

23 Q. That was paid to PayPal, was it not?

24 A. Correct.

25 Q. You didn't pay Atticus Matias that, did you?

1 A. I paid the seller. I don't know who he is.

2 Q. You actually paid PayPal. You sent the money to PayPal,
3 did you not?

4 A. The money is already in PayPal. My credit card is linked
5 to PayPal, so when you purchase something off of eBay, you
6 have to obviously pay for it, so I paid for that product
7 through PayPal, but I didn't pay PayPal. I paid the seller
8 for the product.

9 Q. You gave it to PayPal to pay to the seller?

10 MR. CALLAHAN: Objection, Your Honor.

11 A. I didn't really give it to PayPal, sir. It's -- my credit
12 card is linked to PayPal, so I didn't give it to PayPal.
13 PayPal is just a service that utilizes my card so the seller
14 really doesn't know who I am either, if that kind of makes
15 sense.

16 Q. It makes perfect sense. Now, PayPal refunded you the
17 896.34; is that correct?

18 A. Correct.

19 Q. Now, you've never dealt with anyone named Atticus Matias,
20 correct?

21 A. No.

22 Q. In this case, you dealt with somebody by the name of
23 Benson, did you not?

24 A. I don't really know who I dealt with, to be honest with
25 you. These are screen names and user names, so I really don't

1 know the personal identity of who it was, so I guess.

2 Q. Now, these e-mail communications that you had, you had an
3 e-mail communication where you asked what was happening with
4 the package. Do you recall testifying about that?

5 A. Yes, sir.

6 Q. And, sir, did you use your e-mail account to send that?

7 A. No.

8 Q. How did you send that?

9 A. That's through eBay. They have like a way of
10 communicating with the seller. So what it does is it doesn't
11 let the buyer or the seller know your personal e-mail
12 information.

13 Q. But you had to get on your computer to do it; is that
14 correct?

15 A. Yes. But I actually did it from my phone, I think. I
16 think I did it on my iPhone.

17 Q. So you did it through a device that you own, correct?

18 A. Correct.

19 Q. So when you received the e-mail communication back, you
20 would have to assume that that was from the seller, correct?

21 A. Correct.

22 Q. I believe Exhibit MA5, just to be clear on this, someone
23 by the name of Bensous responded, "Item has been shipped and
24 should start tracking in 24 hours, thanks."

25 Did I state that correctly?

1 A. Yes, but I'm not sure you said -- do you mean BENSOU?

2 Q. Yes.

3 A. That's a screen name. I don't know who that is, but yeah,
4 I'm assuming that is the seller.

5 Q. That would be the seller?

6 A. Yes, correct.

7 Q. Did you pay exactly 896.34 to PayPal?

8 A. Well, it would be the 880 plus the shipping of 16, so
9 yeah, that would be correct, yes.

10 Q. I thought my math was right.

11 A. I mean, it's close. It's good.

12 Q. And you don't know who sent you those Click-N-Ship
13 packages either, do you?

14 A. The Click-N-Ship packages?

15 Q. Yes, the package.

16 A. Oh, this?

17 Q. Yes.

18 A. The seller.

19 Q. And you don't know who the seller is, do you?

20 A. No. I mean, I can tell by looking at this, it's Andrew
21 Benson, it says on the address.

22 Q. Fair enough.

23 MR. KAISER: Nothing further, Your Honor.

24 MR. CALLAHAN: Nothing further, Your Honor.

25 THE COURT: Any jury questions? You may stand down.

1 Is this witness excused?

2 MR. DESAI: Yes, he is, Your Honor.

3 THE COURT: Thank you, sir.

4 (Witness excused.)

5 THE COURT: You are free to go back to business.

6 MR. DESAI: The government is going to call Stephen
7 Huhnke to the stand. Can I take a second to talk to defense
8 counsel quickly? We gave him a bunch of exhibits, and I just
9 want to make sure he knows exactly what things are.

10 THE COURT: If y'all are speaking, you can talk to
11 one another.

12 (Witnesses conferring off the record.)

13 MR. DESAI: We're ready to go, Your Honor.

14 THE COURT: If you'll raise your right hand and face
15 the clerk, please.

16 (Witness sworn.)

17 THE CLERK: State and spell your name for the record.

18 THE WITNESS: My name is Stephen Huhnke. Huhnke is
19 spelled H-U-H-N-K-E.

20 STEPHEN HUHNPKE, a witness herein, having been first
21 duly sworn, was examined and testified as follows:

22 DIRECT EXAMINATION

23 BY MR. DESAI:

24 Q. Mr. Huhnke, how are you currently employed?

25 A. I'm employed at eBay, Inc.

1 Q. How long have you worked for eBay?

2 A. It will be five years on June 17.

3 Q. What is your current position?

4 A. I am a criminal investigator for our global asset
5 protection team.

6 Q. What's your role and responsibility as a criminal
7 investigator for the global asset team?

8 A. So I investigate crimes that occur on eBay platform both
9 proactively on behalf of eBay but reactively through law
10 enforcement to make sure they understand the crime that would
11 occur or potentially occur on eBay.

12 Q. Mr. Huhnke, I'm going to ask that you speak into the
13 microphone. Your seat won't move so if you take the
14 microphone and bring it closer to you, it will be easier.

15 A. Okay.

16 Q. Are you a law enforcement officer?

17 A. No.

18 Q. But you assist law enforcement investigating criminal
19 activity that occurs on eBay?

20 A. That is correct.

21 Q. What is eBay?

22 A. EBay is an e-commerce platform. Basically we're an
23 Internet website where people can both buy and sell items to
24 one another.

25 Q. Is eBay a physical store like a Walmart?

1 A. No.

2 Q. So it's an online store that can only be accessed via the
3 Internet?

4 A. That is correct.

5 Q. What are the different types of things that are sold on
6 eBay?

7 A. Pretty much anything you can think of. We have clothing,
8 electronic devices, real estate, cars. Pretty much anything
9 that's legal to sell, you can sell it on eBay.

10 Q. It sells pretty much any type of goods but not services;
11 is that correct?

12 A. That's correct.

13 Q. Does eBay own the items that it sells on site?

14 A. No.

15 Q. Who owns those items?

16 A. They will all be owned by the seller of those items.

17 Q. So how does eBay work then?

18 A. Basically a seller would register a selling account on
19 eBay and then they would select the different items that they
20 wanted to sell. Once they uploaded those items to our
21 platform, then, as you entered eBay as like a buyer or a
22 random customer, you would see the different items that were
23 listed for sale at that time.

24 Q. And when an individual ends up buying an item off of eBay,
25 who is responsible for shipping the product to the buyer?

1 A. The seller would be.

2 Q. What are the different ways that an item can be sold on
3 the eBay platform?

4 A. So there's a couple different things that would play into
5 that. There's different item conditions that you can sell
6 something in, so you can sell whether it's a brand new iPhone
7 or a used iPhone. It could be manufacturer refurbished, so
8 some of the conditions might vary between items, and the only
9 other I --

10 THE COURT: If you will, talk a little slower. You
11 are talking faster than I can hear.

12 A. In addition to the different item conditions, there are
13 different selling options. The first one would be if you want
14 to do a standard option, which would be you would set the time
15 frame for how long you want the auction to last, whether it's
16 one day, three days, and then at the end of that auction time,
17 whoever had the highest bid would then win the item, or we
18 have what's called a fixed price auction which you could just
19 set the price that you want to sell that item for and someone
20 could buy it for that price throughout the duration of the
21 auction.

22 Q. With the auction option, if you make a bid on the item and
23 someone outbids you, are you able to make a new bid?

24 A. Yes. You would be alerted through our messaging system
25 that you were outbid, and it would give you an option to place

1 a new bid on that item as long as the auction duration was
2 still going on.

3 Q. Do eBay buyers and sellers typically have to open an eBay
4 account?

5 A. Yes.

6 Q. How does one create an eBay account?

7 A. You would put in what we call basic registration
8 information. That would include the user's first name and
9 last name, their e-mail address, their phone number and their
10 street address so we know where to ship the item.

11 Q. And if a person was -- let me ask you this: To open an
12 eBay account, does one have to get to the eBay website?

13 A. That is correct.

14 Q. And you indicated information that you provide to open the
15 account. Is that something called registration information?

16 A. Yes.

17 Q. And if an individual was actually part of a company, could
18 they provide a company name in addition for the registration?

19 A. Yes. You can provide a company name on the account, but
20 you would also need to provide the registration information of
21 at least one real individual, so that way, if they were to
22 call in to our website, we would be able to verify that person
23 on the phone.

24 Q. Is the information provided during the registration
25 process when one creates an account verified in any way by the

1 eBay system?

2 A. There is very basic filtering algorithms that will look to
3 see if there might be gibberish keywords typed in as
4 registration information, but other than that, there's not
5 really a registration verification.

6 Q. You mentioned algorithm. Is it essentially a system that
7 works without other people being involved? Just a program
8 that works on its own to see if there's gibberish?

9 A. That is correct.

10 Q. So an individual can provide a fake name to open up an
11 account without eBay's knowledge?

12 A. Yes.

13 Q. How about financial information? Can an individual
14 provide financial information to their account?

15 A. Yes, you can provide credit card numbers, but also if you
16 register with a PayPal account, you could add your PayPal
17 account to the eBay account as well.

18 Q. With respect to credit card numbers, could a person
19 provide a prepaid gift card such as a vanilla Visa gift card?

20 A. Yes.

21 Q. When you create an eBay account, do you also have to
22 create a user name and password?

23 A. Yes.

24 Q. What is the purpose of a user name and password?

25 A. That would allow you to log into that account at a future

1 time so that way, you can keep a running record of your
2 activity on eBay.

3 Q. Can an individual update or change the registration
4 information or financial information for their account?

5 A. Yes, they can.

6 Q. Is it the regular practice for eBay to record and store
7 the registration information, the financial information and
8 changes to this information for eBay accounts?

9 A. Yes.

10 Q. Is this information stored at or near the time the
11 information is provided by the eBay account user?

12 A. Yes.

13 Q. Is this information maintained and kept as part of the
14 regular course of eBay's business?

15 A. Yes.

16 Q. Mr. Huhnke, how much does it cost to open an eBay account?

17 A. It is free to open an eBay account.

18 Q. So if the accounts are free, how does one -- how does eBay
19 make money?

20 A. When an item is sold on eBay, we would collect what we
21 call final value fees. That would be a percentage of the
22 final price the item was sold for, and there are some basic
23 listing fees as well. When you are putting an item up for
24 sale, there's a minimal fee.

25 Q. Now, is there a distinction between a seller's account and

1 a buyer's account on eBay?

2 A. Yes.

3 Q. What's that distinction?

4 A. The main difference that we see, to open a seller account,
5 you would need to add a financial instrument to your account,
6 so that way, you could receive payment, so that would be the
7 credit card or PayPal information that we require.

8 Q. So if a person has a financial instrument attached to
9 their eBay account, they can become a sales account?

10 A. That is correct.

11 Q. If they have a seller's account, can they still buy items?

12 A. Yes.

13 Q. Let's talk about the selling of items on eBay then. Are
14 there limits on how much a person -- sorry.

15 Are there limits on how much a person can sell items on
16 eBay?

17 A. Yes, we do have some limits in place. It will basically
18 be a monthly selling limit that resets at the first of the
19 month every month, and those limits will be related to how
20 many items can be sold per month or how much of a dollar
21 amount can be sold per month. Whatever one would hit first
22 would essentially be the limit on that account, and it would
23 reset on the first of the month.

24 Q. Why does eBay have such limitations?

25 A. There are two main focuses that limits prevent. The first

1 one would be just fraud. It would prevent how -- you know,
2 auctions could be listed at one time, so it would prevent the
3 total amount of fraud that can happen on any one account at
4 any given time.

5 The second one is what we would call like a business
6 failure. That would be someone that is a legitimate person
7 trying to conduct business but maybe they sell too many items
8 that they are not accustomed to selling and they can't keep up
9 with maybe their shipping and then fall behind there and
10 ultimately get overwhelmed and leave eBay, which then would
11 ultimately cause some complaints to come through and a further
12 loss to eBay.

13 Q. Can an eBay user get these limits changed?

14 A. Yes. We do have a seller vetting team. Basically that is
15 a customer service team that you can call over the phone.
16 They would do a brief review with the seller to figure out
17 what items they plan on selling, but then they do an
18 investigation into, you know, previous activity on the account
19 to make sure that those new limits would make sense for their
20 growth.

21 Q. Does it cost any money to have the limits changed?

22 A. No.

23 Q. How does an individual create an eBay listing or
24 advertisement to sell something?

25 A. There is a sell-your-item platform that you would go

1 through. The main things that you would need is -- the first
2 step is to upload a picture of that item. You would also need
3 an auction title so someone knows what item you are actually
4 selling.

5 Then you would set your pricing levels and then the
6 duration that you want the auction to be live, and then
7 lastly, you would need to put in a description of that item.

8 Q. And at that time is when you indicate if you want it to be
9 an auction or set price?

10 A. That is correct.

11 Q. Is it possible for potential buyers to ask questions from
12 the sellers?

13 A. Yes. EBay does have a messaging service so buyers and
14 sellers can exchange messages with one another.

15 Q. And so there's an internal messaging system within the
16 eBay platform?

17 A. That is correct.

18 Q. How does someone know if they received a message within
19 the eBay system if they are not logged on to their account?

20 A. If they are not logged into eBay, they would receive an
21 e-mail alert that a message has come through.

22 Q. How does an individual end up buying an item?

23 A. Similar to selling, basically you would put in the keyword
24 that you are looking for. So if you are looking for an
25 iPhone, you would type in iPhone with those items. If there

1 was -- if you picked out whatever item you wanted, there is a
2 "Buy It Now" button. You would hit buy it now, which would
3 take you to the payments page. If it was a running auction,
4 you would place a bid and place in your bid amount, and at the
5 conclusion of that auction time frame, you would be alerted to
6 if you won the item or not, and you would go through the
7 payment process at that time.

8 Q. If an individual -- let's focus on the auction aspect. If
9 an individual wins an auction, does eBay provide any
10 notification?

11 A. Yes. They would receive a message through their eBay
12 message but also their e-mail.

13 Q. Does eBay send e-mails for other reasons other than what
14 we talked about about the messaging system or indicating if
15 someone wins an auction?

16 A. Yes. eBay does send some advertisement e-mails, but also
17 if eBay were to take action on an account, whether we were
18 removing an item, suspending an account or restricting an
19 account, they would all receive messages from eBay as well.

20 Q. How about if a financial transaction occurs, does eBay
21 provide an e-mail in that scenario?

22 A. Yes.

23 Q. How is payment transacted for a purchase?

24 A. Once you go through the -- once you reach the payment
25 page, you would be able to put in your financial information,

1 whether that was a credit card or the PayPal account, and make
2 your payment through there.

3 Q. So does the system on eBay take you to like a financial
4 page where you upload your information?

5 A. That's correct.

6 Q. Does eBay handle the financial transactions?

7 A. No.

8 Q. That would be PayPal or the credit card company or someone
9 of that nature?

10 A. That is correct.

11 Q. Now, at some point in time, was eBay and PayPal the same
12 company?

13 A. Yes. We were companies up until a few years ago. We
14 split companies and went a different direction.

15 Q. As a result of that, having been the same company, was the
16 PayPal payment system built into the eBay system?

17 A. Yes.

18 Q. Does eBay employ a seller's rating system?

19 A. Yes. We have what we call a feedback system. After a
20 transaction has gone through on eBay, you can leave feedback
21 as a buyer towards a seller. Basically, there is a positive,
22 neutral or negative rating that you can give them, and then
23 you can leave a comment as well to explain how the transaction
24 went.

25 Q. What's the purpose of the seller rating system?

1 A. To give other buyers an indication how the transaction
2 went, so obviously, people look for accounts with a large
3 amount of feedback but also a large amount of positive
4 feedback as an indicator that most likely that the seller
5 would make good on the transaction and give good customer
6 service.

7 Q. Can a seller provide a tracking number, tracking
8 information for a package that he or she is sending through --
9 let me ask it this way: Can a seller provide tracking
10 information through the eBay system for a package he or she is
11 shipping to the buyer?

12 A. Yes. We do offer a service within eBay when you are
13 selling an item where you can actually upload tracking
14 information at any time as a seller.

15 Q. Again, I'm just going to ask that you pull the microphone
16 a little closer. Does the buyer receive the tracking
17 information through the eBay system?

18 A. Yes. They would receive an alert through eBay but also
19 their e-mail messages.

20 Q. Are you aware whether fraud occurs over eBay?

21 A. Yes.

22 Q. What are the most common types of fraud that occurs on
23 eBay?

24 A. The most common will probably be what we call item not
25 received fraud. That's pretty self-explanatory, but basically

1 when a buyer does not receive their item, that's probably our
2 most common. The next would probably be what we call
3 significantly not as described. That is when someone receives
4 an item that is not in the same condition that they were
5 expecting it in, but also, that would tie into counterfeit
6 items or things of that nature.

7 Q. Does eBay employ systems to detect fraud?

8 A. Yes.

9 Q. Are those systems 100 percent foolproof?

10 A. No.

11 Q. Does eBay have any reimbursement or fraud guarantee
12 policy?

13 A. Yes. We have what we call our eBay money-back guarantee.
14 Basically, if either a buyer or seller is defrauded, eBay
15 would make right on the claim and pay back the victim in that
16 situation.

17 Q. Who would take the loss in the case where eBay tries to
18 make the situation right?

19 A. eBay would take the loss.

20 Q. How does one notify eBay if they believe they are a victim
21 of fraud?

22 A. Through our claims process. The first step is we ask for
23 either the buyer or seller to reach out to the other person in
24 the transaction, so we ask, if the buyer were to open the
25 claim, we would ask them to reach out to the seller and give

1 them an opportunity to make the claim right. If the seller
2 did not respond, in that case, the buyer would be able to
3 reach out to eBay, and then we have an entire claims team that
4 would review the complaint.

5 So we look into both the seller and buyer information and
6 then all the different transaction details and then ultimately
7 make a determination who would be at fault in that claim and
8 issue a refund to the victim in that case.

9 Q. So eBay does its own investigation to see whether it's the
10 seller or the buyer who is at fault?

11 A. That is correct.

12 Q. Does eBay record and store as part of its regular practice
13 complaints or claims made and received?

14 A. Yes.

15 Q. What does eBay do to accounts that are involved in fraud?

16 A. We suspend them.

17 Q. Is that the same thing as an account being banned?

18 A. Yes.

19 Q. Does eBay record and store, as part of its regular
20 practice, information concerning the buying and selling of
21 items?

22 A. Yes.

23 Q. What type of information does that entail? What kind of
24 information do you guys maintain for those transactions?

25 A. There's the information that is uploaded by the user.

1 That would include the auction titles, the dates of auction,
2 the price that the auction was set for and then also the
3 tracking numbers if they decided to upload those, and then
4 there are -- there's other information that eBay captures that
5 would be IP information, machine ID information, and then also
6 we assign each item what we call an item number, which is
7 exclusive to that one particular transaction, so we can look
8 at that item in the future.

9 Q. Just to bring this into little pieces for us, when you
10 talk about auction title, and that's the item being offered
11 for sale; is that correct?

12 A. That is correct.

13 Q. And you guys record information concerning the item sold
14 and who purchased the item?

15 A. That is correct.

16 Q. Does the information include the price and the date and
17 time of the sale and the sales listing?

18 A. Yes.

19 Q. You mentioned something called machine ID.

20 A. Yes.

21 Q. What is machine ID?

22 A. Machine ID is a specific tool used by eBay, so it's our
23 internal lingo, but what a machine ID is is the first time you
24 log into eBay from your computer, eBay will download a cookie
25 back on to that computer, which basically is a unique, as you

1 would say, a unique identifier to that computer, and we would
2 assign it a number, and the purpose of that is if you were
3 logging in with different accounts from the same computer, it
4 would show us as the same machine ID so that way we know there
5 were multiple accounts being used on the same computer.

6 Q. Now, there's ways for individuals to delete all the
7 cookies off their computers, delete those types of
8 information; is that correct?

9 A. That is correct.

10 MR. KAISER: Objection.

11 THE COURT: I had my mind in neutral. Overruled.
12 Exception saved.

13 Q. In a scenario where the -- an individual cleaned off the
14 cookies off the computers, what would happen if they access
15 eBay's website again?

16 A. A brand new cookie would be assigned to that computer
17 which would give us a brand new machine ID number.

18 Q. And would then that information be stored with eBay's
19 information?

20 A. Yes.

21 Q. Is this information stored at or near the time of the
22 event or transactions happen and maintained and kept as part
23 of eBay's regular business?

24 A. Yes.

25 Q. Mr. Huhnke, did you provide eBay account records to Postal

1 Inspector Weckerly with regard to her investigation into this
2 case?

3 A. Yes.

4 Q. Did you receive certain records from Postal Inspector
5 Weckerly to help you know what accounts to help provide them?

6 A. Yes.

7 Q. What type of information did you receive in the beginning
8 of the investigation?

9 A. At the beginning of the investigation, Postal Inspector
10 Weckerly gave us a couple of eBay user IDs that she was
11 already able to confirm that she wanted information on, and
12 then a little bit later after that, she sent us what we know
13 as Click-N-Ship records from some of her documents.

14 Q. Did you subsequently receive additional information from
15 Inspector Weckerly?

16 A. Yes.

17 Q. What kind of records did you receive after that?

18 A. We know them to be documents that were pulled from the
19 defendant's computer.

20 Q. Were you able to identify eBay accounts associated with
21 the information provided by Postal Inspector Weckerly?

22 A. Yes.

23 Q. Did you review those accounts?

24 A. Yes.

25 Q. What, if anything, did you learn after reviewing these

1 accounts?

2 A. That they were all -- almost all of them were engaged in
3 fraudulent activity, and they all seemed to be following the
4 very same fraudulent behavior, so it looked like the same
5 person committing that fraud across all the accounts.

6 Q. What kind of fraudulent behavior did you observe?

7 A. Mostly it was going to be what we would call like the INR
8 or item not received fraud, where basically it looked like
9 they would list -- hide all their electronic items on the
10 accounts, and then buyers would later be opening claims or
11 complaints on those accounts saying that they never received
12 items that they purchased.

13 Q. Were the items offered for sale within the same general
14 price range for that type of item?

15 A. Yes. They were all very uniquely priced and in the same
16 kind of price range.

17 Q. You indicated that most of the accounts follow this
18 behavior. What about the other accounts that are outside of
19 that term most?

20 A. There were some brand new accounts, and those accounts did
21 not conduct any activity at all but were kind of linked or
22 they were following the same behaviors as the other accounts
23 before they committed that fraud, so it looked like they were
24 actually opened with the intent to commit fraud at a later
25 date.

1 Q. On the majority of these accounts, most of the accounts
2 that you are talking about, who took the loss in that fraud
3 scheme?

4 A. EBay did.

5 Q. What, if anything, did you do after receiving or
6 retrieving and reviewing records associated with these eBay
7 accounts?

8 A. We started our own investigation at eBay just due to the
9 amount of loss that we were suffering from these accounts and
10 the bad buying experiences, and since we were able to see that
11 it looked like the same individual opening these accounts, we
12 wanted to find kind of like the grand scope of that activity
13 going on, so we could figure out if there were more accounts
14 out there.

15 Q. Why was eBay concerned about identifying if there's more
16 accounts associated with this individual?

17 A. Once again, we were losing a lot of money on these
18 accounts, so we wanted to figure out what our total losses
19 were, but also they were causing bad buying experiences with
20 our different buyers, so we wanted to obviously try to stop as
21 much of that activity as we could.

22 Q. How did you identify accounts? How did you identify other
23 accounts that were related to the accounts that you had
24 already identified?

25 A. There were a couple of different steps that we went

1 through. The first step would be matching accounts by like
2 e-mail or shipping address, phone numbers, IP addresses to see
3 if there were other accounts opened with the same identifiers.

4 The second step, we actually built out what we called a
5 behavior model, but that looked at the very specific items
6 that were being listed along with their price ranges and other
7 identifiers to actually find out other accounts that were
8 following the same behavior as the accounts already
9 identified.

10 And then at that point, we reviewed each account one by
11 one to see if they actually belonged in that group of accounts
12 or not.

13 Q. How did you confirm, when you looked at these -- the
14 modeling side and you looked at each account one by one, how
15 did you confirm the accounts were indeed associated with the
16 initial set of accounts?

17 A. There were some very specific auction prices being used,
18 and so we were looking at the auction start price and then
19 also the specific items being listed. There were the same set
20 of electronic devices being listed, and then also there were
21 some unique items that weren't ever intended to be sold.

22 For example, some of the accounts would have baby toys or
23 stuffed animals, and so we were kind of following that process
24 to see if the new accounts were doing that as well.

25 Q. And was there anything, upon your review of each of the

1 accounts one by one, was there anything that was detectable
2 observationally that may not have been observable through the
3 computer systems?

4 A. We did notice some buying activity on the accounts where
5 they were purchasing different gold bars and they were being
6 shipped to an address and this address was the same address
7 across the different accounts, but it was broken up with
8 special characters, and so it would not link in our system
9 based off of what our filters and computer looks for, but to
10 the human eye when we were looking at it, we could see it was
11 the same address, just with extra characters added between the
12 letters or before and after the letters.

13 Q. In your process of reviewing each of these accounts one by
14 one, did you remove or eliminate accounts that did not meet
15 the criterias that could establish this was all from the same
16 person?

17 A. Yes.

18 Q. Based on the information provided by Postal Inspector
19 Weckerly and your analysis of other accounts, approximately
20 how many eBay accounts did you identify that were associated
21 with this fraud scheme from June 2015 to July 2016?

22 A. We identified more than 160 accounts.

23 Q. Mr. Huhnke, are you familiar with Government Exhibit EB1
24 to EB161 which includes subparts such as EB1.1 through EB1.4
25 through EB161.1 through EB161.3?

1 A. Yes.

2 Q. Have you had the opportunity to review these exhibits
3 prior to your testimony here today?

4 A. Yes.

5 Q. What are they?

6 A. These will be the eBay documents that we saw in our normal
7 course of business that were sent to Inspector Weckerly based
8 on the fraud scheme.

9 Q. So these are the accounts that you pulled related to the
10 fraud scheme based on Postal Inspector Weckerly's information
11 as well as your own analysis?

12 A. Yes.

13 Q. Let's discuss the subparts of EB1 through EB161 exhibits
14 first. For all the exhibits EB number whatever dot 1 subpart,
15 what is that?

16 A. I believe those will be what we call our user registration
17 files that basically show what is the current registered
18 information on the accounts.

19 Q. So that's the basic account information?

20 A. Yes.

21 Q. What are the other subparts dot 2, dot 3, dot 4?

22 A. Those would be selling files, buying activity files and
23 lastly our complaints files.

24 Q. Do all the exhibits have four subparts?

25 A. No.

1 Q. Why not?

2 A. Some of the accounts never had claim activity or buying
3 activity.

4 Q. Does any of the exhibits EB1 to EB161 have more than four
5 subparts for any exhibits?

6 A. I don't believe so.

7 Q. Is the information in Exhibits EB1 to EB161 and its
8 subparts information that eBay recorded and stored as part of
9 its regular practice?

10 A. Yes.

11 Q. Are these EB1 through EB161 and subparts records
12 maintained and kept as part of its regular course of eBay's
13 business?

14 A. Yes.

15 Q. Is the information in these exhibits created or stored at
16 or near the time of the activity it describes or when the
17 information was provided by the account holder?

18 A. Yes.

19 MR. DESAI: Your Honor, the government offers EB1 to
20 EB161 and all its subparts into evidence in bulk at this time.

21 MR. KAISER: No objection.

22 THE COURT: Admitted.

23 MR. DESAI: May they be presented to the jurors, Your
24 Honor? May they be shown to the jurors?

25 THE COURT: How are you going to do that?

1 MR. DESAI: I'm only going to show a few of them, but
2 we'll do it on the screen.

3 THE COURT: Okay.

4 Q. Mr. Huhnke --

5 THE COURT: Get it identified pretty specifically so
6 defense counsel can see what you are referring to.

7 MR. DESAI: Absolutely, Your Honor. Will do.

8 Q. Mr. Huhnke, before we get into showing the EB exhibits,
9 EB1 through EB164, only a few of them, I'm going to show you
10 what is marked as Government's Exhibit S3.

11 THE COURT: We're going take a break in now or 15
12 minutes from now. Anybody want it now rather than 15 minutes
13 from now? If so, raise your hand. No hands.

14 Q. Mr. Huhnke, do you know what Government Exhibit S3 is?

15 A. Yes.

16 Q. What is it?

17 A. This is a document that I created that explains how each
18 account was identified within this fraud scheme.

19 Q. For the EB1 through 161 exhibits, this is a summary
20 exhibit of how those accounts were identified by you?

21 A. That is correct.

22 MR. DESAI: Your Honor, government offers Government
23 Exhibit S3 into evidence at this time.

24 MR. KAISER: No objection.

25 THE COURT: Admitted.

1 MR. DESAI: May it be shown to the jurors?

2 THE COURT: You may.

3 MR. DESAI: Can you pull up Government Exhibit S3?

4 Q. Mr. Huhnke, can you explain to us what the five columns
5 are?

6 A. Yes. So the first column will be the eBay exhibit number.
7 The second column will include what eBay user name ID was
8 used. The alias will be the first and last name associated
9 with that account. The eBay e-mail address will be the e-mail
10 address used on that account, and then the how identified will
11 explain what steps or processes that account fell into when we
12 were doing our investigation.

13 Q. Just to be clear, the eBay user name alias and eBay e-mail
14 address columns relate to information associated with that
15 eBay account?

16 A. That is correct.

17 Q. And the last column is the column that expresses how you
18 went about your investigation and what you found?

19 A. Yes.

20 MR. DESAI: I'm going to move the screen up because
21 it's hard to see. I want every juror to see. Is that okay,
22 Your Honor?

23 THE COURT: That's okay. Is that better for the
24 jury? Is it worse? Raise your hand if it's worse.

25 A JUROR: No difference.

1 Q. Under the how identified, can you tell us what the
2 different listings are under that column?

3 A. Yes. The first line is machine ID. That will mean that
4 the account will share at least one machine ID link with at
5 least one other account in the subset of accounts.

6 The selling behavior means that that account was
7 identified through our selling behavior query, meaning that
8 that account was following the same model behavior.

9 The Click-N-Ship, that means that it was an account that
10 was located from Inspector Weckerly's Click-N-Ship records.

11 The buying address is an account that was shipping items
12 that was following that buying behavior with that specific
13 address and the added special characters.

14 Q. I think there's also further down --

15 A. Yeah. There's one called system links. This means that
16 within our system, that that account shared at least an e-mail
17 address, IP address, registration address for basically our
18 user registration. It would match at least one other account
19 within the subset.

20 Q. Would that include maybe financial information?

21 A. Yes, financial information as well.

22 Q. And I think there's -- if you go to the second page.

23 A. Yes.

24 Q. Go back and highlight that column. I think only five
25 lines down, there's something called defendant computer.

1 A. Yes. Those were pulled from -- or, our understanding is
2 they were pulled from the defendant's computer.

3 Q. And down at the very bottom on the last page, there is an
4 entry that says iPad, iPhone, photos.

5 A. Yes. We believed these came from the defendant's either
6 iPad or iPhone where there were some pictures taken and they
7 sent that to us. That included some user IDs as well.

8 Q. Just so we're clear, the defendant computer, iPad, iPhone
9 are records that were provided by Postal Inspector Weckerly?

10 A. That is correct.

11 MR. DESAI: Your Honor, I'm going to get into the
12 exhibits at this time, but if we're going to get a break, it
13 would probably be better to do it now.

14 THE COURT: No objection from the defendant?

15 MR. KAISER: No objection.

16 THE COURT: We'll be in recess until 21 after by the
17 clock on the wall. Let the jury stand now. Don't talk about
18 the case. Don't start making up your mind. Let the jury
19 stand down. Everyone else remain as you are.

20 (Recess taken.)

21 THE COURT: Jury is out. I prefer that you remain
22 seated unless I tell you otherwise, but that's no big deal.
23 We are in recess. You all can be at ease. You can stand or
24 sit. You can stand down if you want to.

25 (Recess taken.)

1 THE CLERK: This court is now in session.

2 THE COURT: You may proceed.

3 MR. DESAI: Thank you, Your Honor.

4 Q. Mr. Huhnke, we are going to return to EB1 to EB161. We
5 are not going to go through all the exhibits. We're just
6 going to go through six of them and their subparts. The first
7 one is going to be slower than everything because we want to
8 make sure we understand everything and the rest should go
9 quickly. We're going to start with EB2. We can pull up EB2.2
10 on the screen.

11 Mr. Huhnke, what is EB2.1?

12 A. This will be our registration information files based on
13 the specific account.

14 Q. And underneath the eBay logo and the global asset
15 protection thing, there's a little brief area of information
16 that's above the registration information. What is that?

17 A. This will show who requested the information, what date
18 they requested the information, what date eBay gathered the
19 information and then what time zone the report is in.

20 Q. The time zone is GMT?

21 A. That is correct.

22 Q. This is not information that's part of the account; is
23 that correct?

24 A. That is correct.

25 Q. It's just generated as a part of your process to provide

1 records to law enforcement?

2 A. Yes.

3 Q. As to the information below that where we start with the
4 boxes and the lines, that's the information that's part of the
5 account?

6 A. That is correct.

7 MR. DESAI: Let's take a look at the first portion
8 which is called registration information and highlight that,
9 expand that area out.

10 Q. What is -- we're going to walk through each of these
11 categories so you can identify it to us and tell us what the
12 actual information is on the -- in this account. What is user
13 ID?

14 A. That will be the eBay account ID. It is BENSOUS.9CM5JAX.

15 Q. Is this the user name that we've talked about a little bit
16 that is used to log into the account?

17 A. Yes.

18 Q. It's information that's created by the user?

19 A. Yes.

20 Q. And then there's a full name that's provided; is that
21 correct?

22 A. That is correct.

23 Q. And who supplies that information?

24 A. The seller or the account opener.

25 Q. And is that information verified by eBay?

1 A. No.

2 Q. What's the full name in this case?

3 A. Andrew Benson.

4 Q. And below that, we have an e-mail address; is that
5 correct?

6 A. That is correct.

7 Q. And what's the e-mail address and who would have supplied
8 that?

9 A. The e-mail address is ALBENSON1174@gmail.com and that
10 would be supplied by the account opener.

11 Q. And then the next section below that is -- looks to be
12 account info and shipping address; is that correct?

13 A. That is correct.

14 Q. And again, who would have provided that information?

15 A. The opener of the account.

16 Q. Below that is a phone number; is that correct?

17 A. That's correct.

18 Q. And again, that's supplied by the account opener?

19 A. Yes.

20 Q. The next section is a date of birth. Is that a required
21 field for opening an account?

22 A. No, it is not.

23 Q. And in this case, it indicates 0001. Do you know why it
24 says January 1?

25 A. I believe that's the first option when you were to put in

1 a date. That's what it populates to.

2 Q. It's a default option?

3 A. Correct.

4 Q. Below that, there's a registration date, registration
5 country and registration IP. What is that information?

6 A. It will show the date the account was registered, the
7 country in which the account was registered in and the IP
8 address that eBay captured when that account was created.

9 Q. We talked about IP a little. You used it when you were
10 identifying related accounts. Just briefly, to the best of
11 your knowledge, what is an IP address?

12 A. To my basic understanding, that would be basically a
13 number associated with your Internet provider or specific
14 Internet address that you were logging into from.

15 Q. So essentially like your address on the Internet?

16 A. Correct.

17 Q. This information registration date, country and IP, that's
18 not user inputted information; is that correct?

19 A. That's correct. That is information that eBay collects
20 when it's going through that process.

21 Q. And the next section down is called status.

22 A. Yes.

23 Q. Before we go, when was this account registered?

24 A. It looks like it was on May 20, 2015.

25 Q. The next section indicates status; is that correct?

1 A. That is correct.

2 Q. And what does status mean and what's the status in this
3 account?

4 A. The status will show what the current account status is.
5 So in this case, it is suspended, so that means in this
6 account, it is an account we have suspended. If the account
7 was currently active, it would be considered to be confirmed
8 or it would be called confirmed.

9 Q. At some point this account was confirmed but later
10 suspended?

11 A. That is correct.

12 Q. The next information below that, it says first active
13 suspension date. What's that information and when was that?

14 A. That will be when the account was actually suspended by
15 eBay. The date for that is January 4th, 2016.

16 Q. We'll get out of that registration information. Let's
17 look down at the next section which is, I think, called
18 financial information. What's in this section?

19 A. This will be the financial details related to the account.
20 Mostly on the outstanding balance due to fees. That will show
21 how much that account owes eBay based on their claims but also
22 their final value selling fees, and then the outstanding
23 balance due to claim will show how much that account owes eBay
24 based on only their claim data.

25 Q. In this case, what is the outstanding balance due to fees

1 and outstanding balance due to claim?

2 A. The outstanding balance due to fees will be \$1071.19. The
3 outstanding balance due to claim will be \$896.34.

4 Q. And is there a reason why one is negative and the other
5 one is not?

6 A. It's just the way that it's inputted into our system.

7 Q. So even though the top line shows a negative number and
8 the bottom line shows a positive number, it's really that's
9 the amount of money that's owed to eBay?

10 A. That is correct.

11 Q. The next section on the document, I think is called the
12 shipping address section. Let's go through the individual
13 sections. Let's go to user ID history and e-mail address
14 history.

15 What's being provided in this information?

16 A. This will show what the current user ID, the effective
17 date of that user ID, and then also it will show the e-mail
18 address that was provided and the dates that that e-mail was
19 effective on that account.

20 Q. And then the next section is called the contact
21 information history and the password history; is that correct?

22 A. That is correct.

23 Q. And essentially the same thing, when the passwords or the
24 contact information was provided to eBay?

25 A. That is correct.

1 Q. And then the next section says the shipping address
2 history. What's provided in this section?

3 A. This will be the addresses used to actually receive items
4 if you were a buying account and getting items shipped to an
5 address.

6 Q. What's the first address identify here? I guess the first
7 one that was put into the system, the one on the bottom.

8 A. The first address inputted, the name was Andrew Benson.
9 The street address was 1174 Waynoka Drive in Cleveland, Ohio
10 44118.

11 Q. And the one that's above that that's listed, what is that?

12 A. The name is Andrew Benson. The shipping address is 13940
13 Cedar Road, and then there are some different characters and
14 then surplus and then another character LLC, some more
15 characters and then number J2037 number 360, University
16 Heights, Ohio 44118.

17 Q. To be clear, when you talked about how there was
18 characters in the shipping address, is this what you were
19 referring to?

20 A. Yes.

21 Q. These I guess they are carets and asterisks? That's
22 placed randomly through the address.

23 A. That is correct.

24 Q. When you were going through reviewing the 161 accounts,
25 that's something that you noticed frequently throughout those

1 accounts?

2 A. That is correct.

3 Q. Again, who supplied the information, the shipping address?

4 A. That would be input by the operator of the account.

5 Q. Are the addresses verified in any way?

6 A. No.

7 Q. Last section on this is the billing history. What's
8 provided in this section?

9 A. This will be the -- basically the financial information on
10 the account. In this case, it looks like credit card numbers,
11 the address associated with those credit cards.

12 Q. And in this case, there was indeed credit card numbers
13 associated with the account?

14 A. That is correct.

15 Q. No bank account associated; is that correct?

16 A. That is correct.

17 Q. What's the type of card here? The credit card?

18 A. It looks like a Visa card.

19 Q. Do you know whether this information, the credit card that
20 could be provided could be a prepaid gift card like a vanilla
21 Visa gift card?

22 A. It can be, yes.

23 Q. That's essentially the account information; is that
24 correct?

25 A. That is correct.

1 Q. Let's go to EB2.2. Let's go to the first tab which is
2 called at the bottom "Report Overview." Mr. Huhnke, what is
3 this section?

4 A. This will be the cover page to the report that auto
5 populates similar to the user registration information.

6 Q. So this is information that's associated with the account
7 other than the user ID that's provided; is that correct?

8 A. That is correct.

9 Q. Is that the same user ID that we saw in EB2.1?

10 A. Yes.

11 Q. Let's go to the second tab, which is called "All
12 Listings." What's provided in this tab?

13 A. This will be the selling activity of that specific eBay
14 account.

15 Q. These are the items that that account sold or attempted to
16 sell?

17 A. Yeah, attempted to sell and sold.

18 Q. Why don't we walk through the columns first. Again, this
19 is going to be slow this first time through these documents
20 and then the other ones will go quickly. Walk us through the
21 different columns and we'll walk through this a little slowly.

22 What's the first couple of columns? What is that
23 information?

24 A. In column A, there will be the seller user ID. In column
25 B, that will be the specific item number associated with that

1 auction. Column C will show the auction type, which would be
2 the Chinese auction or a fixed price auction. Column D will
3 show the status of that auction.

4 Q. What does naturally ended mean?

5 A. That means that the auction went through its entire
6 auction time and ended naturally without being like removed by
7 eBay.

8 Q. What's the next one called title. What is that?

9 A. Yes, column E will be title. This will be the specific
10 auction title that was input for each item.

11 Q. So in this case, the account user Bensous.9 whatever put
12 on an auction a pink stuffed pig, the Samsung Galaxy Edge S6
13 white pearl, mint condition, a MacBook Pro and another Samsung
14 Galaxy Edge S6; is that correct?

15 A. That is correct.

16 Q. And the next two columns over, what is that telling us?

17 A. In column F, that will show the quantity that was listed.
18 In column G, that will show the column purchased, so if the
19 item sold, there will be a one in that column.

20 Q. So with the MacBook Pro, there's only one MacBook Pro
21 being sold and only one being purchased?

22 A. That is correct.

23 Q. And then the next section says item price and currency.
24 That's essentially the price of the item sold?

25 A. That is correct.

1 Q. The next couple of columns show different dates. One says
2 sales creation date time. The next one sale start date time,
3 sale end date time. Briefly what is that information telling
4 us?

5 A. So the sale creation date will be when the user was
6 actually creating the auction on eBay. The sale start date
7 will be when that auction started, you know, start time on
8 eBay, and then the sale end date will be either when the item
9 was purchased, or if no one purchased it, it would be the
10 conclusion of their auction time.

11 Q. And then the next column is a listing IP. What's that?

12 A. That will be the IP that eBay captured when the item was
13 being listed for sale.

14 Q. And then as you go over, it shows user ID, e-mail address,
15 full name, contact, state, province. What's this information?

16 A. This will be the buyer information. So in column N under
17 user ID, that will be the buyer ID that purchased the item.
18 Column O will be the e-mail address of that buyer ID. Column
19 P will be the full name, first and last name of the buyer of
20 that item, column Q will be the state that that buyer was
21 located in.

22 Q. As we look at the whole exhibit, the spreadsheet, if we go
23 back to the title and if we can get out to -- go back to the
24 title, the third row, the second row is the MacBook Pro,
25 correct?

1 A. Correct.

2 Q. The first two rows are the Samsung Galaxies.

3 A. The first and third.

4 Q. Yes, sorry. First and third row Samsung Galaxy. Do you
5 understand what a Samsung Galaxy is?

6 A. Yes.

7 Q. What is that?

8 A. That is a smartphone.

9 Q. Let's look at who actually purchased those items. So for
10 the MacBook Pro, who purchased the MacBook Pro?

11 A. It looks like the user ID is Elliottvmax which is Michael
12 Appley.

13 Q. He's located in Pennsylvania?

14 A. That is correct.

15 Q. And then the other two individuals who purchased the
16 Samsung Galaxy, looks to be Ismael Colin and Revaz Barbakadze.

17 A. That is correct.

18 Q. Just to be clear, this document shows, according to eBay's
19 record, Mr. Appley won the auction for the MacBook Pro and
20 paid \$880 was the price of that auction?

21 A. That is correct.

22 Q. Let's go to EB2.3. Again, the first tab is the report
23 overview tab. That's just the cover sheet again.

24 A. That is correct.

25 Q. And again, it just shows you that the user ID account

1 is -- that's the same as the 2.1 and 2.2?

2 A. That is correct.

3 Q. Let's go to the second tab titled "All Items Won By User."
4 We're going to do the same thing in this one. Again, bear
5 with us a little bit because I know the first one is going to
6 be slow. We're going to go through all the columns, and as we
7 do other ones, we'll move quicker. For us in this one, can
8 you walk us through the columns again?

9 A. Yeah. So column A once again that will be an item ID
10 which is the specific item number. Column B will be the
11 auction type. Column C, the status of the actual item.
12 Column D will include the auction title of the item.

13 Q. When it says "All Items Won By User," what is this
14 document telling us?

15 A. This will actually be the buying report of that specific
16 user ID.

17 Q. And in this case, it shows that this user account was used
18 to buy it looks to be a 20 gram gold bar Perth mint, one gram
19 gold bar, P-A-M-P Suisse and a Matrix Essentials Sleek Look 1
20 shampoo 8.5 ounces; is that correct?

21 A. That is correct.

22 Q. Let's go to the other side as we go to the other columns.
23 It indicates a quantity listed and a quantity purchased. What
24 does that mean?

25 A. Once again, the quantity listed will show how many of that

1 one item the seller said was available, and the quantities
2 purchased would be how many of that item that the buyer
3 purchased.

4 Q. And in this case, it is showing that there's two, one gram
5 gold bars purchased and one, 20 gram gold bar purchased; is
6 that correct?

7 A. That is correct.

8 Q. And one shampoo?

9 A. Correct.

10 Q. And the next columns, what are those?

11 A. So in column G, that will be the price. Column H will be
12 the currency. Column I will be the sale start date, and
13 column J will be the sale end date or when the purchase was
14 made, and then it looks like the next column will be the
15 bidding IP in column K.

16 Q. In this case, the column you talked about, the sale end
17 date, that's when the auction ended; is that correct? And so
18 even though this record doesn't show the actual date of the
19 purchase, something that eBay has. It's just this record
20 doesn't show the actual date of the purchase?

21 A. Correct.

22 Q. And then you have bidding IP, that's the IP of the account
23 user?

24 A. Correct.

25 Q. And then the next sections columns L, M and N, what are

1 those?

2 A. Those will be the selling IDs. So column L will be the
3 seller ID. Column M will be the e-mail address associated
4 with the seller ID, and column N will be the seller's first
5 and last name or business name.

6 Q. And in this case, the -- just focusing on the gold, the 20
7 grams of gold and the one gram of gold, we won't focus on the
8 shampoo, but focusing on the gold, it's purchased by Liberty
9 Coin?

10 A. That is correct.

11 Q. And they have an eBay account, and that's the e-mail
12 address eBay@LibertyCoin.com; is that correct?

13 A. Yes.

14 Q. As to the -- even though this document doesn't show the
15 actual purchase date, the purchase was done through PayPal.
16 Those records and the dates of those purchases would be shown
17 on PayPal's records; is that correct?

18 A. That is correct.

19 Q. Let's look at EB2.4, and again, the first tab is the
20 report overview, and again, this is just the cover sheet
21 that's provided for law enforcement but not of the account
22 information?

23 A. That is correct.

24 Q. Let's go to the tab. What is this section "eBay
25 Complaints"?

1 A. This will be our complaints filed, similar to the other
2 ones, but showing if a complaint was opened on that account.

3 Q. And was a complaint made in this case?

4 A. Yes.

5 Q. And again, we'll walk through the columns on this one.
6 Can you walk us through the columns, and in the future we'll
7 move through them much quicker?

8 A. Okay. Yes. So in column A, that will be the seller user
9 ID of the complaint. Column B will show if the account was
10 restricted at the time that the claim was made, so since it
11 says N, that means that the account was not currently
12 restricted at the time the claim was opened. Column C will
13 show the eBay account of the buyer.

14 Q. That's the complainant?

15 A. In this case, yes. Column D will be the buyer country.
16 Column E will show the buyer registration site.

17 Q. Just to be clear, who is the buyer that complained?

18 A. If you can go back, the user ID was Elliottvmax.

19 Q. Let's go to column F then. That's the item ID?

20 A. Correct, and then column G will be the auction title for
21 that item. If you keep going over, we have, in column H, the
22 price of the item. Column I will be the currency of that
23 item. Column J will show the auction type. Column K will
24 show the item sale end date.

25 Q. That's when the person won the bid?

1 A. Correct.

2 Q. As we scroll through a little further.

3 A. Column L will be a transaction ID number. Column M will
4 be a transaction date. Column N will be transaction site, and
5 column O will show the payment method.

6 Q. In this case, the payment was through PayPal?

7 A. That is correct, and then column P will be external
8 transaction ID number. Transaction type will be in column Q.
9 Column R will have transaction hold status. Column S will
10 show the shipping fee for the item. Column T will show the
11 transaction currency. Column U will be a specific claim ID
12 associated with this complaint. Column V will show when the
13 claim filing date was. Column W will show who -- the claim
14 initiated party. Column X will show the open reason or the
15 claim open reason. Column Y will show the claim seller
16 response, yes or no. Column Z will show the count of claim.
17 Column AA will show claim type.

18 INR, once again, for eBay lingo, means item not received.
19 Column AB will show the claim subtype. Column AC will show the
20 claimant.

21 Q. That amount is slightly over the 880 for winning the bid;
22 is that correct?

23 A. That is correct.

24 Q. Does that include the shipping and handling fees?

25 A. I believe so, yes. Column AD will be the currency type.

1 Column AE will show the currency in U.S. dollar. Column AF
2 will show who the claim -- how it was closed, so it shows
3 seller fault here, which means when our claims team reviewed,
4 they determined that the seller was at fault in this claim.

5 Column AG will show when the claim close date was. Claim
6 AH will show the claim reason, which this one shows buyer wins
7 seller fault, so that means a refund was made to the buyer.

8 Column AI will show the claim state. Column AJ will be
9 claim status. Column AK will be PayPal claim ID, which would
10 capture if there was potentially a PayPal claim. Column AL
11 will show related claim type. Column AL will show claim
12 resolution before appeal. Column AM shows claim resolution
13 after appeal. Column AO will show claim EBP covered.

14 Q. I'm going to ask about that. What does it mean by saying
15 "EBP covered"?

16 A. So that covers basically our eBay money-back guarantee. I
17 think by this time, we called it eBay buyer protection, but
18 that's showing that the claim was covered by our eBay buyer
19 protection or eBay money-back guarantee protection.

20 Column AP will show if the refund was automated or not.
21 Column AQ will show if there was a voluntary refund made.

22 Q. Let's go to AS. Let's do the refund channel. What does
23 that mean?

24 A. That will be how the payment was refunded.

25 Q. In this case, who refunded the victim?

1 A. I believe it was eBay.

2 Q. Let's scroll ahead a little bit to get some other columns
3 here. What's the payout date and payout amount, column AV and
4 AW?

5 A. Payout date was November 19, 2015. The payout amount was
6 \$896.34.

7 Q. Let's scroll through a couple of these. The end of this,
8 it says, "Recoup amount in U.S." and "Net loss amount."

9 What do those last two columns mean?

10 A. The recoup amount will be if there were any funds that
11 were held in PayPal or on eBay and we were able to recoup that
12 money back. The net loss amount will be the total amount lost
13 that eBay suffered from this particular claim. So in this
14 case, all \$896.34. None of that was recouped, so it was a
15 total loss of \$896.34.

16 Q. How would eBay recoup the amount in a scenario?

17 A. So with our partnership through PayPal, if there were
18 holds in the PayPal account, they would be able to essentially
19 send that money back to eBay.

20 Q. In this case, there was no money left in the PayPal
21 account for eBay to recover?

22 A. Correct.

23 Q. So the whole loss on this claim was sustained by eBay?

24 A. That is correct.

25 Q. All right. We're going to jump to Exhibit EB1.1, and as

1 promised, we're going to go through these a lot quicker.

2 Let's look at the registration information on EB1.1.

3 Mr. Huhnke, what is the user ID full name, e-mail address
4 and registration date in this account?

5 A. So the user ID will be KCSKEV5. The full name is Kevin
6 Smith. The e-mail address is KCSMITH2397@gmail.com and you
7 asked the registration date?

8 Q. Yes.

9 A. That would be September 20, 2015.

10 Q. In this one, the account was -- status is now currently
11 suspended and it indicates that the account was suspended on
12 January 8, 2016; is that correct?

13 A. That is correct.

14 Q. Let's go to the financial section bottom of the page. In
15 this case, it shows an outstanding balance due to fees of
16 \$83.01 and zero dollars on outstanding balance due to claim.
17 Can you explain that?

18 A. Yeah, so in this case since there's an outstanding balance
19 due to fees, these would mean that the negative \$83.01 is
20 going to be based on the final value fees, so when the item
21 was sold, the fees associated with those, those are never
22 paid, so that's where there's an negative account balance
23 here.

24 Since there's a zero balance on the outstanding balance
25 due to claims, that means that there is no money owed on this

1 account due to claims.

2 Q. EBay didn't take a loss on this account other than the
3 fees?

4 A. That's correct.

5 Q. Let's go to the shipping address section again.

6 THE COURT: We're going to take a ten minute break
7 here. Ladies and gentlemen, it's awfully hard to have a ten
8 minute break, but let's try to start back at ten after. Don't
9 talk about the case or anybody involved in it. Don't start
10 making up your mind. Let the jury stand down. Everyone else
11 remain as you are.

12 (Jury excused.)

13 THE COURT: The jury is out. I'm not saying you are
14 boring, but I noticed two jurors were kind of nodding so I
15 thought we should take a quick break.

16 MR. DESAI: I appreciate that, Your Honor.

17 THE COURT: We are in recess. By the way, are we
18 going to be able to end at 5:00 today without any problem?

19 MR. DESAI: Yes.

20 THE COURT: Do you have everything blocked for
21 tomorrow so we could be out by 4:00 or 4:30?

22 MR. DESAI: Yes, Your Honor.

23 THE COURT: We are at recess. Be at ease.

24 (Recess taken.)

25 THE CLERK: Remain seated. This court is now in

1 session.

2 THE COURT: You may proceed.

3 MR. DESAI: Thank you, Your Honor.

4 BY MR. DESAI:

5 Q. Mr. Huhnke, we were looking at Exhibit EB1.1 with a user
6 account KCSKEV5 with a full name of Kevin Smith. The person
7 who created this account on the shipping address provided
8 Kevin Smith, 2397 School, New Milford, PA 18834 as its
9 address; is that correct?

10 A. That's correct.

11 Q. There's no billing or credit card numbers associated to
12 this account?

13 A. Correct.

14 Q. Let's take a look at EB1.2. Again, the first thing is the
15 report overview which, as what we've talked about before, is
16 just a cover sheet?

17 A. Correct.

18 Q. And the user ID is the same as we looked at on 1.1,
19 correct?

20 A. That's correct.

21 Q. Let's go to the second tab, the all listings tab.
22 Mr. Huhnke, can you tell us what's the items being listed by
23 the user KCSKEV5?

24 A. Looks like there was an iPhone 6S plus 128 gig black and
25 two baby toy clown rattles.

1 Q. Let's focus on the iPhone. As you scroll down through, it
2 looks to be -- according to the quantities offered and
3 purchased, it looks like there's one phone that was purchased
4 and no baby rattles?

5 A. That is correct.

6 Q. As we go through, what was the -- we're going to focus
7 only on the phone. What was the price of the winning bid on
8 that?

9 A. \$814.

10 Q. And when was that -- when did the auction end?

11 A. December 3rd, 2015.

12 Q. And who was the buyer?

13 A. Looks like the buyer ID was Rockinrays. His name was RM
14 Offner from Pennsylvania.

15 Q. Is that Ray?

16 A. Ray.

17 Q. Ray Offner from Pennsylvania. Let's take a look at
18 Government Exhibit EB1.3, and this is again -- the first page
19 is just the cover sheet?

20 A. Correct.

21 Q. And the user ID is the same as we've seen before?

22 A. Yes.

23 Q. Let's look at the complaints. In this case, there was no
24 complaints?

25 A. Not on eBay, no.

1 Q. If a complaint is made to PayPal, would it show up on
2 eBay's system?

3 A. No.

4 Q. Let's take a look at EB3.1. Again let's focus in on the
5 registration section. What is the user ID, full name and
6 e-mail address associated with this account?

7 A. The eBay user ID is NSCCONNIC. The full name is Nicholas
8 Constantine. The e-mail address is
9 NSCONSTANTINE36638@gmail.com.

10 Q. It looks like the account was created in August of 2015
11 and subsequently suspended in January of 2016; is that
12 correct?

13 A. That's correct.

14 Q. Let's take a look at the financial information below.
15 Here we see outstanding balance due to fees of \$528.76; is
16 that correct?

17 A. That is correct.

18 Q. If we go to the second page, at the very top, it's showing
19 that the outstanding balance due to claim was \$480.04?

20 A. That is correct.

21 Q. Again, just explain briefly why it's more with the fee
22 versus the claim?

23 A. Again, the outstanding balance due to claim will only show
24 the balance related to fees based on claims, where the
25 outstanding balance due to fees will show the claim balance

1 plus the final value selling fees balance.

2 Q. This is the amount that's owed to eBay?

3 A. That is correct.

4 Q. Let's take a look at the bottom of page 2. It says down
5 there shipping address history. I think it wraps over on to

6 page 3. Let's take a look at that. Mr. Huhnke, the bottom
7 address, it looks like the user of the account identified a
8 shipping address of 7 Rose Avenue, Mobile, Alabama, correct?

9 A. Correct.

10 Q. There's a subsequent address provided above that?

11 A. Correct.

12 Q. That's 13940 Cedar Road, J1030 number sign 360R.S. caret
13 surplus caret LLC, Cleveland, Ohio 44118; is that correct?

14 A. That's correct.

15 Q. Is that an address you have seen previously in one of the
16 exhibits?

17 A. Yes.

18 Q. That was in the eBay account No. 2, EB2.1?

19 A. That is correct.

20 Q. Just to be clear here, those carets that are in there, the
21 characters that are in there, that was intended to defeat your
22 automated system to identify and link or associate different
23 accounts based on --

24 MR. KAISER: Objection.

25 Q. Based on the carets and the other symbols there, what was

1 the purpose of that, to your understanding?

2 A. When we see symbols like this, it causes our internal
3 systems to not be able to match accounts based on their
4 address, and so we think it would be to avoid that automated
5 detection of accounts using the same address.

6 Q. Let's go to Government Exhibit EB3.2 and let's just go
7 right to the all listings tab. What's identified in the all
8 listings tab?

9 A. This will be the selling activity based on that specific
10 account.

11 Q. And the seller here is NSCCONNIC; is that correct?

12 A. That is correct.

13 Q. That's what we saw on EB3.1?

14 A. Yes.

15 Q. What is this individual selling on eBay?

16 A. Looks like there are two different auction titles. Both
17 of them are for a Samsung Galaxy S6 Edge 120 gig.

18 Q. Were there winning -- how many were there being sold and
19 was there a winning bid for it?

20 A. Each auction only had one quantity and each auction sold
21 that.

22 Q. The first one, the bottom one sold for \$425 and the second
23 one sold for 465; is that correct?

24 A. That is correct.

25 Q. And if we scroll across a little more, the auction -- I

1 guess the one that sold for \$465, the auction ended on October
2 26, 2015?

3 A. I believe October 20th, 2015 -- no. Excuse me. October
4 26, yes.

5 Q. The one sold for \$425 sold on October 27 before the
6 auction closed in 2015.

7 A. That's correct.

8 Q. Can you identify who purchased the Samsung Galaxy phones?

9 A. There were two different buyers. The first buyer is
10 MSGNR Eric Dirksen out of Arizona. The next user ID is
11 PPE-PPA-L2PWTIV which is Mirian Merabishvili.

12 Q. The first one was sold to Mr. Dirksen?

13 A. Yes.

14 Q. Let's take a look at EB3.3. This is the spreadsheet
15 titled all items won for that same user account associated
16 with Nicholas Constantine?

17 A. That's correct.

18 Q. What did this user purchase?

19 A. Looks like they purchased one ounce Silvertowne Eagle
20 silver bar, ten gram gold bar and a one gram gold bar.

21 Q. And the -- as to the Silvertowne Eagle silver bar, that
22 cost \$18.56?

23 A. That's correct.

24 Q. And the ten gram gold bar cost \$398.52?

25 A. That's correct.

1 Q. And the one gram gold bar cost \$50.37?

2 A. That's correct.

3 Q. And where were these items purchased at? Focusing on the
4 bottom two items, where were the gold bars purchased at?

5 A. If you scroll to the right, please, looks like they were
6 purchased from Liberty Coin.

7 Q. And the Silvertowne Eagle silver bar was purchased from
8 Golden Eagle Coin?

9 A. Correct.

10 Q. Let's take a look at Government Exhibit 3.4. This is the
11 eBay complaints spreadsheet; is that correct?

12 A. That is correct.

13 Q. That's associated with the NSCCONNIC account, correct?

14 A. That is correct.

15 Q. And the buyer who issued -- filed the complaint was
16 MSGGNR?

17 A. That is correct.

18 Q. And what was the nature of this complaint as you scroll
19 through?

20 A. Looks like it was opened on the Samsung Galaxy S6 that was
21 priced for \$465.

22 Q. It was paid through PayPal as a method of payment on that
23 one?

24 A. That is correct.

25 Q. If we keep scrolling to the right, what is the claim type?

1 A. The claim opened here is significantly not as described.

2 Q. Why is this one significantly not as described as the
3 prior claim was slightly different?

4 A. So there's some different ways that might happen. For
5 significantly not as described, if you receive an envelope and
6 that envelope might have a paper clip or essentially empty,
7 since you technically received something, even though it is
8 not what you ordered, in this case if you ordered a Samsung
9 Galaxy but then received a paper clip, since you received
10 something, we would still open that as a significantly not as
11 described case, rather than an item not received case.

12 Q. So essentially, it's the person who is at eBay who
13 receives a complaint either prints it as significantly not as
14 described or item not delivered?

15 A. Not received.

16 Q. What happened as a result of this complaint, if we scroll
17 through?

18 A. It looks like the claim was opened for \$480, and we found
19 that the claim was closed as the buyer wins seller fault.

20 Q. As we get to the end, we see EBP covered again. That
21 means eBay would cover the cost?

22 A. Yes.

23 Q. If you go all the way to the end of the spreadsheet, at
24 this point, it says the recoup amount and net loss, what is
25 that again and who took a loss on this?

1 A. The recoup amount is zero dollars. That means we are
2 unable to collect any money to pay for that claim. The net
3 loss amount is \$480.04 which just shows what the loss was to
4 eBay for that specific claim.

5 Q. Let's go to the next exhibit, Government Exhibit EB4.1.
6 Let's focus on the registration information. Mr. Huhnke, is
7 the user name for this account CJCCLA4?

8 A. The user ID, yes.

9 Q. And that's the user name that the person would have used
10 on the account?

11 A. Yes.

12 Q. And what is the full name and e-mail address?

13 A. The full name will be Claude Clark. The e-mail address is
14 CJCLARK-912@gmail.com.

15 Q. And the account was registered and opened in September
16 2015 and suspended in January of 2016; is that correct?

17 A. That's correct.

18 Q. Take a look at the financial information at the bottom of
19 the page. Again, there's outstanding balances; is that
20 correct?

21 A. That's correct.

22 Q. There's \$550.44 in outstanding balance due to claim and
23 outstanding balance due to fees is \$606.31?

24 A. That's correct.

25 Q. And that's money that's owed to eBay?

1 A. Yes.

2 Q. Let's take a look at the shipping address. Mr. Huhnke,
3 the top shipping address listed there is again the 13940 Cedar
4 Road address; is that correct?

5 A. That's correct.

6 Q. That's the same address identified in Government Exhibit
7 EB2.1 and 3.1?

8 A. That is correct.

9 Q. And again, it has some weird characters in it, does it
10 not?

11 A. Yes, it does.

12 Q. Let's take a look -- you see billing history at the
13 bottom. I think it wraps over to the next page. There
14 appears to be some credit card numbers associated to this
15 account; is that correct?

16 A. That's correct.

17 Q. Again, those could be prepaid vanilla Visa gift cards?

18 A. That's correct.

19 Q. Let's take a look at the all listings item on Government
20 Exhibit EB4.2. The seller here, account name of CJCCLA4
21 placed some items on a Chinese auction on eBay; is that
22 correct?

23 A. That's correct.

24 Q. What was the items offered for sale?

25 A. It looks like there was a puzzle toy cylindrical magic

1 with black edges, an iPhone 6S 128 gig and another puzzle toy.

2 Q. None of the puzzle toys sold?

3 A. That's correct.

4 Q. Let's focus on the iPhone. One iPhone was offered for
5 sale and one was purchased, correct?

6 A. Correct.

7 Q. What was the item price and when did the purchase occur?

8 A. The item price was \$535. It was purchased on November 24,
9 2015.

10 Q. Who was the person who was the winning bidder? Who was
11 the buyer of this?

12 A. The user ID was Bigpapapablo. Their full name is Pablo
13 Bejarano.

14 Q. From Virginia?

15 A. That's correct.

16 Q. Let's go to EB4.3, and again, this is the items purchased
17 by the account that we were looking at, correct?

18 A. Correct.

19 Q. What are the items purchased and the quantities and items?

20 A. Looks like there was a ten gram gold bar, a one gram gold
21 bar, a one troy ounce Buffalo fine silver bar and some
22 Snyder's honey mustard and onion sour dough pretzels.

23 Q. We're going to ignore the pretzels and focus on the gold
24 and silver. It looks to be that there's one gram of the --
25 only one of the ten gram gold bars were purchased and two of

1 the one gram gold bars and the one of the one troy ounce
2 Buffalo silver; is that correct?

3 A. I believe there were three of the one gram.

4 Q. I apologize. Yes, three. What was the prices on each of
5 those items?

6 A. \$362, \$255 and \$631.

7 Q. Item price?

8 A. \$398.52, \$50.37 and \$21.24.

9 Q. From whom was the item purchased from?

10 A. It looks like the first two purchases were from Liberty
11 Coin and then the last purchase was Pinehurst Coins.

12 Q. Let's take a look at EB4.4 and go to the complaints tab.
13 Is there a complaint filed against the seller CJCCLA4?

14 A. Yes, there is one complaint opened.

15 Q. That was by Bigpapapablo; is that correct?

16 A. That's correct.

17 Q. That related to, as we scroll over to the right, related
18 to the iPhone that was purchased for \$535?

19 A. That's correct.

20 Q. As we scroll to the right, what was the result of this
21 claim?

22 A. It looks like it was opened as a significantly not as
23 described claim. If you can keep scrolling to the right, it
24 looks like it was closed. The buyer win seller fault.

25 Q. Did eBay reimburse the user name of Bigpapapablo,

1 Mr. Pablo Bejarano?

2 A. It looks like it was covered by a protection plan, yes.

3 Q. If we go all the way to the end of the spreadsheet, were
4 you able to recoup any of the money, and what was your net
5 loss?

6 A. We were unable to recoup any money. The net loss was
7 \$550.44.

8 Q. We have just two more of these to go through. We'll try
9 to go through them quickly. Let's look at Government Exhibit
10 EB6.1. If you can just identify the user ID, full name and
11 e-mail address.

12 A. User ID is JOSHBYRA_T9RXDVNDD. The full name is Joshua
13 Bryant. The e-mail is JKBRYANT180@gmail.com.

14 Q. And the account was opened in May of 2015 and suspended in
15 January of 2016?

16 A. That is correct.

17 Q. As we look at the financial information, it indicates
18 there is money owed to eBay?

19 A. That is correct.

20 Q. \$446.44 in money owed, plus the fees?

21 A. Correct.

22 Q. And if we go to the second page at the top, the amount
23 owed without fees is \$350?

24 A. Correct.

25 Q. Let's take a look at the shipping address at the bottom.

1 Mr. Huhnke, is that the same shipping address, at least -- is
2 that the same shipping address that you've seen in EB2.1, 3.1,
3 4.1?

4 A. Yes, it is.

5 Q. Let's take a look at the billing history which is on the
6 third page. Is there credit card numbers associated to the
7 account?

8 A. Yes, there are.

9 Q. It looks to be a second shipping address or a second
10 address associated to the account that's located in
11 New Brunswick, New Jersey; is that correct?

12 A. That is correct.

13 Q. If we pop out of there, you see on the top of this third
14 page, that's the shipping address as it wrapped around the
15 New Brunswick address, correct?

16 A. That is correct.

17 Q. Let's take a look at Government Exhibit EB6.2 and go to
18 the all listings tab. Again, Mr. Huhnke, the first tab is
19 just information you provide to law enforcement, right?

20 A. That is correct.

21 Q. What items did the seller here, Josh BRYA_ and a set of
22 other numbers and letters, what did that individual offer to
23 sell?

24 A. Looks like they sold -- or listed a stuffed monkey, an
25 iPhone 6S space gray, 128 gig, and a Samsung Galaxy S6 Edge

1 128 gig.

2 Q. The stuffed monkey didn't sell, correct?

3 A. Correct.

4 Q. One of the iPhones and one of the Samsung Galaxies was bid
5 upon and there was a winning bid?

6 A. That's correct.

7 Q. And the -- as to the Samsung Galaxy phone, the winning bid
8 was \$335?

9 A. That is correct.

10 Q. And the iPhone was \$580?

11 A. Correct.

12 Q. As we scroll to the other side of this, the Samsung
13 Galaxy, the sale ended on November -- the auction ended on
14 November 22nd, 2015 and the iPhone was November 21st, 2015; is
15 that correct?

16 A. That's correct.

17 Q. Who are the buyers? Let's look at the Samsung Galaxy
18 first which is the bottom entry. Who is the buyer?

19 A. Looks like -- do you want the user ID and name?

20 Q. User ID and the full name.

21 A. The user ID is the Fergieferg1987. Their name is Darleen
22 Ferguson.

23 Q. How about for the iPhone?

24 A. Russteach76, Randall Ulloa.

25 Q. Let's take a look at 6.3 at the all items won tab. Again,

1 this is the items purchased by the user of the account that we
2 were just looking at.

3 A. That is correct.

4 Q. And what were the items purchased by this individual?

5 A. There was a five gram gold bar, a Vipertek VTS 989,
6 Vipertek mini stun gun, one gram Perth mint gold bar, and some
7 Steaz iced tea.

8 Q. We're just going to focus on the gold on this to try to
9 move this a little quicker. How many -- if we scroll over one
10 more column, it looks like there's two one gram Perth mint
11 gold bars purchased and one five gram gold bar purchased; is
12 that correct?

13 A. Correct.

14 Q. That was \$206.57 for the five gram gold bar and \$48.72 for
15 the two one gram bars?

16 A. Correct.

17 Q. And as we go down across, who was -- the top line is the
18 five gram gold bar. That was purchased from Liberty Coin?

19 A. Correct.

20 Q. And the one gram Perth mint gold bar was purchased from
21 Bay Precious Metals?

22 A. That is correct.

23 Q. Let's look at Government Exhibit EB6.4. This is the
24 complaints that might be associated with that account; is that
25 correct?

1 A. That is correct.

2 Q. In this case, there appears to be two complaints?

3 A. That is correct.

4 Q. Both the Fergieferg1987 and Russteach76, both?

5 A. That is correct.

6 Q. Instead of us going through all this, why don't we scroll
7 all the way to the end. It looks like eBay took a loss on the
8 complaint claim made by the Fergieferg?

9 A. That is correct.

10 Q. And that was for \$350?

11 A. That's correct.

12 Q. Less go backwards just a little bit to see what the claim
13 types were. Both -- let's stop right here.

14 It indicates that -- the first one indicates for the
15 Fergieferg eBay payment, EBP covered and the second one,
16 forced reversal; is that correct?

17 A. That is correct.

18 Q. I take it that means the first one was eBay paying. What
19 does the second one mean, forced reversal?

20 A. I believe that means that PayPal forced a return or the
21 money back into the buyer's account.

22 Q. There's still some money left in the account that PayPal
23 was able to send back to that victim, but for the first
24 victim, there's no money to send back?

25 A. That is correct.

1 Q. Last one. Let's go to EB15. What's the user name, full
2 name and e-mail address on this one?

3 A. The user ID is ROBE.BUSB. The full name is Robert Busby.
4 Their e-mail address is RKBUSBY20317@gmail.com.

5 Q. And the account was opened in July of 2015 and suspended
6 in August of 2016?

7 A. That is correct.

8 Q. And as you go down to the financial information, it looks
9 as though there's no outstanding balance due to claim but that
10 eBay is out \$84.02 for fees?

11 A. That is correct.

12 Q. Again, let's take a look at the shipping address. The
13 first address was put in as a Robert Busby in Detroit,
14 Michigan; is that correct?

15 A. That's correct.

16 Q. And the second address is the same address we have been
17 seeing, the 13940 Cedar Road address?

18 A. That is correct.

19 Q. Let's go to the bill history section, and there are credit
20 cards associated with this account.

21 A. That is correct.

22 Q. Let's go to 15.2. This is the all listing items, all
23 items listed for sale by this user.

24 A. That is correct.

25 Q. You'll notice on the title, there's numerous titles that

1 say red binder paper clip, correct?

2 A. Correct.

3 Q. None of those sold?

4 A. That is correct.

5 Q. Let's focus on the other two. There looks to be a Nikon
6 D4 digital SLR camera and a Canon EOS 5d mark III, looks to be
7 another digital SLR camera, correct?

8 A. That is correct.

9 Q. As you go through, the winning bid for the first camera
10 was \$810 and the second camera was \$1825?

11 A. That is correct.

12 Q. As you go down across the date of the auction, the one for
13 the \$810 for that camera was June 21st, 2016 and for the \$1825
14 camera, it was May 10, 2016, correct?

15 A. That is correct.

16 Q. The winning buyers were, for the \$810 camera, Willfred
17 Rodriguez using the user ID of DOMINICKJR?

18 A. That is correct.

19 Q. And for the other camera, the \$1825, it's Michael Grysko,
20 G-R-Y-S-K-O. His user name was GRYSK_MICHA?

21 A. That is correct.

22 Q. Let's go to 15 .3, all items won. Again, these are the
23 items purchased by that user?

24 A. That is correct.

25 Q. What is purchased?

1 A. There's a ten gram gold bar, a five gram gold bar, a one
2 gram gold bar and a one ounce silver bar.

3 Q. If you go all the way to the end, who is it purchased
4 from?

5 A. All purchases were made from Liberty Coin.

6 Q. Let's just look at EB15.4. Go to the complaint section.
7 It looks like the complaint was filed by the GRYSK_MICHA
8 account against that seller?

9 A. That is correct.

10 Q. And if we go all the way to the end, there is no net loss
11 or recoup amount on this one?

12 A. That is correct.

13 Q. And if we go to the type of complaint, INR. What does
14 that mean again?

15 A. Item not received.

16 Q. So this individual did not receive their item. Did eBay,
17 if we scroll over just a little bit again, it says, "Closed
18 seller full refund." What does that mean in the AH column?

19 A. That means that the seller made a refund to the buyer.

20 Q. Let's close out of that one. Mr. Huhnke, is EB1 through
21 EB161 also of that nature?

22 A. Yes.

23 Q. They just identify other eBay accounts and provide account
24 information and purchase histories and sales histories for the
25 different eBay accounts?

1 A. That is correct.

2 Q. Upon reviewing EB1 to EB161 can one identify -- let me ask
3 you this first: What is eBay's account policy for -- eBay's
4 policy for selling eBay accounts?

5 A. We do not allow the sale of eBay accounts.

6 Q. Do you know if people do sell eBay accounts?

7 A. Yes.

8 Q. And what kind of accounts are typically sold and why would
9 people buy accounts?

10 A. Normally, the accounts that are sold are accounts that
11 have a high amount of feedback because they have an added
12 trust rating to it.

13 Q. And how about if, like, a company buys another company
14 out?

15 A. Yes. We do have a policy where we do allow the sale of
16 eBay accounts, but that is only based on if a business is
17 being sold, so I guess an easy example would be if Best Buy
18 had an account and the owner of Best Buy sold Best Buy, the
19 buyer of that company would be able to take over the Best Buy
20 eBay account.

21 Q. But if individual accounts are sold, that's not permitted?

22 A. Right, that's against our policy.

23 Q. How about brand new accounts without any selling history?
24 Are those frequently types of accounts that are sold?

25 A. No.

1 Q. Why not?

2 A. There's no value behind them. Basically a brand new
3 account, anyone can open them and they are free to make
4 already, so I don't see why anyone would bother selling one.

5 Q. Going back to EB1 through EB161, can you go through those
6 records and identify the financial loss to eBay?

7 A. Yes.

8 Q. I'm going to show you what's marked as S4. Mr. Huhnke, do
9 you know what this is?

10 A. Yes.

11 Q. What is it?

12 A. This is a document that I made that will show what the
13 total loss to eBay is based on each exhibit number.

14 Q. Who created this?

15 A. I did.

16 Q. Was it based on EB1 through EB161?

17 A. Yes.

18 MR. DESAI: Your Honor, government offers S4 into
19 evidence.

20 MR. KAISER: No objection.

21 THE COURT: Admitted.

22 MR. DESAI: May it be shown to the jurors?

23 THE COURT: You may.

24 Q. Let's walk through the columns real quick on this one.

25 A. Yes. So the first column will be the EB exhibit number.

1 Column B will be the eBay user name or user ID. Column C will
2 be the alias which includes the first and last name. Column D
3 will be the eBay e-mail address and column E would be net loss
4 which will show what the total loss is to eBay without
5 including the claims -- or sorry, the fee amounts.

6 Q. So this is the net loss, not including the fees?

7 A. Correct.

8 Q. And how about recouping money?

9 A. If any money is recouped, it would not be included here.
10 This will just be total losses based on claims.

11 Q. And as we scroll down through this document, there's
12 multiple pages; is that correct?

13 A. That is correct.

14 Q. Did you at some point calculate the total loss based on
15 the spreadsheet?

16 A. Yes.

17 Q. What was the approximate amount of loss sustained by eBay
18 from these 161 accounts?

19 A. There was more than \$80,000 in losses.

20 MR. DESAI: At this time, Your Honor, the government
21 has no further questions of Mr. Huhnke.

22 CROSS-EXAMINATION

23 BY MR. KAISER:

24 Q. Mr. Huhnke, I'm Mark Kaiser. I represent the defendant in
25 this case. I'm going to ask you a bunch of questions. Okay?

1 A. Okay.

2 Q. If there's anything I ask you that you don't understand,
3 please have me repeat it. Okay?

4 A. Okay.

5 Q. I'll speak into the microphone. You understand the
6 defendant has been indicted here on two counts?

7 A. Yes.

8 Q. Were you informed about that?

9 A. Yes.

10 Q. Two counts here in Pennsylvania, correct?

11 A. I just know he's indicted.

12 Q. Two counts?

13 A. Okay.

14 Q. And so as far as you know, has he been charged with a
15 crime on any of these other --

16 MR. DESAI: Objection, Your Honor. Can we have a
17 quick sidebar on this?

18 THE COURT: Okay.

19 (At sidebar.)

20 MR. DESAI: I'm sorry, Your Honor. This came up in
21 the opening. I think it's a misrepresentation.

22 THE COURT: You are talking too fast.

23 MR. DESAI: This is came up in the opening, and I
24 think it's a misrepresentation of the law. Mr. Sliter-Matias
25 has been charged with a scheme to defraud from a time period

1 June 2015 to July 2016. These are all transactions that fall
2 in there, so this is all part of the scheme to defraud which
3 the government must prove.

4 Mr. Kaiser wants to ask, and it seems he's asking --
5 he's charged with each of these mailings, but he's asking as
6 though he's not being charged with this crime, which he is.
7 This all falls within the scheme to defraud.

8 THE COURT: What I understand the question is is has
9 he been charged in any other jurisdiction?

10 MR. KAISER: That's right.

11 MR. DESAI: This witness would not know if he was
12 charged in any other jurisdiction.

13 THE COURT: Well, if he doesn't know, he can say he
14 doesn't know.

15 MR. DESAI: Okay.

16 (In open court.)

17 MR. KAISER: May I proceed, Your Honor?

18 THE COURT: You may.

19 BY MR. KAISER:

20 Q. Do you know if this defendant has been charged in any
21 other jurisdiction other than this one?

22 A. I do not.

23 Q. Now, with respect to your S4 document that you created, do
24 you have a hard copy of it there?

25 A. Yes, I have S4.

1 Q. Let's go through this. These net losses, you don't know
2 who got this money in all these net losses, do you?

3 A. Who received it?

4 Q. Yeah. You don't know who received the money in all these
5 net losses, do you?

6 A. Not directly.

7 Q. Thank you. You certainly don't know if the defendant
8 received these moneys, do you?

9 A. Well, the person that would receive the net losses would
10 be the actual buyers who opened the claims.

11 Q. Do you know who received the money that caused these
12 people to incur the losses?

13 A. The operator of the selling accounts.

14 Q. You don't know who that is, do you?

15 A. No.

16 Q. Now, you made this list based on information that you had
17 received from other people; is that correct?

18 A. And part of our own investigation, yes.

19 Q. And the information you received is from the investigator
20 who is helping the government; is that right?

21 A. That is correct.

22 Q. So you had no personal knowledge of the information that
23 she gave you, did you?

24 A. No.

25 Q. You were relying upon what she said to you, correct?

1 A. Yes.

2 Q. Now, all this talk about the gold that was purchased from
3 Liberty Coin, you don't know who purchased that gold, do you?

4 A. No.

5 Q. And just so we're clear, you spoke in terms of violation
6 of eBay policies. Do you recall that?

7 A. Yes.

8 Q. And just because someone violates an eBay policy does not
9 necessarily mean that somebody violates a law of the land; is
10 that correct?

11 A. That is correct.

12 Q. So do you know what a stealth account is?

13 A. Vaguely.

14 Q. Do you know that it's an account that people buy or they
15 actually create accounts that they sell to other people so
16 that they can do business on eBay under these stealth
17 accounts? Are you familiar with that?

18 A. I've heard of them, yes.

19 Q. And you know there's a market out there, isn't there, for
20 stealth accounts for people who create these accounts and then
21 they'll sell them to other people? Are you familiar with
22 that?

23 A. Yes.

24 Q. And that would be a violation of eBay policy, wouldn't it?

25 A. Yes.

1 Q. But it's not a violation of the law, is it?

2 A. I don't believe so.

3 THE COURT: Let's stop here. We'll start back in the
4 morning at 9:00.

5 Ladies and gentlemen of the jury, don't talk about
6 the case with anybody. Don't start making up your mind,
7 consciously avoid it, and if I don't forget it, in the
8 morning, with respect to this case alone, not any other aspect
9 of your life, but with respect to this case, I'm going to --
10 if I don't forget, I'm going to ask you if your hearts and
11 minds are just as pure as when you left today.

12 Drive home safely, get a good supper, good night
13 sleep, good breakfast. Drive back safely and we'll start at
14 9:00 in the morning. Let the jury stand down. Everybody else
15 remain as you are.

16 (Jury excused.)

17 THE COURT: Does anybody have anything before we
18 recess?

19 MR. DESAI: Nothing from the government.

20 MR. KAISER: Nothing, Your Honor.

21 THE COURT: Lawyers should get here about 10 to 9:00
22 in the morning. We are in recess. You can be at ease. You
23 can stand down.

24 (At 4:58 p.m., the proceedings were adjourned.)
25

C E R T I F I C A T E

I, BARBARA METZ LEO, RMR, CRR, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled case.

\s\ Barbara Metz Leo
BARBARA METZ LEO, RMR, CRR
Official Court Reporter

02/05/2019
Date of Certification

I N D E X

<u>WITNESSES</u>	<u>PAGE</u>
JAMES APPLEY	
Direct Examination By Mr. Callahan	73
Cross-Examination By Mr. Kaiser	94
STEPHEN HUHNE	
Direct Examination By Mr. Desai	98
Cross-Examination By Mr. Kaiser	169

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

vs.

Criminal No. 17-34

ATTICUS SLITER-MATIAS,
Defendant.

- - -

Transcript of proceedings on May 24, 2018 United States
District Court, Pittsburgh, Pennsylvania, before Judge Bill
Wilson.

APPEARANCES:

For the Government: U.S. Attorney's Office
Shardul S. Desai, Esquire
Colin J. Callahan, Esquire
U.S. Courthouse
700 Grant Street
Pittsburgh, Pennsylvania 15219

For the Defendant: Mark A. Kaiser, Esquire
P.O. Box 632
Painesville, Ohio 44077

Court Reporter: Barbara Metz Leo, RMR, CRR
700 Grant Street
Suite 6260
Pittsburgh, Pennsylvania 15219

Proceedings recorded by mechanical stenography;
transcript produced by computer-aided transcription.

1 THE COURT: All right.

2 MR. DESAI: Thank you, Your Honor. One of the jurors
3 had ran into one of our trial team, the young lady who was
4 running the computer yesterday, on the street and asked for
5 directions because the juror didn't know where to go, and the
6 young lady provided him with directions. Just to let all
7 juror contact be known and put on the record. I talked to
8 defense. It doesn't seem to be an issue.

9 THE COURT: Any problem for the defense?

10 MR. KAISER: No, no, Your Honor. No problem.

11 THE COURT: Did she give him correct directions?

12 MR. DESAI: To the best of my understanding, she gave
13 him the right directions.

14 THE COURT: Seems like we don't have a problem. As
15 soon as we get a juror here, we can start.

16 (Recess taken.)

17 (Jury present.)

18 THE DEPUTY: You can remain seated. This court is
19 now in session.

20 THE COURT: Top of the morning to you. With respect
21 to this case only, not any other aspect of your life, are your
22 hearts and minds just as pure as when you left last night? If
23 not, raise your hand. Out of a possible 28 hands, let the
24 record reflect there's no hands.

25 Ladies and gentlemen, we'll stop at about 4:00 today.

1 We could go as late as 4:30. If we get to be as late as 4:30,
2 we'll stop even if the witness is in the middle of the word
3 if. We won't go any further than 4:30.

4 MR. KAISER: Thank you, Your Honor. May I proceed?

5 STEPHEN HUHNKE, a witness herein, having been previously
6 duly sworn, was examined and testified further as follows:

7 CROSS-EXAMINATION (Resumed.)

8 BY MR. KAISER:

9 Q. Mr. Huhnke, you'll recall yesterday that I was here and
10 you were there. I'm Mark Kaiser and I'm the defendant's
11 attorney, and I'll be asking you some more questions. Okay?

12 A. Okay.

13 Q. Any question that you don't understand, please, I'm happy
14 to repeat it.

15 THE CLERK: Mr. Kaiser, can you put that mic toward
16 you? Thank you.

17 Q. Any question that I ask that you don't understand, I ask
18 you to please have me repeat it. Okay?

19 A. Okay.

20 Q. Now, yesterday, you went through a series of exhibits with
21 the government, and I think on cross-examination, please tell
22 me if I'm wrong, it's pretty clear to me that you've never met
23 the defendant in person; is that right?

24 A. That is correct.

25 Q. And that the evidence or the information that was

1 contained on a lot of these exhibits, you did not have
2 personal knowledge of; is that true?

3 A. I had knowledge when I investigated them on my side, but
4 they were obviously provided to me.

5 Q. You received information from Ms. Weckerly; is that
6 correct?

7 A. That is correct.

8 Q. Now, I'd like you to look, if you would, at eBay 1-1. Do
9 you have that in front of you?

10 A. No, I don't have any documents or on the screen.

11 Q. Do you have it in front of you now, sir? Tell me when you
12 have it in front of you.

13 A. I got it.

14 Q. There's no mention of defendant on this document? No
15 mention of the defendant on this document, correct?

16 A. Correct.

17 Q. And just so we're clear, there's no net loss in this
18 account?

19 A. That is correct.

20 Q. Now, looking at Defendant's 2-1, if you would, please --
21 EB 2.1. These are all eBay documents. Do you have that in
22 front of you, sir?

23 A. I do.

24 Q. Same questions. There's no mention of defendant on this
25 document, right?

1 A. That is correct.

2 Q. There is a loss amount of \$896.34, correct?

3 A. That is correct.

4 Q. I believe you testified yesterday you have no idea who
5 received that money; is that right?

6 A. That's correct.

7 Q. Now, let's move to eBay 3.1. I know this is monotonous.
8 Do you see 3.1 in front of you?

9 A. Yes, I do.

10 Q. And this was discussed yesterday on direct examination,
11 and just so we're clear, this is an eBay document, global
12 asset protection. All of the ones you looked at were eBay
13 documents global asset protection, correct?

14 A. Correct.

15 Q. And on this one, there also is no mention of the
16 defendant; is that correct?

17 A. That is correct.

18 Q. And there is a loss amount of \$430.04; is that correct?

19 A. Can you go to the next page?

20 Q. It's \$480.04. I apologize.

21 A. Yes, that is correct.

22 Q. And again, no mention of the defendant on this document,
23 right?

24 A. That is correct.

25 Q. And you don't know who received this \$480.04, do you?

1 A. No, I do not.

2 Q. Let's look at eBay 4.1. Do you have it in front of you?

3 A. Yes, I do.

4 Q. No mention of the defendant on this document either?

5 A. No, there is not.

6 Q. \$550.44 claim loss; is that correct?

7 A. That's correct.

8 Q. And again, you have no idea who got that money, right?

9 A. Right.

10 Q. Do you know where the buyer lives?

11 A. I do not.

12 Q. Let's scoot along to 6.1, eBay 6.1. I believe these were
13 the ones that were shown by the government yesterday. Looking
14 at eBay 6.1. Same questions basically.

15 Again, this is an eBay global asset protection document,
16 right, that you discussed yesterday?

17 A. That's correct.

18 Q. You identified it. It was entered into evidence. Again,
19 this is a document that does not have the defendant's name on
20 it; is that correct?

21 A. That's correct.

22 Q. And there's a loss amount on this document, if you look at
23 the second page, of \$350; is that correct?

24 A. That's correct.

25 Q. And you don't know who got this money, correct?

1 A. Correct.

2 Q. I believe the next one will be Government Exhibit eBay
3 15.1, if we could. Do you have this in front of you?

4 A. Yes, I do.

5 Q. You discussed that yesterday; do you recall?

6 A. Yes.

7 Q. And there's no mention of the defendant on this document,
8 correct?

9 A. That's correct.

10 Q. And there was nothing lost, I believe, due to the claim;
11 is that correct? At the bottom of the first page.

12 A. That's correct.

13 Q. Nobody got the money there, right? If there was nothing
14 lost, right?

15 A. Right.

16 Q. With respect to all 150 documents that we covered
17 yesterday, do you recall us going over the documents yesterday
18 with all of the documents you went through? Do you recall
19 that?

20 A. Yes, I do.

21 Q. And do you recall the same applied for all of those
22 documents, didn't they? You had no idea who got the money on
23 any of those documents, correct?

24 A. Correct.

25 Q. And the defendant was not mentioned on any of those

1 documents, correct?

2 A. That's correct.

3 Q. I'd like you to look at Government Exhibit S3, if you
4 would, please.

5 A. I have that.

6 Q. Do you have that in front of you now?

7 A. Yes, I do.

8 Q. Did you testify yesterday that you prepared this?

9 A. Yes, I did.

10 Q. And I'd like you to take a look at 15, if you would.

11 A. Okay.

12 Q. And if you go along, you'll see ROBE.BUSB. Did I say that
13 correctly?

14 A. Yes.

15 Q. That's the eBay user name?

16 A. That's correct.

17 Q. Tell us again to refresh a little bit, what is this
18 document again? What is this? You prepared this. Tell us
19 what it is.

20 A. This was a document that was prepared that basically
21 explains how each account was identified, either through
22 documents that were provided to eBay or found through our own
23 investigation.

24 Q. And I want you to look at the fourth column "How
25 Identified."

1 Do you see that column?

2 A. Yes, I do.

3 Q. If you look at 15, you got over there Click-N-Ship,
4 defendant's computer buying address and selling behavior. Do
5 you have that?

6 A. Yes, I do.

7 Q. When you put down defendant's computer, you've never seen
8 defendant's computer, have you?

9 A. I have not.

10 Q. You've never looked at it?

11 A. No.

12 Q. You never looked at any images from it?

13 A. No.

14 Q. So when you put down defendant's computer on how
15 identified there, is that information you got from
16 Ms. Weckerly?

17 A. Yes. Those would be an Excel file that we believe was
18 pulled from that computer.

19 Q. So from your personal knowledge though, you don't know
20 that that information was pulled from that computer, do you?

21 A. No.

22 Q. And the same with the next one, 16, eBay Exhibit 16. On
23 this, you have there defendant's computer as well, and I
24 assume that the same would apply; is that correct?

25 You don't have any personal knowledge of anything that was

1 pulled from the defendant's computer; is that correct?

2 A. That is correct.

3 Q. And with the Click-N-Ship that's next to it, 15 and 16 and
4 17 and 18, we'll just go through those together. The
5 Click-N-Ship, do you have personal knowledge of that?

6 A. What I know about those is they were pulled from a
7 Click-N-Ship account that apparently belonged to the
8 defendant, and then that document was received by me that was
9 sent from Inspector Weckerly.

10 Q. You say "apparently" from the defendant. You have no
11 personal knowledge of that, correct?

12 A. Right. That is correct.

13 Q. And let's just get to the meat of the matter. Exhibit 24,
14 Exhibit 32 on the first page, if you look at both of those,
15 they have the same thing. They have -- 24 has Click-N-Ship
16 and defendant's computer is how identified.

17 Again, just so the jury is clear, you had no personal
18 knowledge of that, correct?

19 A. That's correct.

20 Q. And I think if we go through, and I don't want to go
21 through each of these individually, I think that I'll just
22 tell you that Click-N-Ship is on 26, 28, 29 and again, you
23 have no personal knowledge. You got the knowledge of the
24 Click-N-Ship from Inspector Weckerly, correct?

25 A. Correct.

1 MR. DESAI: Objection, Your Honor. I think this is
2 asked and answered. I think it's clear he has no personal
3 knowledge for the documents that say Click-N-Ship and the
4 documents that say defendant's computer. It is spread
5 throughout multiple rows. We'll stipulate to that fact he has
6 no personal knowledge.

7 MR. KAISER: That's good enough.

8 THE COURT: Is your objection asked and answered?

9 MR. DESAI: Yes, it is, Your Honor.

10 THE COURT: I believe that's a little plowed ground.

11 Q. Just so we are clear, as we go through this document, S3,
12 any mention of Click-N-Ship and any mention of defendant's
13 computer would be something you prepared based not on your
14 personal knowledge but on that from Inspector Weckerly,
15 correct?

16 A. Correct.

17 Q. Going to S4, it would have been Government Exhibit S4. Do
18 you have that in front of you?

19 A. Yes, I do.

20 Q. And did you prepare this document?

21 A. Yes, I did.

22 Q. And I just want to be clear on this, you prepared this
23 document based on information that you received from Inspector
24 Weckerly; is that correct?

25 A. In part, yes.

1 Q. And just so we are clear, with respect to net loss, you
2 have, and I won't go through each of them, good Lord, but with
3 respect to all of the numbers that is stated under net loss,
4 you have no idea from your personal knowledge as to who got
5 all that money; is that correct?

6 A. That is correct.

7 Q. Now, looking at eBay 2.1, do you have that in front of
8 you?

9 A. Yes, I do.

10 Q. You relied again on Inspector Weckerly to fill in some of
11 this information; is that correct?

12 A. No. This would be a direct eBay file, so all of this
13 information is based on, I guess, information that was put in
14 by eBay.

15 Q. But you didn't fill in this information personally, did
16 you? It was somebody else from eBay that prepared the
17 document, right?

18 A. I prepared the document, but it was requested by Inspector
19 Weckerly.

20 Q. And you don't know who Andrew Benson is, do you?

21 A. No, I do not.

22 Q. And again, the defendant's name is not listed on this
23 document anywhere; is that correct?

24 MR. DESAI: Objection. Asked and answered.

25 THE COURT: Sustained.

1 Q. I'd like to go through the two incidents that happened in
2 this jurisdiction, if we could, okay, and I'll indicate to you
3 that one of the person's name is Ray Offner and the other
4 person's name is Mr. Appley, Michael Appley. He testified
5 yesterday.

6 A. Okay.

7 Q. And they both are within the jurisdiction here, because
8 this is a two count indictment, and so I just want to go
9 through these real quickly with you. And again, we've covered
10 eBay 1.1, and I will indicate to you that that involves a
11 gentleman named Ray Offner.

12 Do you know Ray Offner?

13 A. No, I do not.

14 Q. Have you ever met Ray Offner?

15 A. I do not believe so.

16 Q. And I want to be clear. On this document, it indicates
17 the balance due on Mr. Offner's claim was zero. Am I correct
18 on that?

19 A. I do not have the document in front of me.

20 Q. I'm sorry. It would be eBay 1.1, I believe.

21 MR. DESAI: Your Honor, I'm going to object again.

22 This has been asked and answered.

23 THE COURT: I'm going to allow you to ask it one more
24 time.

25 MR. KAISER: Thank you.

1 A. I have it in front of me now, and it looks like there is a
2 zero balance based on the claim.

3 Q. And just to look at the one involving Mr. Appley, who is a
4 second person, the second case involved in the two count
5 indictment here, and it would be eBay 2.1. I know you've
6 looked at it once before. I just want to be clear.

7 There is an \$896.34 loss on here, and you don't know who
8 got that money; is that correct?

9 A. That is correct.

10 Q. Now, sir, there are images that come up on eBay when a
11 person is selling an item. Like, say, they are selling a cell
12 phone, and they'll put an advertisement up and they'll put it
13 up for auction. Are you familiar with that?

14 A. Yes, I am.

15 Q. And those pictures, if they are selling a cell phone, they
16 oftentimes will, you know, put a picture of the cell phone
17 they are selling on the advertisement. Have you seen that?

18 A. Yes, I have.

19 Q. And do you know how those pictures are, and I'm not sure
20 if they are downloaded or uploaded on to eBay, an eBay
21 website? Do you know how that's done?

22 A. Not completely, no.

23 Q. Have you ever sold anything on eBay?

24 A. I have not.

25 Q. Do you have any knowledge -- I think we can agree, if a

1 person is selling a cell phone and the cell phone's picture
2 ends up on the eBay advertisement, would you agree that it was
3 the seller that put that picture on the eBay advertisement?

4 A. Yes, I would.

5 Q. Now, in putting the picture up on the eBay advertisement,
6 would you also agree that the person would have to use an
7 external source to put it up on the eBay advertisement,
8 perhaps from his own computer or her own computer?

9 A. Yes.

10 Q. Or on maybe even a flash drive that a person has. Is that
11 fair?

12 A. I believe that would work, yes.

13 Q. But certainly, if a person sells an item and puts an item
14 up on the eBay, it's more probable than not, is it, that it
15 came either from some source that the seller has, right?

16 A. Yes, in most cases.

17 MR. KAISER: Nothing further, Your Honor.

18 MR. DESAI: Just a few quick questions on redirect,
19 Your Honor. I'll keep them brief.

20 THE COURT: What were those two adjectives?

21 MR. DESAI: I'll keep them brief.

22 THE COURT: Few and quick.

23 MR. DESAI: Yes.

24 REDIRECT EXAMINATION

25 BY MR. DESAI:

1 Q. Mr. Huhnke, you were asked a lot about records and
2 information you received from Ms. Weckerly. Is it common in
3 your position at eBay to work with law enforcement?

4 A. Yes, it is.

5 Q. Is it common for you to receive records from law
6 enforcement as part of that investigation?

7 A. Yes.

8 Q. You were asked about the EB.1 exhibits, whether you
9 prepared those. Is that information that's stored in eBay's
10 systems that's pulled, or is that something that you have to
11 personally do?

12 A. It is information that is stored in eBay's system. I
13 would basically just put in user IDs or specific information
14 that was requested and then an automated report would be
15 created, whether that's for our user information, buying
16 information, selling information or our complete information.

17 Q. On EB1 to EB161, you were asked a lot whether -- let me
18 ask this: You were asked yesterday about stealth accounts.

19 A. Yes, I was.

20 Q. Is it your understanding that's where an individual
21 creates accounts and uses fictitious names?

22 A. That's correct.

23 Q. In your investigation and based on information you
24 received from Ms. Weckerly, was EB1 through EB161 connected to
25 the same person?

1 A. I believe so, yes.

2 Q. And based on many of the exhibits we saw yesterday and the
3 other ones that we may not have seen, was a lot of the EB
4 exhibits connected with the same shipping address with just
5 random characters put in there?

6 A. That is correct.

7 Q. And as to your records that indicate loss or no loss,
8 that's all related to loss for eBay; is that correct?

9 A. That is correct.

10 Q. It doesn't indicate whether the victim suffered a loss or
11 if PayPal suffered a loss.

12 A. No. It only shows eBay's specific loss.

13 MR. DESAI: That's it, Your Honor. Thank you. No
14 further questions for this witness.

15 MR. KAISER: Nothing further, Your Honor.

16 THE COURT: Jury questions? Write it out and hand it
17 to the clerk. Lawyers come up. We have a jury question.

18 (At sidebar.)

19 THE COURT: I'm going to read these into the record.
20 I'll get down close. It looks like to me the first one is not
21 a question for this witness. It's a question about the case.
22 Why does Atticus mistrust the American government? How do you
23 track who got paid from the stealth accounts? Anything wrong
24 with that question?

25 MR. DESAI: No.

1 MR. KAISER: I don't know that he's going to know the
2 answer.

3 MR. DESAI: PayPal might be the better person.

4 THE COURT: Both of you are talking at once. Any
5 objection?

6 MR. DESAI: I have no objection.

7 MR. KAISER: I mean, I don't know if he's going to
8 know, but I have no objection. If he knows.

9 THE COURT: Why does eBay track who got paid from the
10 fraudulent accounts?

11 MR. DESAI: No objection, Your Honor.

12 MR. KAISER: No objection to that.

13 THE COURT: Who has the list of what was pulled from
14 the defendant's computers and can we see it?

15 MR. DESAI: Your Honor, that's going to come in from
16 a later witness. I don't think this witness would have the
17 answer to that.

18 THE COURT: I won't ask that then. How do you know
19 and what makes you believe accounts 1 through 161 were
20 connected to the same person? I assume that will come out
21 through later people.

22 MR. DESAI: I think that's an appropriate question
23 for this witness. This witness can testify as to what he did.

24 THE COURT: I'm not going to ask that one. Got
25 another one here. How is eBay account connected to defendant

1 other than address?

2 MR. DESAI: I think that's a fair question.

3 THE COURT: Any objection?

4 MR. KAISER: No. If he knows.

5 THE COURT: Can you drop and drag pictures to sell
6 items from an image?

7 MR. DESAI: I don't see any issues with the question.

8 MR. KAISER: Say that again.

9 THE COURT: Can you drop and drag pictures to sell
10 items from an image?

11 MR. DESAI: No objection from the government.

12 MR. KAISER: I don't see the question.

13 THE COURT: I don't either, but I'm going to ask it.
14 All right?

15 MR. KAISER: If he knows.

16 (In open court.)

17 THE COURT: The jury questions make it quite obvious
18 that some of the jurors know more about computers than I do.

19 Question: How do you track who got paid from the stealth
20 accounts?

21 THE WITNESS: EBay would not track that information.
22 EBay does not accept payments. It's all done through PayPal
23 or that financial institution.

24 THE COURT: Why doesn't eBay track who got paid from
25 the fraudulent accounts?

1 THE WITNESS: Once again, since we do not handle the
2 money side of it, that's not part of what we track.

3 THE COURT: How is an eBay account connected to the
4 defendant other than addresses?

5 THE WITNESS: There is some financial information
6 that is stored on an account, whether that is a PayPal, e-mail
7 address or a credit card number. We would be able to connect
8 accounts through that financial information.

9 Additionally, if there are e-mail addresses that are
10 the same, they would be able to connect to through there. We
11 also, on more of a technical term, we can connect accounts if
12 they share the same cookies, which would be through a website
13 or if they have the same cookies and zip code and additionally
14 by phone numbers.

15 THE COURT: Question: Can you drop and drag pictures
16 to sell items from an image?

17 THE WITNESS: I believe so.

18 THE COURT: Any further questions?

19 MR. DESAI: None from the government.

20 MR. KAISER: Nothing, Your Honor.

21 THE COURT: May this witness stand down?

22 MR. DESAI: Yes, Your Honor.

23 MR. KAISER: Yes, Your Honor.

24 THE COURT: You may stand down. Thank you. I
25 understand you are free to go; is that correct?

1 MR. DESAI: Yes, Your Honor.

2 THE COURT: Thank you.

3 (Witness excused.)

4 THE COURT: Next witness.

5 MR. CALLAHAN: Thank you, Your Honor. We're going to
6 go fetch her. She is right outside now. It will be Darleen
7 Ferguson.

8 (Witness sworn.)

9 THE CLERK: Please be seated. Please state and spell
10 your name for the record and speak right into the microphone.

11 THE WITNESS: Darleen Ferguson, D-A-R-L-E-E-N,
12 F-E-R-G-U-S-O-N.

13 DARLEEN FERGUSON, a witness herein, having been first
14 duly sworn, was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. CALLAHAN:

17 Q. Good morning, ma'am.

18 A. Morning.

19 Q. Ms. Ferguson, since you've already said your name and
20 spelled it, I'm not going to ask you to do that again, but can
21 you tell us what town or community do you currently reside in?

22 A. I live in Le Mars, Iowa.

23 Q. And that's a ways from Pittsburgh?

24 A. Yes, it is.

25 Q. Is that the same town or community that you lived in back

1 in 2015?

2 A. Yes, it is.

3 Q. Are you currently employed, ma'am?

4 A. Yes, I am.

5 Q. By whom are you currently employed?

6 A. Wells Blue Bunny.

7 Q. Is that the ice cream company?

8 A. Yes, it is.

9 Q. What exactly do you do for the ice cream company, ma'am?

10 A. I am an operator. I run one of the world's largest indoor
11 blast freezers.

12 Q. That is a more interesting answer than I typically get.

13 A. Yeah. It's a pretty interesting job.

14 Q. Many follow-up questions, none of which relate to the
15 case, so I'm going to move on. How were you employed before
16 you started that job?

17 A. I was in the US Air Force.

18 Q. Ms. Ferguson, I want to ask you some questions about eBay.

19 Do you have an eBay account?

20 A. Yes, I do.

21 Q. What's your user name?

22 A. It's the Fergieferg1987.

23 Q. That's distinctive?

24 A. Yes.

25 Q. Is that the same user name you had back in 2015?

1 A. Yes, it is.

2 Q. Did you make any notable eBay purchases in 2015?

3 A. Yes, I did.

4 Q. What did you purchase, ma'am?

5 A. I purchased a Samsung Galaxy S6.

6 Q. That is a mouthful. Is that a type of smartphone like an
7 iPhone?

8 A. Yes.

9 Q. If you recall, approximately how much did you pay for the
10 Samsung phone? I'm going to say Samsung phone; is that okay?

11 A. Yeah.

12 Q. How much did you pay for the Samsung phone?

13 A. It was about 335.

14 Q. Ms. Ferguson, I'm going to step up in a moment here and
15 hand you a document to take a look at that has been marked for
16 identification purposes as Government's Exhibit DF1.

17 Let me ask you as a predicate question, as part of the
18 United States investigation, did you provide Inspector
19 Weckerly with any documents that had previously been in your
20 custody?

21 A. Yes. I sent all of my correspondence for this phone
22 purchase.

23 Q. In Government's Exhibit DF1, is that one of those
24 documents, some of the correspondence, as you just mentioned,
25 that you sent to Inspector Weckerly?

1 A. Yes, it is.

2 Q. And specifically, is that an e-mail from eBay confirming
3 your purchase?

4 A. Yes, it is.

5 MR. CALLAHAN: Your Honor, at this time, the
6 United States would move to admit Government's Exhibit DF1.

7 MR. KAISER: It's not on the screen. I have no
8 objection, Your Honor.

9 THE COURT: Admitted.

10 MR. CALLAHAN: Mark, we have copies of all of those
11 over there. Do you want me to pull it up for you?

12 MR. KAISER: That's all right. We'll get it from the
13 screen.

14 MR. CALLAHAN: Permission to show it to the jury,
15 Your Honor?

16 THE COURT: Yes.

17 MR. CALLAHAN: Thank you, Your Honor.

18 Ms. Dinuno, if we can go ahead and blow up on the
19 first page there, the primary e-mail, to make it a little
20 easier for us to see. Thank you very much.

21 Q. Ms. Ferguson, looking at that exhibit, does it indicate
22 the date on which you purchased the Samsung phone?

23 A. Yes, it does.

24 Q. What date is that, ma'am?

25 A. November 22nd, 2015.

1 Q. And does this exhibit -- can you tell from the exhibit the
2 total amount that you paid for the Samsung phone?

3 A. About 350, 335 plus 16.54 shipping.

4 Q. Got you. Okay. Thank you.

5 Finally, looking at this particular exhibit, does it list
6 the eBay user name of the seller you were dealing with?

7 A. Yes, it does.

8 Q. Can you go ahead and read that for us?

9 A. Joshbrya_T9RXDVNDD.

10 Q. Thank you very much. We can bring that exhibit down now.

11 Ms. Ferguson, I'm going to hand you another document to
12 look at. This one has been marked for identification purposes
13 as Government's Exhibit DF2.

14 We're going to make the jury a little bit jealous here.

15 A. One of them has got a cup.

16 Q. Ms. Ferguson, you testified earlier that you provided
17 Inspector Weckerly a number of documents that had been in your
18 possession?

19 A. Yes.

20 Q. Looking at Government's Exhibit DF2, is this another one
21 of those documents you provided to Inspector Weckerly?

22 A. Yes, it is.

23 Q. As you mentioned correspondence that you had provided. Is
24 this an e-mail exchange that you had with the eBay seller?

25 A. Yes, it is.

1 MR. CALLAHAN: Your Honor, the United States would
2 move to admit Government's Exhibit DF2.

3 MR. KAISER: No objection.

4 THE COURT: Admitted.

5 MR. CALLAHAN: Thank you, Your Honor. Show it to the
6 jury, Your Honor?

7 THE COURT: You may.

8 MR. CALLAHAN: Thank you. Ms. Dinuno, if we can pull
9 that up. Actually go to the second page. We're going to work
10 in chronological order with the e-mail string. Expand the
11 first message that's listed there.

12 Q. Ms. Ferguson, looking at this e-mail that's on the screen.
13 Who sent this e-mail message?

14 A. The seller. Oh, sorry. No. I sent it.

15 Q. Just to clarify, up in the from, there's your user name,
16 right?

17 A. That is me.

18 Q. And again, going to the user name of the seller Joshbrya
19 with a whole bunch of other letters and numbers I won't read;
20 is that correct?

21 A. Yes.

22 Q. Can you tell looking at the exhibit, when did you send
23 this e-mail, ma'am?

24 A. I sent it on the 24th of November 2015.

25 Q. A couple days after you purchased the Samsung phone?

1 A. Yes.

2 Q. Can you go ahead and read the entire e-mail for us, ma'am?

3 A. "Dear Joshbrya," the rest of it, "Hi. I was just
4 wondering when I would be receiving the phone and if it was
5 unlocked and had a clean ESN."

6 Q. You got your signature there, right?

7 A. Yes.

8 Q. After you sent this e-mail on November 24, 2015, again,
9 couple days after you purchased the phone, did there come a
10 time when the seller responded and sent you a tracking number?

11 A. Yes.

12 Q. Okay.

13 MR. CALLAHAN: And, Ms. Dinuno, let's go ahead and
14 expand and blow up for everybody here the next e-mail message
15 on the top of that same page.

16 Q. Is this an e-mail message or a message that you received
17 from the seller here?

18 A. Yes.

19 Q. Looking at the exhibit, when did you receive this
20 response?

21 A. The 30th of November 2015.

22 Q. So about six days after you sent your message?

23 A. Yes.

24 Q. Can you read this e-mail message for us as well?

25 A. "Dear Fergieferg1987, also another reminder, no business

1 counts holidays or weekends. USPS priority mail
2 9407803699300020835512. Item has been shipped and should
3 start tracking in 24 to 48 hours. Thank you."

4 Q. So the U.S. priority mail number that you wonderfully read
5 into the record which was scintillating, I know, that's the
6 tracking number that you were provided with, ma'am?

7 A. Yes, it is.

8 Q. Let me ask you, Ms. Ferguson, if on the 30th you hadn't
9 gotten sent a tracking number from the seller, would you have
10 filed a fraud claim with PayPal or eBay more quickly?

11 A. Yes.

12 Q. After you got this tracking number on the 30th, did you
13 use that to see when your Samsung phone was supposed to be
14 delivered?

15 A. Yes, I did.

16 Q. You can pull that exhibit down for now.

17 Ms. Ferguson, I'm going to hand you another exhibit that's
18 been marked for identification purposes as Government's
19 Exhibit USPS6. Do you recognize that document, ma'am?

20 A. Yes, I do.

21 Q. Is that the tracking information for the package that was
22 going to be delivered?

23 A. Yes, it is.

24 MR. CALLAHAN: Your Honor, at this time the
25 United States would move to admit Government's Exhibit USPS6.

1 MR. KAISER: No objection.

2 THE COURT: Admitted.

3 MR. CALLAHAN: May I show it to the jury?

4 THE COURT: You may.

5 MR. CALLAHAN: Ms. Dinuno, let's expand the second
6 row all the way over to the sixth column so we can see what
7 that says. That's good enough.

8 Q. Looking at the exhibit here, Ms. Ferguson, on the column
9 all the way over on the left, and we're going to highlight
10 that second row that I mentioned, is that big enough? Can you
11 read for us the tracking number that's listed?

12 A. 9407803699300020835512.

13 Q. Thank you. Just so the record is clear, that's the same
14 tracking number that we were just looking at that you received
15 from the seller, right?

16 A. Yes, it is.

17 Q. And looking at the second row, that's highlighted here on
18 the exhibit, ma'am, does that indicate the date on which the
19 package was shipped and the city from which it was shipped?

20 A. Yes. 11-30-2015 from Cleveland, Ohio.

21 Q. So same day that you received that tracking number, it
22 looks like this was shipped from the Cleveland, Ohio area?

23 A. Yes.

24 Q. Right above that, in the first actual row there, do you
25 see where it says preshipment info?

1 A. Yes, I do.

2 Q. What's the date that's listed for preshipment info there?

3 A. 11-30-2015.

4 Q. What city and state does it indicate preshipment info was
5 entered?

6 A. New Brunswick, New Jersey.

7 Q. So not Cleveland, Ohio?

8 A. No.

9 Q. Same day that it shipped though, isn't it?

10 A. Yes.

11 Q. So the address information seems to have changed on 11-30?

12 A. Yes.

13 Q. Thank you, Ms. Ferguson. I appreciate that.

14 MR. CALLAHAN: Ms. Dinuno, let's pull up and expand a
15 different portion of this same exhibit. Let's look at the
16 bottom two rows, again, all the way over to the sixth column
17 there. If we can highlight those so we can see them.
18 Wonderful. Thank you.

19 Q. Looking at this exhibit, Ms. Ferguson, where and when does
20 this indicate that the package that was supposed to be coming
21 to you was actually delivered?

22 A. It went to Tempe, Arizona, 12-3, 2015.

23 Q. So the second to the bottom row says 12-3, right?

24 A. Yes. And then one on the bottom says 12-9.

25 Q. So looking at the exhibit, it looks like an attempted

1 delivery in Tempe for some reason on 12-3 and an actual
2 delivery in Tempe on 12-9?

3 A. Yes.

4 Q. You don't live in Tempe, Arizona, correct?

5 A. No, I do not.

6 Q. We'll talk more about that in a moment.

7 MR. CALLAHAN: Ms. Dinuno, let's expand the column
8 listing the delivery address here all the way over so we can
9 capture the entirety of the actual mailing address.

10 Q. I think I know the answer here, but looking at the
11 exhibit, this specific address, East McKinley Street in Tempe,
12 Arizona, that's not an address you are familiar with, is it?

13 A. No, it is not.

14 Q. Definitively not an address at which you've ever lived?

15 A. No.

16 MR. CALLAHAN: We can take that exhibit down.

17 Q. Ms. Ferguson, what did you do when you realized from
18 looking at this tracking information that the package that was
19 supposed to contain your Samsung phone had been sent to Tempe,
20 Arizona instead of Le Mars, Iowa?

21 A. I e-mailed the seller.

22 MR. CALLAHAN: Ms. Dinuno, let's pull up Government's
23 Exhibit DF2, please. On the first page, can you go ahead and
24 highlight and expand or just expand that e-mail on the first
25 page. Thank you.

1 Q. Ms. Ferguson, is this the message you sent to the seller?

2 A. Yes, it is.

3 Q. After the Tempe, Arizona delivery?

4 A. Yes.

5 Q. Can you go ahead and read that e-mail, the contents of
6 that e-mail for us?

7 A. "I'm pretty sure you sent it to the wrong address or you
8 gave me the wrong tracking number. I don't live in Arizona.
9 I live in Iowa."

10 Q. Succinctly put. Did you ever receive a response from this
11 message?

12 A. No.

13 Q. Did you ever receive the Samsung phone that you spent 350
14 some odd dollars for?

15 A. No.

16 Q. Eventually, did there come a time where you were
17 reimbursed for the \$350 you shelled out?

18 A. Yes, I got reimbursed through eBay.

19 Q. After the experience that you had here in 2015,
20 Ms. Ferguson, where you didn't even get an empty envelope, you
21 just got something sent to Tempe, has your approach to buying
22 things on eBay changed at all?

23 A. Yes. I'm a lot more hesitant to buy things through eBay
24 because I don't want to get defrauded.

25 Q. Would it be fair to say that eBay is not getting as much

1 business from you as they otherwise would have?

2 A. This is true.

3 MR. CALLAHAN: I don't have any further questions at
4 this time, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. KAISER:

7 Q. Hi.

8 A. Hello.

9 Q. I'm Mark Kaiser. I represent the defendant. I'm going to
10 be asking you some questions, and if there's any question you
11 don't understand, please let me know and I'll rephrase it.

12 A. Okay.

13 Q. You live in Iowa?

14 A. Yes, I do.

15 Q. You don't live in the Pittsburgh, around Pittsburgh then?
16 You don't live around this jurisdiction, do you?

17 A. No, I do not.

18 Q. And do you know if the defendant has been charged in Iowa
19 with any crimes?

20 MR. CALLAHAN: Objection, Your Honor.

21 THE COURT: Overruled.

22 A. I'm unsure.

23 Q. You don't know?

24 A. No.

25 Q. Has anybody subpoenaed you or let you know that you would

1 be a witness in any crime against the defendant?

2 A. Here?

3 Q. In Iowa?

4 A. No.

5 Q. Now, I believe you purchased, was it a Samsung Galaxy S6?

6 Is that what you said?

7 A. Yes.

8 Q. And it was for \$335; is that right?

9 A. Plus shipping, yes.

10 Q. Which was \$16.54, correct? So that comes, if my math is
11 correct, to \$351.54. Does that seem about right?

12 A. Yes.

13 Q. So you don't know who received that money, do you?

14 A. No, I do not. It was sent to the seller, the individual
15 who was selling it.

16 Q. You don't know who the seller is, do you?

17 A. Never met him, no.

18 Q. Have you ever met the defendant?

19 A. Personally, no.

20 Q. You don't know if you met him in any way, do you?

21 A. No, I wouldn't know him. The only thing I know is the
22 user name of the person who sold me the phone.

23 Q. That's right. And with respect to the DF2, DF2, I think
24 indicates that you had an e-mail exchange with the seller; is
25 that right?

1 A. Yes.

2 Q. And you received an e-mail from the seller; is that
3 correct?

4 A. Yes.

5 Q. Now, when you sent an e-mail to the seller, did your
6 e-mail originate from your computer, from your e-mail?

7 A. From my phone.

8 Q. Okay. From your phone. You have a smartphone, right?

9 A. Yes.

10 Q. And you were able to send e-mail off from your phone,
11 correct?

12 A. Yes.

13 Q. Have you sent e-mails before to eBay sellers?

14 A. Yes.

15 Q. And you would always access those e-mails from your phone
16 or from your computer; is that right?

17 A. Yes.

18 Q. Is there any other way that you can think of that you
19 would be able to access or send an e-mail to eBay?

20 A. No. E-mails are specific to electronic transfers.

21 Q. That's right. So the seller who e-mailed you must have
22 done it from an apparatus; is that correct?

23 A. Yes.

24 Q. Now, you don't know where the defendant lives, do you?

25 A. No.

1 Q. You don't know whether he lives in Cleveland, Ohio or not,
2 do you?

3 A. Nope, I sure don't.

4 MR. KAISER: Nothing further, Your Honor.

5 MR. CALLAHAN: Brief redirect, Your Honor.

6 REDIRECT EXAMINATION

7 BY MR. CALLAHAN:

8 Q. Ms. Ferguson, we were talking a bit earlier about this
9 e-mail exchange that happened with the seller that was just up
10 on the board. Do you remember that?

11 A. Yes.

12 Q. And colloquially, we refer to those as e-mail messages.
13 Those are actually messages, to clarify, that are sent through
14 the eBay messaging system; isn't that right?

15 A. Yes.

16 Q. You may or may not get a notification about that e-mail,
17 but you can actually communicate directly on the eBay site
18 itself; is that right?

19 A. Yeah. I replied to each message through the actual eBay
20 messaging system.

21 MR. CALLAHAN: Thank you. No further questions.

22 THE COURT: Jury questions? May this witness be
23 excused?

24 MR. CALLAHAN: Yes, Your Honor.

25 MR. KAISER: Yes, Your Honor.

1 THE COURT: You are free to go back to your business.
2 Thank you.

3 (Witness excused.)

4 THE COURT: Next witness?

5 MR. CALLAHAN: Yes, Your Honor. We're going to go
6 fetch and call Ray Offner.

7 (Witness sworn.)

8 THE CLERK: Please be seated. Please state your name
9 and spell it for the record, and speak right into that
10 microphone.

11 THE WITNESS: My name is Ray Offner, R-A-Y,
12 O-F-F-N-E-R.

13 RAY OFFNER, a witness herein, having been first duly
14 sworn, was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. CALLAHAN:

17 Q. Good morning, sir.

18 A. Good morning.

19 Q. Mr. Offner, I'm going to not ask you to state your name
20 for the record, but can you go ahead and please tell us where
21 you grew up, what town or community?

22 A. McKees Rocks, PA.

23 Q. Where do you live now, sir?

24 A. Bethel Park, PA.

25 Q. Is that in the South Hills of Pittsburgh?

1 A. Yes.

2 Q. And do you live by yourself, sir?

3 A. With my wife.

4 Q. Do you work or are you retired?

5 A. Retired.

6 Q. What did you do before you retired?

7 A. I was a heavy equipment mechanic.

8 Q. What company did you work with?

9 A. Equipco in Bridgeville.

10 Q. Mr. Offner, I want to ask you some questions about eBay --

11 A. Okay.

12 Q. -- this morning. As an initial matter, do you have an
13 eBay account?

14 A. Yes.

15 Q. What's your eBay user name, sir?

16 A. Rockinrays.

17 Q. Capitalize the R there.

18 A. I used to be a DJ so my name was Rockinray so that's what
19 I used on eBay and I had to add an S because somebody had
20 Rockinray.

21 Q. We have all been there.

22 A. Oh, yeah.

23 Q. That's pretty good. We learn things. Is that the same
24 eBay user name that you used in 2015?

25 A. That's correct.

1 Q. Did you make any notable eBay purchases, Mr. Offner, in
2 2015?

3 A. Yes. I bidded on an iPhone 6S Plus.

4 Q. 6S Plus. With or without a plus, that's a smartphone?

5 A. Yes, it's the smartphone. It's the bigger one.

6 Q. If you recall, sir, approximately how much did you pay for
7 the iPhone back in 2015?

8 A. Around 814 or 15 dollars.

9 Q. Mr. Offner, I'm going to show you a couple of documents,
10 the first of which has been marked for identification purposes
11 as Government's Exhibit R01. Here I come with that.

12 A. Okay.

13 Q. Do you recognize that document, sir?

14 A. Yes, I do.

15 Q. Is that a listing for the iPhone that you purchased in
16 December of 2015?

17 A. That is correct.

18 MR. CALLAHAN: Your Honor, at this time, the
19 United States would move to admit Government's Exhibit R01.

20 MR. KAISER: No objection.

21 THE COURT: Admitted.

22 MR. CALLAHAN: Show it to the jury, Your Honor?

23 THE COURT: You may.

24 MR. CALLAHAN: Ms. Dinuno, let's go ahead and pull
25 that up and expand the top third portion that shows the actual

1 phone listing, if you would. Let's make that as big as you
2 can.

3 Q. If you can see on the screen in front of you, Mr. Offner,
4 looking at Government's Exhibit R01, is this a picture of the
5 iPhone 6S Plus that you purchased in December of 2015?

6 A. Yes, it is.

7 Q. Does the listing indicate the purchase price for the phone
8 that you paid?

9 A. Yes, it does. \$814.

10 MR. CALLAHAN: Ms. Dinuno, let's go ahead and
11 highlight and expand the row of writing immediately above the
12 picture of the iPhone.

13 Q. It's a little blurry, but looking again at the listing,
14 does this indicate the user name of the person selling the
15 iPhone?

16 A. Yes, it does.

17 Q. Can you read that, sir?

18 A. It's a little blurry, KCSK0V5. That's what it looks like
19 to me.

20 Q. Can that zero be an E?

21 A. Yes, it can.

22 Q. Can you tell from the listing --

23 MR. CALLAHAN: Let's zoom back out now, Ms. Dinuno,
24 please. Let's pull up the top third so we can all see that.

25 Q. Looking again at this listing, Mr. Offner, can you tell

1 when the iPhone was actually sold, when you bought it?

2 A. December 3rd, 2015.

3 Q. Thank you, sir. I'm going to show you another document,
4 Mr. Offner, that has been previously marked for identification
5 purposes as Government's Exhibit USPS1. This is the tracking
6 information for the package that was delivered to your house,
7 sir?

8 A. Yes.

9 MR. CALLAHAN: Your Honor, at this time the
10 government would move to admit Government's Exhibit USPS1.

11 MR. KAISER: No objection.

12 THE COURT: Admitted.

13 MR. CALLAHAN: Show it to the jury?

14 THE COURT: You may.

15 MR. CALLAHAN: Can we show and expand the first row
16 all the way over to the sixth column?

17 Q. On the far left column, sir, as you are looking at that
18 exhibit, can you read the tracking number there?

19 A. Yes, I can.

20 Q. If you can read that into the record for us?

21 A. 9407803699300021049697.

22 Q. Thank you, sir. Looking over at the remaining rows and
23 columns there, does the exhibit indicate the date on which
24 this package was shipped and the city from which it was
25 shipped? Specifically, looking at the second row there.

1 A. Okay. Yeah, Cleveland, Ohio was shipped from.

2 Q. On what date, sir?

3 A. 12-7-2015.

4 Q. And actually, let's keep that. We got that back up there
5 for you. Mr. Offner, looking at the row immediately above
6 that, do you see where there's preshipment info that's listed?

7 A. Yes.

8 Q. What city and state is listed as the preshipment info
9 coming from?

10 A. Okay. New Milford, PA on 12-7-2015.

11 Q. Same day that the package is showing as shipped from
12 Cleveland, Ohio?

13 A. Correct.

14 Q. Preshipment info was coming in from New Milford?

15 A. Correct.

16 Q. Thank you, sir.

17 MR. CALLAHAN: Ms. Dinuno, let's go ahead and expand
18 the bottom row, again, all the way over to that sixth column,
19 if we may.

20 Q. Looking at this exhibit, Mr. Offner, where and when was
21 this package delivered, sir?

22 A. To my house in Bethel Park, PA.

23 Q. And what is your address, sir?

24 A. 35 Highland Road, Apartment 3401, Bethel Park, PA.

25 Q. So you live in an apartment building?

1 A. That's correct.

2 MR. CALLAHAN: Ms. Dinuno, we can take that exhibit
3 down.

4 Q. Mr. Offner, jumping ahead in time or, I guess, back in
5 time, I should say, to December of 2015, was a package
6 ultimately delivered to your apartment building in early
7 December?

8 A. Correct.

9 Q. And did it include the iPhone that you had purchased?

10 A. It was an empty flat rate envelope.

11 Q. And when you say "flat rate," do you mean --

12 A. It was a big envelope addressed to me and it was empty.

13 Q. And you no longer have that envelope; is that right, sir?

14 A. No. I discarded it, because I didn't think -- you know, I
15 did receive my money back for the purchase, so I got rid of
16 everything.

17 Q. Let's just take a step back. I want to unpack that.

18 That's good to know. After you received this empty envelope
19 in the mail instead of the iPhone, what did you do? What
20 steps did you take?

21 A. I filed a claim with PayPal.

22 Q. And so that was a fraud claim; is that right?

23 A. Yes.

24 Q. I think you mentioned a moment earlier, eventually they
25 went ahead and reimbursed you the money you paid, right?

1 A. That's correct.

2 Q. Mr. Offner, let me ask you, after your experience
3 attempting to purchase the iPhone back in 2015, has your
4 approach to buying things on eBay changed at all?

5 A. Yes. I'm a little more cautious now.

6 Q. Little gun shy as a result of the experience?

7 A. Oh, yeah, that's correct.

8 Q. One moment, sir. So just to clarify, in terms of the
9 claims process we were talking about before, sir, you actually
10 filed a claim with PayPal, not eBay, right?

11 A. As far as I can remember, yeah. I think it was with
12 PayPal. I might have said something to eBay and they referred
13 me to PayPal or whatever. I can't remember exactly.

14 Q. More than three years ago? I guess about three years ago?

15 A. Yeah.

16 Q. Fair to say at the end of the day, either PayPal or eBay
17 actually reimbursed you?

18 A. Yes. Well, what happens is you put a claim in, and
19 they'll contact the seller and see if they get a response from
20 him, and then they'll get back to me, and then the claim is
21 filed after a certain amount of time.

22 Q. In this case, you were eventually reimbursed?

23 A. Yes.

24 MR. CALLAHAN: Thank you, sir.

25 CROSS-EXAMINATION

1 BY MR. KAISER:

2 Q. Hi, Mr. Offner.

3 A. How are you?

4 Q. I'm Mark Kaiser. I represent the defendant. I'm going to
5 ask you some questions.

6 A. Okay.

7 Q. Anything you don't understand, you let me know.

8 A. Okay. I'll let you know.

9 Q. Okay. Looking at Government Exhibit R01. You talked
10 about that briefly during your direct examination. Do you
11 have that in front of you?

12 A. Yes, I do.

13 Q. That has a picture on it, does it not?

14 A. Yes, correct.

15 Q. And that picture is of a cell phone?

16 A. Correct.

17 Q. And that would be the cell phone that you were hoping to
18 purchase; is that correct?

19 A. Yes.

20 Q. And are you familiar with how these images are transmitted
21 from buyers to sellers and sellers to buyers?

22 A. Yes, I am.

23 Q. And it would be done through the eBay system; is that
24 right?

25 A. Correct, yeah. You would upload a photo and put it on.

1 Q. So I think it's pretty clear that the seller, whoever the
2 seller was, had to upload this picture on to something, upload
3 it to get it into the eBay system; is that right?

4 A. Yes, correct.

5 Q. And so have you ever done that?

6 A. Yes.

7 Q. Would you upload that from, say, your computer?

8 A. Yes. That's where I would upload it from, my photos.
9 They would be in my photos. I take a photo of it and put it
10 in, yes.

11 Q. Or maybe from your cell phone, correct?

12 A. I do it with my computer.

13 Q. But you could with your cell phone, couldn't you?

14 A. Yes.

15 Q. If you had one of them smartphones?

16 A. Yes.

17 Q. But it would have to be from some apparatus that the
18 seller had control over; is that fair to say?

19 A. Correct.

20 Q. You lost no money in this transaction?

21 A. That's correct.

22 Q. You've never met the defendant in your life, have you?

23 A. No, I haven't.

24 Q. You have no idea who got this money that you paid to
25 PayPal, right?

1 A. That's correct.

2 Q. That includes you don't know if the defendant received it?

3 A. Right.

4 MR. KAISER: Nothing further. Thank you.

5 MR. CALLAHAN: Nothing further from the
6 United States.

7 THE COURT: Jury questions?

8 You may stand down, sir. You are free to go back to
9 business.

10 (Witness excused.)

11 MR. DESAI: Your Honor, the next witness will be a
12 little lengthier. Noting the time, it might be a good idea to
13 take our morning break.

14 THE COURT: Where is the witness?

15 MR. DESAI: She is here. It's just going to be a
16 lengthier thing. I thought it might be a good point to take a
17 break.

18 THE COURT: We're going to break now or half past.
19 Anybody prefer now in the jury? We'll go a little while.
20 Bring the witness on.

21 MR. DESAI: The witness is Dorothy Anne Heathington.

22 (Witness sworn.)

23 THE CLERK: You may be seated. Can you please state
24 and spell your name for the record and speak right into that
25 microphone.

1 THE WITNESS: Sure. My name is Dorothy Anne
2 Heathington. It's D-O-R-O-T-H-Y, A-N-N-E,
3 H-E-A-T-H-I-N-G-T-O-N.

4 DOROTHY ANNE HEATHINGTON, a witness herein, having
5 been first duly sworn, was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. DESAI:

8 Q. Ms. Heathington, how are you currently employed?

9 A. I work for PayPal Holdings.

10 Q. How long have you worked for PayPal?

11 A. Just over five years now.

12 Q. What's your current position at PayPal?

13 A. I am currently the business records custodian and law
14 enforcement liaison.

15 Q. What's your role and responsibility as the business record
16 custodian and law enforcement liaison?

17 A. So my role is to fulfill legal orders for requests for
18 PayPal data, PayPal records, and assist law enforcement in
19 interpreting those records and explaining them.

20 Q. Is PayPal a bank?

21 A. PayPal is not a bank.

22 Q. I jumped ahead on my questions. What is PayPal?

23 A. PayPal is a digital wallet essentially. We are a digital
24 money transfer service.

25 Q. Essentially an online system?

1 A. Yes.

2 Q. And you can move money through the PayPal system?

3 A. Yes.

4 Q. But it's not a bank?

5 A. No.

6 Q. Since PayPal is not a bank, how does an individual access
7 money to make purchases with a PayPal account?

8 A. So they access money through their normal financials.

9 When you create a PayPal account, you can add your credit
10 card, bank account, credit products. Anything that you would
11 get from your normal financial service, you can add to your
12 PayPal account, and what PayPal does is we're the medium to
13 move that -- those funds from whatever it is to wherever it's
14 going.

15 Q. If you have a PayPal account, can you receive incoming
16 money from others that you would then be able to utilize for
17 purchases?

18 A. Yes.

19 Q. That would be a PayPal account could hold balances?

20 A. PayPal accounts can hold a balance, yes.

21 Q. You talked about upload a credit card and bank account
22 information?

23 A. Yes.

24 Q. Can a person provide a prepaid gift card such as a vanilla
25 Visa gift card for that purpose?

1 A. Yes, they can.

2 Q. How does an individual withdraw their money from a PayPal
3 account?

4 A. There are several ways to withdraw money from a PayPal
5 account. If you have a bank account on file, you can withdraw
6 directly to the bank and we'll do a direct deposit to your
7 bank account.

8 You can, if you have a PayPal business debit card which is
9 our debit card, you can use it like your regular debit card.
10 It's attached to your balance and you can withdraw money in an
11 ATM or use it as a debit card. You can also withdraw money by
12 check.

13 Q. And how about -- could you buy items with the PayPal
14 account and have that shipped to you?

15 A. Yes.

16 Q. When you said by a check, does a check get mailed to the
17 individual?

18 A. Yes.

19 Q. When PayPal transfers money from one account to the other,
20 it goes from one PayPal account to another PayPal account?

21 A. Yes.

22 Q. So the receiving person needs to have a PayPal account?

23 A. Correct.

24 Q. How does one create a PayPal account?

25 A. You would go to the website, which is www.PayPal.com and

1 there's a signup button on the website so you would just click
2 that and provide the requested information.

3 Q. And when you say "the requested information," is that what
4 is frequently called registration information?

5 A. That's correct.

6 Q. What type of information is required from PayPal's side to
7 make the account?

8 A. So at signup, we require your legal name, an e-mail
9 address, a phone number and a physical address, and you have
10 to create a password as well.

11 Q. And at that time, the registration or subsequently later,
12 you can provide a financial institution information?

13 A. That's correct.

14 Q. You indicated a legal name. Does PayPal -- is the
15 registration information provided verified by PayPal at the
16 time the account is created?

17 A. No, it's not.

18 Q. So an individual can provide a fake name without PayPal
19 knowing?

20 A. Yes.

21 Q. And you talked about a password. Do they have to create a
22 user name and password?

23 A. So your e-mail address you provide is your user name, you
24 don't have to create a user name and the password is created
25 by the user.

1 Q. What's the purpose of the password?

2 A. To keep your financial information secure and access your
3 account.

4 Q. So if a person is -- wants to access their account in the
5 future, they would log into the account utilizing their e-mail
6 address, which is their user name and the password?

7 A. That's correct.

8 Q. Can an individual update or change the registration
9 information and/or the financial information for their
10 account?

11 A. Yes, they can. They can change almost everything except
12 for the name on the account. Larger name changes require
13 documentation to support the change.

14 Q. Is it the regular practice for PayPal to record and store
15 registration information, the financial information and
16 changes to such information for PayPal accounts?

17 A. Yes.

18 Q. Is this information stored at or near the time the
19 information is provided or changed by PayPal account users?

20 A. Yes, it is.

21 Q. Is this information maintained and kept as part of the
22 regular course of PayPal's business?

23 A. Yes, it is.

24 Q. Ms. Heathington, at some point in time, was eBay and
25 PayPal part of the same company?

1 A. PayPal was a subsidiary of eBay, yes.

2 Q. Did you work for PayPal when it was the same company?

3 A. Yes.

4 Q. They have since separated into different companies?

5 A. That's correct.

6 Q. From June 2015 to July 2016, which is the date range for
7 our indictment, could someone make eBay purchases with a
8 PayPal account?

9 A. Yes, they can.

10 Q. How do they do that?

11 A. So when you purchase something on eBay, they are through
12 the "buy it now" or you win an item on eBay when you go
13 through the checkout process, it will ask you how you want to
14 pay. The primary method of payment for eBay was PayPal. So
15 it would ask you for your e-mail address and password to log
16 into your PayPal account.

17 Q. Did the account for the PayPal account, did it need to
18 have the same e-mail address with the eBay account?

19 A. You could have multiple addresses on both accounts. But
20 one of them did need to be the same.

21 Q. That's e-mail addresses?

22 A. Yes.

23 Q. Ms. Heathington, for an eBay purchases, an individual
24 sells an item and another individual buys the item?

25 A. That's correct.

1 Q. The buyer can send the money through PayPal?

2 A. That's correct.

3 Q. And the seller is supposed to send the buyer the package?

4 A. Yes.

5 Q. When does PayPal release the money to the seller in that
6 case?

7 A. Some new sellers are placed under a hold program, so when
8 that money comes into their account, it is placed on an
9 administrative hold. They can get those funds released in
10 three ways. If they provide us a tracking number from a major
11 carrier, USPS, UPS, Fed Ex, we'll track the package, and once
12 it's delivered, those funds get released three days after
13 delivery.

14 They can also mark the item as shipped. If they mark it
15 as shipped, the payment should be really seven days after the
16 estimated delivery date, and if they do neither of those
17 things, those funds get released after 21 days.

18 Q. So the system is designed for sellers to upload the postal
19 tracking number on to the system to notify that the package is
20 being shipped?

21 A. That's correct.

22 Q. PayPal doesn't confirm that the seller uploaded the actual
23 package for the buyer, does it?

24 A. No.

25 Q. What information is needed for that system?

1 A. So with the tracking number, we track it to delivery. It
2 has to be delivered within the zip code of the buyer's
3 address.

4 Q. So a person can upload a fake package that's destined to
5 another individual or fraudulent package destined to another
6 individual into the system without PayPal's knowledge?

7 A. Yes.

8 Q. Does PayPal notify the buyer about the tracking number?

9 A. Yes.

10 Q. How so?

11 A. We do all of our notifications via e-mail.

12 Q. So there's an automated e-mail that goes to the user
13 indicating the tracking number has been uploaded?

14 A. That's correct.

15 Q. What other types of information does PayPal send to the
16 user through e-mail?

17 A. All of our notifications go out through e-mail, so any
18 time you make a payment, we'll send you an e-mail. If you
19 receive a payment, we'll send you an e-mail. Any time you add
20 an address or change any of the registration information,
21 we'll send you a confirmation e-mail. If you change a
22 password, we'll send you an e-mail.

23 Any time our policies and procedures are updated, we'll
24 also send you a notification.

25 Q. Do you guys send e-mails when a transaction is completed?

1 A. Yes.

2 THE COURT: All right. You can stand down. We're
3 going to take our morning break now. You can leave the stand
4 if you want to.

5 Give the jurors a quiz. Do you know what the federal
6 government did for Luden's cough drops during World War II?
7 They exempted them from the sugar ration because they were
8 medicinal. They did the same thing for Horehound Candy which
9 was made from a weed that was imported from Russia
10 accidentally.

11 In my hometown, saw mill town, company owned, we ate
12 Luden's and Horehound candy. Ate Luden's for candy. Both
13 companies made a fortune, as you can imagine, since they
14 didn't have to have the sugar. That doesn't have much to do
15 with eBay.

16 Don't talk about the case. Don't start making up
17 your mind. Let the jury stand down. Everyone else remain
18 seated.

19 THE CLERK: Court is now in recess.

20 THE COURT: We'll start back at 15 till. We are in
21 recess. You can be at ease.

22 (Recess taken.)

23 THE CLERK: You can remain seated. This court is now
24 in session.

25 THE COURT: We may go into the noon hour, so if you

1 need a little snack to tide you over, let me know.

2 BY MR. DESAI:

3 Q. Ms. Heathington, when we stopped, we were talking about
4 PayPal accounts.

5 A. That's correct.

6 Q. PayPal accounts make a number of financial transactions,
7 correct?

8 A. That's correct.

9 Q. It can send payments and receive payments?

10 A. Yes.

11 Q. How about refunds?

12 A. You can issue refunds, yes.

13 Q. Is it the regular practice for PayPal to record and store
14 all these different types of financial transactions, and are
15 they stored at or near the time the financial transaction is
16 made?

17 A. Yes.

18 Q. Is this information maintained and kept as part of the
19 regular course of PayPal's business?

20 A. Yes.

21 Q. Let's talk a little bit more about refunds. When does a
22 refund happen?

23 A. So a refund happens when the user logs into their account,
24 identifies the payment they wish to refund. There's an issue
25 button there. They can issue either a partial or full refund

1 for the transaction.

2 Q. Do refunds happen when fraud occurs?

3 A. Yes.

4 Q. That's when PayPal or eBay would do the refund?

5 A. PayPal and eBay can also issue the refund.

6 Q. Are you familiar with eBay fraud schemes when the seller
7 falsely advertises items but does not deliver the item or
8 deliver a significantly different item after receiving
9 payment?

10 A. Yes.

11 Q. Is this one of the types of fraud schemes that utilizes
12 PayPal?

13 A. Yes.

14 Q. What is PayPal's policy to protect users from such fraud?

15 A. So PayPal has in place a buyer protection policy. Under
16 that policy, buyers are entitled to file a claim. We handle
17 two types of disputes. So as you mentioned, we call them item
18 not received disputes and not as described. So obviously if
19 you don't get the item, you are welcome to file a claim.
20 We'll open it, place the funds on hold, and ask for
21 documentation from both parties.

22 The not as described claims work the same way. If you get
23 something and it's the wrong color, the wrong item, anything
24 like that, you can also file a claim through PayPal and we'll
25 do the same, place the funds on hold and adjudicate the case

1 based on the evidence provided.

2 Q. So there's a complaint system in place at PayPal?

3 A. Yes.

4 Q. Is that complaint system online, or do you have to call
5 in?

6 A. You can do either.

7 Q. Does PayPal have a reimbursement policy?

8 A. Yes.

9 Q. What is that policy?

10 A. So if you file a claim and your claim is decided in your
11 favor, you will get reimbursed the full amount.

12 Q. Does PayPal attempt to recover the funds from the
13 fraudulent account?

14 A. Yes.

15 Q. And if it's able to recover the funds from the fraudulent
16 account, it uses that money; is that correct?

17 A. That's correct.

18 Q. But if the fraudulent account has already moved the money
19 before PayPal can recover the funds, what would happen?

20 A. PayPal will still pay the buyer.

21 Q. And in that case, who would take the loss?

22 A. PayPal.

23 Q. Does PayPal ban or suspend accounts associated with fraud?

24 A. Yes.

25 Q. Are you familiar with PayPal activity logs?

1 A. Yes.

2 Q. What are they?

3 A. Activity logs record all activity on the account. So any
4 time you log into an account, any time you change anything on
5 the account, it will record the date, the time and the IP
6 address that those changes were made from.

7 Q. Is it part of the regular practice for PayPal to record
8 and store the date and time, IP address of log-ins and other
9 activities associated with the PayPal account?

10 A. Yes.

11 Q. That information is stored at or near the time the
12 activity occurred and maintained and kept as part of PayPal's
13 regular business practice?

14 A. Yes.

15 Q. Ms. Heathington, were you asked to identify records for
16 PayPal accounts that were associated with a specific eBay
17 account that were part of the fraud scheme alleged in this
18 case?

19 A. Yes.

20 Q. Did you identify such accounts?

21 A. Yes.

22 Q. Are you familiar with Government's Exhibit PP1 to PP161
23 including the subparts PP1.1 and PP1.2 and so on for all 161
24 exhibits up to PP161.1 and 161.2?

25 A. Yes.

1 Q. Have you had the opportunity to view these exhibits prior
2 to your testimony here today?

3 A. Yes, I did.

4 Q. What are they?

5 A. Each exhibit is for a different PayPal account, and it
6 contains the registration information, transaction logs and
7 activity logs.

8 Q. And we'll just talk about the dot ones and dot twos.
9 That's the registration information and the transactional
10 information; is that correct?

11 A. That's correct.

12 Q. Are these the records that you provided to Postal
13 Inspector Weckerly as part of this investigation?

14 A. Yes.

15 Q. Is information in PP1 through PP161 and its subparts
16 information that PayPal recorded and stored as part of its
17 regular practice that was maintained and kept as part of the
18 regular course of PayPal's business?

19 A. Yes.

20 Q. Is that information in these exhibits created and stored
21 at or near the time the activity is described or when the
22 information was provided by the account holder?

23 A. Yes.

24 MR. DESAI: Your Honor, government offers all of PP1
25 to PP161 in bulk which involves .1 and .2 subparts.

1 MR. KAISER: No objection.

2 THE COURT: Admitted.

3 MR. DESAI: May they be shown to the jurors?

4 THE COURT: You may.

5 Q. Ms. Heathington, are PP1 through PP161 similar in nature?

6 A. Yes.

7 Q. We'll look at those in a little bit. We won't go through
8 all of them. We'll do a small sampling. Are you also
9 familiar with Government Exhibits PP -- these are for all PP
10 exhibits, 1.3, 2.3, 3.3, 4.3, 5.3, 6.3, 7.3, 8.3, 10.3, 11.3,
11 12.3, 13.3, 14.3, 17.3, 18.3, 20.3, 21.3, 23.3, 24.3, 28.3,
12 33.3, 36.3, 37.3, 38.3, 41.3, 42.3, 45.3, 48.3, 49.3, 50.3,
13 51.3, 53.3, 55.3, 64.3, 68.3, 85.3, 96.3 and 97.3?

14 A. Yes.

15 Q. Have you had the opportunity to review those exhibits
16 prior to your testimony today?

17 A. Yes.

18 Q. What are those?

19 A. Those are the PayPal activity logs mentioned earlier.

20 Q. Those are the ones associated with the PayPal accounts
21 with the corresponding numbers. So 1.3 is associated with
22 PayPal account 1?

23 A. That's correct.

24 Q. Is the information in these exhibits information that
25 PayPal recorded and stored as part of its regular practice and

1 information it maintained and kept as part of the regular
2 course of PayPal's business?

3 A. Yes.

4 Q. Are the information in these exhibits created and stored
5 at or near the time of the activity described?

6 A. Yes.

7 MR. DESAI: Your Honor, the government offers these
8 exhibits into evidence. I can read them back out, but I'll
9 ask for it to be done in bulk, if possible.

10 MR. KAISER: No objection.

11 THE COURT: Admitted.

12 MR. DESAI: May they be shown to the jurors?

13 THE COURT: Yes.

14 Q. Ms. Heathington, are these exhibits of activity logs
15 similar in nature?

16 A. Yes.

17 Q. We'll only look at one of those as we go through this.
18 Let's look at the 161 exhibits and we'll look through six of
19 them. First time we go through it, it will be a little slower
20 because we're going to describe everything. As we go through
21 the remaining exhibits, we'll move much quicker.

22 Let's start with PP2.1. If we can bring that on the
23 screen. Ms. Heathington, what is PP2.1?

24 A. This is the registration information for the account under
25 the name of Andrew Benson.

1 Q. And the top part underneath the global asset protection
2 PayPal logo at the top, and before we get to the registration
3 information cells and blocks there, that information there, is
4 that just the law enforcement officer information that's based
5 on the request but not actually part of the account
6 information?

7 A. That's correct.

8 Q. We'll skip those parts as we go through these documents to
9 save some time. Let's focus on the registration information.

10 MR. DESAI: Can we highlight that section? I'm
11 sorry. Can we expand it? Ms. Dinuno, can we do the whole
12 section of the registration information?

13 Q. In this registration information under the user info
14 section, it identifies first name, last name, DOB, CC
15 statement name and e-mail, correct?

16 A. That's correct.

17 Q. Just to clarify, what is DOB?

18 A. DOB is date of birth.

19 Q. That's something -- in this case, it's empty, but that's
20 something somebody can input as a user?

21 A. Yes.

22 Q. What is CC statement name?

23 A. CC statement name is the credit card statement name. So
24 if you are making a purchase to this account, that is the name
25 that would appear on your credit card statement.

1 Q. So in this case, what is the first and last name? What is
2 the CC statement name and what's the e-mail address?

3 A. First name, Andrew, last name Benson. CC statement name
4 is ALBenson117. The e-mail is ALBenson1174@gmail.com.

5 Q. Who supplied the information Andrew Benson and the e-mail
6 address?

7 A. The user.

8 Q. Is this information -- is the first name and last name
9 information verified during the registration process?

10 A. No.

11 Q. Let's look at the account info section. What is that
12 information telling us?

13 A. That tells us various points about the account
14 specifically. The account status can say different things.
15 If an account is just opened, it will say open. If an account
16 is closed, it will say closed. In this case, it's limited.

17 The account number is a unique identifier assigned to all
18 PayPal accounts. The account type, we have three different
19 account types, and it denotes what kind it is. The time
20 created is the date and time the account was opened.

21 Q. This is not information that's inputted by the user but
22 information generated and stored by PayPal?

23 A. That's correct.

24 Q. As you mentioned, you talked about account status. In
25 this one, it's limited to high. Can you explain that?

1 A. That's correct. When we review an account and it's
2 determined to either be fraudulent or potentially will cause
3 loss to PayPal, they may be restricted with a limitation.
4 This status denotes this account is restricted by PayPal.

5 Q. When the account was first opened, it didn't have that
6 restriction?

7 A. That's correct.

8 Q. So something happened that caused it to be limited and
9 high?

10 A. Yes.

11 Q. In this case, the account was opened on May 20, 2015; is
12 that correct?

13 A. Yes.

14 Q. And the account number, is that a unique number to each
15 and every account?

16 A. Yes.

17 Q. So it's like a bank account number. Each bank account has
18 a different unique number associated to a person's bank
19 account?

20 A. That's correct.

21 Q. And account type, how many account types are there and
22 what do they tell us?

23 A. There are three account types. There's a personal
24 account, a premier account and a business account.

25 Q. We will go to the next section, which is on the second

1 page. Let's focus on the top, the e-mail up to the phone
2 number sections. Again, this is just telling us that there's
3 an e-mail address provided and a phone number provided by the
4 user, correct?

5 A. That's correct.

6 Q. What is the three columns on the e-mail saying primary,
7 confirmed and active?

8 A. Active means it's active on the account. If someone were
9 to have multiple e-mail addresses or remove one, it would show
10 as an inactive address. Confirmed means they've gone through
11 the e-mail confirmation process, and primary means it's just
12 the main e-mail for the account.

13 Q. So even though PayPal doesn't have a confirmation process
14 for the name at the time of registration, there is a
15 confirmation process for the e-mail at sometime, and this
16 person went through that process?

17 A. Yes.

18 Q. And on the phone, it indicates -- information says
19 unconfirmed, no attempt and type mobile.

20 Does that mean there's a confirmation process for a phone
21 number? It's just this account didn't do that?

22 A. That's correct.

23 Q. Mobile is something that the user provides?

24 A. Yes.

25 Q. That indicates a cell phone?

1 A. It's a cell phone.

2 Q. Let's take a look at the addresses section. In this case,
3 there's three different addresses put in there?

4 A. That's correct.

5 Q. Who supplied these addresses?

6 A. The user.

7 Q. What does the last column of date entered means?

8 A. That is the date that it was added to the account.

9 Q. So the first one that was added, it looks to be the middle
10 one, which is dated May 20, 2015?

11 A. That's correct.

12 Q. And that account indicates an address in Lake Waynoka,
13 Ohio?

14 A. Yes.

15 Q. And then on 11-13-2015, there seems to be a new address
16 entered; is that correct?

17 A. Yes.

18 Q. And that is an address to Andrew Benson, 13940 Cedar Road,
19 J2037#360 RF Surplus LLC, University Heights, Ohio 44118; is
20 that correct?

21 A. Yes.

22 Q. And both addresses, first one and third one are the same,
23 it's just some have different characters in different places?

24 A. Yes.

25 Q. What does the middle column tell us?

1 A. The middle column denotes how the address was used on the
2 account. Home means it was -- it's the primary address listed
3 on the account. Gift address means it was added during a
4 purchase and CC confirmed means that is the address that was
5 used when that particular card ending in 7754 was added.

6 Q. Let's take a look at the -- let's get out of there. At
7 the bottom of this, it says auctions, mobile payments, and
8 there's nothing provided in that section?

9 A. That's correct.

10 Q. Let's go to the next page under the financial information
11 section. The headline for this section was on the last page
12 called "Financial Information," correct?

13 A. Yes.

14 Q. What does the financial information summary section tell
15 us?

16 A. So the summary tells us the account balance at the time
17 the record was pulled. It will also show the total amount
18 sent and the total amount received during the lifetime of the
19 PayPal account.

20 Q. So in this case, the total amount of money received by the
21 account was \$1,267.68 and the amount sent was \$872.22?

22 A. That's correct.

23 Q. And the account has no balance at this point?

24 A. That's correct.

25 Q. Just to be -- for our information, the secure card

1 attributes and the PayPal credit section have no information
2 in them, correct?

3 A. No, they don't.

4 Q. What does that information tell us, if it has information
5 in there?

6 A. So those are for different types of PayPal credit products
7 that we offer. Them not having any information in there means
8 that they do not have that product.

9 Q. Is one of those products kind of like that PayPal debit
10 card you talked about?

11 A. Yes.

12 Q. As we go further down on the screen, let's take a look at
13 the bank account credit cards and debit card section. In this
14 case, there's no bank accounts associated with this account?

15 A. No, there's not.

16 Q. There is a credit card associated with the account; is
17 that correct?

18 A. Yes.

19 Q. And can you just tell us briefly what the different
20 columns in that credit card section means?

21 A. The account number column is the actual card, the full
22 card number. The type shows what type of card it is. In this
23 case, it's a Visa. Status is primary. It's primary because
24 it's the only card on the account, the name on the card that
25 was provided by the user and the -- how it was confirmed and

1 the expiration date of the card.

2 Q. So in this case, the credit card number ends in 7754?

3 A. That's correct.

4 Q. And underneath there, there's another section called debit
5 cards and there's no debit cards provided?

6 A. That's correct.

7 Q. At the bottom, there's a section called restrictions?

8 A. Yes.

9 Q. I think that wraps to the next page.

10 A. That's correct.

11 Q. Let's take a look at the next page. Just highlight the
12 top portions. In this case, it says under the restrictions
13 section, it says, "SRO high risk selling activity" and a date
14 of November 17, 2015, correct?

15 A. Yes.

16 Q. What does that mean?

17 A. The limitation that we spoke of earlier, this is the
18 limitation that was placed on the account. SRO stance for
19 seller risk operations, and the date and time provided was the
20 date and time that this limitation was placed.

21 Q. What does an SRO limitation mean to the account?

22 A. An SRO limitation means that at some point, we reviewed
23 this account for its selling behavior and saw some risk of
24 loss with it, so we placed a restriction asking for additional
25 information.

1 Q. And that means the user has to provide additional
2 information to use the account?

3 A. Yes.

4 Q. And then the next section says, "IP summary." Is that
5 just the IP address of the account user as they access this
6 account?

7 A. It's the IPs that were used on the account for the
8 lifetime, and it shows the first time it was used and the last
9 time it was used.

10 Q. Thank you. Let's go to PP2.2. The first tab is this
11 report overview tab; is that correct?

12 A. Yes.

13 Q. That's just basically like a cover sheet that's provided
14 with the records?

15 A. Yes.

16 Q. In there, in the listing parameters, it identifies an ID
17 number; is that correct?

18 A. Yes.

19 Q. Is that the same ID number that's in PP2.1 as the account
20 number?

21 A. Yes.

22 Q. That way, we know which account we're talking about?

23 A. That's correct.

24 Q. It's indeed the same in this case?

25 A. It is.

1 Q. Let's go to the second tab, the all transaction tab. Can
2 you tell us what this tab -- what's provided in this section?

3 A. So this tab is your -- a record of all the transactions
4 into and out of the account, much like your bank statement
5 would reflect all of its transactions.

6 Q. Can you just walk us briefly through the different columns
7 on this document?

8 A. The date is the date that the transaction or action
9 occurred. The time is the time that it occurred. The third
10 column is the time zone, so these are listed in Pacific
11 standard time. The name is either the name of an action that
12 we took or the counterparty in each case. The type shows what
13 it is.

14 Q. Quickly on the name, the person sending money or the
15 person receiving money?

16 A. That's correct.

17 Q. Then you talked about the type. I apologize to cut you
18 off.

19 A. The type just tells us what type of action was taken.
20 Status can mean different things. It's the status of each of
21 those actions. The subject line shows -- if there is a
22 subject line, it will show items or things that were
23 purchased.

24 I believe if you scroll down, this one actually does have
25 one. The next column is the currency the transaction was done

1 in. Column I is the amount of each action for each
2 transaction.

3 Q. Just quickly stop. The subject line that you talked
4 about, that's like a memo line in a checkbook; is that
5 correct?

6 A. That's correct.

7 Q. You talked about how the column labeled gross, that's the
8 column about the amount on that transaction?

9 A. Yes.

10 Q. And then the next two columns is about bank name and bank
11 account. We don't have any of that?

12 A. Not in this account, no.

13 Q. Then the next three columns?

14 A. Other IP is the last used IP of what we call the
15 counterparty, so the other party of the transaction, and the
16 balance is like the balance of your checkbook. It shows it
17 going up and down based on transactions that happen. And the
18 last is either it's a memo or whether it's credit or debit.

19 Q. So let's walk through this one. It starts from the bottom
20 and goes to the top in time; is that correct?

21 A. Yes.

22 Q. Let's take a look at the bottom couple of rows and focus
23 in on that. We'll try to scroll as we talk about this.

24 What's happening in the first two rows?

25 A. So this denotes a payment received from Michael Appley on

1 November 6 of 2015.

2 Q. Coming into this account?

3 A. Yes.

4 Q. As we scroll across, we see that the subject is for a
5 MacBook Pro?

6 A. That's correct.

7 Q. And in the status column, it says "Refunded by eBay,"
8 correct?

9 A. Yes.

10 Q. That's something that occurred after the fact?

11 A. Yes.

12 Q. That's a current status as of today but not as of the date
13 of the money coming in?

14 A. That's correct.

15 Q. If we went -- I forgot to ask. What was the date in which
16 Mr. Appley provided the money, if we go back to the first?

17 A. November 6 of 2015.

18 Q. As we scroll across, it shows how much money he sent?

19 A. He sent \$870.05.

20 Q. And if we go to the second row, it says the funds are not
21 yet available; is that correct?

22 A. Yes.

23 Q. Why was that?

24 A. It was placed on one of the holds that we spoke about
25 earlier.

1 Q. So the money is not released to this account user to use?

2 A. That's correct.

3 Q. If we go all the way to the far right-hand corner, we see
4 balances. We see that the first column shows an \$870 balance
5 but the second row shows zero and that's because of the hold?

6 A. That's correct.

7 Q. If we take a look at the next two rows, just briefly that
8 shows incoming money from an Ismael Colin on 11-8-2015?

9 A. That's correct.

10 Q. As we go across, again, the funds are not yet available?

11 A. Yes.

12 Q. So they are on hold as well like one of the holds you
13 mentioned earlier?

14 A. Yes.

15 Q. He provided -- if we go a little over, \$360 is what he's
16 sending over and 27 cents?

17 A. Yes.

18 Q. If we go up a little bit on the next line. What's the
19 date of this?

20 A. November 13 of 2015.

21 Q. Seven days after Mr. Appley sent the money initially?

22 A. That's correct.

23 Q. What is happening in this row?

24 A. So this is when the payment was released back into the
25 account.

1 Q. So the funds become available at this point?

2 A. Yes.

3 Q. If we scroll all the way to the right, we see the gross is
4 870.05. Funds are available as a status now, and we go all
5 the way to the right-hand side. We see that the balance is
6 now 870?

7 A. That's correct.

8 Q. Let's go back all the way across. What's the time when
9 Mr. Appley's funds become available?

10 A. 9:04:48 a.m.

11 Q. What happens shortly thereafter on the next two rows?

12 A. The next two rows are payments made from this account to
13 Liberty Coin.

14 Q. What's the time approximately on those two payments?

15 A. 9:19 a.m.

16 Q. 15 minutes later?

17 A. Uh-huh.

18 Q. And as we go across, we see it says "Payment sent"?

19 A. Yes.

20 Q. As we keep going across and let's see the balance as well.
21 The amount of the first purchase to Liberty Coin was \$757.47?

22 A. That's correct.

23 Q. And the second was \$98.28?

24 A. That's correct.

25 Q. We see a balance on the other side, correct?

1 A. Yes.

2 Q. The balance is going down?

3 A. Yes.

4 Q. So essentially Mr. Appley's money is being used to buy the
5 items from Liberty Coin?

6 A. Yes.

7 Q. Let's look at the next two rows. Same date, 11-13-2015 at
8 approximately the same time. What's happening?

9 A. This is another payment sent from the account to RS
10 Trading.

11 Q. There's also a charge on a credit card?

12 A. That's correct.

13 Q. As we go over, let's just look at both the gross and the
14 balance side. What was going on?

15 A. So the total amount of that payment was, I believe, 16.
16 So if you look at the balance at line 12, after the two
17 payments to Liberty Coin, the balance of that account is
18 \$14.30, so the total amount of the payment is \$16.47, so the
19 charge from the credit card is us charging the 2.17 difference
20 to the card to make up the full payment.

21 Q. So the item was about \$18, \$16 came from the PayPal
22 account and 2 extra dollars from --

23 A. The card.

24 Q. The card?

25 A. Yes.

1 Q. Let's take a look at the top half of this transaction log.
2 Pull it all the way up to the top. The next couple of lines.
3 I guess the next line shows refund Ismael Colin. Canceled
4 fees by PayPal. Ismael Colin's funds become available. EBay
5 messaging buyer dispute of a temporary hold. Reversal eBay
6 buyer dispute, temporary hold and reversal.

7 Can you briefly explain some of this information? What's
8 going on?

9 A. So on 11-13, 2015, this indicates that the user logged in
10 and issued a refund to Ismael Colin. As part of the refund,
11 PayPal won't cancel the fee we took from them. Because those
12 funds were still on hold, the funds availability in that
13 column indicates we released the funds that were on hold to
14 complete the refund.

15 Q. How about above that?

16 A. Above that indicates a buyer dispute was filed on the eBay
17 side for this transaction.

18 Q. As we scroll across, the buyer dispute is showing that the
19 buyer dispute is for the 870.08; is that correct?

20 A. That's correct.

21 Q. That's the amount of money that Mr. Appley provided,
22 correct?

23 A. Yes.

24 Q. And what happened as a result of that buyer dispute?

25 A. The buyer was refunded.

1 Q. If we go back to the beginning part, it shows a reversal.
2 That's the refund?

3 A. Yes.

4 Q. Let me just ask this: When it says there buyer dispute
5 temporary hold, that means whatever funds were in the account
6 was being held at that point?

7 A. Yes.

8 Q. As the investigation of the dispute was being done?

9 A. Yes.

10 Q. And ultimately, there was a reversal?

11 A. Yes.

12 Q. Let's go the next tab, which is called the transaction,
13 part of the transaction log, the second tab. Can you tell us
14 what this section tells us?

15 A. So this is the breakout of the payment sent out of the
16 account without all of the additional information, so this is
17 just the basics of the payments that were sent from the
18 account.

19 Q. As we see here, the money going out goes to two payments
20 to Liberty Coin and one to RS Trading?

21 A. That's correct.

22 Q. We saw that transaction on the last spreadsheet?

23 A. Yes.

24 Q. Let's go to the next tab. What is on this tab?

25 A. This is a breakout of any payments received into the

1 account without the additional information.

2 Q. So we see that the first transaction was coming in from
3 Michael Appley and sent from Ismael Colin?

4 A. That's correct.

5 Q. As we go across a little bit to the next couple of cells,
6 it says there "Status." One of them says, "Refunded By EBay."

7 A. Yes.

8 Q. That means eBay refunded Mr. Appley through the PayPal
9 system?

10 A. Yes.

11 Q. That was the \$870.05, as we scroll across, money that they
12 gave back to Mr. Appley?

13 A. That's correct.

14 Q. For Mr. Colin, it just says "Refunded"?

15 A. That's correct.

16 Q. Let's take a look briefly at Government Exhibit 2.3.
17 Again, first tab is just the cover sheet.

18 A. Yes.

19 Q. The ID number there is the same ID number in 2.1 and 2.2?

20 A. It's the account number, yes.

21 Q. Let's go to the second tab labeled "Activity Log." Why
22 don't we make this smaller so you can see everything together
23 here. This is the activity log we talked about?

24 A. Yes.

25 Q. What is this document telling us?

1 A. So the first column is telling us the date and time stamp
2 of each of the actions on that line. The IP number lists the
3 IP number that was used to make that transaction. The actor
4 is always going to say the e-mail address on the account that
5 they signed in with. The action is just the action that was
6 taken for each line, and action data is supplemental
7 information to the previous column.

8 Q. So just so we're clear, I know it's spread out so it's not
9 very easy to see right now, but the last two lines or columns
10 are the action taken by the user and what that action is?

11 A. Yes.

12 Q. Can we focus in on the first two columns? Make it a
13 little bit bigger. That's just the date and time in Pacific
14 standard time and when the IP address was doing that action?

15 A. Yes.

16 Q. All of the .3s are similar in nature. It has the date and
17 time, the IP address and whatever action is being done by the
18 user?

19 A. That's correct.

20 Q. You can take that down. We're going to go through a
21 couple more of these. We're moving a little quicker now.
22 Let's start with PP1.1.

23 MR. DESAI: Ms. Dinuno, can you expand is the
24 registration box section.

25 Q. What is the first name and last name and e-mail address

1 associated with this account?

2 A. This account is listed under Kevin Smith and the e-mail is
3 KCSmith2397@gmail.com.

4 Q. And in this account, the account status was locked-charged
5 off, correct?

6 A. That's correct.

7 Q. What does that mean?

8 A. That status means that this account had a negative balance
9 for more than 180 days and we charged it off and sent it to
10 collections.

11 Q. And the account was created on September 20 and it has an
12 account number that's provided there that ends in 2992?

13 A. That's correct.

14 Q. Let me ask this: Was the account status locked-charged
15 off, was that due to after discovering fraud on the account?

16 A. Locked-charged off can come from a number of reasons.
17 That simply means the account was negative. The account could
18 have been negative due to fraud or a number of other reasons.

19 Q. Let's take a look at the next section, next page. Let's
20 look at the addresses section. Just the addresses. Again,
21 there's three addresses in this section?

22 A. Yes.

23 Q. The first address that was entered is the middle one which
24 is September 20, 2015. It was added in?

25 A. Yes.

1 Q. That's a New Milford, PA address?

2 A. Yes.

3 Q. Then there is an address that was provided on 12-7-15 on
4 the top. That's a 13940 Cedar Road address, Box 360, correct?

5 A. Yes.

6 Q. To Cleveland, Ohio?

7 A. Yes.

8 Q. Is that similar to the address you saw last time on PP2.1?

9 A. Yes, it is.

10 Q. Let's go to the financial section at the top of the third
11 page. This one shows that the amount received into the
12 account was \$830.06?

13 A. That's correct.

14 Q. And a negative account balance of \$24.37?

15 A. Yes.

16 Q. Was that more likely fees that were owed to PayPal?

17 A. Yes.

18 Q. At the bottom of this page, you can just scroll down,
19 there is a credit card listed on this account. It's again a
20 Visa card associated with this account?

21 A. Yes.

22 Q. Again that could be a gift card like a vanilla Visa gift
23 card?

24 A. Yes. Yes.

25 Q. Let's move on to Exhibit 1.2. We'll skip the first tab

1 which is again the cover sheet, but having looked through
2 these, you know that the ID number is the same as the 1.1
3 exhibit?

4 A. That's correct.

5 Q. Looking at these transactions, can you just walk us
6 through what is going on in this transaction log?

7 A. So a payment was received into the account on December 3rd
8 of 2015 from Ray Offner. Those funds were placed on the
9 administrative hold the same day, were released into the
10 account on December 7, and a check was requested, a check
11 withdrawal was requested from PayPal.

12 Q. What does that mean?

13 A. That means they logged into their account and they said we
14 want to withdraw by check and we then cut a check and sent it
15 to the address.

16 Q. So the user of this PayPal account tried to have the funds
17 that were uploaded by Mr. Offner made into a check to be sent
18 to him?

19 A. Yes.

20 Q. What happened after that?

21 A. After that, a temporary hold was placed on the money from
22 Mr. Ray Offner, that is usually due to a dispute being filed.
23 Someone placed the money on hold. At that point, the
24 transfer, the check withdrawal was canceled, and later, we
25 canceled the fee and reversed the money back to Mr. Offner.

1 Q. So in his case, Mr. Offner was able to get refunded
2 entirely; is that correct?

3 A. Yes.

4 Q. And the money, PayPal never sent the check to the account
5 user of this account?

6 A. That's correct. It was canceled, yes.

7 Q. So that means that all the money was still in the account
8 that could be refunded back to Mr. Offner?

9 A. Yes.

10 Q. If we take a look at the amount side, we can see that the
11 amount that Mr. Offner sent in was \$805.69?

12 A. Yes.

13 Q. Briefly, we won't go to the other tab. That's just going
14 to be the tab of the money coming in?

15 A. That's correct.

16 Q. That would just show the money came in from Mr. Offner and
17 was reversed?

18 A. Yes. It will just show the first sign there.

19 Q. Let's go ahead and go to PP3.1. Let's expand the
20 registration information, and can you just identify the first
21 and last name and the e-mail on this account?

22 A. So this account is listed under Nicholas Constantine, and
23 the e-mail address is NSConstantine36638@gmail.com.

24 Q. And the account was created August 17, 2015 and ultimately
25 the status became limited high at some point?

1 A. Yes.

2 Q. Let's go to the second page which shows addresses. Again,
3 there's three addresses provided in this section?

4 A. Yes.

5 Q. The earliest address was entered August 17, 2015; is that
6 correct?

7 A. That's correct.

8 Q. That's to a Mobile, Alabama address?

9 A. Yes.

10 Q. The next address was entered on November 2nd, 2015?

11 A. Yes.

12 Q. And that's to the 13940 Cedar Road J1030#360 Cleveland,
13 Ohio address?

14 A. Yes.

15 Q. That's the same address we saw in the last three
16 documents?

17 A. Yes.

18 Q. Let's take a quick look at the financial section which is
19 the top of page 3. Again, this just shows the amount of money
20 coming in, the amount of money sent out and the account
21 balance, correct?

22 A. That's correct.

23 Q. So the amount of money that came in to this account was
24 \$480.04. The amount of money sent out was \$475.95?

25 A. Yes.

1 Q. And the total balance is zero?

2 A. Yes.

3 Q. Let's take a look, scroll down and go down to the credit
4 card section. There is a credit card uploaded to this
5 account?

6 A. Yes.

7 Q. Let's go to Exhibit 3.2. Let's go -- again, the first tab
8 is just a cover sheet?

9 A. Yes.

10 Q. Same ID number as we saw in the other documents?

11 A. Yes.

12 Q. By other document, I meant PP3.1?

13 A. 3.1, yes.

14 Q. Let's go to the next tab. This is the all transaction
15 tab; is that correct?

16 A. Yes.

17 Q. Let's take a look at the first couple of rows at the
18 bottom here. Just make them a little bigger.

19 It looks as though, the first thing that happens here is a
20 \$45 charge from a credit card sent from this account to
21 another person; is that correct?

22 A. Yes.

23 Q. And then looking at October 26, the third and fourth row
24 from the bottom, that looks to be money coming in from Eric
25 Dirksen for a Samsung Galaxy S6 Edge for \$465.82?

1 A. Yes.

2 Q. And the funds are not immediately available; is that
3 correct?

4 A. That's correct. They are placed on hold.

5 Q. Then if you look at the line above that, the date 11-2,
6 2015, approximately seven days later; is that correct?

7 A. Yes.

8 Q. Mr. Dirksen's funds become available?

9 A. Yes.

10 Q. And if we look up at the transactions that follow from
11 there, what happens?

12 Let me ask you this: What time do the funds become
13 available and what happens shortly thereafter?

14 A. The funds become available at 8:25 a.m. and the payments
15 right after that, there are two payments to Liberty Coin at
16 8:36 a.m.

17 Q. So about 11 minutes later?

18 A. Yes.

19 Q. And they are -- how much is the payments to Liberty Coin?

20 A. The first one is \$401.49 and the second is for \$50.67.

21 Q. So it's pretty much all the money Mr. Dirksen sent to this
22 account?

23 A. Yes.

24 Q. If we scroll across even more, we'll see there's only \$13
25 left in the account?

1 A. That's correct.

2 Q. As we go to the next transactions that go on this account,
3 it looks to be a purchase from Golden Eagle Coins, same date,
4 approximately same time?

5 A. Yes.

6 Q. And there's also a little charge with a credit card?

7 A. Yes.

8 Q. That means the purchase was a little bit more than what
9 was in the balance so the credit card had to be charged?

10 A. Yes, we charged the difference to the card.

11 Q. If we go across, the amount of the items left in the
12 account was 18.79 and an additional \$5 from the card?

13 A. Yes.

14 Q. As we go to the balance section, there's no more balance?

15 A. That's correct.

16 Q. So the balance is all zero at this point?

17 A. Yes.

18 Q. Let's go up to the next rows. The next row shows eBay
19 buyer dispute and a temporary hold; is that correct?

20 A. Yes.

21 Q. And then as we look up on the other rows above it, we see
22 the eBay buyer dispute. We see a reversal. Can you just
23 explain what happens here?

24 A. So an eBay buyer dispute was filed on the eBay side. We
25 placed the money on hold. They adjudicate the dispute, and in

1 this case, it looks like they refunded the buyer.

2 Q. And let's just look at the fourth tab. If we can just
3 make that bigger. That shows the money coming in from
4 Mr. Dirksen; is that correct?

5 A. Yes.

6 Q. If we scroll down a little bit, it says refunded by eBay?

7 A. Yes.

8 Q. It's the full amount \$465.82?

9 A. Yes.

10 Q. To be clear, Mr. Dirksen's money that came into that
11 account was used to buy the Liberty Coin?

12 A. Yes.

13 Q. We got three more of these. Again we're going to move
14 quicker. Let's go to Exhibit PP4.1. Let's focus again on the
15 registration information.

16 In this case, the first and last name and e-mail address
17 is Claude Clark, and the e-mail is CJClark912@gmail.com; is
18 that correct?

19 A. That's correct.

20 Q. The account was open on September 10, 2015 and it's an
21 open account?

22 A. Yes.

23 Q. There's an account number provided that's unique to it?

24 A. Yes.

25 Q. Let's go down to the addresses section. We have four

1 entries in this section, correct?

2 A. Yes.

3 Q. Two of them look to be for Kenner, Louisiana; is that
4 correct?

5 A. Yes.

6 Q. And in fact that was the first address entered on
7 September 2015?

8 A. Yes.

9 Q. Two other addresses, and they look to be the 13940 Cedar
10 Road, J1058#360 Cleveland, Ohio address?

11 A. Yes.

12 Q. We saw that on PP1, PP2 and PP3?

13 A. Yes.

14 Q. That was done on December 3rd, 2015?

15 A. Yes.

16 Q. Let's go to the financial section. On the third page
17 again, this account shows that \$550.44 was received and
18 \$535.64 sent?

19 A. Yes.

20 Q. And this account has a zero balance?

21 A. Yes.

22 Q. At the bottom, it shows that a credit card was attached to
23 the account?

24 A. Yes.

25 Q. Let's go to Exhibit PP4.2.

1 THE COURT: Let's take a break until 12:00 noon.
2 Ladies and gentlemen, we're going to kind of work on through.
3 We're going to try to finish by about 2:00 o'clock today. The
4 deputy clerk will talk to you about possible little sustenance
5 to tide you over. We'll be in recess.

6 Let the jury stand down. Don't start making up your
7 mind. Don't talk about the case. Let the jury stand down.
8 Everybody else remain as you are.

9 THE CLERK: This court is now in recess.

10 (Jury excused.)

11 THE COURT: How much longer do you expect to take
12 with this witness?

13 MR. DESAI: Your Honor, I will just say less than an
14 hour for sure. Probably another 30 minutes.

15 THE COURT: 30 minutes should be enough, I can tell.
16 I got the feeling. The spirit moved me.

17 MR. DESAI: We'll do our best.

18 THE COURT: We are in recess. Be at ease.

19 (Recess taken.)

20 THE CLERK: Remain seated. This court is now in
21 session.

22 THE COURT: Little lady Judge Conti, the chief judge
23 of this district, came down for a little visit, so I'm a
24 little late. I'm told it will be about 30 more minutes of
25 direct examination of this witness. We'll move on.

1 BY MR. DESAI:

2 Q. Looking at -- we just pulled up Government Exhibit PP4.2,
3 and again the first tab is the cover sheet and it has the ID
4 number that corresponds to PP4.1, correct?

5 A. That's correct.

6 Q. Let's take a look at the second tab, which is an all
7 transaction tab. We'll walk through this, but it shows
8 Mr. Pablo Bejarano on 11-24-2015 sent money to this account?

9 A. That's correct.

10 Q. If we scroll over just a little bit, it shows right there,
11 it shows he sent approximately -- it shows he sent \$534.18 for
12 an iPhone 6; is that correct?

13 A. Yes.

14 Q. And then if we see on the third row, obviously the funds
15 were not immediately available. On the third row, it shows
16 the funds became available?

17 A. Yes.

18 Q. If we go all the way back, it shows the funds became
19 available on 12-3-2015 at 4:21:16 Pacific standard time?

20 A. That's correct.

21 Q. That's in the morning, correct?

22 A. Yes.

23 Q. As the rows above it show, ten minutes later or
24 approximately ten minutes later on the same day in the
25 morning, there is purchases to Liberty Coin?

1 A. Yes.

2 Q. Further up, there's another purchase to PCE, Inc.?

3 A. That's correct.

4 Q. And another purchase to a Jeff Mirka?

5 A. Yes.

6 Q. And there's extra money needed for a charge on the credit
7 card on the last purchase from Mr. Mirka?

8 A. Yes.

9 Q. For the Liberty Coin ones, scroll a little more this way,
10 we see payment sent, one gram gold bar Perth mint and ten gram
11 gold bar Perth mint. Those are the Liberty transactions?

12 A. Yes.

13 Q. The one gram gold bar was 137.34 and the ten gram was
14 373.51?

15 A. Yes.

16 Q. The PCE transaction was 18.49?

17 A. Yes.

18 Q. And the last transaction to Mr. Mirka was the Snyder's
19 honey mustard and onion sour dough hard pretzel pieces,
20 correct?

21 A. Yes.

22 Q. That was for 6.30 plus the 1.46 that was needed in the
23 credit card?

24 A. Yes.

25 Q. That's essentially all the money that Mr. Bejarano

1 provided to this account?

2 A. Yes.

3 Q. If you go to the next tab, the transaction sent tab?

4 A. Yes.

5 Q. That's showing all the transactions sent, that's Liberty
6 Coin, PCE and Mr. Mirka?

7 A. Yes.

8 Q. Let's go to the next one. This is the transaction times
9 of money coming in?

10 A. Yes.

11 Q. As we see, that's the date and time of the money coming
12 in, Mr. Bejarano. As we go across, it says the status was
13 refunded by eBay?

14 A. Yes.

15 Q. So the money was provided back to him by eBay?

16 A. Yes.

17 Q. You can take that down. Let's take a look at 6.1.

18 Looking at the registration information on Government Exhibit
19 6.1, the first and last name is Joshua Bryant?

20 A. Correct.

21 Q. The e-mail is JKBryant180@gmail.com?

22 A. That's correct.

23 Q. The account was opened on May 20, 2015 and it has a unique
24 account number associated to it?

25 A. Yes.

1 Q. Again, let's go to the next page. We look at the
2 addresses. The first address that was entered on the system
3 was on 5-20-15 to a New Brunswick, New Jersey address; is that
4 right?

5 A. Correct.

6 Q. That's the middle row there?

7 A. Yes.

8 Q. On 11-30-2015, a different address was added in, and again
9 it's that 13940 Cedar Road No. 360, Cleveland, Ohio address?

10 A. Yes.

11 Q. For the financial transactions, this shows the total
12 amount received and sent from the account?

13 A. Yes.

14 Q. It received \$950.08 and sent out \$339.51?

15 A. Yes.

16 Q. At the bottom, the balance is zero?

17 A. Correct.

18 Q. At the bottom, it shows a credit card was attached to the
19 account?

20 A. Yes.

21 Q. Let's go to Government Exhibit 6.2, PP6.2. First tab
22 again, just the cover sheet?

23 A. Correct.

24 Q. And the account ID is the same as that on 6.1?

25 A. Correct.

1 Q. Let's take a look at the actual transactions. This
2 document shows that Ms. Darleen Ferguson, if we go down to the
3 bottom -- it shows that Ms. Ferguson sent money on 11-21, 2015
4 to this account?

5 A. Correct.

6 Q. And it subsequently shows that funds were not initially
7 available, and on 11-25, another individual provides money to
8 the account?

9 A. Yes.

10 Q. And then Darleen Ferguson's money becomes available on
11 11-30, 2015 at 5:54 a.m. Pacific standard time?

12 A. Yes.

13 Q. And about a little over 20 minutes later, there are
14 purchases made from this account?

15 A. Yes.

16 Q. One is to Bay Precious Metals?

17 A. Correct.

18 Q. One is to Liberty Coin. One is to Deals Depot, and one to
19 David Rokele?

20 A. Correct.

21 Q. Then we see above that, there is an eBay buyer dispute and
22 temporary hold on the account?

23 A. Yes.

24 Q. And we see that there is a reversal on the account?

25 A. Correct.

1 Q. And even further up, we see a refund to the second person
2 who sent money as well?

3 A. Yes.

4 Q. And if we go across on the payment side, go back down to
5 the bottom of the rows, can we go across, not the balance but
6 the gross, if you don't mind, and as far to the left that we
7 can, the gross number on the far right-hand side.

8 It shows that Ms. Ferguson had sent \$341.05?

9 A. Yes.

10 Q. The other individual sent \$574?

11 A. Yes.

12 Q. And as you go up the rows, you can see that the Bay Metal
13 Precious was \$92.92 transaction?

14 A. Yes.

15 Q. And the person sent 195.43 to Liberty Coin?

16 A. Yes.

17 Q. And about \$28.25 to Deal Depot and 2291 to David Rokele?

18 A. Yes.

19 Q. If we go up, it shows the reversal and buyer's fee was on
20 the \$341.05?

21 A. Yes.

22 Q. That's Ms. Ferguson's amount of money she sent?

23 A. Yes.

24 Q. And the other person was refunded \$574.90?

25 A. Yes.

1 Q. And after the last amount that went to the payment of
2 Mr. Rokele, there is a balance, if you go all the way to the
3 right, of \$1.54?

4 A. Yes.

5 Q. All of Ms. Ferguson's money was used to make the purchases
6 for Bay Precious, Liberty Coin, Deal Depot and David Rokele?

7 A. That's correct.

8 Q. If we go to the fourth tab, that's the money received tab,
9 it indicates that both individuals, Darleen Ferguson and the
10 second individual both got refunded; is that correct?

11 A. Yes.

12 Q. Let's go to 15.1. Let's highlight the registration
13 information and that section. What's the user name and e-mail
14 address on this one?

15 A. So this account is listed under Robert Busby and the
16 e-mail is RKbusby20317@gmail.com.

17 Q. As we go through this account, let's go to the address
18 section. The first address entered on this account appears to
19 be a Detroit, Michigan address on July 16, 2015?

20 A. Correct.

21 Q. And the second address on the account appears to be that
22 13940 Cedar Road address, Box No. 360?

23 A. Correct.

24 Q. This time, it says University Heights instead of
25 Cleveland?

1 A. Yes.

2 Q. The date on that was June 29, 2016?

3 A. Yes.

4 Q. If we go down to the financial information section, just
5 the top part, it just shows an account balance, a negative
6 account balance of \$784, a total amount sent of \$794.09 and a
7 total amount received of \$2,670.60; is that correct?

8 A. Yes.

9 Q. Let's go to 15.2. Let's go to the all transaction tab.
10 Again, this is the same ID as the one on 15.1.

11 A. That's correct.

12 Q. Let's go down to the bottom. We'll walk this quickly. It
13 appears that Michael Grysko sent money on 5-10, 2016; is that
14 correct?

15 A. Yes.

16 Q. The funds became available -- there's also a credit card
17 payment sent, is that correct, after that?

18 A. Yes.

19 Q. On 5-14. And after that, there is an eBay dispute and
20 Mr. Grysko's funds became available and there was a reversal;
21 is that correct?

22 A. Yes.

23 Q. And Mr. Grysko received a refund?

24 A. Correct.

25 Q. If we go above that, we see that there is a -- on June 20,

1 2016, there is money coming in from a Willfred Rodriguez?

2 A. Correct.

3 Q. It's for a Nikon D4 camera?

4 A. Yes.

5 Q. If we scroll a little bit over, we can see it's \$803.49?

6 A. That's correct.

7 Q. The funds were not initially made available?

8 A. No, they were not.

9 Q. And then if we look back all the way to the left-hand side
10 with the date and time, we can see that on June 28, 2016 at
11 5:41 Pacific standard time, the funds became available?

12 A. Yes.

13 Q. Once the money became available, what happened to that
14 money?

15 A. Payments were sent to Liberty Coin.

16 Q. And it was for a one ounce silver bar and a ten gram gold
17 bar, correct?

18 A. Yes.

19 Q. And if we scroll over just a little bit to the amounts,
20 that's \$320.30 for the silver bar and 463.79 for the gold bar?

21 A. Correct.

22 Q. If we go to the balance, the balance is \$19.40?

23 A. Yes.

24 Q. That's all the money from Mr. Rodriguez used to buy the
25 Liberty Coin items?

1 A. Correct.

2 Q. If we go to the top line, it says, "Buyer dispute
3 temporary hold," right?

4 A. Yes.

5 Q. No refund in this case, at least not identified here?

6 A. Correct.

7 Q. And the amount on hold, if we go over, is 803.49?

8 A. It's the amount of the transaction received.

9 Q. And if we go down to the tab, the fourth tab, it indicates
10 there, if we can make that a little bigger, that Michael
11 Gysko had a refund, if we can scroll to the right a little
12 bit, had a refund, and Willfred Rodriguez, it just says held?

13 A. Correct.

14 Q. This account had a negative balance of the same amount
15 that's being held for Mr. Rodriguez?

16 A. Minus the balance that was in the account, the 19.40, so
17 yes.

18 Q. Ms. Heathington, are you familiar with Government Exhibit
19 LC2 to LC21 which includes subparts LC2 to 2.5 to 21.1 and
20 22.2?

21 A. Yes.

22 Q. I'm going to show you these exhibits at this time. Have
23 you had the opportunity to review these exhibits prior to your
24 testimony here today?

25 A. Yes.

1 Q. What are they?

2 A. They are e-mail receipts that were sent to Liberty Coin
3 from PayPal. They also appear to be Liberty Coin's invoices
4 and shipping information.

5 Q. Are they related -- are they Liberty Coin records?

6 A. Yes.

7 Q. Are they related to the PayPal transactions that you saw
8 on the PayPal accounts in the PP1 through PP161?

9 A. Yes.

10 MR. DESAI: I'm going to read a stipulation at this
11 time. Ladies and gentlemen, the United States of America and
12 Atticus Sliter-Matias stipulate and agree that Government
13 Exhibit LC2 through LC21 and their subparts are in fact true
14 and accurate copies of business records that are made at or
15 near the time of the act and that are kept as part of the
16 normal course of Liberty Coin's business.

17 Therefore, the parties agree that Government Exhibit
18 LC2 to LC21 and their subparts are authentic, and that is,
19 that said exhibits represent true and correct copies of
20 records generated and/or kept by Liberty Coin and that no
21 further witness or evidence needs to be offered in support of
22 the exhibits' authenticity.

23 Your Honor, at this time, the government moves for
24 LC2 to LC21 and its subparts to be admitted in evidence.

25 MR. KAISER: At this time, we object on the basis of

1 relevance.

2 THE COURT: I'm going to overrule the objection and
3 subject to being connected.

4 Q. Ms. Heathington, before I show all the accounts, do these
5 transactions on LC2 to LC21 correspond to the PayPal
6 transactions to Liberty Coin that you saw in the PP exhibits?

7 A. Yes, they do.

8 Q. Do they correspond in number such that LC2 corresponds to
9 PP2, LC3 corresponds to PP3 and so on?

10 A. Yes, they do.

11 Q. I'm going to --

12 MR. DESAI: May I show the exhibits to the jurors,
13 Your Honor?

14 THE COURT: Yes.

15 Q. Let's take a look at Exhibit LC2.1. Can you tell us what
16 this is?

17 A. This is an example of an e-mail receipt that we would have
18 sent to Liberty Coin.

19 Q. And can we expand the first half of this? This is -- how
20 would you be able to identify this as connected to a PayPal
21 account?

22 A. So the e-mail listed is ALBenson1174@gmail.com which
23 corresponds to the e-mail on the account we looked at earlier.

24 Q. That was the PayPal account No. 2?

25 A. PP2.

1 Q. And up there, it says Bensous.9CM5JAX. Do you know what
2 that is?

3 A. That appears to be the eBay ID used.

4 Q. The eBay account was for the transaction, that's the eBay
5 account, and the PayPal information is the e-mail?

6 A. Yes.

7 Q. If we scroll down a little bit, it shows a buyer shipping
8 address and the item. In this case, 20 gram gold bar Perth
9 mint and the amount which, in this case, is \$757.47; is that
10 correct?

11 A. Yes.

12 Q. The shipping address is again that 13940 Cedar Road
13 address going to a box number 360 either in University -- in
14 this case university heights but oftentimes University Heights
15 or Cleveland?

16 A. Yes.

17 Q. Is this the information we saw in PP2.2?

18 A. Yes.

19 Q. Let's take a look at LC2.2. Let's expand it. Do you know
20 what this exhibit is?

21 A. It appears to be Liberty Coin's invoice for the product
22 purchased.

23 Q. That corresponds to the PayPal transaction we just looked
24 at?

25 A. Yes.

1 Q. Just so we're clear, it has an invoice number on the top
2 right, an order date of November 13, 2015, a ship method of
3 U.S. Postal Service priority mail?

4 A. Yes.

5 Q. It's shipping to the Cedar Road address that we've talked
6 about on numerous occasions?

7 A. Yes.

8 Q. Let's go to LC2.3 real quickly. This is just a tracking
9 of the shipment to that address; is that correct?

10 A. Correct.

11 Q. We'll go to LC2.4. Can you tell us again what this is?

12 A. This is another PayPal receipt for a transaction made to
13 Liberty Coin.

14 Q. That's from the Al Benson account again?

15 A. Yes.

16 Q. That's associated with PayPal 2.2 transactions that we
17 saw?

18 A. Yes.

19 Q. We go down again, the buyer identifies the name, Andrew
20 Benson, e-mail account and the PayPal user account with the
21 e-mail?

22 A. Yes.

23 Q. The shipping address, same address that we've talked about
24 repeatedly?

25 A. Yes.

1 Q. And the gold is there. It's listed \$49.14, item price,
2 two of them for a total of \$98.28?

3 A. Yes.

4 Q. That corresponded -- this transaction corresponded with
5 what we saw on PP2.2?

6 A. Yes.

7 Q. Let's take a quick look at LC2.5. In this case, this
8 again is an invoice from Liberty Coin?

9 A. Yes.

10 Q. It relates back to the LC2.4?

11 A. Yes.

12 Q. Just quickly, there's an invoice number, an order date of
13 11-13-2015 and a ship method of U.S. Postal Service first
14 class package?

15 A. That's correct.

16 Q. Again, ship to address is the 13940 Cedar Road No. 360
17 address that we talked about repeatedly?

18 A. Yes.

19 Q. The quantities there is the gold, two one gram gold bars?

20 A. Correct.

21 Q. Again, items we saw on PP2.2?

22 A. Yes.

23 Q. Instead of walking through all these LC exhibits,
24 Ms. Heathington, LC2 to LC21 similar in nature?

25 A. Yes.

1 Q. The PayPal transaction confirmations and Liberty Coin
2 invoices?

3 A. Yes.

4 Q. And they relate to purchases on the PayPal exhibits PP2 to
5 PP21 going to Liberty Coin?

6 A. Yes.

7 Q. Ms. Heathington, reviewing PP1 through PP161 in total, can
8 you identify the financial loss to PayPal?

9 A. Yes.

10 Q. What is that? Sorry about that. I jumped ahead on my
11 questions. I'm going to show you what's been marked as
12 Government Exhibit S5, and you can tell us what that is?

13 A. Sure. So this is a spreadsheet of the individual exhibit
14 numbers, the names used for the exhibits, the e-mail addresses
15 and the current balances on the accounts.

16 Q. Let me ask this: Who created this document?

17 A. I did.

18 Q. And is it created based on your review of the Exhibits PP1
19 through PP161?

20 A. Yes.

21 Q. Does this identify the loss, the financial loss to PayPal
22 and just PayPal?

23 A. Yes.

24 MR. DESAI: Your Honor, government offers S5 in
25 evidence at this time.

1 MR. KAISER: No objection.

2 THE COURT: Admitted.

3 MR. DESAI: May it be shown to the jurors?

4 THE COURT: It may.

5 MR. DESAI: Let's expand the first four columns.

6 That's good enough.

7 Q. This is -- you mentioned the first column was the exhibit
8 number, so that's PP1, PP2 and so on going down?

9 A. Correct.

10 Q. And the name, the user name associated with that account
11 and the PayPal address associated with that account?

12 A. Yes.

13 Q. And there's balances, correct?

14 A. Yes.

15 Q. In some cases, there's red colored balances. As we scroll
16 down, sometimes there's a non-red color balance and sometimes
17 the balance is zero; is that correct?

18 A. Yes.

19 Q. What does the red color balance mean and what does the
20 non-red balances mean?

21 A. So the red color balances indicate that that account is
22 negative, that amount, and charged off for that amount.

23 Q. That's the money that PayPal has lost on that account?

24 A. Correct.

25 Q. And then how about the positive money, the number that's

1 not in red?

2 A. The numbers not in red indicate that there is still a
3 positive balance in that account.

4 Q. But some of those accounts have been suspended so it
5 hasn't been moved or touched?

6 A. Correct.

7 Q. Going through all the accounts, did you indicate what the
8 total loss was on this document?

9 A. Yes.

10 Q. Can we go up to the top and to the right, if you scroll
11 over to the right, that last column?

12 Ms. Heathington, what is the total loss to PayPal as a
13 result of these 161 PayPal accounts?

14 A. As a result of the 161 PayPal exhibits, the loss amount to
15 PayPal was \$32,840.43.

16 MR. DESAI: Thank you, Your Honor. The government
17 has no further questions at this time.

18 THE COURT: Cross?

19 MR. KAISER: Yes, Your Honor.

20 THE COURT: That was 30 minutes on the money. That's
21 what I call precision.

22 CROSS-EXAMINATION

23 BY MR. KAISER:

24 Q. Ma'am, I'm Mark Kaiser. I represent the defendant. I'm
25 going to ask you a series of questions. If you don't

1 understand anything I ask you, let me ask it again. Okay?

2 A. Sure.

3 Q. You've never met the defendant, Atticus Matias.

4 A. I saw him yesterday, but I did not meet him, no.

5 Q. You've never met him?

6 A. No.

7 Q. You've never spoken to him?

8 A. No.

9 Q. Now, with respect to the money that was lost by PayPal,
10 you have no idea -- you don't know from your own personal
11 knowledge who got the money, do you?

12 A. No.

13 Q. Just so we're clear, there were a lot of exhibits that we
14 went through today, that you went through, and my
15 understanding is that Atticus Matias's name does not appear on
16 any of those exhibits; is that fair?

17 A. No, it does not.

18 Q. They don't. Now, you understand that -- I don't know if
19 it's been explained to you, but this is a two count
20 indictment.

21 A. I did not know that.

22 Q. The two counts in Pennsylvania here would be the Kevin
23 Smith, I believe 1.1 user name and 2.1 would be the two
24 accounts that are here in this jurisdiction.

25 With respect to all of the other accounts that are outside

1 of the jurisdiction, do you, from your own personal knowledge,
2 know if the defendant has been charged with any crime?

3 A. I do not know.

4 Q. You certainly haven't been notified by no other authority,
5 other than this authority, that the defendant is being
6 charged, correct?

7 A. Correct.

8 Q. Now, with respect to the two people in this jurisdiction,
9 I would address your attention to Government Exhibit PP1.1.
10 You are familiar with that document, right?

11 A. Yes.

12 Q. What was the total loss on that document?

13 A. \$24.37.

14 Q. And 2.1. Excuse me for a second. The loss was how much
15 on 1.1?

16 A. On 1.1, it was \$24.37.

17 Q. Was that based on a claim or was that based on fees?

18 A. Fees.

19 Q. Was there anything lost with respect to a claim on that?

20 A. That claim was done by eBay, I believe, so I'm not sure.

21 Q. Okay. So PayPal lost nothing with respect to the claim on
22 that; is that correct?

23 A. Correct.

24 Q. And 2.1, Andrew Benson account, how much was the loss on
25 the claim to PayPal?

1 A. Zero.

2 Q. So in this jurisdiction, there's been a total loss of 34
3 odd dollars; is that correct?

4 A. Correct.

5 Q. Now, you spoke in terms of loss prevention. Just so we're
6 clear, before we go there, Exhibit S5, you testified that you
7 prepared that; is that correct?

8 A. Yes.

9 Q. That the total loss to PayPal was \$32,840.43 on those
10 accounts that are listed?

11 A. Correct.

12 Q. And you prepared this document yourself, right?

13 A. Yes.

14 Q. And you used information that you had available to you,
15 correct?

16 A. Yes.

17 Q. You didn't rely on any information from anybody else,
18 right?

19 A. Correct.

20 Q. But you don't know for a fact that the defendant was
21 involved in any of these dealings, do you?

22 A. No.

23 Q. Now, I just want to be clear. With respect to the Liberty
24 Coin documents, you didn't prepare the Liberty Coin documents?

25 A. No.

1 Q. That was prepared by Liberty Coin, correct?

2 A. Yes.

3 Q. So you don't have any knowledge as to the -- what's on
4 that document, the numbers that are on that document?

5 A. No.

6 Q. That was prepared by Liberty Coin, correct?

7 A. That's correct.

8 Q. We just agree that it would be -- to save somebody from
9 Liberty Coin to come in, just so you know, the stipulation, we
10 agreed so that somebody from Liberty Coin wouldn't have to
11 come in and waste his or her time, but you don't know what the
12 numbers of anything that's on those documents stand for,
13 correct?

14 A. No.

15 Q. And looking at Liberty Coin 2.1, that's the Mr. Benson
16 account, is it not?

17 A. That is related to the Andrew Benson account, yes.

18 Q. And Mr. Benson lost how much money? How much money --
19 let's go back to the PayPal documents.

20 How much did PayPal indicate that Mr. Benson lost as a
21 result of the deal?

22 A. PayPal lost zero dollars as a result of the Andrew Benson
23 account.

24 Q. And the amount of the gold bars was \$757.47, correct?

25 A. That's correct.

1 Q. That doesn't correspond with any numbers that are on any
2 PayPal documents, does it?

3 A. It should correspond to the amount on PP2-2 for the
4 payment made to Liberty Coin.

5 Q. Okay. That would be the payment that was made from
6 PayPal?

7 A. From Andrew Benson's PayPal account to Liberty Coin.

8 Q. But it doesn't correspond to any numbers on any documents
9 with respect -- that PayPal may have created with respect to
10 Mr. Benson?

11 A. That's correct.

12 Q. You have a way of detecting fraud. You talked about that,
13 didn't you?

14 A. Yes.

15 Q. Not you, but PayPal does?

16 A. Yes.

17 Q. Could you go over that system with me again, please?

18 A. So PayPal has rules in place to detect fraud. Certain
19 actions on accounts will cause those rules to fire, and either
20 it can place an automatic limitation on an account, or an
21 account can queue up for review by a fraud agent who will then
22 place a limitation if they feel it's necessary.

23 Q. And initially it's an automated system, is it not?

24 A. I'm sorry. What was that?

25 Q. It's an automated system initially?

1 A. Correct.

2 Q. And I think it's fair to say that with all automated
3 systems, mistakes can be made, can they not?

4 A. Yes.

5 Q. Do you know what a stealth account is?

6 A. No.

7 Q. You don't? You've never heard of a stealth account?

8 A. No.

9 MR. KAISER: I think that's it, Your Honor. Thank
10 you.

11 MR. DESAI: Just a few follow-ups.

12 REDIRECT EXAMINATION

13 BY MR. DESAI:

14 Q. Ms. Heathington, you were asked a little bit about PayPal
15 losses on these things. As you reviewed PP1 through PP161,
16 were there numerous times when eBay refunded the person who
17 sent the money?

18 A. That's correct.

19 Q. And in that scenario, does PayPal take a loss?

20 A. Not usually. EBay will take that loss.

21 Q. And then you were asked a little bit about Liberty Coin
22 records and whether the number would correspond to any PayPal
23 item and I think I was a little confused.

24 The number of the sale, transaction, that was on LC1 and
25 LC2, and in fact, can we bring up LC1 -- I'm sorry LC2.1.

1 That's an automated e-mail generated from PayPal?

2 A. Yes.

3 Q. This is a PayPal created e-mail?

4 A. Yes.

5 Q. So this number does identify a number that's associated
6 with PayPal?

7 A. Yes.

8 Q. And PayPal PP-2.2, that's records from PayPal, correct?

9 A. Yes.

10 Q. The spreadsheets?

11 A. PP2.2 is.

12 Q. That's information from your systems?

13 A. Correct.

14 Q. And the number here corresponds to the number there?

15 A. Correct.

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

17 Thanks.

18 MR. KAISER: Nothing further, Your Honor.

19 THE COURT: Jury questions. We got some jury
20 questions. If the lawyers will gather over here.

21 (At sidebar.)

22 THE COURT: How does PayPal track a fraudulent
23 account and find the responsible party?

24 MR. DESAI: That's a fair question.

25 MR. KAISER: Very fair question.

1 THE COURT: No objections?

2 MR. DESAI: No objection.

3 MR. KAISER: No objection.

4 THE COURT: Do we have -- let me read that again. Do
5 we have any signed delivery receipts from Liberty Coin,
6 PayPal, to the customer defendant?

7 MR. KAISER: I think that's a great question.

8 MR. DESAI: I don't understand the question.

9 MR. KAISER: I think it's pretty clear.

10 MR. DESAI: She didn't talk anything about delivery.
11 She is just doing the payment transactions.

12 MR. CALLAHAN: Your Honor, the --

13 THE COURT: One at a time.

14 MR. CALLAHAN: I apologize. Thank you, Your Honor.
15 I would never pass on that. The very next witness is from the
16 postal service who's going to talk about exactly where these
17 were delivered.

18 MR. KAISER: I don't think that's what the question
19 is. I think that's a very valid question.

20 MR. CALLAHAN: It's going to explain exactly where
21 they are going, Your Honor.

22 MR. DESAI: It's fine. We have no objection.

23 THE COURT: You have no objection?

24 MR. DESAI: No objection.

25 THE COURT: I don't understand it myself, but I'm

1 going to ask it. One more.

2 How are payments made with one second duration
3 between each transaction, reference PP6.2? I can ask that?

4 MR. DESAI: That's fine.

5 MR. KAISER: Yeah.

6 (In open court.)

7 THE COURT: Jury question: How are payments made
8 with one second duration between each transaction, reference
9 PP6.2?

10 THE WITNESS: Since those payments are in eBay, if a
11 person adds multiple items to their cart, you can make one
12 payment all at once but it will send the different amounts to
13 each seller.

14 THE COURT: All right. Do we have any signed
15 delivery receipts, Liberty Coin, PayPal, to the customer, the
16 defendant?

17 THE WITNESS: Not that I'm aware of, no.

18 THE COURT: How does PayPal track a fraudulent
19 account and find the responsible party?

20 THE WITNESS: We often don't find the responsible
21 party. What we'll do is if we think an account is being used
22 for fraudulent activity, limitation may be placed to ask them
23 for additional information, ID information or invoices or
24 proof of shipping, things of that nature.

25 THE COURT: All right. May this witness be excused?

1 MR. DESAI: Yes, Your Honor.

2 MR. KAISER: Yes, Your Honor.

3 THE COURT: You are free to go about your business.
4 Thank you.

5 (Witness excused.)

6 THE COURT: Next witness? Who is the next witness?

7 MR. CALLAHAN: Your Honor, we will now call Misty
8 Thelen.

9 THE COURT: Is that spelled T-H-E-L-E-N?

10 MR. CALLAHAN: Yes, Your Honor.

11 THE COURT: If you'll come up and be sworn, please,
12 ma'am.

13 (Witness sworn.)

14 THE CLERK: You may be seated. Please state and
15 spell your name for the record and speak right into that
16 microphone.

17 THE WITNESS: Misty, M-I-S-T-Y, Thelen, T-H-E-L-E-N.

18 MISTY THELEN, a witness herein, having been first
19 duly sworn, was examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MR. CALLAHAN:

22 Q. Good afternoon, Ms. Thelen.

23 A. Good afternoon.

24 Q. In what town or community do you currently reside?

25 A. I reside in Lakewood, Ohio.

1 Q. Is that a suburb of the Cleveland area?

2 A. It is.

3 Q. Are you currently employed, ma'am?

4 A. I am.

5 Q. By whom are you currently employed?

6 A. The UPS store.

7 Q. And where is the UPS store where you are employed located?

8 A. In University Heights, Ohio.

9 Q. Is University Heights Ohio another suburb of Cleveland?

10 A. It is.

11 Q. Is it on the east side or west side of Cleveland?

12 A. East side.

13 Q. And if you are from the Cleveland area, that's a very
14 relevant question, right?

15 A. Yes.

16 Q. So University Heights is on the east side?

17 A. Yes.

18 Q. First fringe suburb?

19 A. Yes.

20 Q. Very close to the city?

21 A. Very close.

22 Q. In fact, it shares a zip code with Cleveland?

23 A. It does.

24 Q. What's your position at the UPS store located in the
25 University Heights area?

1 A. I'm the store manager.

2 Q. So you are in charge, right?

3 A. Yes.

4 Q. In your role as a store manager at that UPS store in
5 University Heights, are you familiar with the paperwork that a
6 customer has to fill out in order to lease a UPS mailbox?

7 A. I am.

8 Q. And actually let me take just a step back. UPS stores,
9 they do lease mailboxes; is that fair?

10 A. That is fair.

11 Q. They are not called PO boxes, as I've learned, but they
12 are like a PO box in a lot of ways?

13 A. Correct.

14 Q. Ms. Thelen, I'm going to show you an exhibit that has
15 actually already been entered into evidence in this case, so
16 we're going to go ahead and pull it up on the screen so you'll
17 see it on your computer screen. Government's Exhibit PP2.1.

18 MR. CALLAHAN: Ms. Dinuno, if you could go ahead and
19 highlight and expand or just expand, I should say, the address
20 information that's listed on the next page.

21 Q. This is a document that's been entered into evidence which
22 is registration information for a PayPal account operated by
23 an Andrew Benson. I want to direct your attention
24 specifically to the address that's listed there, right up on
25 the top row.

1 Do you recognize that 13940 Cedar Road address?

2 A. I do.

3 Q. What is that address, ma'am?

4 A. That is the address of the UPS store.

5 Q. Do you see the designation where it has No. 360 there?

6 A. Yes, I do.

7 Q. Are you familiar with what that designation refers to?

8 A. I am.

9 Q. What does it refer to, ma'am?

10 A. That refers to the mailbox number.

11 Q. That's one of those UPS mailboxes that you can lease,
12 right?

13 A. Correct.

14 Q. That we were just talking about. So the Cedar Road
15 address that you referenced with a designation of a mailbox
16 No. 360, 361, whatever the case may be, those are mailboxes
17 that you all lease?

18 A. Correct.

19 Q. Thank you. We can pull up Government Exhibit LC2.1. If
20 we can go ahead and expand on the screen there the shipping
21 address that's listed in the middle of the page.

22 Not to belabor the point, Ms. Thelen, but do you recognize
23 that address as also being a particular mailbox number at your
24 UPS store in University Heights?

25 A. Yes, I do.

1 Q. Thank you. Just while we still have it up, there's a
2 particular PO box number, rather a zip code listed there
3 44118.

4 Do you see that?

5 A. Yes, I do.

6 Q. Is it, in your experience working on the east side of
7 Ohio, if you wanted to send something to your store, could you
8 put either University Heights or Cleveland and it would still
9 get there?

10 A. Yes, you could.

11 Q. Because again they share that zip code; is that right?

12 A. That's correct.

13 Q. One moment, Ms. Thelen. Just bear with me. Thank you.
14 Ms. Thelen, doing a little housekeeping. We can pull back up
15 the LC2.1 exhibit we just had up there. And let's go ahead
16 and expand that shipping address information again.

17 So we were looking at this general address here, 13940
18 Cedar Road. That's your store, right?

19 A. Yes.

20 Q. The No. 360, that's the mailbox number that it would get
21 delivered to?

22 A. Correct.

23 Q. There's a bunch of odd looking characters that are in
24 there as well?

25 A. Correct.

1 Q. I forget the term for that. Things that look like tepees
2 and stars, some other letters, right?

3 A. Yes.

4 Q. J2037 with some hash tags. I think that's what the kids
5 call them?

6 A. Right, hash tags, yes.

7 Q. Are those just extraneous characters here, ma'am?

8 A. Yes.

9 Q. The relevant address is the 13940 and the No. 360?

10 A. Correct.

11 Q. We saw some similar characters on the last exhibit we
12 looked at, right?

13 A. We did, yes.

14 Q. Wonderful. I'm going to show you another exhibit,
15 Ms. Thelen, that's been marked for identification purposes as
16 Government's Exhibit UPS 1. It's on its way right now.

17 I should say, as you take a look at that, during the
18 course of the United States investigation, did you provide to
19 Inspector Weckerly any documents that had been in your
20 custody?

21 A. I did.

22 Q. The document that I've shown you there marked as
23 Government's Exhibit UPS 1, is that one of the documents that
24 you provided to Inspector Weckerly?

25 A. Yes, it is.

1 Q. What is that document, ma'am?

2 A. This is the PS form 1583 for the post office. It's a form
3 that we fill out with each mailbox and notify the post office
4 that a mailbox has been opened in our store under the names
5 that are listed.

6 Q. And just a very specific question here before I'll move to
7 admit this document. Does this application relate to mailbox
8 No. 360?

9 A. This specific one, yes.

10 MR. CALLAHAN: Your Honor, at this time, the
11 United States would move to admit Government's Exhibit UPS 1.

12 MR. KAISER: No objection.

13 THE COURT: Admitted.

14 MR. CALLAHAN: Permission to show to the jury, Your
15 Honor?

16 THE COURT: You may.

17 MR. CALLAHAN: Ms. Dinuno, if we can pull up that
18 exhibit. This is a little bit hard to see. If we can go
19 ahead and expand, Ms. Dinuno, box No. 2 where it lists the
20 name. Thank you very much.

21 Q. Looking at this exhibit, Ms. Thelen, is this a mailbox
22 application for a business, individual or both?

23 A. Both.

24 Q. Specifically what's the business name that's listed there?

25 A. Posatronix.

1 Q. What's the individual name listed there?

2 A. Matias Marrero.

3 Q. What's the date of the application?

4 A. January 26, 2010.

5 MR. CALLAHAN: And why don't we zoom back out so we
6 can highlight or expand the date that Ms. Thelen was just
7 referencing. Thank you. Why don't we expand the, on the far
8 right-hand side, the applicant's home address that's listed.
9 The next box down.

10 Q. If you could go ahead and read that address that's listed
11 there as a home address for us?

12 A. 13781 Cedar Road, South Euclid, Ohio 44118.

13 Q. Are you generally familiar with the east side of
14 Cleveland, having worked there, Ms. Thelen?

15 A. Generally, yes.

16 Q. Is this address that's listed here on Cedar Road, is that
17 an address that's located fairly close to your store?

18 A. It is.

19 Q. Same general neighborhood?

20 A. Yes.

21 MR. CALLAHAN: And thank you, Ms. Dinuno. If we
22 could go to the box immediately above that now and expand it.

23 Q. Again, looking at the exhibit, what's the specific box
24 number, the mailbox number that this is an application for?

25 A. 360.

1 Q. Is there a signature listed there as to who is signing the
2 application?

3 A. Yes, there is.

4 Q. What's that name, if you can read it?

5 A. Matias Marrero.

6 Q. Same individual listed on the application box?

7 A. That's correct.

8 MR. CALLAHAN: Let's pull up the next page of the
9 same exhibit. Looking at this page, why don't we go ahead and
10 highlight the first third or so of that page, Ms. Dinuno.

11 Q. Again, does this indicate whether or not this is a
12 business address?

13 A. It does.

14 Q. What's the company name that's listed there?

15 A. Posatronix.

16 Q. Above that, is there a designation RUKH d/b/a?

17 A. Yes, there is.

18 Q. D/b/a, does that usually stand for doing business as?

19 A. As far as I'm aware, yes.

20 Q. Again, the address that's listed there, could you read
21 that for us?

22 A. 13781 Cedar Road, South Euclid, Ohio 44118.

23 Q. Same address we saw on the front page?

24 A. Yes.

25 MR. CALLAHAN: Ms. Dinuno, if we can get out of that

1 expansion and there's a fourth term of service there. If you
2 can go ahead and expand that.

3 Q. Ms. Thelen, looking at the term of service No. 4, in sum
4 and substance, does this say that if you have a key for the
5 mailbox, that you are entitled to operate it?

6 A. Yes, it does.

7 Q. Thank you very much. Let's pull up the last page of this
8 exhibit now. And if you can, why don't we go ahead and zoom
9 in on that driver's license. If you can read it, I know the
10 rotation here is a little bit tricky. What is on this page
11 and whose driver's license is that?

12 A. Matias Marrero.

13 Q. Thank you very much, ma'am. You can put that exhibit
14 aside for the moment.

15 Ms. Thelen, I'm going to hand you up another document to
16 take a look at which has been marked for identification
17 purposes as Government's Exhibit UPS 2. You testified earlier
18 again that you provided certain documents to Ms. Weckerly
19 during the course of the United States investigation.

20 Is this another of the documents that you provided
21 Ms. Weckerly?

22 A. It is.

23 Q. Specifically are these payment records for mailbox No.
24 360?

25 A. Yes.

1 MR. CALLAHAN: Your Honor, United States would move
2 to admit Government's Exhibit UPS 272.

3 MR. KAISER: No objection.

4 THE COURT: Admitted.

5 MR. CALLAHAN: Permission to show that to the jury,
6 Your Honor?

7 THE COURT: Okay.

8 MR. CALLAHAN: If we can pull that up, Ms. Dinuno.
9 Can we expand the first, again, top third or so? That's
10 great. Thank you.

11 Q. Looking at this exhibit, Ms. Thelen, who is listed as the
12 primary mailbox holder?

13 A. Matias Marrero.

14 Q. That's the woman whose driver's license we saw earlier?

15 A. Correct.

16 Q. Who actually seems to have signed the application form?

17 A. Correct.

18 Q. Are there any other additional individuals listed as
19 having access to this particular mailbox?

20 A. Yes, there are.

21 Q. Who is listed?

22 A. Atticus Sliter-Matias.

23 MR. CALLAHAN: Thank you, ma'am. You can pull that
24 down.

25 Q. We talked a little bit before, Ms. Thelen, about your role

1 as the manager of the UPS store in the University Heights
2 area, right?

3 A. Yes.

4 Q. In your role as manager, do you have occasion to observe
5 customers coming in to access the mailboxes that are leased at
6 your store?

7 A. Yes, I do.

8 Q. Was that the case in 2015 and 2016 as well?

9 A. Yes.

10 Q. More specifically, did you have occasion to and did you in
11 fact observe who would come into the store to access PO box or
12 mailbox, I should say, No. 360 at your store?

13 A. Yes, I did.

14 Q. Is one of those people in the courtroom here today?

15 A. Yes.

16 Q. Can you please go ahead and identify them?

17 A. The gentleman sitting at the defense table next to
18 counsel.

19 MR. CALLAHAN: Your Honor, I'd like the record to
20 reflect that the witness has identified the defendant in this
21 matter, Atticus Sliter-Matias, as the individual who was
22 accessing mailbox 360.

23 THE COURT: The jury will make that determination.

24 MR. CALLAHAN: Thank you, Your Honor. Thank you,
25 Ms. Thelen. No further questions.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

- - -

CROSS-EXAMINATION

BY MR. KAISER:

Q. You live in Lakewood?

A. I do.

Q. That's a great town.

A. It is.

Q. I'm there every weekend.

A. Okay.

Q. You don't know Atticus Matias, do you?

A. I do not.

Q. Have you ever spoken to him?

A. Occasionally.

Q. Has he ever done anything to you that would be untoward?

A. No.

Q. Have you ever known him to engage in anything illegal or corrupt or criminal?

A. No, I do not.

Q. Now, you don't know what he's going to get from those mailboxes if he does go there? You would have no way of knowing what he's getting out of that mailbox, correct?

A. No way of knowing.

Q. And there's another person on the account as well?

A. That is correct.

Q. And I assume she also accesses the mailbox at times?

1 A. Yes.

2 Q. And you don't know what she gets out of that mailbox
3 either, do you?

4 A. I do not.

5 Q. And Posatronix, that's a company?

6 A. That's a company listed, yes.

7 Q. So that's listed on the mailbox?

8 A. Correct.

9 Q. And do you know of anything that Posatronix would get on
10 occasion at that mailbox?

11 A. No, sir.

12 Q. And if anything did come in for Posatronix, you wouldn't
13 know what it is, would you?

14 A. No, I would not.

15 Q. You don't know of any sender that you can tell this jury
16 about that's ever sent anything to that mailbox, do you?

17 A. No, I do not.

18 MR. KAISER: It's a long drive back. Nothing
19 further, Your Honor.

20 MR. CALLAHAN: Your Honor, if I can just have a
21 moment to confer with counsel, but I think we're just about
22 done here.

23 THE COURT: Okay.

24 MR. CALLAHAN: No further questions, Your Honor.

25 Thank you.

1 THE COURT: Jury questions? We got a jury question.
2 Lawyers come up.

3 (At sidebar.)

4 THE COURT: Are multiple keys given out for
5 mailboxes?

6 MR. DESAI: No objections.

7 MR. KAISER: No objection.

8 (In open court.)

9 THE COURT: Jury question: Are multiple keys given
10 out for mailboxes?

11 THE WITNESS: Yes.

12 THE COURT: May this witness be excused?

13 MR. CALLAHAN: Nothing further from the
14 United States.

15 MR. KAISER: Nothing further, Your Honor.

16 THE COURT: You are free to go about your business.
17 Thank you.

18 (Witness excused.)

19 THE COURT: I understand that concludes your
20 witnesses today?

21 MR. DESAI: It does, Your Honor.

22 THE COURT: All right. Ladies and gentlemen, we're
23 going to be in recess until Tuesday at 9:00 o'clock. Whatever
24 you do, don't let your heart and mind get contaminated as far
25 as this case is concerned. Follow the admonition. Don't talk

1 about the case. Don't start making up your mind. Consciously
2 avoid it.

3 Have a good long holiday weekend. We'll start back
4 at 9:00 o'clock Tuesday. Do you have any questions before we
5 recess? Having seen no questions, let the jury stand down.
6 Everyone else remain as you are.

7 THE CLERK: This court is in recess.

8 (Jury excused.)

9 THE COURT: The jury is out. How many witnesses do
10 you have left?

11 MR. DESAI: We have, I think, somewhere close to five
12 or six. I have to count that.

13 THE COURT: Let me get that. Five or six?

14 MR. DESAI: Yes, Your Honor.

15 THE COURT: When do you anticipate you will finish
16 your case?

17 MR. DESAI: We anticipate finishing on Wednesday
18 morning. Possibly we'll be done on Tuesday, but it's possible
19 it --

20 THE COURT: You'll take more than two days with five
21 or six witnesses.

22 MR. DESAI: Again, Your Honor, some of them are going
23 to be spreadsheets on the computer. I don't know how long
24 those take to go through, but we'll try to go as quickly as
25 possible.

1 THE COURT: Mr. Callahan, do you have something to
2 add to that?

3 MR. CALLAHAN: No, Your Honor.

4 THE COURT: I'll be pushing you a little bit if it
5 looks like it's going to go more than two days. I'm not in a
6 particular hurry, but I've got a trial in Jonesboro, Arkansas
7 on Tuesday, and I've got to drive back.

8 MR. DESAI: We understand. We'll go as quickly as we
9 can.

10 THE COURT: You've got this long weekend to pare it
11 down.

12 MR. DESAI: We'll work on it.

13 THE COURT: Do you have any comment, Mr. Kaiser?

14 MR. KAISER: No, Your Honor. I have no comment. I
15 can tell you our defense will not be anywhere near as long as
16 the government's case.

17 THE COURT: We are in recess. You all have a good
18 weekend. Be at ease.

19 (At 1:13 p.m., the proceedings were adjourned.)
20
21
22
23
24
25

C E R T I F I C A T E

I, BARBARA METZ LEO, RMR, CRR, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled case.

\s\ Barbara Metz Leo
BARBARA METZ LEO, RMR, CRR
Official Court Reporter

02/05/2019
Date of Certification

I N D E X

<u>WITNESSES</u>	<u>PAGE</u>
STEPHEN HUHNKE	
Cross-Examination (Resumed.) By Mr. Kaiser	3
Redirect Examination By Mr. Desai	15
DARLEEN FERGUSON	
Direct Examination By Mr. Callahan	21
Cross-Examination By Mr. Kaiser	33
Redirect Examination By Mr. Callahan	36
RAY OFFNER	
Direct Examination By Mr. Callahan	37
Cross-Examination By Mr. Kaiser	44
DOROTHY ANNE HEATHINGTON	
Direct Examination By Mr. Desai	48
Cross-Examination By Mr. Kaiser	111
Redirect Examination By Mr. Desai	117
MISTY THELEN	
Direct Examination By Mr. Callahan	121
Cross-Examination By Mr. Kaiser	133

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

vs.

Criminal No. 17-34

ATTICUS SLITER-MATIAS,
Defendant.

- - -

Transcript of proceedings on May 29, 2018 United States
District Court, Pittsburgh, Pennsylvania, before Judge Bill
Wilson.

APPEARANCES:

For the Government: U.S. Attorney's Office
Shardul S. Desai, Esquire
Colin J. Callahan, Esquire
U.S. Courthouse
700 Grant Street
Pittsburgh, Pennsylvania 15219

For the Defendant: Mark A. Kaiser, Esquire
P.O. Box 632
Painesville, Ohio 44077

Court Reporter: Barbara Metz Leo, RMR, CRR
700 Grant Street
Suite 6260
Pittsburgh, Pennsylvania 15219

Proceedings recorded by mechanical stenography;
transcript produced by computer-aided transcription.

1 (Jury present.)

2 THE COURT: How are you all? I know you celebrated
3 pretty heavily over the weekend. My son called me from
4 California and told me he wasn't going to wish me a happy
5 Memorial Day because that was only for deceased veterans. It
6 made me happy I wasn't one of them.

7 Hearts and minds. They still are pure, I assume.
8 They are still pure, as far as this case is concerned. Raise
9 your hand if not. All right. Call your first witness,
10 please.

11 MR. CALLAHAN: Thank you, Your Honor. The
12 United States would call Eric Dirksen.

13 THE COURT: All right. If you'll come up and be
14 sworn, please, sir.

15 (Witness sworn.)

16 THE CLERK: You may be seated. Please state and
17 spell your name for the record.

18 THE WITNESS: Eric Dirksen, E-R-I-C, D-I-R-K-S-E-N.

19 ERIC DIRKSEN, a witness herein, having been first
20 duly sworn, was examined and testified as follows:

21 DIRECT EXAMINATION

22 BY MR. CALLAHAN:

23 Q. Good morning, Mr. Dirksen.

24 A. Good morning.

25 Q. A little tip for you there. The chair does not move but

1 if you need to adjust the microphone, the microphone does
2 move. What town or community do you currently live,
3 Mr. Dirksen?

4 A. I live in Arizona City in Arizona and I work out of
5 Chandler.

6 Q. And Arizona City, is that where you lived in 2015 as well,
7 sir?

8 A. It is.

9 Q. Are you currently employed?

10 A. I am.

11 Q. By whom are you currently employed?

12 A. I'm self-employed.

13 Q. What do you do?

14 A. I have the avionics shop at the Chandler Airport.

15 Q. That's interesting. What kind of avionics work do you do
16 exactly?

17 A. I do repair and replacement, alteration of instruments and
18 radio systems for aircraft. Basically just an airplane
19 electrician.

20 Q. Very interesting. Mr. Dirksen, I'm going to ask you some
21 questions about eBay today. As an initial matter, do you have
22 an eBay account?

23 A. I do.

24 Q. What's your user name, sir?

25 A. MSGMR.

1 Q. Is that the same user name you had in 2015?

2 A. It is.

3 Q. I want to draw your attention to 2015, Mr. Dirksen. Did
4 you make any significant eBay purchases that year?

5 A. I did.

6 Q. What did you purchase, sir?

7 A. I purchased an Android smartphone.

8 Q. Was it -- what type of -- when you say "Android," what do
9 you mean? What was the brand name?

10 A. It was a Samsung Galaxy S6 Edge.

11 Q. You said that's a smartphone?

12 A. Yes, it is.

13 Q. Similar to an iPhone?

14 A. Correct.

15 Q. Approximately how much did you pay for the Samsung phone,
16 I'm going to refer to it as? The official title is a bit of a
17 mouthful.

18 A. It was 4 or \$500.

19 Q. Mr. Dirksen, I'm going to show you a couple of documents
20 here. The first one has been marked for identification
21 purposes as Government's Exhibit ED1. Do you recognize that
22 document, sir?

23 A. I do.

24 Q. What is it?

25 A. This is the listing for the cell phone that I purchased.

1 Q. And have you seen this listing prior to today?

2 A. I have.

3 Q. Was that back when you were actually purchasing the phone
4 on eBay?

5 A. That's correct.

6 MR. CALLAHAN: Your Honor, at this time, the
7 United States would move to admit Government's Exhibit ED1.

8 MR. KAISER: No objection.

9 THE COURT: Admitted.

10 MR. CALLAHAN: Permission to show to the jury, Your
11 Honor?

12 THE COURT: You may.

13 MR. CALLAHAN: Ms. Dinuno, please pull up
14 Government's Exhibit ED1.

15 Q. Mr. Dirksen, in a moment, that will pop up right on the
16 screen so you can take a look at that when it does.

17 MR. CALLAHAN: Ms. Dinuno, if we can expand the top
18 third portion of that. That actually has the eBay listing in
19 it. That's great. Thank you very much.

20 Q. Looking at this exhibit, Mr. Dirksen, is this a picture of
21 the Samsung phone you purchased in 2015?

22 A. It is.

23 MR. CALLAHAN: Ms. Dinuno, if we can highlight the
24 seller row on that eBay listing.

25 Q. Mr. Dirksen, this copy is not the most easy to read in the

1 entire world there, but looking at the exhibit, does this
2 indicate the user name of the person who sold you the Samsung
3 phone?

4 A. It MCS comic.

5 Q. What is that user name?

6 A. MCS comic.

7 MR. CALLAHAN: Can we highlight the winning rows and
8 shipping rows of that listing?

9 Q. Mr. Dirksen, does the exhibit indicate the amount you paid
10 to purchase the Samsung phone?

11 A. It does.

12 Q. What was that amount?

13 A. \$465 and shipping was \$15.04.

14 Q. A bid of 480 all told?

15 A. That's correct.

16 Q. The listing where the 465 is is actually in a row called
17 "Winning Bid." What does winning bid mean here, sir?

18 A. It was an auction, so everybody placed a bid, the maximum
19 that you are willing to purchase the item for, and then I
20 ended up being the winning bid.

21 Q. I see. So it wasn't a set price where you can go on and
22 buy it on Amazon or something like that. Here you had to bid
23 and compete with others?

24 A. That's correct.

25 Q. You did ultimately have the high bid?

1 A. That's correct.

2 MR. CALLAHAN: Ms. Dinuno, please highlight the ended
3 row of the eBay listing.

4 Q. What does it mean that the listing ended on October 26,
5 2015?

6 A. That's the time in which the bidding closed.

7 Q. So is that the date that you actually purchased the phone
8 then?

9 A. It is.

10 MR. CALLAHAN: We can take that exhibit down for now.

11 Q. Mr. Dirksen, after you purchased the Samsung phone on
12 October 26, 2015, did there come a time when you received a
13 tracking number for the package?

14 A. There was.

15 Q. And did that track -- did you go ahead and look at that
16 tracking number to see when your package was supposed to be
17 shipped?

18 A. I did. I tracked it to the post office where I received
19 my mail. I went to pick it up. The tracking had said it had
20 been sent to some other city and somebody else had picked it
21 up.

22 Q. Let me unpack that a little bit because you said a lot of
23 interesting things there. Initially you get a tracking number
24 from the seller; is that right?

25 A. That's correct.

1 Q. And you go ahead and use that tracking number to see when
2 and where your package is going to be delivered?

3 A. Yes.

4 Q. And I believe you indicated a moment ago it was not
5 showing as being delivered to your house?

6 A. That's correct. It said that it was delivered but the
7 address for it was not my house.

8 Q. I see. What did you do at that point when you realized
9 that the package that was supposed to be your phone had been
10 delivered somewhere else?

11 A. I notified eBay that I had not received the package.

12 Q. Did you ever reach out to the seller?

13 A. I did.

14 Q. Did the seller respond?

15 A. The seller said that he didn't know how eBay got the
16 tracking number wrong, but he can't fix it, so he sent me his
17 own tracking number.

18 Q. So this was a second tracking number that you received
19 from the seller?

20 A. Correct.

21 Q. Mr. Dirksen, if the seller hadn't sent you that second
22 tracking number, would you have filed a fraud claim with
23 PayPal or eBay sooner?

24 A. I would have.

25 Q. Let me show you another exhibit, Mr. Dirksen. This has

1 been marked as Government's Exhibit USPS3.

2 Do you recognize that document, sir?

3 A. I do.

4 Q. What is it, sir?

5 A. It's a tracking history.

6 Q. Postal tracking information form?

7 A. Correct.

8 Q. Is that for the first tracking number or the second
9 tracking number? I know it's hard to see.

10 A. For the second tracking number.

11 Q. Thank you, sir.

12 MR. CALLAHAN: Your Honor, at this time, the
13 United States would move to admit Government's Exhibit USPS3.

14 MR. KAISER: No objection.

15 THE COURT: Admitted.

16 MR. CALLAHAN: Permission to show to the jury?

17 THE COURT: Yes.

18 MR. CALLAHAN: Please pull up USPS3, and if we can
19 expand the first column there.

20 Q. Looking at that exhibit, Mr. Dirksen, can you identify and
21 read into the record for us the listed tracking number?

22 A. The tracking number is 9407803699300020148995.

23 Q. Thank you, sir.

24 MR. CALLAHAN: Ms. Dinuno, can we expand the first
25 two rows all the way over to the sixth column. Just the first

1 two rows. Thank you.

2 Q. Mr. Dirksen, looking at the exhibit, does it indicate the
3 date on which this package was shipped and the city from which
4 it was shipped?

5 A. Yeah. 11-3 from Cleveland, Ohio.

6 Q. And is there a row directly above that that indicates the
7 accept or the pickup, the very first row?

8 A. Yes.

9 Q. In the event listing there, what does that describe?

10 A. The city in which it was --

11 Q. That's not Cleveland, Ohio, there; is that correct?

12 A. No. Mobile, Alabama.

13 Q. That indicates the preshipment information was entered
14 supposedly from Mobile, Alabama?

15 A. That's correct.

16 MR. CALLAHAN: Ms. Dinuno, please expand the last row
17 on this particular spreadsheet, all the way over to that sixth
18 column.

19 Q. Looking at this portion of the exhibit, Mr. Dirksen, does
20 this show the city and state and date on which the package was
21 actually delivered?

22 A. It does.

23 Q. What city and state and on which date was it delivered?

24 A. It was delivered to Arizona City, Arizona on 11-6 and on
25 11-14.

1 Q. And we're going to talk about that a little bit, sir, but
2 suffice it to say, to jump ahead in the story, did you receive
3 one package or two packages in relationship to this
4 transaction?

5 A. Two packages.

6 Q. Let's put a pin in that and come back to that. Let's go
7 ahead and expand the columns relating to the delivery address,
8 actually on USPS3. Sorry about that delay, Mr. Dirksen.

9 Looking again at the exhibit here down at the very
10 bottom -- let me take a step back and we'll look at the
11 exhibit. Mr. Dirksen, where you live in Arizona, can you
12 receive mail directly at your house?

13 A. I cannot.

14 Q. Just doesn't get delivered there; is that right?

15 A. That's correct.

16 Q. How do you actually get mail delivered then?

17 A. I have to go to the post office.

18 Q. I see. Do you have a PO box?

19 A. I do.

20 Q. Looking at this exhibit here under destination address,
21 sir, do you recognize the address that's listed as being the
22 site of delivery here?

23 A. I do. That's my PO box.

24 Q. Thank you, sir. Again, on either 11-6 or 11-14 or rather
25 on 11-6 and 11-14, did you in fact receive packages, sir?

1 A. I did.

2 Q. Did you ever receive a Samsung phone?

3 A. I did not.

4 Q. Walk us through what happened on November 6 when you went
5 to the post office hoping to pick up your Samsung phone?

6 A. I went to the post office, and the postal clerk was --
7 went to give me the package and it was very flimsy, and so she
8 asked me to -- because she knew I was picking up a cell phone
9 and she knew there was no cell phone in there and asked me to
10 open it in front of her so that she could be a witness and I
11 could file a complaint with the post office inspector general,
12 I believe.

13 So I opened it in front of her, and inside, it was an
14 envelope box and inside of it was another envelope box that
15 was cut in half.

16 Q. I'm going to show you three exhibits, sir. Let me ask you
17 an initial question. As part of the United States
18 investigation of this case, did you provide any documents to
19 Inspector Weckerly that have been in your custody?

20 A. I did.

21 Q. I'm going to show you three documents, sir.

22 Mr. Dirksen, I just handed you three documents that have
23 been marked for identification purposes as Government's
24 Exhibit ED2, ED3 and ED4. Do you recognize these documents?

25 A. I do.

1 Q. What are they, sir?

2 A. These are the photos that I took of the package that I
3 received.

4 Q. Are those true and correct copies that accurately depict
5 the package that you received?

6 A. They are.

7 MR. CALLAHAN: Your Honor, at this time, the United
8 States would move to admit Government's Exhibit ED2, ED3, ED4.

9 MR. KAISER: No objection.

10 THE COURT: Admitted.

11 MR. CALLAHAN: Show them to the jury, Your Honor?

12 THE COURT: Yes.

13 MR. CALLAHAN: Ms. Dinuno, let's briefly pull up
14 Government's Exhibit ED2.

15 Q. That's one photo that you took, Mr. Dirksen, of the
16 package you received?

17 A. Correct.

18 Q. Let's go ahead and pull up ED4. Mr. Dirksen, you
19 testified earlier that it was an empty package that had an
20 additional empty envelope inside of it?

21 A. That's correct.

22 Q. Is that what that's depicting right there?

23 A. That's correct.

24 MR. CALLAHAN: Ms. Dinuno, let's pull up Government's
25 Exhibit ED3.

1 Q. What exactly is that a picture of, sir?

2 A. That was the shipping label that was on the package.

3 Q. Okay. I'm going to ask you some questions about this,
4 since this gives us the best vantage point where we can
5 actually read stuff. This is a close-up of the actual mailing
6 label on the package you received; is that right?

7 A. Correct.

8 Q. And who's the envelope addressed to?

9 A. To myself.

10 Q. Again that's your PO box, right?

11 A. It is.

12 Q. Looking at the exhibit, can you tell who supposedly sent
13 this package?

14 A. Nicholas Constantine.

15 Q. Does the mailing label include a return address for this
16 supposed Mr. Constantine?

17 A. It does.

18 Q. What city and state is that return address?

19 A. Mobile, Alabama.

20 Q. That would be the same city and state that was listed as
21 the preshipment information on the USPS form we were looking
22 at, correct?

23 A. That's correct.

24 Q. Looking at the envelope, can you tell when this was
25 shipped?

1 A. Looks like November 2nd.

2 Q. That would be of 2015, right?

3 A. Correct.

4 MR. CALLAHAN: We can put that down, Ms. Dinuno.

5 Q. I'm going to take you back to November 6, 2015. You
6 testified a moment earlier that that was when you first went
7 to the post office to go ahead and get what you thought was
8 going to be your Samsung phone; is that right?

9 A. That's correct.

10 Q. And you told the members of the jury that at that time,
11 the envelope came in, you could immediately tell it didn't
12 have a phone in it, right?

13 A. Correct.

14 Q. Opened it up and you found an empty envelope, right?

15 A. Correct.

16 Q. What did you do at that point, sir?

17 A. I took pictures and I filed the report with the post
18 office.

19 Q. Did you ever reach out to the seller at that point?

20 A. Yes. I went home and I got on eBay. I reached out to the
21 seller, and I filed with eBay that the package that I received
22 was not as described.

23 Q. Just in general terms, does eBay have sort of different
24 ways you can describe getting something that wasn't what you
25 thought it was going to be?

1 A. Yeah. They have limited ways.

2 Q. Sort of like a drop-down list, right?

3 A. That's correct.

4 Q. The one you just described, what was the language you
5 used?

6 A. Item not as described.

7 Q. Got you. Was it challenging for you in this context where
8 you got an empty envelope to figure out how to describe your
9 problem?

10 A. It was the only thing that was left that still matched
11 what was going on, because I had already used the package not
12 received.

13 Q. Got you. So what happened after you indicated to the
14 seller through eBay that you had gotten the item not as
15 described?

16 A. Nothing happened.

17 Q. Did there come a time where you received a second empty
18 envelope?

19 A. Yes, but I believe that was from the marking it as item
20 not received.

21 Q. I see so because of the designation that you had received,
22 you ended up getting a second empty envelope on the 14th of
23 November?

24 A. That's correct.

25 Q. After you had filed these fraud claims, did you ever get

1 reimbursed for the money that you paid for the Samsung phone?

2 A. Yes. Sometime the next year, I finally got the money
3 back.

4 Q. So it wasn't an immediate reimbursement?

5 A. No.

6 Q. I think you mentioned you had to file several reports in
7 order to get that taken care of?

8 A. Yes. I had to file a police report. PayPal needed a copy
9 of the police report, which I don't live in a city that has
10 police so I had to use the sheriff. It was quite an ordeal.

11 Q. Mr. Dirksen, after your experience with the Samsung phone
12 purchase or the attempted Samsung phone purchase in 2015, has
13 your approach to buying things online on eBay changed?

14 A. I'm a lot more cautious.

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

16 Thank you.

17 CROSS-EXAMINATION

18 BY MR. KAISER:

19 Q. Good morning, Mr. Dirksen. I'm Mark Kaiser, and I'm going
20 to be asking you some questions. I represent the defendant,
21 that would be Atticus Matias. Okay?

22 A. Yes, sir.

23 Q. If there's any question I ask you that you don't
24 understand, could you please have me rephrase it?

25 A. Yes, sir.

1 Q. Thank you. Start out by -- have you ever met Atticus
2 Matias?

3 A. I have not.

4 Q. Do you know who he is?

5 A. No, sir.

6 Q. Was there any mention of Atticus Matias on any document
7 that you received or reviewed in this matter?

8 A. Not that I recall.

9 Q. Now, I'd like to go over the image of the advertisement
10 that was on eBay for this purchase. Remember you spoke about
11 the image? Do you remember the image of the phone?

12 A. Yes, sir.

13 Q. Now, do you know how that would get on eBay?

14 A. Can you rephrase, sir?

15 Q. Do you have any idea how that image would be placed upon
16 eBay by the seller?

17 A. No, sir.

18 Q. You do know that the seller would have been the one who
19 would have put that advertisement on eBay; is that right?

20 A. I would assume so.

21 Q. I mean, he's the one trying to sell it, so he's the one
22 that would put the advertisement up there?

23 A. Possibly.

24 Q. Now, you indicated that you had had some issues and you
25 contacted the seller about not receiving the item; is that

1 correct?

2 A. That's correct.

3 Q. How did you contact the seller?

4 A. Through eBay.

5 Q. And how did you get -- was it an e-mail?

6 A. Through eBay.

7 Q. How did you do that? Could you explain how you did that?

8 A. You log into eBay. You go to the item that you have a
9 discrepancy with --

10 Q. Can we back up for one second? I'm sorry to interrupt
11 you. I apologize. But when you say you log in, did you log
12 in from your computer?

13 A. Yes, sir.

14 Q. Go on. Continue.

15 A. So you log on to eBay and then you go to the item that you
16 have the discrepancy with and then you just -- there's a
17 button there to contact the seller.

18 Q. And then you did?

19 A. Yes. You click that and then you can type in whatever
20 your question is, and then when you receive a response back,
21 it is done through eBay's little messaging system.

22 Q. And the response back, I'm assuming that the seller would
23 have had to log in from his computer; is that correct?

24 A. He would have to log on from a computer, yes, that's
25 correct.

1 Q. Now, you don't know if the defendant received any money
2 from anybody in this case, right?

3 A. I do not.

4 Q. And just so we're clear, has anybody from your
5 jurisdiction out in Arizona contacted you about charging the
6 defendant with any crime?

7 A. I don't believe so.

8 Q. And just so we're clear, you don't know who mailed these
9 packages to you, do you?

10 A. No, sir.

11 Q. And you received all your money back; is that right?

12 A. Yes, sir.

13 Q. So you did not lose any money in the transaction?

14 A. Can you rephrase?

15 Q. You didn't lose any money in this transaction; it was
16 reimbursed to you?

17 A. I certainly did.

18 Q. But you didn't lose any money in the transaction, right,
19 with respect to eBay?

20 A. I did eventually get all of the money from the transaction
21 back, yes.

22 MR. KAISER: Nothing further, Your Honor.

23 MR. CALLAHAN: Thank you, Mr. Dirksen. I don't have
24 anything further for you.

25 THE COURT: Jury questions? May this witness be

1 excused?

2 MR. CALLAHAN: He may, Your Honor.

3 THE COURT: You are excused. Thank you, sir.

4 (Witness excused.)

5 THE COURT: Next witness?

6 MR. CALLAHAN: Can we check on one witness very
7 quickly?

8 THE COURT: You may.

9 MR. CALLAHAN: Thank you, Your Honor. Apologies for
10 the delay. United States calls Pablo Bejarano.

11 THE COURT: If you'll raise your right hand, please.

12 (Witness sworn.)

13 THE CLERK: You may be seated. Please state and
14 spell your name for the record.

15 THE WITNESS: Pablo Bejarano, P-A-B-L-O,
16 B-E-J-A-R-A-N-O.

17 PABLO BEJARANO, a witness herein, having been first
18 duly sworn, was examined and testified as follows:

19 DIRECT EXAMINATION

20 BY MR. CALLAHAN:

21 Q. Good morning, Mr. Bejarano.

22 A. Good morning.

23 Q. Little tip for you. You are talking directly into the
24 microphone which is fantastic, but you might be able to put it
25 down a teeny bit.

1 A. Better.

2 Q. We've got to find the right porridge. Not too hold, not
3 too cold. So you know, the chair doesn't scootch up, so if
4 you need to move the microphone, you can move the microphone.
5 Okay?

6 A. Okay.

7 Q. Mr. Bejarano, what town or community do you currently live
8 in?

9 A. I live in Woodbridge, Virginia.

10 Q. Is that where you lived, same town and community, in 2015?

11 A. Yes.

12 Q. Are you currently employed, sir?

13 A. Yes.

14 Q. By whom are you currently employed?

15 A. By Nestle USA.

16 Q. Is that the chocolate company?

17 A. That is the chocolate company.

18 Q. Are you involved in the chocolate making side of things or
19 the other side of things?

20 A. The dark side, maybe. I'm actually doing IT work. I
21 provide IT support for Nestle.

22 Q. The computers that somehow indirectly bring us all
23 chocolate?

24 A. Pretty much.

25 Q. I would like to ask you many questions that are chocolate

1 related, but instead, I'm going to ask you some questions
2 about eBay. Okay?

3 A. Okay.

4 Q. As an initial matter, Mr. Bejarano, do you have an eBay
5 account?

6 A. Yes, I do.

7 Q. What's your user name?

8 A. Bigpapapablo.

9 Q. That didn't serve any point. I just wanted to make you
10 say that again. Is that the same user name you had in 2015?

11 A. Yes, it is.

12 Q. Drawing your attention to 2015 in particular,
13 Mr. Bejarano, did you make any significant eBay purchases in
14 that year?

15 A. Yes.

16 Q. What did you purchase?

17 A. An iPhone 6S.

18 Q. And iPhone 6S, that's a type of smartphone, correct?

19 A. Yes.

20 Q. Approximately how much did you pay for the iPhone that you
21 purchased?

22 A. \$535.

23 Q. As part of the government's investigation, Mr. Bejarano,
24 did you provide certain documents that were in your custody to
25 Postal Inspector Weckerly?

1 A. Yes.

2 Q. I'm going to show you a document, sir, that's been marked
3 for identification purposes as Government's Exhibit PB1. Is
4 that one of the documents that you provided to Inspector
5 Weckerly?

6 A. Yes.

7 Q. What is it, sir?

8 A. This is a screenshot of the listing of the iPhone.

9 Q. Did you take that screenshot?

10 A. Yes.

11 Q. Is that a true and correct depiction of the listing on
12 eBay that you saw in 2015 when you purchased the phone?

13 A. Yes.

14 MR. CALLAHAN: Your Honor, the United States would
15 move to admit Government's Exhibit PB1.

16 MR. KAISER: No objection.

17 THE COURT: Admitted.

18 MR. CALLAHAN: May I show it to the jury, Your Honor?

19 THE COURT: You may.

20 MR. CALLAHAN: Ms. Dinuno, let's go ahead and pull up
21 Government's Exhibit PB1.

22 A. Thank you.

23 Q. Mr. Bejarano, looking at this exhibit, is this a picture
24 of the iPhone you purchased on eBay in November of 2015?

25 A. Yes.

1 Q. Does the exhibit indicate the user name of the person who
2 sold you the phone?

3 A. Yes, it does.

4 Q. What is that user name?

5 A. CJCCLA4.

6 MR. CALLAHAN: Ms. Dinuno, let's highlight the
7 winning bid row of that eBay listing.

8 Q. Can you tell from the exhibit the amount that you paid to
9 purchase the iPhone, Mr. Bejarano?

10 A. Yes.

11 Q. What is listed there, sir?

12 A. \$535.

13 Q. Exactly the amount you just told us that you remembered
14 paying, isn't it? Did you pay any shipping and handling as
15 well?

16 A. Yes.

17 Q. How much was that, sir?

18 A. \$15.44.

19 Q. Now, the exhibit here references winning bid. What does
20 winning bid mean in this context?

21 A. It means I had the highest bid. This is an auction, and
22 people put in bids to get the item, and I had the highest bid
23 for this item, so pretty much I bought the item.

24 Q. Looking at the listing, does it indicate the date you
25 actually purchased the iPhone?

1 A. Yes, it does.

2 Q. What was that date, sir?

3 A. November 23rd, 2015.

4 MR. CALLAHAN: Let's go ahead and expand the shipping
5 and handling portion of the listing a little further down on
6 the same page of the document.

7 Q. Mr. Bejarano, looking at this section of the exhibit, does
8 it indicate the location of the item that you were attempting
9 to purchase here?

10 A. Yes, it does.

11 Q. Where was that item supposedly located?

12 A. Kenner, Louisiana.

13 Q. After you purchased the iPhone on November 23rd, 2015,
14 Mr. Bejarano, did there come a time when you received a
15 tracking number from the seller?

16 A. Yes.

17 Q. And did you go ahead and use that tracking number to look
18 up when your package was supposed to be shipped?

19 A. Yes, absolutely.

20 MR. CALLAHAN: We can take that down, Ms. Dinuno.

21 Q. When you did look that up, what did you learn from the
22 tracking information?

23 A. That the item was sent somewhere else but not my house.

24 Q. Had it already been delivered at that point?

25 A. Yes, it was.

1 Q. So you never received the package that was associated with
2 that first tracking number?

3 A. No.

4 Q. Mr. Bejarano, I'm going to show you another document
5 that's been marked for identification purposes as Government's
6 Exhibit USPS 7. Do you recognize that document?

7 A. Yes.

8 Q. What is it, sir?

9 A. It lists the first tracking number.

10 Q. It's tracking information for that first tracking number
11 you received?

12 A. Yes.

13 MR. CALLAHAN: Your Honor, at this time, the
14 United States would move to admit Government's Exhibit USPS 7.

15 MR. KAISER: No objection.

16 THE COURT: Admitted.

17 MR. CALLAHAN: Permission to show to the jury, Your
18 Honor?

19 THE COURT: Yes.

20 MR. CALLAHAN: Ms. Dinuno, please go ahead pull up
21 Government's Exhibit USPS 7 and let's expand that first
22 column.

23 Q. Mr. Bejarano, looking at the exhibit, can you actually go
24 ahead and read into the record for us the tracking number
25 that's listed there?

1 A. 94078036993000020738219.

2 Q. Thank you, sir.

3 MR. CALLAHAN: Ms. Dinuno, let's, for the first two
4 rows of this, expand them all the way over to the fifth and
5 sixth columns.

6 Q. Looking at the exhibit again, sir, does it indicate the
7 date the package was shipped and the city from which it was
8 shipped?

9 A. Yes.

10 Q. What city and state was it shipped from?

11 A. It says Cleveland, Ohio.

12 Q. What date does it indicate that was shipped out from?

13 A. 11-24, 2015.

14 Q. Thank you, sir.

15 MR. CALLAHAN: Ms. Dinuno, let's go ahead and expand
16 the bottom row of the spreadsheet again all the way over to
17 the sixth column.

18 Q. Looking at the exhibit here, Mr. Bejarano, does this
19 indicate the city and state that this was delivered to and the
20 date on which it was delivered?

21 A. Yes.

22 Q. What city and state is listed, sir?

23 A. Woodbridge, Virginia.

24 Q. What date does it show a delivery occurring?

25 A. 11-30, 2015.

1 Q. Thank you.

2 MR. CALLAHAN: Ms. Dinuno, finally, let's go ahead
3 and expand the portion of the spreadsheet that lists the
4 actual mailing address of delivery.

5 Q. Looking, sir, specifically in that far right column, do
6 you see the destination address that's listed there?

7 A. Yes.

8 Q. Can you read that for us?

9 A. 12712 Directors Loop.

10 Q. Is that your address, sir?

11 A. No.

12 Q. Have you ever lived there?

13 A. No.

14 Q. So when you said earlier that the tracking information
15 showed that this package was delivered someplace other than to
16 your house, is this where it was delivered to?

17 A. Yes.

18 Q. Thank you, sir.

19 MR. CALLAHAN: You can go ahead and take that exhibit
20 down.

21 Q. So, again, going back in time, Mr. Bejarano, 2015, after
22 you looked at the tracking information, realized that the
23 tracking number you had received showed a delivery to
24 someplace other than your house, what did you do at that
25 point?

1 A. I contacted the seller.

2 Q. And did the seller respond?

3 A. Yes, he did. He provided me with another tracker number.

4 Q. So the seller gave you a second tracking number at that
5 point?

6 A. Yes.

7 Q. Was that immediately or did it take a few days?

8 A. It was immediately.

9 Q. If the seller hadn't provided you with that second
10 tracking number, Mr. Bejarano, would you have filed a fraud
11 claim with PayPal or eBay more quickly?

12 A. Oh, yeah.

13 Q. Let me show you another document, Mr. Bejarano, that's
14 been marked for identification purposes as Government's
15 Exhibit PB3. Is this another one of the documents that you
16 provided to Inspector Weckerly during the course of the
17 United States investigation?

18 A. Yes.

19 Q. What is it, sir?

20 A. This is a copy of the message that I received from the
21 seller with the tracking number, with a new tracking number.

22 Q. This is a document you saved after engaging in the
23 transaction; is that correct?

24 A. Yes.

25 Q. It's a true and correct copy of the message that you

1 received?

2 A. Yes.

3 MR. CALLAHAN: Your Honor, at this time, the
4 United States would move to admit Government's Exhibit PB3.

5 MR. KAISER: No objection.

6 THE COURT: Admitted.

7 MR. CALLAHAN: Show it to the jury, Your Honor?

8 THE COURT: Yes.

9 MR. CALLAHAN: Ms. Dinuno, please go ahead and pull
10 up Government's Exhibit PB3 and let's go ahead and expand the
11 text of the message itself on the first page starting with
12 "Dear Big Papa Pablo" on the bottom.

13 Q. Mr. Bejarano, as we were just talking about, does this
14 message include a tracking number?

15 A. Yes.

16 Q. Could you go ahead and read that into the record for us,
17 sir?

18 A. Just the tracking number?

19 Q. Correct.

20 A. 9407803699300020950000.

21 Q. Again, sir, this would be the second tracking number that
22 you received from the seller, correct?

23 A. Yes.

24 Q. Elsewhere in this message, does it indicate your phone is
25 cleared and ready to ship and should go out in the next 24 to

1 48 hours?

2 A. Yes, it says so.

3 MR. CALLAHAN: We can go ahead and take that exhibit
4 down as well.

5 Q. Mr. Bejarano, I'm going to show you another document
6 that's been marked for identification purposes as Government's
7 Exhibit USPS 4. I'll try to move through this one a little
8 bit more quickly. Do you recognize this document?

9 A. Yes.

10 Q. Is this the tracking information for the second tracking
11 number that you received?

12 A. Yes, it is.

13 MR. CALLAHAN: Your Honor, the United States would
14 move to admit Government's Exhibit USPS 4.

15 MR. KAISER: No objection.

16 THE COURT: Admitted.

17 MR. CALLAHAN: Show it to the jury, Your Honor?

18 THE COURT: Yes.

19 MR. CALLAHAN: Go ahead and pull that up, Ms. Dinuno.
20 Let's go ahead and expand the first column.

21 Q. Mr. Bejarano, looking at the exhibit, is that the same
22 tracking number that we were just looking at that had been
23 sent to you by the seller?

24 A. Yes, it is.

25 Q. And let's go ahead and expand the first two rows again all

1 the way over to the sixth column. Does this show that the
2 package was shipped from Cleveland, Ohio on December 3rd of
3 2015?

4 A. Yes, it does.

5 Q. And in the row immediately above that, does it show the
6 preshipment information was entered from Kenner, Louisiana?

7 A. Yes, it does.

8 Q. And just as a reminder, when we were looking at the
9 listing and the item location on the listing, sir, does that
10 show the item was supposedly listed in Kenner, Louisiana?

11 A. Yes, it does.

12 Q. This shows the package was nonetheless actually shipped
13 the same day, December 3rd, from Cleveland, Ohio, right?

14 A. Yes.

15 Q. Thank you, sir.

16 MR. CALLAHAN: Let's expand the row showing the date
17 and place of delivery with the actual address over there.

18 Q. Mr. Bejarano, looking at the bottom of the address, the
19 destination address, do you recognize that address, sir?

20 A. Yes.

21 Q. How do you recognize that address?

22 A. That is my address.

23 Q. At the time, correct, sir?

24 A. Yes.

25 Q. That's in Woodbridge, Virginia?

1 A. Yes.

2 Q. Does it indicate when this package was actually delivered
3 there?

4 A. Yes.

5 Q. What is that date, sir?

6 A. 12-7, 2015.

7 Q. I want to go back in time to the day this package was
8 actually delivered to your house. Did you in fact finally
9 receive a package of some sort from the eBay seller on that
10 day in December of 2015?

11 A. Yes.

12 Q. Was there a phone in it?

13 A. No.

14 Q. What did you receive, sir?

15 A. An empty envelope.

16 Q. So completely empty?

17 A. Yeah.

18 Q. I want to show you what has been marked for identification
19 purposes as Government's Exhibit PB4. Is this another
20 document that you provided to Inspector Weckerly as part of
21 the United States investigation?

22 A. Yes.

23 Q. What is this, sir?

24 A. This is a copy of the pictures taken by me of the package
25 that was delivered to my house.

1 Q. Is that a true depiction of the envelope that you received
2 from the seller in 2015?

3 A. Yes.

4 MR. CALLAHAN: Your Honor, the United States would
5 move to admit at this time Government's Exhibit PB4.

6 MR. KAISER: No objection.

7 THE COURT: Admitted.

8 MR. CALLAHAN: May I show it to the jury, Your Honor?

9 THE COURT: Yes.

10 MR. CALLAHAN: Let's show Government's Exhibit PB4
11 and let's show the part that shows the mailing label. Let's
12 zoom back out for a second.

13 Q. So again, Mr. Bejarano, this is a photo of the empty
14 envelope you received; is that right?

15 A. Yes.

16 Q. Is there a second envelope that's off to the left on the
17 screen?

18 A. Yes.

19 Q. What is that?

20 A. That was actually inside the package.

21 Q. So it was an empty envelope with a second empty envelope
22 in it?

23 A. Yeah.

24 Q. But no phone?

25 A. No.

1 MR. CALLAHAN: Ms. Dinuno, let's zoom in on the
2 mailing label itself.

3 Q. Looking at the exhibit, Mr. Bejarano, can you tell who
4 supposedly sent this package?

5 A. Yes.

6 Q. Who is that, sir?

7 A. Claude Clark.

8 Q. Is there a return address listed for the supposed
9 Mr. Clark?

10 A. Yes.

11 Q. What's the city and state of that return address?

12 A. Kenner, Louisiana.

13 Q. That was on the listing as the supposed item location,
14 correct?

15 A. Yes.

16 Q. And the tracking information we saw, that was where
17 preshipment information was entered, correct?

18 A. Yes.

19 Q. But the package actually shipped from Cleveland, right?

20 A. Yes.

21 Q. Thank you. Looking at the photograph of the envelope,
22 here, sir, can you tell when it was actually shipped?

23 A. Yes.

24 Q. When was it shipped?

25 A. 12-3, 2015.

1 Q. And again, looking at the address that's listed here, sir,
2 do you recognize that as your address at the time?

3 A. Yes, that was my address at the time.

4 MR. CALLAHAN: Ms. Dinuno, if you could quickly grab
5 by the bar code a bit further down on the same exhibit.

6 Q. Mr. Bejarano, that's again the tracking number that you
7 described for -- the second tracking number that you received,
8 correct, sir?

9 A. Yes, that's the second tracking number.

10 Q. It's ending in 950000?

11 A. Yes.

12 MR. CALLAHAN: We can take that exhibit down,
13 Ms. Dinuno.

14 Q. At the time when you received this empty envelope,
15 Mr. Bejarano, instead of the iPhone that you purchased in
16 2015, what did you do when that came to pass and you didn't
17 have the phone?

18 A. I called eBay. I opened a complaint, a fraud complaint,
19 and they asked me to contact the police and open a case and
20 all this stuff.

21 Q. Did you actually go ahead and jump through all those hoops
22 and contact the police?

23 A. Yes, I did, but it was not pretty though.

24 Q. What do you mean, it wasn't pretty?

25 A. There was a lot of miscommunication. I called eBay,

1 reported through eBay. They didn't tell me immediately that
2 after that, you report it to the police or something. So
3 after a week and a half later, I called another person because
4 I kept on calling every day to see what the status was because
5 I wanted to have my money back. Otherwise, how was I supposed
6 to buy another phone?

7 So I end up calling one person. She told me that I needed
8 to contact the police to open a police report, and then from
9 then on, they will transfer the money back and such, but even
10 then, that took a while because the police came over, I opened
11 the police report. I gave them all the evidence I had. It
12 was just frustrating. It was just annoying.

13 And then after waiting another month to get my money back
14 because it was stuck, it was literally stuck. Like, I
15 couldn't retrieve it right away.

16 Q. Sounds like a long and frustrating process that did
17 ultimately end in you getting reimbursed quite a while later?

18 A. Absolutely. For that entire month, I couldn't make a
19 purchase.

20 Q. So having that money tied up meant that you couldn't buy
21 the new phone that you wanted for more than a month?

22 A. Yeah.

23 MR. KAISER: Objection.

24 THE COURT: On what ground?

25 MR. KAISER: Leading the witness.

1 THE COURT: It is leading but I'm going to allow a
2 little leading. Overruled.

3 MR. CALLAHAN: Thank you, Your Honor.

4 Q. Mr. Bejarano, one last question for you. After your
5 experience trying to buy the phone in 2015, has your approach
6 to buying things on eBay changed at all?

7 A. Yes, it has. Absolutely.

8 Q. How so, sir?

9 A. So when I go to eBay, I thought it was a reliable source,
10 because everybody needs authenticated through eBay, everybody
11 needs to have some sort of shipping address and things like
12 that. My experience in the past, I thought I had experience
13 in the past with it and I usually buy my electronics from
14 there, but from now on -- from then on, I now buy things from
15 the Apple store or things like that, because I distrust the
16 merchandise that's there now because of that event.

17 Q. Is eBay getting less of your business, sir, now than it
18 would have if this hadn't happened?

19 A. Yes.

20 MR. CALLAHAN: Thank you, Mr. Bejarano. One moment,
21 please.

22 Thank you, very much, sir. I don't have any further
23 questions for you right now.

24 - - -

25 CROSS-EXAMINATION

1 BY MR. KAISER:

2 Q. Good morning.

3 A. Good morning, sir.

4 Q. I'm Mark Kaiser. I represent the defendant. If there's
5 any question that I ask you that you don't understand, please
6 have me rephrase it. Okay?

7 A. Okay.

8 Q. Let's start with a pretty easy one. Do you know the
9 defendant?

10 A. No.

11 Q. Have you ever met him?

12 A. No.

13 Q. On any document that you received in this transaction, was
14 the name Atticus Matias on any of the documents?

15 A. No.

16 Q. Now, there was an image of the phone in the eBay ad that
17 you responded to. Was it an auction, I believe?

18 A. Yes, it was an auction.

19 Q. And there was an image with a picture of the phone, I
20 believe; is that right?

21 A. Yes.

22 Q. And that image would have -- do you know how that image
23 would have gotten on to eBay?

24 A. Somebody should have taken a picture of it and just
25 uploaded the picture through it.

1 Q. And that person would have been the seller?

2 A. Yes.

3 Q. Do you know of any other reason for anybody else to upload
4 it, correct?

5 A. I'm sorry?

6 Q. There would be no reason for anybody other than the seller
7 to upload it, correct?

8 A. Yes, unless it was somebody that represents the seller
9 maybe.

10 Q. Now, you had problems -- you had communications with the
11 seller, did you not?

12 A. Yes.

13 Q. And how did you get that communication to him?

14 A. Through eBay.

15 Q. Explain how you did it.

16 A. So I asked him, you know, about the item itself. I pretty
17 much wanted to know where was the item because I clearly
18 didn't receive it and that's when I got that message.

19 Q. Okay. Let's back up before that. How did you get the
20 message to eBay?

21 A. How did I get the message through eBay?

22 Q. Yes.

23 A. What happens on the eBay portal it gives you, you can
24 click on it and it tells you more options, message seller, and
25 you click on message seller, and you put the message you want

1 to send out to seller.

2 Q. And you had to have used your own computer to do that?

3 A. Yeah.

4 Q. Explain the process of how you used your own computer,
5 please.

6 A. Absolutely. So let's say you turn your computer on. You
7 go to www.eBay.com, you sign in to the portal with your
8 credentials. Once you sign in, you can search for listings,
9 but in this case, I went -- I can see my tabs. I can see my
10 orders or things that I purchased, so I click on that tab, and
11 then I can see, you know, what's the status on that.

12 So I paid for it, and this auction, within that the
13 description of the item, there's also actions you can take,
14 like return item or message seller, things like that. So you
15 click on those actions, and you click on message the seller.
16 You write the message and then you can either send a copy to
17 yourself, but there's no need because it gets saved on the
18 eBay database whenever you send that out.

19 Q. Do you have any indication on your computer that you did
20 this?

21 A. My computer?

22 Q. Yes.

23 A. It would be on the eBay database. If I was to pull up my
24 eBay account, I could probably search for it and be able to
25 find it.

1 Q. You would be able to find it on your browser, wouldn't
2 you?

3 A. Yes.

4 Q. Now, where were you living again, sir?

5 A. At the time, I was living in Woodbridge, Virginia.

6 Q. Where are you living now?

7 A. In Woodbridge, Virginia.

8 Q. You made the complaint to the police in Woodbridge,
9 Virginia?

10 A. I called the police and, yes, I did, yes. They came over
11 my house, yes.

12 Q. Do you know if the defendant has been prosecuted in your
13 jurisdiction?

14 A. I don't know.

15 Q. Do you know if the defendant received any of your money in
16 this instance?

17 A. I don't know.

18 Q. How much money did you pay for the computer initially?

19 A. For the iPhone, you mean?

20 Q. For the iPhone, I mean. Sorry.

21 A. The item was for 535. For shipping handling, it was
22 another 14.37 so maybe around 550 and some cents.

23 Q. Did you receive your money back?

24 A. After a month, yes.

25 Q. Who reimbursed you?

1 A. EBay.

2 Q. Now, the e-mail that you received, do you know how the
3 seller would have responded to you by way -- to the e-mail he
4 sent to you?

5 A. What do you mean?

6 Q. Well, you indicated to him -- you sent something to the
7 seller indicating that you had not received it, correct?

8 A. Uh-huh.

9 Q. And you received a communication back, correct?

10 A. Yes.

11 Q. Can you explain to me, if you know, how the seller would
12 have communicated with you in that manner?

13 A. Well, it's like sending an e-mail. There's plenty of ways
14 to reply to an e-mail. You can either do the same thing I
15 did. Go on your computer, log in to the portal. On the
16 portal itself, it shows you a message, inbox status. You can
17 see who sent you stuff. Or you can pull up the application on
18 your phone. If your phone has notifications turned on, they
19 will pop up. Just need to tap it, and it will get you to the
20 member, and you can reply from there, and this is done in
21 Android or IOS, which is the iPhone platform.

22 Q. So someone could have used his computer or phone, correct?

23 A. Computer, phone, tablet. It's compatible with anything.

24 MR. KAISER: Nothing further. Thank you.

25 THE WITNESS: You're welcome.

1 MR. CALLAHAN: Just a couple of questions on
2 redirect, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. CALLAHAN:

5 Q. Mr. Bejarano, you were asked a few questions about the
6 eBay messaging system, right?

7 A. Uh-huh.

8 Q. And for those of us who may be less technically inclined,
9 you are an IT guy yourself, right?

10 A. Uh-huh.

11 Q. Try to talk into the microphone.

12 A. Yes.

13 Q. So the communications that you had with the seller, these
14 were actually through the eBay messaging system that you
15 exchange on the Internet site itself, correct?

16 A. Yes.

17 Q. So eBay is a website; is that right?

18 A. EBay is a website.

19 Q. That's a website that you can go to from any computer or
20 electronic device that can access the Internet, right?

21 A. That is correct. It has -- you can access it on your
22 phone. It has like an application. You can download it
23 through your Windows. It doesn't matter what you have. It
24 will work.

25 Q. Literally, any computer in the world, if you wanted to,

1 Pablo Bejarano, log on to your eBay account, if you know your
2 user name and password, you can go on to any computer,
3 library, a friend's house, you can access your eBay account?

4 A. Absolutely.

5 Q. Mr. Bejarano, is it possible to erase your web history?

6 A. My web history?

7 Q. Web browsing history.

8 A. Yes, it is possible.

9 MR. CALLAHAN: Thank you, sir.

10 MR. KAISER: Nothing further.

11 THE COURT: Jury question? May this witness be
12 excused?

13 MR. CALLAHAN: There may be a juror question.

14 THE COURT: Is there a juror question?

15 MR. DESAI: My apologies.

16 THE COURT: May the witness be excused?

17 MR. CALLAHAN: Yes, sir.

18 THE COURT: Thank you sir. Witness may be excused.

19 (Witness excused.)

20 MR. KAISER: Your Honor, I need to use the
21 facilities.

22 THE COURT: You need a break?

23 MR. KAISER: Can I have a break for five minutes,
24 Your Honor?

25 THE COURT: We'll take a 15 minute break until about

1 17 after. Don't talk about the case, ladies and gentlemen.
2 Don't start making up your mind. Let the jury stand down.
3 Everyone else remain seated.

4 THE CLERK: This court is now in recess.

5 (Recess taken.)

6 (Jury excused.)

7 THE COURT: Jury is out. We're in recess. Be at
8 ease, but who is your next witness?

9 MR. DESAI: Chris Wilkins, Your Honor.

10 THE COURT: How about having that witness in the
11 stand when we come back?

12 (Recess taken.)

13 THE CLERK: You can remain seated. This court is now
14 in session.

15 THE COURT: Would you swear the witness, please,
16 ma'am?

17 (Witness sworn.)

18 THE CLERK: You may be seated. Please state and
19 spell your name for the record.

20 THE WITNESS: Christopher Wilkins, W-I-L-K-I-N-S.

21 MR. DESAI: At this time, Your Honor, the parties
22 have stipulated that Mr. Wilkins is an expert on forensic
23 science, forensic examinations, computer forensics.

24 MR. KAISER: That's correct.

25 THE COURT: All right.

1 CHRISTOPHER WILKINS, a witness herein, having been
2 first duly sworn, was examined and testified as follows:

3 DIRECT EXAMINATION

4 BY MR. DESAI:

5 Q. Mr. Wilkins, what's your occupation?

6 A. I'm a forensic computer analyst.

7 Q. And how are you currently employed?

8 A. I'm employed by the U.S. Postal Inspection Service.

9 Q. How long have you been employed with the U.S. Postal
10 Inspection Service?

11 A. Since 2003.

12 Q. Prior to your employment with the U.S. Postal Inspection
13 Service, you were employed by the U.S. Postal Service?

14 A. That's correct.

15 Q. What's the difference between the U.S. Postal Inspection
16 Service and the U.S. Postal Service?

17 A. Well, the postal service, we all know, delivers our mail,
18 and the inspection service is a federal law enforcement agency
19 to protect the postal service, the mails, the public.

20 Q. And can you just tell us real briefly the different
21 positions you have had at the U.S. Postal Inspection Service
22 over the years?

23 A. Sure. Well, I came in in 2003 and I was an information
24 technology specialist. At the same time, I was an ad hoc
25 forensic examiner working under the guidance of a program

1 manager until 2007, when I became a forensic computer analyst.

2 Q. And have you received training to become a computer
3 forensic analyst?

4 A. Yes, I have.

5 Q. Do you go to annual training programs concerning computer
6 forensic analysis?

7 A. Yes, sir.

8 Q. And you are a certified computer forensic examiner,
9 correct?

10 A. Yes.

11 Q. Mr. Wilkins, as a computer forensic analyst, what are your
12 duties and responsibilities?

13 A. Well, I receive evidence from our agents and process it,
14 extract information that's of value to them and present it in
15 preparation for court.

16 Q. When you -- after you receive the evidence, what do you do
17 to be able to process the information?

18 A. Well, I'll receive the evidence in our electronic system,
19 and at that time, I'll usually -- it depends on what it is.
20 If it's a cell phone, for instance, I will -- I have special
21 tools that I use to extract information from the cell phone.

22 If it's a computer, I'll remove the hard drive. I have
23 special equipment that I use that prevents changes to the hard
24 drive to help ensure that it remains original, after which I
25 end up with what's known as a forensic image, and from that

1 image, I'll use special software to be able to search through.

2 Q. We're going to use the word forensic image, I believe, a
3 lot throughout your testimony here. Is a forensic image
4 essentially an exact copy of everything that's on the computer
5 or the electronic device?

6 A. Most always it is. In some circumstances, it is not. For
7 instance, if the hard drive were to malfunction during the
8 acquisition.

9 Q. But if you are able to extract a full complete forensic
10 image, it would be everything that's on --

11 A. It would be an exact image.

12 Q. And are you prevented from altering the data on the image
13 or writing new data to that image?

14 A. Yes.

15 Q. Have you forensically examined computers, hard drives and
16 thumb drives, SD cards and cell phones in the past?

17 A. Yes, I have.

18 Q. How many times?

19 A. Hundreds.

20 Q. And there's a number of items there. Just so we all
21 understand what we're talking about, what is a hard drive?

22 A. A hard drive is an electromechanical device that stores
23 information. Most modern day computers have a hard drive in
24 it. When you turn your computer on and Windows or Mac OS
25 comes up, that's being read from this hard drive.

1 When you save your files, they are being saved to the hard
2 drive.

3 Q. So it's a device that can store electronic information?

4 A. Yes.

5 Q. And that includes files and documents on a computer, and
6 you mentioned the operating system and everything else that is
7 the memory side of the computer?

8 A. Yes.

9 Q. And you can read information from the hard drive and you
10 can put information on to the hard drive?

11 A. Yes.

12 Q. Now, you mentioned that the hard drives are what the
13 computer -- they are inside the computer or connected to the
14 computer?

15 A. Yes, they are.

16 Q. Are you familiar with external hard drives?

17 A. Yes.

18 Q. Those are similar, but they are not imbedded into the
19 computer. They are just connected to the computer?

20 A. Yes. External hard drives are normally a little smaller
21 but the same principles. You can store and read information
22 from them.

23 Q. What is a thumb drive?

24 A. A thumb drive is normally a small device used for storing
25 information.

1 Q. And it can be like, using a colloquial, it can be plugged
2 into a computer?

3 A. Yes. Normally a computer would have ports where the thumb
4 drive would be able to plug into.

5 Q. And you can transfer files and documents to that -- from
6 the computer to a thumb drive and vice versa?

7 A. Yes.

8 Q. What's an SD card?

9 A. An SD card is a memory storage device, normally associated
10 with cameras, because it's small and it's flat and it lends
11 itself to fit in a small space such as a camera.

12 Q. So it's also a small device that can store electronic
13 information?

14 A. Yes.

15 Q. And you mentioned it's typically associated with cameras.
16 It's typically used to store digital photos?

17 A. Yes.

18 Q. What do you do to make a forensic image? Is there a
19 specific equipment and software that's used to do that?

20 A. Yes, there is. I will first connect the hard drive to my
21 write blocking device of which I also will connect a
22 destination media, and through -- it depends on the device,
23 but the idea is it is copied from the source and ends up on
24 the destination as an image file.

25 Q. Is that the same kind of or similar kind of process you do

1 with external hard drives and thumb drives and SD cards?

2 A. Yes.

3 Q. How about a cell phone?

4 A. Cell phone is a little different in that it normally does
5 not have a built in hard drive, but it has RAM. A cell phone
6 is connected to a special machine. Mine is called a UFED,
7 universal forensic extraction device, and the same principle
8 is -- nothing is written to the phone but the data from the
9 phone is ending up on a laboratory media.

10 Q. It's not making an exact image copy, but it's extracting
11 all the data from the phone?

12 A. As much as possible.

13 Q. And you mentioned RAM just briefly. Just in case we're
14 not familiar with that term, that's just kind of like memory
15 on the phone?

16 A. Yes. That can store data and remain even when it's
17 unpowered.

18 Q. All the methods of examination that you use, are those
19 consistent with industry standards?

20 A. Yes, they are.

21 Q. Is it part of your duty and responsibility to review
22 information and data on these electronic devices for evidence
23 that's relevant to a criminal investigation?

24 A. Yes.

25 Q. How would you learn about the criminal investigation to go

1 about reviewing such devices for such information?

2 A. Well, when the submission is assigned to me, it will be
3 accompanied with a laboratory request where the case agent
4 will specify the type of information that they are looking
5 for.

6 Q. Do you then also at times communicate with the case agent
7 to learn more about the case and the type of information that
8 would be relevant to that investigation?

9 A. Yes. There's a two way communication throughout the
10 duration of the case when necessary.

11 Q. Do you make an analytical report of your forensic
12 examination as part of your regular duties?

13 A. Yes.

14 Q. Does that report also include the findings concerning
15 relevant evidence?

16 A. Most often, my findings are on an optical media that
17 accompanies the report.

18 Q. Let's talk a little bit about how evidence is submitted to
19 you for examination. Can you just describe briefly the
20 process that is involved with that?

21 A. The case agent will have seized evidence, after which they
22 will enter it electronically into our electronic system with
23 descriptions. From that point, they are able to
24 electronically request laboratory assistance, and within the
25 software, attach those pieces of evidence to a laboratory

1 request, at which time it goes into a queue, electronic queue
2 where it waits to be assigned. It is then assigned to me by a
3 manager.

4 Q. And upon receiving the evidence, what do you look for upon
5 receiving the evidence, just generally?

6 A. Upon receiving, of course, I'll complete chain of custody
7 within our electronic systems. I'll examine the physical
8 evidence to ensure that it matches what it's supposed to be,
9 what the case agent has specified. I will check for damage,
10 the condition, whether it's sealed or unsealed.

11 Q. So the electronic devices come to you in a sealed or a
12 properly sealed manner or supposed to?

13 A. In this case, all evidence was sealed properly.

14 Q. And would you note if evidence was not properly sealed or
15 if evidence or items were damaged or in bad condition?

16 A. Yes.

17 Q. Did you receive electronic devices that were obtained by
18 the U.S. Postal Inspection Service during the search of the
19 defendant and his mother's residence?

20 A. I did.

21 Q. Why did you receive these electronic devices?

22 A. So that I could examine them.

23 Q. How did you receive these items?

24 A. They were shipped by U.S. mail.

25 Q. By the case agent to you?

1 A. Yes.

2 Q. Were all the items properly sealed in this case?

3 A. They were.

4 Q. Did you forensically examine these devices?

5 A. Yes.

6 Q. When did your forensic examination occur?

7 A. That would have been beginning July of 2016.

8 Q. It would have taken them a couple of days and weeks, but
9 it would have been a period of time starting in July?

10 A. Yes, towards the end of July through September, beginning
11 of September.

12 Q. Did you prepare a report of your analysis and forensic
13 examination?

14 A. Yes.

15 Q. Do you have that with you today?

16 A. I do.

17 Q. Can you identify all the electronic devices that you
18 received with respect to this investigation?

19 A. Yes.

20 Q. Can you let us know what those devices were that you
21 received?

22 A. Sure. And you'd like to know the exhibit numbers?

23 Q. I understand that you have -- let me ask you this: When
24 you receive items in evidence, do you have an exhibit
25 numbering that goes with that?

1 A. Yes. The exhibit numbers are assigned by the system.

2 Q. So you can go ahead and just identify the devices and
3 refer to it as your exhibit number which may be different than
4 what the exhibit numbers are in this case.

5 A. Sure. Exhibit 1 was an Apple laptop. Exhibit 2 was a one
6 gig thumb drive. Exhibit 3 was two 16 gig thumb drives.
7 Exhibit 4 was a single eight gigabyte thumb drive. Exhibit 5
8 was a Verbatim thumb drive. Exhibit 8 was an Acer brand
9 laptop. Exhibit 9 was a Mac laptop. Exhibit 10 was two thumb
10 drives and two SD cards, which, in reality, was one thumb
11 drive and one SD card, as one was not really a thumb drive.
12 It was an adapter, and the other was a software key.

13 Exhibit 11 was two external hard drives. Exhibit 12 was a
14 desktop computer. 13 was a Seagate two terabyte hard drive.
15 15 was a 16 gigabyte thumb drive. Exhibit 6 was a Verizon
16 Samsung flip phone. Exhibit 7 was an Apple iPad and Exhibit
17 14 was a black iPhone.

18 Q. We're going to walk through the examination of these
19 devices and we'll do it fairly briefly and stopping where
20 there's relevant evidence, we will talk about.

21 Let's focus on the computers first. Did you attempt to
22 forensically examine the Apple laptop which was identified as
23 Exhibit 1 in your forensic report?

24 A. Yes, I did.

25 Q. Were you able to obtain a forensic image of that device?

1 A. No. It did not contain a hard drive.

2 Q. There's no information to extract from that if it doesn't
3 have a hard drive?

4 A. Correct.

5 Q. Did you forensically examine the iPad which is identified
6 as Exhibit 7 in your forensic report?

7 A. Yes, I did.

8 Q. What's an iPad?

9 A. It's a tablet computer.

10 Q. It's like a computer but smaller?

11 A. Yes, handheld.

12 Q. Were you able to successfully obtain a forensic image of
13 this device?

14 A. Yes.

15 Q. Were you able to extract data from that image and review
16 the contents of this device for evidence relevant to this
17 investigation?

18 A. Yes.

19 Q. Did you attempt to forensically examine the Acer chrome
20 laptop which is identified as Exhibit 8 in your forensic
21 report?

22 A. Yes.

23 Q. Were you successfully able to obtain a forensic image of
24 that device?

25 A. Yes.

1 Q. Were you able to extract data from that image and review
2 the contents of that device for evidence relative to this
3 investigation?

4 A. Yes.

5 Q. How about the -- did you attempt to forensically examine a
6 Mac laptop, correct?

7 A. Yes.

8 Q. That's an Apple MacBook Pro?

9 A. Yes, Exhibit 9.

10 Q. Did you attempt to forensically examine the Apple MacBook
11 Pro that was identified as Exhibit 9 in your report?

12 A. Yes.

13 Q. Were you able to successfully obtain a forensic image of
14 that device?

15 A. Yes, I was.

16 Q. Were you able to extract data from the image and review
17 the contents of this laptop for evidence relevant to this
18 case?

19 A. Yes.

20 Q. And the last computer was a computer tower which is
21 Exhibit 12; is that correct?

22 A. Yes.

23 Q. What is a computer tower?

24 A. It's a box, a container that holds the electronics
25 necessary to be a computer, hard drives and the memory and

1 such.

2 Q. Is it something that we typically understood as like a
3 desktop computer?

4 A. Sure.

5 Q. Can a computer tower have more than one hard drive in it?

6 A. Yes.

7 Q. In the computer tower that you received as Exhibit 12, how
8 many hard drives were in that computer tower?

9 A. There were five.

10 Q. Did you attempt to forensically examine all five hard
11 drives that were part of this computer tower?

12 A. Yes.

13 Q. What were the conditions of these five hard drives?

14 A. They were used in appearance. One had physical damage.

15 Q. And other than the one that had physical damage, let's put
16 that one aside, were you able to successfully obtain a
17 forensic image of the other four hard drives?

18 A. Yes.

19 Q. Were you able to extract data from those images and review
20 the contents of all four hard drives?

21 A. Five hard drives.

22 Q. We'll go back to the last one, the one that's damaged in a
23 second, but of the four.

24 A. Yes.

25 Q. Were you able to extract data from the four hard drives,

1 those images and review the contents of those four hard
2 drives?

3 A. Yes.

4 Q. Were you able to review all contents on those hard drives?

5 A. No.

6 Q. Can you explain that?

7 A. Encryption was present.

8 Q. On all of the hard drives?

9 A. No. On two of the hard drives.

10 Q. Okay. What is encryption?

11 A. Encryption is used to protect data. A program is used
12 to -- you, for instance, can select files that you want to
13 protect. The program will create an encrypted container which
14 is really just a file and then protect it by means of a
15 password. Any time you would want to look at this data, you
16 would have to put your password in it before you could.

17 Q. The two hard drives that had the encryption, were the hard
18 drives completely encrypted or was a portion of that hard
19 drive that was encrypted?

20 A. There were portions that contained encryption.

21 Q. And you indicated that encryption takes a section of the
22 computer and makes it kind of password protected?

23 A. That is correct.

24 Q. Does the forensic tools that you utilize make a forensic
25 copy of the encrypted part of the hard drive?

1 A. Yes.

2 Q. But can those tools then still access and see the
3 information in that side of the hard drive?

4 A. Not in this case.

5 Q. What is needed to be able to access those sections of the
6 hard drive?

7 A. Well, you would have to know the password.

8 Q. That's sometimes called a decryption key?

9 A. Yes.

10 Q. Did you have the decryption key or the password in this
11 case?

12 A. No.

13 Q. As to the fifth hard drive, the one that had slight
14 damage, were you ultimately able to obtain an image of that
15 hard drive?

16 A. I was able to obtain a partial image. The drive was
17 damaged, defective.

18 Q. So you didn't have a full complete image of that hard
19 drive, but you were able to get into a portion or a part of
20 that hard drive and obtain information from that?

21 A. Yes.

22 Q. And were all the hard drives where you had access and able
23 to obtain information from, the unencrypted portions of the
24 two hard drives, this partial hard drive and the other two
25 hard drives, were you able to review all those for evidence

1 related to this case?

2 A. Yes.

3 Q. Now, you mentioned that, in addition to the computers,
4 there were external hard drives that you had examined as well?

5 A. Yes.

6 Q. You mentioned that there was two external hard drives
7 which are identified as Exhibit 11 in your forensic report,
8 correct?

9 A. Correct.

10 Q. Did you attempt to forensically examine those hard drives?

11 A. I did attempt.

12 Q. Were you able to successfully obtain a forensic image of
13 those hard drives?

14 A. No. The drives were both defective.

15 Q. And how about did you attempt to forensically examine a
16 Seagate external hard drive which is identified as Exhibit 13
17 in your forensic report?

18 A. Yes.

19 Q. Were you able to successfully obtain a forensic image of
20 that hard drive?

21 A. Not a complete image. A partial image.

22 Q. What happened?

23 A. The drive would not stay properly powered for a complete
24 image to take place. The drive was defective.

25 Q. Were you able to get some portion of the hard drive

1 information from that?

2 A. Yes.

3 Q. And were you able to review that portion of the hard drive
4 for evidence relevant to this investigation?

5 A. Yes.

6 Q. Now, in addition to the computers and hard drives, you
7 examined a number of thumb drives as well?

8 A. Yes.

9 Q. Did you forensically examine a one gigabyte Sandisk Cruzer
10 thumb drive, two 16 gigabyte Autodesk thumb drives, 16
11 gigabyte Micro Center thumb drive, a thumb drive, SD card, I
12 think you said an adapter and key and a micro -- which are
13 identified as Exhibit 2, 3, 10 and 15 in your forensic report?

14 A. Yes.

15 Q. I used the term gigabyte. Is that something referring to
16 the amount of data that can be stored on a device?

17 A. Yes, it is.

18 Q. Were you able to successfully obtain a forensic image of
19 all these devices, with the exception of that adapter and key
20 you mentioned earlier?

21 A. Yes.

22 Q. And the adapter and key didn't have information on it, is
23 that --

24 A. Well, the adapter is just an adapter. Its purpose was to
25 take a smaller SD card and allow it to be read by a computer

1 that had only a larger slot, so it contained no information.

2 Q. How about the key?

3 A. The key was a software key whose purpose was only to allow
4 certain software to run. It was a software protection device.

5 Q. Other than those two things, were you able to successfully
6 obtain a forensic image of these numerous thumb drives and SD
7 cards?

8 A. Yes.

9 Q. For the items that were forensically imaged, were you able
10 to extract data from that image and review the contents of
11 those devices for evidence in this case?

12 A. Yes, with the exception of Exhibit 10.

13 Q. The adapter and the key that we talked about?

14 A. The adapter and the key.

15 Q. But the other portions of Exhibit 10, you did examine?

16 A. Yes.

17 Q. Did you attempt to forensically examine an eight gigabyte
18 TNY thumb drive which is identified as Exhibit 4 in your
19 forensic report?

20 A. Yes.

21 Q. Were you successfully able to obtain a forensic image of
22 that thumb drive?

23 A. I was.

24 Q. Were you able to extract data and review the contents of
25 that thumb drive?

1 A. No.

2 Q. Why not?

3 A. I suspect that the thumb drive was encrypted.

4 Q. Why do you suspect the thumb drive was encrypted?

5 A. Using my forensic tools to view the image that I had
6 acquired from the hard drive, I saw what I know from
7 experience is high entropy data which is indicative of
8 encryption.

9 Q. Did you have a decryption key to access that thumb drive?

10 A. No.

11 Q. I'm going to show you what's marked as Government Exhibit
12 HM5, which I have right here. I'll hand that up to you. Sir,
13 do you know what that is?

14 A. Yes. This is Exhibit 5.

15 Q. Is that Exhibit 5 in your report?

16 A. That is correct.

17 Q. So it's Exhibit HM5 in this case but Exhibit 5 in your
18 laboratory forensic examination?

19 A. Yes, sir.

20 Q. What is this device?

21 A. It's a thumb drive.

22 Q. Is there a specific name of the thumb drive?

23 A. It's a Verbatim branded thumb drive.

24 Q. Did you forensically examine this device?

25 A. Yes.

1 Q. How do you know you examined this specific device as
2 opposed to some other thumb drive? How do you know it's this
3 one?

4 A. I can see my markings on this device where I've written
5 numeral 5 and also my initials.

6 Q. As part of your practice, as you review evidence, to
7 initial them and put the number on it to indicate that that's
8 a device that you examined?

9 A. Yes.

10 Q. Is this device in the same or substantially same condition
11 as when you received it?

12 A. Yes.

13 Q. Were you able to successfully obtain a forensic image of
14 this thumb drive?

15 A. Yes, I was.

16 Q. Were you able to extract data from that thumb drive?

17 A. Yes.

18 Q. Did you personally review the contents of this thumb
19 drive?

20 A. Yes, I did.

21 Q. Did you find documents that are relevant to this
22 investigation on that thumb drive?

23 A. Yes.

24 Q. I'm going to show you what's marked as Government Exhibit
25 TD9 to TD94. Do you know what that is?

1 A. Yes. These are printed copies of files that I had found.

2 Q. What kind of files are these?

3 A. Well, the content is they are Click-N-Ship labels.

4 Q. And you mentioned these are files you found. These are
5 the files you found on that thumb drive which is HM --
6 Government Exhibit HM5 in this case?

7 A. Yes.

8 Q. When was the first time you had seen TD9 to TD94?

9 A. During my examination.

10 MR. DESAI: Your Honor, government offers TD9 to 94
11 in evidence.

12 MR. KAISER: No objection.

13 THE COURT: Admitted.

14 MR. DESAI: May they be shown to the jurors?

15 THE COURT: Yes.

16 Q. We're not going to take a look at all these, Mr. Wilkins,
17 but let's take a look at TD9. As we take a look at this
18 document, there seems to be two portions, a top half and
19 bottom half; is that correct?

20 A. That is correct.

21 Q. What is the top half and what's the bottom half?

22 A. The top half is designed to be cut out and attached to a
23 parcel for mailing.

24 Q. And the bottom half?

25 A. And the bottom half is just a record, the number, tracking

1 number that appears on the top half and also there is dates
2 and dollar amounts associated.

3 Q. Payment information; is that correct?

4 A. Yes.

5 Q. Let's take a look at the top half and the label. Instead
6 of us trying to figure out how to flip it, we'll just strain
7 our necks a little bit and look sideways here. This is what
8 is called a Click-N-Ship label. Is that what you said?

9 A. Yes, sir.

10 Q. It says Click-N-Ship on there, on that document?

11 A. Yes.

12 Q. This is a label that's used for mailing; is that correct?

13 A. Yes, it is.

14 Q. Can you identify the name of the sender, the sender's
15 information and who is the recipient?

16 A. The sender is written to be James Smith, 580 Forrest Drive
17 South, Unit B, Birmingham, Alabama. The recipient, Jimmy
18 Andres Cortez Norwato, C8232, 7305 Northwest 12th Street,
19 Miami, Florida.

20 Q. And let's take a look at -- let me ask you this. The
21 tracking number at the bottom of that item, are you familiar
22 that that's a unique number?

23 A. Yes.

24 Q. Let's go to the TD10 and focus on the top half of the
25 actual postage label. This is another Click-N-Ship label?

1 A. Yes, it is.

2 Q. Take a look at the sender and recipient name, or the
3 sender's name, address and the recipient name and tell us what
4 those are.

5 A. Yes. The sender, Michael Sliter, 2583 Princeton Road,
6 Unit B, Cleveland, Ohio. Shipping to Spangler & Associates,
7 660 Old York Road, Etters, Pennsylvania.

8 Q. Can you pull up TD11? It's the last one we'll look at and
9 focus on the Click-N-Ship label at the top. This one also
10 is -- the return address is Michael Sliter; is that correct?

11 A. Yes, it is.

12 Q. Now, Mr. Wilkins, is TD9 to TD94 all similar to what we
13 just saw in TD9, 10 and 11?

14 A. Yes.

15 Q. They are just numerous Click-N-Ship labels?

16 A. Yes.

17 Q. And they have different sender and return addresses on
18 there?

19 A. Yes.

20 Q. And different recipient addresses?

21 A. Yes.

22 Q. And different tracking numbers?

23 A. Yes.

24 Q. You can put that document aside. I'll come up and take it
25 from you in a second. I'm going to show you what is marked as

1 Government Exhibit TD1 through TD6. Do you know what TD1
2 through TD6 is?

3 A. Yes.

4 Q. What are they?

5 A. They are printed versions of files that I had found.

6 Q. And these are files you found on the thumb drive that's
7 marked as Government Exhibit HM5?

8 A. Yes.

9 Q. And when was the first time you had seen these exhibits?

10 A. During my examination.

11 MR. DESAI: Your Honor, government offers TD6 to
12 TD -- TD1 to TD6 in evidence at this time.

13 MR. KAISER: No objection.

14 THE COURT: Admitted.

15 MR. DESAI: Your Honor, permission to show it to the
16 jurors.

17 THE COURT: Yes.

18 Q. Before I show it to the jurors, can you briefly explain
19 how TD1 to TD6 is relevant to the investigation as you came to
20 find out?

21 A. There are various columns throughout these spreadsheets,
22 but they contain e-mail addresses and user names.

23 Q. Are they related to eBay in any way?

24 A. Yes.

25 Q. Let's take a look at TD6, if we can pull that up,

1 Ms. Dinuno. And this is only three columns long. Let me ask
2 this first.

3 Mr. Wilkins, there are numerous tabs underneath on the
4 spreadsheet, correct?

5 A. Yes.

6 Q. So the file is called TD6, Government Exhibit TD6,
7 correct?

8 A. Yes.

9 Q. And when you found it, the file was called --

10 A. EBay 11.

11 Q. EBay 11. That is what was named on the computer, on the
12 thumb drive when you found it?

13 A. Yes.

14 Q. And there's numerous tabs at the bottom, correct?

15 A. Correct.

16 Q. Those are just different spreadsheets that are associated
17 with this file?

18 A. Yes.

19 Q. We'll look at the first tab which is called IP active.
20 It's three columns long; is that correct?

21 A. Yes.

22 Q. Can we expand just to make sure we see those three
23 columns. What is the different columns, if you can tell us
24 what those are?

25 A. The first column is labeled IP, and it contains IP

1 addresses. The second column ACC containing user names. The
2 third column is labeled notes.

3 Q. We'll go into the other columns in a quick bit, but let's
4 focus on the first column. You said it's IP and it contains
5 IP addresses?

6 A. Yes.

7 Q. And numerous different IP addresses listed, correct?

8 A. That is correct.

9 Q. What is an IP address?

10 A. An IP address is used by computers. When your computer is
11 on the Internet, it has a unique IP address that it uses to
12 communicate to web servers, e-mail servers. It's a unique
13 number that only should exist at one time.

14 Q. So is it important for IP addresses -- IP address is
15 important for communication on the Internet?

16 A. Yes, it's required. That's how one computer knows where
17 another computer -- differentiates computers.

18 Q. Is it similar to like a physical address for a house?

19 A. Sure.

20 Q. Where you send mail from one house to another, you need to
21 know the physical address?

22 A. You can look at it that way as, for instance, your street
23 address ending with the zip code is unique to your address,
24 where this number will be unique to a given computer.

25 Q. And when a computer -- let me see if I understand this.

1 Your computer is on the Internet and it reaches out to another
2 computer. It needs to know the IP address of that second
3 computer to talk to.

4 A. Yes.

5 Q. That computer would needs the IP address of your computer
6 to talk back?

7 A. Correct.

8 Q. Do some websites record the IP addresses of computers that
9 access it?

10 A. Yes.

11 Q. Can your IP address change over time?

12 A. Yes.

13 Q. Are there ways to make your IP address change?

14 A. Yes.

15 Q. How so?

16 A. Depending on whom is your Internet provider, whether it's
17 a cable company or your telephone provider, the simple act of
18 unplugging from the Internet and then waiting and then
19 plugging back in could yield a different IP address that's
20 assigned to your computer.

21 Q. Just so we understand, when you said Internet service
22 provider, this is like Comcast, Time Warner, AT&T?

23 A. Sure.

24 Q. When you are talking about unplugging and plugging, that's
25 the device that connects you to the Internet?

1 A. Yes.

2 Q. Are you -- are there ways to use your IP address -- are
3 there ways -- let me ask you this: Are there ways to use your
4 IP address but make websites record a different IP address
5 other than the one that is your computer on the Internet?

6 A. Sure.

7 Q. Can you explain that a little bit?

8 A. Well, a common way to do that, to obfuscate your real IP
9 would be by using a VPN service where my computer will talk to
10 another computer over the Internet, and then through that
11 computer who has its own IP address, will then talk to a
12 website, for instance.

13 Q. So just so I understand this correctly, your computer is
14 on the Internet, it can connect to this other computer, and
15 that computer accesses the website for you and sends it back
16 to your computer but the website will record the second
17 computer's IP?

18 A. Yes.

19 Q. What's that called in the industry?

20 A. Well, primarily, VPNs exist for privacy. The -- I'm
21 sorry. Would you repeat that?

22 Q. Let me ask you this: Have you heard of the term masking
23 an IP address?

24 A. Yes.

25 Q. Is that what we're talking about when you use such a

1 service?

2 A. Yes.

3 MR. DESAI: Ms. Dinuno, can you scroll down to the
4 bottom of this? You are going to scroll for a while. Go to
5 the last row.

6 Q. Mr. Wilkins, can you tell us how many rows are here?

7 A. 500, 600, 700.

8 Q. When we get to the end.

9 A. 5800 rows.

10 Q. How many rows are there of IP addresses?

11 A. 5876.

12 Q. And as you see in the ACC column, the second column, in
13 the beginning, you saw user names. Now you see e-mail
14 addresses; is that correct?

15 A. Yes.

16 Q. Let's go all the way back to the top. I know you are
17 going to be scrolling a little bit here. In the note section,
18 as you look at the beginning, it says "Band" and "PP
19 Restricted"?

20 A. Yes.

21 MR. DESAI: I'd like to look at a few of the rows
22 here, and just to help Ms. Dinuno out, I'm going to write down
23 the rows first, but we're going to start at row 5480. You had
24 it. Right there. That's good. Can you highlight that row
25 for us? I think you click on that row.

1 Q. Sir, in that row, it lists an IP address first.

2 A. Yes.

3 Q. And then the second column lists an e-mail address.

4 A. Yes.

5 Q. What does the e-mail address say? What is the e-mail
6 address?

7 A. NSConstantine36638@gmail.com.

8 Q. In the note section, what does it say?

9 A. It says, "MM0411 release funds."

10 MR. DESAI: Ms. Dinuno, if you don't mind going to
11 the trial record programming and pulling up Government Exhibit
12 EB3.1. Can you go to --

13

14 Q. Sir, we're looking at EB3.1. What's the e-mail address
15 there?

16 A. E-mail address is NSConstantine36638@gmail.com.

17 Q. Was it the same e-mail address we saw on row 5480 in the
18 TD6 document?

19 A. Yes.

20 Q. Can we go back to T26? Let's take a look at row 5520.
21 What's the e-mail address and what's the notes on that one?

22 A. ALBenson1174@gmail.com, the notes, "AM0231 release funds."

23 Q. Let's go to EB2.1 and just look at the e-mail address on
24 that. Same e-mail address?

25 A. Yes.

1 Q. Let's go back to TD6. Let's go to row 5565. Can you give
2 us the -- first column is an IP address, correct?

3 A. Yes.

4 Q. E-mail in the next column over?

5 A. JKBryant180@gmail.com, "AM0233 release funds."

6 Q. We'll go to a corresponding eBay account in a second.
7 Let's go to row 5577. What's the e-mail there?

8 A. CJClark912@gmail.com, "MM0423 release funds."

9 Q. Let's pull up EB4.1 and look at the e-mail address on
10 that. Same e-mail address you just looked at?

11 A. Yes.

12 Q. Let's go to 6.1. That's the e-mail address that you
13 looked at, one earlier than the last one, correct?

14 A. Yes.

15 Q. That connects to TD6 row 5577. Let's go to 15.1. Stay
16 there. That's fine. Let's go to row 5853. Could you read us
17 again the e-mail and what it says in the notes?

18 A. RKBUSBY20317@gmail.com, "AM0256 spend funds."

19 Q. What was that? What was the last part?

20 A. "AM0256 spend funds."

21 Q. If we go back up a little bit to row 5598. What's the
22 e-mail and what it says in the notes section, please?

23 A. KCSmith2397@gmail.com, "MM0429 release funds (try again)
24 (check)."

25 Q. Let's go to EB15.1 and just look at the e-mail address.

1 Is that the same RKBUSBY e-mail address that you identified in
2 row 5853 on TD6?

3 A. Yes.

4 Q. Let's go to EB1.1. Is that the same e-mail address that
5 you just read to us related to TD6 row 5598?

6 A. Yes.

7 Q. Let's go to EB1.2 which is one of the spreadsheets. It
8 will just take a second. I'm sorry. I apologize. Can we go
9 to TP1.2? If you look at -- this is a transaction log that's
10 already been admitted into evidence. If you look at the
11 corresponding PayPal account, if you look at the 12-9-2015
12 line, what does it say in type?

13 A. Type is "Check withdrawal from PayPal."

14 Q. And then the next day, it shows that there's a canceled
15 transfer?

16 A. Yes.

17 Q. Let's go back to TD6. You can close out PayPal 1.2.
18 Again in this one, the notes indicate "Release funds (try
19 again) (check)." We just saw the check.

20 A. Yes.

21 Q. Let's go to the second tab in 2014. Seller is the second
22 tab. Can you tell us what this tab tells us and what's listed
23 in those rows?

24 A. Yes. It's e-mail/ID, password, date registered, first
25 item sold, first and last name, address, city, state, country,

1 telephone number.

2 Q. Of what? What kind of accounts?

3 A. These appear to be e-mail accounts for eBay.

4 Q. If you look at the second row, there's a purple highlight.
5 What does that say?

6 A. "EXPSPP."

7 Q. I think you and I are looking at something different. The
8 second row, column A.

9 A. EBay.

10 Q. These are eBay accounts?

11 A. Yes.

12 Q. Is this essentially like a cheat sheet for eBay accounts?

13 A. Sure. Yes.

14 Q. Identifying user names, e-mails and passwords?

15 A. Yes.

16 Q. Let's go to the third tab, ACC2016. Again, is this
17 similar to what we just looked at?

18 A. Yes, it is.

19 Q. Information about eBay accounts, e-mail, passwords and
20 other information associated with eBay accounts?

21 A. Yes.

22 Q. Let's go to the fourth tab, the June 2014 tab. Again,
23 similar?

24 A. Similar, yes.

25 Q. Let's go to the column, I want to scroll all the way out

1 there to a column called PL. Sir, in the PL column, what is
2 the eBay e-mail account that's associated there?

3 A. NSConstantine36638@gmail.com.

4 Q. We just saw the eBay account for having that same e-mail?

5 A. Yes.

6 Q. This lists the passwords and other information associated
7 with that account?

8 A. Yes.

9 Q. Let's go to PT, column PT. Listed there is another e-mail
10 account?

11 A. ALBenson1174@gmail.com.

12 Q. And we had just seen information on the eBay --
13 corresponding eBay account with that e-mail account?

14 A. Yes.

15 Q. Take a look at QB. Again, what's the e-mail here?

16 A. JKBryant180@gmail.com.

17 Q. That's associated with an eBay account and it has a
18 password associated with that in this column?

19 A. Yes.

20 Q. We had seen that e-mail on a corresponding eBay record,
21 correct?

22 A. Yes.

23 Q. Let's go to QD, which is two over, and that is the --
24 what's the e-mail identified here and what is this column
25 telling us?

1 A. CJClark912@gmail.com.

2 Q. And again, this is related to an eBay account with that
3 e-mail address?

4 A. Yes.

5 Q. And we saw the corresponding eBay account just earlier?

6 A. Yes.

7 Q. Let's go to QK. The e-mail account on this?

8 A. KCSmith2397@gmail.com.

9 Q. And again it has the password and other information
10 associated with this eBay account?

11 A. Yes.

12 Q. Again, we saw that e-mail on EB1.1?

13 A. Yes.

14 Q. Let's go to the last one, column TW. Sir, what's the
15 e-mail address on this one?

16 A. RKBUSBY20317@gmail.com.

17 Q. This is the eBay account associated with the information
18 for that account, including the password?

19 A. Yes.

20 Q. That was associated with the eBay 15.1 account that we
21 just saw?

22 A. Yes.

23 Q. Let's take a look at the fifth tab 2013 mixed. Again,
24 similar stuff on there, that's the eBay accounts and the cheat
25 sheet for eBay accounts?

1 A. Yes.

2 Q. Let's take a look at the sixth tab. It's called band. It
3 just lists eBay accounts?

4 A. Yes, it does.

5 Q. Let's take a look at the CP active tab, the next one.
6 It's just information there?

7 A. Yes.

8 MR. DESAI: We'll skip that one. Let's go to FSIA,
9 the second tab. Can you make section A bigger, because it's
10 missing the header there.

11 Q. Sir, can you tell us what the columns are or as it's
12 written up there?

13 A. Sure. MO, TID number, OID/STA, UID, PPINV, TYP, name,
14 price, shipping and handling, EB and PPF, zip code.

15 Q. Can you make that a little bigger? That J column. It
16 says EB and PP fees?

17 A. Yes.

18 Q. Zip code. L is just a number value?

19 A. Yes.

20 Q. And the last column, or the M column is product reference
21 plus notes?

22 A. Correct.

23 Q. If you can kind of scroll back to the beginning here. It
24 has numbers indicated under the PP invoice or PPINV section;
25 is that correct?

1 A. Yes.

2 Q. Under type, it says buy or sell; is that correct?

3 A. Yes.

4 Q. And then name is just individual's names?

5 A. Yes.

6 Q. And then there's price and shipping and handling?

7 A. Yes.

8 Q. Let's jump to row 347. Can you highlight that, under the
9 D column, which is the UID column? What's the name there?

10 A. NSConstantine36638.

11 Q. And there's a number associated next to it in the column
12 next to that, in the E column?

13 A. Yes.

14 Q. Then in column F, it says sell?

15 A. Yes.

16 Q. And then what's listed in the name?

17 A. The next column?

18 Q. Yes.

19 A. Erick Dirksen.

20 MR. DESAI: Ms. Dinuno, if you can scroll a little
21 bit.

22 Q. The next column is the price column. What's listed in the
23 price column?

24 A. 465.

25 Q. What's listed in the shipping and handling column?

1 A. \$15.04.

2 Q. And then if you can read to us what is listed in the
3 product reference section, if you keep going over, in the
4 column M?

5 A. Release on 31st/1st.

6 Q. Let's look at row 355 and go all the way to the beginning
7 here. The D column, it says, "AlBenson1174," correct?

8 A. Yes.

9 Q. That's similar to the e-mail address we have seen?

10 A. Yes.

11 Q. The next column has a number in column E and it says sell
12 in column F, correct?

13 A. Yes.

14 Q. What's the name and the price and the shipping and
15 handling column say?

16 A. Michael Appley, 880, \$16.34.

17 Q. What is the product reference column M say?

18 A. Package P Rep-13th.

19 Q. Let's go to row 364. And column D, the UID is
20 JKBryant180?

21 A. Yes.

22 Q. That's similar to the e-mail we saw earlier?

23 A. It is.

24 Q. Again, column E has a number. Column F is sell, and
25 what's in column G, H and I, which is the name, price and

1 shipping and handling?

2 A. Darleen Ferguson, 335, \$16.54.

3 Q. How about column M, the product reference?

4 A. 30th release.

5 Q. Let's go through three more of these. Let's go to row
6 366. And in this row, column D, the UID is CJClark912?

7 A. Yes.

8 Q. That's the e-mail that we saw earlier?

9 A. It is.

10 Q. Again a number in column E and then column F says sell?

11 A. Yes.

12 Q. And what's the name, the price and the shipping and
13 handling information?

14 A. Pablo Bejarano.

15 Q. Is that possibly Bejarano?

16 A. Yes, 535, \$15.44.

17 Q. And in the column M?

18 A. Prep 3rd.

19 Q. Let's go to row 373 and column D indicates it's listed
20 KCSmith2397, which again is similar to the e-mail we saw
21 earlier; is that correct?

22 A. Yes, it is.

23 Q. Column E has a number; is that correct?

24 A. Yes.

25 Q. And the next column says sell?

1 A. Yes.

2 Q. Let's go to the name, price and shipping and handling
3 numbers. What are those?

4 A. Ray M. Offner, 814, \$16.06, prep 7th, public records
5 problem check.

6 Q. We had seen the corresponding eBay and PayPal accounts
7 concerning Mr. Offner, and there was an attempt to get a
8 check, money from that account?

9 A. Yes.

10 Q. Let's take a look at row 420, and in column D, it says
11 RKBUSBY20317@gmail.com, correct?

12 A. Correct.

13 Q. The next column is the number and the next one says sell?

14 A. Correct.

15 Q. And then what's the name of the person, the amount and the
16 shipping and handling?

17 A. Willfred Rodriguez, 810, 17.8.

18 Q. What's in column M, the note section?

19 A. Print 24th, release 27th, ship 27th, security check
20 problem.

21 Q. Let's take a look at the remaining tabs on the
22 spreadsheets. Let's go to the white page 2014 tab. Again,
23 similar eBay information, correct?

24 A. Yes.

25 Q. Next tab? It says ban list at the top.

1 A. Yes.

2 Q. Let's go to the next page. It just says example account
3 information; is that correct?

4 A. Yes.

5 Q. Let's go to the 2014 tab, the 11th tab, and it just has
6 some basic information.

7 MR. DESAI: You can close TD6 at this time,
8 Ms. Dinuno.

9 Q. Mr. Wilkins, the other exhibits, TD1, 2, 3, 4, 5, are they
10 similar to TD6?

11 A. Yes, they are.

12 Q. Can you pull up TD1? Similar type of spreadsheets we just
13 saw. When you found this record, what was the name of this
14 file?

15 A. EBay 5.

16 Q. Does TD2 look similar and 3, 4 and 5 all look similar?

17 A. Yes, they all look similar.

18 Q. Are they numbered, are they labeled in the file when you
19 found it on the thumb drive in a certain way?

20 A. Yes. Incrementally with each higher version, there seemed
21 to be more information.

22 Q. You used the word "version." Does it seem these are
23 different versions of the same thing, it's just earlier and
24 earlier versions up to TD6?

25 A. Yes, yes.

1 MR. DESAI: You can close TD1. Just briefly, can you
2 show us TD2? You can close TD2. Just show us briefly TD3.

3 Q. Again, that's the same as what we just looked at or
4 similar to?

5 A. Yes.

6 Q. Let's look at TD4 and let's briefly look at TD4 and TD5.
7 Bring them up. Again similar, sir?

8 A. Yes, they are.

9 Q. And last, TD5. You can close that.

10 Sir, did you attempt to forensically examine the Samsung
11 flip phone which is identified as Exhibit 6 in the report?

12 A. Yes.

13 Q. Were you able to successfully extract data from that cell
14 phone?

15 A. Yes.

16 Q. Were you able to review that data for evidence in this
17 case?

18 A. Yes.

19 Q. Did you attempt to forensically examine an Apple iPhone
20 which is identified as Exhibit 14 in your forensic report?

21 A. Yes.

22 Q. Were you able to forensically examine data from that
23 iPhone?

24 A. Yes.

25 Q. Were you able to review the data from this iPhone for

1 evidence in this case?

2 A. Yes.

3 Q. I'm going to hand you what is marked as Government Exhibit
4 HM14. If you can just let us know what this is and if you
5 recognize it. Sir, do you recognize HM14?

6 A. Yes, I do.

7 Q. What is it?

8 A. It is an iPhone.

9 Q. Is it an iPhone? Did you forensically examine that
10 device?

11 A. Yes, I did.

12 Q. How do you know that?

13 A. I marked it with the exhibit number and my initials.

14 Q. What number in your report does this phone connect back
15 to?

16 A. Exhibit 14.

17 Q. Were you able to extract data from the phone?

18 A. Yes.

19 Q. Did you personally review the contents of this iPhone?

20 A. Yes.

21 Q. Did you find evidence relevant to this investigation on
22 this iPhone?

23 A. Yes.

24 Q. I'm going to show you what's marked as IPH8. Sir, do you
25 know what this is?

1 A. Yes, I do.

2 Q. What is it?

3 A. It's a printed version of the report that I had generated.

4 Q. Does it provide information and the contents of the iPhone
5 that's identified as HM14?

6 A. Yes.

7 Q. So this is the extraction report, the information from
8 that phone?

9 A. It is.

10 MR. DESAI: Your Honor, government offers IPH8 in
11 evidence at this time.

12 MR. KAISER: No objection.

13 THE COURT: Admitted.

14 MR. DESAI: Permission to show it to the jurors?

15 THE COURT: You may.

16 Q. Mr. Wilkins, it's going to be far easier to move through
17 the document on screen rather than the physical one I handed
18 to you. Let's focus on the -- let's scroll up to the top, if
19 you don't mind. It says extraction report; is that correct?

20 A. Yes.

21 Q. And let's look down at the -- there's different sections
22 here. One says summary; one says source extraction, correct?

23 A. Yes.

24 Q. Right below that, there's one that says device information
25 section. What kind of information is provided from that

1 section?

2 A. The phone number, the device, serial number, time zone.

3 Q. Is it essentially information that's basic information
4 from the device?

5 A. Yes, e-mail, address.

6 Q. Is this information that was taken from the phone and
7 generated from the phone on to this?

8 A. Yes, it is.

9 Q. Take a look at the Apple ID number, and can you tell us
10 what that is and what it means?

11 A. Apple ID is an e-mail address, and that's used to sign
12 into Apple servers to an iCloud account.

13 Q. So people with iPhones typically can have access to a
14 storage facility with Apple; is that correct?

15 A. Yes.

16 Q. And you need an account with them?

17 A. You do.

18 Q. And you need an e-mail address to access that account?

19 A. Yes.

20 Q. In this case, what is the e-mail address that's associated
21 with this phone and the Apple ID?

22 A. Can we make that a little larger, please?

23 PTXCDEXIA@gmail.com.

24 Q. Let's go to page 2, the bottom part of that. It says
25 content. Sir, this is a section that says content, and it

1 lists a bunch of categories. Is this essentially a table of
2 contents concerning the information in the phone?

3 A. Yes.

4 Q. Can you tell us briefly what some of these mean? What's
5 calendar, call log, chat, contacts as we go down?

6 A. Calendar is a listing of how many calendar items were
7 found. Call log is ingoing and outgoing calls. Chats, number
8 of chats. I-message, Snapchat, Snapchat Friends, Stories.

9 Q. Is that essentially like different ways to have
10 communications, almost like a text messaging or something
11 similar but through other apps?

12 A. Yes, that's correct.

13 Q. The next section says contacts, correct?

14 A. Yes.

15 Q. That's where you would find people's phone numbers and
16 addresses and things of that nature?

17 A. Yes.

18 Q. And then the next section says cookies. Can you tell us
19 what a cookie is?

20 A. A cookie is used -- it's an electronic bit of information.
21 It's a file, and when you visit a website, often the website
22 will give your device, your web browser what's known as a
23 cookie, and that is a bit of information that's used for the
24 purpose of future visits perhaps. If you've signed in before,
25 it now knows who you are by seeing that cookie.

1 If you visit an online forum, for instance, and log in to
2 post messages or read messages, the cookie could contain
3 information so that on your next visit, maybe it will only
4 show you information that you haven't seen yet. Variety of
5 purposes for cookies to exist.

6 Q. So --

7 THE COURT: Let's break for dinner. We'll start back
8 at 1:00 o'clock by the clock on the wall here.

9 Ladies and gentlemen, don't talk about the case,
10 anybody involved in it. What's that next section? Don't
11 start making up your mind. Consciously avoid it. Let the
12 jury stand down. Everybody else remain as you are.

13 (Jury excused.)

14 THE CLERK: Court is now in recess.

15 THE COURT: The jury is out. I've asked the lawyers
16 to look over the instructions during the noon hour here and
17 meet with my lawyer at 12:45.

18 MR. DESAI: Yes, sir.

19 THE COURT: We are in recess. How many more
20 witnesses do you have after this witness?

21 MR. DESAI: After this witness, Your Honor, we will
22 have three more witnesses.

23 THE COURT: Who are they?

24 MR. DESAI: They are a representative from
25 Click-N-Ship, Bradley Parish, an individual from Dollar Bank,

1 Terry Adams, they had given us a new person from the bank, and
2 the agent herself, Postal Inspector Weckerly.

3 THE COURT: You can stand down. We are in recess.
4 Be at ease.

5 (Luncheon recess taken 11:39 a.m.-1:12 p.m.)

6 THE CLERK: This court is now in session.

7 THE COURT: You may proceed.

8 MR. DESAI: Thank you, Your Honor.

9 BY MR. DESAI:

10 Q. Mr. Wilkins, when we were -- before we took our lunch
11 break, we were going through the table of contents. You told
12 us what a cookie was. The next section on there was e-mail
13 and then we'll drop down. What's the e-mail section?

14 A. That would be the category that the program determined was
15 from e-mail.

16 Q. Is it the e-mails that are on the phone?

17 A. Yes.

18 Q. So when you have your own, you can set it up so that way
19 e-mails can come to it?

20 A. Yes.

21 Q. In this case, what e-mail address was associated with this
22 phone overall?

23 A. I don't see it on the screen.

24 Q. Let me ask you this: Is it the same e-mail we saw
25 earlier, the Apple ID e-mail?

1 A. Yes.

2 Q. That's the PTS, that type of e-mail, something to that
3 effect?

4 A. Yes.

5 Q. Mr. Wilkins, make sure if you speak into the mic so
6 everyone can hear you as we go through. Thank you.

7 The notification section on there, what's that?

8 A. That would be where apps that you might have on your phone
9 would notify you and send you a notification to your screen,
10 perhaps, like if your phone is set up to receive weather
11 alerts.

12 Q. Things of that nature?

13 A. Yeah.

14 Q. If your phone is set up to have like on apps eBay or
15 PayPal, this is where some of those notifications would come?

16 A. Yes.

17 Q. What's SMS messages, as we scroll down on this?

18 A. That's what most people would commonly know as a text
19 message.

20 Q. And what's the -- one of the sections below that is called
21 timeline. What's that?

22 A. Timeline is a function of this software where it takes all
23 categories and lists them chronologically.

24 Q. And based on your review of this report and the data on
25 this phone, were you able to identify when this phone was

1 essentially used, the time period along which this phone was
2 active?

3 A. Yes, I was.

4 Q. What's the time period?

5 A. It was between May and July of 2016.

6 Q. So there's no data on this phone prior to May 2016?

7 A. No. I mean, yes, correct.

8 Q. Just to be clear, is there data prior to May of 2016 on
9 this phone?

10 A. No.

11 Q. The next -- one of the other sections down there is web
12 history. That's essentially your history of websites you
13 access?

14 A. Yes, that's correct.

15 Q. And then there's a data files section; is that correct?

16 A. Yes.

17 Q. And there's images and documents?

18 A. And audio and text.

19 Q. Those images and documents, that's where we found some of
20 the evidence?

21 A. Yes.

22 Q. I'm going to show you what's been marked IPH2 to IPH7.

23 MR. DESAI: Ms. Dinuno, you can take off IPH8.

24 Q. Sir, are you familiar with IPH2 to IPH7?

25 A. Yes.

1 Q. What are they?

2 A. They are pictures that were taken of a computer screen
3 which was displaying a spreadsheet at the time.

4 Q. And these -- are these pictures items you found on the
5 phone?

6 A. Yes.

7 Q. And that's the phone, the iPhone that's identified as
8 HM14?

9 A. Correct.

10 Q. And you mentioned it shows spreadsheets. Are those
11 similar to the spreadsheets we saw before?

12 A. Yes, they are.

13 Q. About eBay accounts?

14 A. Correct.

15 Q. When was the first time you saw these records?

16 A. During my examination.

17 MR. DESAI: Your Honor, at this time, the government
18 offers IPH2 to IPH7 for evidence.

19 MR. KAISER: No objection.

20 THE COURT: Admitted.

21 MR. DESAI: May they be shown to the jurors now?

22 THE COURT: Yes, you may.

23 MR. DESAI: Ms. Dinuno, can you show us what's IPH2?

24 Q. Sir, does this appear to be the spreadsheet of eBay
25 accounts that we talked about earlier?

1 A. Yes.

2 Q. Let's go to IPH3 and still similar?

3 A. Yes.

4 Q. IPH4? Again, is that similar to what we've been talking
5 about?

6 A. Yes.

7 Q. IPH5?

8 A. Same.

9 Q. IPH6?

10 A. Yes.

11 Q. And IPH7?

12 A. Yes.

13 Q. They're just photos of different eBay account user names
14 and actions of that nature?

15 A. Correct.

16 Q. I'm going to show you what's marked as IPH1. Sir, do you
17 know what IPH1 is?

18 A. Yes.

19 Q. What is it?

20 A. It is a printout of a spreadsheet that was found.

21 Q. Where was it found?

22 A. On the iPhone.

23 Q. And again, the iPhone marked for identification as HM14?

24 A. Yes, sir.

25 Q. When you talk about it being a spreadsheet, is that the

1 same type of or similar to the cheat sheets that we saw
2 earlier?

3 A. Yes.

4 MR. DESAI: Your Honor, government offers IPH1 in
5 evidence at this time.

6 MR. KAISER: No objection.

7 THE COURT: Admitted.

8 MR. DESAI: May it be shown to the jurors?

9 THE COURT: You may.

10 Q. Can we have IPH1 at this time? Sir, this again has tabs
11 at the bottom and different sections that are similar to what
12 we saw in TD6 and following TD1 through 5, correct?

13 A. Yes.

14 Q. Is this one of the versions similar to one of the earlier
15 versions from TD6?

16 A. It appears to be.

17 Q. Let's just go to FSIA log section on the tab, and let's go
18 down to row 373. Can we make it a little bigger?

19 Again, it's showing, in this one, again, column D is UID
20 and it's showing KCSmith2397?

21 A. Yes.

22 Q. There's a number in the next column, sell in the next
23 column and the name of Ray Offner in the next column?

24 A. Yes.

25 Q. It shows price and shipping and handling for that?

1 A. Yes.

2 Q. And in the note section, it provides notes?

3 A. Yes.

4 Q. It's pretty much the same stuff we looked at before and
5 includes some of the same information?

6 A. Yes, sir.

7 MR. DESAI: You can take that off the screen,
8 Ms. Dinuno. I would like to go back to IPH8 just quickly.
9 Ms. Dinuno, can you go to page 51? Can you make bigger the
10 bottom section?

11 Q. Sir, this is the cookie section on IPH8 report, correct?

12 A. Yes.

13 Q. You just talked about what cookies were prior to the lunch
14 break?

15 A. Yes.

16 Q. What is the -- the first column of columns, what is that
17 information telling us? Let me ask this way. The number
18 column, that's the number in the entry, correct?

19 A. Yes.

20 Q. And the value and domain, the domain, is that the website
21 that's putting the cookie on the phone?

22 A. Yes.

23 Q. And the value is associated with the cookie?

24 A. Yes.

25 Q. Information of the cookie that's provided to the phone?

1 A. Yes.

2 Q. How about expires and accessed?

3 A. Those are date fields.

4 Q. And access is when the cookie gets put on the phone?

5 A. Yes.

6 Q. And expires is when that cookie would expire or get taken
7 off the phone in a natural way or something to that effect?

8 A. Yes. It would cease to be honored.

9 Q. Let's go down to the next page down to row 19 on the
10 cookie stuff. No. 19 there, it identifies that the cookie was
11 set by Google Mail?

12 A. Correct.

13 Q. That's all those gmail, e-mail accounts come from Google
14 e-mail, correct?

15 A. Correct.

16 Q. It lists a bunch of e-mail addresses in there?

17 A. Yes.

18 Q. I want to focus on just one of the e-mail addresses.
19 Midway through, there's, I think it starts with JK Stark. Is
20 that an e-mail that you see?

21 A. Yes, it is.

22 Q. Can you tell us what that e-mail address is?

23 A. JKSTARK196@gmail.COM.

24 Q. What's the date all the way on the far right for accessed?

25 A. The date is 7-5-2016.

1 Q. Let's go down to row 22. Again, is that information from
2 a cookie provided by Google Mail of that JK Stark e-mail that
3 was provided on 7-5-2016?

4 A. Yes.

5 Q. Let's remember that e-mail. We're going to come back to
6 that in a second. JKSTARK196 is that e-mail, correct?

7 A. Yes.

8 Q. Let's go down to page 114 in the notification sections.
9 So this is the notification section?

10 A. It is.

11 Q. Again, can you just remind us what the notification
12 section is?

13 A. It contains notifications that were designed to be
14 presented to the user to let them know of different events
15 that were happening on the phone.

16 Q. I'm going to walk up a little closer to the screen so I
17 can read some of these notifications with you. Sir, can you
18 tell us what the first notification is on -- in this thing?
19 Can you read us the notification, the body, third column on
20 contact?

21 A. It starts off PayPal. Your interaction with PayPal on
22 June 30, 2016. "Dear Joseph Stark, we noticed that you have
23 not yet had the opportunity to..."

24 Q. What's the date of this notification?

25 A. 7-5-2016.

1 Q. We'll come back to the name Joseph Stark in a little bit.

2 Let's look at No. 3. What's the body in that one?

3 A. Service@PayPal.com. "Your PayPal account has been
4 limited. Case No. PP-004-937-226-287."

5 Q. And the date on that one again?

6 A. That is 7-5-2016.

7 Q. Unfortunately the wrong one is highlighted. That's for
8 line 3, correct?

9 A. Line 3.

10 Q. The body of the fourth entry on this notification, what's
11 the date and what does it say?

12 A. The date is 7-4-2016. The body reads, "eBay, Return
13 requested. Nikon D4 digital SLR camera body only. Camera
14 Stop has started a return request."

15 Q. Then it provides a series of letters and names. It's
16 JKJSJOS.7SJTJJWYI eBay res, correct?

17 A. Yes.

18 Q. We come back to that name in a second. Read me the body
19 of the next one and the time?

20 A. The time, 5:23:53.

21 Q. I apologize. The date?

22 A. The date 7-4-2016.

23 Q. And what's the body on that e-mail?

24 A. The body reads "eBay Camera Stop re: I have a question
25 about using my item or I want to send the seller a message.

1 Camera Stop sent a message about N."

2 Q. "Re," are you familiar with that designation?

3 A. Regarding.

4 Q. Regarding. And we'll come back to that name Camera Stop
5 in a second. All this is happening on 7-4 and 7-5, correct?

6 A. Yes.

7 MR. DESAI: Ms. Dinuno, can you please pull up
8 Government Exhibit EB16.1? Can you highlight the registration
9 section?

10 Q. Sir, what's the full name, the e-mail and the user ID on
11 that?

12 A. Joseph Stark, JKSTARK196@gmail.com.

13 Q. And the user ID, is that JK SJOS.7FJPJJWYI?

14 A. Yes, it's the same thing.

15 Q. All of those things, Joseph Stark, the user name and the
16 e-mail address we saw in that notification section on that
17 iPhone?

18 A. Yes, sir.

19 Q. Let's go to EB16.2. Sir, you can see the seller user ID
20 is the same user ID that we just talked about?

21 A. Yes.

22 Q. In the top row, it indicates an auction that naturally
23 ended for a Nikon D4 digital SLR camera?

24 A. Yes.

25 Q. The price was \$1,826 .88?

1 A. Yes.

2 Q. The date -- the sale end date is June 22nd, 2016?

3 A. Correct.

4 Q. That's before July 7 -- July 5 and 4 that we saw on the
5 phone?

6 A. Yes, sir.

7 Q. Keep scrolling. The person who bought that was a user ID
8 Camera Stop?

9 A. Yes.

10 Q. That's on the notification and message coming in from
11 Camera Stop that we saw on the notification section on that
12 iPhone?

13 A. Yes, sir.

14 Q. The person, the full name is Isaac Woo?

15 A. Yes.

16 Q. Can you show us 16.3? I apologize. 16.4. This says eBay
17 complaints?

18 A. Yes.

19 Q. There's a seller. That's the same ID number we looked at
20 and the buyer of the complaint is Camera Stop?

21 A. Yes.

22 Q. Let's go -- you can take that down. Let's look at LC16.3.
23 Sir, this is a Liberty Coin invoice, correct?

24 A. Yes.

25 Q. It's indicating something is being shipped to Joseph

1 Stark, and it has an address after that; is that correct?

2 A. Yes.

3 Q. It's showing that the order date on that is 7-1.

4 A. Yes.

5 Q. The top right-hand corner. That's gold that's being
6 shipped out?

7 A. Correct.

8 Q. And again, July 1st is before July 4th and July 5th that
9 we saw on the iPhone notifications from that PayPal and eBay
10 accounts?

11 A. Yes.

12 MR. DESAI: You can take that down.

13 Q. Sir, is the iPhone that you viewed, was it receiving
14 notifications from eBay and PayPal concerning what we just
15 saw, that transaction involving that Joseph Stark eBay account
16 after the item had been listed for sale and money was going to
17 Liberty Coin -- from Liberty Coin to an address?

18 MR. KAISER: Objection.

19 THE COURT: On what ground?

20 MR. KAISER: Leading.

21 THE COURT: All right. Let's approach.

22 (At sidebar.)

23 THE COURT: It is leading. Of course the danger of
24 leading is putting words in a witness's mouth. I think this
25 witness is pretty alert, so I don't know how we would ever get

1 through it without leading.

2 MR. DESAI: Your Honor, the information is on the
3 documents.

4 THE COURT: You are winning so far. You interrupted
5 me.

6 MR. DESAI: I apologize, Your Honor.

7 THE COURT: I'm going to overrule the objection.
8 However, if you think he's getting to the words in the
9 witness's mouth that might not have been there, I'll be happy
10 to rehear you.

11 MR. KAISER: Thank you.

12 (In open court.)

13 Q. Sir, is the iPhone that you reviewed, was it receiving
14 notifications from the eBay and PayPal accounts that we just
15 looked at concerning Joseph Stark after the sale and after
16 money was coming from Liberty Coin to Mr. Stark?

17 A. Yes.

18 MR. KAISER: Objection.

19 THE COURT: Overruled.

20 Q. Mr. Wilkins, did you review all the data that you were
21 able to forensically extract from all the electronic devices
22 obviously except for the encrypted portions, did you review
23 all that for any evidence concerning eBay and PayPal?

24 A. Yes.

25 Q. Did you find any evidence concerning the buying or selling

1 of eBay accounts on any of those devices?

2 A. No.

3 Q. Did you review all the data associated with these
4 electronic devices for any contact information for a Michael
5 Sliter?

6 A. Yes.

7 Q. What was the result of that review?

8 A. There was no saved contact information.

9 Q. Mr. Wilkins, I want to follow up on our discussion on IP
10 addresses. You mentioned that those are unique numbers
11 associated with electronic devices that are connected to the
12 Internet?

13 A. Yes.

14 Q. And you indicated there's services that can mask an IP
15 address?

16 A. Yes.

17 Q. If the same IP address accesses two different websites
18 within a short period of time, what does that tell you or
19 indicate to you?

20 A. That it was the same computer.

21 Q. Same device?

22 A. Yes.

23 Q. And likely same person?

24 A. Yes.

25 MR. DESAI: No further questions from the government.

1 CROSS-EXAMINATION

2 BY MR. KAISER:

3 Q. Hi, Mr. Wilkins.

4 A. Hello.

5 Q. We met before, haven't we?

6 A. Yes, sir.

7 Q. I was at the government's office while we were looking at
8 some of the computer graphs, correct?

9 A. Yes, sir.

10 Q. On that day, we were actually there because one of the
11 drives had actually been damaged, correct?

12 A. Yes.

13 Q. And so we were there trying to figure out a way to extract
14 information from it, correct?

15 A. Correct.

16 Q. And in fact, up to that point in time, you had been unable
17 to extract information from it, correct?

18 A. That is correct.

19 Q. And when we got to the office, Atticus and I were there,
20 right, and we were sitting at the table with you, I believe;
21 is that correct?

22 A. Yes.

23 Q. And we noticed some prongs had been damaged in the
24 machine, correct?

25 A. That is correct.

1 Q. And I believe Atticus actually noticed that, didn't he?

2 A. Well, it was photographed at the beginning.

3 Q. And in fact, Atticus and I went to the store and we got --
4 you are talking to a real computer illit here -- got some
5 things and came back and straightened up the prongs and we
6 were able to get some information from it, correct?

7 A. That is correct.

8 Q. Now, I just want to review real quickly. In your review
9 of all the information that the government seized from
10 Atticus's apartment, and that essentially was everything that
11 you reviewed, correct --

12 A. Yes.

13 Q. -- was what was seized from his apartment; is that fair?

14 A. Of the electronic devices.

15 Q. Right. And in fact, were some of the devices actually
16 mailed to you in St. Louis from Pittsburgh?

17 A. They were all mailed.

18 Q. Is it true that it's possible, at least, that that's how
19 the damage occurred to these computers was during the
20 transport?

21 A. To the one hard drive?

22 Q. Yes.

23 A. Yes.

24 Q. In fact, there were numerous things that were damaged,
25 were there not? Didn't you indicate that there were a lot of

1 things that were damaged that you couldn't access?

2 A. Well, there were hard drives that couldn't be acquired,
3 but I doubt it was from shipping damage.

4 Q. Just so we're clear --

5 A. So for instance, Exhibit 11 contained two individual hard
6 drives that weren't necessarily damaged, yet I could not
7 acquire data from them.

8 Q. Okay. Just quickly, Exhibit 1 that you went over, there
9 was no hard drive, right?

10 A. Correct.

11 Q. So there's no information that could be extracted from
12 that?

13 A. Correct.

14 Q. And Exhibit 2, you had negative results. What do you mean
15 by negative results?

16 A. There were no pertinent findings.

17 Q. No pertinent findings to Atticus Matias and the
18 allegations in this case; is that right?

19 A. No findings during my initial examination.

20 Q. And Exhibit 3, negative results, would that be the same
21 thing as well?

22 A. Yes, Exhibit 3-1 and 3-2.

23 Q. And Exhibit 8, you had negative results as well, did you?

24 A. Correct.

25 Q. And Exhibit 9, you had negative results, correct?

1 A. Correct.

2 Q. And Exhibit 10-1, you had negative results, right?

3 A. Exhibit 10-1 was suspected -- is encrypted.

4 Q. Exhibit 10-2, you had negative results?

5 A. Correct.

6 Q. And Exhibit 12-4 the same; is that correct?

7 A. Yes.

8 Q. Exhibit 12-5, sir, that would be correct as well?

9 A. That's correct.

10 Q. And Exhibit 15, I believe also you had a negative result;
11 is that right?

12 A. Yes, it is.

13 Q. And you did indicate that Exhibit 11 was damaged and
14 therefore no information could be secured; is that fair?

15 A. That is correct.

16 Q. And you don't know how it was damaged, do you?

17 A. Exhibit 11?

18 Q. Yes.

19 A. It contained two hard drives that could not be read. They
20 had yellow sticky notes on them saying bad, if I remember
21 correctly. I don't think they were damaged necessarily as
22 much as they were just defective hard drives.

23 Q. And initially, as I said earlier, you thought 12.2 was
24 damaged and could extract no information, right?

25 A. Correct.

1 Q. Now, Exhibit 5 of what you looked at, you went over that
2 at great length during your examination, and I believe you
3 testified there were 5,876 logs altogether; is that fair?
4 Does that seem about right?

5 A. I'm sorry. Say that again.

6 Q. 5,876 logs altogether in Exhibit 5. Is that what you
7 testified?

8 A. Are you talking about the number of rows in a spreadsheet
9 perhaps?

10 Q. Yes.

11 A. On one of the spreadsheets found on that exhibit, there
12 were that many rows.

13 Q. And of those 5,876, did you count how many related to
14 Mr. Appley?

15 A. I did not.

16 Q. Would it surprise you if I told you that four entries
17 related to Mr. Appley?

18 A. Nothing surprises me.

19 Q. And with respect to Mr. Offner, would it surprise you if I
20 told you that five entries related to Mr. Offner of the 5,876?

21 A. No.

22 Q. So there was a lot of business being conducted by the
23 defendant apparently, wasn't there?

24 A. I don't have a clear correlation in my mind as to the
25 manner of business being conducted as it relates to that

1 particular spreadsheet.

2 Q. Are you aware of the fact that there was some evidence
3 that was lost in this matter, in this case?

4 A. It sounds familiar.

5 Q. Were you told by anybody that there was lost evidence in
6 this case?

7 MR. DESAI: Objection. Calls for hearsay.

8 THE COURT: I suppose it would depend on who told him
9 that.

10 BY MR. KAISER:

11 Q. Did Inspector Weckerly tell you that there had been
12 evidence lost in this case?

13 THE COURT: Overruled. Objection saved. You may
14 answer.

15 A. I may have read it in a memo.

16 Q. She actually had a memo to that effect, didn't she, that
17 there had been evidence lost in the case, didn't she?

18 A. Possibly.

19 Q. And I guess nobody knows really what was in that lost
20 evidence, do they?

21 MR. DESAI: Objection. Inspector Weckerly will
22 testify. He doesn't know what's in the evidence.

23 THE COURT: Overruled. Exception saved.

24 Q. Do you know what was in there?

25 A. I have no idea. It was no evidence that was destined for

1 my lab.

2 Q. Now, there has been testimony about images on eBay deals
3 between Mr. Offner and Mr. Appley and Ms. Ferguson and people
4 that have testified previously.

5 Are you familiar with eBay and when there's a deal that's
6 going to be done, a person makes a proposal to sell, say, a
7 cell phone? Are you familiar with that?

8 A. I know of the basic mechanics of how eBay works.

9 Q. And to put a picture up on eBay to say, hey, I'm selling a
10 cell phone and this is a picture of it for X amount of
11 dollars, you are familiar with that, are you not?

12 A. Most all eBay sales listings do have pictures.

13 Q. Right. And did you find any images of any pictures of any
14 cell phones on anything that you reviewed from the defendant's
15 house that would have correlated with any of the pictures that
16 were shown to any of the alleged victims in this case?

17 A. I don't know what pictures were shown, but maybe.

18 Q. Did you see any pictures of any iPhones that were on his
19 computer?

20 A. If I -- I don't recall. I wasn't really looking for
21 pictures of items.

22 Q. So you don't recall whether, in the entire browsing
23 history of his computer, there was a picture of any cell phone
24 that could have been uploaded into an eBay account?

25 A. No.

1 Q. When you were reviewing Exhibit 5, did you find any
2 information about stealth accounts?

3 A. I'm not sure what information that would be.

4 Q. Well, did you find -- was there a guide to stealth
5 accounts that was on that Exhibit 5?

6 A. I don't recall.

7 Q. Now, of the 5,876 logs -- you know which portion of the
8 computer I'm talking about there, right?

9 A. Within the spreadsheet.

10 Q. The spreadsheet. If you looked at log 354 and log 364,
11 I'll ask you, did you look at these logs? Do you recall
12 looking at these logs?

13 A. No.

14 Q. Would it surprise you that these logs involved eBay
15 stealth accounts?

16 A. No.

17 Q. Did Inspector Weckerly ask you to look for eBay stealth
18 account information?

19 A. Not specifically.

20 Q. Did she generally ask you to look for eBay stealth
21 information?

22 A. I was searching for eBay and PayPal information which is
23 kind of generic.

24 Q. She didn't mention anything about eBay stealth information
25 to you?

1 A. I don't recall.

2 Q. You've never met the defendant, correct, except for the
3 time at your office?

4 A. Yes, that's the only time.

5 Q. You didn't meet him. That's the only time?

6 A. Correct.

7 Q. You have no personal knowledge of him doing anything
8 untoward; is that fair?

9 A. Yes.

10 Q. And you have no personal knowledge of him stealing
11 anything from anybody on eBay; is that right?

12 A. No.

13 Q. Now, the MacBook Pro, I believe there was a MacBook Pro
14 that you discussed during your direct testimony. Do you
15 remember discussing that?

16 A. Yes.

17 Q. Was that a desktop?

18 A. No. That's a laptop.

19 Q. Do you know what year that was from?

20 A. No.

21 Q. You have no way of knowing whether that would have been
22 something that the defendant sold to anybody, do you?

23 A. No, I don't.

24 Q. Did Inspector Weckerly ask you to look for images of cell
25 phones or Mac Pros?

1 A. No.

2 Q. She didn't ask you. Okay. Did she ask you to look for
3 images of things that might have been uploaded on to eBay?

4 A. No.

5 Q. Did you look at the iPads? Were there any images found on
6 any iPads of phones that may have been uploaded to eBay that
7 you recall?

8 A. There was an iPhone and an iPad.

9 Q. Do you know that they were uploaded -- or did you compare
10 them to the ones that may have been uploaded to eBay?

11 A. I have not seen the eBay listing. I don't know what they
12 contain.

13 Q. So you don't know that that would have been anything that
14 would have been uploaded by the defendant on to eBay?

15 A. I'm sorry. Could you please --

16 Q. You don't know that anything from that iPhone would have
17 been uploaded by the defendant and put on eBay account?

18 A. No.

19 Q. You don't have any knowledge of that?

20 A. No.

21 Q. Now, with respect to encrypted items that you found, I
22 believe you testified with respect to encrypted items; is that
23 right?

24 A. Yes.

25 Q. Can you -- I mean, you have no idea who encrypted these

1 things, right?

2 A. Correct.

3 Q. You testified with respect to Michael Sliter. Do you
4 recall that? Do you know of any relevance Michael Sliter may
5 have to this case?

6 A. Yes.

7 Q. What would that be?

8 A. He is supposed to be a person involved with the defendant
9 in some sort of work arrangement.

10 Q. You don't know of any criminal activity that he may have
11 been involved in, do you?

12 A. No.

13 Q. You have no personal knowledge, do you, that Atticus
14 Matias was related to NSConstantine36638? Do you have any
15 personal knowledge to that effect?

16 A. No.

17 Q. I'll ask you the same question with respect to
18 Albertson1174@gmail.com. Do you have any personal knowledge
19 of any link to Atticus Matias that there might be?

20 A. No, not necessarily.

21 Q. Did you find any e-mails from Atticus Matias on any of the
22 apparatuses that you analyzed that would have been sent to any
23 of the alleged victims here in these eBay applications? Did
24 you find any e-mails that would have been sent from Atticus
25 Matias to any of the alleged victims?

1 A. No.

2 Q. Did you find any e-mails that were from any of the alleged
3 victims to Atticus Matias on any of the things that you
4 analyzed?

5 A. I didn't find really much in the way of e-mail at all, and
6 it was hypothesized that he was using a gmail account which
7 really doesn't leave much in the way of e-mail on the
8 computer.

9 Q. I wouldn't know the difference between an e-mail and
10 gmail, I apologize. Let me rephrase it then.

11 Did you find any gmails from Atticus Matias to any alleged
12 victim of eBay?

13 A. No. That's sort of my point. Gmail doesn't necessarily
14 leave copies of e-mails on the person's computer. That would
15 be up in the cloud.

16 Q. So you didn't find any is what you are saying, right?

17 Now, with respect to any that were sent to him, did you
18 find any that would have been sent to him from any of the
19 alleged victims?

20 A. No.

21 Q. And you have no personal knowledge of any of the
22 Click-N-Ship packages here that were allegedly sent by Atticus
23 Matias. You don't know have any personal knowledge of him
24 having sent any of those, do you?

25 A. No.

1 MR. KAISER: Nothing further, Your Honor.

2 REDIRECT EXAMINATION

3 BY MR. DESAI:

4 Q. Sir, you were explaining gmail and how it doesn't leave
5 e-mail on to a computer. Can you explain how gmail works and
6 how you access your e-mails?

7 A. Through a Web browser normally.

8 Q. So you wouldn't have e-mails downloaded on to your
9 computer?

10 A. That is correct.

11 Q. You didn't find e-mails one way or the other on the
12 computer. There's really devoid of e-mails on the devices?

13 A. That is correct.

14 Q. You were asked a little bit about a Michael Sliter. Do
15 you recall that?

16 A. Yes.

17 Q. What is the basis of your knowledge about anything about
18 Michael Sliter?

19 A. That he is --

20 Q. Not who he is. How are you informed about him? What was
21 the basis of your knowledge about Mr. Sliter?

22 A. Possibly reading memos or conversations with the case
23 inspector.

24 Q. So the information was provided to you by the case agent
25 for something to look for?

1 A. Yes.

2 Q. You have no knowledge exactly who he is, what he is, or
3 even if he's real?

4 A. That is correct.

5 Q. You looked at all those exhibits, the thumb drive
6 exhibits, the spreadsheets and whatnot, they list a lot of
7 different user names, don't they?

8 A. Yes.

9 Q. You were asked about evidence that was lost in the
10 investigation?

11 A. Yes.

12 Q. Was any electronic devices submitted to you for a forensic
13 evaluation lost?

14 A. Not that I'm aware of.

15 Q. Was anything that you received for forensic examination
16 other than the one hard drive in Exhibit 12 damaged,
17 physically damaged?

18 A. No.

19 Q. Can you tell me a little bit about how Exhibit 12 came to
20 you and how the hard drives were inside that tower?

21 A. Yes. The exhibit was sealed and wrapped in a plastic wrap
22 inside. The hard drives were not mounted. They were loose
23 within the computer case.

24 Q. So they just weren't bounded to anything, so as a result
25 of being inside, they could have moved?

1 A. Yes, sir.

2 Q. Were you still able to access a significant portion of
3 that hard drive at a subsequent date?

4 A. Of Exhibit 12-2, yes.

5 Q. And 12-2 is the damaged hard drive?

6 A. Yes, it is.

7 Q. You were asked a lot about negative findings. Negative
8 findings, does that mean you weren't able to access the
9 devices, or does that mean you didn't find anything relevant
10 to the investigation?

11 A. Nothing was found.

12 Q. Relevant to the investigation?

13 A. Yes.

14 Q. But you did have positive findings on a number of devices;
15 isn't that correct?

16 A. That is correct.

17 MR. KAISER: Objection.

18 THE COURT: Beg your pardon?

19 MR. KAISER: Objection. He's leading the witness.

20 THE COURT: Overruled.

21 Q. You were asked a lot of questions on cross about images,
22 images of pictures of a MacBook and cell phones; is that
23 correct?

24 A. Yes.

25 Q. Sir, did you go through these devices looking for images?

1 A. No.

2 Q. Do you know if images of that nature exist on these
3 devices or not?

4 A. I do not.

5 Q. There's also a number of hard drives and a thumb drive
6 that's encrypted, correct?

7 A. Correct.

8 Q. You have no knowledge of what's on those?

9 A. Correct.

10 Q. You don't know if there are images on those?

11 A. No, I don't.

12 MR. DESAI: No further questions, Your Honor.

13 MR. KAISER: Nothing further, Your Honor.

14 THE COURT: Jury questions? May this witness be
15 excused?

16 MR. DESAI: He may, Your Honor.

17 THE COURT: Thank you, sir. You can stand down. You
18 are excused.

19 (Witness excused.)

20 THE COURT: Next witness.

21 MR. DESAI: Bradley Parish.

22 THE COURT: Maybe we should take a little stretch
23 here. You can stand up if you want to. You are not required
24 to.

25 (Witness sworn.)

1 THE CLERK: Please be seated. Please state and spell
2 your name and speak directly into the microphone.

3 THE WITNESS: Bradley Parish, B R A D L E Y,
4 P-A-R-I-S-H.

5 THE CLERK: Thank you.

6 BRADLEY PARISH, a witness herein, having been first
7 duly sworn, was examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. DESAI:

10 Q. Mr. Parish, how are you currently employed?

11 A. I work for the United States Postal Service.

12 Q. How long have you worked for the U.S. Postal Service?

13 A. 13 years.

14 Q. Can you tell us about the different positions of
15 responsibilities you have had at the U.S. Postal Service over
16 those years?

17 A. My experience primarily focused on shipping applications.
18 When I first started as an employee at the postal service, I
19 was involved in establishing and maintaining and growing the
20 relationship the postal service has with eBay and PayPal.

21 I spent two years after that in the global business unit
22 basically fostering the same sort of business approach with
23 Google and Yahoo. I spent two years in business strategy, and
24 for the last seven or eight years, I've been the program
25 manager for the shipping application called Click-N-Ship.

1 Q. And what is your role and responsibility as a program
2 manager with Click-N-Ship?

3 A. So for Click-N-Ship as the program manager, I oversee
4 business and technical development, I oversee strategic
5 direction and maintaining the day-to-day business operations.

6 Q. How long have you been the program manager for
7 Click-N-Ship?

8 A. About seven or eight years.

9 Q. What is Click-N-Ship?

10 A. Click-N-Ship is a shipping application on the postal
11 service website, USPS.com.

12 Q. Do you need an account to access it?

13 A. So for USPS.com, you set up an account through the
14 customer registration application, which is separate from
15 Click-N-Ship. By establishing an account, you then have
16 access to all the applications, and when you go to the website
17 for your convenience, you log in to your account.

18 Q. You called it a shipping application for Click-N-Ship.
19 What does it provide you? What is the transaction?

20 A. You would use Click-N-Ship whether you are a consumer or a
21 small business. Primarily to create shipping labels.

22 Q. And you can pay for it online?

23 A. You have to pay for it online. Click-N-Ship is an
24 application USPS.com that requires you to be registered,
25 logged in, and payment is required before we would render the

1 image of the label for customer to use.

2 Q. And we're talking about labels here. What are U.S. postal
3 labels?

4 A. Think of -- it's just a general shipping label but think
5 of it as if you're addressing an envelope to send to somebody.
6 You have to have a return address, you have to have the ship
7 to address. For shipping labels in particular, we require a
8 tracking number and we require other markings that indicate
9 that postage has been paid.

10 Q. And on a Click-N-Ship label or a label that's created for
11 the use of Click-N-Ship, does the label also say Click-N-Ship?

12 A. It does.

13 Q. You mentioned a tracking number. We have heard a lot
14 throughout this trial. What is a tracking number?

15 A. Tracking number really is almost a requirement for most
16 shippers, and someone receiving the package, you want to be
17 able to track when it's going to arrive at its final
18 destination. So it's a number that is generated at the per
19 label level.

20 Q. It's a unique number per label?

21 A. It is a unique number per label.

22 Q. And how does information about -- let me ask you this: On
23 the U.S. Postal Service system online website, is there a way
24 to track the package with that tracking number?

25 A. There's actually a couple different ways. If you go into

1 your Click-N-Ship account and if you generated a label within
2 Click-N-Ship, you go to your shipping history, and any label
3 that you created in the last six months is there, and we try
4 to make it convenient for you to just click on a tracking
5 button for the labels you've created in Click-N-Ship.

6 If you don't have a Click-N-Ship account, you are just
7 someone you are receiving a package and you have the tracking
8 number, you could type in the 32 digit tracking number into
9 the tracking application and it would give you your tracking
10 events.

11 Q. How does information about the package as it's moving
12 across the nation to get from one place to the other, how does
13 that information get uploaded to where the package is?

14 A. Well, the tracking number is associated with the bar code,
15 and the bar code is scanned in the operational equipment, and
16 then that just is in the back end somewhere, and it's
17 retrieved as someone says, hey, I need to track this.

18 Q. Once it gets scanned, the information, it's located at
19 that facility and it moves on and it gets scanned again?

20 A. Correct. At every step where we give the scans, that
21 information would be made available.

22 Q. And you indicated that an individual has to pay for the
23 postage before he or she receives the Click-N-Ship label?

24 A. Correct.

25 Q. Let me ask you this: In the tracking system, if a

1 Click-N-Ship label is created but the package has not been
2 mailed, it hasn't been dropped off at the post office, how
3 would that appear on the online tracking system?

4 A. The induction scanner, the very first scan when the
5 customer gives it over to a postal employee, is one of the
6 most valuable scans for anybody because they want to know they
7 handed it over to us. Prior to the induction scan, I believe
8 it says online record generated or something in general terms
9 like that.

10 Q. Like a preshipment label?

11 A. Correct, preshipment.

12 Q. You indicated individuals have to pay for the postage
13 before they get the Click-N-Ship label. How does the system
14 allow individuals to pay for postage?

15 A. We allow payment through Visa, MasterCard, American
16 Express, Discover and PayPal.

17 Q. Does the system allow individuals to purchase multiple
18 labels at one time?

19 A. Yes. You can purchase multiple labels in a single
20 transaction or multiple labels in multiple transactions over
21 the course of a day. In each, whether it's more than one
22 label at a time, each transaction requires a payment method.

23 Q. So if you are doing what we call -- let's say it's batch
24 labels, you make three or four labels and you pay all at one
25 time, it would be the total amount that would show up on your

1 credit card?

2 A. That's correct.

3 Q. And if you bought one label at a time, it would just be
4 that amount for one label and it would show up that one amount
5 for that label one at a time?

6 A. That's correct.

7 Q. How does the individual receive the label? The user of
8 the Click-N-Ship account, how do they get a label?

9 A. We render the labels in Adobe.PDF. The customer has to
10 have that software on their computer or device to have it
11 render itself, and they would select print within that
12 software.

13 Q. It's the individual's responsibility to fix that label to
14 the package?

15 A. That's correct.

16 Q. And you mentioned that you need a United States Postal
17 Service.com account to use Click-N-Ship?

18 A. Correct.

19 Q. How does one create such an account?

20 A. Like any website that you might go to frequently, you are
21 going to want to set up an account that really has the ability
22 to customize the experience for you.

23 For Click-N-Ship, we have -- USPS.com requires certain
24 fields to be entered, so you have to create a user name and
25 password. We want your address of record, e-mail and

1 telephone number.

2 The benefit for Click-N-Ship is, as a shipper, you don't
3 want to have to go in for every single label and type in that
4 information every time so we prepopulate that. We make the
5 assumption that we're going to prepopulate that as the return
6 address so you don't have to fill that stuff out when you come
7 to Click-N-Ship. It's already there. You can change it,
8 right, but it's already prepopulated from your customer
9 registration information.

10 Q. As part of the registration, do you also allow people to
11 upload individual names or company names?

12 A. Yes. There is a company field that's optional.

13 Q. Just to confirm, Click-N-Ship doesn't verify if the
14 individual's name or company name is correct?

15 A. That's correct. Click-N-Ship just takes the information
16 from the customer registration application.

17 Q. And does all U.S. Postal Service accounts have a unique
18 account number associated to it?

19 A. They do.

20 Q. Is it the regular practice for United States Postal
21 Service to record and store the registration information
22 associated with creating a U.S. Postal Service account?

23 A. Yes.

24 Q. Is it stored at or near the time the registration
25 information is provided and the account created?

1 A. Yes.

2 Q. And is the registration information maintained and kept as
3 part of the regular course of U.S. Postal Service's
4 activities?

5 A. Yes.

6 Q. And people can change some of that information over time,
7 if you change your address and stuff?

8 A. Sure. If you move or if you have a reason to change the
9 address, you can edit the information at any time, and it's
10 time stamped and captured as well.

11 Q. Once you are logged into your United States Postal Service
12 account and you access your Click-N-Ship feature of that, what
13 information must an individual provide in order to create a
14 Click-N-Ship label?

15 A. So if you take the information from customer registration
16 that is prepopulated into the ship from fields of creating a
17 label, you would then have to go in and type in the
18 destination address, where are you shipping this to.

19 When you fill out all the required fields for us to make a
20 determination about what the cost is and what the service
21 options are, you select a service option. If you want
22 insurance or a signature, you can select those as additional
23 services and that's the creation of a label.

24 All the characteristics that we require, even if you were
25 to go to the retail clerk and say this is what I'm doing and

1 you ship this package, how much does it weigh, dimensions, if
2 applicable. Shipping flat rate, I don't need weight, but all
3 the characteristics we need to safely get your item from point
4 A to point B.

5 Q. And you mentioned earlier you can change the prepopulated
6 field and put in a different return address?

7 A. Correct.

8 Q. You also need payment information for the Click-N-Ship
9 label?

10 A. You do. So when you go through the process, the initial
11 activity where you are paying for something on USPS.com, it
12 does offer you the option of typing in preform information to
13 purchase in this case a Click-N-Ship label, there's
14 Click-N-Ship labels, you can store that payment information so
15 you don't have to enter it every time you come to the site.

16 Again that's all part of the payment application, payment
17 experience.

18 Q. Now, is all the information associated with the creating
19 of the label, sender, the recipient, all that kind of
20 information stored or recorded and stored as a part of the
21 U.S. Postal System's practice?

22 A. Yes.

23 Q. And for the credit card information, does the U.S. Postal
24 System store any information associated with the credit card
25 that might be provided for that payment?

1 A. Yes.

2 Q. It's not the full credit card; is that correct?

3 A. That's correct. Somewhere in the back end between the
4 postal service processing system and the bank processor, all
5 of that information is visible to somebody, but on our side,
6 it's just the last four digits on the credit card, credit card
7 type.

8 Q. And the full credit card is with the credit card
9 processing company for those transactions, and the U.S. Postal
10 System maintains the last four digits?

11 A. That's correct.

12 Q. Why does the U.S. Postal System do that?

13 A. Well, I think part of it is the banking laws. The card
14 industry wants to make sure that that information is
15 considered secure. It is secure, considered secure. It is
16 secure, so my team has no access to that credit card
17 information, nor do we want to or need to have access to that
18 information.

19 Q. Essentially, U.S. Postal Service employees can access the
20 data on the Click-N-Ship database, all this information, the
21 label information?

22 A. We can see all the characteristics of the label. We can
23 see the customer registration account information and we can
24 see the last four of the credit card.

25 Q. So just for security purposes, is that a fair way to

1 describe that?

2 A. Yes.

3 Q. U.S. Postal Service doesn't want to maintain everyone's
4 credit card numbers?

5 A. That is correct.

6 Q. Is it the regular practice of the U.S. Postal Service to
7 record and store the Click-N-Ship label information and the
8 creation of those labels as well as the last four digits at or
9 near the time the information is provided by the user?

10 A. Yes.

11 Q. And is that maintained and kept as part of the regular
12 course of U.S. Postal Service's activities?

13 A. Yes.

14 Q. Now, are you familiar that there's a pre-approved way for
15 the credit card processing company to provide full credit card
16 information to the U.S. Postal Inspection Service concerning
17 transactions?

18 A. There would be, yes.

19 Q. When a person purchases postage for a label through
20 Click-N-Ship, how would that transaction appear on a person's
21 credit card statement?

22 A. It would show up as USPS.com, and if there's enough room
23 based on the card issuer, it might say Click-N-Ship. It might
24 say The Postal Store, however many characters are allowed on
25 the statement itself. It would start off as USPS.com.

1 Q. Would USPS.com Click also be one of those that you would
2 see on the statement?

3 A. Yes.

4 Q. In addition to the information provided for the label in
5 the creation of a label and purchase of a label, does the U.S.
6 Postal System store other information about Click-N-Ship
7 labeling process, the creation of a label, like the date and
8 time that label was created and things of that nature?

9 A. We do, yes.

10 Q. I'm going to show you what's already marked into evidence
11 as Government Exhibit MA1, and I'll ask if you can tell us a
12 little bit about the label.

13 MR. DESAI: Ms. Dinuno, can you pull up MA2 which is
14 a photo of this MA1 package?

15 Q. Sir, can you tell whether this package was shipped with
16 Click-N-Ship?

17 A. The markings of the label would clearly suggest this was
18 generated from Click-N-Ship.

19 Q. It says so on the label; is that correct?

20 A. It does.

21 Q. Let's take a look in just a little bit more detail.

22 What's the sender and sender's name and address, the recipient
23 name and address and the tracking number for this package?

24 A. So the sender was Andrew Benson, 1174 Waynoka Drive, Unit
25 F, Lake Waynoka, Ohio. The recipient was Michael Appley, 361

1 Kenwood Avenue, Johnstown, Pennsylvania.

2 Q. What's the tracking number?

3 A. 9407803699300020478191.

4 Q. Let's take a look at Government Exhibit USPS 2 real
5 quickly. Can you expand it?

6 Sir, is this the tracking number or the tracking
7 information for the package you have in front of you, MA1?

8 A. Yes.

9 Q. That shows on the first column, that's the tracking number
10 and that matches what's on the package?

11 A. Yes.

12 Q. The first row, it shows preshipment information sent to
13 USPS; is that correct?

14 A. Correct.

15 Q. What does that information tell us?

16 A. That would tell us that the label has been created and
17 paid for and generated for print.

18 Q. And then the second line shows accept in pickup; is that
19 correct?

20 A. Correct.

21 Q. What does that tell us?

22 A. That would indicate that the package has been handed over
23 to Postal Service employee either at retail or through the
24 carrier.

25 MR. DESAI: Ms. Dinuno, can you scroll over so we can

1 see the dates here?

2 Q. On the first row -- sir, does it identify on the first row
3 when the preshipment information was provided through the
4 Click-N-Ship and when the package was provided?

5 A. The PTS event time stamp would be the preshipment
6 information. The induction was at 17:10:42 which is 5:10 in
7 the evening.

8 Q. It looks like the preshipment information was about
9 midnight on that day, and then that's when the label -- around
10 that time is when the --

11 A. Yeah. One second after midnight.

12 Q. This document also will tell you when the package was
13 delivered?

14 A. Yes. It shows on the bottom row that it was delivered on
15 November 16 at 1:02 in the afternoon.

16 Q. If we can scroll all the way to the end of the columns
17 here, the third column to the end. It says mailing weight.
18 Is that the weight of the package when it was delivered to the
19 facility?

20 A. Yes.

21 MR. DESAI: You can take that document off.

22 Q. Mr. Parish, because the mailing label on MA1 was purchased
23 through Click-N-Ship, can the United States Postal Service
24 identify the Click-N-Ship account that purchased the postage
25 for this label?

1 A. Yes.

2 MR. DESAI: At this time, Your Honor, I would like to
3 read a stipulation in the record.

4 THE COURT: You may.

5 MR. DESAI: Ladies and gentlemen, the United States
6 of America and Atticus Sliter-Matias stipulate and agree that
7 Government Exhibit CNS1 and CNS5 are in fact true and accurate
8 copies of business records that are made at or near the time
9 of the act, and they are kept and maintained as part of the
10 normal course of the United States Postal Service's business
11 and a credit card processing company's activities.

12 Therefore, the parties agree that the Government
13 Exhibit CNS1 and CNS5 are authentic. That is, that said
14 exhibits represent true and correct copies of records
15 generated and kept by the United States Postal Service and a
16 credit card processing company and that no further witness or
17 evidence needs to be offered in support of the exhibits'
18 authenticity.

19 Q. Sir, I'm going to show you what's been marked as CNS5. I
20 got a big printout of it, and we'll get into it in a little
21 bit. This is CNS5.

22 A. Correct.

23 Q. Have you had an opportunity to look at this document prior
24 to testifying here today?

25 A. Yes.

1 Q. Instead of trying to hand this up to you, we'll go off
2 what you recall from looking at it earlier.

3 A. Okay.

4 Q. Do you know what CNS5 is?

5 A. Legal financial summary document.

6 Q. Does it relate to one Click-N-Ship account?

7 A. That I recall. There was only one account number in the
8 file.

9 Q. And if you need to review that, feel free. We'll bring it
10 up and have you look through that. Is this information that's
11 information associated with labels created from that
12 Click-N-Ship account?

13 A. Yes.

14 Q. In your review of that, is this record associated with the
15 mailing of the package on MA1?

16 A. Yes.

17 MR. DESAI: Your Honor, at this time, the government
18 moves for the admission of Government Exhibit CNS5 into
19 evidence.

20 MR. KAISER: No objection.

21 THE COURT: Admitted.

22 MR. DESAI: May it be shown to the jurors, Your
23 Honor?

24 THE COURT: You may.

25 MR. DESAI: Ms. Dinuno, do you mind pulling up CNS5

1 and we'll make it a lot bigger.

2 Q. Sir, we're going to go through some of the rows here just
3 so we understand what they are. Once we get through the rows,
4 we'll look at a few of the items in there independently, but
5 let's just go through the first row -- first column. We'll go
6 through the columns and look at a few rows.

7 What's the information provided in these columns, if you
8 just go as we scroll through?

9 A. Sure. The customer account number is an account number
10 that's generated at the time you establish the account.

11 Q. Is that the unique United States Postal Service account
12 number?

13 A. That's correct.

14 Q. What's the account number in this case?

15 A. 63748528.

16 Q. How about the next columns?

17 A. Order ID number would be an ID number associated with the
18 specific transaction. Keep going.

19 Q. Keep going?

20 A. Label print date was the date that that label was
21 generated. Corresponding label number.

22 Q. Is that the tracking number?

23 A. That's the tracking number, correct. Total ship cost
24 amount is the cost per label. Payment transaction type,
25 that's more an internal indicator that payment was successful

1 or unsuccessful, but these were successful. Payment
2 transaction ID is we call a 9100 number. It's how we
3 associate it back to an account, but in this case, also a
4 payment type. Credit card last four is the last four digits
5 of the credit card. Full credit card number. My eyes can't
6 look at this, but that's the information we would have had to
7 get from the bank.

8 Q. This is the full credit card number. Just to be clear,
9 everything else on this document comes from Click-N-Ship
10 records, correct?

11 A. Correct, Click-N-Ship or in conjunction with the payment,
12 the transaction history. It comes from both.

13 Q. The only thing that comes from, I guess, the payment
14 history is the full credit card number; is that fair?

15 A. Yes. Credit card type code, obviously the four types and
16 PayPal. E-mail text is the e-mail address that is established
17 in the customer registration account. You could also change
18 that.

19 Q. Just to be clear, what's the e-mail address, if you don't
20 mind reading it?

21 A. PTXCDEXIA@gmail.com.

22 Q. All right.

23 A. Customer IP address, we do capture the IP address when a
24 customer is transacting on USPS.com. Sender name is the
25 shipper's name. Sender company name, sender line address, so

1 the address, the second line is unit B.

2 Q. So I guess this portion, the sender line, address and
3 city, state and zip code, that's the sender's information?

4 A. That's correct.

5 Q. That's the return label, return address?

6 A. Return address, correct. And then this is the destination
7 address information, so the first name, middle initial, last
8 name, contact name.

9 Q. All the information here, the sender's information and the
10 recipient information, their name and address, all that is
11 uploaded by the user, correct?

12 A. Either typed in or, yes, you can upload contact
13 information as a matter of convenience.

14 Q. It's provided by the user?

15 A. Has to be provided by the user, correct, so address 1,
16 address 2.

17 Q. Shipping date, that's all the address on those columns.
18 We'll go to shipping date, correct?

19 A. Correct.

20 Q. What's in that side of the columns?

21 A. Shipping date is again the date that you generated the
22 label. Shipping indicator, this tells us for internal
23 purposes that we have tracking events behind that label, that
24 unique label number. Product class, it's priority mail or
25 priority mail express or domestic shipments on Click-N-Ship,

1 and the country name is a domestic label, domestic address,
2 United States, and then the five digit postal code.

3 THE COURT: We'll take a 17 minute break at this
4 point. The jury and everyone else connected to this case has
5 been at it since 1:00 o'clock. I was a little tardy getting
6 back. Let the jury stand down. Everyone else remain as you
7 are. The same admonition to the jury.

8 THE CLERK: This court is now in recess.

9 THE COURT: The jury is out. We are in recess. Be
10 at ease. You can stand down, sir.

11 (Recess taken.)

12 THE CLERK: You can remain seated. This court is now
13 in session.

14 THE COURT: You may continue.

15 MR. DESAI: Thank you, Your Honor.

16 BY MR. DESAI:

17 Q. Sir, just as we were looking at the spreadsheet, the CNS5,
18 just one last column I want to ask about, the product class.
19 Can you tell us what that is?

20 A. Product class of domestic products for the United States
21 Postal Service are primarily priority mail, priority mail
22 express and first class package. This would indicate the
23 higher level class of product. It wouldn't tell you whether
24 it's a flat rate envelope or flat rate box. It's just
25 priority mail.

1 Q. I'm going to show you a few of the rows. We're not going
2 to go through a lot of them, but we're going to go through a
3 few of them.

4 MR. DESAI: Ms. Dinuno, if you can expand the view
5 and try to scroll down to a date of November 13, 2015. Is
6 there a way to make it slightly bigger in that area?

7 Q. Sir, we're going to look at one of the rows starting with
8 the date of 11-13-15. There's a tracking number next to that;
9 is that correct?

10 A. Correct.

11 Q. What is that tracking number, if you don't mind reading it
12 to the record?

13 A. 9407803699300020478191.

14 Q. And is that the same tracking number that's identified on
15 MA1, the package that you have in front of you?

16 A. Yes.

17 Q. Let's scroll across. Sir, this item, the postage cost was
18 7.50?

19 A. Correct.

20 MR. DESAI: Keep scrolling. Stop right there. Could
21 you pull back just a little bit? I want the cell right in
22 front of it or the column in front.

23 Q. That's the -- the column we're looking at that's on the
24 far left that we see the full column of, it has the number of
25 5267?

1 A. Correct.

2 Q. That's the last four of the credit card?

3 A. Correct.

4 Q. And the next column over is the actual full credit card
5 number?

6 A. Correct.

7 Q. And in this case, it's 4778655009015267, correct?

8 A. Correct.

9 Q. That's a number that populates through large portions of
10 this spreadsheet?

11 A. Correct.

12 Q. If we keep going across, we recall the first thing we saw
13 was the sender's information and we see the recipient's.

14 MR. DESAI: Ms. Dinuno, if you don't mind scrolling
15 over to see the sender information.

16 Q. The sender is Mr. Andrew Benson, and the address provided
17 on the return label is 1174 Waynoka Drive, correct?

18 A. Correct.

19 Q. Is that the same as you see on the label MA1?

20 A. Yes.

21 Q. Keep going. It lists the city, state and zip code, and is
22 that the same on MA1?

23 A. Yes.

24 Q. Let's go over to the recipient. So this is the recipient,
25 Michael Appley; is that correct?

1 A. Yes.

2 Q. And it provides an address. That's in Johnstown,
3 Pennsylvania?

4 A. Yes.

5 Q. And is that again the same information that you see on
6 MA1?

7 A. Yes.

8 Q. Let's go to the date of 11-2-2015. We're going to walk
9 through this one just a little bit. So on 11-2-2015, there's
10 a shipping label, is that correct, next to that?

11 A. Yes.

12 Q. And I'm going to read it to expedite this a little faster.
13 That number is 9407803699300020148995; is that correct?

14 A. Yes.

15 Q. As we scroll across, it's a \$7.50 purchase?

16 A. Yes.

17 Q. Again going across, again same credit card with that last
18 four of 5267 used to make that purchase?

19 A. Yes.

20 Q. Keep scrolling. The sender is Nicholas Constantine, and
21 address of 7 Rose Avenue, Unit E, Mobile, Alabama, 36608; is
22 that correct?

23 A. Yes.

24 Q. And if we keep scrolling, the recipient is Eric Dirksen?

25 A. Yes.

1 Q. And then it's an address in Arizona City, Arizona?

2 A. Yes.

3 Q. I want to show you what's marked as Government Exhibit
4 ED2.

5 MR. DESAI: Pull that up, ED2. It's already admitted
6 into evidence.

7 Q. Let me see if there's a better exhibit. This is hard to
8 read here. Let's go to ED3. That's a little easier. Let's
9 focus on the information there.

10 Sir, is the information we just looked at on CNS5, the
11 sender, the recipient and the tracking number, the same as you
12 see on this package?

13 A. Yes.

14 Q. So that Click-N-Ship account and credit card was used to
15 create this shipping label?

16 A. Yes.

17 Q. Let's go to UPS 3 -- sorry, I apologize. USPS 3. Sir, is
18 this the tracking information for that package that we just
19 looked at and we just walked through on the Click-N-Ship
20 account?

21 A. Yes.

22 Q. And at the top, it identifies the preshipment label is
23 from Mobile, Alabama but the package was actually shipped in
24 Cleveland?

25 A. Yes.

1 Q. Let's go back to CNS5 and let's go to a date of 12-3-15
2 and the first entry of 12-3-15. At the top, you see the
3 12-3-15 entry?

4 A. Yes.

5 Q. And it has a label number next to it of
6 94078036993000209500; is that correct?

7 A. Yes.

8 Q. And a payment of \$7.50; is that correct?

9 A. Yes.

10 Q. And if we scroll across, in this scenario, the credit card
11 information was not available; is that correct?

12 A. Yes.

13 Q. If we keep scrolling, it shows the package was mailed.
14 The return address was Claude Clark, 912 Minnesota Avenue,
15 Kenner, Louisiana 70062, correct?

16 A. Yes.

17 Q. And the recipient address is Pablo Bejarano, and it
18 provides an address in Woodbridge, Virginia?

19 A. Yes.

20 Q. Let's take a look at PB4. I'm not sure if we can put up
21 two items at the same time. Let's focus on that package real
22 quick and show the -- expand the shipping information.

23 Sir, as we take a look at that, is that the same
24 information we just walked through from the Click-N-Ship
25 account now on an actual label?

1 A. Yes.

2 Q. So this Click-N-Ship account was used to create this
3 shipping label?

4 A. Yes.

5 Q. Let's go to -- we can close out of the PB4. Let's go back
6 to CNS5 and look at the 12-7 date, the second entry on 12-7.
7 I'm going to go through this. On 12-7 there's a label with
8 the number of 9407803699300021049697, correct?

9 A. Yes.

10 Q. And if we scroll through, an amount of \$7.50?

11 A. Yes.

12 Q. And again, that credit card with the last four are 5267?

13 A. Yes.

14 Q. We keep going through. The package was sent, the sender's
15 information is Kevin Smith, 2397 School Road, correct?

16 A. Yes.

17 Q. New Milford, PA 18834?

18 A. Yes.

19 Q. If we go over further, the recipient is an individual,
20 Ray M. Offner?

21 A. Yes.

22 Q. And it provides an address, if we keep scrolling, in
23 Bethel Park, PA?

24 A. Yes.

25 Q. Can we pull up USPS 1? Let's focus in on the first part

1 of this. Is that the same label number that we just looked
2 at?

3 A. Yes.

4 Q. And the package was -- where was the preshipment
5 information and where was the actual package dropped off at?

6 MR. DESAI: If you can scroll over, Ms. Dinuno.

7 A. Right. Preshipped in New Milford, Pennsylvania. Inducted
8 in Cleveland, Ohio.

9 Q. What's the date that the package was mailed?

10 A. 12-7-2015.

11 Q. At the bottom, does it indicate the package was actually
12 delivered?

13 A. 12 -- yes. On 12-9-2015.

14 Q. And so the -- this Click-N-Ship account and the credit
15 card number associated there was used to mail this -- the
16 package that was seen here to be delivered to Mr. Ray Offner?

17 A. Yes.

18 Q. Let's go back to the Click-N-Ship records. Let's go down
19 to 11-30-15, first entry on 11-30-15. So this entry shows
20 that the tracking number was generated from this Click-N-Ship
21 account, and that number was 9407803699300020835512, correct?

22 A. Yes.

23 Q. And again, \$7.50 for this package?

24 A. Yes.

25 Q. If we scroll across, same credit card with that 5267 last

1 four in the credit card number, correct?

2 A. Yes.

3 Q. If we keep scrolling, package was sent by Joshua Bryant,
4 with the name of Joshua Bryant from a New Brunswick,
5 New Jersey address as the return address, correct?

6 A. Yes.

7 Q. And the recipient address is Sage Byars Richards in an
8 address in Tempe, Arizona?

9 A. Yes.

10 Q. I'm going to direct your attention to Government Exhibit
11 DF2.

12 MR. DESAI: If you scroll down, Ms. Dinuno. Is there
13 a second page?

14 Q. That's the number, the -- let me ask you this: Does this
15 document identify a tracking number for a U.S. priority mail?

16 A. Yes.

17 Q. Was that the same number in this document that we just
18 looked at?

19 A. Yes.

20 Q. Thank you. Going back to CNS5. I've only got three more
21 of these, and I won't jump around to other documents, so I'll
22 try to keep it pretty easy here. Take a look at 6-24-16,
23 second label date, sorry. 6-24-16.

24 We're going to look at the second entry. It provides a
25 tracking number next to it; is that correct?

1 A. Yes.

2 Q. A payment of 8.80; is that correct?

3 A. Yes.

4 Q. If we scroll over, it shows a new credit card number,
5 correct?

6 A. Yes.

7 Q. If you don't mind scrolling a little bit so we see the
8 cell before that. The last four is 0966.

9 A. Yes.

10 Q. The full credit card is 5248235100040966?

11 A. Yes.

12 Q. If we scroll all the way over, this is a package sent from
13 a name of Robert Busby from a Detroit, Michigan address is the
14 sender information?

15 A. Yes.

16 Q. The recipient is Willfred Rodriguez in an address in Yuma,
17 Arizona?

18 A. Yes.

19 Q. So there's two dates where a different credit card number
20 is used. I think it's September 11, 2015. Can we take a look
21 at an entry on September 11, 2015?

22 You can see, sir, as we scroll over --

23 MR. DESAI: Can we just scroll over to the right-hand
24 side, Ms. Dinuno, and if you can pull up a couple of the rows
25 above that. That's plenty.

1 Q. On September 10 and September 11, it shows a different
2 credit card number?

3 A. Yes.

4 Q. That's 4778655009009229, correct?

5 A. Yes.

6 Q. Just one last one, if you don't mind going to a date of
7 9-15-15, first entry. We'll look at the first entry there.
8 We have a tracking number which is 9407803699300018997277; is
9 that correct?

10 A. Yes.

11 Q. If we scroll across, again the credit card is one that
12 ends in 5267?

13 A. Yes.

14 Q. If we keep scrolling across, sender is James Smith. The
15 sender's name on the return is James Smith; is that correct?

16 A. Yes.

17 Q. It's an address coming out of Birmingham, Alabama?

18 A. Yes.

19 Q. If we keep scrolling, the package was being sent to an
20 address in Miami, Florida?

21 A. Yes.

22 Q. If you don't mind pulling up TD9. Sir, is this the same
23 information we just looked at?

24 A. Yes.

25 MR. DESAI: Ms. Dinuno, if you can bring up CNS5 one

1 last time. If you go to the first date entry there.

2 Q. I should have asked you this in the beginning. This
3 document, the first date of this document, the time period of
4 this document starts when? What's the first date on that?

5 A. June 5, 2015.

6 Q. What's the last date if you go all the way down to the
7 bottom?

8 A. June 30, 2016.

9 Q. I'm going to show you what's marked as --

10 MR. DESAI: You can take that off the screen.

11 Q. I'm going to show you what's been marked as CNS1. Take a
12 look at this and let us know if you are familiar with this
13 document.

14 A. I am.

15 Q. What is it?

16 A. This is a screenshot of the customer registration
17 application.

18 Q. Is this basically for a specific account?

19 A. Yes.

20 Q. This is essentially, when we talked about U.S. Postal
21 Service accounts, is this like the information associated with
22 that account?

23 A. That's correct.

24 Q. Is it the same account as we saw on CNS5?

25 A. Yes.

1 MR. DESAI: Your Honor, government offers CNS1 in
2 evidence.

3 MR. KAISER: No objection.

4 THE COURT: Admitted. You may show it to the jury.

5 MR. DESAI: Thank you, sir.

6 Q. Let's take a look at the information in the top left box
7 here. There seems to be three or four boxes. We want to look
8 at the top box here. Sir, in this box, does it identify the
9 account number?

10 A. Yes.

11 MR. DESAI: Ms. Dinuno, is it possible we can make it
12 a little bit more expanded so everyone can see it easily?

13 Q. What's the user ID?

14 A. 63748528.

15 Q. That's the same we saw in the CNS5 exhibit?

16 A. Yes.

17 Q. What's the name and address associated with this account?

18 A. Michael Sliter at 13940 Cedar Road, No. 360, University
19 Heights, Ohio 44118.

20 Q. And over to the right-hand side, it provides an e-mail
21 address; is that correct?

22 A. Yes.

23 Q. What's that e-mail address? Is that the same e-mail
24 address we saw on CNS5?

25 A. Yes.

1 MR. DESAI: If we scroll down, Ms. Dinuno.

2 Q. Is there a company name associated with this?

3 A. Yes.

4 Q. What's that name?

5 A. VSP/Posatronix LLC.

6 MR. DESAI: Thank you, sir. I have no further
7 questions from the government.

8 CROSS-EXAMINATION

9 BY MR. KAISER:

10 Q. Hi. My name is Mark Kaiser. I represent the defendant.
11 If I ask you any questions you don't understand, please have
12 me rephrase them. Okay?

13 A. Okay.

14 Q. Sir, you don't know Atticus Matias, do you?

15 A. No.

16 Q. Have you ever met him?

17 A. No.

18 Q. Ever spoken to him?

19 A. No.

20 Q. And you have no knowledge of Atticus Matias ever preparing
21 or delivering any of these Click-N-Ship accounts, do you?

22 A. No.

23 Q. Looking at Government Exhibit CNS1, whatever, right here
24 where it talks about Michael Sliter. Do you recall that?

25 A. Yes.

1 Q. Michael Sliter is not, to your knowledge, is not Atticus
2 Matias, correct?

3 A. Correct.

4 MR. KAISER: Nothing further. Thank you.

5 REDIRECT EXAMINATION

6 BY MR. DESAI:

7 Q. You don't know anything about Michael Sliter, do you?

8 A. No.

9 MR. DESAI: No further questions.

10 THE COURT: Jury questions? We got a jury question.
11 Lawyers come up.

12 (At sidebar.)

13 THE COURT: What links credit card account number to
14 defendant?

15 MR. DESAI: He's not going to know but I don't have
16 any problem with the question being asked. He's just going to
17 say he doesn't know.

18 MR. KAISER: I'd love to hear it asked. He'll say he
19 doesn't know.

20 THE COURT: I'll ask it.

21 MR. CALLAHAN: Dollar Bank is up next, Your Honor.

22 THE COURT: In CNS5, are most of the account numbers
23 and credit card numbers the same? Would that lead you to
24 believe one person had these accounts?

25 MR. DESAI: I have no problems with the question.

1 MR. KAISER: I'm not so thrilled about that one, but
2 I guess you'll ask it.

3 THE COURT: Okay.

4 (In open court.)

5 THE COURT: All right. Here's the jury question.
6 Juror question. What links credit card account number to
7 defendant?

8 THE WITNESS: The two data elements that would tie a
9 credit card back to the defendant would be the 9100 number and
10 the transaction ID number.

11 THE COURT: Next question from a juror. In CNS5, are
12 most of the account numbers and credit card numbers the same,
13 and would that lead you to believe one person had these
14 accounts? Do you want me to ask that again?

15 THE WITNESS: Yes, please.

16 THE COURT: In CNS5 -- I'll ask you the first part.
17 In CNS5, are most of the account numbers and credit card
18 numbers the same?

19 THE WITNESS: Yes.

20 THE COURT: Would that lead you to believe that one
21 person had these accounts?

22 THE WITNESS: Yes.

23 MR. DESAI: Your Honor, I want to ask a quick
24 follow-up to clarify on the first question.

25 THE COURT: You want to ask another question?

1 MR. DESAI: Yes, Your Honor. If I may.

2 THE COURT: Okay.

3 - - -

4 REDIRECT EXAMINATION

5 BY MR. DESAI:

6 Q. Sir, you don't know whose credit card is on that CNS5, do
7 you?

8 A. No.

9 Q. It's just the information about whose credit card would be
10 associated with the credit card company?

11 A. Yes.

12 MR. DESAI: That's all, Your Honor.

13 RECROSS-EXAMINATION

14 BY MR. KAISER:

15 Q. You mentioned two ways to link something to the defendant.
16 Isn't it a fact that you have no idea if the defendant was
17 involved in any of this from your own personal knowledge?

18 A. I'm not linking it to the defendant. I'm linking two
19 different ways for us to identify a transaction to an account,
20 to a corresponding credit card.

21 Q. Okay. The question was to the defendant, and you don't
22 have any way of knowing how to link this to the defendant; is
23 that correct?

24 A. That's correct.

25 MR. KAISER: Nothing further.

1 THE COURT: May this witness be excused?

2 MR. DESAI: Yes, Your Honor.

3 (Witness excused.)

4 THE COURT: Next witness.

5 MR. CALLAHAN: Thank you, Your Honor. United States
6 will call Theresa Adams. If you bear with us, we're going to
7 get her right now.

8 THE COURT: I don't guess I have any choice but
9 bearing with you. What if I said no?

10 MR. CALLAHAN: I would look even more squeamish than
11 I already do, Your Honor.

12 (Witness sworn.)

13 THE CLERK: You may be seated. Please state and
14 spell your name for the record and speak into the microphone.

15 THE WITNESS: Theresa Adams, A-D-A-M-S.

16 THERESA ADAMS, a witness herein, having been first
17 duly sworn, was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. CALLAHAN:

20 Q. Good afternoon, Ms. Adams.

21 A. Good afternoon.

22 Q. And this is a helpful tidbit that I've been sharing with
23 all the witnesses. The natural impulse, which you are
24 engaging in right now, is to try to move your chair up to
25 actually speak into that microphone. We're very mean so the

1 chair does not move but the microphone does, so if you want to
2 adjust that.

3 A. Thank you.

4 Q. Ms. Adams, where are you currently employed?

5 A. Dollar Bank.

6 Q. And where physically do you sit working for Dollar Bank?

7 A. In the headquarters in downtown Pittsburgh.

8 Q. What's your position at Dollar Bank, ma'am?

9 A. I'm the assistant vice president of the card services
10 department.

11 Q. In that role as assistant vice president of the card
12 services, are you familiar with account and credit card
13 records that Dollar Bank keeps or maintains for its customers?

14 A. Yes.

15 Q. We're going to talk about some Dollar Bank records in a
16 moment, ma'am, but before we do, I want to show you a document
17 from the postal service's Click-N-Ship system that's already
18 been admitted into evidence, which is Government Exhibit CNS5.

19 I was going to tell a joke about how we need to look at
20 700 of these accounts, but I figured the jury may revolt.

21 MR. CALLAHAN: Ms. Dinuno, she is one ahead of me.

22 Q. We're pulling up a couple of columns on this document,
23 Ms. Adams, that show the last four digits of a credit card and
24 then the full credit card number there.

25 And we're going to walk through all three different credit

1 card numbers that appear in this giant sheet. I've got a
2 couple of questions for you about those.

3 A. Okay.

4 Q. So let's start at the beginning because it's a good place
5 to start.

6 Do you see on the screen in front of you, ma'am, a credit
7 card number that ends in 5267?

8 A. Yes.

9 Q. And do you see the full credit card number listed on the
10 corresponding cell?

11 A. Yes.

12 Q. Could you go ahead and quickly read one time into the
13 record what that full credit card number is?

14 A. 4778655009015267.

15 Q. Do you recognize that credit card, ma'am?

16 A. Yes.

17 Q. How do you recognize it?

18 A. It would be a Dollar Bank Visa card.

19 Q. More specifically, whose Dollar Bank Visa credit card is
20 that?

21 A. That belongs to Atticus Sliter Matias.

22 Q. That is his Dollar Bank credit card?

23 A. Yes.

24 MR. CALLAHAN: We're going to scroll down. I had
25 this pegged up in rows which makes it a little bit hard, but

1 Ms. Dinuno, if you are going to eyeball this, we're going to
2 go down to about 442 until we see a credit card ending in
3 0966. There we go. Scroll up so we can see where it starts.
4 Perfect.

5 Q. On the screen in front of you, Ms. Adams, let's keep it so
6 the cell showing the last four is also visible.

7 Do you see in the column immediately to the left there,
8 the last four digits 0966?

9 A. Yes.

10 Q. 0966 those are the last four digits of a credit card
11 listed here, correct?

12 A. Correct.

13 Q. Do you see the corresponding cell to the right that lists
14 a full credit card?

15 A. Yes.

16 Q. Could you again read into the record that full credit card
17 number, please?

18 A. 5248235100040966.

19 Q. Two columns over there, is there a reference as to the
20 type of credit card that is?

21 A. Yes, it's a MasterCard.

22 Q. Whereas the previous card we were looking at was a Visa,
23 correct?

24 A. Correct.

25 Q. As a general matter, we'll talk about this a little bit

1 more, currently does Dollar Bank offer Visa credit cards,
2 MasterCard credit cards or a different kind of credit card?

3 A. Currently it's a MasterCard credit card.

4 Q. Was there an earlier time where Dollar Bank offered a Visa
5 Dollar Bank credit card?

6 A. Yes.

7 Q. So you switched over at some point?

8 A. Yes, it was converted.

9 Q. Do you recognize the full credit card number that is
10 listed here on this screen, credit card number 2, I'll call
11 it?

12 A. Yes.

13 Q. Whose credit card is that, ma'am?

14 A. Atticus Sliter-Matias.

15 Q. So this is a second credit card associated with defendant
16 Atticus Sliter-Matias that appears on this Click-N-Ship
17 record?

18 A. Correct.

19 Q. This is a MasterCard?

20 A. Yes.

21 Q. That's because you switched over to MasterCard at some
22 point?

23 A. Yes.

24 Q. Thank you, ma'am.

25 MR. CALLAHAN: We're going to scroll back up,

1 Ms. Dinuno, to keep things interesting to around row 163, and
2 we are now looking for a credit card ending in 9229. Okay.
3 Thank you, Ms. Dinuno.

4 Q. Looking at the screen now, Ms. Adams, do you see on the
5 far left column visible here presently a credit card ending in
6 the last four digits 9229?

7 A. Yes.

8 Q. Do you see a corresponding full credit card number on the
9 column to the right?

10 A. Yes.

11 Q. And again, could you go ahead and read that full credit
12 card number into the record for us?

13 A. 4778655009009229.

14 Q. Two columns over, does this designate what type of credit
15 card it is?

16 A. Yes. It's a Visa.

17 Q. Do you recognize this credit card, ma'am?

18 A. Yes.

19 Q. Whose credit card is this?

20 A. Joan Matias.

21 Q. This is a dollar Visa credit card, correct?

22 A. Correct.

23 Q. Thank you, ma'am. Just again, 600 more columns we're
24 going to go through. I'm just kidding. You can pull that
25 down for now.

1 MR. CALLAHAN: Your Honor, at this time, before we
2 get into some of the Dollar Bank records, I would like to go
3 ahead and read a stipulation.

4 THE COURT: Okay.

5 MR. CALLAHAN: Ladies and gentlemen of the jury, the
6 United States and Atticus Sliter-Matias stipulate and agree
7 that the Government Exhibits DB1 to DB16 are in fact true and
8 accurate copies of business records that are made at or near
9 the time of the act and that are kept as part of the normal
10 course of Dollar Bank's business.

11 Therefore, the parties agree the Government Exhibits
12 DB1 to 16 are authentic. That is, that said exhibits
13 represent true and correct copies of records generated and
14 kept by Dollar Bank and that no further witness or evidence
15 needs to be offered in support of the exhibits' authenticity.

16 BY MR. CALLAHAN:

17 Q. Ms. Adams, we're going to turn to some Dollar Bank records
18 here. In a moment, I'm going to pass some of them up to you
19 to take a look at. As a general matter, as part of the
20 United States investigation, did Dollar Bank provide Postal
21 Inspector Weckerly with any documents that were in Dollar
22 Bank's custody?

23 A. Yes.

24 Q. I'm going to show you the first document that's been
25 marked for identification purposes -- I'm going to show you

1 all of them so you can take a look at them, first of all, and
2 we'll talk specifically about a few of them. These have been
3 marked collectively for identification purposes as Government
4 Exhibits DB1 through DB16.

5 Ms. Adams, have you had a chance prior to today to look at
6 all of the exhibits now marked as Government's Exhibit DB1
7 through DB16?

8 A. Yes.

9 Q. Are these some of the documents that Dollar Bank provided
10 to Postal Inspector Weckerly?

11 A. Yes.

12 Q. Do these documents pertain to Dollar Bank and credit card
13 information for Atticus Sliter-Matias?

14 A. Yes.

15 Q. And do these cover generally the month July 2015 through
16 July 2016?

17 A. Yes.

18 MR. CALLAHAN: Your Honor, at this time the
19 United States would move to admit Government's Exhibit DB1
20 through DB16.

21 MR. KAISER: No objection.

22 THE COURT: Admitted. You can show them to the jury.

23 MR. CALLAHAN: Thank you, Your Honor.

24 Q. First document we're going to go ahead and take a look at,
25 Ms. Adams, we'll pull that up on the computer in front of you

1 so you don't have to squint and strain your eyes.

2 MR. CALLAHAN: Ms. Dinuno, if you could pull up
3 Government's Exhibit DB1, please. Let's go ahead and expand.

4 Q. Looking at that exhibit, Ms. Adams, and let us know if
5 that isn't blown up enough for you, can you tell us what this
6 document is?

7 A. It's an account summary of a Dollar Bank credit card
8 showing the date the account was opened, balance information,
9 payment information, who the title of the account and the
10 address and phone number.

11 Q. Great. Up in the top left-hand corner there, does it
12 indicate what individual this account is associated with?

13 A. Yes.

14 Q. Right under the words "Account Summary"?

15 A. Yes.

16 Q. Whose account is this?

17 A. Atticus Sliter-Matias.

18 Q. Let's zoom back out for just a moment, Ms. Dinuno. We'll
19 go back into this screen. Looking at the full exhibit, can
20 you tell when this account summary was generated, when it was
21 run?

22 A. Yes. February 18, 2016.

23 Q. Just so anybody strains their eyes, are you looking down
24 at the bottom right-hand corner that indicates that's the run
25 date?

1 A. Yes.

2 Q. Thanks.

3 MR. CALLAHAN: Let's go ahead and again blow up that
4 account information section, Ms. Dinuno.

5 Q. I believe you testified a moment ago, as you can see
6 highlighted there, the individual who this account is
7 associated with is Atticus Sliter-Matias, right?

8 A. Yes.

9 Q. Let's look down in the customer information section that
10 is a little bit further down in the document.

11 Do you see that section?

12 A. Yes.

13 Q. Is there a customer number that is listed as being
14 associated with this account?

15 A. Yes.

16 Q. Can you go ahead and read that for us?

17 A. 442-500-059032.

18 Q. Let's take a step back. In terms of this customer
19 information that's entered in this section of the document, is
20 this all information that an account holder would enter?

21 A. Yes.

22 Q. And let's work our way sort of down there. Is there a
23 name of an individual that is associated with the account in
24 this section as well?

25 A. Yes, there is.

1 Q. Who is that?

2 A. Atticus Sliter-Matias.

3 Q. There's a forward slash and it says personal, correct?

4 A. Correct.

5 Q. Immediately below that in the row, is there also a
6 business name that's listed as being associated with this
7 account?

8 A. Yes, RS Surplus LLC.

9 Q. Again that would be information that would be entered by
10 the account holder, correct?

11 A. Correct.

12 Q. The next set of information below that is address
13 information listed?

14 A. Yes.

15 Q. Can you go ahead and read the address listed?

16 A. 13940 Cedar Road, Suite 360, University Heights, Ohio
17 44118-3204.

18 Q. Looking at the information to the right of that, in the
19 next column there, is there a telephone number that's
20 associated with this bank account?

21 A. Yes.

22 Q. What is that telephone number?

23 A. 216-367-2841.

24 Q. We referenced earlier there's a customer number associated
25 with the account you read into the record already, correct?

1 A. Yes.

2 MR. CALLAHAN: Ms. Dinuno, we can pull that document
3 down for now. If you can go ahead and pull up Government's
4 Exhibit DB2.

5 Q. Ms. Adams, what is this document?

6 A. This is a statement. It's the corporate statement which
7 shows the name of the business and any cards that are
8 associated with that business.

9 Q. I see. Just so we can relate the two documents together.
10 Is the account information listed here on DB2 for the same
11 account that we were looking at in DB1?

12 A. Yes.

13 Q. So again, this is a corporate statement that lists both
14 personal and business accounts; is that right?

15 A. Yes. Well, there are business accounts but cards that are
16 issued in personal names.

17 Q. Very helpful. Thank you. We're going to work through
18 some of the information here. One specific question here for
19 you. Let me take a step back.

20 Looking at this exhibit, can you tell the statement
21 closing date for this particular corporate account summary?

22 A. Yes, July 5, 2015.

23 Q. So that's an earlier time than the document that we were
24 previously looking at DB1, correct?

25 A. Yes.

1 Q. Which I believe you testified had been generated in
2 February of 2016?

3 A. Correct.

4 Q. So this is earlier?

5 A. Yes.

6 Q. Looking down under the list of accounts there, do you
7 see --

8 MR. CALLAHAN: Why don't we go ahead and expand that,
9 Ms. Dinuno?

10 Q. What does it mean that there's a list of accounts here
11 that are associated with this corporate account?

12 A. So list of accounts lists the business name first and then
13 any cards that were issued to individuals.

14 Q. I see. So in terms -- so the business name -- what's the
15 business name listed here?

16 A. Posatronix LLC.

17 Q. There are two individual card holders listed; is that
18 right?

19 A. Yes.

20 Q. Who are the individual card holders listed?

21 A. Atticus Sliter-Matias and Joan Matias.

22 Q. What's the account number associated with Atticus
23 Sliter-Matias?

24 A. 442500059302.

25 Q. Account number doesn't mean credit card number, right?

1 A. Correct.

2 Q. That's separate, that's the account. We'll look at the
3 credit card numbers in a second, right?

4 A. Yes.

5 Q. Posatronix LLC, that's the company name listed, right?

6 A. Yes.

7 Q. That's a different company name than we saw on DB1, right?

8 A. Yes.

9 Q. Is it possible for an account holder to change a corporate
10 name that's associated with an account?

11 A. Yes.

12 Q. Are you familiar with whether or not the account holders
13 in this instance submitted a name change on their corporate
14 account?

15 A. Yes, they did.

16 Q. So at some point in time, the corporate name went from RS
17 Surplus LLC -- or rather from Posatronix to later RS Surplus
18 LLC?

19 A. Yes.

20 Q. But all the same account, correct?

21 A. Yes.

22 Q. Very helpful. Thank you. Again, the two -- the only two
23 personal accounts there associated with this corporate account
24 are Atticus Sliter-Matias and Joan Matias?

25 A. Yes.

1 Q. And you read the account number listed for Atticus
2 Sliter-Matias into the record earlier, right?

3 A. Yes.

4 Q. That's the same account number that was listed on DB1 we
5 were just looking at, wasn't it?

6 A. Yes.

7 MR. CALLAHAN: And, Ms. Dinuno, there's an address
8 block at the bottom of this page. Could you go ahead and
9 expand that right where it says Visa and down below?

10 Q. What's the mailing address that is listed here as being
11 associated with the Posatronix corporate account?

12 A. 13940 Cedar Road, Suite 360, University Heights, Ohio,
13 44118-3204.

14 Q. Again, Ms. Adams, that's the exact same address that was
15 listed for Atticus Sliter-Matias's personal sub account we
16 were just looking at under DB1?

17 A. Yes.

18 MR. CALLAHAN: You can take that exhibit down as well
19 for now. Ms. Dinuno, let's go ahead and pull up Government's
20 Exhibit DB16. Why don't we go ahead and expand the first
21 third of that document, I would say.

22 Q. Looking at this exhibit, Ms. Adams, what is this?

23 A. This is the statement for the card issued for Joan Matias
24 which details her transactions for this bill period.

25 Q. So you were explaining to us on the last exhibit,

1 corporate account, two individual cards listed under it,
2 right?

3 A. Yes.

4 Q. This is one of those credit cards that are associated,
5 correct?

6 A. Yes.

7 Q. For Joan Matias?

8 A. Yes.

9 Q. What's the statement closing date for this particular
10 document?

11 A. October 5, 2015.

12 MR. CALLAHAN: Let's blow up the transaction
13 information so it's a little bit bigger, Ms. Dinuno.

14 Q. For this type of document, Ms. Adams, when we're looking
15 at transactions that are listed, what information is displayed
16 in this part of the document?

17 A. The date of the transaction, the card number that was
18 used, the transaction description of the merchant and the
19 amount of the transaction.

20 Q. So these are showing credit card transactions by Joan
21 Matias' Dollar Bank credit card; is that right?

22 A. Yes.

23 Q. Under the transaction description, would this show vendors
24 that you are purchasing things from?

25 A. Yes.

1 Q. And you mentioned earlier that this was a document that
2 the statement closing date was in early October 2015, right?

3 A. Yes.

4 Q. So this would be capturing, as we can see here on the
5 transaction dates that are listed, purchases that were
6 occurring in September of 2015?

7 A. Correct.

8 Q. Okay. And can you see what credit card was used to make
9 the first two transactions that are listed here under the
10 transaction billing period?

11 A. Yes. Do you want the number?

12 Q. Again, just credit card ending in 9229?

13 A. Yes.

14 Q. That's one of the credit cards we saw on Government
15 Exhibit CNS5 we looked through earlier?

16 A. Yes.

17 Q. One of the three credit cards we went through on CNS5?

18 A. Yes.

19 Q. We can tell from this document that that is in fact a
20 Dollar Bank credit card that is issued to Joan Matias, right?

21 A. Yes.

22 Q. And can you go ahead and read for us what the transaction
23 description is for those first two transactions that are
24 listed in this block?

25 A. USPS.com Click 66100611.

1 Q. Are there particular amounts listed as the purchase
2 amounts there?

3 A. Yes.

4 Q. What are those amounts?

5 A. 25.61 and the second is \$15.

6 Q. What are the transaction dates for those two transactions?

7 A. The 25.61 is September 10 and the \$15 is September 11.

8 Q. We're not going to go back to CNS5 and look at these
9 particular transactions again because Ms. Dinuno may kill me,
10 but do you recall when we were looking at CNS5, we did see
11 Click-N-Ship transactions in September of 2015 that
12 corresponded to Joan Matias' Dollar Bank credit card?

13 A. Yes.

14 MR. CALLAHAN: You can take that exhibit down for
15 now. Ms. Dinuno, let's pull up Government's Exhibit DB8.

16 Q. Looking at this exhibit, Ms. Adams, what is this?

17 A. This is a detailed credit card statement for Atticus
18 Sliter-Matias for December 5, 2015.

19 Q. When you say for December 5, 2015, that would be the
20 statement closing date; is that right?

21 A. Yes.

22 Q. So we'll scroll down and look at some of the transaction
23 detail in a little more detail, so the statement closing date
24 is December. Is this capturing transactions from November and
25 very early December of 2015?

1 A. Yes.

2 Q. Again, much like the Joan Matias statement we were looking
3 at in the previous exhibit, this is a detailed credit card
4 transaction history for the Dollar Bank credit card associated
5 with Atticus Sliter-Matias?

6 A. Yes.

7 MR. CALLAHAN: Let's go ahead and focus, Ms. Dinuno,
8 on the transaction billing period information. Can we make
9 that any bigger? That's great.

10 Q. Ms. Adams, you testified earlier what the columns are for
11 this information, right?

12 A. Yes.

13 Q. Just as a reminder, there's a transaction date, card
14 number and a transaction description?

15 A. Yes.

16 Q. So these would indicate purchases that Atticus
17 Sliter-Matias' credit card was used for in November 2015?

18 A. Yes.

19 Q. And just so the record is clear, the credit card
20 specifically that we're looking at here is the Atticus
21 Sliter-Matias Dollar Bank credit card ending in 15267?

22 A. Yes.

23 MR. CALLAHAN: Let's go ahead and scroll down,
24 Ms. Dinuno, so we capture the transactions for November 13 of
25 2015. I think you'll see there are multiple for November 13

1 and let's actually focus in on that last one of November 13,
2 2015.

3 Q. Do you see that? It's the last row displayed currently.

4 A. Yes.

5 Q. And looking at the transaction detail column, what does
6 that indicate this purchase was for?

7 A. USPS.com Click 66100611.

8 Q. What's the amount that's listed for that particular
9 purchase?

10 A. 7.50.

11 Q. Again the transaction itself was on the 13th of November?

12 A. Yes.

13 Q. And for this one, could you go ahead and read the entire
14 credit card into the record?

15 A. 4778655009015267.

16 MR. CALLAHAN: Let's go ahead and expand back out to
17 look at the transaction detail information more generally,
18 Ms. Dinuno.

19 Q. Looking at the entire transaction history, do you see a
20 number of purchases all to the USPS.com Click vendor?

21 A. Yes.

22 Q. In fact, are the majority of purchases listed here on this
23 page to USPS.com Click?

24 A. Yes.

25 Q. Are all of those purchases being paid for using the Dollar

1 Bank credit card ending in 15267?

2 A. Yes.

3 Q. And again, that's the Dollar Bank credit card issued to
4 Atticus Sliter-Matias?

5 A. Yes.

6 MR. CALLAHAN: I'm going to break my promise earlier.
7 We are going to look at CNS5 one last time, Ms. Dinuno, if we
8 can toggle and pull that up. I'm going to edge this way
9 towards the table. Let's go ahead and pull up -- we're going
10 to look for November 13 of 2015, Ms. Dinuno. If you can go
11 ahead and blow up the transaction for 7.50 that we see on that
12 particular day.

13 Q. Ms. Adams, in the Dollar Bank recording we were just
14 looking at, we saw a transaction using Atticus Sliter-Matias'
15 credit card for 7.50, didn't we?

16 A. Yes.

17 Q. And that was on November 13 of 2015?

18 A. Yes.

19 Q. Let's scroll over to the right. Do you recognize these
20 columns that we were looking at again before the last four
21 digits of the credit card?

22 A. Yes.

23 Q. And the full credit card that's on the corresponding
24 column?

25 A. Yes.

1 Q. Again this is the credit card 15267?

2 A. Yes.

3 Q. Again, that's issued to Atticus Sliter-Matias?

4 A. Yes.

5 Q. You see an e-mail account that's associated with this
6 transaction?

7 A. Yes.

8 Q. Let's keep scrolling to the right. And this column lists
9 here an Andrew Benson.

10 Do you see that?

11 A. Yes.

12 Q. And that's the seller who's listed. We'll go back up to
13 the columns in a minute. Let's keep scrolling over.

14 Do you see the name Michael Appley listed right there?

15 A. Yes.

16 Q. And scroll over to the right a little bit more. That
17 indicates this was a priority mail purchase on the far
18 right-hand column?

19 A. Yes.

20 MR. CALLAHAN: We can pull that down now. Let's go
21 ahead and pull up Government's Exhibit DB9, Ms. Dinuno.

22 Q. Looking at this document, is this another account
23 statement for -- showing credit card transactions for Atticus
24 Sliter-Matias?

25 A. Yes.

1 Q. And what's the statement ending date for this one?

2 A. January 5, 2016.

3 Q. So in the transaction period is showing transactions from
4 predominantly December of 2015?

5 A. Yes.

6 Q. Just before we move off of it, under the account summary
7 here, could you go ahead and just read the name and address
8 information that's listed here?

9 A. Atticus Sliter-Matias, Posatronix LLC, 13940 Cedar Road,
10 Suite 360, University Heights, Ohio 44118-3204.

11 Q. Do you recognize that address as being the listed home
12 address for all of the Dollar Bank records we've looked at so
13 far?

14 A. Yes.

15 Q. Thank you, ma'am.

16 MR. CALLAHAN: Let's go ahead and expand the
17 transactions listed for this billing period again, Ms. Dinuno.

18 Q. Ms. Adams, do you again see in the transaction
19 descriptions here a number of transactions to USPS.com Click?

20 A. Yes.

21 Q. In fact again, are the vast majority of the transactions
22 listed using -- are the vast majority of transactions listed
23 here to that vendor?

24 A. Yes.

25 Q. And in terms of the USPS.com Click transactions, are those

1 all using the credit card ending in 15267?

2 A. Yes.

3 Q. Which again is the Dollar Bank credit card associated with
4 Atticus Sliter-Matias?

5 A. Yes.

6 Q. Let's go ahead and pull up Government's Exhibit DB14,
7 please. What is this document, Ms. Adams?

8 A. This is a detailed statement closing date of June 5, 2016
9 for Atticus Sliter-Matias.

10 Q. So as we discussed before, because it's a statement ending
11 date for June 5, this is showing transactions predominantly
12 from May of 2016; is that right?

13 A. Yes.

14 MR. CALLAHAN: And let's go ahead and expand the
15 transaction information again, Ms. Dinuno.

16 Q. Ms. Adams, as with the last several documents we've looked
17 at each of which are for different dates, right?

18 A. Yes.

19 Q. This shows various transactions to the USPS.com Click
20 vendor?

21 A. Yes.

22 Q. And at least at the beginning here, are all of those
23 USPS.com transactions that are shown until the very end, are
24 those all using the credit card ending in 15267?

25 A. Yes.

1 MR. CALLAHAN: Let's go ahead and expand the final
2 transaction, Ms. Dinuno.

3 THE COURT: Let's take a break until 15 after by this
4 clock back here, and we'll go to 5:00. Let the jury stand
5 down with the same admonition. Everyone else remain as you
6 are.

7 THE CLERK: Court is now in recess.

8 (Jury excused.)

9 THE COURT: Jury is out. How much longer do you
10 expect your examination of Ms. Adams will last?

11 MR. CALLAHAN: I believe I've got five questions
12 left, Your Honor, and no more documents. I'm at the end.

13 THE COURT: All right. You may stand down. We are
14 in recess. Be at ease. If I had known you were five
15 questions away, I wouldn't have taken a break.

16 MR. CALLAHAN: It's hard to tell with us, Your Honor.
17 We understand.

18 (Recess taken.)

19 THE CLERK: You can remain seated. This court is now
20 in session.

21 THE COURT: You may proceed.

22 MR. CALLAHAN: Thank you, Your Honor.

23 Ms. Dinuno, let's pull back up the exhibit we were
24 looking at before we went on recess. Specifically you can go
25 ahead and pull up the bottom couple of rows on the transaction

1 level detail for Government's Exhibit DB14.

2 Q. Ms. Adams, before we went on break, I was asking you to go
3 ahead and look at the two different credit cards that are
4 listed there in the last two rows.

5 Do you see those two different credit cards?

6 A. Yes.

7 Q. And they are both for transactions to USPS.com; is that
8 right?

9 A. Yes.

10 Q. And the one on 5-24, that's a different credit card number
11 we have been looking at over the last several exhibits,
12 correct?

13 A. Yes.

14 Q. What credit card is that?

15 A. That's the MasterCard number.

16 Q. You testified about nine hours ago when I first started
17 asking you questions that Dollar Bank switched over from Visa
18 cards to MasterCards, right?

19 A. Yes.

20 Q. It's the same account holder's card. This is just the
21 MasterCard?

22 A. Yes.

23 Q. Again, why don't we go ahead and look at ever so briefly
24 the second page of this same exhibit and go ahead and expand
25 the transaction level detail. You see additional transactions

1 using that MasterCard, correct?

2 A. Yes.

3 Q. Including additional transactions to USPS.com Click?

4 A. Yes.

5 MR. CALLAHAN: We can take that down, Ms. Dinuno.

6 Q. At the beginning of your testimony, Ms. Adams, I showed
7 you DB1 -- Government's Exhibit DB1 through 16. Do you recall
8 that?

9 A. Yes.

10 Q. Again, you are familiar with all those documents, right?

11 A. Yes.

12 Q. So we've looked at a handful of monthly detailed credit
13 card statements, right?

14 A. Yes.

15 Q. We didn't look at them all, correct?

16 A. Correct.

17 Q. The remaining ones that we didn't look at during that time
18 period of July 2015 to July 2016, those are all very similar
19 to the ones we did look at?

20 A. Yes.

21 Q. And do they all include transactions that relate to
22 Atticus Sliter-Matias' credit card to USPS.com Click?

23 A. Yes.

24 MR. CALLAHAN: No further questions, Ms. Adams.

25 CROSS-EXAMINATION

1 BY MR. KAISER:

2 Q. Ms. Adams, I'm Mark Kaiser. I'm Atticus' attorney, and
3 I'm going to be asking you a series of questions, not very
4 many. If there's any question that I ask that's confusing to
5 you in any way, please have me rephrase it.

6 A. Okay.

7 Q. Let me start out, you've never met Atticus Matias, right?

8 A. No.

9 Q. You don't know him?

10 A. No.

11 Q. And you don't have any personal knowledge as to who sent
12 the Click-N-Ship packages, do you?

13 A. No.

14 Q. And you don't have any personal knowledge as to what was
15 in any of those Click-N-Ship packages?

16 A. No.

17 Q. Now, there was a series of senders' names that were not
18 Atticus Matias. Do you recall that?

19 A. Yes.

20 Q. So now with respect to the Michael Appley shipment that
21 you testified about, you have no personal knowledge as to
22 anything that really transpired in that case, right?

23 A. No. Correct.

24 Q. And I think we can all agree that Joan Matias is not
25 Atticus Matias probably, right?

1 A. Probably.

2 Q. Let's hope not. And you went through a series of
3 documents, Dollar Bank 1 through Dollar Bank 16.

4 A. Yes.

5 Q. And just to be clear, there's a lot of Click-N-Ship
6 mentions, if you will, on these documents?

7 A. Yes.

8 Q. You have no idea what any of those mentions involve, do
9 you?

10 A. No.

11 MR. KAISER: Nothing further, Your Honor.

12 MR. CALLAHAN: Nothing further.

13 THE COURT: Any jury questions? You may stand down.
14 You are free to go.

15 (Witness excused.)

16 THE COURT: Next witness?

17 MR. DESAI: Government calls Postal Inspector
18 Weckerly to the stand.

19 (Witness sworn.)

20 THE CLERK: You may be seated. Please state your
21 name and spell your name for the record.

22 THE WITNESS: Lindsay Weckerly, L-I-N-D-S-A-Y,
23 Weckerly, W-E-C-K-E-R-L-Y.

24 LINDSAY WECKERLY, a witness herein, having been first
25 duly sworn, was examined and testified as follows:

1 DIRECT EXAMINATION

2 BY MR. DESAI:

3 Q. Ms. Weckerly, how are you currently employed?

4 A. I am a United States postal inspector.

5 Q. How long have you been a U.S. postal inspector?

6 A. Since 2015.

7 Q. What is the U.S. Postal Inspection Service?

8 A. We are the federal law enforcement arm of the U.S. Postal
9 Service.

10 Q. So does that mean you are a federal law enforcement
11 officer?

12 A. Correct.

13 Q. What's your primary duties and responsibility as a postal
14 inspector?

15 A. To investigate any crimes that involve the U.S. mail or
16 U.S. postal employees.

17 Q. What's the scope of your authority to investigate criminal
18 conduct?

19 A. I have nationwide authority to investigate crimes
20 involving the mail.

21 Q. What have you learned about mail fraud schemes in the
22 scope of their activities?

23 A. Typically mail fraud schemes are not confined to one
24 geographical location. They oftentimes cross geographical and
25 jurisdictional boundaries.

1 Q. When you have a mail fraud scheme that expands more than
2 one jurisdiction, do you have the authority to investigate the
3 activities in all those jurisdictions?

4 A. Yes, and I would be expected to interview any victims or
5 witnesses or suspects that were -- even if they were across
6 the country as part of my investigation.

7 Q. Is the United States free to seek criminal charges in one
8 jurisdiction for the entire fraud scheme?

9 A. Yes.

10 Q. Is that what happened here?

11 A. Yes.

12 Q. Inspector Weckerly, are you familiar with the date range
13 in the indictment for this fraud scheme?

14 A. Yes. It's June 2015 through July 2016, and that would
15 include the entire fraud scheme during that time period as
16 well as any victims of that fraud scheme.

17 Q. Now, mail fraud counts concern specific mailings in
18 furtherances of fraud schemes?

19 A. Yes.

20 Q. Can you tell us what the fraud counts in this indictment
21 involve?

22 A. Yes. Count 1 is relative to the empty envelope received
23 by Michael Appley in Johnstown, Pennsylvania, and Count 2 is
24 related to the empty envelope received by Ray offner in Bethel
25 Park, Pennsylvania.

1 Q. That's related to the fraud scheme?

2 A. Correct.

3 Q. Are Johnstown, Pennsylvania and Bethel Park, Pennsylvania
4 located in the judicial territory known as the Western
5 District of Pennsylvania?

6 A. Yes.

7 Q. Inspector Weckerly, are you the primary law enforcement
8 agent who investigated this case?

9 A. I am.

10 Q. How did you come to investigate this case?

11 A. Michael Appley filed a complaint after he received the
12 empty envelope at the Johnstown, Pennsylvania post office, and
13 I was assigned to handle that complaint.

14 Q. After being assigned to the case, what did you do?

15 A. I spoke to Mr. Appley initially. He provided me
16 information about what happened, relative documentation. I
17 was able then to obtain the actual envelope from him that he
18 had received, and based on that envelope, I was able to tell
19 that it had been mailed through a Click-N-Ship account, and I
20 was able to obtain records for that Click-N-Ship account.

21 Q. Did you review the records from that Click-N-Ship account?

22 A. I did.

23 Q. Is that something we saw on CNS5?

24 A. Yes.

25 Q. What did you realize when you reviewed that Click-N-Ship

1 account?

2 A. I realized -- I reached out to a number of the individuals
3 on that who had received mailings from that Click-N-Ship
4 account, and that was how I came to meet individuals like
5 Mr. Offner, Mr. Dirksen, Mr. Bejarano and Ms. Ferguson, and I
6 realized Mr. Appley was not the only victim of this fraud
7 scheme, that it was a large eBay fraud scheme.

8 Q. On that Click-N-Ship account, upon reviewing it, did you
9 come to realize there was a large volume of packages that were
10 going out?

11 A. Yes.

12 Q. You indicated that you talked to a number of individuals,
13 including Mr. Offner, Mr. Dirksen, Mr. Bejarano and
14 Ms. Ferguson, and you indicated that all these individuals
15 seemed to be associated with a fraud scheme?

16 A. Correct.

17 Q. Were they all victims of the same fraud scheme?

18 A. Yes.

19 Q. And just to go back to Mr. Appley. After you obtained it,
20 did you do anything to confirm whether Mr. Appley's package
21 was indeed empty when shipped or did you simply accept
22 Mr. Appley's statement to that fact?

23 A. Based on the tracking information for that package, I was
24 able to confirm that the weight at mailing was .19 pounds,
25 which ultimately is three ounces, which is significantly less

1 than the MacBook Pro that he ordered.

2 MR. DESAI: Ms. Dinuno, do you mind pulling up

3 Government's Exhibit USPS-2? If you go all the way --

4 Q. Let me ask this: Inspector Weckerly, was this the

5 tracking information for the package that was sent to

6 Mr. Appley?

7 A. Yes.

8 MR. DESAI: Ms. Dinuno, if you go all the way to the

9 right-hand side, the third column at the end.

10 Q. Is that the weight of the package?

11 A. Yes.

12 Q. What was the weight in this case?

13 A. .19 which, as I said, converts to about three ounces.

14 Q. It's significantly less than a laptop.

15 A. Correct.

16 MR. DESAI: You can take that down.

17 Q. Did you check the weight of the postal tracking

18 information to confirm that the packages received by the other

19 individuals from that Click-N-Ship account, people you talked

20 to, were indeed empty when shipped?

21 A. Yes. They were all significantly less than what the item

22 the individual had ordered on eBay would have weighed.

23 Q. After talking to Mr. Appley, Mr. Offner, Mr. Dirksen and

24 so on, what did you do?

25 A. I reached out to representatives at eBay and PayPal to

1 obtain records. I was able to send eBay the Click-N-Ship
2 report so that they were able to pull relative eBay accounts,
3 and then I was able to get the corresponding PayPal accounts.

4 Q. Did you review those records?

5 A. I did.

6 Q. What, if anything, did you learn from reviewing the eBay
7 records?

8 A. From reviewing the eBay records, I was able to tell that
9 the accounts all had similar selling activity. They would
10 list electronics for sale, laptops, cell phones, some cameras,
11 and there were complaints on those accounts that the buyers
12 had not received those items.

13 Q. What, if anything, did you learn from reviewing the PayPal
14 records in conjunction to your review of the eBay and
15 Click-N-Ship records?

16 A. In reviewing the PayPal records, I was able to learn a
17 little bit more about how money is released through PayPal.
18 You heard Ms. Heathington from PayPal testify that there are a
19 number of ways you can have money released from your PayPal
20 account.

21 In reviewing these specific accounts, I was able to tell
22 that the suspect operating the accounts would either mark the
23 item as shipped and receive money seven days later or enter a
24 tracking number and receive the money three days after that
25 tracking number had been delivered.

1 Those tracking numbers corresponded to mailings on the
2 Click-N-Ship account that went to businesses that were in the
3 same zip code as the buyer on eBay.

4 And --

5 Q. What was the purpose then of the package that's going to
6 the actual victims?

7 A. The victims would then receive a package and a tracking
8 number in order to delay them filing a complaint with eBay or
9 PayPal.

10 Q. You mentioned about the way the money was taken out of
11 PayPal. Let me see if I understand this. In some instances,
12 the package was marked as shipped and money released seven
13 days after that package?

14 A. Correct.

15 Q. And do you recall looking at the PayPal exhibits?

16 A. Yes.

17 Q. And indeed, for Mr. Appley, the package -- the money was
18 released seven days after?

19 A. Correct.

20 Q. And you also indicated that alternatively to paying the
21 money out was to upload a tracking number to a package that
22 was going to the same zip code?

23 A. Correct.

24 Q. But then it wasn't going to the victims?

25 A. Right. It was going to the same zip code of the victim.

1 Q. We saw that with Mr. Bejarano earlier today?

2 A. Correct.

3 Q. He had a tracking number for a package that went to a
4 residence that wasn't his in that same Woodbridge, Virginia
5 area?

6 A. Correct.

7 Q. What, if anything, happened to the victim's moneys that
8 were sent to these PayPal accounts?

9 A. Oftentimes, the money was released and it was used to buy
10 gold, silver and other products.

11 Other times, the money was not released and it was
12 reversed back to the victim. In the cases where the money was
13 released and it was used to purchase products, eBay or PayPal
14 would have reimbursed the victims.

15 Q. Inspector Weckerly, have you reviewed the 161 eBay and
16 PayPal accounts that have been admitted into evidence in this
17 case?

18 A. Yes.

19 Q. Do both eBay and PayPal allow for physical addresses to be
20 uploaded on to those accounts?

21 A. Yes.

22 Q. Did you learn anything from your review of these records
23 with respect to the physical addresses that are associated
24 with these accounts?

25 A. Yes. There were -- most accounts only had two addresses

1 on them. One would be the fake address that was used to
2 register the account, and the second address was that of the
3 defendant's UPS Store box. On a few occasions, there was a
4 third address, and it was for a Home Depot that's in the
5 neighborhood of the defendant's address.

6 Q. Was there any address on these accounts that were supplied
7 other than the initial fake address to any other address other
8 than the two that you -- or the Home Depot or the defendant's
9 UPS box?

10 A. No.

11 Q. Do the addresses also have a company name associated with
12 them?

13 A. Yes. They either listed RS Surplus or Posatronix.

14 Q. As part of your investigation, did you obtain a search
15 warrant for the residence?

16 A. I did.

17 Q. And where is the residence located?

18 A. It's located in South Euclid, Ohio. It's 13781
19 Cedar Road.

20 Q. And do you know the identities of all the individuals who
21 reside at that residence?

22 A. I do. Atticus Sliter-Matias who was previously known as
23 Cass Garfield and Matias Marrero who was previously known as
24 Joan Matias.

25 Q. When you say "previously known," what does that mean?

1 A. They both legally changed their names.

2 MR. DESAI: Ms. Dinuno, can you pull up USPS-2?

3 That's already been admitted into evidence. UPS not USPS.

4 Let's focus on the top part.

5 Q. Ma'am, are the names here associated with this UPS box the
6 same names of the individuals you just mentioned?

7 A. Yes.

8 Q. Are these individuals related in any way?

9 A. Yes. They are mother and son.

10 Q. There's a company name listed with this box?

11 A. Yes, Posatronix and RS Surplus.

12 Q. Those are the companies you mentioned earlier that was on
13 the eBay and PayPal records?

14 A. Correct.

15 Q. When did you do the search of the residence?

16 A. July 5, 2016.

17 Q. Was anyone present at the residence when you searched it?

18 A. Yes. Atticus Sliter-Matias and his mother, Matias
19 Marrero.

20 Q. Do you see an individual who is present at the residence
21 during the search and who is known as Atticus Sliter-Matias in
22 the courtroom today?

23 A. Yes, I do. He is the white male seated at the defense
24 table, dark hair, glasses and wearing a black suit.

25 MR. DESAI: Your Honor, let the record reflect that

1 the witness has identified the defendant.

2 THE COURT: The jury will make that determination.

3 MR. DESAI: Thank you, Your Honor.

4 Q. How about the mother, Ms. Marrero? Do you see her in the
5 courtroom here today too?

6 A. Yes. She is the woman seated at the back of the
7 courtroom. She's been with the defendant throughout the
8 trial.

9 Q. Inspector Weckerly, can you briefly describe the
10 residence, the defendant and his mother's residence?

11 A. Yes. It's a two bedroom, one bath apartment with a
12 kitchen and a living/dining area.

13 Q. Is the living/dining area a combined area, or are they
14 separate?

15 A. It's a combined area.

16 Q. Were you able to identify which bedroom belonged to which
17 individual?

18 A. Yes. When we knocked on the door and announced our
19 presence, Atticus Sliter-Matias came to the door. He was
20 taken into the hallway with myself and another agent. The
21 rest of our team went into the apartment, and they were able
22 to determine that there was one empty bedroom that contained
23 male clothing and male items, and the second bedroom was
24 occupied by Matias Marrero. She was sleeping.

25 Q. In that bedroom where Ms. Marrero was, were there also

1 women's clothing?

2 A. Yes, yes.

3 Q. Did you find any evidence relevant to your investigation
4 at the residence?

5 A. I did. We located a number of gold and silver pieces,
6 vanilla credit cards, prepaid credit cards, opened and
7 unopened packages, receipts, invoices and other eBay and
8 PayPal records and a number of electronic devices.

9 Q. Let's focus on each of those items one at a time. Let's
10 start with the gift cards. What is a vanilla gift card?

11 A. Vanilla gift card is essentially a prepaid credit card or
12 gift card. You can buy them at a number of retailers. It
13 typically comes with a preset amount, \$25, \$50. Once that
14 amount is spent, you can't reload it. It's essentially
15 useless after the balance has been depleted.

16 And they operate a website where you can go register a
17 card to a specific zip code.

18 Q. How are they relevant to your investigation, these vanilla
19 gift cards?

20 A. These gift cards are the credit card numbers we saw
21 earlier that are uploaded into the eBay and PayPal accounts.
22 Additionally, these cards have writing on the back of them
23 that identify eBay and PayPal accounts that they are
24 associated with.

25 Q. So on the back of these cards, there's actually writing

1 that tell you what account they go to?

2 A. Correct.

3 Q. Where were these gift cards located?

4 A. In the defendant's dresser in his bedroom.

5 Q. Inspector Weckerly, you are aware that there are 161 eBay
6 and PayPal accounts presented in this trial, correct?

7 A. Correct.

8 Q. How many vanilla gift cards did you find associated with
9 these 161 eBay and PayPal accounts?

10 A. 144.

11 Q. I'm going to show you what's been marked as Government's
12 Exhibit CC1 to CC144. Do you know what CC1 to 144 is?

13 A. Yes. These are the vanilla cards that are uploaded to the
14 eBay and PayPal accounts.

15 Q. Are these items that you -- when did you first see the
16 items?

17 A. I saw them on the day of the search of the defendant's
18 apartment.

19 Q. Were these items that you found and seized at the search
20 of that residence?

21 A. Yes.

22 Q. Is Exhibit CC1 to CC144 in the same or substantially --
23 same condition today as it was when you first saw it on July
24 5, 2016 at the defendant's residence?

25 A. Yes.

1 MR. DESAI: Your Honor, government offers Exhibit CC1
2 to CC144 in evidence at this time.

3 MR. KAISER: No objection.

4 THE COURT: Admitted. You can show it to the jury.

5 Q. Ms. Weckerly, at some point, we'll pass everything around
6 to the jurors. We'll do that at one time for saving time, but
7 can you lift up the binder. The credit cards -- just for the
8 record, the credit cards are in sleeves in a binder that's
9 holding them?

10 A. Correct.

11 Q. And just if you can lift up and kind of identify where the
12 eBay and PayPal writing would be?

13 A. So as you can see, there's writing in Sharpie on the back.
14 It says "EB:" and it has user name and "PP:" and it has a user
15 name, and there are some numbers on there which indicate, I
16 believe, what the balance was on the card.

17 Q. Are those user names to the PayPal and eBay accounts that
18 were part of the 161 accounts identified by eBay earlier in
19 this trial?

20 A. Yes.

21 Q. What do the vanilla gift cards relate more to regarding
22 the operation of the fraud scheme?

23 A. The creation of the fraudulent eBay and PayPal accounts.

24 Q. Let's move to the electronic devices. What type of
25 devices did you find?

1 A. There were three laptops, a desktop computer, an iPad, an
2 iPhone, a Samsung flip phone, and various external hard
3 drives, thumb drives, SD cards.

4 Q. You mentioned three laptops. What kind of laptops were
5 they, if you recall?

6 A. There was an Apple laptop, a MacBook Pro which is
7 essentially an Apple laptop, and an Acer Chrome laptop.

8 Q. Let's walk through some of these items and where they were
9 found. Where was the Apple iPhone located?

10 A. That was located on the nightstand next to the defendant's
11 bed in his bedroom.

12 Q. How about the computer tower?

13 A. In the defendant's bedroom on the desk.

14 Q. How about the Apple laptop?

15 A. That was found in the closet in the defendant's bedroom.

16 Q. And how about the MacBook Pro laptop and the Acer Chrome
17 laptop?

18 A. Those were found in the mother's bedroom.

19 Q. How about the iPad?

20 A. In the mother's bedroom.

21 Q. How about the flip phone?

22 A. The mother's bedroom.

23 Q. Last, the majority of the hard drives, thumb drives and SD
24 cards, where were they located?

25 A. They were on the desk in the defendant's bedroom.

1 Q. What did you do with all the electronic items?

2 A. They were sent for forensic analysis.

3 Q. And that was to Mr. Wilkins?

4 A. Correct.

5 Q. I'm going to show you what's marked as Government Exhibit
6 HM5. Do you know what this is?

7 A. Yes. This was a thumb drive that was seized from the
8 defendant's residence.

9 Q. Where was this item found in the residence at the time of
10 search?

11 A. It was plugged into the desktop computer that was in the
12 defendant's bedroom.

13 Q. And when was the first time you had seen this exhibit?

14 A. On the day of the search.

15 Q. Is HM5 in the same condition today as it was when you
16 first saw it on July 5, 2016?

17 A. Yes.

18 Q. To be clear, you said that was plugged into the computer,
19 the desktop tower?

20 A. Correct.

21 MR. DESAI: Your Honor, government offers HM5 in
22 evidence at this time.

23 MR. KAISER: No objection.

24 THE COURT: Admitted.

25 Q. I'm going to show you what's marked as HM14. If you can

1 tell us what this is.

2 A. This is the Apple iPhone that was seized from the
3 defendant's residence that was located on the nightstand next
4 to his bed.

5 Q. When was the first time you had seen this exhibit?

6 A. On the day of the search.

7 Q. Is it in the same or substantially same condition today as
8 it was when you first saw it on July 5, 2016?

9 A. It is.

10 MR. DESAI: Your Honor, government offers HM14 into
11 evidence at this time.

12 MR. KAISER: No objection.

13 THE COURT: Admitted.

14 Q. Did the forensic examination of HM5 and HM14 reveal any
15 relevant evidence to your investigation?

16 A. Yes, it did.

17 Q. Did you provide records from HM5 and HM14 to the eBay
18 investigator during the course of your investigation?

19 A. Yes, I did.

20 Q. We're going to go into some of that exhibit, but we'll
21 wait until tomorrow since we only have ten minutes left here.
22 I want to just jump ahead.

23 You mentioned there was also gold and silver found at the
24 defendant's residence?

25 A. Correct.

1 Q. How was the gold and silver relevant to the investigation?

2 A. In the eBay and PayPal accounts, the victim's money
3 oftentimes went to purchase gold and silver, and then that
4 gold and silver was sent to the defendant's UPS Store box.

5 Q. Where was the gold and silver located in the residence?

6 A. There was a safe in the floor of the closet in the
7 defendant's bedroom. The majority of it was found there, but
8 there were -- there was some found in the mother's dresser and
9 various other places in the apartment.

10 Q. Did law enforcement take all the gold and silver found at
11 the residence?

12 A. We did.

13 Q. Why?

14 A. The evidence that we had was that the gold and silver had
15 been obtained fraudulently. We didn't have any evidence that
16 it had been obtained from any other source. The amount that
17 seized was also less than the reported loss amount from eBay
18 and PayPal.

19 Q. Inspector Weckerly, were photos taken during the search?

20 A. Yes.

21 Q. I'm going to show you what's marked as PH1, PH2, PH4, PH5,
22 PH7, PH8, PH9, PH13, PH17, and PH21. Ma'am, do you know what
23 these are?

24 A. Yes. These are some of the photos taken of the
25 defendant's apartment the day of the search.

1 Q. Do they fairly and accurately depict the defendant's
2 residence during the search?

3 A. Yes.

4 MR. DESAI: Government offers the exhibits just
5 announced, PH1, 2, 4, 5, 7, 8, 9, 13, 17 and 21 in evidence at
6 this time.

7 MR. KAISER: No objection.

8 THE COURT: Admitted.

9 MR. DESAI: Ms. Dinuno, if you could pull up PH1 for
10 us.

11 Q. What's depicted in this photo, Ms. Weckerly?

12 A. This is the defendant's bedroom. It shows his bed, the
13 bedside table where the iPhone was located and his desk where
14 a number of the electronic devices were located.

15 Q. Just because it's small, can you show us or just circle on
16 the screen where the nightstand is?

17 A. Yes, right here (indicating).

18 Q. Let's take a look at PH2. What's depicted in this photo?

19 A. This is a closer photo of the desk in the defendant's
20 bedroom.

21 Q. And how about the stuff on the right-hand side of that
22 desk? What was all that stuff?

23 A. You can see the desktop computer there along with other
24 various electronics.

25 Q. Let's take a look at PH4. What's this?

1 A. This is another picture of the desk. In this photo, you
2 can see the desktop computer, and right here is the thumb
3 drive that I was speaking of earlier that's been admitted that
4 was plugged into the computer.

5 Q. That's the thumb drive that Mr. Wilkins had talked about
6 evidence that came off there?

7 A. Correct.

8 Q. Just to be clear, that's the Exhibit HM5 that we just
9 admitted into evidence?

10 A. Correct.

11 Q. Let's take a look at PH5. What's shown here?

12 A. This is the closet in the defendant's bedroom and it shows
13 the safe on the floor of the closet.

14 Q. Was the safe opened when you arrived?

15 A. It was not. We had to request assistance from the local
16 fire department to get the safe opened.

17 Q. Let's take a look at PH7. What's this?

18 A. That's the inside of the safe. There's various bars of
19 gold and silver stuffed inside the safe.

20 Q. Let's take a look at PH8.

21 A. That is various gold bars and coins that were pulled out
22 of the safe to be photographed.

23 Q. When you came to the house, this wasn't laid out like
24 this?

25 A. Correct.

1 Q. Law enforcement laid it out after pulling the gold and
2 silver out of the safe?

3 A. Correct.

4 Q. Let's take a look at PH9. And what's that?

5 A. This is silver that had been in the safe. Again, it was
6 pulled out by law enforcement in order to take a photo.

7 Q. Let's take a look at PH13. What's this?

8 A. Again, this is close-up of some of the gold coins that
9 were found in the safe.

10 Q. Let's go to PH17. What's this?

11 A. These are the numerous vanilla gift cards that were
12 located in the defendant's dresser.

13 Q. And last, let's look at PH21. What are these?

14 A. These are two packages that were located in the
15 defendant's residence. They were unopened at the time of the
16 search. They are from Liberty Coin, and they are addressed to
17 a Robert Busby. Also has Posatronix on there addressed to the
18 defendant's UPS Store box.

19 MR. DESAI: Your Honor, the next stuff we're going to
20 get into is going to take some time.

21 THE COURT: Let's be in recess until the morning at
22 9:00 o'clock.

23 Ladies and gentlemen of the jury, don't talk about
24 the case, anybody involved in it. Don't start making up your
25 mind. Consciously avoid it. Drive home safely. Get you a

1 good supper, good night's sleep, good breakfast and come back
2 safely and we'll start at 9:00. Let the jury stand down.
3 Everyone else remain as you are.

4 THE CLERK: This court is now in recess.

5 (Jury excused.)

6 THE COURT: We're in recess. When do you want to
7 meet with the lawyers again, Mr. Morgan? The lawyers ought to
8 be here about 10 till 9:00 in case something strikes their
9 mind. We'll start at 9:00 with the jury. We're in recess.
10 Be at ease.

11 (At 4:58 p.m., the proceedings were adjourned.)
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

I, BARBARA METZ LEO, RMR, CRR, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled case.

\s\ Barbara Metz Leo
BARBARA METZ LEO, RMR, CRR
Official Court Reporter

02/06/2019
Date of Certification

I N D E X

<u>WITNESSES</u>	<u>PAGE</u>
ERIC DIRKSEN	
Direct Examination By Mr. Callahan	2
Cross-Examination By Mr. Kaiser	17
PABLO BEJARANO	
Direct Examination By Mr. Callahan	21
Cross-Examination By Mr. Kaiser	39
Redirect Examination By Mr. Callahan	45
CHRISTOPHER WILKINS	
Direct Examination By Mr. Desai	48
Cross-Examination By Mr. Kaiser	110
Redirect Examination By Mr. Desai	122
BRADLEY PARISH	
Direct Examination By Mr. Desai	126
Cross-Examination By Mr. Kaiser	158
Redirect Examination By Mr. Desai	159, 161
Recross-Examination By Mr. Kaiser	161
THERESA ADAMS	
Direct Examination By Mr. Callahan	162
Cross-Examination By Mr. Kaiser	188
LINDSAY WECKERLY	
Direct Examination By Mr. Desai	191

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

vs.

Criminal No. 17-34

ATTICUS SLITER-MATIAS,
Defendant.

- - -

Transcript of proceedings on May 30, 2018 United States
District Court, Pittsburgh, Pennsylvania, before Judge Bill
Wilson.

APPEARANCES:

For the Government: U.S. Attorney's Office
Shardul S. Desai, Esquire
Colin J. Callahan, Esquire
U.S. Courthouse
700 Grant Street
Pittsburgh, Pennsylvania 15219

For the Defendant: Mark A. Kaiser, Esquire
P.O. Box 632
Painesville, Ohio 44077

Court Reporter: Barbara Metz Leo, RMR, CRR
700 Grant Street
Suite 6260
Pittsburgh, Pennsylvania 15219

Proceedings recorded by mechanical stenography;
transcript produced by computer-aided transcription.

1 (Jury present.)

2 THE COURT: Be seated, please. As far as this case
3 is concerned, I assume your hearts and minds are still pure.
4 If I'm wrong, raise your hand. No hands.

5 Well, I was disappointed in Ms. Yost, our courtroom
6 deputy, this morning. She didn't know the significance of
7 June 3rd. I'll ask the jury. Do you all know the
8 significance of June 3rd? That was the day Billie Joe
9 McAllister jumped off the Tallahatchie Bridge.

10 My wife and I have an "Ode to Billie Joe" party on
11 June 3rd, and we've invited Bobbie Gentry but she disappeared
12 30 years ago from public view and really is a hermit. We
13 invited her. She didn't show up, but we have a good friend in
14 Little Rock who is her third cousin, so he's our guest of
15 honor.

16 With that important historical matter out of the way,
17 let's get back to the business of trial. You may proceed.

18 MR. DESAI: Thank you, Your Honor.

19 LINDSAY WECKERLY, a witness herein, having been
20 previously duly sworn, was examined and testified further as
21 follows:

22 DIRECT EXAMINATION (Resumed.)

23 BY MR. DESAI:

24 Q. Ms. Weckerly, when we were finishing yesterday, we were
25 going through the photos of the search, correct?

1 A. Yes.

2 Q. I'm going to take a step back and go back to the beginning
3 of your investigation a little bit when you were assigned the
4 case and you talked to Mr. Appley. You indicated you received
5 the empty package that he had obtained in this case?

6 A. Correct.

7 Q. Let me show you what's marked MA1 which is already
8 admitted into evidence. Inspector Weckerly, what is that?

9 A. This is the empty envelope that was received by Mr. Appley
10 after his purchase on eBay.

11 Q. Is there anything actually inside what we have been
12 referring to as the empty envelope?

13 A. Yes. There is another torn priority mail envelope.

14 Q. And is there handwriting on that?

15 A. There is. This is Mr. Appley's handwriting on here.

16 Q. In the course of your investigation, did you come to learn
17 anything about the torn envelope within the essentially empty
18 envelope?

19 A. Yes. We believe that the purpose of the torn envelope was
20 in order to make law enforcement believe that the package had
21 been stolen somewhere along the transit through the postal
22 service.

23 Q. That someone in the -- one of the mail carriers may have
24 stolen the actual item and pushed along the mailing?

25 A. Correct.

1 Q. Is that why you went back through the U.S. Postal System's
2 tracking information to confirm whether or not the package in
3 fact was shipped with anything in it?

4 A. Yes. That's why I looked at the weight at the time the
5 postage was purchased.

6 Q. Now, when we were going over the testimony yesterday, we
7 had talked about HM5 and HM14. Can you remind us what HM5 and
8 14 was?

9 A. HM5 was the Verbatim thumb drive that was seized from the
10 defendant's bedroom, and HM14 was the black iPhone that was
11 also seized from the defendant's bedroom.

12 Q. Did the forensic examination of those devices reveal any
13 relevant evidence to your investigation?

14 A. They did.

15 Q. I'm going to show you what is admitted into evidence as
16 TD6. This is the first tab; is that correct?

17 A. Correct.

18 Q. That's the IP active tab?

19 A. Correct.

20 Q. Let me ask you this. Through your investigation, were you
21 able to understand what this IP active spreadsheet meant?

22 A. Yes. This is essentially a cheat sheet to track the IP
23 address that was used for specific eBay and PayPal accounts.
24 There are, as you can see on what's up on the screen right
25 now, there were a number of user names that were repeated with

1 different IP addresses so that corresponds to different
2 activity that occurred on those accounts and which IP address
3 was used for that activity.

4 Q. Let's go to row 5499. All the way to the bottom.
5 Ms. Weckerly, can you just tell us what's the e-mail address
6 or the user name associated on this one?

7 A. ALBenson1174@gmail.com.

8 Q. Are you familiar with that e-mail address?

9 A. Yes.

10 Q. How are you familiar with that address?

11 A. That's the same account that sold to one of our victims.

12 Q. Is that the e-mail address that corresponds to the eBay
13 and PayPal accounts 2?

14 A. Yes.

15 Q. What is the IP address here?

16 A. 75.10.128.125.

17 Q. Can we pull up EB2.2? Ms. Weckerly, who was the victim on
18 this account?

19 A. Michael Appley.

20 Q. Which transaction was the transaction involving
21 Mr. Appley?

22 A. It's the transaction in row 4 for the MacBook Pro.

23 Q. So the second listing of the items on the listing?

24 A. Correct.

25 Q. And as we scroll through, is there an IP address for the

1 listing of this fraudulent eBay listing?

2 A. There is. If you scroll over past the title. The listing
3 IP which is in column M, it's 75.10.128.125.

4 Q. Is that the same IP address associated with the same eBay
5 account name that you saw and just read to us in row 5499 on
6 TD6?

7 A. It is.

8 Q. What is that telling us?

9 A. That the individual who listed this item is the same
10 individual who was tracking that IP address in TD6.

11 Q. And let's take a look at -- why don't we jump to EB1.2?
12 Do you recall who the victim was in EB1.2 and what the item
13 purchased was?

14 A. Yes. It was Ray Offner, and he purchased an iPhone, which
15 is in row 3 of this listing.

16 Q. That's the first listing of items listed here?

17 A. Correct.

18 Q. If we scroll across the listing IP, can you just explain
19 to us what's the listing IP mean?

20 A. The listing IP would be the IP address that was used to
21 create this listing.

22 Q. This fraudulent eBay listing?

23 A. Correct.

24 MR. KAISER: Objection, Your Honor.

25 THE COURT: What ground?

1 MR. KAISER: Your Honor, I think fraudulent is
2 something for the jury to decide.

3 MR. DESAI: Your Honor, I think we've established
4 through Mr. Offner that this listing was indeed fraudulent.

5 THE COURT: Let's approach.

6 (At sidebar.)

7 THE COURT: I think the objection has some weight.
8 Can you use some other term, some synonym? Try it out on me.
9 How about improper?

10 MR. DESAI: Improper would be fine, Your Honor.

11 MR. KAISER: I can live with that. Thank you.

12 (In open court.)

13 Q. Postal Inspector Weckerly, when we talk about this IP
14 address, that's the IP address that's listing or making the
15 improper eBay listing; is that correct?

16 A. Correct.

17 Q. Let's go to -- can you read us what that IP address is in
18 this one?

19 A. It's 75.10.140.99.

20 Q. Let's go to TD6 in row 5573. What's the IP address there?

21 A. 75.10.140.99.

22 Q. That's the same that you just read?

23 A. Correct.

24 Q. The user account, what's the e-mail?

25 A. KCSmith2397@gmail.com.

1 Q. Which eBay account does that correspond to?

2 A. EB1.

3 Q. That's the one we just looked at?

4 A. Correct.

5 Q. Is this consistent throughout the entire IP active
6 spreadsheet?

7 A. It is.

8 Q. In addition to listing the IP address for improper eBay
9 listings, it lists other activities that those accounts were
10 engaged in on eBay and PayPal?

11 A. Correct. There's -- in column C, there's notes related to
12 those accounts.

13 Q. Let's go to the FSIA log. We've seen this before, haven't
14 we?

15 A. Correct.

16 Q. For your investigation, are you able to understand this
17 spreadsheet?

18 A. I was. It took a little while of looking through the
19 spreadsheet to understand the different aspects of it. Column
20 E where it says "PPINV," you can see the number there looks
21 almost like a decimal point, but if you actually click in
22 those cells, it will show, in the top up here, what the full
23 number is in that cell.

24 And what that number is, you heard Mr. Huhnke from eBay
25 testify that when a listing is created on eBay, that item is

1 assigned a unique item ID number. Those numbers there are the
2 unique item ID numbers that correspond to the 161 eBay and
3 PayPal accounts that we have seen in this trial.

4 Q. Let's go to row 355. Do you mind getting rid of the
5 yellow thing?

6 A. Sorry.

7 Q. On 355, what's the user ID or the account that this
8 associates to?

9 A. ALBenson1174.

10 Q. And again, which account was that relating to on the eBay
11 and PayPal?

12 A. EB and PayPal 2.

13 Q. And there's a listing of the victim's name and the price
14 and shipping and handling information after that?

15 A. Correct.

16 MR. DESAI: Let's take a look at the -- Ms. Dinuno,
17 if you don't mind clicking on row E -- column E of row 355,
18 just the cell. Can we make that bigger so we can see what's
19 actually the real number in the top? No, we can't.

20 Q. So Postal Inspector Weckerly, can you read us that number?

21 A. 321706431723.

22 Q. Can you circle where we're looking again so we know?

23 Let's take a look at EB2.2. Again, the improper listing is in
24 the fourth row of the spreadsheet which is the second entry;
25 is that correct?

1 A. Correct.

2 MR. DESAI: And I guess, Ms. Dinuno, if you don't
3 mind scrolling to the beginning of that.

4 Q. There's an item ID number column?

5 A. Yes. B is the item ID column.

6 Q. Can you tell us what that number is?

7 A. 321906431723.

8 Q. Is that the same as you saw in row 355 on TD6 in the FSIA
9 log spreadsheet?

10 A. It is.

11 Q. Let's take a look at row -- let's go to EB1.2. The first
12 entry here is the improper eBay listing?

13 A. Correct.

14 Q. Let's go to the item ID on this one. What's the number on
15 that?

16 A. 262161283438.

17 Q. And the victim on this was who?

18 A. Ray Offner.

19 Q. Let's go to the TD6 in row 373. The victim listed on this
20 one is who?

21 A. Ray M. Offner.

22 MR. DESAI: Ms. Dinuno, if you don't mind putting
23 the -- clicking on the box E373. What is the number that's
24 populated in the field up on top left-hand corner?

25 A. 262161283438.

1 Q. Postal Inspector Weckerly, if the vanilla gift card
2 related more to the creation account, what does the FSIA log
3 relate to?

4 A. This relates to the fraudulent listings on the account and
5 the sales on the account.

6 Q. When we last left off, we were looking at --

7 MR. DESAI: You can take that -- minimize that now.

8 Q. When we were looking -- at the end of the day, we were
9 looking at PH21.

10 A. Yes.

11 MR. DESAI: Ms. Dinuno, do you mind pulling up PH21?

12 Q. Can you just remind us what these were?

13 A. These were two unopened packages that were seized from the
14 defendant's residence. They are from Liberty Coin addressed
15 to Robert Busby, Posatronix at the defendant's UPS Store box.

16 MR. DESAI: Ms. Dinuno, do you mind pulling up PP15.1
17 and expand out the registration information a little bit?

18 Q. What's the name and e-mail on this?

19 A. The name is Robert Busby, and the e-mail is
20 RKBusby20317@gmail.com.

21 Q. Can we take a look on PP15-2? If we go to the all
22 transaction tab. Thank you. Let's take a look at the date of
23 6-20-16.

24 What happens from that point on in this spreadsheet?

25 A. On 6-20-16, an individual by the name of Willfred

1 Rodriguez purchased, if you scroll over a little bit, a Nikon
2 D4 Digital SLR camera and paid \$803.49 for that.

3 If you go two rows up, at that point, the funds were made
4 available, and shortly after that, there were two purchases
5 made for a one ounce silver bar and a ten gram gold bar.

6 Q. Do you know who that purchase was from?

7 A. Liberty Coin.

8 Q. Did Mr. Rodriguez --

9 MR. DESAI: If you go across, Ms. Dinuno, to the
10 title side, right there.

11 Q. Was there any dispute filed on this?

12 A. Yes. There was an eBay buyer dispute filed on 7-2-16.

13 Q. And do you know if Mr. Rodriguez ever got reimbursed?

14 A. It does not appear he did.

15 Q. Did you do any investigation to Mr. Rodriguez and his
16 purchase of this Nikon camera?

17 A. I did. I was able to identify that a mailing was sent to
18 Mr. Rodriguez from the Click-N-Ship account, and based on that
19 tracking number, I was able to track that number and determine
20 that the package that was sent to him weighed approximately 3
21 ounces which is significantly less than a Nikon camera would
22 weigh.

23 Q. I'm going to show you what's marked and in evidence as
24 LC15-1. Do you know what this is?

25 A. Yes. This is a PayPal receipt that was sent to Liberty

1 Coin. The buyer was Robert Busby and shows the shipping
2 address to Robert Busby at 13940 Cedar Road, No. 360, and
3 shows the amount that was paid for the 10 gram gold bar which
4 was \$463.79.

5 Q. Is that consistent with what we just looked at on the
6 PayPal PP15-2?

7 A. Yes.

8 Q. Let's take a look at 15-3, LC15-3.

9 MR. DESAI: Ms. Dinuno, if you can highlight the
10 bottom portion of that.

11 Q. Postal Inspector Weckerly, can you tell us what this
12 document is?

13 A. Yes. This is another PayPal receipt to Liberty Coin. The
14 buyer is Robert Busby and the shipping address is the
15 defendant's UPS Store box, and the items purchased were one
16 ounce silver bar, one gram gold bar and five gram gold bar.

17 Q. These are all items purchased with the money sent by
18 Mr. Willfred Rodriguez?

19 A. Correct.

20 Q. I'm going to show you what's marked as Government's
21 Exhibit HM20, which contains inside of it HM20.1 and 20.2.

22 Postal Inspector Weckerly, what is HM20.1, 20.2?

23 A. This is one of the packages that we saw a photo of that
24 was seized from the defendant's residence from Liberty Coin to
25 Robert Busby, and inside is the gold and the invoice that goes

1 along with the purchase.

2 Q. This package was found at the residence during the search?

3 A. Correct.

4 Q. Was it opened at that time?

5 A. It was not.

6 Q. It was an unopened package?

7 A. Correct.

8 Q. When was the first time you saw this package?

9 A. At the time of the search of the defendant's apartment.

10 Q. When was the -- let me ask you this: As part of the
11 search, did law enforcement open the package?

12 A. We did.

13 Q. Is HM20 -- let me ask you this. What's 20.1 and 20.2,
14 just so we have that in the record?

15 A. The invoice is 20.1 and the gold is 20.2.

16 Q. And is HM20, the package, HM20.1, the invoice, and HM20.2
17 in the same or similar condition today as when you first saw
18 it?

19 A. Yes, except now the package is opened.

20 MR. DESAI: Government offers HM20.1, 20.2 and HM20
21 in evidence at this time.

22 MR. KAISER: No objection.

23 MR. DESAI: Ms. Dinuno, do you mind pulling up the
24 invoice, HM20.1?

25 THE COURT: It's admitted.

1 Q. Postal Inspector Weckerly, can you just identify what 20.1
2 is?

3 A. Yes. This is the invoice that was included in HM20.
4 Shows the ship to as Robert Busby at the defendant's UPS Store
5 box. It has a unique order ID number, and at the bottom, it
6 shows what the actual product was, the ten gram gold bar.

7 Q. Was that order ID number something we saw in the Liberty
8 Coin 15.1?

9 A. Yes.

10 Q. I'm going to show you -- let me ask you this. I'm going
11 to show you what's marked as 20.3, HM20.3. Do you know what
12 this is?

13 A. Yes. This is a photo of the gold bar that is contained in
14 this package.

15 Q. Does it fairly and accurately depict HM20.2?

16 A. It does.

17 MR. DESAI: Your Honor, we offer Government Exhibit
18 20.3 in evidence at this time.

19 MR. KAISER: No objection.

20 THE COURT: Admitted.

21 MR. DESAI: May it be presented to the jurors?

22 THE COURT: Yes.

23 MR. DESAI: Ms. Dinuno, can you pull up HM20.2?

24 Q. That's the -- what was that again?

25 A. It's a ten gram gold bar.

1 Q. Can you pick up and show the actual item, 20.2? Take a
2 look at -- if you can pull that down. I'm going to show you
3 what's marked as HM21, HM21.1, HM21.2, MM21.3 and HM21.4. The
4 dots are things that are inside HM21.

5 Postal Inspector Weckerly, do you know what HM21, 21.1,
6 21.2, .3 and .4 are?

7 A. Yes. HM21 is the package addressed to Robert Busby that
8 was seized from the defendant's residence, and 21.1 is the
9 invoice included inside of the package. 21.2 is a gold bar.
10 21.3 is a gold bar and 21.4 is a silver bar that was contained
11 inside the package.

12 Q. And when you -- at the time of the search, was this
13 package opened or closed?

14 A. It was not opened.

15 Q. Before today, had you -- is HM21, 21.1, 21.2, 21.3, and
16 21.4 in the same or substantially same condition today as it
17 was when you first saw it?

18 A. Yes, except the package is now opened.

19 MR. DESAI: Your Honor, government offers HM21, 21.1,
20 21.2, 21.3 and 21.4 in evidence at this time.

21 MR. KAISER: No objection.

22 THE COURT: Admitted.

23 MR. DESAI: May it be shown to the jury?

24 THE COURT: Yes.

25 Q. Postal Inspector Weckerly, why don't you, if you can, pick

1 up and show the package and the items inside of it?

2 MR. DESAI: Ms. Dinuno, if you don't mind pulling up
3 HM21.1.

4 Q. HM21.1, what is that and can you kind of go over that a
5 little bit with us?

6 A. That is the invoice that's inside of the package. It
7 shows it was shipped to a Robert Busby at the defendant's UPS
8 Store box, that it's from Liberty Coin, shows the order ID
9 number, the order date and then the products at the bottom,
10 five gram gold bar, a one ounce silver bar and a one gram gold
11 bar.

12 Q. I'm going to show you what's marked as HM21.5. Can you
13 tell us what this is?

14 A. This is a photo of the two gold bars and the silver bar
15 that were contained in this package, HM21, that were seized
16 from the defendant's residence.

17 Q. Does it fairly and accurately depict HM21.2, 21.3 and
18 21.4?

19 A. It does.

20 MR. DESAI: Your Honor, at this time the government
21 offers HM21.5 in evidence.

22 MR. KAISER: No objection.

23 THE COURT: Admitted.

24 MR. DESAI: May it be shown?

25 THE COURT: Yes.

1 Q. I'm going to show you what's marked as HM24 and HM25. Do
2 you know what these are?

3 A. These are opened packages that were seized from the
4 defendant's residence. They are addressed to individuals with
5 the same alias as the eBay and PayPal accounts we've seen
6 previously.

7 Q. How are these opened packages relevant to your
8 investigation?

9 A. These were products that were purchased with the victim's
10 money.

11 Q. And before today, had you seen these items before?

12 A. Yes, on the day of the search.

13 Q. Are Exhibits HM24 and HM25 in the same or substantially
14 same condition today as it was when you first saw them?

15 A. Yes.

16 MR. DESAI: Your Honor, we offer Government Exhibit
17 HM24 and HM25 in evidence at this time.

18 MR. KAISER: No objection.

19 THE COURT: Admitted.

20 MR. DESAI: May they be shown?

21 THE COURT: Yes.

22 Q. Inspector Weckerly, can you just read the sender and
23 recipient information on HM24 and show it to the jurors, the
24 package?

25 A. Yes. The sender is Lit E-Commerce Service, 2235 East

1 Locust Court, Ontario, California, and the recipient is
2 William Hill, 13940 Cedar Road, No. 360, RS Surplus LLC,
3 Cleveland, Ohio.

4 Q. Can you show the package to the jurors? I'm going to ask
5 if you can do the same with HM25, sender, recipient and show
6 it to the juror.

7 A. The sender is Keith Gamen, 5550 Honey Rock Road,
8 Chambersburg, Pennsylvania, and the recipient is Paul Jensen,
9 13940 Cedar Road, RS Surplus LLC, No. 360 University Heights,
10 Ohio.

11 Q. Thank you. I'm going to show you now what's marked as
12 HM22 and 22.1. Do you know what HM22 and 22.1 is?

13 A. Yes. 22 is an opened package that was seized from the
14 defendant's residence addressed to Michael Sliter, and 22.1 is
15 the corresponding invoice that was inside the package.

16 Q. And before today, had you seen this opened package and
17 invoice before?

18 A. Yes, on the day of the search.

19 Q. Is HM22 and 22.1 in the same or substantially same
20 condition today as it was when you first saw it?

21 A. Yes.

22 MR. DESAI: Your Honor, government offers HM22 and
23 22.1 at this time.

24 MR. KAISER: No objection.

25 THE COURT: Admitted.

1 Q. On the package, who is the sender and recipient?

2 A. PSG, LLC, 994 East 20th Street, Chico, California, and the
3 recipient is Michael Sliter, RS Surplus LLC, 13940 Cedar Road,
4 No. 360, University Heights, Ohio.

5 Q. Finally, you mentioned that you found receipts, invoices,
6 eBay and PayPal records that are relevant to your
7 investigation during the search?

8 A. Correct.

9 Q. What happened to much of those records after the search?

10 A. Unfortunately they were lost in the mail. I had sent them
11 via express mail to our Criminal Investigations Service Center
12 in Chicago, Illinois. The purpose of sending them there was,
13 because of the volume of records, that they were going to scan
14 them into a searchable PDF document for my investigation.
15 Unfortunately, they were lost in transit.

16 Q. And just so we can appreciate the irony of that a little
17 bit. This is a postal inspection case and the evidence was
18 lost in the mail?

19 A. Correct.

20 Q. Did you take photos of any of the items that were mailed
21 to Chicago?

22 A. I did.

23 Q. The items that you did not take photos of, what were they?

24 A. The items that I didn't take photos of were retail
25 receipts for places such as Trader Joes and Whole Foods and

1 not relevant to the investigation.

2 Q. What kind of receipt did you find at the residence other
3 than the Whole Foods and Trader Joe receipts?

4 A. There were USPS postal receipts and there were also eBay
5 and PayPal invoices.

6 Q. How are those relevant to your investigation?

7 A. The postal receipts relate back to mailings on the
8 Click-N-Ship and the invoices were for products that had been
9 purchased with the victims' money.

10 Q. I'm going to show you what's marked as Government's
11 Exhibit HM29. Do you know what HM29 is?

12 A. Yes. It's a USPS receipt that was seized from the
13 defendant's residence.

14 Q. And this is one of the items that wasn't shipped out?

15 A. Correct.

16 Q. And before today, had you seen this item before?

17 A. Yes, on the day of the search.

18 Q. Is HM29 in the same or substantially the same condition
19 today as when you first saw them?

20 A. Yes. It's a little more faded, but yes.

21 MR. DESAI: Your Honor, government offers HM29 into
22 evidence.

23 MR. KAISER: No objection.

24 THE COURT: Admitted.

25 MR. DESAI: May it be shown to the jurors?

1 THE COURT: Yes.

2 Q. Inspector Weckerly, if you can pick up that item real
3 quick and show it to the jurors. What's on that --

4 MR. DESAI: Ms. Dinuno, can you pull up HM29? Can
5 you focus in?

6 Q. Can you just identify to us the relevant information
7 that's on this receipt?

8 A. Sure. So here it shows what the weight of the package is.
9 Here would show the city, state and zip code that it was being
10 sent to. Here shows the acceptance date and time, and this
11 label number here is the tracking number for the package.

12 Q. These correlated back to some of the packages that were
13 sent to the victims?

14 A. Correct. That's why they are noted as prepaid mail pieces
15 because they had already been paid for on the Click-N-Ship
16 account.

17 MR. DESAI: Your Honor, at this time, we have a
18 number of physical exhibits. We're not going to be moving any
19 more physical exhibits. May I present them to the jurors?
20 Pass them around to them and collect them?

21 THE COURT: Yes.

22 MR. DESAI: Your Honor, the only thing that's still
23 going around is the vanilla Visa gift cards, but I think I can
24 continue in maybe going through it with the jurors.

25 THE COURT: All right. Go ahead.

1 Q. Postal Inspector Weckerly, I'm going to show you what's
2 marked as Government Exhibit HM30 to 35. Do you know what
3 HM30 through 35 is?

4 A. Yes. These are photos of USPS receipts that were seized
5 from the defendant's residence. These receipts were included
6 in the package that was lost.

7 Q. Do the photos fairly and accurately reflect the receipts
8 that were found and seized during the search of the
9 defendant's residence?

10 A. They do.

11 MR. DESAI: Your Honor, government offers HM30 to 35
12 at this time.

13 MR. KAISER: No objection.

14 THE COURT: Admitted.

15 MR. DESAI: May that be shown to the jurors?

16 THE COURT: Yes.

17 MR. DESAI: Ms. Dinuno, do you mind pulling up HM30?

18 Q. Ms. Weckerly, is this similar to what we just saw on HM29?

19 A. Yes.

20 Q. It identifies -- can you just show us where it identifies
21 tracking numbers?

22 A. Sure. The tracking number is right here where it says
23 label number.

24 MR. DESAI: Ms. Dinuno, if you don't mind, pull up
25 HM32. If you don't mind, pull up HM33, HM34 and last HM35.

1 Q. I'm going to show you what's marked as Government Exhibit
2 HM41 as well as I'm going to bring up to you at this time also
3 HM50 to 52, but we'll focus first on HM41. What is HM41?

4 A. It is an eBay packing slip addressed to George Hershberger
5 at the defendant's UPS Store box.

6 Q. Please don't read what's on the actual documents until
7 it's moved into evidence, but it's an eBay packing receipt?

8 A. Correct.

9 Q. How is it relevant to your investigation?

10 A. It is an item that was purchased with the victim's money.

11 Q. Does it fairly and accurately reflect an eBay packing slip
12 that was found and seized during the search of defendant's
13 residence?

14 A. It does.

15 MR. DESAI: At this time, the government offers HM41
16 in evidence.

17 MR. KAISER: No objection.

18 THE COURT: Admitted.

19 MR. DESAI: May it be shown to the jurors?

20 THE COURT: It may.

21 MR. DESAI: Before we pull that up, Ms. Dinuno, we're
22 going to do the other ones.

23 Q. I'm going to show you what's marked as HM50 to 52. Postal
24 Inspector Weckerly, do you know what these are?

25 A. Yes. These are three more photos of invoices that were

1 seized from the defendant's residence.

2 Q. And how are they relevant to your investigation?

3 A. These were products that were purchased with the victims'
4 money.

5 Q. Do they fairly and accurately reflect invoices that were
6 found and seized during a search at the defendant's residence?

7 A. They do.

8 MR. DESAI: Your Honor, government offers HM50 to 52
9 in evidence.

10 MR. KAISER: No objection.

11 THE COURT: Admitted.

12 MR. DESAI: May it be shown to the jurors?

13 THE COURT: Yes.

14 MR. DESAI: Ms. Dinuno, at this time, can we go back
15 and show HM41?

16 Q. Inspector Weckerly, can you identify the shipper, the
17 recipient and the item on this eBay packing slip?

18 A. The ship to is George Hershberger at the defendant's UPS
19 Store box. The shipping was from Dawn Buchanan in Gaines,
20 Michigan. The item purchased is an aluminum flat head slotted
21 machine screw for \$6.75.

22 Q. Let's take a look at HM50. Same thing, if you can just
23 identify who is the company. You don't have to say the
24 address of the company sending the item and the ship to and
25 the address and the item.

1 A. The company that sent this is Cave Springs Hobby, and it
2 was sent to Paul Bane at the defendant's UPS Store box and the
3 item is a fully threaded brass rod and it was \$14.97.

4 Q. Let's take a look at HM51. Can you do the same thing for
5 this one?

6 A. The sender was Mark Cass. It was shipped to Alma Dalzell
7 at the defendant's UPS Store box. The item is a diode and it
8 was \$13.50.

9 Q. Let's go to the next one, HM52. Can you do the same for
10 this one?

11 A. The sender is Good As New Electronics.Com and it was
12 shipped to Luke Ayres at the defendant's UPS Store box and it
13 is ear buds that were \$7.69.

14 Q. I got one last item from the search I want to show you.
15 Before I do, I'm going to have to jump into one of those
16 spreadsheets again.

17 MR. DESAI: Ms. Dinuno, do you mind pulling up
18 PP34.2? It's a spreadsheet. Go to the all transactions list.
19 I should have gone to PP34.1 first. If you don't mind pulling
20 that up on the system. It's not a spreadsheet. 34.1.

21 Q. That's the name and e-mail address associated with this
22 PayPal account 34?

23 A. Christopher Soto, CLSOTO5083@gmail.com.

24 Q. If you go to the PP34.2, the spreadsheet, all
25 transactions, can you just tell us what were the activities

1 that occurred on this spreadsheet, just briefly?

2 A. So it looks like on 12-2-15, Anosh Ayan paid a little over
3 \$754 for a product. The funds became available on 12-10-15,
4 and there was a check withdrawal from PayPal again on
5 12-10-15, and it looks like a check was issued for \$498 and I
6 can't see what the -- \$498.50.

7 Q. If you go to the payment receipt tab, there is a refund to
8 Mr. Anosh Ayan?

9 A. Correct.

10 Q. You can close that. I'm going to show you what is marked
11 as HM40. Postal Inspector Weckerly, do you know what this is?

12 A. Yes. It's a photo of a PayPal check that was seized from
13 the defendant's residence.

14 Q. How is it relevant to your investigation?

15 A. This check was issued with victims' money.

16 Q. Does it fairly and accurately reflect a PayPal check that
17 was found and seized during the search of defendant's
18 residence?

19 A. It does.

20 MR. DESAI: Your Honor, government offers HM40 in
21 evidence at this time.

22 MR. KAISER: No objection.

23 THE COURT: Admitted.

24 MR. DESAI: May it be shown to the jurors?

25 THE COURT: Yes.

1 MR. DESAI: Do you mind pulling up HM40? Let's look
2 at the bottom part, the bottom third.

3 Q. Postal Inspector Weckerly, can you tell us who the check
4 is made out to, the address and the amount?

5 A. It is made out to Christopher Soto at the defendant's UPS
6 Store box and the amount of the check is \$498.50.

7 Q. Postal Inspector Weckerly, there are approximately 161
8 eBay and PayPal accounts in this case as well as numerous
9 items found in the search of the residence, correct?

10 A. Correct.

11 Q. Have you had the opportunity to go through all the
12 evidence and summarize how the defendant is connected to each
13 and every of the eBay and PayPal accounts?

14 A. I have.

15 Q. I'm going to show you what's marked as Government Exhibit
16 S1. If you can tell us what that is.

17 A. This is a summary that I created outlining how the
18 defendant is connected to all 161 eBay and PayPal accounts.

19 Q. And based on what records did you use to create this
20 document?

21 A. EBay records, PayPal records, Liberty Coin records, the
22 items that were seized from the defendant's residence as well
23 as the results of the forensic examination of the electronic
24 devices and the Click-N-Ship records.

25 Q. All the items that you used to create this spreadsheet,

1 have they all been admitted into evidence at this time?

2 A. They have.

3 MR. DESAI: Your Honor, government offers S1 in
4 evidence at this time.

5 MR. KAISER: No objection.

6 THE COURT: Admitted.

7 MR. DESAI: May it be shown?

8 THE COURT: Yes.

9 MR. DESAI: Pull up S1. We'll go through the columns
10 and then look into it, but can you expand?

11 Q. What are the first couple of columns?

12 A. The first column is the eBay exhibit number. The second
13 column is the eBay user name that's associated with that
14 account. The alias is what the actual name is on that
15 account, and the eBay e-mail address is the e-mail address
16 associated with that eBay account.

17 Q. If we go further along.

18 A. The PP number is the PayPal exhibit number, and the PayPal
19 e-mail address is the e-mail address on that account. The LC
20 exhibit number is the Liberty Coin record that corresponds.

21 Q. Just so we understand, how do the Liberty Coin records
22 connect back to the defendant?

23 A. Those are the items that were purchased on that account
24 with the victims' money and sent to the defendant's UPS Store
25 box.

1 Q. And the next column, it's a pretty big column and has a
2 number of things in it, can you tell us what the top column is
3 and we'll go through individually?

4 A. Yes. These are either items, physical items that were
5 seized from the defendant's residence or results from the
6 forensic examination of the electronic devices at the
7 defendant's residence.

8 Q. It's almost kind of broken up into, I would almost say,
9 four columns within it; is that correct?

10 A. Correct.

11 Q. What's the first section?

12 A. The CC, those are the vanilla gift cards and which gift
13 card corresponds to which account.

14 Q. How are gift cards connected to the accounts?

15 A. Those are the credit card numbers that are uploaded to the
16 eBay and PayPal accounts.

17 Q. And the next column, there's a couple of things, HM; is
18 that correct?

19 A. Yes. Those would be physical items that were seized from
20 the defendant's residence.

21 Q. And that's the packages and invoices that we just looked
22 at?

23 A. Correct.

24 Q. Does that include the United States Postal Service
25 receipts?

1 A. Yes.

2 Q. How does the next internal column within that search item
3 exhibits, what is that and how does that connect?

4 A. TD6 is the cheat sheet that we've seen several times that
5 documents the IP addresses and the user names and e-mail
6 addresses for the eBay and PayPal accounts.

7 Q. There's also some other TD numbers; is that correct?

8 A. Yes. Those would be the Click-N-Ship labels that were
9 discussed when Mr. Wilkins testified.

10 Q. And then the last internal column within this search item
11 exhibit number section lists IPH-1 and other IPH exhibits?

12 A. Yes. The IPH-1 is the eBay and IP cheat sheet that was
13 located on the iPhone, and the remaining IPH numbers are the
14 photos that were -- of spreadsheets that were recovered from
15 the iPhone.

16 Q. All the accounts identified by eBay are connected to the
17 evidence found at the defendant's residence?

18 A. Correct.

19 Q. How does the -- if we go over to the next column, what's
20 the last column there?

21 A. That is based on the Click-N-Ship records. The "Y" there
22 means that there was a mailing on the Click-N-Ship records
23 with the same alias that was on the eBay or PayPal account.

24 MR. DESAI: You can take that down, Ms. Dinuno.

25 Q. Postal Inspector Weckerly, during the search of the

1 residence, did the defendant agree to be interviewed?

2 A. Initially, he did not, but later during our search, he
3 initiated contact with law enforcement and agreed to be
4 interviewed.

5 Q. When you say "he initiated contact," he asked to talk to
6 you guys?

7 A. Correct.

8 Q. Who interviewed him?

9 A. Myself and Postal Inspector Mike Adams.

10 Q. And was he provided his what we call Miranda warnings?

11 A. He was. In both instances both when he declined to speak
12 with us and later when he said that he did want to speak with
13 us, he was provided his rights both times, you know, the right
14 to remain silent, the right to an attorney, that he could stop
15 the interview at any point.

16 The first time, he did not waive those rights and the
17 second time he did waive those rights and agreed to talk to
18 us.

19 Q. How were those rights communicated to him?

20 A. Verbally and in written format.

21 Q. Ultimately, you indicated the second time he agreed to
22 talk to you guys?

23 A. Correct.

24 Q. I'm going to show you what's marked as Government Exhibit
25 LE1. Ms. Weckerly, do you know what LE1 is?

1 A. Yes. This is the form that states what the Miranda rights
2 are that I spoke of.

3 Q. Is it related to this investigation?

4 A. Correct.

5 Q. How so?

6 A. This was the form that was presented to the defendant on
7 the day of the search giving him what his rights were and
8 giving him an opportunity to waive those rights and speak with
9 us.

10 MR. DESAI: Your Honor, government offers Exhibit LE1
11 in evidence.

12 MR. KAISER: No objection.

13 THE COURT: Admitted. You can show it to the jury.

14 Q. Ms. Weckerly, there seems to be essentially three sections
15 to this document; is that correct?

16 A. Correct.

17 Q. Let's take a look at the first top section. Who's
18 handwriting is that?

19 A. That's mine.

20 Q. What's the title of this document?

21 A. "U.S. Postal Inspection Service Warning and Waiver of
22 Rights."

23 Q. And what is in your handwriting in your section?

24 A. The place of the interview and the date and time of the
25 interview or when this was presented to the defendant.

1 Q. The next section is a section called "Warning" and it has
2 a signature block?

3 A. Yes.

4 Q. What is provided in this section?

5 A. This is what the rights are that are being provided to the
6 defendant.

7 Q. And whose signature and what's the date and time in that
8 signature block?

9 A. That is Atticus Sliter-Matias' signature and the date is
10 7-5-16 and the time is 11:12 a.m.

11 Q. The last section, the next section is a waiver section?

12 A. Correct.

13 Q. And why don't you go ahead and read us what it says in the
14 waiver section?

15 A. "I am willing to discuss subjects presented and answer
16 questions. I do not want a lawyer at this time. I understand
17 and know what I am doing. No promises or threats have been
18 made to me and no pressure or coercion of any kind has been
19 used against me."

20 Q. Is that section signed and dated?

21 A. Yes. It's signed by the defendant on 7-5-16 at 11:12 a.m.

22 Q. There is signatures below that, correct?

23 A. Yes, that's my signature and Postal Inspector Mike Adams'
24 signature.

25 Q. What's the purpose of those signatures?

1 A. That we witnessed the defendant sign the waiver.

2 MR. DESAI: You can take that off the screen at this
3 time.

4 Q. Postal Inspector Weckerly, did the defendant, in his
5 interview with you, tell you about his place of residence and
6 his place of mailing?

7 A. He did. He told us that he had lived at his apartment for
8 approximately 12 years and that him and his mother had a box
9 at the UPS Store where they received mail.

10 Q. What, if anything, else did the defendant tell you during
11 the interview?

12 A. He claimed to work for an individual named Michael Sliter.
13 He said that he would send out mailings for this individual
14 and that he was paid approximately \$70 a month to do so.

15 He didn't provide any contact information for Mr. Sliter.
16 He said that he used his Click-N-Ship account for these
17 mailings. When he was pressed a little bit more about the
18 volume of mailings on that Click-N-Ship account, he did admit
19 to using it for other people.

20 He also said that the gold and the silver in the house was
21 his mom's retirement, and he admitted to opening stealth
22 accounts. He said he opened 20 eBay stealth accounts with
23 fake addresses and fake names. He said that through these
24 accounts that he sold laptops.

25 He denied being involved in any sort of fraud scheme. He

1 said that all of the buyers on his eBay accounts had received
2 the product except for one sale that had recently happened
3 where the buyer was in Texas and there were storms or
4 something along those lines and the buyer hadn't received the
5 item.

6 Q. Did he indicate if he was operating any businesses?

7 A. He did. He stated that he was operating businesses under
8 the names of Posatronix and RS Surplus.

9 Q. And you mentioned Click-N-Ship. Did he admit to operating
10 a Click-N-Ship account?

11 A. He did.

12 Q. At any time, did he tell you that he was selling stealth
13 accounts?

14 A. He did not.

15 Q. Did he tell you that he was receiving gold and silver from
16 such stealth accounts?

17 A. No.

18 Q. Did he indicate in any way that the gold and silver was
19 his in any way?

20 A. No.

21 Q. Did he tell you that there's any documentation of his
22 association with Michael Sliter?

23 A. No.

24 Q. Did he tell you there was any potential documentation?

25 A. I mean, he said that he operated this business with him,

1 but he didn't provide anything to us.

2 Q. Did he tell you that there was a terms and conditions form
3 that could be found in the house with the relationship between
4 him and Michael Sliter?

5 A. He did.

6 Q. Did you find any such terms and condition forms in the
7 house?

8 A. I did not.

9 Q. Did anyone find it?

10 A. No.

11 Q. Postal Inspector Weckerly, did you attempt to identify
12 Michael Sliter in the -- let me ask you this: Did he indicate
13 where Michael Sliter was residing in and what area?

14 A. He said he lived in Cleveland.

15 Q. Did you attempt to identify a Michael Sliter in the
16 Cleveland, Ohio, area?

17 A. I did through Ohio DMV records and other databases, I
18 attempted to locate a Michael Sliter in the Cleveland area,
19 and I was unable to find any information on a Michael Sliter.

20 Q. So there's no records indicating a Michael Sliter lived in
21 the Cleveland, greater Cleveland, Ohio area?

22 A. Correct.

23 Q. Did you review the forensic extraction report for the
24 defendant's iPhone for Michael Sliter?

25 A. I did.

1 Q. What was the result of that review?

2 A. There were no saved contacts for Michael Sliter nor were
3 there any communications with anyone regarding --

4 THE COURT: Let's take a break at this point to half
5 past. Let the jury stand down. Let everyone else remain as
6 you are.

7 THE CLERK: Court is now in recess.

8 (Jury excused.)

9 THE COURT: Jury is out. How much longer do you
10 anticipate with this witness?

11 MR. DESAI: Not much longer, Your Honor. Probably
12 another 20 minutes, 25 minutes, I think.

13 THE COURT: Let me consult with my lawyer. We're
14 going to be talking about instructions pretty soon. You may
15 stand down. We are in recess. Be at ease.

16 (Recess taken.)

17 THE CLERK: This court is now in session.

18 THE COURT: Go ahead.

19 BY MR. DESAI:

20 Q. Postal Inspector Weckerly, when we were last talking you
21 were explaining what you found as a result -- what your review
22 of defendant's iPhone was with regard to Michael Sliter.

23 Can you finish that up for us?

24 A. Yes. There was no contact information from Michael Sliter
25 in the iPhone nor was there any communication with anyone

1 regarding mailing packages for them.

2 Q. During the course of your investigation, did you come
3 across the name Michael Sliter?

4 A. I did.

5 Q. In what capacity?

6 A. I believe it's an alias used by the defendant. It is the
7 name the Click-N-Ship account is titled in and there was also
8 the open package that was seized from the defendant's
9 residence in the name of Michael Sliter.

10 Q. Just to be clear, the Click-N-Ship package, what credit
11 card was associated with that?

12 A. The Dollar Bank credit card of Atticus Sliter-Matias.

13 MR. DESAI: And, Ms. Dinuno, can you pull up HM21.1
14 now? HM21.1. I think it's HM22.1.

15 Q. What is HM22.1?

16 A. This is the invoice that was included in Exhibit HM22, the
17 opened package that was seized from the defendant's residence.

18 Q. And what's the name on the ship to?

19 A. Michael Sliter, RS Surplus LLC.

20 Q. And that's the defendant's company?

21 A. Correct.

22 Q. And what's the e-mail account that's associated to this
23 transaction?

24 A. PTXCDexia@gmail.com.

25 Q. Have you seen that e-mail before?

1 A. Yes. That e-mail address is also associated with the
2 Click-N-Ship account as well as on the iPhone that was seized
3 from the defendant's residence.

4 Q. Did you take any further steps to identify who was
5 accessing the PayPal accounts after the victims had sent money
6 to those accounts?

7 A. Yes. I was able to do an IP analysis from the PayPal
8 activity logs. We discussed those when Ms. Heathington
9 testified. Those are all the exhibits, the point 3s for the
10 PayPal exhibits. They document all the activities taken on
11 that account and the IP address associated with it.

12 I was able to take that information and compare it to IP
13 information for the gmail account that we just discussed.

14 Q. So you obtained records from the -- Google for that e-mail
15 account?

16 A. Correct.

17 Q. You mentioned the dot 3s. That's when I went through a
18 long list of numbers, a very lengthy list of numbers when
19 Ms. Heathington was testifying?

20 A. Correct.

21 Q. Have you ever opened a Google e-mail account?

22 A. I have.

23 Q. Do you have to provide a real name?

24 A. You do not.

25 MR. DESAI: At this time, Your Honor, I'd like to

1 read a stipulation in the record.

2 THE COURT: All right.

3 MR. DESAI: Ladies and gentlemen, the United States
4 of America and Atticus Sliter-Matias stipulate and agree that
5 Government Exhibit GM1 is in fact a true and accurate copy of
6 a business record that is made at or near the time of the act
7 that is kept as part of the normal course of Google's
8 business.

9 Therefore, the parties agree that the Government
10 Exhibit GM1 is authentic. That is, that said exhibit
11 represents true and correct copies of records generated and
12 kept by Google, Inc. and no further evidence or witness needs
13 to be offered in support of the exhibit's authenticity.

14 Q. Postal Inspector Weckerly, I'm going to show you what's
15 marked as Government Exhibit GM1 and I was able to provide a
16 copy to defense counsel at break.

17 Do you know what that is?

18 A. Yes. These are the records that I received from Google
19 for the gmail account, the PTXCDexia gmail account.

20 Q. You were able to use this information for your analysis on
21 the IP records?

22 A. Correct.

23 MR. DESAI: Your Honor, government offers GM1 in
24 evidence at this time.

25 MR. KAISER: No objection.

1 THE COURT: Admitted.

2 MR. DESAI: May it be shown to the jurors?

3 THE COURT: Yes.

4 Q. Let's take a look at the first top part. Postal Inspector
5 Weckerly, what does the information generally mean when it
6 says Google subscriber information?

7 A. This is the information that would have been provided when
8 the gmail account was created.

9 Q. It's kind of like the registration information that we saw
10 in the eBay and PayPal accounts?

11 A. Correct.

12 Q. What is the name of that e-mail associated with this
13 record?

14 A. The name is Posatronix LLC and the e-mail address is
15 PTXCDEXIA@gmail.com.

16 Q. Posatronix is the defendant's company, something he
17 indicated in the interview as his company?

18 A. Correct.

19 Q. A little further down, there's a set of -- a table; is
20 that right?

21 A. Yes.

22 Q. There's three columns?

23 A. Yes.

24 Q. What is in this table and what are the columns?

25 A. So this shows the date and time a specific IP address was

1 used to either log in or log out of this gmail account.

2 Q. And what did you learn when you compared the IPs from this
3 document, the log-ins and log-outs of this gmail account to
4 the PayPal activity logs activity?

5 MR. KAISER: Objection.

6 THE COURT: What's the ground?

7 MR. KAISER: I don't know that she is qualified to
8 make that assessment.

9 THE COURT: Overruled. Exception saved.

10 A. I was able to determine from these gmail records and
11 looking at the activity logs of the PayPal accounts that the
12 same IP address accessed both this gmail account and the
13 PayPal accounts within the same short period of time. The
14 access to the PayPal accounts had occurred after the
15 fraudulent sale on the eBay accounts.

16 Q. I'm going to show you what's marked as Government Exhibit
17 S2. Do you know what this is?

18 A. Yes. This is a summary of my IP analysis with the Google
19 and the PayPal records.

20 Q. Who created this?

21 A. I did.

22 Q. Again, what are the underlying exhibits that were used to
23 create this document?

24 A. The gmail records and the PayPal activity logs.

25 Q. All of those have been admitted into evidence to date.

1 A. Correct.

2 Q. And did you ever standardize the times of the IP logs?

3 A. I did. The Google records were in universal time and the
4 PayPal records were in Pacific standard time, so I
5 standardized them to eastern standard time.

6 Q. Did you account for daylight savings?

7 A. I did.

8 MR. DESAI: Your Honor, government offers Government
9 Exhibit S2 in evidence at this time?

10 MR. KAISER: Same objection.

11 THE COURT: Overruled. Exception saved.

12 MR. DESAI: May it be shown to the jurors?

13 THE COURT: You may.

14 Q. Can you walk us through this exhibit, what the different
15 columns are and what's provided in there?

16 A. Sure. The first column is the date that the IP address
17 was used. The second column is the actual IP address. The
18 third column is the time that that IP address accessed the
19 gmail account, and you'll see on some of them, they say
20 consecutive log-ins. That was taken from the gmail records
21 where it would show how many consecutive log-ins with that IP
22 were used 24 hours before the noted time there.

23 The next column is from the time the IP address would have
24 accessed the PayPal activity logs, and that is listed in a
25 range. I used the first time that that IP address was used in

1 the PayPal account and then the last time it was, so that is
2 what that range is for.

3 The next column is what eBay and PayPal exhibit number
4 this corresponds to. The column after that would note the
5 last sale from that eBay account, and then the final column is
6 the purchase that was made on that account.

7 Q. If we take a -- why don't we go down midway through to a
8 date of 11-2 and 11-3.

9 Do you see that Postal Inspector Weckerly?

10 A. Yes.

11 Q. What's the IP address associated on that day?

12 A. 70.239.12.236.

13 Q. When was it accessing -- that IP was accessing the gmail
14 account?

15 A. At 2:25 p.m. and 2:28 p.m. and additionally on 11-3 at
16 1:49 a.m. and there had been 34 consecutive log-ins with that
17 IP 24 hours prior to 1:49 a.m.

18 Q. Was that IP address also accessing a specific PayPal
19 account?

20 A. Yes.

21 MR. DESAI: And, Ms. Dinuno, if you don't mind
22 scrolling over a little more.

23 A. It accessed the PayPal account between 11:27 a.m. and
24 11:35 a.m. on the 2nd.

25 MR. DESAI: Ms. Dinuno, can you scroll a little more?

1 Q. What account number was that?

2 A. 3.

3 Q. Do you know who the victim was for PayPal account 3?

4 A. Eric Dirksen.

5 MR. DESAI: Ms. Dinuno, if you don't mind, we're
6 going to go to TD6 real quick. Let's go to the IP active tab.
7 Go down to row 5480. Can you just make it a little bit bigger
8 on the screen?

9 Q. Postal Inspector Weckerly, we're back at the TD6 document
10 and this is the IP active tab?

11 A. Correct.

12 Q. What's the IP address listed there?

13 A. 70.239.12.236.

14 Q. Was that the same IP you just talked about on the S2
15 exhibit?

16 A. It is.

17 Q. What's the user name in column B?

18 A. NSConstantine36638@gmail.com.

19 Q. Do you know what PayPal account that connects to?

20 A. No. 3.

21 Q. What's in the note section?

22 A. MM0411 release funds.

23 Q. Let's take a look at -- since we're in this document,
24 let's go to 5520. What's the IP address, user name and what
25 PayPal does that goes in the note section?

1 A. The IP is 75.10.152.128. The user name is
2 ALBenson1174@gmail.com and that corresponds to eBay and PayPal
3 No. 2, and the notes are AM0231 release funds.

4 MR. DESAI: Ms. Dinuno, if you don't mind, let's go
5 back to S2, and if you focus on the date of 11-13-2015.

6 Q. Is that the same IP address you just identified on the TD6
7 associated with the second PayPal account?

8 A. It is.

9 Q. What's the date that IP address is accessing the gmail and
10 PayPal accounts?

11 A. November 13, 2015 and it accessed the gmail account at
12 12:57 p.m. and the PayPal account between 11:51 a.m. and 12:18
13 p.m.

14 Q. And if we scroll over to see the PayPal exhibit, what
15 PayPal exhibit does it go to?

16 A. No. 2.

17 Q. That's the one we just talked about on the TD6 exhibit?

18 A. Correct.

19 Q. Do you recall who the victim was in that one?

20 A. Michael Appley.

21 Q. Let's go to the date of 11-30 on this S2 exhibit. Can you
22 tell us what the IP address is and when it was accessing the
23 gmail and PayPal accounts and which account, PayPal account is
24 accessing it?

25 A. The IP is 70.239.8.240 and that IP was used on November

1 30, 2015. It accessed the gmail account at 12:33 p.m. and
2 there were 13 consecutive logs-in, 24 hours prior to that
3 time. It accessed the PayPal account between 8:41 a.m. and
4 9:48 a.m., and that corresponds to PayPal account 6.

5 Q. That's associated with the victim Darleen Ferguson?

6 A. Correct.

7 Q. Let's go back to the TD6. Let's go to row 5565. Can you
8 tell us the IP, user name and what account that corresponds to
9 and what it says in the notes?

10 A. The IP is 70.239.8.240. The account is
11 JKBryant180@gmail.com which corresponds to eBay and PayPal
12 Exhibit 6 and the notes are AM0233 release funds.

13 Q. Is that the same IP address we had seen before?

14 A. It is.

15 Q. And the JK Bryant e-mail, what account does that go to
16 again?

17 A. Six.

18 Q. Let's take a look at row 5577. Tell us what the IP
19 address is there, the user name, what account it goes to and
20 the notes?

21 A. The IP address is 108.89.241.202. The account is
22 CJClark912@gmail.com which corresponds to eBay and PayPal
23 account No. 4 and the note says MM0423 release funds.

24 Q. And let's go back to S2. Let's go to the date of
25 12-3-2015. What's the IP address there and was it the same as

1 you just read for on the TD6 exhibit?

2 A. 108.89.241.202 and, yes, it's the same.

3 Q. When was that IP address accessing the e-mail account and
4 the PayPal accounts?

5 A. The date was December 3rd, 2015. It accessed the gmail
6 account at 4:36 p.m. with four consecutive log-ins in the 24
7 hours prior to that time and it accessed the PayPal account at
8 8:02 a.m. through 9:05 a.m.

9 Q. If we scroll over, what account is that connected to?

10 A. No. 4.

11 Q. Who was the victim for the PayPal account 4?

12 A. Pablo Bejarano.

13 Q. Last, let's look at the 12-7-2015 entry. Can you identify
14 the IP address, the date and time it was accessing the eBay
15 and PayPal accounts -- I'm sorry, the gmail and PayPal
16 accounts?

17 A. Yes. The IP address is 75.10.132.25, and the date is
18 December 7, 2015. It accessed the gmail account at 12:30 p.m.
19 with 17 consecutive log-ins 24 hours prior to that time.
20 Accessed the PayPal account between 8:56 a.m. and 9:24 a.m.,
21 and that corresponds to PayPal account No. 1.

22 Q. Again, who is the victim in account 1?

23 A. Ray Offner.

24 Q. Let's go to the GS IP active row 5591. What's the IP
25 address, the user name, what does that account go to and

1 what's the notes on that one?

2 A. The IP is 75.10.132.25. The account is
3 KCSmith2397@gmail.com, and that's account No. 1. The notes
4 are MM0429 release funds.

5 Q. Is this the same IP address associated with the same
6 account that you saw and read in off of your S2 exhibit?

7 A. Yes.

8 Q. Postal Inspector Weckerly, what does your S2 exhibit
9 essentially tell us?

10 A. That the same individual who accessed the gmail account
11 also accessed the PayPal account after the fraudulent sale on
12 eBay.

13 MR. DESAI: No further questions from the government,
14 Your Honor.

15 CROSS-EXAMINATION

16 BY MR. KAISER:

17 Q. Hi.

18 A. Hi.

19 Q. We've met before, haven't we?

20 A. We have.

21 Q. I'm going to ask you, I think, a whole bunch of questions,
22 and if there's any question that I ask you you don't
23 understand, I'm sure you'll let me know that, right?

24 A. Yes.

25 Q. Now, there's been testimony as to sales on eBay to various

1 different victims. To I think it's 151 victims; is that
2 correct?

3 A. 161 accounts.

4 Q. 161 accounts. Let's start with one that actually
5 testified, Ray Offner. You'll recall he testified, right?

6 A. Yes.

7 Q. And there was an advertisement, was there not, that was
8 placed on eBay?

9 A. Yes.

10 Q. And it had a picture, did it not, of what was being sold?

11 A. Yes.

12 Q. And that advertisement has not been linked to defendant's
13 computer, has it?

14 A. There are numerous links to the defendant. That image in
15 particular if that's what you are speaking of?

16 Q. Yes.

17 A. That image in particular, no.

18 Q. Okay. And that advertisement has not been linked to --
19 Mr. Wilkins didn't find it on the defendant's computer; is
20 that correct?

21 A. He didn't find the photo on his computer that was included
22 in the listing, no.

23 Q. He also didn't find the advertisement, did he, stating how
24 much it cost and everything?

25 A. No.

1 Q. And he also didn't find it on all of the other
2 apparatuses, I'm not sure if it's apparatuses or apprati
3 [sic], but when I talk in terms of apparatuses in the future,
4 I'll be referring to everything that was taken and seized from
5 the defendant's residence. Is that fair?

6 A. Sure.

7 Q. That was several computers, several hard drives, a cell
8 phone, an iPad and several thumb drives; is that right?

9 A. Correct.

10 Q. And so nothing was found by Mr. Wilkins with respect to
11 these -- the eBay advertisement, question from Mr. Offner on
12 any of these apparatuses, correct?

13 A. Correct.

14 Q. And nothing was found also with the picture of the phone
15 that was sold to Mr. Offner on any of these apparatuses,
16 correct?

17 A. No photos were located, correct.

18 Q. Let's go to the MacBook Pro that I believe was sold to
19 Mr. Appley, correct?

20 A. Yes.

21 Q. And again, I'll ask you the same question. So the
22 advertisement to which Mr. Appley responded that was placed on
23 eBay, that was not found on any computer or any apparatus that
24 was seized from the defendant's residence; is that fair?

25 A. Correct.

1 Q. And also the picture of the Mac Pro, whatever it was, was
2 not found on any apparatus that was seized from the
3 defendant's residence; is that fair?

4 A. That is, but there was not -- I did not include that in my
5 request. When Mr. Wilkins did the forensic examination, there
6 was not a request to look for those type of photos.

7 Q. I didn't ask you why he didn't find it, did I?

8 A. No. I was just explaining part of my request.

9 Q. Did I ask --

10 MR. DESAI: Objection, Your Honor. This is
11 argumentative.

12 MR. KAISER: I'll move forward.

13 THE COURT: Sustained.

14 Q. Bottom line is it was not found, correct?

15 A. Correct.

16 Q. Now, let's talk about Mr. Eric Dirksen for a second.

17 A. Okay.

18 Q. I think the same applies to Mr. Dirksen, does it not?
19 There was no finding by Mr. Wilkins of any picture of anything
20 that was being sold that Mr. Dirksen bid upon; is that
21 correct?

22 A. Correct.

23 Q. And the same with the advertisement, correct?

24 A. Correct.

25 Q. And that was with respect to all of the apparatuses that

1 Mr. Wilkins looked at, correct?

2 A. Yes.

3 Q. Now, have you on your own found any pictures on the
4 computers or any other apparatuses to link the defendant's
5 computer or any of his apparatuses to these pictures or to
6 these advertisements?

7 A. I have not found any photos linked to the defendant, no.

8 Q. And the same with Darleen Ferguson, I believe. Can we say
9 the same with Darleen Ferguson? She also testified. Do you
10 recall that?

11 A. Darleen Ferguson, yes.

12 Q. Darleen, I'm sorry. And there was no finding of any
13 picture on the defendant's computer that would be linked to
14 what Ms. Ferguson bid upon at the eBay auction; is that fair?

15 A. Correct.

16 Q. No finding of any advertisement as to what the price was
17 and how old it was and whatever it was that was advertised?

18 A. Correct.

19 Q. None of that was found on any apparatus seized from the
20 defendant's place, apartment?

21 A. Correct.

22 Q. And Pablo Bejarano, I think it was?

23 A. Bejarano.

24 Q. Can I just refer to him as Pablo?

25 A. Sure.

1 Q. No picture was found that Pablo bid upon that's been found
2 on any of the apparatuses in the defendant's computer,
3 correct?

4 A. Correct.

5 Q. And no advertisement that he responded to was ever found
6 on the defendant's computer, correct?

7 A. Correct.

8 Q. Or any of the apparatuses seized from the defendant's
9 home, right?

10 A. Right.

11 Q. Now, there were certain communications that the -- that
12 these people had testified to when there were problems that
13 surfaced when they first didn't get their goods in a timely
14 manner. They sent a request to the seller as to why that was.
15 Do you recall that testimony?

16 A. Yes.

17 Q. There was also a response from the seller as to these
18 requests. Do you recall those responses in the evidence?

19 A. Yes.

20 Q. And none of those e-mails were ever linked or ever found
21 on any of the apparatuses that were seized from the
22 defendant's residence; is that fair?

23 A. Yes.

24 Q. And none of the responses were ever seized from the
25 defendant's residence; is that fair?

1 A. Correct.

2 Q. And do you know what a browser history is?

3 A. I do.

4 Q. Nothing in the browser history of any of the computers
5 seized had any of these -- any of this information on it; is
6 that correct?

7 A. Can you be more specific? Any of what information?

8 Q. Any of the information that we've spoken to up to this
9 point in time. The pictures that were placed on eBay?

10 A. No, but I think it was testified to earlier that that can
11 be deleted, the browser history.

12 Q. Do you have any evidence that it was deleted?

13 A. I'm honestly not the expert in that area, so I wouldn't
14 know whether there was evidence of that or not.

15 Q. Do you know of any testimony that's come before this court
16 up to this point in time that says that it was deleted?

17 A. I don't.

18 Q. Now, do you have any evidence as to the other -- my math
19 is not the best, 156 victims, that any of the pictures to
20 which they responded on eBay before they entered into the
21 auction on eBay that any of those pictures as to any of the
22 156 other victims were linked to the computer or any of the
23 apparatuses taken from the defendant's apartment?

24 A. No.

25 Q. And the same with the pictures. Were there any pictures

1 that were found from any of the other 156 victims that were
2 linked to the defendant's computer?

3 A. No.

4 Q. Now, did your investigation uncover any communication
5 whatsoever between the victim and Mr. Offner?

6 A. Between the victim and Mr. Offner?

7 Q. Between Mr. Offner and the defendant.

8 A. No.

9 Q. It will only get worse. What about similar -- no text
10 messages, no e-mails, no phone calls, no in-person meetings,
11 nothing?

12 A. No.

13 Q. We'll ask the same questions with respect to Mr. Appley.
14 Did you have any evidence at all that the two of them had ever
15 communicated in any way?

16 A. No.

17 Q. And the same with Pablo, that there's no evidence -- is
18 there any evidence, to your knowledge, that Pablo and the
19 defendant have ever communicated by way of text message,
20 telephone call, in-person meeting, e-mail, any way at all?

21 A. I mean, there's evidence that the defendant was operating
22 these accounts, so I guess I would have to say to that
23 question, it does appear there was communication.

24 Q. Communication between the two of them?

25 A. Correct. The evidence shows that the defendant had

1 control of these accounts.

2 Q. Can you point to any e-mail that was sent between him and
3 Pablo?

4 A. Well, I mean, I think the e-mails were entered earlier
5 with the defendant, the alias for the eBay account was listed
6 on that e-mail, but the evidence in the investigation shows
7 that the defendant was operating those accounts.

8 Q. Well, let me clarify, and again, is there any evidence
9 that had the defendant's name on it with respect to any
10 e-mails that were sent?

11 A. No.

12 Q. And any evidence from his cell phone that any text message
13 was sent to Pablo?

14 A. No.

15 Q. And any evidence from any personal e-mail that was sent
16 from him to Pablo?

17 A. No.

18 Q. Now, prior to Mr. Wilkins testifying and looking at the --
19 prior to him examining the evidence in this case that you sent
20 to him, did you know of anything that was damaged?

21 A. I did not.

22 Q. Now, you sent the evidence, I believe, from Pittsburgh to
23 St. Louis; is that right?

24 A. Correct.

25 Q. And that's where his office is, Mr. Wilkins, correct?

1 A. Correct.

2 Q. It was sent by way of the U.S. Postal Service; is that
3 right?

4 A. Yes.

5 Q. And so you don't know how the computers got damaged,
6 correct?

7 A. I don't. I know that I packaged them according to policy
8 and mailed them to him. You know, what happened during the
9 transport, I would have no knowledge of.

10 Q. That's right. And nobody came in here to testify as to
11 how the evidence was transported, fair?

12 A. I mean, it was transported via U.S. mail. I know that.

13 Q. But nobody came and testified as to how they handled the
14 package when it got to the post office in Pittsburgh or how it
15 was handled in St. Louis when it arrived in St. Louis. Nobody
16 testified to that, correct?

17 A. No.

18 Q. So you don't know whether it was damaged during the
19 transport or not, correct?

20 A. I don't.

21 Q. Now, there were thousands of accounts on this computer; is
22 that fair?

23 A. What do you mean by "thousands of accounts"?

24 Q. Thousands of -- what are you referring to as the 151
25 accounts?

1 A. The 161 accounts.

2 Q. 61 accounts. I'll get it right eventually.

3 A. Are you talking about the spreadsheet?

4 Q. Yes.

5 A. Yes.

6 Q. Thousands. There were over 5,000, I think, accounts?

7 A. That was in the IP log, yes, there were over 5,000
8 entries.

9 Q. 5800; is that correct?

10 A. I think it was like 5600, yes.

11 Q. You have 161 victims is what you are saying, right?

12 A. There are 161 accounts that have been presented.

13 Q. Are you suggesting there's only one victim to each
14 account; is that fair?

15 A. There are a few accounts that Mr. Huhnke testified were
16 identified as new accounts that didn't have any activity on
17 them yet, so there wouldn't have been any victims for those
18 accounts.

19 Q. So there's less than 161 victims, right?

20 A. Correct.

21 Q. And the government has presented testimony from only five
22 of them, right?

23 A. Correct.

24 Q. And only two of them live within the jurisdiction of this
25 court; is that right?

1 A. Correct.

2 Q. Did you check out the defendant's criminal history?

3 MR. DESAI: Objection, Your Honor.

4 THE COURT: Sustained.

5 Q. You interviewed the defendant, did you not?

6 A. I did.

7 Q. Did you ask him about if he had ever been in trouble
8 before?

9 A. I honestly don't recall.

10 MR. DESAI: Objection.

11 THE COURT: Sustained.

12 Q. Do you recall when you first interviewed him mentioning --
13 him mentioning stealth accounts to you?

14 A. I do.

15 Q. And he also denied any criminal activity with respect to
16 this situation, did he not?

17 A. He denied involvement in a fraud scheme.

18 Q. With respect to the Click-N-Ship accounts, he did admit to
19 you that he had a Click-N-Ship account on his computer, right?

20 A. He admitted to operating a Click-N-Ship account, having
21 one, yes.

22 Q. And he referred to it as a packaging forwarding service,
23 did he not?

24 A. He did.

25 Q. You mentioned several times in your testimony the words

1 cheat sheet.

2 A. Yes.

3 Q. Is there any document that was taken from the defendant's
4 house that was actually labeled by the defendant as a cheat
5 sheet?

6 A. No. They were labeled as eBay and then various numbers.

7 Q. So you came up with the term cheat sheet; is that right?

8 A. Yes. I mean, I think of, you know, the passwords that I
9 have to various things and keeping them straight. That's what
10 I would call it.

11 Q. But the defendant never used the term cheat sheet in your
12 presence, correct?

13 A. Correct.

14 Q. Do you know what FSIA stands for?

15 A. I don't.

16 Q. All of the eBay documents that we've seen in this case
17 were prepared by eBay representatives, correct?

18 A. Correct.

19 Q. I believe Mr. Huhnke, I believe, was the one who
20 prepared --

21 A. Yes. He's the investigator.

22 Q. And all of the PayPal documents were created by the PayPal
23 representative who testified; is that right?

24 A. Yes.

25 Q. You spoke in terms of a Mr. Rodriguez. Do you recall that

1 testimony?

2 A. Yes.

3 Q. You claim that he was -- was he reimbursed?

4 A. It did not appear so.

5 Q. Did you speak with Mr. Rodriguez?

6 A. I did not.

7 Q. So you are basing this on your looking at records,
8 correct?

9 A. Yes. I'm basing that on the review of the PayPal records
10 as well as the tracking information for the package that was
11 mailed to him from the Click-N-Ship account.

12 Q. But you never called Mr. Rodriguez to ask him his side of
13 the story, did you?

14 A. I may have attempted to reach him. I reached out to a
15 very large majority of the individuals who had received
16 packages from the Click-N-Ship account. Some of them, I was
17 just not able to reach, so I'm not sure whether I attempted or
18 not.

19 Q. Now, with respect to the lost evidence, do you recall
20 doing a memo to your file?

21 A. I do.

22 Q. Do you recall that it was on August 3rd, 2016 to September
23 2nd, 2016, the period that was involving your memo to the
24 file?

25 A. Yes.

1 Q. And nowhere in that memo did you state specifically what
2 had been lost, did you?

3 A. I honestly don't recall without looking at it. I believe
4 that I may have marked the evidence numbers, our internal
5 numbers that identified the evidence.

6 Q. Do you recall indicating that 23 pounds of evidence had
7 been lost?

8 A. Yes.

9 Q. And I believe that it was approved to be shipped to
10 Chicago on August 2nd, 2016, and that you actually transferred
11 the evidence to Federal Express the following day on August
12 3rd. Does that ring a bell?

13 A. It would have been sent via express mail through the U.S.
14 Postal Service.

15 Q. Through the U.S. Postal Service?

16 A. Yes.

17 Q. And that would have been -- does August 3rd seem like it's
18 correct to you?

19 A. That sounds about right.

20 Q. 2016?

21 A. Correct.

22 Q. And in that memo, you indicated that it had not been
23 recovered as of 9-2, September 2nd, 2016. Do you recall that?

24 A. Yes.

25 Q. Has it been recovered to this day?

1 A. No.

2 Q. Now, you looked at HM41, Exhibit HM41 during your
3 testimony?

4 A. Yes.

5 Q. Do you have that in front of you? Do you have that?

6 A. Yes.

7 Q. You indicated during your testimony that something was
8 purchased with the victim's money. Do you recall that
9 testimony?

10 A. Correct.

11 Q. Who was the victim in that case?

12 A. Without looking at the eBay and PayPal records, I wouldn't
13 know that from memory.

14 Q. And the same thing with respect to Exhibit HM50 to 52.
15 You indicated in your testimony that it was purchased with the
16 victims' money, but again, you would have to look at the
17 records to see who the alleged victims were, right?

18 A. Yes. It would be the individuals who made purchases for
19 those accounts and then were ultimately reimbursed by eBay or
20 PayPal.

21 Q. Do you know whether you have spoken to any of these
22 victims personally?

23 A. I wouldn't know without seeing their names in the notes
24 from the individuals I spoke to on the Click-N-Ship account.

25 Q. And the same with Exhibit HM40. You said it was purchased

1 with the victims' money, but again, you don't know without
2 reviewing your records who that victim would have been,
3 correct?

4 A. I wouldn't know their name without looking at the records,
5 correct.

6 Q. You don't know whether you've spoken to them or not,
7 correct?

8 A. I spoke with a number of the individuals who received
9 packages, but without looking at my notes, I wouldn't be able
10 to say specifically.

11 Q. Looking at Exhibit S1, please tell me when you have that
12 in front of you.

13 A. Yes, it's in front of me.

14 Q. There's a lot of accounts that are mentioned in S1; is
15 that right?

16 A. Yes.

17 Q. How many; do you know?

18 A. 161.

19 Q. And of that 161, how many referenced Liberty Coin? I
20 believe my notes indicate that 2 to 21 logs victims 2 to 21
21 were referenced with Liberty Coin. Is that a fair statement?

22 A. Correct.

23 Q. So 19 of the 161 victims were linked to Liberty Coin; is
24 that fair?

25 A. I believe there would be 20.

1 Q. You are probably right.

2 A. Yes.

3 Q. It's fair to say -- I think the document pretty much
4 speaks for itself on S1 -- there's no names of any victims
5 that's listed on S1, correct?

6 A. Not any names of victims, no.

7 Q. Are you an expert on IP accounts?

8 A. No.

9 Q. The gold that was taken from the apartment that there have
10 been pictures of in evidence, the defendant has indicated to
11 you that he earned all of that legally, correct?

12 A. No. What he stated to me was that it was his mother's
13 retirement.

14 Q. Well, he did say that it was not taken surreptitiously or
15 illegally?

16 A. He stated he was not involved in a fraud scheme.

17 Q. And the money, he told you that was his and his mother's
18 life savings, did he not?

19 A. He told me that it was his mother's retirement.

20 Q. The money?

21 A. He claimed that -- I honestly don't recall what he said
22 about the cash.

23 Q. There was 170 odd thousand dollars in cash though,
24 correct?

25 A. Correct.

1 Q. Did he indicate to you why they had such a large amount of
2 money in the house, in the apartment?

3 A. If I recall, he reported to me that they did do not
4 believe in the banking system.

5 Q. Did he also indicate to you why he was keeping the gold in
6 the apartment?

7 A. I believe it was the same reason, that he didn't believe
8 in the banking system.

9 Q. And with respect to all of these exhibits, and they are
10 voluminous, is there Atticus' name on any of the PayPal
11 exhibits?

12 A. No.

13 Q. Does his name appear on any of the eBay exhibits?

14 A. No.

15 MR. KAISER: Nothing further, Your Honor.

16 REDIRECT EXAMINATION

17 BY MR. DESAI:

18 Q. Postal Inspector Weckerly, you were asked a lot about
19 whether the defendant's name was on PayPal and eBay accounts,
20 correct?

21 A. Correct.

22 Q. The defendant indicated he was making stealth accounts.

23 A. He did.

24 Q. What's the purpose of the stealth accounts?

25 A. To avoid suspension by eBay. What he had reported to me

1 was that he had eBay accounts in the past that had been
2 suspended by eBay, and in order to avoid that, he created
3 these stealth accounts with fake names and addresses.

4 Q. What's the point of fake names and addresses?

5 A. To avoid being identified.

6 Q. It wouldn't make any sense to have a stealth account in
7 your actual name?

8 A. Correct.

9 Q. That would just be an account?

10 A. Correct.

11 Q. You were asked if the advertisement was found on the
12 computer. Do you understand how eBay works?

13 A. Yes.

14 Q. Is it a website that you go to to make the advertisement?

15 A. Yes.

16 Q. Would an advertisement go on to your computer?

17 A. No.

18 Q. It would be with eBay's computers where you made the
19 account. You've logged into that account. It would be with
20 eBay's system?

21 A. Correct.

22 Q. You were asked a lot about photos that weren't found on
23 the devices. Do you remember that?

24 A. Yes.

25 Q. Did law enforcement in this case look for photos?

1 A. We did not. As I said, that was not part of our request.

2 Q. So photos could be on those devices?

3 A. Yes.

4 Q. It could be on the encrypted portion of the hard drives?

5 A. Correct.

6 Q. You were asked about communications with the victims,
7 specifically, communication to the name of the defendant. Do
8 you recall that?

9 A. Yes.

10 Q. In your experience, have you purchased things online
11 before?

12 A. Yes.

13 Q. In that type of scenario, do you have in-person meetings,
14 phone calls, text messages with the seller?

15 A. No.

16 Q. Do you recall the iPhone 8 exhibits and the notifications
17 on that?

18 A. Yes.

19 Q. On that exhibit, was there information coming -- messages
20 coming from eBay from a seller or from a buyer?

21 A. There were. There was notification on there that a buyer
22 had a question and had requested a refund.

23 Q. Finally, you were asked a little bit about the Liberty
24 Coin records that only related to 20 accounts. Did you review
25 the 161 accounts?

1 A. I did.

2 Q. Was there gold and silver purchased from other vendors?

3 A. Yes, there was.

4 Q. What was the physical addresses for the shipping addresses
5 on the eBay and PayPal accounts?

6 A. They were the defendant's UPS Store box.

7 Q. In addition to the initial --

8 A. In addition to the fake address, yes.

9 Q. So there was no one else getting any shipments?

10 A. Correct.

11 MR. DESAI: No further questions, Your Honor.

12 MR. KAISER: Just a few on recross, Your Honor.

13 RECROSS-EXAMINATION

14 BY MR. KAISER:

15 Q. Do you know what it means to upload something from a
16 computer on to another website?

17 A. Yes.

18 Q. So in order to -- for a seller to get his advertisement on
19 to eBay, he would have to upload it, would he not, from some
20 sort of apparatus, be it a cell phone or computer or
21 something?

22 A. Not necessarily. There's a way that you would be able to
23 copy and paste any photo that you found on the Internet. It
24 doesn't necessarily have to be saved on your device.

25 Q. Do you know for a fact how the defendant, how anybody, the

1 sellers of these accounts would have done that?

2 A. I don't.

3 Q. Do you have any evidence that the defendant copied and
4 pasted anything and put it on an eBay account?

5 A. I don't.

6 Q. Do you have any evidence that the defendant used anybody
7 else's computer to put anything on the eBay account?

8 A. I don't.

9 MR. KAISER: Nothing further, Your Honor.

10 THE COURT: Jury questions? We got a jury question.
11 Will the lawyers approach?

12 (At sidebar.)

13 THE COURT: One of the questions is: Was the inside
14 envelope of any, Mr. Appley and others, fingerprinted?

15 MR. KAISER: That's a really good question that I
16 should have asked, doggone it.

17 MR. DESAI: No objection to it, Your Honor.

18 THE COURT: I'll ask it. And this is a question: In
19 order to have all U.S. mail delivered, is it not the law to
20 provide true and accurate legal name to open other mail?

21 MR. DESAI: Government has no objection.

22 MR. KAISER: I don't know. She is not a lawyer. The
23 witness is not a lawyer.

24 THE COURT: Do you object?

25 MR. KAISER: I object.

1 MR. DESAI: We don't have any issues one way or the
2 other.

3 THE COURT: I'm not going to ask it. I'm going to
4 sustain the objection.

5 What other income did defendant or mother -- mother
6 is in quotation marks -- have on the job? Inheritances? W-2?
7 1099?

8 MR. KAISER: They could find that out. I'm not --
9 they are going to be finding that out soon.

10 MR. DESAI: I think it's a fair question. She is
11 probably not going to know anything about the tax stuff.

12 THE COURT: There's no objection?

13 MR. DESAI: No.

14 MR. KAISER: No.

15 THE COURT: Okay. I'll ask it.

16 (In open court.)

17 THE COURT: All right. Juror questions. Was the
18 inside envelope of any of Mr. Appley's or others
19 fingerprinted?

20 THE WITNESS: They were not.

21 THE COURT: What other income did the defendant or
22 his mother have, or job, inheritance, W-2s, 1099s?

23 THE WITNESS: The defendant did not report any other
24 income during the interview other than the alleged package
25 forwarding service.

1 Additionally, I believe his mother was a teacher at
2 community college. I don't know whether she was retired at
3 the time or not.

4 THE COURT: All right.

5 MR. DESAI: Can I ask a follow-up, Your Honor?

6 THE COURT: You may.

7 REDIRECT EXAMINATION

8 BY MR. DESAI:

9 Q. Postal Inspector Weckerly, is there a reason why items
10 weren't fingerprinted?

11 A. Yes. In all criminal cases, you know, items aren't
12 fingerprinted. The value of that is weighed, and in this
13 case, we had additional evidence that we didn't feel that it
14 held much value to fingerprint the products.

15 The outside envelope would obviously have had a number of
16 fingerprints on it from being processed through the postal
17 service, and a decision was made to fingerprint the inside.
18 It's a lengthy process and we had enough other evidence that
19 we didn't feel that would hold much value to the case.

20 MR. KAISER: Your Honor, may I ask a follow-up?

21 THE COURT: Yes.

22 RE CROSS-EXAMINATION

23 BY MR. KAISER:

24 Q. You could have fingerprinted the envelope on the inside,
25 correct?

1 A. Yes.

2 THE COURT: All right. Can this witness be excused
3 from the stand?

4 MR. DESAI: Yes, Your Honor.

5 THE COURT: You may stand down.

6 (Witness excused.)

7 THE COURT: Next witness.

8 MR. DESAI: The government has no further witnesses
9 at this time, Your Honor. We would just want to confirm that
10 all the exhibits have been admitted into evidence.

11 THE COURT: If they haven't been admitted, I admit
12 them now and we can check and take care of that. Will lawyers
13 approach? The government has rested.

14 MR. DESAI: Yes.

15 (At sidebar.)

16 THE COURT: The government has rested. I assume the
17 defendant moves for a judgment of acquittal on both.

18 MR. KAISER: Both counts, that's correct.

19 THE COURT: I assume the defendant moves for a
20 judgment of acquittal on both counts on the grounds that an
21 admissible jury issue is not made on either count; is that
22 correct?

23 MR. KAISER: That's correct, Your Honor.

24 THE COURT: Is that good enough for the government,
25 him making a record?

1 MR. DESAI: That's good enough for the government.

2 MR. KAISER: That's exactly what we intended to do.
3 You beat us to it.

4 THE COURT: All right. I'm going to overrule your
5 motion and save your exception.

6 MR. KAISER: All right.

7 THE COURT: Are you going to present evidence?

8 MR. KAISER: Yes, we are, Your Honor. I guess we
9 are. We're going to call the defendant to the stand.

10 THE COURT: All right. Any reason we shouldn't do
11 that right now?

12 MR. DESAI: None.

13 THE COURT: All right.

14 (In open court.)

15 THE COURT: Government has rested. Does the defense
16 wish to present evidence?

17 MR. KAISER: Your Honor, at this time, the defense
18 would call Atticus Matias to the stand.

19 (Witness sworn.)

20 THE CLERK: Please be seated. Please state and spell
21 your name for the record.

22 THE WITNESS: My name is Atticus Sliter-Matias,
23 A-T-T-I-C-U-S, S-L-I-T-E-R - M-A-T-I-A-S.

24 ATTICUS SLITER-MATIAS, a witness herein, having been
25 first duly sworn, was examined and testified as follows:

1 DIRECT EXAMINATION

2 BY MR. KAISER:

3 Q. Where do you live, Atticus?

4 A. I live at 13781 Cedar Road, Apartment 205, South Euclid
5 Ohio 44118.

6 Q. How old are you?

7 A. I am 29 years old.

8 Q. And do you live with anyone at that address?

9 A. Yes. I live with my mother.

10 Q. And I'd like to briefly go over your education, if I
11 could. Did you go to high school?

12 A. Actually, yes, I did. I was home schooled high school
13 though.

14 Q. And did you attend any college?

15 A. Yes. Tri-C, Cuyahoga Community College eastern campus and
16 metro campus.

17 THE COURT: I hate to do this just when you started,
18 but I believe we need to take the noon break. We'll be in
19 recess until at least 1:00 o'clock. Don't talk about the
20 case, anyone involved in it. Don't start making up your mind.
21 Consciously avoid it. Let the jury stand down. Everyone else
22 remain as you are.

23 (Jury excused.)

24 THE CLERK: This court is now in recess.

25 THE COURT: The jury is out. The lawyers need to

1 meet with my lawyer to go over jury instructions and we'll
2 come out and have an instruction record. We'll give you an
3 opportunity after all the evidence is in to make another
4 record, but right now, just go over it with my lawyer and I'll
5 come out and go over it with you. We're in recess. Be at
6 ease. You can stand down, sir.

7 Let's go over them right now. You all have copies.
8 Instruction No. 1, first paragraph it talks about the
9 instructions I've given at the beginning of the trial and
10 during the trial. Have I given any instructions during the
11 trial?

12 MR. DESAI: I don't believe you have, Your Honor.

13 THE COURT: We'll take that out unless I give one
14 later. Instruction No. 2, sing out if you object to one.

15 Instruction No. 3, notice the last paragraph. I
16 assume there's no objection to it, but if so, let me know.

17 MR. DESAI: No objection.

18 MR. KAISER: There's no objection.

19 THE COURT: No. 4 is about experts.

20 MR. KAISER: No objection, Your Honor.

21 THE COURT: No. 5 is about reasonable doubt. In
22 McCormick's treatise on evidence, he says he doubts whether we
23 should define reasonable doubt. He said we can't make things
24 clearer by an unreasonable multiplication of words, but we
25 still do it.

1 No. 6 is regarding on or about.

2 We'll take out the last paragraph of No. 7 since the
3 defendant is taking the stand.

4 Over the objection of the defendant, I'm going to
5 give an instruction, closing instruction No. 8. I note the
6 defendant's objection and save the exception.

7 MR. KAISER: Thank you, Your Honor.

8 THE COURT: On No. 9, are there any objections?

9 MR. DESAI: Not from the government.

10 MR. KAISER: Your Honor, I have a problem with the
11 word "nationwide."

12 THE COURT: All right. You have a problem with --
13 just a minute. Where is "nationwide"?

14 MR. KAISER: It's second paragraph. It would be the
15 fourth line. It would be ninth word.

16 THE COURT: Yeah.

17 MR. DESAI: The government has no problem with that
18 being struck, Your Honor.

19 THE COURT: Okay. "Nationwide" will be taken out.

20 MR. KAISER: Thank you.

21 THE COURT: Any other objections to 9? I'll give you
22 a minute to look it over. It's kindly long. Kindly is
23 spelled K-I-N-D-L-Y. It's a synonym for kinder, K-I-N-D-E-R.

24 MR. DESAI: There's no objections from the
25 government.

1 MR. KAISER: No objection, Your Honor.

2 THE COURT: By the way, I intend to send the
3 indictment back.

4 MR. KAISER: Your Honor, I'm sorry, I may have
5 misspoken. With respect to closing instruction No. 9.

6 THE COURT: What page?

7 MR. KAISER: Page 9.

8 THE COURT: Let me go back and look. All right.

9 MR. KAISER: Just looking at it again, I'm not as
10 quick a reader as you guys, I guess. I know I looked at it
11 yesterday.

12 THE COURT: Do you have another objection, you say?

13 MR. KAISER: I'm not sure.

14 THE COURT: I'll give you more time.

15 MR. KAISER: I want to look at it real quick, if you
16 just give me a minute.

17 THE COURT: Go ahead.

18 MR. KAISER: There was something in here that --

19 THE COURT: No rush.

20 MR. KAISER: -- I was concerned about. I have no
21 problems with, looking now, intent to defraud on page 11. No
22 problems with that.

23 THE COURT: Okay. No. 9 is okay. I'll say again, I
24 intend to send a copy of the indictment back. All right. No.
25 10, we'll take out the last paragraph.

1 No. 11 is the last instruction.

2 MR. DESAI: No objection from the government, Your
3 Honor.

4 MR. KAISER: No objection to this one, Your Honor.

5 THE COURT: All right. Look at the verdict forms.
6 All right. We'll be in recess. Be at ease. By the way, how
7 much time do you all want for closing argument?

8 MR. DESAI: Your Honor, just because of the
9 spreadsheets, I would ask for probably 40 minutes.

10 THE COURT: How about 35? 30 in your opening part
11 and five in your rebuttal.

12 MR. DESAI: I'll do my best, Your Honor.

13 THE COURT: No. You'll do perfect. 35 enough for
14 the defense?

15 MR. KAISER: Your Honor, I think 35 will be more than
16 plenty.

17 THE COURT: I can't think of anything else at this
18 point. We're in recess. Be at ease.

19 (Luncheon recess taken 11:50 a.m.-1:01 p.m.)

20 THE CLERK: This court is now in session.

21 THE COURT: You may proceed.

22 BY MR. KAISER:

23 Q. Okay. Atticus, we were at the very beginning when we
24 broke. You testified as to your name, address and education.
25 Let's go over your work history, now. When did you start

1 working?

2 A. I started working, self-employed since I've been pretty
3 much a teenager.

4 Q. What did you do when you were a teenager?

5 A. I built and repair computers, upgrade them. I also had
6 some programming knowledge. I used to do website design, all
7 sorts of multimedia design and a few things geared toward web
8 applications.

9 Q. The computer that was seized in this matter, do you know
10 how that came to be?

11 A. Yes. It's my computer.

12 Q. When you state your computer, what do you mean?

13 A. Say what?

14 Q. Did you build it?

15 A. Yes, I built it.

16 Q. Tell the jury how you built it.

17 A. Say what?

18 Q. Tell the jury how someone would go about -- generally, how
19 someone would go about building a computer?

20 A. Generally, you can go to a computer parts store and there
21 are several parts available, and pretty much it's finding the
22 compatible combination of things, and you are pretty much set
23 to go as long as you are able to put it all together.

24 Q. Now, do you do anything besides build computers?

25 A. Yes. I have been a multimedia production manager. I've

1 done graphic design for Sacred Touch Incorporated. They are a
2 cosmetics company. I did all the design work for pretty much
3 all the products, and we were able to put all that stuff out
4 on the market for them.

5 Q. Do you repair computers?

6 A. Yes.

7 Q. And do you upgrade computers?

8 A. That's correct.

9 Q. What does it mean to upgrade a computer?

10 A. It means to -- basically a computer comes with like a set
11 amount of specifications, like RAM or hard drive, and
12 upgrading a computer is replacing that item with something of
13 greater value, initially like more RAM or more hard drive
14 space or something to that effect.

15 Q. Now, what is networking?

16 A. Networking is a practice of dealing with basically a lot
17 of Internet related systems, also possibly local networks for
18 offices, hooking computers together so they are able to access
19 printers and other machines and organize information
20 accordingly.

21 Q. Have you ever been involved with eBay?

22 A. Yes, I was.

23 Q. And why don't you start from the very beginning? When did
24 you first become involved with eBay?

25 A. Well, when I was a teenager back in like the early 2000s,

1 I can't recall exactly when, I started in business on eBay,
2 and it was involved first toward selling, like, small items,
3 small watches, and then I moved to actually building computer
4 systems and selling them.

5 Q. And did you sell some of those computer systems on eBay?

6 A. Yes. I have sold many computer systems, including one in
7 Germany and London.

8 Q. Now, did you, when you sold product -- let me ask you, did
9 you sell products on eBay?

10 A. Yes, I did.

11 Q. Tell the jury, if you would, how does one go about selling
12 a product on eBay?

13 A. You would need to access, either through a phone app or a
14 tablet app or at least through a computer in order to access
15 the website, and basically get the form that allows for the
16 creation of the listing.

17 Q. When you say "the creation of the listing," what do you
18 mean by "the listing"?

19 A. I mean, the data that would be used on the advertisement,
20 including the title, the category, the pictures involved, the
21 description, the price, when the item is beginning or ending
22 and payment method. I think you have to specify all that
23 stuff on the form.

24 Q. How does the picture get from you, the seller, if you were
25 the seller, to eBay?

1 A. Well, you have to obtain the picture from somewhere,
2 either if it's online or through a camera that you own that
3 you took a picture of the item that you are basically selling,
4 and you need to have access to that media essentially.

5 Q. You heard testimony from Ray Offner. Do you recall
6 Mr. Offner testifying?

7 A. Yes.

8 Q. He testified that he purchased -- he responded to an
9 advertisement on eBay. Do you recall that testimony?

10 A. Yes, I do.

11 Q. Did you place that ad?

12 A. No, I did not.

13 Q. The picture of the phone that was on the ad, did you in
14 any way place that picture on the ad for eBay?

15 A. No, I did not.

16 Q. Now, you heard testimony from Mr. Michael Appley?

17 A. Yes.

18 Q. And he too was responding to an ad. Did you in any way
19 place that ad?

20 A. No.

21 Q. And did you in any way -- there was a picture associated
22 with his purchase. I believe it might have been a Mac Pro
23 something, some sort of computer. Did you put the picture of
24 that on the computer, on eBay?

25 A. I did not.

1 Q. And there was a Mr. Dirksen who testified. He also
2 testified that there was an ad that he responded to on eBay,
3 and did you place that ad?

4 A. No.

5 Q. With respect to the picture that was on that ad, did you
6 place that picture on eBay?

7 A. No.

8 Q. Let me ask you, how would one -- let's back up.
9 Ms. Ferguson, do you recall her testifying?

10 A. Yes.

11 Q. And she also responded to an advertisement. Did you in
12 any way start that advertisement and place it on eBay?

13 A. No.

14 Q. And there was a picture associated with that advertisement
15 as well. Did you in any way place that picture on eBay?

16 A. No, I did not.

17 Q. There was another victim also. His name was Pablo, a very
18 difficult last name. Do you recall him testifying?

19 A. Pablo Bejarano, I believe.

20 Q. Yeah, I think it was that. You are better than I am at
21 it. Do you recall him testifying?

22 A. Yes.

23 Q. And he also responded to an ad. Did you place that ad on
24 eBay?

25 A. No.

1 Q. And did you place the picture associated with that ad on
2 eBay?

3 A. No, I did not.

4 Q. And there were 161 total accounts. They didn't bring in
5 any other witnesses, but just so we're clear, you have had an
6 opportunity to review the spreadsheets with respect to those
7 161 people, correct?

8 A. Correct.

9 Q. And did you place an ad on eBay to sell any of those 161
10 people?

11 A. No, I did not.

12 Q. And did you download or upload, or whatever the way you
13 load it, a picture on any of those 161 accounts?

14 A. No.

15 Q. Now, what was seized from your residence with respect to
16 electronic equipment?

17 A. There was a computer, a few laptops, I believe, maybe a
18 couple laptops, a whole bunch of thumb drives, some hard
19 drives, external and the rest were internal, inside the
20 computer.

21 Q. To your knowledge, was any picture that was associated
22 with any of these 161 accounts on any of those apparatuses?

23 A. No.

24 Q. And were any of the advertisements associated with any of
25 these 161 accounts on any of those apparatuses?

1 A. Could you repeat the question?

2 Q. Were any of the pictures associated with the
3 advertisements on any one of your apparatuses?

4 A. No.

5 Q. Have you ever met Ray Offner?

6 A. No.

7 Q. Have you ever communicated with him by way of e-mail?

8 A. No.

9 Q. Have you ever communicated with him by way of telephone?

10 A. No.

11 Q. Text?

12 A. No.

13 Q. In any other way, have you ever communicated with
14 Mr. Offner?

15 A. No.

16 Q. How about Mr. Appley? Have you communicated with
17 Mr. Appley in any way that I just went through with
18 Mr. Offner?

19 A. No.

20 Q. How about Ms. Ferguson?

21 A. No.

22 Q. Let me ask the question. Did you communicate with her in
23 any way during the course of these -- during the course of the
24 history of your life?

25 A. No.

1 Q. Mr. Dirksen, did you communicate with him in any way?

2 A. No.

3 Q. And Pablo, did you communicate with him in any way?

4 A. No.

5 Q. And the 161 people that were on the list, did you
6 communicate with any of them in any way that I mentioned?

7 A. No.

8 Q. Did you steal anything from Ray Offner?

9 A. No, I did not.

10 Q. Did you steal anything from Michael Appley?

11 A. No, I did not.

12 Q. Did you steal anything from Mr. Dirksen?

13 A. No, I did not.

14 Q. Did you steal anything from Ms. Ferguson?

15 A. No.

16 Q. Did you steal anything from Pablo?

17 A. No, I did not.

18 Q. Did you steal anything from any of these 161 people that
19 were on that list?

20 A. No.

21 Q. You've heard the testimony about eBay documents that were
22 entered into evidence. You saw the man testify about those,
23 correct?

24 A. Yes.

25 Q. And you also saw the lady from PayPal testify about those

1 documents, correct?

2 A. Yes.

3 Q. And these documents had like Al Benson, and had you ever
4 seen the information on these documents before?

5 A. Yes. I created them.

6 Q. And why don't you tell the jury how it was that you
7 created these documents, every one of the documents? Are we
8 talking about all of the 161?

9 A. Yes.

10 Q. The information that went into creating all those PayPal
11 and eBay documents came from you?

12 A. Yes.

13 Q. Why don't you explain to the jury how that was?

14 A. The information is related to eBay stealth. EBay stealth
15 is a market where people who have been wrongfully suspended by
16 eBay come to communicate and to purchase account packages that
17 are used to regain access to these platforms, and the
18 information involved in those documents is part of that type
19 of business methodology.

20 Q. And so why don't you explain to the jury how it is that
21 you would create what we'll call a stealth account?

22 A. Yeah.

23 Q. From the beginning to the end, how do you do it?

24 A. Okay. Basically, there is -- we create a new browser
25 profile which has all types of information relating to the

1 tracking of objects of when it was created. It's all logged
2 in this one folder that's usually attached to an Internet
3 browser such as Firefox. It's easy to export if you know the
4 location of where those things are kept, but primarily, we
5 will create the account information first and then we will
6 actually enter that account information.

7 Q. Let me interject for a second. Tell the jury how it is
8 that you come up with a name.

9 A. The name is generated from a website called Fake Name
10 Generator.Com. It is just a name that we give the website as
11 well as the zip code in order to base an address from, and the
12 zip code is then used to look up on Zillow and public records
13 to associate with an actual public records address.

14 Q. So now continue on as to how you would build a stealth
15 account.

16 A. After we have a suitable public records address, we add a
17 unit number to the address in order to ensure that the unit is
18 unique or the address is unique in a way, and there is a
19 vanilla Visa card that is used to add to the PayPal account to
20 confirm an e-mail that is used derived from the information
21 that was generated, and a TracFone that is purchased for the
22 purpose of setting up the account initially.

23 Q. Now, IP addresses, are they involved in any way?

24 A. Oh, yes.

25 Q. Could you explain to the jury -- first of all, explain to

1 the jury what is an IP address?

2 A. An IP address is basically an identifier that computers
3 use to connect to the Internet. Everyone has a different IP
4 address for every computer system that has Internet
5 connection. An Internet provider is usually assigned IP
6 addresses based on basically how many lines you have and so
7 forth.

8 Q. Now, are Click-N-Ship packages involved in the process in
9 any way?

10 A. Well, yes, but we use that in a trial period that's
11 designed to verify viability on the account.

12 Q. Why don't you explain to the jury what exactly is a trial
13 period?

14 A. A trial period is after the account is created and the
15 information is stored, including the account information and
16 the browser profile, those two items are not enough to
17 actually test the account. The account doesn't really
18 indicate if it has problems until a transaction is actually
19 conducted, so we do a trial period on -- involving the first
20 item that's going to be sold on the actual account.

21 Q. Let me interject. When you say you are testing an
22 account, tell the jury what you mean.

23 A. Well, an account is tested with an item that the client is
24 interested in listing. This could be anything. It doesn't
25 have to necessarily be electronics. It could be a home item.

1 It could be antiques. It could be anything that they want to
2 actually list that's going to be the primary thing that they
3 list.

4 Q. When you say a "client," to whom are you referring when
5 you say a "client"?

6 A. I'm referring to the person who wants to purchase the
7 stealth account for business purposes.

8 Q. And you conduct a business that involves stealth accounts?

9 A. That is correct.

10 Q. And would you explain to the jury what it is you do with
11 respect to stealth accounts?

12 A. I create stealth accounts. I age them. I build them. I
13 also have IT experience in knowing how these systems work and
14 how tracking objects work. All of this is used to help people
15 get back on eBay that have been wrongfully suspended or had
16 problems with the platform in the past.

17 Q. And so you talked in terms of the first stage. Can you
18 tell me what that is again?

19 A. The trial period?

20 Q. The trial period. And does this happen before or after
21 you sell the account to the stealth account client?

22 A. This happens after, because if the client is interested in
23 an account, then it is kind of considered sold, but we don't
24 get paid to that -- we don't get paid for the account until
25 it's considered operational and all tests successful.

1 Q. And how much do you get per account?

2 A. About \$300. I've seen them listed for 270 or so online.

3 Q. And are you the only one who sells stealth accounts?

4 A. No, I'm not.

5 Q. How did you learn about stealth accounts?

6 A. Well, we ran into problems on eBay a while back, somewhere
7 in 2011 or 2009, somewhere around that area. Our account was
8 suspended due to suspicious activity, I guess you could say,
9 but it was really nothing we could do about it. We tried to
10 appeal it and it was denied.

11 We eventually found the eBay stealth community which was,
12 you know, acknowledging all these problems were unfortunately
13 caused by an automated system and the implementation of that
14 automated system.

15 Q. Explain to the jury what you mean by an automated system.

16 A. Well, eBay has gotten fairly large, and the only way they
17 are able to manage as many users as they do have is by
18 employing something called an automated system. It's kind of
19 like an AI program or a robot that makes decisions based on
20 security policies and so forth, but most of these things have
21 only been touched here today in the course of this trial.

22 Q. Now, is there another stage that you go through after you
23 have the first stage?

24 A. Well, yes.

25 Q. Explain that to the jury, please.

1 A. The first stage is used to make sure that when someone
2 adds a tracking number, the PayPal account isn't limited or
3 placed in limited status, because we have seen cases where
4 PayPal has almost deliberately victimized its own users by
5 limiting accounts right after people get a tracking number.

6 That would leave the seller outside their money. That
7 would also leave them outside their funds and, sure, the buyer
8 may be happy, but the seller is taking a huge loss on that,
9 and we're trying to prevent that, look out for the seller in
10 some way and at least cover our bases.

11 There's another step that's involved that involves the
12 Click-N-Ship packages that I think I stated before.

13 Q. Why don't you explain to the jury, before we go there, the
14 monetary limits on eBay?

15 A. Yes, there is.

16 Q. Would you explain the significance of the monetary limits
17 on eBay with respect to your company?

18 A. What do you mean by with respect to my company?

19 Q. Well, what about the monetary limits of eBay might make a
20 stealth account appealing to one of your customers?

21 A. There are many reasons why someone may want a stealth
22 account. The first reasons that people would normally want a
23 backup in case their primary account goes down since these
24 systems have been increasingly aggressive over the years.

25 The second reason is that people want to raise their

1 selling limits, meaning they may not be happy with the \$500 or
2 the ten items that they are allowed to sell, especially if
3 they sell in bulk and make money on a small margin of profit.
4 You can run into ten items pretty quickly, and the only way to
5 multiply that is by having multiple accounts.

6 Q. If a person were to purchase five stealth accounts from
7 you, that person would then have, instead of having a \$500
8 limit, that person would have six \$500 limits; is that
9 correct?

10 A. That is correct.

11 Q. And that person would be able to do \$3,000 worth of
12 business on eBay, correct?

13 A. That's correct.

14 Q. And that person would also be able to do a lot more
15 activity by way of products, correct?

16 A. Yes.

17 Q. So that actually -- what does that do with respect to
18 eBay's business?

19 A. Well, it's also able to spread out sales upon multiple
20 accounts so you don't run into these risk models that are
21 managed by the automated system, but also it has a tendency to
22 increase eBay's business, especially in the amount of fees
23 that come in. I mean, they sometimes call it Feebay for a
24 reason.

25 Q. Explain to the jury how eBay would get a fee out of a

1 sale?

2 A. EBay collects a final value fee based on the ending price
3 of the item that was purchased or ended in auction, and those
4 fees are usually somewhere around ten percent of the item
5 value, I believe.

6 Q. So if a person were to buy stealth accounts from you and
7 do more business, by golly, eBay is going to make more money;
8 is that right?

9 A. That should be correct.

10 Q. I just want to go over these accounts in specific. Did
11 you create the fake names on all of these 151 accounts?

12 A. That's correct.

13 Q. And did you create the fake addresses on all of these 151
14 accounts?

15 A. Yes, but they are based on real addresses with public
16 records information behind them just made unique through the
17 addition of a unit number.

18 Q. So you place a unit number on each of them, correct?

19 A. That's correct.

20 Q. Why do you do that?

21 A. It's to make the address unique in eBay's system. EBay
22 does check public records when accounts are signed up, which
23 involves the allocation of the selling limit, so if you live
24 in a place that had, I guess, a lot of business, it would
25 allocate a higher selling limit to your account, and if you

1 are in a place where there was no business, then you would get
2 a lower limit.

3 Q. Now, was it ever your intention by creating these stealth
4 accounts to steal money from anybody?

5 A. No, it was not.

6 Q. Have you ever used any of these stealth accounts to steal
7 money from anybody?

8 A. Not any in this case and I did not steal money from
9 anybody.

10 Q. Ever?

11 A. No.

12 Q. What's a vanilla Visa gift card?

13 A. It's a prepaid gift card you can normally get at Walgreens
14 or other grocery store locations.

15 Q. What significance does that play with respect to this
16 situation?

17 A. It's used to verify the PayPal account so that the account
18 is able to move money in a certain way.

19 Q. What do you mean by "verify the PayPal account"?

20 A. Well, PayPal has several means of verifying users. The
21 more information you add into the account, the more the
22 account is considered, I guess, legitimized.

23 Q. That is to help you escape detection; is that correct?

24 A. Well, it's there to help establish a trust to PayPal.

25 Q. And do you also create the e-mail address that was used by

1 eBay and PayPal?

2 A. Yes.

3 Q. And why do you do that?

4 A. Because all the account information is hooked into one
5 e-mail address. That's a per account basis.

6 Q. And do you know if anybody confirms these e-mail
7 addresses?

8 A. What do you mean by "confirm"?

9 Q. What is the purpose of the e-mail address again?

10 A. Say that again.

11 Q. What is the purpose of you putting the e-mail address on
12 there?

13 A. It's in order to link up all the account information
14 together so everything is just kind of like a neat package.
15 You have the e-mail address. You use the e-mail address to
16 access eBay and PayPal and the e-mail all in one.

17 Q. Are these real e-mail addresses?

18 A. Yes, they are.

19 Q. Did you ever use any of these e-mail addresses to contact
20 any of these 151 victims?

21 A. No.

22 Q. Let's look at the specific account at issue here, the 151.
23 After you created them, what did you do after you created them
24 and you went through the first stage? Did you have to do a
25 second stage at that time?

1 A. Well, if there were problems discovered with the account
2 during the trial period, there would be a second stage, and in
3 some cases, there were not -- a second stage wasn't really
4 required.

5 Q. With respect to Ray Offner?

6 A. With respect to Ray Offner, there were primary and second
7 stages. The primary one was to verify viability on the
8 account which passed, but there was a problem somewhere in
9 between, and the account was not able to conduct transactions
10 normally.

11 Q. First, let's back up. Where did you send the first
12 packages?

13 A. First packages are sent to surrounding businesses in order
14 to verify viability. As I said, you need to check. Either
15 PayPal is going to limit the account as soon as you start
16 using it, even adding a tracking number for your actual item,
17 because they will do that and they have done that in the past.
18 I've seen it many times.

19 Q. So where would you send the second package if there's a
20 problem?

21 A. I would send it directly to the buyer's information on the
22 account to ensure they qualify for a PayPal claim, especially
23 if that money is being held up in some way and is unable to be
24 refunded any other way.

25 Q. Would there be anything in these packages that you would

1 send?

2 A. Yes, I would send probably the torn envelopes, yeah.

3 Q. Now, did you send packages? You sent a package to Ray
4 Offner, correct?

5 A. That is correct.

6 Q. Could you explain to the jury why it is that you sent that
7 package to him?

8 A. I sent the package to him so that his refund could be
9 expedited. PayPal has a default process which normally takes
10 15 days or maybe longer to get your money back once it's in a
11 hold like that, but when you send something that actually
12 allows them to qualify for a claim, you are essentially using
13 the system so that they can actually get their money back
14 because they can file a claim right away.

15 They actually have some evidence they can use in the case,
16 because if you don't provide anything to them, they won't have
17 evidence and the default process applies.

18 Q. Is this part of the service that you provide for your
19 clients?

20 A. I'm trying to cover bases here on both the seller's end
21 and the buyer's end. The secondary package is on the buyer's
22 end. The primary package is mainly for the seller, to protect
23 the seller.

24 Q. Now, did Ray Offner get his refund?

25 A. Yes, I believe he did. I don't think I checked up on

1 that, but I believe he did from this case.

2 Q. Michael Appley, did he need to get a refund; do you know?

3 A. The Michael Appley situation, it appears from the
4 documentation I examined in this case, and I didn't know this
5 beforehand, that his -- well, I got paid from my client, which
6 uses the actual account information on file, you know. If the
7 account is successful, he can actually conduct normal
8 transactions with it, but unfortunately, the account failed
9 right after that payment was made, because there are problems
10 that can occur when sending money, receiving money, even
11 adding information to the account, changing information in the
12 account.

13 There's a lot of different aspects. The automated system
14 just kicks in, and unfortunately it can cause very, very
15 severe problems.

16 Q. Who pays you?

17 A. The eBay sell client does. If the account is considered
18 operational, they can order, upon my request, bullion from a
19 provider.

20 Q. With respect to Mr. Dirksen, same process. Could you
21 explain the process that you understand that went on in that
22 case?

23 A. Well, I don't recall if we received any money from Dirksen
24 or anybody. Can you please elaborate?

25 Q. Let's back up. How do you get paid again?

1 A. I get paid from my clients when they are operating the
2 account. If the account is in working condition, they can
3 actually pay me. They can put something toward their history
4 and build it up.

5 Q. How do you know what's going on in the account? How do
6 you know if there's problems in the account?

7 A. Well, sometimes I have to monitor the e-mail addresses,
8 but I don't log into the eBay or PayPal accounts manually. I
9 normally just either have an e-mail open, and I'll say okay,
10 well, is this test transaction going good? It looks like it's
11 going good. If everything checks out, then it should be able
12 to conduct transactions normally.

13 Sometimes there are problems, but usually, you generate,
14 like, five accounts you might blow through, but the sixth
15 account will work. Eventually the stuff does work and it does
16 help people.

17 Q. To your knowledge, did any of the six victims or the five
18 victims that we've covered in this case, Appley, Offner,
19 Ferguson, Pablo and Dirksen, do you know if any of them lost
20 any money in this situation?

21 A. I don't know.

22 Q. I want to take you to the day of the raid. I'm sure you
23 remember that. That would be in July of 2016; is that
24 correct?

25 A. Yes.

1 Q. Why don't you tell the jury what happened that day. Start
2 from the very beginning to when the law enforcement officials
3 left your house?

4 A. Okay.

5 Q. And, please, be specific and paint a picture. The jury
6 hasn't heard it yet, so paint a picture.

7 A. Okay. Well, I was asleep in bed that morning. I woke up
8 because I heard some banging on my door. I wasn't really sure
9 what it was. I wanted to check it out, because I thought it
10 was an emergency, it was a fire in the building or somebody
11 was like -- there was some kind of crisis, I needed to call
12 911, so I didn't really know what it was about.

13 I opened the door, and they grabbed my arm and pushed me
14 out, and they went inside and they pushed me against the wall
15 in the hallway. They said you are not under arrest. You are
16 just being detained. They frisked me, and then they put the
17 cuffs on, and as they were going into the house, they found my
18 mom in bed and she was screaming, panicking.

19 And what happened was, after they cleared the apartment
20 and then they were able to, I guess, identify both of us, they
21 put us -- said sit down in the living room. I was wearing
22 cuffs but my mom wasn't, and they decided for whatever reason
23 that they were going to leave the cuffs on me.

24 There were a number of people that were moving in between
25 the door into the residence and into the back rooms. There

1 are two bedrooms in the back. I didn't see what they were
2 doing other than just moving back and forth, but they just
3 appeared to be looking for something. I didn't know what the
4 heck was going on, so I was kind of eager for answers.

5 Inspector Weckerly sat down on the living room area of the
6 couch where I was at, and she started recording information.
7 She asked me my name and Social Security number on a form I
8 don't quite remember. I haven't even seen in this trial, and
9 I didn't complete the form, and I think she had the Miranda
10 form, the first one that she had. I didn't complete signing
11 that because my mom indicated it wasn't a good idea, and I
12 know better because I used to be a business owner that if you
13 are signing something, you are going to make a contract, so I
14 didn't do that.

15 After that, we pretty much had -- I think it was Inspector
16 Michael Adams from possibly the Cleveland postal inspector
17 service. He was pretty much advising us as he went back and
18 forth, checking my phone and doing all sorts of things. It's
19 actually quite difficult to remember exactly how all events
20 unfolded because it was quite stressful to remember.

21 Eventually, they got into the safe. I heard some -- them
22 punching on the keypad and making beeps with regard to the
23 safe in my closet, and then Weckerly said -- Inspector
24 Weckerly stated to us in the living room area do you have the
25 key for the safe, and I directed them to my mother and said it

1 was her decision if she wanted to give over that key.

2 And my mom refused, so I guess they brought a crowbar
3 from -- a large piece of metal crowbar. I don't know where
4 they got it from. I assume they got it from the car. I
5 wasn't aware it came from the fire department or anything.
6 And they forced it open and they took everything out of the
7 safe.

8 Q. What was in the safe?

9 A. There were various precious metals, including gold coins,
10 silver coins, silver bars, various bags, some from places that
11 are no longer in business and some receipts, I suppose, for
12 local purchases that were performed throughout the area.

13 Q. How long have you been accumulating this gold and silver?

14 A. Ever since 2002.

15 Q. Was there any money taken during the raid?

16 A. Yes. There was 170,000 or so.

17 Q. 173,000?

18 A. 173,000, and that's comprising of me and my mother's life
19 savings that we extracted from a bank before this
20 investigation happened.

21 Q. Does your mother work?

22 A. Yes.

23 Q. What does she do?

24 A. She is a tutor and substitute teacher at the same college
25 that I went to.

1 Q. Cuyahoga Community College?

2 A. Yes, eastern campus.

3 Q. How long has she been there?

4 A. How long has she been there? Ever since I was probably
5 six years old, I remember, but I don't remember exactly.
6 Maybe even longer than that.

7 Q. So everything she saved up to that point in time was in
8 that house, right?

9 A. Yes.

10 Q. Now, why didn't you keep your money in a bank?

11 A. I guess a few words. Financial meltdown in 2008. I guess
12 a lot of people do not have trust in the financial system. I
13 certainly don't. Those people didn't get prosecuted for any
14 of those crimes.

15 Q. 2008, that was when you moved everything into the house?

16 A. I think we gradually started extracting it out slowly. It
17 wasn't, you know, all at once.

18 Q. Is there anything about the national debt that alarms you?

19 A. Oh, yeah. I have some serious issues with the financial
20 system. I don't really believe that much in paper currency
21 or Fiat currency.

22 MR. DESAI: Objection, Your Honor, on relevancy.

23 MR. KAISER: This goes to --

24 THE COURT: Whoa, whoa. What is the relevance?

25 MR. KAISER: It goes to why he would not have this

1 large amount of money in a bank. The jury may be wondering
2 why such a large amount of money and may apply a bad motive to
3 it.

4 THE COURT: Let's hit it quickly and move on to
5 something else.

6 Q. Quickly, tell us why you -- again, why it is that you have
7 problems -- excuse me, can you read my question back?

8 THE COURT: I believe we have enough on this. Move
9 to another area, if you would.

10 MR. KAISER: Okay. Your Honor.

11 Q. Let's go back. You were discussing the raid, and I
12 interrupted you with that question.

13 A. That's correct.

14 Q. Why don't you continue where you left off with the raid?

15 A. They ended up opening up the safe with this large crowbar
16 thing and they inspected all the gold bars. I believe they
17 started laying things out, because at that point, I was
18 getting -- I had to use the restroom, so I was escorted to the
19 restroom.

20 When I tried to peek on what was going on in the back
21 room, I was kind of pushed along from peeping and seeing what
22 was going on. I couldn't see my room clearly or where my
23 computer was, but I did know that they set up probably a
24 laptop and something in my mother's room, probably to inspect
25 some evidence or something on site, and so I went back to the

1 living room and I just sat and laid down, and I was pretty
2 traumatized, so I have a feeling I was like in a daze for
3 quite a while.

4 And then they started mentioning something -- I think I
5 had an objection to the whole thing and I kind of stood up
6 while I was being detained. I said you are not taking my
7 mom's life savings away, and I believe it was Weckerly who --

8 Q. Excuse me. You will refer to her as Inspector Weckerly.

9 A. Yes. Inspector Weckerly put her hand on her gun and said
10 it's coming -- it's coming with us whether you like it or not
11 or something to that effect.

12 Q. So did anything happen after they took the money and
13 everything out of the safe?

14 A. Excuse me?

15 Q. What happened after they took everything out of the safe?

16 A. Well, they laid everything on the floor. I think I saw
17 that much, but I didn't see much of anything else other than
18 that. I only got a peek of what was going on in the back room
19 and I --

20 Q. Did there come a time they left?

21 A. I wasn't allowed to see it, but they took about roughly
22 six hours in the residence and they packed up the computer and
23 all the other things and started documenting all the evidence
24 at that point and laid it on the table.

25 Q. Had you used your computer at any time prior to the raid?

1 A. Yes.

2 Q. How often would you use the computer?

3 A. Every day.

4 Q. Could you describe the condition of the computer on the
5 day before the raid?

6 A. Well, the computer is open to allow to connect and
7 disconnect stuff, and sometimes I do IT and data migration for
8 others, but mostly, it was in fully working condition.
9 Everything inside the computer tower or Exhibit 12 was in
10 working condition.

11 Q. Now, you've heard testimony that there were damaged
12 portions of the computer. You've heard that testimony, right?

13 A. Yes.

14 Q. Was that computer damaged when it left -- when the raid
15 began?

16 A. No.

17 Q. IP addresses, what are they again?

18 A. I am familiar with IP addresses. They are identifiers
19 that essentially come from the Internet service providers.
20 They are used to link up computers all over the world. They
21 are technically used as unique identifiers in some cases, but
22 you need more information to determine if something is
23 generally unique since IPs can be rerouted through several
24 different services.

25 Q. How would you -- first of all, did IP addresses, were they

1 involved in any way in your stealth account business?

2 A. Yes. It's part of the tracking objects that are required
3 to know about this type of business, yeah.

4 Q. And that would be with respect to all 161 of these
5 accounts at issue?

6 A. Yes.

7 Q. Could you explain to the jury exactly what is -- how IP
8 addresses were involved in your business?

9 A. Well, the IP address is used to set up the account, and we
10 make a note of it to know what was actually logged so it
11 doesn't interfere with any other accounts. It's primarily to
12 prevent security flags and to ensure that the IP address
13 actually matches from the location of creation to location of
14 operation regardless of where it is in the world.

15 Q. How do you get an IP address? How do you personally
16 secure an IP address for your company?

17 A. Well, I have a special modem that I bought online, I
18 believe, or I bought -- I bought actually locally from a
19 computer store, not online, I misspoke, and that is capable of
20 reassigning different IP addresses based on basically a string
21 that I can randomize.

22 So if I want to reboot the modem and get another IP
23 address, all I have to do is change that string.

24 Q. Now, why would you have an IP address for the stealth
25 account?

1 A. Well, you need to individualize the access of all accounts
2 especially if you are generating them in bulk, so there needs
3 to be a process in which they are separated from each other.

4 Q. So you created all the IP addresses for the 161 accounts?

5 A. I assigned them to the accounts.

6 Q. Meaning you created them. Now, there's been some
7 testimony, not just some, a lot of testimony with respect to
8 an address on Cedar Road. Do you know what that address is?
9 Do you know what that location is?

10 A. 13940 Cedar Road.

11 Q. What would that be?

12 A. That's the UPS store. That's our business box. We
13 receive all our business mail there.

14 Q. And do you know why -- let me back up. Did you put that
15 on your shipping addresses?

16 A. I didn't put that on the shipping address. I instruct the
17 client to put it on for purchase if they are going to pay us
18 in the form of bullion.

19 Q. So you instructed the people who purchased your stealth
20 accounts?

21 A. Yes, and an ID number is usually located on that package.
22 I believe it's something usually along the lines of R1033 or
23 J2049.

24 Q. Why is that you instruct stealth account purchaser to know
25 that Cedar Road address?

1 A. Well, the client ID is for differentiating between
2 different clients, but the name on the stealth account usually
3 appears on the tip of the actual package, address, so to
4 speak, so the business address would have to be added in order
5 to successfully receive it at the box, and I just use the name
6 as a reference to what account it's dealing with, and I'll
7 note it as paid if received.

8 Q. There's been gold that was found at your house?

9 A. Yes.

10 Q. Can you explain how it got there?

11 A. Depends on which piece.

12 Q. Explain how -- just start explaining as to which gold and
13 how it got there.

14 A. Well, as I've stated, we have been purchasing gold since
15 2002. Usually in the form of coins. There are some South
16 Africa Krugerrands, American Eagles, golden maple leaves. All
17 that was either purchased with cash, money order, check from
18 either local or online sales, local or online bullion
19 providers and --

20 Q. Did those purchases involve stealth accounts?

21 A. No.

22 Q. When were those purchases made?

23 A. I don't recall, but it's in between 2002 and 2012ish,
24 maybe 2013, but there's also more items that are probably
25 associated with business, so it's kind of all mixed together.

1 Q. The gold that would be associated with the business,
2 explain to the jury how that would come about as being in your
3 possession?

4 A. Whenever an account is considered operational, I usually
5 expect payment whenever they are able to obtain money for
6 transactions or whatever the case, if they are able to conduct
7 successful business on their account, they are able to get
8 paid and they are able to push the transactions. So if a
9 transaction can be done, then they can also pay us through the
10 same account, and they are able to add the address information
11 for the business underneath as just a shipping address
12 whenever we request payment.

13 Q. Who actually sends the money to you? How does the money
14 get from the stealth account purchaser to you?

15 A. Well, the client will have to enter a shipping address
16 with his client ID number on the shipping detail section, and
17 then he would go to a bullion provider either on eBay or
18 elsewhere and use his PayPal account to actually pay for that,
19 and then the gold would be shipped to our business box. I
20 would log it and record it down as a credit to his account.

21 Q. Who instructs these gold distributors, who instructs them
22 in a situation like that to send the gold to you?

23 A. I believe the client does that.

24 Q. You don't, do you?

25 A. No.

1 Q. Let me ask you have you ever been involved with anybody
2 else in a conspiracy to rip off people?

3 A. No.

4 Q. On eBay?

5 A. No.

6 Q. You heard testimony earlier about Government Exhibit S2.
7 Do you recall that testimony?

8 A. Yes. Is that the cross-reference?

9 MR. KAISER: May I approach the witness, Your Honor?
10 I just wanted to make sure.

11 Q. I'm handing you what's been marked is a copy of S2.

12 A. I got you.

13 Q. Tell us what that is.

14 A. This is an IP log sheet that's designed to cross-reference
15 Google, PayPal, eBay, PayPal exhibit and sales or purchases of
16 gold bullion or silver bullion on a certain date, I suppose,
17 and time.

18 Q. Were you involved in any of these transactions with
19 respect to the bullion other than receiving the bullion?

20 A. No.

21 MR. KAISER: May I approach the witness again?

22 THE COURT: You may approach whenever you need to.

23 MR. KAISER: Thank you.

24 Q. Handing you what's been marked as Government Exhibit GM1.
25 Do you recall testimony about that?

1 A. Yes, I do.

2 Q. And what testimony do you recall about that exhibit?

3 A. That these are IP addresses belonging to the defendant.

4 Q. And were those IP addresses created by you?

5 A. They are assigned by AT&T Internet services, but they were
6 created by me. They were just assigned by AT&T.

7 Q. Did you cause them to become part of your business?

8 A. Well, that is normal activity, yes, on the business
9 account, which is the PTXCDXCL.

10 Q. Were these IP addresses in any way used by you to create
11 any crimes?

12 A. No.

13 Q. You heard testimony about your Google accounts, about a
14 Google account by Inspector Weckerly talking about Google
15 account or something.

16 A. That's probably referring to the PTXCDX gmail account.
17 That's pretty much where all the mailings or shipping
18 confirmation labels are sent on file.

19 Q. Did you use anything with respect to your gmail account to
20 perpetrate a crime?

21 A. No.

22 Q. Now, there's been a series of documents that were
23 testified to by Inspector Weckerly and I'm going to hand you
24 one, because it's just like the others, and it's Government
25 Exhibit HM20.1 and I'd like you to tell me what that is.

1 A. It's payment in the form of bullion from Robert Busby, the
2 stealth account I created.

3 Q. Okay. Robert Busby didn't actually pay you that bullion,
4 did he?

5 A. Well, he shipped it to me, but he didn't pay me.

6 Q. Is he the stealth account owner, Robert Busby, or is he a
7 fictitious name?

8 A. Robert Busby was a fictitious name. There's another
9 client that has that account.

10 Q. But he was using the account of Robert Busby; is that
11 right?

12 A. That's correct.

13 Q. And there's a myriad of documents just like this with
14 other names. Would that be the case with all of those names?

15 A. Yes. In some cases, when the account is actually
16 established, the user will change either the information on
17 the account to their real name and address or they will get a
18 d/b/a and add an address to the account such as a UPS box or
19 something.

20 Q. Did you engage in any type of fraudulent scheme?

21 A. No.

22 Q. Did you rip off Ray Offner in any way?

23 A. No.

24 Q. What about Michael Appley?

25 A. No.

1 Q. What about any of these 161 people?

2 A. I did not interact with any of them.

3 Q. Did you rip any of them off?

4 A. No.

5 Q. Did you steal any money from any of them?

6 A. No.

7 MR. KAISER: Nothing further. Nothing further, Your
8 Honor.

9 MR. DESAI: Is it possible for me to get a five
10 minute break?

11 THE COURT: There ain't no such thing as a five
12 minute break, so we'll be in recess for ten minutes. About 12
13 or 13 after. Let the jury stand down. The standard
14 admonition. Everyone else remain seated.

15 THE CLERK: This court is in recess.

16 (Jury excused.)

17 THE COURT: The jury is out. Juror No. 6 has
18 indicated during voir dire she couldn't be here Thursday.
19 I'll probably question her and ask her if that's still true.
20 If it is, I plan to get your ideas on to excuse her when the
21 jury retired to deliberate or at 5:00 p.m. this afternoon when
22 we recess for the day, whichever occurs first. Any
23 objections?

24 MR. DESAI: Not from the government.

25 MR. KAISER: No objection.

1 THE COURT: Anything else we need to take up before
2 we commence our recess?

3 MR. DESAI: No, Your Honor.

4 MR. KAISER: Nothing.

5 THE COURT: We're in recess. Be at ease.

6 (Recess taken.)

7 THE COURT: All right. We're getting on the record
8 here. Juror No. 6, have a seat and join us. Juror No. 6 has
9 indicated early on she couldn't be here tomorrow, so my idea
10 is to bring her in before we bring the rest of the jury in and
11 excuse her right now. Any objection?

12 MR. KAISER: No objection.

13 MR. DESAI: No objection from the government. All
14 right. I'll get my gown and we'll get started.

15 THE CLERK: Court is now in session.

16 THE COURT: Bring No. 6 in. I've never done jurors
17 by number except in a capital murder case I tried. Seemed
18 kind of impersonal. Let me ask you right there. You
19 indicated earlier you couldn't be here tomorrow.

20 JUROR NO. 6: Yes. I have a notice.

21 THE COURT: I'm going to excuse you right now. It
22 looks like we're going into tomorrow.

23 JUROR NO. 6: Good luck. Thank you very much.

24 THE COURT: Who will be moved up in her place?

25 THE CLERK: Alternate No. 1.

1 THE COURT: Are you standing before the lectern or
2 podium?

3 MR. DESAI: Podium is what I would call it.

4 THE COURT: It's actually a lectern and there was a
5 judge in Los Angeles named Real, R-E-A-L, who threw a fit when
6 the lawyer referred to it as a podium. I fail to see it makes
7 any difference.

8 THE CLERK: All rise for the jury. Court is in
9 session.

10 (Jury present.)

11 THE COURT: Ladies and gentlemen of the jury, juror
12 No. 6 had indicated early on that she would have extreme
13 difficulty being with us tomorrow.

14 It looks likely, not certainly, but it looks likely
15 we'll go into tomorrow, so I have excused her. You may
16 proceed.

17 MR. DESAI: I need the witness up there.

18 THE COURT: It would be better.

19 CROSS-EXAMINATION

20 BY MR. DESAI:

21 Q. Sir, your name was Cass Garfield?

22 A. That is correct.

23 Q. You legally changed it to Atticus Sliter-Matias?

24 A. Yes.

25 Q. Do you go by any other names?

1 A. No.

2 Q. In 2015-16, you lived at the 13781 Cedar Road apartment,
3 205 South Euclid, Ohio 44118?

4 A. Yes.

5 Q. You lived there with your mom?

6 A. Yes.

7 Q. And Posatronix is one of your companies?

8 A. That is correct.

9 Q. And RS Surplus is one of your companies?

10 A. That is correct.

11 Q. And you leased a UPS mailbox that we've seen on a number
12 of those PayPal and Liberty Coin records, correct?

13 A. Yes.

14 Q. You had a credit card with Dollar Bank?

15 A. Yes.

16 Q. And you used that credit card when you purchased postal
17 labels in the Click-N-Ship account that you had, correct?

18 A. That is correct.

19 Q. And PTXCDEXIA@gmail.com that's on your iPhone, that's your
20 e-mail address, correct?

21 A. That is correct.

22 Q. And that was your iPhone?

23 A. Yes.

24 Q. And your thumb drive and your computers at the house?

25 A. Yes.

1 Q. And in fact, the spreadsheet that we have been referring
2 to as TD6 that we have been seeing repeatedly, that's your
3 spreadsheet?

4 A. Yes. It contains some failed account files, but there is
5 other information on my computer.

6 Q. You don't dispute Mr. Appley, Mr. Offner, Ms. Ferguson,
7 Mr. Dirksen and Mr. Bejarano's testimony, do you?

8 A. No.

9 Q. You don't dispute that these individuals purchased
10 something on eBay and didn't receive the item?

11 A. I dispute whether an automated system was involved in
12 creating those situations, not humans.

13 Q. But you don't dispute their testimony of what happened to
14 them?

15 A. No.

16 Q. And your place of residence was searched by law
17 enforcement on July 5, 2016?

18 A. That is correct.

19 Q. And you had numerous vanilla gift cards in the drawer in
20 your dresser, didn't you?

21 A. Yes.

22 Q. It's your testimony that you create stealth accounts?

23 A. Yes.

24 Q. And do you understand those accounts violate eBay and
25 PayPal's policy?

1 A. Yes.

2 Q. Now, in order to make a stealth eBay account, did you
3 create a stealth e-mail address?

4 A. That is correct.

5 Q. And so you would also provide a fake name for the eBay
6 stealth account but also the e-mail address as well?

7 A. Yes.

8 Q. And you had to make stealth PayPal accounts for the
9 stealth eBay account, didn't you?

10 A. Yes.

11 Q. And again, you create those accounts with fake names?

12 A. Yes.

13 Q. And you would provide that information during the
14 registration process?

15 A. Yes.

16 Q. You would provide a fake address to those accounts?

17 A. The address isn't necessarily fake. It is based on real
18 public records information with the unit number added so it's
19 unique.

20 Q. It's not your address, is it?

21 A. No.

22 Q. You created 161 eBay accounts that have been admitted into
23 evidence in this case, haven't you?

24 A. Yes.

25 Q. And to make those stealth accounts -- let me ask you this:

1 To make that eBay account, you lied to eBay when you
2 represented that you were Kevin Smith to make the EB1 account,
3 didn't you?

4 A. It's actually included in the guide to use fake names for
5 that purpose. I mean, there are various eBay stealth guides
6 online that detail that process, and none of them really say
7 you are necessarily lying to eBay. You can use it as a d/b/a
8 later on.

9 Q. Sir, you know that guide is not produced by eBay, right?

10 A. No, it's not. It's produced by the community.

11 Q. When you go to eBay, it asks you for your full name?

12 A. That's correct, but it's not a legal name.

13 Q. And you provide a name, Kevin Smith?

14 A. Yes.

15 Q. And you are not Kevin Smith?

16 A. No.

17 Q. And EB2, you provided the name of Andrew Benson?

18 A. That is correct.

19 Q. And you are not Andrew Benson?

20 A. No.

21 Q. You lied to eBay when you indicated that you were Nicholas
22 Constantine when you made the EB3 account?

23 A. I wouldn't really count it as a lie. I take it as
24 creating products in bulk.

25 Q. Do you have an issue with understanding what a false

1 statement is?

2 A. No.

3 Q. So when you say you are Nicholas Constantine and you are
4 not, do you understand that to be a false statement?

5 A. It's not against the government. It's a public company.
6 People put fake names on Facebook. It doesn't really --

7 Q. I'm not asking if it's against the government. I'm asking
8 you do you understand that's a false statement?

9 A. Yes.

10 Q. That's what you did when you made that account, isn't it?

11 A. I'm creating products. It's typical. I'm not the only
12 person that does it.

13 Q. I'm not asking whether there's other people who lie in the
14 world. I'm asking you whether you lied to eBay?

15 A. I'm not using the account other than just creating them,
16 so I don't really see what lie it is.

17 Q. You put a name in that's not yours, correct?

18 A. Yes.

19 Q. You did the same with the Claude Clark account, eBay
20 account 4. You made a false name that you represented to eBay
21 as yours?

22 A. Correct, but it's not as mine. It's intended for somebody
23 else.

24 Q. Did you have a user name at that time when you created the
25 account?

1 A. Which time?

2 Q. The EB4, the Claude Clark account. When you made that
3 account when it was brand new, there was no user at that time,
4 correct?

5 A. I don't believe so.

6 Q. So you went on eBay, you opened up the account and you put
7 in the name of Claude Clark, correct?

8 A. That's when you register an account, yes.

9 Q. You put in a password, correct?

10 A. Yes.

11 Q. And then when you made that account, who owned the
12 password and user name?

13 A. I did.

14 Q. So that is your account at that time?

15 A. At the time.

16 Q. And you lied to eBay when you told them you were Claude
17 Clark, didn't you?

18 A. I entered information that was generated for the purposes
19 of creating eBay stealth accounts.

20 Q. For the purposes of deceiving eBay?

21 A. Well, it's not against the law to break their policies.

22 Q. I'm not asking if it's against their law. I'm asking you,
23 you made it for the purpose of deceiving eBay, didn't you?

24 A. I didn't do it personally, no. I didn't do it for
25 deceiving eBay. I did it for creating the actual product

1 which is what I'm offering.

2 Q. And that's a fake account with a fake name?

3 A. Yes, I guess you can say that.

4 Q. Again, you misrepresented yourself when you said you were
5 Joshua Bryant when you made the eBay 6 account, didn't you?

6 A. I create stealth accounts. I create over a thousand. I'm
7 not sure why you are trying to say I'm representing myself as
8 this.

9 Q. You created those accounts, sir?

10 A. I created them, yes.

11 Q. That means when you created them, you have the user name
12 and password at that time, correct?

13 A. I had to generate them, yes.

14 Q. So then it would be your account at that moment in time?

15 A. Yes, at the moment in time.

16 Q. So when you made these stealth accounts, you were lying to
17 eBay and PayPal and Google when you were creating those
18 accounts in other people's names?

19 A. Yes.

20 Q. And you did that over and over 160 times, didn't you?

21 A. I've done it thousands of times. I've created thousands
22 of accounts.

23 Q. Sir, in fact, it's your business to lie?

24 A. No. It's not my business to lie. It's my business to
25 provide solutions.

1 Q. Sir, you are lying to eBay, PayPal and Google in order to
2 create things that are meant to deceive eBay and PayPal,
3 correct?

4 A. It depends what you mean by deceive, especially if the
5 information is used for a legitimate purpose later on.

6 Q. And it wasn't?

7 A. We don't know that for certain.

8 Q. Sir, is it true then you have a flexible view about what
9 is true and what is not?

10 A. Yes.

11 Q. You have a hard time understanding when you are making a
12 lie and when you are not?

13 A. No. I didn't say that.

14 Q. But you don't think the business of creating fake accounts
15 under fake names meant to go by eBay's policy is not a lie?

16 A. I have never seen anybody prosecuted for eBay stealth
17 activity ever.

18 Q. I'm not asking if anyone was prosecuted. I'm asking if
19 it's a lie.

20 A. What exactly constitutes a lie?

21 Q. I don't know, sir. You are on the stand under oath. Do
22 you have a problem with the concept of a lie?

23 A. No.

24 Q. Sir, you did make those fake eBay listings, didn't you?

25 A. I didn't make the eBay listings.

1 Q. Have you ever created fake eBay listings?

2 A. No.

3 MR. DESAI: Ms. Dinuno, will you pull up TD6, IP
4 active log. Go to row 2368. Let's look at the note section.

5 Q. Isn't it true that this note section says "Listing fake
6 item for cycle list 3CS6 spread???"

7 A. Yes, it does say that.

8 Q. And let's go back out and let's look at the what the IP
9 address is. Sir, you saw testimony, heard testimony from
10 Ms. Weckerly that these IP addresses actually are the same IP
11 address, the same account posting the fake fraudulent eBay
12 listings; is that true?

13 A. Yes, that is true.

14 Q. So you wouldn't know the IP addresses that made those fake
15 listings unless it was you?

16 A. No. I have to log that stuff to make sure that no
17 problems happen under an account. They need to be separated,
18 and plus when the account is created, I know that IP address
19 is used to create it and the location of the original IP is
20 usually matched to ensure that location from operation to
21 location of origination is the same.

22 Q. Sir, was this fake IP address -- fake listing created on
23 your computer?

24 A. No.

25 Q. How would you know the IP address of someone else's

1 computer that's making that listing?

2 A. It's not someone else's computer, it's my computer, but
3 I'm not using the IP address. There's a VPN involved, and I
4 believe you mentioned it earlier.

5 Q. I understand there's a VPN gets involved when you want to
6 mask your IP address.

7 A. People want it for privacy reasons mostly.

8 Q. That's fine. But the fact is you wouldn't know what the
9 IP address was if it wasn't you making that listing?

10 A. No.

11 Q. If it was someone else making that listing, wouldn't their
12 IP address be used?

13 A. No. Because they are using my IP to create these
14 listings. As I said, the location from origination has to
15 match location of operation, and that's usually when you are
16 initializing an account like this, you have to ensure that it
17 doesn't run into any security flags, so you can't access it
18 from Russia. You have to access it from where it was
19 originally created. That's why the VPN is involved.

20 Q. It's your testimony that you create a system wherein other
21 people can use that system to create these listings?

22 A. Yes.

23 Q. These fraudulent listings; is that correct?

24 MR. KAISER: Objection.

25 THE COURT: On what ground?

1 MR. KAISER: I think that's a determination for the
2 jury, and I think we spoke about it earlier, Your Honor.

3 THE COURT: I'm going to overrule the objection.
4 Save your exception.

5 Q. Do you want to answer that?

6 A. Can you repeat the question?

7 Q. You provided a service wherein other people, according to
8 your testimony here today, you provide a service wherein other
9 people use it to create fraudulent eBay listings, don't you?

10 A. There's no indication that these eBay listings are
11 fraudulent.

12 Q. Except the fact that people who bought items on it never
13 got their product, sir.

14 A. Well, I definitely know for a fact that there were two
15 problems with these accounts involved in the two counts, and
16 that usually does involve something relating to the automated
17 system that eBay and PayPal currently have in practice.
18 Mostly on the PayPal side actually.

19 Q. And you got the money from that, those people?

20 A. These problems can pop up any time, including when sending
21 or receiving money, and sending may resolve -- may result in
22 people unable to pay people for the product or unable to
23 pay -- what I'm really trying to say is the security system
24 works in a way that it may prevent one person from getting
25 paid, but it may not prevent another person from getting paid,

1 and because of general paranoia in the eBay stealth market,
2 people don't like to leave money in accounts because the stuff
3 can be frozen at any time.

4 It's generally understood that people want to just move
5 money out of the account whenever they can or as quick as
6 possible. I think it's a right that -- people have a right to
7 access their funds. That's just my view on that.

8 Q. Sir, would you be tracking the fraudulent auctions as part
9 of your business that you provide these supposed clients?

10 A. No. I monitor the accounts for problems, but I don't
11 track the actual listings.

12 Q. So after the items are listed, you say you monitor them.
13 Does that mean you log into those accounts?

14 A. No, I don't log into those accounts. I just check the
15 e-mail.

16 Q. The e-mail. So you still maintain control over the e-mail
17 account, but you don't monitor the eBay and PayPal accounts?

18 A. No. I just look at the e-mail notifications.

19 Q. You heard from Inspector Weckerly in her testimony that
20 the same IP address that's accessing your personal e-mail
21 account is also accessing the PayPal accounts after the money
22 was getting moved, didn't you?

23 A. Well, a server is being utilized, so all that information
24 would probably match and overlap on top of each other. It's
25 just generally understood. People can use an external VPN

1 when they are more established, but something of a very
2 specific area like ours, I really would prefer to set it up
3 myself and not a problem with providing that service.

4 Q. You are saying you would not know about the fraudulent
5 listings on these eBay accounts?

6 A. I don't think they are fraudulent. I think they are
7 legitimate listings but problems happened later on.

8 Q. 161 times?

9 A. Yes, because I've done these in bulk, and I do know -- you
10 also have to consider these happened around the holiday
11 season. From what I can tell, most of this stuff has to do
12 about stuff that happened in November, December, including
13 these two counts, and that's when the automated system is
14 really aggressive.

15 Q. Sir, the counts go from June 2015 to July 2016, the time
16 period of the indictment. It's spread all the way through.
17 Do you want to look at all 161 accounts to refresh your memory
18 on that?

19 A. I'm pretty good, but there are errors that can still
20 occur.

21 Q. So you wouldn't be monitoring the auctions?

22 A. Well, if I have e-mail access, I can see what's going on,
23 but I don't really go into the eBay or PayPal accounts.

24 Q. Sir, is it your testimony that you actually sent all the
25 empty packages that went to all the victims?

1 A. Yes.

2 Q. And you sent them with your credit card?

3 A. Yes.

4 Q. And you are claiming that it's a test package; is that
5 correct?

6 A. Yes. Part of them are test packages and part of them are
7 destined in order for people to get their refund if problems
8 occur, and that's the only option.

9 Q. It makes no sense that you would send them a package to
10 get a refund after they bought an item and didn't get it?

11 A. Well, yes, it does. It actually makes a lot of sense
12 because there's problems in the PayPal system. It's not
13 necessarily the seller's fault.

14 Q. This whole entire scheme and fraud scheme and the whole
15 entire situation, it's your testimony this is just a glitch
16 with the PayPal system?

17 A. Most of the glitches are actually attributed to the PayPal
18 system. That's why the eBay stealth community actually
19 exists.

20 Q. It's the PayPal system that created these fake accounts,
21 the PayPal system that created a fake listing. It's the
22 PayPal system that allowed victims to send the money, and it's
23 the PayPal system that got the gold sent to your house?

24 A. There's no guarantee this is a fake listing.

25 Q. The people didn't get their items, sir.

1 A. Well, do you understand what problems those automated
2 systems can actually cause during the transactions?

3 Q. Sir, this wasn't an automated system issue. This was a
4 posting of an item for sale where the people got empty
5 packages that you shipped. Do you understand that?

6 A. You don't know that. I'm telling you, in my experience,
7 that has been the case, and these things are not logged in the
8 system as shown from the documentation that eBay and PayPal
9 provided. You are showing actions without essentially any
10 cause. I've already gone over the documents.

11 Q. Sir, I'm going to show you what's IPH8. Go to page 114,
12 please. Can you highlight or expand out the first couple of
13 rows on notifications?

14 Sir, this is your phone receiving communications from
15 PayPal and eBay indicating that there is a fraud that happened
16 on the account of Joseph Stark that you created.

17 Do you see that?

18 A. I did not look at the items detailed. I just got the
19 notifications, but I don't really know what's going on.

20 Q. You have e-mail access to that account, don't you?

21 A. Yeah. I'm monitoring for problems. It looked like the
22 PayPal account had been limited as a result of those problems.

23 Q. You got the gold from that account?

24 A. I'm not aware if I got the gold from the account.

25 Q. Do you want to see the corresponding documents? We walked

1 through it with Mr. Wilkins.

2 A. Yeah. If I could get access to that, I would appreciate
3 it.

4 Q. Let's pull them up. Let's go to the spreadsheet -- let's
5 go to LC16. I think it was 16-316-3 that we looked at. That
6 shows the name Joseph Stark related to the eBay account and
7 the PayPal account of Joe Stark and your address, doesn't it?

8 A. That appears correct.

9 Q. All right.

10 MR. DESAI: Thank you, Ms. Dinuno.

11 Q. Sir, you were interviewed by Postal Inspector Weckerly on
12 July 5, 2016, weren't you?

13 A. Yes.

14 Q. At that time, you never mentioned anything about selling
15 stealth accounts?

16 A. She didn't really ask.

17 Q. You told her that you made stealth accounts?

18 A. Yeah.

19 Q. She was supposed to follow up with are you selling those
20 accounts?

21 A. She did not follow up with that question though.

22 Q. You just didn't choose to answer it or tell her that?

23 A. No. She didn't really ask.

24 Q. You told her all the gold and silver was for your mother's
25 retirement?

1 A. Some of it has been purchased for her retirement, yes, and
2 based on her retirement money.

3 Q. You didn't tell her that the money came from stealth
4 accounts that you sold?

5 A. She never asked that.

6 Q. Sir, you are being interviewed by a law enforcement agent
7 at your house, and you are telling me that she needed to ask
8 you about the details of the stealth account, about whether
9 you are selling or buying stealth accounts?

10 A. Do you realize that I had no idea what was going on at
11 that point in time? I was trying to get information from her,
12 not be questioned to death.

13 Q. Sir, your story today is completely different than the
14 story you told Inspector Weckerly, wasn't it?

15 A. What story?

16 Q. The fact that there's stealth accounts that you are
17 selling, that the money is coming from stealth accounts, all
18 this issue is from PayPal.

19 A. I didn't even know there was an issue to begin with. She
20 just said she was there for fraud and something regarding eBay
21 and electronics, nonexistent electronics, but I didn't get any
22 other details other than that. I was really curious to see
23 what was going on, but I don't know. I didn't know at the
24 time.

25 Q. Just to be clear, sir, your stealth account business

1 again, it's a business based on lying to eBay and PayPal,
2 correct?

3 A. It's based on providing fake information to initialize an
4 account.

5 MR. DESAI: No further questions.

6 REDIRECT EXAMINATION

7 BY MR. KAISER:

8 Q. To your knowledge, are your stealth accounts against the
9 law?

10 A. No.

11 Q. Again, did you steal anything from any of these people?

12 A. No.

13 Q. Now, with respect to Inspector Weckerly, is it your
14 practice to answer questions that you are asked?

15 A. Yes.

16 Q. Is it your practice to answer questions that you are not
17 asked?

18 A. Yes.

19 Q. You do answer questions you are not asked?

20 A. I would have preferred her to ask the questions at that
21 point.

22 Q. Why didn't you volunteer the information to her?

23 A. I had -- I didn't know why she was there. I was actually
24 more curious about, during the interview, why she was there,
25 what this was regarding or why it even relates to me, because

1 I know that operating eBay stealth business isn't against the
2 law, and there's -- the community has been around for nine
3 years at this point.

4 Q. Just so we're clear, were you operating a stealth account
5 business when Inspector Weckerly questioned you?

6 A. Yes, ever since late 2014.

7 Q. Has that been how you've made your money since then?

8 A. Primarily.

9 MR. KAISER: Nothing further, Your Honor.

10 THE COURT: Jury questions. Lawyers come up.

11 (At sidebar.)

12 THE COURT: Was he paid the same amount for every
13 stealth account?

14 MR. DESAI: No objection.

15 MR. KAISER: No objection.

16 THE COURT: How did you communicate with the people
17 who purchased your stealth accounts? Where are your records
18 of this communication?

19 MR. DESAI: I have no objection.

20 MR. KAISER: I have no objection.

21 THE COURT: What do you consider to be wrongfully
22 suspended by eBay and how did you verify the wrongful
23 suspension?

24 MR. DESAI: No objection.

25 MR. KAISER: No problems.

1 THE COURT: What info was encrypted on your computer
2 and why?

3 MR. KAISER: We're going to object to that.

4 THE COURT: On what ground?

5 MR. KAISER: It was beyond the scope of direct, first
6 of all. Second of all, I don't know how it's relevant. These
7 are confidential things that he had.

8 MR. DESAI: I think it's a fair question, but I don't
9 know if he has to answer it.

10 THE COURT: Okay. I'm not going to ask it. If
11 Michael Sliter was your employer, where is your communication
12 with him and why are you not providing it? I'll ask the first
13 part of that question. Any objection?

14 MR. KAISER: No objection to the first part, but I
15 have objection to why --

16 THE COURT: I'm not going to ask the second part.
17 How do you communicate with buyers on the stealth
18 account? Is it e-mail, text or telephone number?

19 MR. DESAI: No objection.

20 MR. KAISER: I have no objection.

21 THE COURT: Do you have proof of sale for the stealth
22 accounts?

23 MR. DESAI: No objection.

24 MR. KAISER: I object to that.

25 THE COURT: On what ground?

1 MR. KAISER: He's not been asked about it. I have
2 problems with that.

3 THE COURT: I'm going to ask it over objection. Save
4 your exception.

5 When you testified, you referred to we. Who is we?

6 MR. DESAI: No objection to that.

7 MR. KAISER: I don't have an objection.

8 THE COURT: Could be the old saying about who's that
9 mouse in your pocket.

10 Why would anyone want to purchase a stealth account
11 when they could open it themselves?

12 MR. DESAI: No objection.

13 MR. KAISER: No objection.

14 THE COURT: Why were those accounts used to send gold
15 to your postal box?

16 MR. DESAI: No objection.

17 MR. KAISER: No objection.

18 THE COURT: How come there are no records or proof of
19 purchase of these stealth accounts, who bought them, and why
20 didn't they testify?

21 MR. KAISER: I have a problem with why they didn't
22 testify.

23 THE COURT: He won't have an answer to the second
24 one.

25 MR. DESAI: I think the first one is already covered

1 by one of the other questions.

2 MR. CALLAHAN: Proof of sale.

3 THE COURT: I'll ask it even though it's redundant.

4 Stealth account numbers. If someone were to get
5 ripped off by one of these so-called stealth accounts and say
6 this victim were as knowledgeable with computers as you and --
7 this is not clear enough for me to ask.

8 What income tax records for self-employed?

9 MR. DESAI: I don't think we should ask that.

10 THE COURT: Okay. Does a businessman as yourself, do
11 you file federal income taxes, records to explain stealth
12 accounts?

13 MR. DESAI: Again, I don't think that's proper.

14 MR. KAISER: I would object to that.

15 THE COURT: Have you ever had any problems receiving
16 the gold or silver shipments to your address from PayPal or
17 eBay stealth account?

18 MR. KAISER: I have no problem with that.

19 THE COURT: I'll ask it. Was he paid the same amount
20 for every stealth account?

21 MR. DESAI: I think that's the first one again.

22 THE COURT: Can you explain why the price of the
23 silver and gold you claim you received as payment for stealth
24 accounts vary in value?

25 MR. DESAI: I have no problems with that, Your Honor.

1 MR. KAISER: I have no problems with that.

2 THE COURT: Why are they not \$300, like you said the
3 typical stealth account costs?

4 MR. DESAI: No problem with that.

5 MR. KAISER: No problem with that.

6 THE COURT: Do you think it's odd that in the cases
7 of Offner and Appley, the gold and silver amounts are almost
8 exactly what the products they were supposed to receive cost?

9 MR. DESAI: No problem with that question.

10 MR. KAISER: I don't know. It's fine. I don't like
11 it, but I think it's fair.

12 THE COURT: Okay.

13 (In open court.)

14 THE COURT: I don't want you to take this personally,
15 but some of you went to the same handwriting school that I
16 went to.

17 All right. I have questions from the jury. Were you
18 paid the same amount for every stealth account?

19 THE WITNESS: Not all the time. There are different
20 accounts which have different limits on them, and the price
21 adjusts accordingly, so a default account that I would sell
22 would be \$500, ten items. That's a selling limit on a monthly
23 basis, by the way, but some accounts actually do end up having
24 10,000, 1,000, 25,000. You can actually hit some pretty
25 interesting limits depending on the address you use.

1 So it's basically pick and choose as you are
2 generating it, and those would be worth more in value.

3 THE COURT: How did you communicate with the people
4 who purchased your stealth accounts?

5 THE WITNESS: I used a web server that I have running
6 on my actual machine. It keeps everything internalized.
7 There's no access to the outside. There's no external forum
8 on the Internet that I use other than eBay stealth forums,
9 ASPKIN A-S-P-K-I-N, forums. That's basically the original
10 place where all eBay stealth originated, and it's been
11 operating for close to nine years now.

12 THE COURT: Do you have records of these
13 communications?

14 THE WITNESS: I try to gain access to 12.2 but it was
15 damaged. It was an encrypted file that had backup of some
16 client information, and I was trying to get access to it with
17 Christopher Wilkins during the investigation, but
18 unfortunately it was damaged, and there's areas of the file
19 missing and I can't unlock it properly without it being
20 corrupted.

21 THE COURT: What do you consider to be wrongfully
22 suspended by eBay?

23 THE WITNESS: Well, if the automated system is
24 basically limiting people out of suspicion, it's been doing it
25 very wildly, and I don't think it's their right to criticize

1 someone's business unless that business is of course
2 fraudulent.

3 In most cases, some people are just trying to sell
4 normally and it actually locks up just because you are either
5 jumping from selling something small to something big or
6 changing your seller activity in some way. They have
7 algorithms which manage these things and they cause those type
8 of issues.

9 THE COURT: If Michael Sliter was your employer, do
10 you have communication info with him?

11 THE WITNESS: I do not at the moment, but he is a
12 person on my Facebook that was on my iPhone. I don't think
13 that's included in the extraction report, because Facebook is
14 kind of an online app, but I've known him since 2014.

15 THE COURT: How did you communicate with the buyers
16 of the stealth account? E-mail? Text? Telephone number?

17 THE WITNESS: I would communicate using my own web
18 server as I kind of stated earlier. I had some programming
19 experience in web applications so I know how to create web
20 interfaces and do graphic design for websites and stuff like
21 that.

22 I had a forum system that was set up with my VPN in
23 order to internalize all my account security, so if you were
24 to take my machine, you would be taking something like Best
25 Buy's website all at once.

1 THE COURT: Do you have any evidence of sale for the
2 stealth account?

3 THE WITNESS: I do. Well, not here today, but I do
4 have forum communication on external forum from two items in
5 the stealth account file. I believe it's Todd Costello is one
6 of them and I can't remember the other one off the top of my
7 head, but that account was sold to somebody. As for the
8 recent ones in this case, I can't recall that information
9 without getting access to 12.2's encrypted portions.

10 THE COURT: While you were testifying, you referred
11 to we. Who is we?

12 THE WITNESS: I consider myself a part of the eBay
13 stealth community, and it's a community focused on helping
14 people. Not on causing fraud.

15 THE COURT: Why would a person purchase a stealth
16 account when they could open it themselves?

17 THE WITNESS: Well, if they had a previous stealth
18 account -- if they had a previous eBay account, I mean, that
19 was suspended, and they know nothing about any of the
20 technical details involved, they need some guidance and they
21 do need someone that actually knows about how all these
22 tracking objects work and how to match them up correctly.

23 That is primarily why eBay stealth is considered a
24 consultancy. Sometimes it's better to actually go to an
25 expert in order to get this information, but you also have the

1 ability to do it yourself if you want to.

2 THE COURT: Why were those accounts used to send gold
3 to your postal box?

4 THE WITNESS: Because that's how I choose to accept
5 form of payment for the actual accounts. It also indicates
6 that if the account is up and running and able to perform
7 transactions normally, notwithstanding that there may be
8 something else occurring afterwards, the account can be used
9 for purchasing a bullion bar, and I accept that in the form of
10 payment as it's preferred.

11 There are problems with other payment methods that
12 I've even had in the past that I just chose this as a low risk
13 form of like a barter system.

14 THE COURT: Did you ever have any problems receiving
15 the gold or silver shipments to your address from PayPal, eBay
16 or stealth account?

17 THE WITNESS: Did I ever have a problem? I don't
18 know. I think maybe -- I actually don't remember. I don't
19 recall, unfortunately. There are some packages that arrived,
20 and I logged them for the client in my client file that's
21 located in the encrypted portions, but beyond that, I don't
22 remember if I had any problems with it.

23 THE COURT: Can you explain why the price of the
24 silver and gold you say you received as payment for stealth
25 accounts vary in value?

1 THE WITNESS: Yes, because accounts may be purchased
2 in bulk. Usually an eBay stealth user has several eBay
3 stealth accounts that they use in order to rotate between
4 selling limits and spread out sales, so I'm not surprised that
5 the sales are spread out or one sale per account per month,
6 something to that effect, but -- could you repeat the
7 question, please?

8 THE COURT: The juror just asked if you could explain
9 why the price of silver and gold that you say you received as
10 payment for stealth accounts vary in value.

11 THE WITNESS: It's because they could be purchased in
12 bulk. Multiple accounts could be purchased at once.

13 THE COURT: Why would they not be \$300 that I believe
14 you said a typical stealth account cost?

15 THE WITNESS: Because there are other services added
16 including access to the VPN which, depending on what
17 subscription is purchased, could raise the price. Usually
18 it's less than \$100 though.

19 THE COURT: Do you have any comment on the cases of
20 Offner and Appley? Their gold and silver amounts are almost
21 exactly what the products -- what the value of the products
22 they were supposed to receive.

23 THE WITNESS: Ray Offner didn't receive -- I didn't
24 receive any money from Ray Offner or the eBay sale client
25 associated with that account. I mean, if I'm correct, Ray

1 Offner just got his money back and I'm happy with that
2 situation. I've taken a look at it.

3 I think you asked in respect to the other sales?
4 What was the question again?

5 THE COURT: I think you answered it. Any other
6 question?

7 MR. DESAI: Yes, Your Honor, just briefly.

8 RECROSS-EXAMINATION

9 BY MR. DESAI:

10 Q. Sir, 12.2 is the hard drive that had the prongs that were
11 kind of broken; is that correct?

12 A. Yes.

13 Q. And ultimately you guys were able to get into that?

14 A. Yes, we attempted to.

15 Q. And you got an image copy of that hard drive?

16 A. Yes, but it seems to be partial.

17 Q. And you are saying that the -- there is an encryption
18 portion to that hard drive?

19 A. That's correct.

20 MR. DESAI: No further questions, Your Honor.

21 MR. KAISER: Nothing further, Your Honor.

22 THE COURT: All right. You may stand down.

23 (Witness excused.)

24 THE COURT: Next witness.

25 MR. KAISER: Your Honor, at this time, the defense

1 would rest.

2 THE COURT: Any rebuttal?

3 MR. DESAI: Your Honor, can I get one minute?

4 THE COURT: Are you calling a rebuttal witness?

5 MR. DESAI: I might, Your Honor. Your Honor, the
6 government is going to call a rebuttal witness. It's going to
7 call Mr. Wilkins.

8 THE COURT: Is he available now?

9 MR. DESAI: We're trying to get him right now.

10 MR. CALLAHAN: He's right around the corner.

11 THE COURT: Have I told you about my lawyer friends
12 who had coffee when I had been nominated for judge? I'm
13 explaining why I'm going to be meeting with the lawyers and
14 have them give me some advice on closing instructions.

15 Some of my alleged friends back in '93 when I was
16 nominated were having coffee, and one of them said, well, a
17 lawyer doesn't need to know much law to be a pretty good
18 district judge, and another one of my alleged friends said, in
19 that event, Wilson is highly qualified.

20 You are still under oath.

21 CHRISTOPHER WILKINS, a witness herein, having been
22 previously duly sworn, was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. DESAI:

25 Q. Sir, could you please state your name and spell it for the

1 record?

2 A. Christopher Wilkins, W-I-L-K-I-N-S.

3 Q. Welcome back, Mr. Wilkins. You are the forensic examiner
4 who reviewed the electronic devices at the defendant's
5 residence, correct?

6 A. Yes, sir.

7 Q. I want to focus on what is known in your exhibits as 12.2.
8 That's a hard drive that had a couple of prongs that were
9 physically damaged; is that correct?

10 A. That's correct.

11 Q. Were you able to eventually get into that hard drive and
12 make an image of that?

13 A. Yes.

14 Q. It stalled out -- it didn't get you a full image, but it
15 went through as far as you could?

16 A. Yes, it did. It was a partial image.

17 Q. On any portion of that partial image, was there
18 encryption?

19 A. There was none.

20 MR. DESAI: No further questions, Your Honor.

21 CROSS-EXAMINATION

22 BY MR. KAISER:

23 Q. Hi, Mr. Wilkins.

24 A. Hello.

25 Q. So it was still partially damaged, correct?

1 A. Yes. It was incomplete.

2 MR. KAISER: Nothing further.

3 THE COURT: Jury question? You may stand down.

4 Thank you, sir.

5 (Witness excused.)

6 THE COURT: Waiting on the government to say
7 something.

8 MR. DESAI: Sorry, Your Honor. There's no other
9 witnesses from the government.

10 THE COURT: If the lawyers will approach.

11 (At sidebar.)

12 THE COURT: I'll treat the defendant's motion for
13 judgment of acquittal as a matter of law as being remade in
14 toto right now. Does that suit the government?

15 MR. DESAI: That suits the government.

16 MR. KAISER: That's correct, Your Honor.

17 THE COURT: Do you want to take a break now before I
18 instruct them? I'll give you a break before we have closing
19 argument. Do you want to take it right now or after the
20 instructions?

21 MR. DESAI: I would recommend doing it now and we set
22 it all up and we go from closing instructions to the closing.

23 MR. KAISER: Up to you. Are we going to have time to
24 do 35 minutes?

25 THE COURT: Give you all 15 minutes. Would that be

1 enough?

2 MR. DESAI: That would be fine.

3 THE COURT: 15 minutes for break.

4 MR. KAISER: That would be great. Unless you give me
5 15 days.

6 THE COURT: I'll take that under advisement.

7 (In open court.)

8 THE COURT: We'll be in recess until half past. I'll
9 give you the instructions and we'll have the lawyers' closing
10 arguments. It will last a total of about an hour, the
11 arguments. The government gets to go first, and since the
12 government has the burden of proof, they get a five or so
13 minute rebuttal and the defense argument will be between
14 those. Let the jury stand down with the standard admonition.
15 Everyone else remain seated.

16 THE CLERK: This court is in recess.

17 (Jury excused.)

18 THE COURT: The jury is out. I warn you at 25
19 minutes on your first argument. If I don't forget, I'll warn
20 you at 30 minutes during your argument.

21 MR. DESAI: Thank you, Your Honor.

22 THE COURT: We are in recess. Be at ease.

23 (Recess taken.)

24 THE CLERK: This court is now in session.

25 THE COURT: Be with you in a second. All right. I'm

1 going to give you the closing instructions. The instructions
2 I gave you at the beginning of the trial remain in effect, and
3 I now give you some additional instructions. You must, of
4 course, continue to follow the instructions I gave you earlier
5 as well as those I give you now. You must not single out some
6 instructions or ignore others because all are important.

7 This is true even though some of those I gave you
8 earlier are not repeated here. You have copies of these
9 instructions that I'm giving you. Each of you has a copy.
10 You can follow them if you want to, but don't read ahead of
11 me, please. You may make notes on your copy of instructions
12 during closing arguments but please do not mark on the copy
13 which I have here. I've written "Court's Copy" on it. It
14 will go to the jury room with you.

15 All instructions, whenever given, whether in writing
16 or not, must be followed. The instructions I'm giving you now
17 are in writing and will be available to you in the jury room.
18 I emphasize, however, this does not mean they are more
19 important than my earlier instructions. Again, all
20 instructions, whenever given and whether in writing or not,
21 must be followed.

22 Now, like I told you I've written "Court's Copy" on
23 the front of mine. That will go with to the jury room with
24 you. Also clipped to that will be the copy of the indictment
25 for you to refer to if you need to.

1 When the lawyers are making their closing arguments,
2 feel free to make notes on your instructions if you want to.

3 Turning to No. 2. Now, it is your duty to find from
4 the evidence what the facts are. You'll then apply the law as
5 I give it to you to the facts. You must follow my
6 instructions on the law even if you thought the law was
7 different or should be different. Do not allow sympathy or
8 prejudice to influence you. The law demands of you a just
9 verdict unaffected by anything except three things: Evidence,
10 your common sense and the instructions on the law that I give
11 you.

12 No. 3, in deciding what the facts are, you may have
13 to decide what testimony you believe and what testimony you do
14 not believe. You may believe all of what a witness said, part
15 of it or none of it. In deciding what testimony to believe,
16 consider the witness's intelligence, the opportunity the
17 witness had to see or hear the things testified about, the
18 witness's memory, any motive that the witness may have had for
19 testifying a certain way, the manner of the witness while
20 testifying, whether that witness said something different in
21 an earlier time, the general reasonableness of the testimony
22 and the extent to which the testimony is consistent with any
23 other evidence in the case that you believe.

24 In deciding whether or not to believe a witness, keep
25 in mind that people sometimes hear or see things differently

1 and sometimes forget things. You need to consider, therefore,
2 whether a contradiction is an innocent misrecollection, a
3 lapse of memory or an intentional falsehood, and that may
4 depend on whether it has to do with an important fact or only
5 a small detail. You should judge the defendant's testimony in
6 the same manner as you judge the testimony of any other
7 witness.

8 No. 4, you have heard testimony from persons
9 described as experts, persons who, by knowledge, skill,
10 training, education or experience, have become expert in some
11 field and may state their opinions on matters in that field
12 and may also state the reason for their opinion. Expert
13 testimony should be considered just like other testimony. You
14 may accept or reject it and give it as much weight as you
15 think it deserves considering the witness's education and
16 experience, his soundness of the reasons given for the
17 opinion, the acceptability of the methods used and all other
18 evidence in the case.

19 Turning now to No. 5. Reasonable doubt is doubt
20 based upon reason and common sense and not doubt based on
21 speculation. Reasonable doubt may arise from careful and
22 impartial consideration of all the evidence or from a lack of
23 evidence. Proof beyond a reasonable doubt is proof of such a
24 convincing character that a reasonable person, after careful
25 consideration, would not hesitate to rely and act upon that

1 proof in life's most important decisions. Proof beyond a
2 reasonable doubt is proof that leaves you firmly convinced of
3 defendant's guilt. Proof beyond a reasonable doubt does not
4 mean proof beyond all possible doubt.

5 No. 6, the indictment charges that the crime happened
6 on or about certain dates. The prosecution does not have to
7 prove that the crime happened on an exact date, but the
8 prosecution must prove that the crime happened reasonably
9 close to that date.

10 No. 7, the indictment in this case charges defendant
11 with two counts of mail fraud in violation of federal law. He
12 has pled not guilty to these charges. The indictment is
13 simply the document that formally charges the defendant with
14 the crimes for which he is on trial. The indictment is not
15 evidence.

16 At the beginning of the trial, I instructed you that
17 you must presume the defendant to be innocent, thus he began
18 the trial with a clean slate with no evidence against him.
19 The presumption of evidence alone is sufficient to find the
20 defendant not guilty and can be overcome only if the
21 prosecution proved during the trial beyond a reasonable doubt
22 each element of the crime charged.

23 There is no burden on the defendant to prove he is
24 innocent. Instead, the burden of proof remains on the
25 prosecution throughout the trial.

1 No. 8, whether or not defendant had been charged with
2 a crime in any other jurisdiction is not relevant to your
3 consideration of whether he has been proven guilty beyond a
4 reasonable doubt of the crimes charged in this case.

5 No. 9, the crime of mail fraud which is charged in
6 Counts 1 and 2 of the indictment has three elements which are:
7 One, defendant knowingly devised a scheme to defraud or obtain
8 money by means of materially false or fraudulent pretenses,
9 representations or promises or willfully participated in such
10 a scheme with knowledge of its fraudulent nature. That is,
11 that defendant devised or willfully participated in a scheme
12 to defraud individuals by listing goods for sale on eBay and
13 not delivering the goods.

14 Two, defendant did so with the intent to defraud.

15 And three, that in advancing, furthering or carrying
16 out the scheme, defendant used the mails or caused the mails
17 to be used on or about the dates in Count 1 and 2.

18 If all three elements have been proved beyond a
19 reasonable doubt to Counts 1 and 2 of the indictment, you must
20 find him guilty of the crime charged under that specific
21 count. Otherwise, you must find the defendant not guilty of
22 the crime charged in that specific count.

23 A scheme to defraud is any plan, device or course of
24 action to deprive another of money or property by means of
25 false or fraudulent pretenses, representations or promises

1 reasonably calculated to deceive a reasonable person.

2 In this case, the indictment alleges that the scheme
3 to defraud was carried out by making false or fraudulent
4 statements or representations. The representations which the
5 prosecution charges were made as a part of the scheme to
6 defraud are set forth in the indictment. The prosecution is
7 not required to prove every misrepresentation charged in the
8 indictment. It is sufficient if the prosecution proves beyond
9 a reasonable doubt that one or more of the alleged material
10 misrepresentations were made in furtherance of the alleged
11 scheme to defraud.

12 However, you cannot convict a defendant unless all of
13 you agree to at least one of the material misrepresentations.
14 A statement, representation, claim or document is false if it
15 is untrue when made and if the person making the statement,
16 representation, claim or document or causing it to be made
17 knew it was untrue at the time it was made. A representation
18 or statement is fraudulent if it was falsely made with the
19 intention to deceive.

20 In addition, deceitful statements of half truths or
21 the concealment of material facts may constitute false or
22 fraudulent statements. The arrangement of the words or the
23 circumstances in which they are used may convey the false and
24 deceptive appearance.

25 The deception need not be premised upon spoken or

1 written words alone. If there is deception, the manner in
2 which it is accomplished is immaterial.

3 The false or fraudulent representation must relate to
4 a material fact or matter. A material fact is one which would
5 reasonably be expected to be of concern to a reasonable and
6 prudent person relying upon the representation or statement in
7 making a decision to purchase items on eBay or send money
8 through PayPal. This means that if you find a particular
9 statement of fact is false, you must determine whether that
10 statement was one that a reasonable person might have
11 considered important in making his or her decision. The same
12 principle applies to fraudulent half truths or omissions of
13 material facts.

14 In order to establish a scheme to defraud, the
15 prosecution must also prove that the alleged scheme
16 contemplated depriving another of money or property. However,
17 the prosecution is not required to prove the defendant
18 originated the scheme to defraud. Furthermore, it is not
19 necessary that the prosecution prove the defendant actually
20 realized any gain from the scheme or that intended victim
21 actually suffered any loss.

22 In this case, it so happens that the prosecution does
23 contend that the proof establishes that persons were defrauded
24 and that defendant profited. Although whether or not the
25 scheme actually succeeded is not really the question, you may

1 consider whether it succeeded in determining whether the
2 scheme existed.

3 To act with an intent to defraud means to act
4 knowingly and with intention or purpose to deceive or cheat.
5 In considering whether the defendant acted with intent to
6 defraud, you may consider, among other things, whether he
7 acted with a desire or purpose to bring about some gain or
8 benefit to himself or someone else or with a desire or purpose
9 to cause someone loss.

10 The prosecution is not required to prove the
11 defendant actually mailed anything or that he even intended
12 that the mails would be used to further or to advance or to
13 carry out the scheme. However, the prosecution must prove
14 beyond a reasonable doubt that the mails were in fact used in
15 some manner to further or to advance or to carry out the
16 scheme to defraud. The prosecution must also prove either
17 that the defendant used the mails or that he knew the use of
18 the mails would follow in the ordinary course of business or
19 that he should reasonably have anticipated that mails would be
20 used.

21 It is not necessary that the item itself -- the item
22 mailed was itself false or fraudulent or contained any false
23 or fraudulent statement, representation or promise or
24 contained any request for money or thing of value.

25 However, the prosecution must prove beyond a

1 reasonable doubt that the use of the mails in some way
2 furthered or advanced or carried out the scheme. A mailing
3 intended to lull victims into a false sense of security or to
4 conceal the fraud or postpone its detection or to make
5 detection less likely constitutes a mailing for the purpose of
6 executing the scheme to defraud.

7 Each use of the mails to advance or further or carry
8 out the scheme or plan may be a separate violation of the mail
9 fraud statute.

10 No. 10, intent or knowledge may be proved like
11 anything else. You may consider any statements made and acts
12 done by the defendant and all the facts and circumstances in
13 evidence which may aid in a determination of his knowledge or
14 intent. You may but are not required to infer that a person
15 intends the natural and probable consequences of acts
16 knowingly done or knowingly omitted.

17 I turn now to No. 11, the last of the closing
18 instructions. In conducting your deliberations and returning
19 your verdict, there are certain rules you must follow. I'll
20 list those rules for you now.

21 First, when you go to the jury room, you must select
22 one of your members as the presiding juror. That person will
23 preside over your discussions and speak for you here in court.

24 Second, it is your duty as jurors to discuss the case
25 with one another in the jury room. You should try to reach

1 agreement if you can do so without violence to individual
2 judgment because a verdict, whether guilty or not guilty, must
3 be unanimous. Each of you must make your own conscientious
4 decision but only after you have considered all the evidence,
5 discussed it fully with your fellow jurors and listened to the
6 views of your fellow jurors.

7 Do not be afraid to change your opinions if the
8 discussion persuades you that you should, but do not come to a
9 decision simply because other jurors think it is right or
10 simply to reach a verdict. Remember that at all times, you
11 are not partisans. You are judges, judges of the facts. Your
12 sole interest is to seek the truth from the evidence in this
13 case.

14 Third, if the defendant is found guilty, the sentence
15 to be imposed is my responsibility. You may not consider
16 punishment in any way in deciding whether the prosecution has
17 proved its case beyond a reasonable doubt.

18 Fourth, if you need to communicate with me during
19 deliberations, you may send a note to me through the bailiff
20 or the courtroom deputy, signed by one or more jurors. I'll
21 respond as soon as possible either in writing or orally here
22 in open court. Remember, you should not tell anyone,
23 including me, how your vote stands numerically.

24 Fifth, your verdict must be based solely on the
25 evidence and on the law which I have given you in my

1 instructions. The verdict, whether guilty or not guilty, must
2 be unanimous. Nothing I have said is to suggest what your
3 verdict should be. That is entirely for you to decide.

4 I'm not going to give you the instruction again about
5 the e-mails or eBay or all the other types of electronic
6 communications. You are not to have cell phones in the jury
7 room when you deliberate. They will be taken and given back
8 to you after deliberations.

9 The verdict forms are simply written notices of the
10 decision that you reach in this case. Take a minute. Look
11 over the verdict forms which are the next page. I've asked
12 you not to write on my copy of the instructions. There is one
13 exception. Use my verdict form to fill out to give your
14 verdict, the one that's on the back of the court's
15 instructions. You can tear it loose or leave it on the
16 instructions. Notify the courtroom deputy that you are ready
17 to return with a verdict after you have reached your verdict.

18 Finally, remember also that the question before you
19 can never be: Will the prosecution win or lose the case. The
20 prosecution always wins when justice is done, whether the
21 verdict is guilty or not guilty.

22 Does either side wish to approach the bench with
23 respect to the closing charge?

24 MR. DESAI: Not the government, Your Honor.

25 MR. KAISER: No, Your Honor.

1 THE COURT: Do you wish to close for the prosecution?

2 MR. DESAI: Yes, Your Honor.

3 THE COURT: You may.

4 MR. DESAI: Good afternoon, ladies and gentlemen. On
5 behalf of the United States of America, I want to thank you
6 for your time and your service here today and throughout this
7 trial.

8 I also want to specifically thank you for your
9 patience and your attention as we went through spreadsheet
10 after spreadsheet in this case. I know they are tedious, but
11 they were important to show the defendant's fraud scheme.

12 Before I start getting into the argument side, I just
13 want to remind you of the judge's instructions that the
14 opening and the closing is not evidence. What the lawyers say
15 in these areas are not evidence. The evidence is the physical
16 exhibits that you have seen, the items found at the house, the
17 spreadsheets that we've gone over, the eBay, PayPal
18 spreadsheets, the thumb drive spreadsheets, the vanilla gift
19 cards, the Liberty Coin, Dollar Bank, the Click-N-Ship records
20 and also witness's testimony.

21 You guys are the sole judges of the credibility of
22 the witnesses. You just heard the judge's instructions, the
23 series of things to consider when you look at a witness's
24 credibility. One of them I want to highlight is any motive
25 that the witness may have for testifying in a certain way.

1 I ask that you consider the motives of the witnesses
2 that testified throughout this trial. It's also important
3 that it's your recollection of the testimony that's
4 controlling. If I say something or defense counsel says
5 something that's inconsistent with what you've heard and what
6 you remember the testimony to be, it's your testimony -- it's
7 your memory that's controlling.

8 In a little bit, you are going to do what only you
9 can do, and that's decide this case. One of the most
10 important things happened last Wednesday at 11:17 a.m. That's
11 when each of you put your hand up and took a solemn oath that
12 you will truly decide the case based on the evidence presented
13 and the judge's instructions. You are guided in making that
14 decision with your common sense.

15 Now, last Wednesday, you heard the opening
16 statements. You'll recall the United States told you that
17 this case was about the defendant's lies to steal money from
18 people, and that's exactly what the evidence presented in this
19 trial has established.

20 In fact, something unique just happened only an hour
21 ago, if you go back and think about the testimony of the
22 defendant. The number of people he lied to has just increased
23 by 13, each and every one of you. In response to a jury
24 question, he indicated that the hard drive 12.2, the damaged
25 hard drive, the image copy that he got, had encryption on it.

1 You heard from the forensic expert it didn't.

2 This was after there was a back and forth about what
3 the truth was, when the defendant admitted on the stand that
4 he takes liberties with the truth. He in fact even asked the
5 government to let him know what it meant when it asked for the
6 truth. That was after he took his oath to tell you.

7 You heard the testimony of the victims, Mr. Appley,
8 Mr. Offner, Ms. Ferguson, Mr. Bejarano and Mr. Dirksen, a few
9 of the victims from the 161 eBay accounts.

10 Each of them told you that they were shopping on eBay
11 for an electronic device. Mr. Appley was looking for a
12 MacBook Pro laptop. Mr. Bejarano, Mr. Offner, an iPhone.
13 Mr. Dirksen, Ms. Ferguson, a Samsung Galaxy. And each were
14 the highest bidder on an eBay auction.

15 You'll recall Mr. Appley's testimony way back last
16 week that he was so excited that he stayed up until 1:00 a.m.
17 to confirm that he was going to be the winning bid, and he
18 paid immediately upon finding out that he was. All the
19 victims testified that they sent payment through PayPal. You
20 saw the PayPal records. Immediately, once the funds came in,
21 they were used to buy gold, silver and other items. I think
22 we saw some pretzels as well.

23 Each of the witnesses testified -- each of the
24 victims testified that they did not receive the laptop, the
25 cell phones. What they did receive, or at least four of them

1 that testified, Mr. Appley, Mr. Offner, Mr. Bejarano,
2 Mr. Dirksen, they received an empty package sent by the
3 defendant's credit card.

4 Ms. Ferguson wasn't even that lucky. What she
5 received was a tracking number to an empty package that went
6 to Arizona and not to Iowa.

7 Postal Inspector Weckerly has testified that she
8 learned of those victims all across the U.S. who purchased
9 electronic devices but received empty packages, and they came
10 from the same Click-N-Ship account. She confirmed that the
11 packages were empty based on the U.S. Postal Service tracking
12 information.

13 Mr. Huhnke told you that eBay was able to identify
14 161 eBay accounts that were used by the same person to commit
15 this same fraud scheme.

16 You heard from eBay and PayPal that they lost over
17 \$100,000 reimbursing their customers, the victims. The
18 evidence readily shows that fraud occurred here. There's no
19 dispute concerning the testimonies of Mr. Appley, Mr. Offner,
20 Mr. Bejarano, Mr. Dirksen or Ms. Ferguson, that these
21 individuals had purchased items on eBay and never received
22 them. There's no real dispute that there's 161 accounts
23 connected to the same activity, the same fraud scheme.

24 What is really at issue here is who is responsible
25 for the fraud scheme. Who did it? All the evidence points to

1 one person, the defendant. The evidence will show that the
2 defendant created the fraudulent eBay and PayPal accounts,
3 that he listed the electronic products for sale on eBay, that
4 he mailed the empty envelopes to the victims and that he used
5 the victim's money to buy gold, the silver and the other
6 items.

7 Now, how do we know that the defendant created the
8 eBay and PayPal account? He admitted it. He told you that,
9 yes, he created all 161 eBay and PayPal accounts. We also
10 know that because we found the vanilla Visa gift cards, the
11 144 vanilla Visa gift cards that were used to be associated
12 with these accounts in his dresser drawer. On the back of
13 those cards, it tells you which eBay and PayPal account they
14 connect to.

15 You can see -- that was again one of the
16 spreadsheets, one of the exhibit items we went through on
17 PP1.1 and all the dot 1s, the credit card numbers. They go
18 back to those vanilla Visa gift cards.

19 You'll recall the testimony of the forensic examiner,
20 Mr. Wilkins, and those cheat sheets, the different version of
21 cheat sheets on the thumb drive and the iPhone. The defendant
22 admitted that he created those. What do they have? One of
23 the tabs, a listing of all the eBay accounts that he created,
24 the user name, the e-mail, the password, the other items of
25 information.

1 The evidence also shows the defendant created these
2 eBay listings, that he monitored when the victims' money would
3 get released. You saw that repeatedly on the spreadsheets,
4 released funds. Whose funds were being released? Mr. Appley,
5 Mr. Offner, Mr. Bejarano, Mr. Dirksen. We kept seeing those
6 same names, Ms. Ferguson, and he was tracking when the funds
7 would get released from PayPal. We know that he accessed
8 those accounts after the fraudulent transaction.

9 I want to go through the spreadsheet one last time,
10 ladies and gentlemen.

11 Can we put the other one up as well. Ladies and
12 gentlemen, on the left-hand side here is TD6. It's the IP
13 addresses that connect over to the e-mails, and on the
14 right-hand side, that is EB1.2, this top line, Rockinray.
15 That's Mr. Ray Offner buying that item. That's the fraudulent
16 listing. That's the IP address, and the defendant is tracking
17 it, the account that created it.

18 He did that over and over and over. He was tracking
19 the IP addresses that he used to create these fraudulent eBay
20 advertisements and listings.

21 Ms. Dinuno, if you can go over to the FSIA log. If
22 you go down to row 355. Actually if you don't mind, go to 373
23 and just click on that cell right here on row E. If you don't
24 mind going back to this spreadsheet and bring over ID number.

25 Ladies and gentlemen, defendant told you that he

1 wasn't making the eBay listing. He wasn't monitoring the
2 options. Maybe he would check the e-mail account every once
3 in a while. This is the unique ID number for every eBay sales
4 listing.

5 You heard Mr. Huhnke tell you that each item is
6 posted and created on eBay. Each advertisement has its own
7 unique number. The defendant knows what that number is. He's
8 tracking them. He wouldn't know what that is if he didn't
9 know about the fraudulent eBay listing. He's tracking because
10 he's the one who's creating them.

11 You'll recall, as we scroll through this item --
12 look, he also has the name of the victim and the amount of
13 money they are paying. He knows what's going on. He knows
14 exactly who the victim is and how much money they are and then
15 he sends a package to the same people.

16 If you scroll over, Ms. Dinuno. What do we find
17 here? Information that went to prep the packages. If we go
18 up in other places, there's information about when money
19 should be released.

20 If you can go back to the PowerPoint, please.

21 Ladies and gentlemen, we also heard Postal Inspector
22 Weckerly testify that she analyzed the IP addresses that were
23 accessed in those PayPal accounts and the activities on them,
24 after the fraudulent transactions, after the money was sent
25 over by the victim. And who was accessing it? The same

1 person who was accessing his e-mail account. It was the
2 defendant. He was accessing those PayPal accounts.

3 And then you heard the testimony from our forensic
4 examiner. We saw he was accessing e-mail accounts on those
5 cookies. We talked a little about those cookies on the phone
6 and in that report. He was accessing e-mail accounts, but he
7 also was receiving notifications from eBay and PayPal for one
8 of the fraudulent accounts telling him that there has been
9 fraud on that account, telling him that PayPal is going to
10 limit the account because of that fraudulent activity.

11 That's Mr. Joseph Stark. That's the name of the fake
12 account, fake name the defendant provided that to eBay and
13 PayPal. That goes to EB16, and you saw the Liberty Coin
14 records that correspond. He got notified that that account
15 was using fraud and he's collecting the gold. The defendant
16 claims that he sold the eBay accounts.

17 Ladies and gentlemen, that doesn't make a lot of
18 sense. The eBay accounts are free to make. Why would anyone
19 be paying 300 to \$350 for something free?

20 You heard the testimony of Mr. Huhnke. He told you,
21 yes, there is -- first he told you it was improper to sell
22 eBay accounts pursuant to eBay's policy, but yes, the buying
23 and selling of accounts does occur illegally -- or not
24 illegally -- improperly, but it's accounts that have high
25 seller ratings, not brand new accounts.

1 These accounts, these 161 accounts are brand new
2 accounts. The only transactions on them are the fraudulent
3 transactions.

4 If you review the eBay and PayPal records, the only
5 address is the initial fake address that he created, and the
6 only other address is the defendant's UPS mailbox. There's a
7 few times where there's a Home Depot near his home, but the
8 vast majority was his UPS mailbox.

9 If someone else was buying the account, don't you
10 think they would have bought something and sent it to
11 themselves. If they did, it should have been on that list.
12 The reality is no one was buying something and sending it
13 elsewhere. It was all going to the defendant.

14 All the victims' money -- you can go through the
15 records. Go through all the eBay records. All the victims'
16 money was going to the defendant, not just 300 or 350.

17 You heard the testimony of Mr. Wilkins. There was no
18 evidence of selling accounts on his electronic devices. None.
19 No evidence. Not one piece of evidence to suggest the
20 accounts were sold.

21 The evidence also shows that the defendant mailed
22 empty packages to the victims and he admits as much. He says
23 yes, I mailed those packages with my credit card.

24 Now, why the empty package? Two reasons. First, it
25 makes it look like someone might have stole the item as it was

1 shipped through the mail. Ms. Weckerly testified she had to
2 go up and look up to see if the packages were indeed empty.

3 And, two, it was to delay the victims from filing a
4 complaint with eBay and PayPal so the money could be moved
5 before the victims knew what happened.

6 You heard the testimony of Ms. Heathington and Postal
7 Inspector Weckerly. To move the money out of PayPal, you mark
8 the item shipped and you get seven days and the money comes
9 out, or you send a tracking number, and three days later, the
10 item came out.

11 The defendant would mail empty packages to businesses
12 in the same zip code, load it into PayPal, get the money and
13 send the victims packages, packages to reassure them that
14 something was on the way as he was spending the money on gold
15 and silver.

16 This is an e-mail that you saw when Michael Appley
17 testified. Do you remember his testimony? He got nervous.
18 He didn't hear anything about the package. He got nervous.
19 He was all excited about his MacBook and now he's starting to
20 become nervous. He sends an e-mail to the seller and the
21 seller gave him that tracking number. How would the seller
22 know that tracking number? The same tracking number for the
23 package, for this package. Couldn't hold a MacBook. This
24 package that the defendant shipped and admits to shipping and
25 paid for with his credit card.

1 You'll recall the testimony from Click-N-Ship, and we
2 have that big gigantic poster exhibit to send back with you
3 guys. You can look through all those Click-N-Ship shipments,
4 and you heard the testimony of the Dollar Bank witness. It
5 was indeed his credit card. These weren't test packages,
6 ladies and gentlemen. Why would you be sending a test package
7 after you sold the account? Why would it be the first
8 transaction or whatever transaction it is? It always happens
9 to be the fraudulent transactions. It doesn't make any sense.

10 When you offer an item for sale, when you take the
11 money from the buyer and you send them an empty package,
12 that's not a test. That's theft.

13 How about the victims' money? Who was receiving the
14 victims' money? It was the defendant. You'll recall the
15 PayPal records. Money came in. Minutes later, sometimes 15
16 minutes, sometimes 30, but minutes later, sent and bought gold
17 and silver from Liberty Coin. There was other gold purchases
18 from other locations. Only shipping address on the PayPal and
19 eBay records is the defendant's. You saw the Liberty Coin
20 records. The money was going to the defendant.

21 Misty Thelen testified from the USPS Store. The
22 mailbox belonged to the defendant and his mom. It was in
23 their name. You recall the UPS 2, that exhibit, the one that
24 showed Atticus Sliter-Matias, Matias Marrero listed for that
25 mailbox. She recalls having conversations with the defendant

1 and seeing him pick up those mails. But even more, you just
2 heard today, earlier today testimony of items found in
3 defendant's residence.

4 What do we find? We found the gold and silver in a
5 safe in his bedroom, not his mom's bedroom. It was in his
6 closet. A safe full of the gold and silver. And we also
7 found numerous packages and invoices.

8 These packages, ladies and gentlemen, are the gold
9 and silver from Liberty Coin bought with victims' money, EB
10 and PP15. Mr. Willfred Rodriguez, it's his money. Where were
11 they? In the defendant's residence when law enforcement
12 showed up.

13 THE COURT: You have about five minutes.

14 MR. DESAI: It wasn't just gold and silver. We saw
15 invoices for ear plugs and other items. Again, all at the
16 defendant's residence. Now, I suspect in a little bit, you'll
17 hear a lot about reasonable doubt. One of our greatest parts
18 of our criminal justice system is we require proof beyond a
19 reasonable doubt to prove guilt. We embrace and welcome that
20 it's our burden to prove guilt beyond a reasonable doubt.
21 That is not an insurmountable burden. That is not proof
22 beyond all doubt. That's not proof beyond a mathematical
23 certainty. It's doubt that would cause you to hesitate to act
24 in matters of the highest importance to you in your daily
25 life. The evidence presented in this case proves each of the

1 elements of the charges beyond a reasonable doubt.

2 The first two elements, there's not really a lot of
3 doubt there. There was a scheme to defraud. We know that.
4 We know there's 161 eBay accounts used creating fraudulent
5 eBay listings for sales of items that were never delivered.
6 Across the nation, across all jurisdictions. And the intent
7 was to take money from the victims.

8 Now, you heard an instruction earlier, it's not
9 necessary that the defendant actually realized any gain from
10 the scheme or that he intended victims any actual loss or he
11 caused any actual loss. You heard from eBay and PayPal, there
12 was over \$100,000 in loss.

13 In Mr. Offner's case, there was an attempt to move
14 the money by check to the defendant and the fact that neither
15 Mr. Offner nor PayPal suffered a loss, under the law, still
16 makes that mail fraud.

17 Again, the mailing was meant to delay the victims and
18 make it appear as theft. The only real question again is who.

19 Ladies and gentlemen, the person whose credit card
20 was used to ship the empty package, the person who received
21 the victims' money, the person who possessed the vanilla gift
22 cards and created the eBay accounts, the person who is
23 tracking the fraudulent activity accounts and accessing those
24 accounts after the fraud was the defendant. All the evidence
25 shows it's the defendant.

1 The United States simply asks one thing from you
2 guys, that you do your solemn duty. You do what the evidence
3 and the law tells you to do. You do what you know is right.
4 Thank you.

5 MR. KAISER: Hello, I'm Mark Kaiser. I think you
6 probably know that by now. I'm going to give a closing
7 argument now, and before I do that, I want to just echo some
8 of the sentiments that were made by His Honor at the very
9 beginning of this case about this system of justice that we
10 have. This is really an amazing system of justice. Twelve
11 people who have never, ever met the defendant, never met any
12 of the prosecuting attorneys, never met any of the
13 prosecutorial authorities come together, listen to all the
14 evidence and then make a decision.

15 The king doesn't make the decision here. This is
16 truly the greatest system in the history of the world, and I
17 will say that His Honor will instruct you as to the law, but
18 one very important concept His Honor will instruct you on is
19 proof beyond a reasonable doubt. I won't tell you what the
20 law is, His Honor will, but I will tell you that that has a
21 lot to do with this case.

22 And the reason that we have that standard of justice,
23 that standard in criminal cases, that high standard is because
24 we want to make sure, we want to make sure we get the right
25 guy. We want to make sure the guy we get is truly guilty. We

1 want to make sure.

2 I think it's very true that the government's duty in
3 this case is to seek justice. Very happy that was said by
4 esteemed counsel, because it's true. The greatest loss that
5 anybody could ever have, defense, state, jury, anybody, is to
6 convict an innocent person.

7 So with that in mind, we listened to my client. We
8 listened to his testimony. He told you about his business.
9 He had a stealth account business. He told you that he's had
10 that business for a long time. He told you that he's
11 remarkable. I think it's obvious from his testimony that he's
12 remarkably astute about computers. I'm remarkably ignorant
13 about computers, but he's like the opposite. He's very smart
14 when it comes to computers.

15 He actually built the computer that's in his home. I
16 can't even imagine. He testified to all these things. He
17 testified he didn't steal any money. He testified that all of
18 the moneys he received were from the stealth accounts that he
19 sold and he preferred to get paid in gold, and he testified
20 that he had a lack of confidence in the financial system of
21 this country and that's why he preferred to be paid in gold.

22 That's also why he had the gold at his house and
23 that's why he had the money at his house. He and his mother
24 didn't trust the system, the economic system. While that may
25 be different, that may be different from almost all of us,

1 probably everybody in this room, it's still his right because
2 he lives in this great country. This great country allows him
3 the right to have these beliefs.

4 So we'll look at the evidence in light of the
5 standard of beyond a reasonable doubt. We will.

6 I want to bring a few things to your attention, about
7 25 things. The first thing is, and this is very important,
8 Mr. Appley. He responded to an advertisement with a picture
9 on it, and I think all of the alleged -- all of the victims --
10 I think we can say victims -- all of the victims testified to
11 the same thing, that they responded to an advertisement on
12 eBay and that advertisement said it was selling a phone or a
13 computer or whatnot, a camera, whatever, and it was sold for a
14 specific price, and it was -- in each of the ads, there was a
15 picture of the item being sold.

16 I think it's of significant importance in this case
17 every single item that was taken from the defendant's
18 residence -- and they took it all, folks. They took it all.
19 They took cell phones. They took cameras. They took it all.
20 They took computers. Every electronic device that was in that
21 home was seized, and not on any of those apparatuses, not on
22 any one was there any image of a cell phone picture or of an
23 advertisement that was uploaded into eBay.

24 You'll recall the testimony of the eBay witness, and
25 you'll recall that he even admitted that the way that it's

1 normally done is you upload the image or the advertisement
2 from your computer on to the eBay account. There's absolutely
3 no evidence in any of the items that was seized from that
4 house that the defendant ever imaged an account or ever imaged
5 a picture on any of the apparatuses that was in his house.

6 That goes for Mr. Appley. That goes for Mr. Offner.
7 That goes for Ms. Ferguson. That goes for all of the other
8 victims. Not a single victim was the government able to point
9 to an image that was uploaded from the defendant's computer on
10 to eBay that would be involved in any way with these
11 purchases.

12 And I guess also just as importantly, the state
13 presented absolutely no evidence that the defendant uploaded
14 it from any other apparatus. No evidence whatsoever.

15 With respect to communications that were made in
16 these deals, you'll remember that the victims, when they
17 didn't receive their goods, typically would send an e-mail or
18 some sort of communication through eBay to the seller, and
19 it's clear that it was the seller who was receiving these
20 e-mails or whatever these communications are through eBay, and
21 each time the seller would ask where is the goods, where is it
22 at, and there was a response from the person, but nowhere on
23 any apparatus taken from the defendant's house by the
24 government, and they took it all, and they had Mr. Wilkins
25 look at it, nowhere on any of these apparatuses could you find

1 any indication that the defendant had communicated with any of
2 these victims through any of his computers or any of those
3 apparatuses.

4 And just as importantly, the government has presented
5 absolutely no evidence that there was any type of e-mail or
6 any type of other communication uploaded by the defendant
7 through any other computer or any other apparatus located
8 outside of his house.

9 There's no evidence that the defendant received any
10 money from Mr. Appley. Mr. Appley had his money returned to
11 him. There's no evidence that Mr. Appley even lost any money.

12 Now, while it's true that the government does not
13 have to prove that somebody lost money to meet its burden,
14 there's no question that the fact that there's no money that
15 was lost is a factor that the jury can consider as to
16 determine whether there is a fraud going on. That's a huge
17 factor, and there's no evidence that Mr. Offner or Mr. Appley
18 lost any money. Absolutely none.

19 In the case of Mr. Offner, it's not even clear that
20 the money was ever sent out. Apparently, PayPal or eBay had
21 determined that this wasn't a good deal and stopped it from
22 the get-go, so nobody even had any money sent to them. Nobody
23 received any money. There was no money involved.

24 Now, there's no evidence of any communication between
25 Mr. Appley and Mr. Offner and the defendant. There's no text

1 messages, there's no e-mails, there's no telephone calls,
2 there's no in-person meetings. There's absolutely no
3 indication that the defendant was ever involved with any of
4 these people in meeting with them, none.

5 Now, Mr. Appley e-mailed BENSOU_MS6245@membereBay.com
6 but there's absolutely no evidence on any apparatus that the
7 defendant has that was seized by the government that he
8 received this e-mail or that he responded to this e-mail. The
9 e-mail was about, you know, something that had not shown up
10 yet, and the response was the item has been shipped and should
11 start tracking in 24 hours. Thanks.

12 There's absolutely no evidence on anything that was
13 seized from the defendant's residence by the government that
14 he sent that response or that it was sent from any of those
15 apparatuses, and just as importantly, there's no evidence that
16 was presented by the government that he sent it from any other
17 apparatus. There's no evidence at all that the defendant sent
18 this e-mail.

19 There are no conversations that were ever noted
20 between the defendant and any of these victims, and I would
21 like to note also that only five victims were brought in here.
22 There were 161 accounts that the government wants to hold the
23 defendant accountable for. They bring in five witnesses, and
24 they expect you to convict the defendant on spreadsheets.
25 Spreadsheets.

1 And one would ask, while it's not dispositive with
2 respect to, you know, things that happen outside of this
3 jurisdiction certainly, not dispositive, certainly one would
4 have to wonder why did the government spend so much time with
5 victims that were outside of this jurisdiction. You know, if
6 you look at the two cases within the jurisdiction, this really
7 comes down to about 850 bucks. 850 bucks, and they can't link
8 any of it, not one penny of it to the defendant, not one cent.

9 Now, the defendant testified that he put -- he ran a
10 stealth account operation. He testified that, you know,
11 PayPal and eBay, you know, were such as organizations that
12 people didn't trust them.

13 Now, Mr. Desai said why would anybody go pay for a
14 stealth account when they could do it themselves. The truth
15 of the matter is that people can't do it themselves. It takes
16 a great amount of computer intelligence to design a stealth
17 account. It takes a great amount of computer knowhow to be
18 able to implement the stealth account.

19 Now, another important aspect of this case is, look,
20 there's no doubt that the defendant acted, I think, we can say
21 doggone dishonestly when he developed these stealth accounts.
22 No question about that. He put fake names, fake e-mail
23 addresses, fake user accounts. No question about that. No
24 doubt about that. Really no defense to that, but it's not a
25 crime. It's not a crime.

1 Nobody has testified here today that that's a crime.
2 As a matter of fact, I believe there's been testimony, and I
3 don't recall which witness it was, that said it wasn't a
4 crime, and why would someone purchase a stealth account?
5 Because there's a heck of a market out there for it. Why
6 would someone sell stealth accounts? Because there's a heck
7 of a market out there for it. Where there's a market in
8 America, you sell.

9 In this case, there's a lot of unhappy people dealing
10 with PayPal and a lot of unhappy people dealing with eBay.
11 You heard what the reasons were for the stealth account.

12 First of all, eBay has monetary limits of \$500 a
13 month. Somebody might want to do more business than \$500 a
14 month. So you buy ten stealth accounts. I believe that's
15 what the defendant testified to. Now you got 11 stealth
16 accounts at \$500 limits and you got \$5,500 worth of business
17 you can do a month.

18 When you sell a stealth account like that, ten
19 stealth accounts to a person and he increases the amount of
20 business that he can do, that's not defrauding anybody.
21 That's not defrauding eBay. As a matter of fact, you heard
22 the defendant testify that eBay gets paid by the amount of
23 business that gets done. By having more business in this
24 case, the example I gave you, instead of 500, having 11
25 accounts which would be 5500, 6,000, eBay will get more fees

1 as a result of the sales.

2 My client makes a good buck selling it. The guy who
3 buys it is able to do more business on eBay as a result of it.
4 eBay makes more fees. I ask you where in that equation is an
5 intent to defraud anybody out of money?

6 As a matter of fact, that entire equation involves
7 everybody benefiting monetarily. There is not sufficient
8 proof in this case that my client acted with intent to
9 defraud. Instead, he acted with an intent to try to
10 circumvent eBay and PayPal regulations, which is not a crime,
11 in an effort to try to enhance the business opportunities of
12 his clients and to make some money for himself, and that's not
13 fraudulent.

14 Now, the Click-N-Ship packages, no question that the
15 defendant sent those out. He admits that. Why did he do it?
16 He would monitor these accounts, and you'll notice that it
17 wasn't on all of these accounts, if you look at the sheets.
18 It wasn't on all the accounts that the Click-N-Ship packages
19 were sent out, but the reason he sent them out was to make
20 sure that the person who lost his money, in case there was a
21 problem with the account, got his refund. And in fact, on
22 each occasion that he sent this Click-N-Ship package out to
23 each of the victims who testified here, on each occasion,
24 every one of the five victims that the government brought here
25 got their refunds back after the Click-N-Ship packages were

1 sent out.

2 Is that an intent to defraud, or is that an intent to
3 make sure that somebody gets his money? My client testified
4 that he did not steal this money. It was the person
5 probably -- it was either the person who bought the stealth
6 account from him or, quite frankly, he testified it could very
7 well have been problems with PayPal. PayPal just doesn't
8 always do the right thing.

9 While he didn't know, he knew there was a problem
10 with the account. He sent out the second package. Didn't
11 send it out in all the cases. Just sent it out in cases where
12 he thought there was a problem, and on each occasion, the
13 person got a refund.

14 23 pounds of evidence was lost in this case. 23
15 pounds. I think we can safely say that the defendant had
16 nothing to do with the losing of this evidence. The
17 government lost this evidence. The government lost this
18 evidence. The U.S. Postal Service lost the evidence. Now, I
19 don't know when it was lost. May have been during the
20 transport from Inspector Weckerly here in Pittsburgh to the
21 expert in St. Louis, but one thing is for sure, that evidence
22 was lost and it wasn't the defendant's fault.

23 Now, the defendant also testified as to why there
24 would be gold and silver in his apartment. He testified as to
25 why there would be a lot of money in his apartment. Turns out

1 that the defendant has some serious reservations with the
2 banking system of this country. He pointed to the 2008
3 collapse. A lot of people lost money. He and his mother
4 decided to keep their money in the apartment. Decided to keep
5 the gold in the apartment.

6 A lot of the gold, he testified, was purchased long
7 before these alleged crimes were committed. He also testified
8 that his mother had worked all her life as an instructor at
9 the Tri-C. That's near where I live. The Cuyahoga Community
10 College is why it's called Tri-C, three Cs. He testified that
11 his mom saved money throughout her entire life, and the
12 government came in and took it away.

13 That would be the same government, the absolute same
14 government that Atticus Matias doesn't trust. Someone besides
15 Atticus Matias committed these crimes. Whoever committed
16 these crimes, you will find on their computer uploaded images
17 of pictures. You'll find uploaded images of phones, pictures
18 of phones. You'll find uploaded images of Mac computers and
19 of cameras. Make no mistake about it. Those images will be
20 there when and if they ever decide to find the person who
21 actually did these crimes.

22 Now, the defendant testified that he did not steal
23 anything. The defendant testified that he did not defraud
24 anybody. The defendant walked in to this courtroom, presumed
25 to be innocent in a system where the presumption of innocence

1 means a whole, whole lot. The greatest system in the history
2 of the world, presumed to be innocent. The state has to prove
3 him guilty beyond a reasonable doubt.

4 His Honor will instruct you as to that standard, but
5 it is a high standard, and I would suggest to you that, for
6 the reasons that I've just stated, that the government has not
7 met its burden. They have not proven this case beyond a
8 reasonable doubt, and they have to prove it beyond a
9 reasonable doubt as to each and every element of the offenses
10 alleged.

11 His Honor will, in the instructions, has already
12 instructed you on the law, and you'll have those instructions.
13 Look at those elements. I tell you the government has not
14 proven beyond a reasonable doubt that Atticus Matias intended
15 to defraud anybody. He's given you an explanation that's
16 plausible and it's corroborated by evidence. Actually, it's
17 corroborated by a lack of evidence. Things that are missing
18 from this case. There's a lot more than just evidence that's
19 missing from this case. 23 pounds of it. There was also a
20 lot of proof missing from this case.

21 You can't sell an item without putting the
22 advertisement on eBay. You can't sell an item without the
23 depiction of it, of the thing you are selling on eBay unless
24 you put them on eBay yourself, and he didn't. The evidence is
25 overwhelming, unrefuted actually, that he didn't.

1 He's telling you the truth, folks. He told you the
2 truth. He's a human being. He's not a spreadsheet. He's not
3 a spreadsheet. He's a human being. When you talk to Atticus
4 Matias, he talks back. You talk to the spreadsheet, it don't
5 say anything, okay. So listen, I'm going to talk long enough.
6 I'm not really good at talking long periods of time, but why
7 don't you take a good hard look at this case. I asked that
8 you do that in the opening. I asked you to keep your eye on
9 the ball. I trust that you will, and I know you will because
10 you are the jury and you are the best.

11 The jury is the best, the greatest system ever, and I
12 know you are going to do the best you can. Look at everything
13 and, you know, realize beyond a reasonable doubt is a high
14 standard because you got somebody's life here, a young man's
15 life that you are dealing with. Do the best you can.

16 Thank you so much for sitting here and listening to
17 four days of testimony, and thank you so much for listening to
18 me. It ain't easy. Thank you so much for doing your -- I
19 think, the most important duty there is sitting on a jury,
20 because without a system of justice, we have nothing as a
21 society. We become an anarchy. I appreciate what you've
22 done. Thanks. I'm done.

23 MR. DESAI: Ladies and gentlemen, I just want to
24 clear up something. Defense counsel said you can consider as
25 a factor that Mr. Offner and PayPal didn't take a loss on that

1 one transaction, and then you can consider the fact that these
2 individuals were reimbursed.

3 First off, PayPal and eBay took over \$100,000 in
4 loss. Go back over your instructions and see what the law
5 says. It doesn't matter that there was a loss. A lot of
6 defendant's arguments has been about images. These images
7 aren't on the computer.

8 Ladies and gentlemen, we don't know if the images are
9 on the computer or not. What do we recall about the
10 testimony? No one was looking for those images. They were
11 looking for eBay and PayPal records. There's no information
12 about selling accounts. They weren't looking for images.

13 We also know there's two hard drives that were
14 encrypted. Not the hard drive the defendant testified about.
15 Not 12.2, but two others. We don't know what's on there.

16 The purpose of these stealth accounts was to hide
17 himself. Defense counsel repeatedly talks about through
18 testimony to you guys about how there's no communications with
19 the defendant's name on it. That would defeat the whole point
20 of a stealth account. You've heard the forensic examiner's
21 testimony that gmail does not leave images of the
22 communication on your computer. You wouldn't be able to get
23 that from the account. It's on the gmail server or gmail's
24 computer, wherever that is.

25 You did see communications between the victim and the

1 defendant. You heard the testimony from the forensic examiner
2 that the phone was from May of 2016 to July 2016. Has no data
3 before that. Whatever phone was used wasn't found before
4 that. The victims that testified were from November and
5 December of 2015, but from May to July of 2016, we did see
6 notifications from eBay and PayPal. Those are the messages
7 through the system. You saw them. Camerastop was the
8 individual user name sending a message indicating an issue
9 with his purchase.

10 Defense counsel talked about the stealth account.
11 Why would people want to buy? He said to increase limits so
12 you can get past some of these eBay limits. What did
13 Mr. Huhnke say when he was testifying about those limits? All
14 you had to do was pick up a phone and call eBay and they'll
15 make sure you can meet the invoices and the requests, and your
16 limits will get increased for free.

17 Defendant's theory is that this is just a PayPal
18 glitch. It's not a glitch. Use your common sense, ladies and
19 gentlemen. It's not a glitch. This required a process. It
20 required the creation of these accounts. It required the
21 posting of a fraudulent transaction. It required intense
22 tracking of information. It required the sending of packages,
23 and it required receiving of money, none of which involved a
24 PayPal glitch.

25 The evidence all points to one person being involved

1 in this fraud scheme, and that's the defendant.

2 THE COURT: You have a couple of minutes.

3 MR. DESAI: Ladies and gentlemen, again,
4 United States asks you do what's right. You do what you know
5 to be right. Thank you.

6 THE COURT: All right. Ladies and gentlemen, I'm
7 going to give the court's copy of the instructions to the
8 courtroom deputy. It's got the indictment with a bulldog clip
9 on the back of it. I suggest that you go out and select the
10 presiding juror, if you don't have too heated of a race, and
11 report back and we'll recess and come back in the morning at
12 9:00 o'clock.

13 (Deputy clerk sworn in.)

14 THE COURT: Mr. Christie, you don't retire. You
15 remain seated. I got some more instructions for you. The
16 other jurors stand down if you will, please.

17 (Jury excused.)

18 THE COURT: Mr. Christie, if you were in the Eastern
19 District of Arkansas, you would be excused at this point, but
20 you ain't in Arkansas, and the procedure they follow here in
21 Pittsburgh is that the alternate waits -- what floor is it on?

22 THE CLERK: Three.

23 THE COURT: You wait on floor 3, and if one of the
24 jurors would happen to get disqualified or not make it, you
25 take their place and they start deliberations all over, so you

1 are still obliged to be with us. There's no use him going to
2 3 now? Just wait right where you are and we'll bring the jury
3 back pretty soon.

4 Let me say this to all counsel, I expect counsel to
5 be in the courtroom while the jury is deliberating except for
6 brief bathroom breaks. I realize that the prosecutors have an
7 office on the other floor. One of you can go there, of
8 course. I want one that's here at all times. I don't want to
9 have to send for someone if the jury has any questions.

10 Is there anything else we need to take up before we
11 take about a three minute break?

12 MR. DESAI: Nothing from the government, Your Honor.

13 MR. KAISER: Nothing, Your Honor.

14 THE COURT: We are in semi recess while we wait on
15 the jury to maybe select a presiding juror.

16 (Recess taken.)

17 (Jury present.)

18 THE COURT: Be seated, please. All right. Ladies
19 and gentlemen of the jury, I'm going to save you my normal
20 speech in the afternoon, and I'm not going to ask you about
21 your hearts and minds in the morning, but I'm going to depend
22 on you to keep them pure. So with that, let the jury stand
23 down. Everyone else remain seated. See you at 9:00 in the
24 morning.

25 (Jury excused.)

1 THE COURT: The jury is out. I'll take all motions
2 that have been remade word for word. My rulings are the same
3 word for word. Exceptions are saved. Anything else we need
4 to take up?

5 MR. DESAI: Nothing from the government, Your Honor.

6 MR. KAISER: Nothing, Your Honor.

7 THE COURT: Let's try to get back here about 10 to
8 9:00 in the morning if anybody gets an idea between now and
9 then. We are in recess. You can be at ease.

10 (At 5:01 p.m., the proceedings were adjourned.)
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

I, BARBARA METZ LEO, RMR, CRR, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled case.

\s\ Barbara Metz Leo
BARBARA METZ LEO, RMR, CRR
Official Court Reporter

02/07/2019
Date of Certification

I N D E X

<u>WITNESSES</u>	<u>PAGE</u>
LINDSAY WECKERLY	
Cross-Examination By Mr. Kaiser	50
Redirect Examination By Mr. Desai	68
Recross-Examination By Mr. Kaiser	71
Redirect Examination By Mr. Desai	74
Recross-Examination By Mr. Kaiser	74
ATTICUS SLITER-MATIAS	
Direct Examination By Mr. Kaiser	77
Cross-Examination By Mr. Desai	120
Redirect Examination By Mr. Kaiser	138
Recross-Examination By Mr. Desai	149
CHRISTOPHER WILKINS	
Direct Examination By Mr. Desai	150
Cross-Examination By Mr. Kaiser	151

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

vs.

Criminal No. 17-34

ATTICUS SLITER-MATIAS,
Defendant.

- - -

Transcript of proceedings on May 31, 2018 United States
District Court, Pittsburgh, Pennsylvania, before Judge Bill
Wilson.

APPEARANCES:

For the Government: U.S. Attorney's Office
Shardul S. Desai, Esquire
Colin J. Callahan, Esquire
U.S. Courthouse
700 Grant Street
Pittsburgh, Pennsylvania 15219

For the Defendant: Mark A. Kaiser, Esquire
P.O. Box 632
Painesville, Ohio 44077

Court Reporter: Barbara Metz Leo, RMR, CRR
700 Grant Street
Suite 6260
Pittsburgh, Pennsylvania 15219

Proceedings recorded by mechanical stenography;
transcript produced by computer-aided transcription.

1 (Jury present.)

2 THE CLERK: This court is now in session.

3 THE COURT: Good morning. We've got 12 folks here.
4 You all ready to retire and deliberate? You may do so.
5 Everyone else remain seated.

6 THE CLERK: This court is in recess.

7 (Jury excused.)

8 THE COURT: I'd like for you all to look -- the jury
9 is out. I'd like for you all to look at rule I believe it's
10 23 of the Federal Rules of Criminal Procedure. I believe you
11 can proceed, if I excuse a juror for good cause after they
12 start to deliberate, they can reach a verdict with 11 jurors.
13 If that's true, if they deliberate a good while and one of
14 them happen to become disabled, I would probably go with 11
15 and excuse the alternate so he didn't have to go back and go
16 through all of that again, because when you bring an alternate
17 in, as I understand the law, you have got to tell them to
18 start all over with the deliberations. Look at Rule 23 and
19 see if I'm right.

20 MR. DESAI: It is in there, Your Honor. Rule
21 23(b) (3) .

22 THE COURT: All right.

23 MR. KAISER: I'm going to get it up here in just a
24 second.

25 MR. DESAI: Go ahead and look over here.

1 THE COURT: It's more real if you read it on paper.

2 MR. KAISER: Seems to me that even without a
3 stipulation by the parties, seems to me like it's a good rule.

4 THE COURT: All right. If we would lose a juror
5 pretty quickly, I would call the alternate in, but if they
6 deliberate a good while, I probably wouldn't.

7 Mr. Callahan, did you get your colleagues from last
8 week contacted?

9 MR. CALLAHAN: I have sent an e-mail down to them,
10 Your Honor.

11 THE COURT: Do you think I need to enter an order?
12 We are in recess, but don't get away from me. I need you here
13 in case the jury has a question.

14 (Recess taken.)

15 (Jury present.)

16 THE CLERK: You can remain seated. This court is now
17 in session.

18 THE COURT: I understand you've reached a verdict.
19 Would you give it to the courtroom deputy, please?

20 Before I read it, I want to thank the lawyers in this
21 case for acting in a most professional manner during courtroom
22 procedures and non-courtroom procedures.

23 All right. On Count 1, the jury has checked guilty.
24 On Count 2, the jury has checked guilty. It's signed by the
25 presiding juror, 5-31-18. I'm going to start with one and go

1 down here and back here and down here. If this is your
2 verdict, say yes. If both of these are your unanimous
3 verdicts, say yes. If not, say no.

4 JUROR NO. 1: Yes.

5 JUROR NO. 2: Yes.

6 JUROR NO. 3: Yes.

7 JUROR NO. 4: Yes.

8 JUROR NO. 5: Yes.

9 JUROR NO. 6: Yes.

10 JUROR NO. 7: Yes.

11 JUROR NO. 8: Yes.

12 JUROR NO. 9: Yes.

13 JUROR NO. 10: Yes.

14 JUROR NO. 11: Yes.

15 JUROR NO. 12: Yes.

16 THE COURT: All right. I've received the verdict. I
17 appreciate your service very much. I'm going to ask you to go
18 back to the jury room one more time. I'm going to come back
19 and visit with you, not about the case whatsoever.

20 I want to get your suggestions for what I can pass on
21 to the judges here as to how we can make the courthouse more
22 user friendly for future jurors. If the jury will stand down.
23 Everyone else remain seated. I'll be with you in just a
24 minute. Where is our alternate?

25 THE CLERK: You didn't wait for him.

1 THE COURT: I understand that the defendant is out on
2 bond; is that correct?

3 MR. DESAI: That is, Your Honor.

4 THE COURT: Any objection to him continuing?

5 MR. DESAI: The government is going to move for him
6 to be remanded based on the fact that he took the stand and
7 lied under oath. We believe that it's unlikely that he will
8 appear if he isn't able to testify honestly.

9 THE COURT: I don't believe I can make that finding
10 so I'm going to deny your motion. Save your exception. Does
11 defendant have a passport?

12 MR. KAISER: Your Honor, he's already surrendered the
13 passport as part of his bond proceedings.

14 THE COURT: I'll ask -- I'll direct that he call into
15 the pretrial report from -- does he have a phone, a real
16 phone, not a cell phone?

17 MR. KAISER: No. I think he only has a cell phone,
18 Your Honor.

19 THE CLERK: Your Honor, he can report to pretrial
20 today on the third floor in this building.

21 THE COURT: I know he can do that, but I would
22 normally have him call in from a real phone. What's your
23 suggestion on a substitute for that, Mr. Kaiser? How do we
24 know he's where he's supposed to be, at home or work? I don't
25 want him to travel outside this district.

1 MR. KAISER: Well, he's from South Euclid, Ohio.

2 THE COURT: I don't want him traveling far from his
3 house.

4 MR. KAISER: Right. I'm not an electronics wiz, but
5 my understanding is that there are ways of tracking cell
6 phones, but I have no idea.

7 THE COURT: Does the prosecution have any idea?

8 MR. DESAI: Your Honor, to track a cell phone
9 requires a court order and that's not really just to track a
10 defendant, but there is a possibility of putting him maybe on
11 electronic monitoring and putting that as a condition. That's
12 the only thing I can think of.

13 THE COURT: Electronic monitoring is too expensive
14 and not very good at that.

15 MR. DESAI: If there's another location for him to go
16 to use a landline and make a phone call, that might work. I
17 don't know if there's an option.

18 MR. KAISER: He has a woman that he helps computers
19 with, she is elderly.

20 THE DEFENDANT: It's not a woman. It's a man.

21 THE COURT: Does he have a landline?

22 MR. KAISER: He has a landline.

23 THE COURT: Have your lawyer give that number and the
24 location to the prosecutor and you call in every other day
25 from that landline to the probation office or the sentence

1 report officer. All right.

2 Is there anything else we need to take up at this
3 time?

4 MR. DESAI: No, Your Honor.

5 MR. KAISER: Nothing, Your Honor.

6 THE COURT: We are in recess. Be at ease.

7 Sentencing date is October 1. I'll let you know what
8 time later.

9 (At 10:30 a.m., the proceedings were adjourned.)

10 C E R T I F I C A T E

11 I, BARBARA METZ LEO, RMR, CRR, certify that the
12 foregoing is a correct transcript from the record of
13 proceedings in the above-entitled case.

14 \s\ Barbara Metz Leo
15 BARBARA METZ LEO, RMR, CRR
Official Court Reporter

02/07/2019
Date of Certification

APPEAL,CLOSED,CUSTODY

**U.S. District Court
Western District of Pennsylvania (Pittsburgh)
CRIMINAL DOCKET FOR CASE #: 2:17-cr-00034-BRW-1**

Case title: USA v. SLITER-MATIAS

Date Filed: 02/07/2017

Date Terminated: 04/15/2019

Assigned to: Judge Bill R. Wilson

Appeals court case number: 19-1940 Third
Circuit**Defendant (1)****ATTICUS SLITER-MATIAS***TERMINATED: 04/15/2019*represented by **ATTICUS SLITER-MATIAS**

USMS 38352068

NEOCC

2240 Hubbard Road

Youngstown, OH 44505

PRO SE

James W. Kraus

Pietragallo Gordon Alfano Bosick & Raspanti

The Thirty-Eighth Floor

One Oxford Center

Pittsburgh, PA 15219

412-263-2000

Fax: 412-263-2001

Email: jwk@Pietragallo.COM

*LEAD ATTORNEY**ATTORNEY TO BE NOTICED**Designation: CJA Appointment***Mark A. Kaiser**

P. O. Box 632

Painesville, OH 44077

440-415-0695

Email: ronanskies@hotmail.com

*TERMINATED: 01/14/2019**LEAD ATTORNEY**ATTORNEY TO BE NOTICED**Designation: Retained***Pending Counts**18 U.S.C. 1341 MAIL FRAUD
(1-2)**Disposition**46 months imprisonment at Counts 1 & 2 to
be served concurrently. 3 years supervised
release at Courts 1 & 2 to be served
concurrently. \$379,591.95 Restitution. Fine
Waived. Special Assessment of \$200.00.**Highest Offense Level (Opening)**

A 0767

Felony

Terminated Counts

None

Disposition**Highest Offense Level (Terminated)**

None

Complaints

None

Disposition**Plaintiff**

USA

represented by **Colin J. Callahan**U.S. Attorney's Office - Western District of
Pennsylvania

700 Grant Street

Suite 4000

Pittsburgh, PA 15219

412-894-7426

Fax: 412-644-4549

Email: Colin.Callahan@usdoj.gov

*LEAD ATTORNEY**ATTORNEY TO BE NOTICED**Designation: US Govt Atty***Shardul S. Desai**

U.S. Attorney's Office

700 Grant St.

Suite 4000

Pittsburgh, PA 15219

412-644-3500

Fax: 412-644-2645

Email: shardul.desai@usdoj.gov

*LEAD ATTORNEY**ATTORNEY TO BE NOTICED**Designation: US Govt Atty*

Date Filed	#	Docket Text
02/07/2017	<u>1</u>	INDICTMENT as to ATTICUS SLITER-MATIAS (1) count(s) 1-2. (Attachments: # <u>1</u> Certification and Notice for Filing Pretrial Motions, # <u>2</u> Arraignment Plea, # <u>3</u> Criminal Case Info Sheet) (jv) (Entered: 02/08/2017)
02/07/2017	<u>2</u>	INDICTMENT Memorandum as to ATTICUS SLITER-MATIAS (jv) (Entered: 02/08/2017)
02/07/2017	<u>3</u>	REQUEST FOR SUMMONS as to ATTICUS SLITER-MATIAS to appear for arraignment. Defendant to Post Unsecured bond in the amount of \$10,000.00. Arraignment set for 1/10/2017 01:30 PM in Courtroom 7B before Magistrate Judge Lisa Pupo Lenihan (jv) (Entered: 02/08/2017)
02/08/2017	<u>4</u>	ERRATA re REQUEST FOR SUMMONS as to ATTICUS SLITER-MATIAS to appear for arraignment. Defendant to Post Unsecured bond in the amount of \$10,000.00. Arraignment set

A 0768

		for 3/1/2017 01:30 PM in Courtroom 7B before Magistrate Judge Lisa Pupo Lenihan. Correction: date of arraignment. (jv) (Entered: 02/08/2017)
02/08/2017	5	Summons Issued in case as to ATTICUS SLITER-MATIAS for appearance before Magistrate Judge Lisa Pupo Lenihan. Courtroom 7B, Floor 7th, on 3/1/2017 at 1:30 p.m.. Charging Document: Indictment. Arraignment set for 3/1/2017 01:30 PM in Courtroom 7B before Magistrate Judge Lisa Pupo Lenihan (jv) (Entered: 02/08/2017)
02/28/2017	6	MOTION for Leave to Appear Pro Hac Vice Attorney: Mark A. Kaiser (Filing fee \$40, receipt number 0315-4253795) by ATTICUS SLITER-MATIAS. (Kaiser, Mark) (Entered: 02/28/2017)
02/28/2017	7	ORDER granting 6 Motion for Mark A. Kaiser, Esquire Leave to Appear Pro Hac Vice on behalf of ATTICUS SLITER-MATIAS (1). Signed by Judge Nora Barry Fischer on 2/28/17. Text-only entry; no PDF will issue. This Text-only entry constitutes the Order of the Court or Notice on the matter. (jg) (Entered: 02/28/2017)
02/28/2017	8	Proposed Order re 6 MOTION for Leave to Appear Pro Hac Vice Attorney: Mark A. Kaiser (Filing fee \$40, receipt number 0315-4253795) (Kaiser, Mark) (Entered: 02/28/2017)
03/02/2017	9	MAGISTRATE JUDGE'S REPORT ON ARRAIGNMENT as to ATTICUS SLITER-MATIAS. (dgg) (Entered: 03/02/2017)
03/02/2017	10	Minute Entry for Arraignment held before Magistrate Judge Lisa Pupo Lenihan as to ATTICUS SLITER-MATIAS (1) on 3/1/2017. Defendant pleads not guilty. (dgg) (Entered: 03/02/2017)
03/02/2017	11	MOTION for Extension of Time to File Pretrial Motions by ATTICUS SLITER-MATIAS. (dgg) (Entered: 03/02/2017)
03/02/2017	12	ORDER granting 11 Motion for Extension of Time to File Pretrial Motions as to ATTICUS SLITER-MATIAS (1). Pretrial Motions due by 4/17/2017. Signed by Magistrate Judge Lisa Pupo Lenihan on 3/1/2017. (dgg) (Entered: 03/02/2017)
03/02/2017	13	Receipt for Local Rule 16.1 Material as to ATTICUS SLITER-MATIAS. (dgg) (Main Document 13 replaced on 3/2/2017) (dgg). (Entered: 03/02/2017)
03/02/2017	14	Unsecured Appearance Bond Entered as to ATTICUS SLITER-MATIAS in amount of \$10,000.00. (dgg) (Entered: 03/02/2017)
03/02/2017	15	Summons Returned Executed on 2/14/2017 as to ATTICUS SLITER-MATIAS (jv) (Entered: 03/02/2017)
04/17/2017	16	First MOTION for Extension of Time <i>to file pretrial motions</i> by ATTICUS SLITER-MATIAS. (Kaiser, Mark) (Entered: 04/17/2017)
04/17/2017	17	Proposed Order re 16 First MOTION for Extension of Time <i>to file pretrial motions</i> (Kaiser, Mark) (Entered: 04/17/2017)
04/18/2017	18	ORDER granting 16 Motion for Extension of Time as to ATTICUS SLITER-MATIAS (1); that the extended time period within which defendant may file pretrial motions (from 4/17/17 to 6/16/17) be deemed to be excluded under the Speedy Trial Act, 18 U.S.C. § 3161 et seq.; Defendant's Pretrial Motions are now due by 6/16/17; that counsel for defendant shall include proper Speedy Trial exclusion language in all further proposed orders submitted to the Court. igned by Judge Nora Barry Fischer on 4/18/17. (jg) (Entered: 04/18/2017)
06/16/2017	19	Second MOTION for Extension of Time to File Pretrial Motions by ATTICUS SLITER-MATIAS. (Kaiser, Mark) (Entered: 06/16/2017)
06/16/2017	20	Proposed Order re 19 Second MOTION for Extension of Time to File Pretrial Motions <i>Atticus Matias</i> (Kaiser, Mark) (Entered: 06/16/2017)
06/16/2017	21	ORDER granting 19 Motion for Extension of Time to File Pretrial Motions as to ATTICUS

		SLITER-MATIAS (1); the extended time period within which defendant may file pretrial motions (from June 16, 2017 to August 15, 2017) is deemed to be excluded under the Speedy Trial Act, 18 U.S.C. 3161 et seq.; Defendant's Pretrial Motions are now due by 8/15/2017 (details more fully stated in said Order). Signed by Judge Nora Barry Fischer on 6/16/2017. (bdk) (Entered: 06/16/2017)
07/13/2017	22	MOTION for Protective Order by USA as to ATTICUS SLITER-MATIAS. (Attachments: # 1 Proposed Order) (Desai, Shardul) (Entered: 07/13/2017)
07/14/2017	23	ORDER granting 22 United States' Motion for Protective Order as to ATTICUS SLITER-MATIAS (1) (details more fully stated in said Order). Signed by Judge Nora Barry Fischer on 7/14/17. (jg) (Entered: 07/14/2017)
08/16/2017	24	Third MOTION for Extension of Time to File Pretrial Motions by ATTICUS SLITER-MATIAS. (Kaiser, Mark) (Entered: 08/16/2017)
08/16/2017	25	Proposed Order re 24 Third MOTION for Extension of Time to File Pretrial Motions (Kaiser, Mark) (Entered: 08/16/2017)
08/16/2017	26	ORDER granting 24 Motion for Extension of Time to File Pretrial Motions as to ATTICUS SLITER-MATIAS (1); that the extension of time granted herein to defendant to file pretrial motions shall be excluded (from 8/15/17 to 10/16/17) from computation under the Speedy Trial Act, 18 U.S.C. 3161, et seq., and specifically under 18 U.S.C. 3161(h)(1)(d); that defendant's Pretrial Motions are now due by 10/16/17. Signed by Judge Nora Barry Fischer on 8/16/17. (jg) (Entered: 08/16/2017)
08/16/2017	27	AMENDED ORDER granting 24 Nunc Pro Tunc Motion for Extension of Time to File Pretrial Motions as to ATTICUS SLITER-MATIAS (1); the extended time period within which defendant may file pretrial motions (from August 15, 2017 to October 16, 2017) is deemed to be excluded under the Speedy Trial Act, 18 U.S.C. 3161 et seq.; Defendant's Pretrial Motions are now due by 10/16/2017 (details more fully stated in said Order). Signed by Judge Nora Barry Fischer on 8/16/2017. (bdk) (Entered: 08/16/2017)
10/16/2017	28	Fourth MOTION for Extension of Time to File Pretrial Motions by ATTICUS SLITER-MATIAS. (Kaiser, Mark) (Entered: 10/16/2017)
10/16/2017	29	ORDER granting 28 Motion for Extension of Time to File Pretrial Motions as to ATTICUS SLITER-MATIAS (1); that the extension of time granted herein to defendant to file pretrial motions shall be excluded (from 10/16/17 to 11/15/17) from computation under the Speedy Trial Act, 18 U.S.C. 3161, et seq., and specifically under 18 U.S.C. 3161(h)(1)(d); that defendant's Pretrial Motions are now due by 11/15/17. Signed by Judge Nora Barry Fischer on 10/16/17. (jg) Modified on 10/17/2017. (jg) (Entered: 10/16/2017)
10/16/2017	30	Proposed Order <i>granting defendant's fourth motion for extension of time to file pretrial motions</i> (Kaiser, Mark) (Entered: 10/16/2017)
11/15/2017	31	Fifth MOTION for Extension of Time to File Pretrial Motions by ATTICUS SLITER-MATIAS. (Kaiser, Mark) (Entered: 11/15/2017)
11/15/2017	32	Proposed Order re 124 Fifth extension of time to file pretrial motions (Kaiser, Mark) (Entered: 11/15/2017)
11/15/2017	33	RESPONSE in Opposition by USA as to ATTICUS SLITER-MATIAS re 31 Fifth MOTION for Extension of Time to File Pretrial Motions (Desai, Shardul) (Entered: 11/15/2017)
11/16/2017	34	ORDER granting 31 Motion for Extension of Time to File Pretrial Motions as to ATTICUS SLITER-MATIAS (1); that the extension of time granted herein to defendant to file pretrial motions shall be excluded (from 11/15/17 to 12/14/17) from computation under the Speedy Trial Act, 18 U.S.C. 3161, et seq., and specifically under 18 U.S.C. 3161(h)(1)(d); that defendant's Pretrial Motions are now due by 12/4/17, No further extensions will be granted; A

A 0770

		Status Conference is set for 12/4/17 at 2:00 PM in Courtroom 5B before Judge Nora Barry Fischer. Presence of defendant at this proceeding is required. Signed by Judge Nora Barry Fischer on 11/16/17. Text-only entry; no PDF will issue. This Text-only entry constitutes the Order of the Court or Notice on the matter. (jg) Modified on 11/16/2017. (jg) (Entered: 11/16/2017)
11/16/2017	35	ORDER granting 31 Motion for Extension of Time to File Pretrial Motions as to ATTICUS SLITER-MATIAS (1); that the extension of time granted herein to defendant to file pretrial motions shall be excluded (from 11/15/17 to 12/4/17) from computation under the Speedy Trial Act, 18 U.S.C. 3161, et seq., and specifically under 18 U.S.C. 3161(h)(1)(d); that defendant's Pretrial Motions are now due by 12/4/17, No further extensions will be granted; A Status Conference is set for 12/4/17 at 2:00 PM in Courtroom 5B before Judge Nora Barry Fischer. Presence of defendant at this proceeding is required. Signed by Judge Nora Barry Fischer on 11/16/17. (jg) Modified on 11/30/2017. (bdk) (Entered: 11/16/2017)
12/04/2017	36	Minute Entry for proceedings held before Judge Nora Barry Fischer: Telephone Status Conference as to ATTICUS SLITER-MATIAS held on 12/4/17 (details of proceeding more fully stated in memo). (Court Reporter: K. Earley) (jg) (Entered: 12/04/2017)
12/04/2017	37	ORDER as to ATTICUS SLITER-MATIAS indicating that upon consideration of Defendant Atticus Sliter-Matias' oral motion for extension of time to file pretrial motions made during today's status conference, and the Government's lack of objection thereto, it is hereby ordered that said motion be and is hereby granted. Motions referred to in Local Criminal Rule 12.1 are due on or before 12/15/17. No further extensions will be granted; that the extended time period within which defendant may file pretrial motions (from 12/4/17 to 12/15/17) be deemed to be excluded under the Speedy Trial Act, 18 U.S.C. § 3161 et seq. Signed by Judge Nora Barry Fischer on 12/4/17. (jg) (Entered: 12/04/2017)
12/04/2017		Set/Reset Deadlines as to ATTICUS SLITER-MATIAS: Defendant's Pretrial Motions are due by 12/15/17 (See 37). Text Only Entry: No PDF will issue. This text only entry constitutes the Court's Order or Notice on the matter. (jg) (Entered: 12/04/2017)
12/11/2017	38	ORDER TO as to ATTICUS SLITER-MATIAS indicating that upon consideration of Defendant Atticus Sliter-Matias' Oral Motion for Continuance (No Document No.) made in the above captioned matter on 12/4/17, and having found that the ends of justice served by the granting of such extension, from 12/4/17 through 3/12/18, outweigh the best interests of the public and the defendant in a speedy trial, 18 U.S.C. § 3161(h)(7)(A), due to the fact that failure to grant such extension would deny continuity of counsel and counsel for the defendant the reasonable time necessary for effective preparation for trial, taking into account the exercise of due diligence, 18 U.S.C. § 3161(h)(7)(B)(iv), it is hereby ordered that said Motion is granted; that Jury Selection and Trial shall commence on 3/12/18 at 9:30 a.m. Signed by Judge Nora Barry Fischer on 12/11/17. (jg) (Entered: 12/11/2017)
12/11/2017	39	PRETRIAL ORDER as to ATTICUS SLITER-MATIAS indicating that Jury Selection and Trial set for 3/12/18 at 9:30 AM in Courtroom 5B before Judge Nora Barry Fischer; Telephonic Preliminary Pretrial Conference with the Court's Law Clerk set for 3/1/18 at 10:00 AM; Final Pretrial Conference set for 3/5/18 at 9:30 AM in Courtroom 5B before Judge Nora Barry Fischer; Government's Sealed Witness List due by 2/5/18; Defendant's Sealed Witness list due by 2/12/18; Joint Exhibit Binder and Disputed Exhibit Binders are due by 2/21/18; Jencks Material due by 2/21/18; Motions in Limine due by 2/21/18; Responses to Motions in Limine due by 2/28/18; Joint Proposed Jury Instructions, Joint Verdict Slip, Proposed Voir Dire, Joint Stipulations and Neutral Summary of Indictment due by 2/28/18; Other details, including regarding trial procedure, more fully stated in said Order. Signed by Judge Nora Barry Fischer on 12/11/17. (jg) (Entered: 12/11/2017)
12/15/2017	40	MOTION for access to witnesses by ATTICUS SLITER-MATIAS. (Kaiser, Mark) (Entered: 12/15/2017)
12/15/2017	41	MOTION in Limine re <i>404(b)</i> by ATTICUS SLITER-MATIAS. (Kaiser, Mark) (Entered: 12/15/2017)

A 0771

		12/15/2017)
12/15/2017	42	MOTION for Interviews of Government Witnesses by ATTICUS SLITER-MATIAS. (Kaiser, Mark) (Entered: 12/15/2017)
12/15/2017	43	MOTION to Dismiss <i>indictment</i> by ATTICUS SLITER-MATIAS. (Kaiser, Mark) (Entered: 12/15/2017)
12/15/2017	44	MOTION for bill of particulars by ATTICUS SLITER-MATIAS. (Kaiser, Mark) (Entered: 12/15/2017)
12/15/2017	45	MOTION for Release of Brady Materials by ATTICUS SLITER-MATIAS. (Kaiser, Mark) (Entered: 12/15/2017)
12/15/2017	46	MOTION for Bond, MOTION for Release of Brady Materials by ATTICUS SLITER-MATIAS. (Kaiser, Mark) (Entered: 12/15/2017)
12/15/2017	47	MOTION to <i>dismiss indictment lost evidence</i> by ATTICUS SLITER-MATIAS. (Kaiser, Mark) (Entered: 12/15/2017)
12/18/2017		CLERK'S OFFICE QUALITY CONTROL MESSAGE re 46 MOTION for Bond, MOTION for Release of Brady Materials. ERROR: Document is duplicate of 45 MOTION for Release of Brady Materials. CORRECTION: Duplicate document number 46 MOTION for Bond, MOTION for Release of Brady Materials terminated as motions and removed from public view. This message is for informational purposes only. (jv) (Entered: 12/18/2017)
12/29/2017	48	RESPONSE in Opposition by USA as to ATTICUS SLITER-MATIAS re 42 MOTION, 40 MOTION access to witnesses, 41 MOTION <i>404(b)</i> , 47 MOTION to <i>dismiss indictment lost evidence</i> , 46 MOTION for Bond, MOTION for Release of Brady Materials, 45 MOTION for Release of Brady Materials, 44 MOTION for Bill of Particulars, 43 MOTION to Dismiss <i>indictment</i> . (Attachments: # 1 Exhibit 1) (Desai, Shardul) (Entered: 12/29/2017)
01/27/2018	49	MOTION for Hearing (<i>Telephonic Status Conference</i>) by USA as to ATTICUS SLITER-MATIAS. (Attachments: # 1 Proposed Order) (Desai, Shardul) (Entered: 01/27/2018)
01/29/2018	50	ORDER as to ATTICUS SLITER-MATIAS granting 49 Motion for Telephonic Status Conference filed by USA; that a Telephonic Status Conference is set for 2/1/18 at 3:00 PM before Judge Nora Barry Fischer. Signed by Judge Nora Barry Fischer on 1/29/18. Text-only entry; no PDF document will issue. This text-only entry constitutes the Order of the Court or Notice on the matter. (jg) (Entered: 01/29/2018)
01/31/2018	51	MEMORANDUM ORDER indicating that Defendant ATTICUS SLITER-MATIAS' pretrial motions 40 41 42 43 44 45 47 are denied, for reasons more fully stated in said Memorandum Order. Signed by Judge Nora Barry Fischer on 1/31/2018. (bdk) (Entered: 01/31/2018)
02/01/2018	52	First MOTION to Continue <i>Trial</i> by ATTICUS SLITER-MATIAS. (Kaiser, Mark) (Entered: 02/01/2018)
02/01/2018	53	Proposed Order re 52 First MOTION to Continue Trial (Kaiser, Mark) (Entered: 02/01/2018)
02/02/2018	54	Minute Entry for proceedings held before Judge Nora Barry Fischer: Telephone Conference as to ATTICUS SLITER-MATIAS held on 2/1/18 (details of proceeding more fully stated in memo). (Court Reporter: K. Earley) (jg) (Entered: 02/02/2018)
02/02/2018	55	ORDER as to ATTICUS SLITER-MATIAS granting 52 Defendant's Motion to Continue Trial, the Court having found that the ends of justice served by the granting of such extension, from 3/12/18 through 5/14/18, outweigh the best interests of the public and the defendant in a speedy trial, 18 U.S.C. § 3161(h)(7)(A), due to the fact that failure to grant such extension would deny continuity of counsel and counsel for the defendant the reasonable time necessary for effective preparation for trial, taking into account the exercise of due diligence, 18 U.S.C. § 3161(h)(7)(B)(iv); that Jury Selection and Trial previously set for 3/12/18 at 9:30 a.m. is re-set for 5/14/18

		at 9:30 a.m.; that the Pretrial Order entered on 12/11/17 39 is vacated and an Amended Pretrial Order will issue. Signed by Judge Nora Barry Fischer on 2/1/18. (jg) (Entered: 02/02/2018)
02/02/2018		Terminate Deadlines and Hearings as to ATTICUS SLITER-MATIAS: See Doc. 55 . Text Only Entry: No PDF will issue. This text only entry constitutes the Court's Order or Notice on the matter. (jg) (Entered: 02/02/2018)
02/06/2018	56	AMENDED PRETRIAL ORDER as to ATTICUS SLITER-MATIAS indicating that Jury Selection and Trial re-set for 5/14/18 at 9:30 AM in Courtroom 5B before Judge Nora Barry Fischer; Telephonic Preliminary Pretrial Conference with the Court's Law Clerk re-set for 4/30/18 at 2:00 PM; Final Pretrial Conference re-set for 5/2/18 at 11:00 AM in Courtroom 5B before Judge Nora Barry Fischer; Government's Sealed Witness List due by 4/9/18; Defendant's Sealed Witness list due by 4/11/18; Joint Exhibit Binder and Disputed Exhibit Binders are due by 4/23/18; Jencks Material due by 4/18/18; Motions in Limine due by 4/18/18; Responses to Motions in Limine due by 4/25/18; Joint Proposed Jury Instructions, Joint Verdict Slip, Proposed Voir Dire, Joint Stipulations and Neutral Summary of Indictment due by 4/25/18; Other details, including regarding trial procedure, more fully stated in said Order. Signed by Judge Nora Barry Fischer on 2/6/18. (jg) (Entered: 02/06/2018)
04/09/2018	57	Sealed Document as to ATTICUS SLITER-MATIAS. (jv) (Entered: 04/09/2018)
04/10/2018	58	NOTICE OF ATTORNEY APPEARANCE Colin J. Callahan appearing for USA. (Callahan, Colin) (Entered: 04/10/2018)
04/10/2018	59	NOTICE of Expert Testimony Pursuant to Federal Rule of Evidence 702 by USA as to ATTICUS SLITER-MATIAS (Desai, Shardul) (Entered: 04/10/2018)
04/23/2018	60	ORDER REASSIGNING CASE. Case reassigned for all further proceedings to Judge Bill Wilson (E.D. Ark.), who, pursuant to 28 U.S.C. § 294(d), has been designated and assigned by the Chief Justice of the United States to perform judicial duties in the United States District Court for the Western District of Pennsylvania. Judge Nora Barry Fischer no longer assigned to case. Signed by Judge Nora Barry Fischer on 4/23/18. Text-only entry; no PDF document will issue. This text-only entry constitutes the Order of the Court or Notice on the matter. (jg) (Entered: 04/23/2018)
05/01/2018	61	STIPULATION of of Authenticity of Dollar Bank records by USA (Desai, Shardul) (Entered: 05/01/2018)
05/01/2018	62	STIPULATION of of Authenticity of Liberty Coin records by USA (Desai, Shardul) (Entered: 05/01/2018)
05/01/2018	63	STIPULATION of of Authenticity of Google records by USA (Desai, Shardul) (Entered: 05/01/2018)
05/01/2018	64	STIPULATION of of Authenticity of U.S. Postal Service records by USA (Desai, Shardul) (Entered: 05/01/2018)
05/01/2018	65	STIPULATION of Authenticity of Click-N-Ship records of Authenticity of Click-N-Ship records by USA (Desai, Shardul) (Entered: 05/01/2018)
05/03/2018		Minute Entry for proceedings held before Judge Bill R. Wilson: Telephone Conference as to ATTICUS SLITER-MATIAS held on 5/3/2018. The parties present via telephone to make arguments regarding discovery. Court directs parties to work out issues next week with forensic specialist, the defendant and counsel. Trial remains set for May 15, 2018. US: Shardul Desai; Dft: Mark Kaiser. (Court Reporter: Margie Kruse) Text-only entry; no PDF document will issue. This text-only entry constitutes a Minute of the Court or Notice on the matter. (mbAR) (Entered: 05/03/2018)
05/07/2018	66	ORDER CONTINUING JURY TRIAL as to ATTICUS SLITER-MATIAS. The Jury Trial in this case will commence on 5/25/218 at 9:00 AM before Judge Bill R. Wilson. Signed by Judge

A 0773

		Bill R. Wilson on 5/7/18. (bdb) (Entered: 05/07/2018)
05/08/2018	67	ORDER as to ATTICUS SLITER-MATIAS. The jury trial in this case will commence as soon as the case commencing the week of May 15, 2018 is completed. This means it could be as early as Tuesday, May 22, 2018, but no later than 9 a.m., Wednesday, May 23, 2018. Please prepare accordingly. Signed by Judge Bill R. Wilson on 5/8/18. (bdb) (Entered: 05/08/2018)
05/18/2018	68	STIPULATION of Concerning Evidence (Revised) re 65 Stipulation by USA (Desai, Shardul) (Entered: 05/18/2018)
05/21/2018	69	MOTION for Reciprocal Discovery (Disclosure) of Exhibits for Use in Case-in-Chief by USA as to ATTICUS SLITER-MATIAS. (Attachments: # 1 Proposed Order) (Desai, Shardul) (Entered: 05/21/2018)
05/21/2018	70	NOTICE <i>Of Intent To Use Demonstrative During Opening Statement</i> by USA as to ATTICUS SLITER-MATIAS (Callahan, Colin) (Entered: 05/21/2018)
05/21/2018	71	TEXT NOTICE OF HEARING as to ATTICUS SLITER-MATIAS. Jury Trial set for 5/23/2018 at 09:00 AM in Courtroom 6C before Judge Bill R. Wilson. ALL counsel and the defendant shall arrive no later than 8:15AM. Text only entry; no PDF document shall issue. This text only entry constitutes the Court's order or notice in the matter. (kly) (Entered: 05/21/2018)
05/23/2018		TEXT Minute Entry for proceedings held before Judge Bill R. Wilson: Jury Trial as to ATTICUS SLITER-MATIAS held on 5/23/2018. Voir Dire conducted. Jury Selection completed. Court gave preliminary Jury Instructions Government's counsel made opening statement. Counsel for ATTICUS SLITER-MATIAS made opening statement. Witnesses and Evidence submitted. Court shall continue on 5/24/2018 at 9:00AM. If you used courtroom technology during your trial, please complete a short survey at: http://www2.pawd.uscourts.gov/Applications/pawd_outreach/SurveyCRT/SurveyCRT.cfm (Court Reporter: Barbara Leo) Text-only entry; no PDF document will issue. This text-only entry constitutes a Minute of the Court or Notice on the matter. (kly) (Entered: 05/23/2018)
05/24/2018	72	TEXT NOTICE OF HEARING as to ATTICUS SLITER-MATIAS. Jury Trial to continue on 5/24/2018 at 09:00 AM in Courtroom 6C before Judge Bill R. Wilson. Text-only entry. No PDF document will issue. This text-only entry constitutes the Order of the Court or Notice on the matter. (kly) (Entered: 05/24/2018)
05/24/2018	73	ORDER denying as moot 69 Motion for Disclosure as to ATTICUS SLITER-MATIAS. Signed by Judge Bill R. Wilson on 05/24/18. Text-only entry; no PDF will issue. This Text-only entry constitutes the Order of the Court or Notice on the matter. (mmAR) (Entered: 05/24/2018)
05/24/2018		TEXT Minute Entry for proceedings held before Judge Bill R. Wilson: Jury Trial as to ATTICUS SLITER-MATIAS held on 5/24/2018. Witnesses and Evidence submitted. Court shall continue on 5/29/2018 at 9:00AM. If you used courtroom technology during your trial, please complete a short survey at: http://www2.pawd.uscourts.gov/Applications/pawd_outreach/SurveyCRT/SurveyCRT.cfm (Court Reporter: Barbara Leo) Text-only entry; no PDF document will issue. This text-only entry constitutes a Minute of the Court or Notice on the matter. (kly) (Entered: 05/24/2018)
05/25/2018	74	TEXT NOTICE OF HEARING as to ATTICUS SLITER-MATIAS. Jury Trial to continue on 5/29/2018 at 09:00 AM in Courtroom 6C before Judge Bill R. Wilson. Text-only entry. No PDF document will issue. This text-only entry constitutes the Order of the Court or Notice on the matter. (kly) (Entered: 05/25/2018)
05/28/2018	75	STIPULATION of Dollar Bank Records Revised re 61 Stipulation by USA (Desai, Shardul) (Entered: 05/28/2018)
05/29/2018		TEXT Minute Entry for proceedings held before Judge Bill R. Wilson: Jury Trial as to ATTICUS SLITER-MATIAS held on 5/29/2018. Witnesses and Evidence submitted. Court shall continue on 5/30/2018 at 9:00AM. If you used courtroom technology during your trial,

		please complete a short survey at: http://www2.pawd.uscourts.gov/Applications/pawd_outreach/SurveyCRT/SurveyCRT.cfm (Court Reporter: Barbara Leo) Text-only entry; no PDF document will issue. This text-only entry constitutes a Minute of the Court or Notice on the matter. (kly) (Entered: 05/29/2018)
05/29/2018	76	TEXT NOTICE OF HEARING as to ATTICUS SLITER-MATIAS. Jury Trial set for 5/30/2018 at 09:00 AM in Courtroom 6C before Judge Bill R. Wilson. Text-only entry. No PDF document will issue. This text-only entry constitutes the Order of the Court or Notice on the matter. (kly) (Entered: 05/29/2018)
05/30/2018		TEXT Minute Entry for proceedings held before Judge Bill R. Wilson: Jury Trial as to ATTICUS SLITER-MATIAS held on 5/30/2018. Witness and Evidence submitted. Government rested. Counsel for ATTICUS SLITER-MATIAS submitted an Oral Motion for Judgment of Acquittal pursuant to Rule 29 of the Federal Rules of Criminal Procedure. The Court DENIED Motion. Defendant ATTICUS SLITER-MATIAS began cases. Witness and Evidence submitted. Defendant ATTICUS SLITER-MATIAS rested. Jury was given final instructions by the Court. Government's counsel made closing statement. Counsel for ATTICUS SLITER-MATIAS made closing statement. Government's counsel made rebuttal statement. Jury retired to select a foreperson. Jury selected a foreperson and shall return for deliberations at 9:00AM on 5/31/2018. If you used courtroom technology during your trial, please complete a short survey at: http://www2.pawd.uscourts.gov/Applications/pawd_outreach/SurveyCRT/SurveyCRT.cfm (Court Reporter: Barbara Leo) Text-only entry; no PDF document will issue. This text-only entry constitutes a Minute of the Court or Notice on the matter. (kly) (Entered: 05/30/2018)
05/30/2018	77	TEXT NOTICE OF HEARING as to ATTICUS SLITER-MATIAS. Text-only entry. No PDF document will issue. This text-only entry constitutes the Order of the Court or Notice on the matter. Jury Trial set for 5/31/2018 at 09:00 AM in Courtroom 6C before Judge Bill R. Wilson. (kly) (Entered: 05/30/2018)
05/31/2018		TEXT Minute Entry for proceedings held before Judge Bill R. Wilson: Jury Trial as to ATTICUS SLITER-MATIAS held on 5/31/2018. Jury returned a verdict of guilty on Counts 1 and 2. Defendant remains on bond. Sentencing set for October 1, 2018 at t time to be determined. If you used courtroom technology during your trial, please complete a short survey at: http://www2.pawd.uscourts.gov/Applications/pawd_outreach/SurveyCRT/SurveyCRT.cfm (Court Reporter: Barbara Leo) Text-only entry; no PDF document will issue. This text-only entry constitutes a Minute of the Court or Notice on the matter. (kly) (Entered: 05/31/2018)
05/31/2018	78	Peremptory Challenges as to ATTICUS SLITER-MATIAS. (kly) (Entered: 05/31/2018)
05/31/2018	79	EXHIBIT LIST for Jury Trial held from May 23-30, 2018. (kly) (Entered: 05/31/2018)
05/31/2018	80	WITNESS LIST for Jury Trial held from May 23-30, 2018. (kly) (Entered: 05/31/2018)
05/31/2018	81	JURY VERDICT as to ATTICUS SLITER-MATIAS (1) - Guilty on Counts 1 and 2. (kly) (Entered: 05/31/2018)
05/31/2018	82	ORDER UPDATING Conditions of Release as to ATTICUS SLITER-MATIAS (1). \$10,000 unsecured as per Order of 3/1/2017. Signed by Chief Judge Joy Flowers Conti on 5/31/2018. (kly) (Entered: 05/31/2018)
06/14/2018	83	MOTION for New Trial <i>or to set aside jury verdict</i> by ATTICUS SLITER-MATIAS. (Kaiser, Mark). Added MOTION to Set Aside Verdict on 6/15/2018 (jv). (Entered: 06/14/2018)
06/15/2018		CLERK'S OFFICE QUALITY CONTROL MESSAGE re 83 MOTION for New Trial or MOTION to Set Aside Verdict. ERROR: MULTIPLE Relief Motion Filed as One Relief. CORRECTION: Attorney advised in future that Motions of this nature are to be filed using the Motion Event and clicking all the reliefs sought in said motion. Clerk of Court added MOTION TO SET ASIDE THE JURY VERDICT. This message is for informational purposes only. (jv)

		(Entered: 06/15/2018)
06/18/2018	84	ORDER denying 83 Motion for New Trial and Motion to Set Aside Verdict as to ATTICUS SLITER-MATIAS (1). Signed by Judge Bill R. Wilson on 6/18/18. (mbAR) (Entered: 06/18/2018)
08/17/2018	86	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings as to ATTICUS SLITER-MATIAS held on 05-29-18, 05-30-18 before Judge Bill Wilson. Court Reporter Barbara Leo, Telephone number 412-583-7557. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely, electronically available to the public without redaction after 90 calendar days. For redaction purposes, or otherwise, during this 90 day period a copy of the transcript may be purchased from the court reporter or viewed at the clerk's office public terminal. Any Notice of Intent to Request Redaction and Redaction Request must be separately mailed to the court reporter of said proceedings. Notice of Intent for Redaction of Personal Data Identifiers due by 8/24/2018. Redaction Request due 9/7/2018. Redacted Transcript Deadline set for 9/17/2018. Release of Transcript Restriction set for 11/15/2018. (bml) Modified on 2/11/2019 to terminate deadlines. (jv) (Entered: 08/17/2018)
08/30/2018		Minute Entry for proceedings held before Judge Bill R. Wilson: Telephone Conference as to ATTICUS SLITER-MATIAS held on 9/4/2018. Counsel present to discuss forfeiture issues. Counsel to let the Court know if an agreement is made. AUSA: Shardul Desai; Dft: Mark Kaiser. (Court Reporter: Margie Kruse) Text-only entry; no PDF document will issue. This text-only entry constitutes a Minute of the Court or Notice on the matter. (mbAR) (Entered: 09/04/2018)
09/04/2018	89	POSITION WITH RESPECT TO SENTENCING FACTORS by USA as to ATTICUS SLITER-MATIAS. (Desai, Shardul) (Entered: 09/04/2018)
09/18/2018	91	TEXT NOTICE OF HEARING as to ATTICUS SLITER-MATIAS. Sentencing set for 10/1/2018 at 09:00 AM in Courtroom 6C before Judge Bill R. Wilson. Text-only entry. No PDF document will issue. This text-only entry constitutes the Order of the Court or Notice on the matter. (kly) (Entered: 09/18/2018)
09/19/2018	92	SENTENCING MEMORANDUM by USA as to ATTICUS SLITER-MATIAS (Attachments: # 1 Appendix Transcript of Trial Proceedings) (Desai, Shardul) (Entered: 09/19/2018)
09/26/2018	93	MOTION For An Upward Variance From The Advisory Guidelines Range And To Revoke Defendant's Presentence Release by USA as to ATTICUS SLITER-MATIAS. (Attachments: # 1 Exhibit, # 2 Exhibit, # 3 Exhibit) (Callahan, Colin) (Entered: 09/26/2018)
09/26/2018	94	NOTICE of Specific Items for Forfeiture by USA as to ATTICUS SLITER-MATIAS re 92 Sentencing Memorandum (Desai, Shardul) (Entered: 09/26/2018)
10/01/2018	116	EXHIBIT LIST from sentencing begun on 10/1/2018. (jgb) (Entered: 04/17/2019)
10/01/2018	117	WITNESS LIST from sentencing begun on 10/1/2018. (jgb) (Entered: 04/17/2019)
10/02/2018		TEXT Minute Entry for proceedings held before Judge Bill R. Wilson: Sentencing begun on 10/1/2018. Exhibit List and Witness List to follow. Defendant taken into custody. Sentencing to continue on 1/14/2019 at a time and Courtroom to be determined. (Court Reporter: Shirley Hall) Text-only entry; no PDF document will issue. This text-only entry constitutes a Minute of the Court or Notice on the matter. (kly) Modified text on 4/17/2019. (jgb) (Entered: 10/02/2018)
11/30/2018	95	NOTICE OF HEARING as to ATTICUS SLITER-MATIAS. Sentencing set for 1/7/2019 at 9:00 AM in Courtroom 6C before Judge Billy Roy Wilson (mbAR) (Entered: 11/30/2018)
12/19/2018	96	TEXT NOTICE OF HEARING as to ATTICUS SLITER-MATIAS. Sentencing originally set for 1/7/2019 has been rescheduled to a Status Conference/Sentencing on 1/14/2019 at 09:00 AM in Courtroom 6C before Judge Bill R. Wilson. Text-only entry. No PDF document will issue.

		This text-only entry constitutes the Order of the Court or Notice on the matter. (kly) (Entered: 12/19/2018)
12/20/2018	97	MOTION to Appoint Counsel by ATTICUS SLITER-MATIAS. (Attachments: # 1 Envelope) (jv) (Entered: 12/20/2018)
01/14/2019	98	CJA 23 Financial Affidavit by ATTICUS SLITER-MATIAS. (kly) (Entered: 01/14/2019)
01/14/2019		TEXT Minute Entry for proceedings held before Judge Bill R. Wilson: Status Conference as to ATTICUS SLITER-MATIAS held on 1/14/2019. Sentencing has been RESCHEDULED to 4/1/2019 at a time and in a courtroom to be determined by the Court. (Court Reporter: Shirley Hall) Text-only entry; no PDF document will issue. This text-only entry constitutes a Minute of the Court or Notice on the matter. (kly) (Entered: 01/14/2019)
01/14/2019	99	TEXT ORDER granting 97 Motion to Appoint Counsel as to ATTICUS SLITER-MATIAS (1). Signed by Judge Bill R. Wilson on 1/14/2019. Text-only entry; no PDF will issue. This Text-only entry constitutes the Order of the Court or Notice on the matter. (kly) (Entered: 01/14/2019)
01/14/2019	100	CJA 20 ORDER Appointing Counsel as to ATTICUS SLITER-MATIAS: Appointment of Attorney James W. Kraus for ATTICUS SLITER-MATIAS. Signed by Judge Bill R. Wilson on 1/14/2019. (kly) (Entered: 01/14/2019)
01/14/2019		Attorney update in case as to ATTICUS SLITER-MATIAS. Attorney Mark A. Kaiser terminated. (kly) (Entered: 01/14/2019)
01/15/2019	101	TEXT NOTICE OF HEARING as to ATTICUS SLITER-MATIAS. Sentencing set for 4/1/2019 at 09:00 AM in Courtroom 6C before Judge Bill R. Wilson. Text-only entry. No PDF document will issue. This text-only entry constitutes the Order of the Court or Notice on the matter. (kly) (Entered: 01/15/2019)
02/08/2019	102	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings as to ATTICUS SLITER-MATIAS held on 5-23-18 before Judge Bill Wilson. Court Reporter Barbara Metz Leo, Telephone number 412-583-7557. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely, electronically available to the public without redaction after 90 calendar days. For redaction purposes, or otherwise, during this 90 day period a copy of the transcript may be purchased from the court reporter or viewed at the clerk's office public terminal. Any Notice of Intent to Request Redaction and Redaction Request must be separately mailed to the court reporter of said proceedings. Notice of Intent for Redaction of Personal Data Identifiers due by 2/15/2019. Redaction Request due 3/1/2019. Redacted Transcript Deadline set for 3/11/2019. Release of Transcript Restriction set for 5/9/2019. (bml) Modified to terminate Notice of Intent deadline on 3/11/2019. (jv) Modified to terminate Redaction request and redacted transcript deadlines on 3/13/2019. (jv) (Entered: 02/08/2019)
02/08/2019	103	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings as to ATTICUS SLITER-MATIAS held on 5-24-18 before Judge Bill Wilson. Court Reporter Barbara Metz Leo, Telephone number 412-583-7557. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely, electronically available to the public without redaction after 90 calendar days. For redaction purposes, or otherwise, during this 90 day period a copy of the transcript may be purchased from the court reporter or viewed at the clerk's office public terminal. Any Notice of Intent to Request Redaction and Redaction Request must be separately mailed to the court reporter of said proceedings. Notice of Intent for Redaction of Personal Data Identifiers due by 2/15/2019. Redaction Request due 3/1/2019. Redacted Transcript Deadline set for 3/11/2019. Release of Transcript Restriction set for 5/9/2019. (bml) Modified to terminate Notice of Intent deadline. (jv) Modified to terminate Redaction request and redacted transcript deadlines on 3/13/2019. (jv) (Entered: 02/08/2019)

A 0777

02/08/2019	104	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings as to ATTICUS SLITER-MATIAS held on 5-29-18 before Judge Bill Wilson. Court Reporter Barbara Metz Leo, Telephone number 412-583-7557. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely, electronically available to the public without redaction after 90 calendar days. For redaction purposes, or otherwise, during this 90 day period a copy of the transcript may be purchased from the court reporter or viewed at the clerk's office public terminal. Any Notice of Intent to Request Redaction and Redaction Request must be separately mailed to the court reporter of said proceedings. Notice of Intent for Redaction of Personal Data Identifiers due by 2/15/2019. Redaction Request due 3/1/2019. Redacted Transcript Deadline set for 3/11/2019. Release of Transcript Restriction set for 5/9/2019. (bml) Modified to terminate Notice of Intent deadline. (jv) Modified to terminate Redaction request and redacted transcript deadlines on 3/13/2019. (jv) (Entered: 02/08/2019)
02/08/2019	105	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings as to ATTICUS SLITER-MATIAS held on 5-30-18 before Judge Bill Wilson. Court Reporter Barbara Metz Leo, Telephone number 412-583-7557. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely, electronically available to the public without redaction after 90 calendar days. For redaction purposes, or otherwise, during this 90 day period a copy of the transcript may be purchased from the court reporter or viewed at the clerk's office public terminal. Any Notice of Intent to Request Redaction and Redaction Request must be separately mailed to the court reporter of said proceedings. Notice of Intent for Redaction of Personal Data Identifiers due by 2/15/2019. Redaction Request due 3/1/2019. Redacted Transcript Deadline set for 3/11/2019. Release of Transcript Restriction set for 5/9/2019. (bml) Modified to terminate Notice of Intent deadline. (jv) Modified to terminate Redaction request and redacted transcript deadlines on 3/13/2019. (jv) (Entered: 02/08/2019)
02/08/2019	106	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings as to ATTICUS SLITER-MATIAS held on 5-31-18 before Judge Bill Wilson. Court Reporter Barbara Metz Leo, Telephone number 412-583-7557. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely, electronically available to the public without redaction after 90 calendar days. For redaction purposes, or otherwise, during this 90 day period a copy of the transcript may be purchased from the court reporter or viewed at the clerk's office public terminal. Any Notice of Intent to Request Redaction and Redaction Request must be separately mailed to the court reporter of said proceedings. Notice of Intent for Redaction of Personal Data Identifiers due by 2/15/2019. Redaction Request due 3/1/2019. Redacted Transcript Deadline set for 3/11/2019. Release of Transcript Restriction set for 5/9/2019. (bml) Modified to terminate Notice of Intent deadline. (jv) Modified to terminate Redaction request and redacted transcript deadlines on 3/13/2019. (jv) (Entered: 02/08/2019)
02/26/2019	107	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings as to ATTICUS SLITER-MATIAS re Sentencing (Partial) held on Monday, October 1, 2018, before Judge Wilson. Court Reporter Shirley Hall, e-mail: shirleyhall_uscra@yahoo.com. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely, electronically available to the public without redaction after 90 calendar days. For redaction purposes, or otherwise, during this 90 day period a copy of the transcript may be purchased from the court reporter or viewed at the clerk's office public terminal. Any Notice of Intent to Request Redaction and Redaction Request must be separately mailed to the court reporter of said proceedings. Notice of Intent for Redaction of Personal Data Identifiers due by 3/5/2019. Redaction Request due 3/19/2019. Redacted Transcript Deadline set for 3/29/2019. Release of Transcript Restriction set for 5/28/2019. (sah) Modified to terminate Notice of Intent deadline. (jv) (Entered: 02/26/2019)
03/14/2019	108	MOTION to Continue <i>Sentencing Hearing</i> by ATTICUS SLITER-MATIAS. (Attachments: # 1 Proposed Order) (Kraus, James) (Entered: 03/14/2019)

03/22/2019	109	ORDER granting 108 Defendant's Motion to Continue Sentencing Hearing. Accordingly, this sentencing in this case will commence at <u>9 a.m., Friday, April 12, 2019 in Courtroom 6C</u> . Signed by Judge Bill R. Wilson on 03/22/19. Text-only entry; no PDF will issue. This Text-only entry constitutes the Order of the Court or Notice on the matter. (mmAR) (Entered: 03/22/2019)
04/09/2019	110	SENTENCING MEMORANDUM by ATTICUS SLITER-MATIAS (Attachments: # 1 Exhibit A (letters of support), # 2 Exhibit B (letter from Dr. Levinsohn)) (Kraus, James) (Entered: 04/09/2019)
04/12/2019		TEXT Minute Entry for proceedings held before Judge Bill R. Wilson: Sentencing held on 4/12/2019 for ATTICUS SLITER-MATIAS (1). 46 months imprisonment at Counts 1 & 2 to be served concurrently. 3 years supervised release at Courts 1 & 2 to be served concurrently. \$379,591.95 Restitution. Fine Waived. Exhibit List and Witness List to follow. (Court Reporter: Noreen Re) Text-only entry; no PDF document will issue. This text-only entry constitutes a Minute of the Court or Notice on the matter. (kly) (Entered: 04/12/2019)
04/12/2019	111	WITNESS LIST for SENTENCING held on 4/12/2019. (kly) (Entered: 04/12/2019)
04/12/2019	112	EXHIBIT LIST for SENTENCING held on 4/12/2019. (kly) (Entered: 04/12/2019)
04/12/2019	113	Sealed Sentencing Supplement as to ATTICUS SLITER-MATIAS, filed in accordance with the Court's Standing Order at Miscellaneous No. 17-447. (kly) (Entered: 04/12/2019)
04/15/2019	114	JUDGMENT as to ATTICUS SLITER-MATIAS (1). 46 months imprisonment at Counts 1 & 2 to be served concurrently. 3 years supervised release at Courts 1 & 2 to be served concurrently. \$379,591.95 Restitution. Fine Waived. Special Assessment of \$200.00. Signed by Judge Bill R. Wilson on 4/12/2019. (kly) (Entered: 04/15/2019)
04/15/2019		***Terminated Case (kly) (Entered: 04/15/2019)
04/15/2019	115	FORFEITURE ORDER as to ATTICUS SLITER-MATIAS. Signed by Judge Bill R. Wilson on 4/15/2019. (kly) (Entered: 04/15/2019)
04/24/2019	118	NOTICE OF APPEAL by ATTICUS SLITER-MATIAS re 114 Judgment, Motion for IFP Granted. Representing Attorney: James W. Kraus. Court Reporter(s): Noreen Re. The Clerk's Office hereby certifies the record and the docket sheet available through ECF to be the certified list in lieu of the record and/or the certified copy of the docket entries. The Transcript Purchase Order form will not be mailed to the parties. The form is available on the Court's internet site. (Kraus, James) (Entered: 04/24/2019)
04/25/2019	119	USCA Case Number as to ATTICUS SLITER-MATIAS 19-1940 for 118 Notice of Appeal - Final Judgment, filed by ATTICUS SLITER-MATIAS. USCA Case Manager Carmella (CLW) (DOCUMENT IS RESTRICTED AND CAN ONLY BE VIEWED BY COURT STAFF.) (cjc3) (Entered: 04/25/2019)
05/02/2019	120	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings as to ATTICUS SLITER-MATIAS re Sentencing held on April 12, 2019 before Judge Bill R. Wilson. Court Reporter Noreen A. Re, Telephone number 412-204-6041. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely, electronically available to the public without redaction after 90 calendar days. For redaction purposes, or otherwise, during this 90 day period a copy of the transcript may be purchased from the court reporter or viewed at the clerk's office public terminal. Any Notice of Intent to Request Redaction and Redaction Request must be separately mailed to the court reporter of said proceedings. Notice of Intent for Redaction of Personal Data Identifiers due by 5/9/2019. Redaction Request due 5/23/2019. Redacted Transcript Deadline set for 6/3/2019. Release of Transcript Restriction set for 7/31/2019. (nar) (Entered: 05/02/2019)

A 0779

06/05/2019	121	DECLARATION of Publication filed by USA as to ATTICUS SLITER-MATIAS posted on Internet Site: forfeiture.gov for at least 30 days beginning on 05/04/19. (Lew, David) (Entered: 06/05/2019)

PACER Service Center			
Transaction Receipt			
07/10/2019 07:50:42			
PACER Login:	ck1063:3117558:0	Client Code:	U.S. v. Sliter-Matias
Description:	Docket Report	Search Criteria:	2:17-cr-00034-BRW
Billable Pages:	13	Cost:	1.30

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 19-1940

UNITED STATES OF AMERICA

v.

ATTICUS SLITER-MATIAS,
Appellant

Appeal from the United States District Court
for the Western District of Pennsylvania
(D.C. Criminal Action No. 2-17-cr-00034-001)
District Judge: Honorable Billy Roy Wilson

Submitted under Third Circuit LAR 34.1(a)
On December 13, 2019

Before: RESTREPO, ROTH and FISHER, Circuit Judges

(Opinion filed: December 2, 2020)

OPINION*

ROTH, Circuit Judge

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

Atticus Sliter-Matias was convicted of two counts of mail fraud. He challenges his conviction on three grounds, all of which we reject for the reasons that follow.

I.¹

Using fake names and addresses, Sliter-Matias created thousands of accounts on eBay and PayPal referred to as “stealth accounts.”² He paired each stealth eBay account with a stealth PayPal account, assigning each pair a unique IP address and e-mail account. Roughly 161 of the stealth eBay accounts he created were involved in fraudulent transactions. In each of these fraudulent transactions he would post an item for sale through one of his eBay accounts. Once a buyer had been confirmed, he would provide a tracking number to the buyer for a shipment within the buyer’s zip code or mark the item shipped on eBay to prompt eBay to release the buyer’s purchase funds to the paired PayPal account. Using those funds, he would purchase items, including gold and silver, and ship them to himself. However, instead of the purchased item, the eBay buyer would receive only a torn or empty envelope from Sliter-Matias, sent through his Click-N-Ship account with the United States Postal Service. By the time the buyer reported the fraud, there would be no funds in Sliter-Matias’s account to refund to the buyer, so eBay or PayPal would reimburse the buyer themselves. eBay and PayPal lost over \$110,000 from these fraudulent transactions. On July 5, 2016, the United States Postal Inspectors executed a search warrant at Sliter-Matias’s home address. Sliter-

¹ We write primarily for the parties who are familiar with the facts and the record, which we recite only as necessary to explain our decision.

² App. 655–58, 692.

Matias initially declined to be interviewed. Later when he asked to be interviewed, he claimed that he created eBay accounts with fake names and addresses to sell laptops, that the gold and silver found in his bedroom closet were his mother's retirement assets, and that he sent packages through his Click-N-Ship account for his employer. The Postal Inspectors collected a number of documents from his residence during this search. A significant portion of these documents were lost in transit. Sliter-Matias was ultimately charged with two counts of mail fraud under 18 U.S.C. § 1341.

At trial, Sliter-Matias denied being involved in the fraudulent transactions. He claimed that he created the stealth accounts to sell to eBay users who wanted to circumvent the limit eBay places on the number of sales a user can make each week and that he was compensated for his stealth accounts, sometimes in the form of gold and silver. He also claimed that he sent the empty or torn packages through his Click-N-Ship account to test the stealth accounts and make sure they would work.

Evidence presented at trial indicated that Sliter-Matias maintained a spreadsheet monitoring each fraudulent transaction involving the stealth accounts, that Sliter-Matias was the one who mailed torn or empty envelopes to the buyers after they paid for their purchases, and that the funds released to the stealth accounts were used only on purchases for Sliter-Matias. There was no evidence to suggest that his alleged employer ever existed or that Sliter-Matias ever communicated with anyone regarding the sale of his stealth accounts.

After a five-day trial, the jury returned a guilty verdict on both counts. The District Court sentenced him to a term of 46 months with 36 months of supervised release. His appeal followed.

II.

The District Court had jurisdiction under 18 U.S.C. § 3231. We have jurisdiction over the appeal from the District Court’s final judgment under 28 U.S.C. § 1291. Sliter-Matias challenges his conviction on three grounds, each subject to a different standard of review.

A.

First, Sliter-Matias argues that the evidence presented at trial was insufficient to sustain his convictions. In reviewing challenges to the sufficiency of the evidence, we employ a “highly deferential” standard to determine whether there was sufficient evidence, viewed in the light most favorable to the prosecution, for any rational trier of fact to find the essential elements of the offense beyond a reasonable doubt.³

A conviction for mail fraud under 18 U.S.C. § 1341 requires three elements to be proven: “(1) a scheme or artifice to defraud by means of a materially false or fraudulent pretense; (2) participation by the defendant with specific intent to defraud; and (3) use of the mail in furtherance of the scheme.”⁴ Sliter-Matias challenges the sufficiency of the evidence only with respect to the second element. That element requires the prosecution

³ *United States v. Caraballo-Rodriguez*, 726 F.3d 418, 424–25, 430 (3d Cir. 2013) (en banc); *United States v. Silveus*, 542 F.3d 993, 1002 (3d Cir. 2008).

⁴ *United States v. Bryant*, 655 F.3d 232, 248 (3d Cir. 2011).

to demonstrate not “merely that a defendant participated in a fraudulent scheme,” but that the defendant “did so knowingly and in furtherance of the illicit enterprise.”⁵ In Sliter-Matias’s view, the government failed to produce certain proof, for example, evidence connecting him to the images and advertisements for the items for sale and evidence of his communications with his victims. He contends that this failure left the jury to speculate in its fact-finding role, with no reliable evidence upon which to reasonably reach a verdict of guilty. We disagree.

At trial, the government presented strong evidence establishing that Sliter-Matias knowingly participated in the fraudulent transactions and acted to further them. Sliter-Matias admitted to maintaining a spreadsheet listing the details of every fraudulent transaction involving the stealth accounts, including the eBay item number, the sale price, the name of the buyer, and the status of each transaction. Sliter-Matias also admitted that he was the one who shipped the torn or empty envelopes to the buyers. In addition, the funds acquired from the fraudulent transactions were used only for his benefit, and they were all spent immediately after they were released to PayPal accounts he created.

Viewed in the light most favorable to the government, the evidence presented permits a rational trier of fact to find beyond a reasonable doubt that Sliter-Matias was

⁵ *United States v. Dobson*, 419 F.3d 231, 237 (3d Cir. 2005) (internal quotation marks omitted); *see also United States v. Pearlstein*, 576 F.2d 531, 537 (3d Cir. 1978) (explaining that specific intent under the mail fraud statute requires the defendant to “have devised the fraudulent scheme” or “wilfully participated in it with knowledge of its fraudulent nature”).

the sole participant in this scheme and knew that he was being paid for items the buyers would never receive. We therefore reject his sufficiency-of-the-evidence challenge.⁶

B.

Second, Sliter-Matias argues that the government violated his Fifth Amendment right against self-incrimination by introducing testimony at trial that noted his initial invocation of that right to the Postal Inspectors. Since he did not timely object to the relevant testimony, we review the District Court's admission of that testimony for plain error.⁷ To establish plain error, a defendant must show "that (1) there was an error, (2) the error was 'clear or obvious,' and (3) the error 'affected [his] substantial rights.'"⁸

Sliter-Matias argues that the District Court plainly erred in permitting the following testimony in violation of his right against self-incrimination:

Q. Postal Inspector Weckerly, during the search of the residence, did the defendant agree to be interviewed?

A. Initially, he did not, but later during our search, he initiated contact with law enforcement and agreed to be interviewed.

Q. When you say "he initiated contact," he asked to talk to you guys?

A. Correct.

Q. Who interviewed him?

A. Myself and Postal Inspector Mike Adams.

Q. And was he provided his what we call Miranda warnings?

A. He was. In both instances both when he declined to speak with us and later when he said that he did want to speak with us, he was provided his rights both times, you know, the right to remain silent, the right to an attorney, that he could

⁶ See *United States v. Lacerda*, 958 F.3d 196, 225–26 (3d Cir. 2020) (holding there was sufficient evidence to establish that the defendant knowingly or intentionally participated in wire fraud where she was in a position to know fraud was being committed and took initiative to further it).

⁷ See *United States v. Moore*, 375 F.3d 259, 262 (3d Cir. 2004).

⁸ *United States v. Stinson*, 734 F.3d 180, 184 (3d Cir. 2013) (quoting *Puckett v. United States*, 556 U.S. 129, 135 (2009)).

stop the interview at any point. The first time, he did not waive those rights and the second time he did waive those rights and agreed to talk to us.⁹

In Sliter-Matias's view, this testimony served as evidence from which the jury could infer that he had delayed his interview so that he could fabricate his story.

We find no plain error in the District Court's admission of this testimony. The evidence at trial against Sliter-Matias was strong. Whether he invoked his right against self-incrimination would not have altered the fact that he created all of the stealth accounts in question, personally tracked all of the fraudulent transactions occurring through those accounts, was the sole beneficiary of those transactions, and repeatedly shipped empty or torn packages to buyers. Whether he invoked his right against self-incrimination would also not have altered the fact that he raised two theories of defense with no evidence to support either. His assertions that his substantial rights were affected fall short of the bar required to satisfy the third prong of plain error analysis.¹⁰

C.

Finally, Sliter-Matias argues that the indictment should have been dismissed because the government's loss of potentially exculpatory records acquired from the search of his residence violated his right to due process. We employ a mixed standard of review over whether the District Court erred in refusing to dismiss an indictment,

⁹ App. 596–97.

¹⁰ See *United States v. Ludwikowski*, 944 F.3d 123, 136-37 (3d Cir. 2019) (holding that the defendant's substantial rights were not affected by the admission of certain testimony where the challenged testimony was unnecessary to establish guilt).

reviewing the District Court’s legal conclusions de novo but reviewing its factual findings for clear error.¹¹

In *Brady v. Maryland*, the Supreme Court held that “the suppression by the prosecution of evidence favorable to an accused . . . violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution.”¹² Where evidence destroyed only “might have proved exculpatory,” a defendant “has to show the prosecution’s bad faith in ordering or permitting its destruction.”¹³ Sliter-Matias does not allege that the government acted in bad faith in losing his belongings but argues that the existing standard creates a manifest injustice. He asks us to apply a different standard to dismiss the case in his favor. We are not, however, free to ignore Supreme Court precedent and accordingly must reject this argument.¹⁴

IV.

For the foregoing reasons, we will affirm the judgment of the District Court.

¹¹ *United States v. Bergrin*, 650 F.3d 257, 264 (3d Cir. 2011).

¹² 373 U.S. 83, 87 (1963).

¹³ *United States v. Deaner*, 1 F.3d 192, 200 (3d Cir. 1993) (citing *Arizona v. Youngblood*, 488 U.S. 51, 58 (1988)).

¹⁴ See *Lambert v. Blackwell*, 387 F.3d 210, 267 (3d Cir. 2004) (rejecting the defendant’s claim that the government violated the Constitution by failing to preserve certain evidence where the defendant produced no evidence of bad faith).

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 19-1940

UNITED STATES OF AMERICA

v.

ATTICUS SLITER-MATIAS,
Appellant

On Appeal from the United States District Court
for the Western District of Pennsylvania
(D. C. Criminal No. 2-17-cr-00034-001)
District Judge: Honorable Billy Roy Wilson

Submitted under Third Circuit LAR 34.1(a)
on December 13, 2019

Before: RESTREPO, ROTH and FISHER, Circuit Judges

JUDGMENT

This case came to be heard on the record from the United States District Court for the Western District of Pennsylvania and was submitted under Third Circuit LAR 34.1(a) on December 13, 2019.

Upon consideration whereof,

IT IS ORDERED AND ADJUDGED by this Court that the judgment of the District Court entered April 15, 2019, be and the same is hereby **AFFIRMED**.

All of the above in accordance with the Opinion of this Court.

ATTEST:

s/Patricia S. Dodszuweit
Clerk

Dated: December 2, 2020

PATRICIA S. DODSZUWEIT

CLERK



OFFICE OF THE CLERK

UNITED STATES COURT OF APPEALS

21400 UNITED STATES COURTHOUSE
601 MARKET STREET

PHILADELPHIA, PA 19106-1790

Website: www.ca3.uscourts.gov

TELEPHONE

215-597-2995

December 2, 2020

(Laura S. Irwin, Esq.
(Ira M. Karoll Esq.
Office of United States Attorney
700 Grant Street
Suite 4000
Pittsburgh, PA 15219

James W. Kraus, Esq.
Pietragallo Gordon Alfano Bosick & Raspanti
301 Grant Street
One Oxford Centre, 38th Floor
Pittsburgh, PA 15219

RE: USA v. Atticus Sliter-Matias

Case Number: 19-1940

District Court Case Number: 2-17-cr-00034-001

ENTRY OF JUDGMENT

Today, **December 02, 2020** the Court entered its judgment in the above-captioned matter pursuant to Fed. R. App. P. 36.

If you wish to seek review of the Court's decision, you may file a petition for rehearing. The procedures for filing a petition for rehearing are set forth in Fed. R. App. P. 35 and 40, 3rd Cir. LAR 35 and 40, and summarized below.

Time for Filing:

14 days after entry of judgment.

45 days after entry of judgment in a civil case if the United States is a party.

Form Limits:

3900 words if produced by a computer, with a certificate of compliance pursuant to Fed. R. App. P. 32(g).

15 pages if hand or type written.

Attachments:

A copy of the panel's opinion and judgment only.

Certificate of service.

Certificate of compliance if petition is produced by a computer.

No other attachments are permitted without first obtaining leave from the Court.

Unless the petition specifies that the petition seeks only panel rehearing, the petition will be construed as requesting both panel and en banc rehearing. Pursuant to Fed. R. App. P. 35(b)(3), if separate petitions for panel rehearing and rehearing en banc are submitted, they will be treated as a single document and will be subject to the form limits as set forth in Fed. R. App. P. 35(b)(2). If only panel rehearing is sought, the Court's rules do not provide for the subsequent filing of a petition for rehearing en banc in the event that the petition seeking only panel rehearing is denied.

A party who is entitled to costs pursuant to Fed.R.App.P. 39 must file an itemized and verified bill of costs within 14 days from the entry of judgment. The bill of costs must be submitted on the proper form which is available on the court's website.

A mandate will be issued at the appropriate time in accordance with the Fed. R. App. P. 41.

Please consult the Rules of the Supreme Court of the United States regarding the timing and requirements for filing a petition for writ of certiorari.

Very truly yours,

Patricia S. Dodszuweit, Clerk

By: s/Carmella
Case Manager
267-299-4928

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 19-1940

UNITED STATES OF AMERICA

v.

ATTICUS SLITER-MATIAS,
Appellant

(D.C. Criminal Action No. 2-17-cr-00034-001)

SUR PETITION FOR REHEARING

Present: SMITH, Chief Judge, MCKEE, AMBRO, CHAGARES, JORDAN,
HARDIMAN, GREENAWAY, JR., SHWARTZ, KRAUSE, RESTREPO, BIBAS,
PORTER, MATEY, PHIPPS, *ROTH and *FISHER, Circuit Judges

The petition for rehearing filed by **Appellant** in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc, is **DENIED**.

* The votes of the Honorable Jane R. Roth and D. Michael Fisher are limited to panel rehearing only.

BY THE COURT,

s/ JANE R. ROTH

Circuit Judge

Dated: December 28, 2020

CLW/cc: Laura S. Irwin, Esq.

Ira M. Karoll, Esq.

James W. Kraus, Esq.