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As of: October 20, 2021 12:07 AM Z

United States v. Rodriguez

United States Court of Appeals for the Ninth Circuit

July 9, 2021 **, Submitted, San Francisco, California; July 27, 2021, Filed

No. 20-10060, No. 20-10075

App. 1

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

David Schlesinger

Reporter

2021 U.S. App. LEXIS 22244 *; __ Fed. Appx. __; 2021 WL 3168854

UNITED STATES OF AMERICA, Plaintiff-Appellee, v.
RUBEN RODRIGUEZ, Defendant-Appellant.UNITED
STATES OF AMERICA, Plaintiff-Appellee, v. **JAIME**
MAYORGA, Defendant-Appellant.

Notice: PLEASE REFER TO *FEDERAL RULES OF APPELLATE PROCEDURE RULE 32.1 GOVERNING THE CITATION TO UNPUBLISHED OPINIONS.*

Prior History: [*1] Appeal from the United States District Court for the Eastern District of California, D.C. No. 2:11-cr-00296-JAM-3. John A. Mendez, District Judge, Presiding.

Appeal from the United States District Court for the Eastern District of California, D.C. No. 2:11-cr-00296-JAM-4. John A. Mendez, District Judge, Presiding.

United States v. Rodriguez, 2016 U.S. Dist. LEXIS 138645,
2016 WL 5847008 (E.D. Cal., Oct. 5, 2016)

Disposition: AFFIRMED.

Core Terms

district court, harmless, lenders, instruction of a jury, mortgage, lending, false statement, wire fraud, deceive, cheat, loans, alleged misrepresentation, intent to defraud, reasonable juror, rational jury, de novo, conspiracy, questions, quotation, subprime, marks

Case Summary

Overview

HOLDINGS: [1]-Given the additional jury instruction regarding fire fraud in violation of 18 U.S.C.S. § 1349, and the overwhelming evidence at trial that defendants and their co-conspirators intended to obtain something of value through their misrepresentations, rational jury still would have found defendants were guilty absent the instructional error regarding the "intent to defraud.

Outcome

Judgment affirmed.

LexisNexis® Headnotes

Criminal Law & Procedure > ... > Standards of Review > De Novo Review > Sufficiency of Evidence

Evidence > Inferences & Presumptions > Inferences

Evidence > Weight & Sufficiency

HN1 De Novo Review, Sufficiency of Evidence

An appellate court reviews claim for insufficiency of evidence de novo, and will reverse only if viewing the evidence in the light most favorable to the government, and granting to the government all reasonable inferences that may be drawn from the evidence, no rational trier of fact could find beyond a reasonable doubt that the defendants committed the crime.

Criminal Law & Procedure > Appeals > Standards of Review > Abuse of Discretion

Evidence > ... > Testimony > Expert Witnesses > Criminal Proceedings

Criminal Law & Procedure > ... > Standards of Review > Harmless & Invited Error > Evidence

Criminal Law & Procedure > Appeals > Reversible Error > Evidence

HN2 Standards of Review, Abuse of Discretion

Even if a district court abused its discretion in excluding an expert testimony, a district court's error is not reversible if it is harmless. An error is harmless if it is more probable than not that the error did not materially affect the verdict.

Criminal Law & Procedure > ... > Standards of Review > De Novo Review > Jury Instructions

HN3 De Novo Review, Jury Instructions

An appellate court revies de novo whether a jury instruction is supported by law.

Counsel: For UNITED STATES OF AMERICA (20-10075, 20-10060), Plaintiff - Appellee: Brian Alexander Fogerty, Assistant U.S. Attorney, Justin Lee, Assistant U.S. Attorney, USSAC - Office of the US Attorney, Sacramento, CA.

For JAIME MAYORGA, Defendant - Appellant (20-10075): David Andrew Schlesinger, Esquire, Jacobs & Schlesinger LLP, San Diego, CA.

For RUBEN RODRIGUEZ, Defendant - Appellant (20-10060): John Paul Balazs, Attorney, LAW OFFICES OF JOHN P. BALAZS, Sacramento, CA.

Judges: Before: GRABER, MURGUIA, and LEE, Circuit Judges.

Opinion

MEMORANDUM*

Ruben Rodriguez and Jaime Mayorga appeal their respective convictions for conspiracy to commit wire fraud in violation of 18 U.S.C. § 1349. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

1. Rodriguez and Mayorga first contend that insufficient evidence supports their convictions because no rational juror could have found, based on the evidence at trial, that the alleged [*2] misrepresentations and false statements related to mortgage applications were material to lenders' decisions. HN1[¶] We review this claim de novo, United States v. Salman, 531 F.3d 1007, 1010 (9th Cir. 2008), and will reverse "only if viewing the evidence in the light most favorable to the government, and granting to the government all reasonable inferences that may be drawn from the evidence, no rational trier of fact could find beyond a reasonable doubt that the defendant[s] committed the crime," United States v. Johnson, 297 F.3d 845, 868 (9th Cir. 2002).

A reasonable juror could conclude that Rodriguez's and Mayorga's falsehoods—including their use of "straw buyers" to hide the true identity of loan applicants, their false statements about loan applicants' jobs and income, and their practice of lending funds to applicants to inflate the applicants' assets for "verification" by lenders—were material. Several of Rodriguez and Mayorga's clients testified at trial that they were initially told they did not qualify for loans, but after working with Rodriguez or Mayorga, they were ultimately able to obtain loans. A reasonable juror could conclude from this evidence that Rodriguez's and Mayorga's alleged misrepresentations were material, that is, they could have made the difference between an applicant's being [*3] denied a loan and an applicant's receiving a loan. See United States v. Lindsey, 850 F.3d 1009, 1014 (9th Cir. 2017).

*This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

(explaining that materiality is an objective standard and depends on "the intrinsic capabilities of the false statement itself" to influence a lender's decision) (internal quotation marks omitted).

2. Rodriguez and Mayorga next argue that the district court improperly excluded certain testimony from an expert witness, Professor Shaun Martin. HN2[¶] Even if the district court abused its discretion in excluding expert testimony, the district court's error is not reversible if it is harmless. United States v. Laurienti, 611 F.3d 530, 547 (9th Cir. 2010). An error is harmless if "it is more probable than not that the error did not materially affect the verdict." *Id.* (quoting United States v. Cohen, 510 F.3d 1114, 1127 (9th Cir. 2007)).

Here, the district court sustained objections to several questions related to lending standards in the subprime mortgage industry and the basis for Professor Martin's knowledge of this industry. In the end, though, Professor Martin was allowed to make his central point key to Rodriguez and Mayorga's theory of the case: that the rise of subprime mortgage lending and securitization essentially eliminated all lending standards, such that lenders no longer cared about the information on loan applications. He was also allowed to testify [*4] about the reports and literature that formed the basis of his conclusions about the mortgage-lending industry. Therefore, any error was harmless. *See id.* at 548-49 (holding that exclusion of "a limited set of questions" posed to the defense expert was harmless where the expert "was permitted to testify to a large extent on those topics").

3. Finally, Rodriguez and Mayorga assert that the district court erred by giving an improper jury instruction regarding the "intent to defraud" element of the wire-fraud conspiracy charge. HN3[¶] We review de novo whether a jury instruction is "supported by law." United States v. Anguiano-Morfin, 713 F.3d 1208, 1209 (9th Cir. 2013) (internal quotation marks omitted).

The government concedes that the jury instruction that "intent to defraud" requires "intent to deceive or cheat" was erroneous. We held in United States v. Miller, 953 F.3d 1095, 1101 (9th Cir. 2020), cert. denied, 141 S. Ct. 1085, 208 L. Ed. 2d 539 (2021), that the pattern jury instruction used here was erroneous because wire fraud requires intent "to deceive and cheat." Therefore, the only remaining question is whether the error was harmless. Neder v. United States, 527 U.S. 1, 15-16, 119 S. Ct. 1827, 144 L. Ed. 2d 35 (1999); Miller, 953 F.3d at 1103. We conclude that it was.

Here, as in Miller, the district court further instructed the jury that wire fraud requires that "the person knowingly participated in a scheme or plan to defraud or a scheme or

plan to obtain money or property [*5] by means of false or fraudulent pretenses, representations, or promises." Given this additional instruction, and the overwhelming evidence at trial that Rodriguez, Mayorga, and their co-conspirators intended to obtain something of value through their misrepresentations—that is, mortgage loans and associated commissions—it is highly unlikely that the jury concluded that Rodriguez and Mayorga intended merely to deceive lenders but not to cheat them by obtaining something of value. *See Miller, 953 F.3d at 1103*. In other words, we conclude that a rational jury still would have found Rodriguez and Mayorga guilty absent the instructional error. *See Neder, 527 U.S. at 18; Miller, 953 F.3d at 1103*.

AFFIRMED.

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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE EASTERN DISTRICT OF CALIFORNIA
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15 UNITED STATES OF AMERICA,) Case No. 11-296 JAM
16 Plaintiff,)
17 vs.) PROPOSED JURY INSTRUCTIONS FOR
18 RUBEN RODRIGUEZ,) THE RE-TRIAL BY RUBEN RODRIGUEZ
19 JAIME MAYORGA, et al.,) Trial: September 11, 2017 at 9:00 a.m.
20 Defendants.) Motion Hearing: September 11, 2017 at 9:00 a.m.
21) Judge: Hon. John A. Mendez
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TO: PHILLIP A. TALBERT, UNITED STATES ATTORNEY, BRIAN FOGERTY and
JARED DOLAN, ASSISTANT UNITED STATES ATTORNEYS, COUNSEL FOR
PLAINTIFF:

Defendant Ruben Rodriguez submits the following brief concerning his proposed jury
instructions for the re-trial set to commence on September 11, 2017. Mr. Rodriguez reserves the
right to propose additional jury instructions during the course of the jury trial.

1 Defense Proposed Instruction No. 1:

2 WIRE FRAUD (Ninth Circuit Pattern Instruction 8.124 for 18 USC §1343).

3 The defense requests that the jury be instructed with pattern instruction 8.124, just as Judge
4 Shubb instructed the first Rodriguez & Mayorga jury in the first trial of this case in Jury
5 Instruction 16, found at ECF document 462, at pages 20 and 21 of 28.

6
7 The defendant is charged in [Count _____ of] the indictment with wire fraud in
8 violation of Section 1343 of Title 18 of the United States Code. In order for the defendant
9 to be found guilty of that charge, [In order to prove conspiracy to commit wire fraud, the
government is not required to prove that the person actually committed wire fraud, but
you all must understand what wire fraud is. Wire fraud occurs when a person has done
10 all of the following]:

11
12 First, the defendant knowingly [participated in] [devised] [intended to devise] a scheme
13 or plan to defraud, or a scheme or plan for obtaining money or property by means of false
14 or fraudulent pretenses, representations, or promises[, or omitted facts.] [Deceitful
statements of half-truths may constitute false or fraudulent representations];

15 Second, the statements made or facts omitted as part of the scheme were material; that is,
16 they had a natural tendency to influence, or were capable of influencing, a person to part
with money or property;

17 Third, the defendant acted with the intent to defraud, that is, the intent to deceive or
18 cheat; and

19 Fourth, the defendant used, or caused to be used, an interstate [or foreign] wire
20 communication to carry out or attempt to carry out an essential part of the scheme.

21 In determining whether a scheme to defraud exists, you may consider not only the
22 defendant's words and statements, but also the circumstances in which they are used as a
whole.

23 [To convict defendant[s] of wire fraud based on omission[s] of material fact[s], you must
24 find that defendant[s] had a duty to disclose the omitted fact[s] arising out of a
25 relationship of trust. That duty can arise either out of a formal fiduciary relationship, or
an informal, trusting relationship in which one party acts for the benefit of another and
induces the trusting party to relax the care and vigilance which it would ordinarily
26 exercise.]

27 A wiring is caused when one knows that a wire will be used in the ordinary course of
28 business or when one can reasonably foresee such use.

1 It need not have been reasonably foreseeable to the defendant that the wire
2 communication would be interstate [or foreign] in nature. Rather, it must have been
3 reasonably foreseeable to the defendant that some wire communication would occur in
4 furtherance of the scheme, and an interstate [or foreign] wire communication must have
5 actually occurred in furtherance of the scheme.
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1 Defense Proposed Instruction No. 2:

2 Whether the statements made, or the facts omitted, as part of the scheme were capable of
3 influencing the mortgage lending institutions to part with money or property is solely for the jury
4 to decide.

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6 AUTHORITY:

7 18 U.S.C. § 1341; *United States v. Carpenter*, (9th Cir. 1996) 95 F.3d 773, 776
8 (Materiality is a question of fact for the jury. ‘It then said that the fraudulent representation (or
9 concealment) “must relate to a material fact or matter.” It finally went on to explain that ‘a
10 material fact is one which would reasonably be expected to be of concern to a reasonable and
11 prudent person in relying upon the representation or statement in making a decision.’ Taken
12 together, these instructions told the jury that it was to decide the question of materiality.”).
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1 Defense Proposed Instruction No. 3:

2 An intent to defraud is an intent to cheat. Good faith, or the absence of an intent to
3 defraud, is a complete defense to a charge of mail fraud.

4 Conspiracy to commit wire fraud is a specific intent crime. The Government is required
5 to prove beyond a reasonable doubt that the defendant intended to defraud.

6 In determining whether or not a defendant acted with the intent to defraud, you may
7 consider whether a defendant had a good faith belief in the truth of the specific
8 misrepresentations.

9
10 If you find that a defendant acted with an intent to defraud, and find that the other
11 elements of wire fraud listed in jury instruction number _____ are also met,
12 you must find the defendant guilty.

13
14 However, if you find that a defendant did not act with an intent to defraud, you must find
15 that defendant Not Guilty.

16 AUTHORITY:

17 18 U.S.C. § 1341; United States v. Phillips, 595 F.3d 245 (5th Cir. 2010) (Wire fraud is a
18 specific intent crime. The government is required to prove beyond a reasonable doubt that
19 defendant intended to defraud); United States v. Molinaro, (9th Cir. 1993) (approved of an
20 instruction that allowed the jury to base their determination on whether or not the defendant
21 acted with intent to defraud based on whether or not they believed that the defendant acted in
22 good faith).

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1 Defense Proposed Instruction No. 4:

2 You have heard testimony of a law enforcement officer. The fact that a witness is
3 employed as a law enforcement officer does not mean that his or her testimony deserves more or
4 less consideration or greater or lesser weight than that of any other witness.

5 At the same time, it is quite legitimate for defense counsel to attack the believability of a
6 law enforcement witness on the ground that his or her testimony may be colored by a personal or
7 professional interest in the outcome of the case.

8 AUTHORITY:

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10 *Pine v. City of Lompoc*, (9th Cir. 1998) 160 F.3d 562, 565 (plain instructions by the judge not to
11 accord extra deference to policy credibility were proper).

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Respectfully submitted,

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DATED: September 5, 2017

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By: /s/ Michael D. Long
MICHAEL D. LONG
Attorney for Defendant
RUBEN RODRIGUEZ

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1 from the community that testified, and you have the documents.
2 Those three groups of evidence overlap to show you exactly what
3 the defendants were doing, that they were working together to
4 make money by lying to the lenders.

5 The evidence is proven beyond a reasonable doubt that
6 both Ruben Rodriguez and Jaime Mayorga are guilty. The
7 United States would ask you to return a verdict of guilty
8 against both defendants. Thank you.

9 THE COURT: All right. Thank you.

10 Members of the jury, now that you've heard all the
11 evidence, it's my duty to instruct you on the law that applies
12 to this case. A copy of these instructions will be available
13 in the jury room for you to consult. In fact, you can take
14 your copy into the jury room with you.

15 It is your duty to weigh and to evaluate all the
16 evidence received in the case and in that process to decide the
17 facts. It is also your duty to apply the law as I give it to
18 you to the facts as you find them, whether you agree with the
19 law or not. You must decide the case solely on the evidence
20 and the law. Do not allow personal likes or dislikes,
21 sympathy, prejudice, fear, or public opinion to influence you.
22 You should also not be influenced by any person's race, color,
23 religion, national ancestry, or gender. You will recall that
24 you took an oath promising to do so at the beginning of the
25 case.

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1 You must follow all these instructions and not single
2 out some and ignore others. They are all important. Please do
3 not read into these instructions or into anything I may have
4 said or done any suggestion as to what verdict you should
5 return. That is a matter entirely up to you.

6 The indictment is not evidence. Each defendant has
7 pled not guilty to the charge. The defendants are each
8 presumed to be innocent unless and until the government proves
9 each defendant guilty beyond a reasonable doubt. In addition,
10 the defendants do not have to testify or present any evidence.
11 The defendants do not have to prove innocence. The government
12 has the burden of proving every element of the charges beyond a
13 reasonable doubt.

14 A defendant in a criminal case has a constitutional
15 right not to testify. In arriving at your verdict, the law
16 prohibits you from considering in any manner that defendant
17 Ruben Rodriguez did not testify.

18 Defendant Jaime Mayorga has testified. You should
19 treat this testimony just as you would the testimony of any
20 other witness.

21 Proof beyond a reasonable doubt is proof that leaves
22 you firmly convinced the defendant is guilty. It does not
23 require that the government prove guilt beyond all possible
24 doubt. A reasonable doubt is a doubt based upon reason and
25 common sense and is not based purely on speculation. It may

1 arise from a careful and impartial consideration of all the
2 evidence or from lack of evidence.

3 If after a careful and impartial consideration of all
4 the evidence you are not convinced beyond a reasonable doubt
5 that the defendant is guilty, it is your duty to find the
6 defendant not guilty. On the other hand, if after a careful
7 and impartial consideration of all the evidence you are
8 convinced beyond a reasonable doubt that the defendant is
9 guilty, it is your duty to find the defendant guilty.

10 The evidence you are to consider in deciding what the
11 facts are consists of: the sworn testimony of any witness; the
12 exhibits received in evidence; and any facts to which the
13 parties have agreed.

14 In reaching your verdict, you may consider only the
15 testimony and exhibits received in evidence. The following
16 things are not evidence, and you may not consider them in
17 deciding what the facts are:

18 1. Questions, statements, objections, and arguments
19 by the lawyers are not evidence. The lawyers are not
20 witnesses. Although you must consider a lawyer's questions to
21 understand the answers of a witness, the lawyers' questions are
22 not evidence. Similarly, what the lawyers have said in their
23 opening statements, closing arguments, and at other times is
24 intended to help you interpret the evidence, but it is not
25 evidence. If the facts as you remember them differ from the

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1 way the lawyers state them, your memory of them controls.

2 2. Any testimony that I have excluded, stricken, or
3 instructed you to disregard is not evidence.

4 3. Anything you may have seen or heard when the court
5 was not in session is not evidence. You are to decide the case
6 solely on the evidence received at the trial.

7 Evidence may be direct or circumstantial. Direct
8 evidence is direct proof of a fact such as testimony by a
9 witness about what that witness personally saw or heard or did.
10 Circumstantial evidence is indirect evidence, that is, it is
11 proof of one or more facts from which you can find another
12 fact.

13 You are to consider both direct and circumstantial
14 evidence. Either can be used to prove any fact. The law makes
15 no distinction between the weight to be given to either direct
16 or circumstantial evidence. It is for you to decide how much
17 weight to give to any evidence.

18 You have heard evidence that was admitted for a
19 limited purpose. You must consider that evidence only for that
20 limited purpose and not for any other purpose.

21 In deciding the facts in this case, you may have to
22 decide which testimony to believe and which testimony not to
23 believe. You may believe everything a witness says or part of
24 it or none of it.

25 In considering the testimony of any witness, you may

1 take into account:

2 1. the witness's opportunity and ability to see or
3 hear or know the things testified to;

4 2. the witness's memory;

5 3. the witness's manner while testifying;

6 4. the witness's interest in the outcome of the case,
7 if any;

8 5. the witness's bias or prejudice, if any;

9 6. whether other evidence contradicted the witness's
10 testimony;

11 7. the reasonableness of the witness's testimony in
12 light of all the evidence; and

13 8. any other factors that bear on believability.

14 Sometimes a witness may say something that is not
15 consistent with something else he or she said. Sometimes
16 different witnesses will give different versions of what
17 happened. People often forget things or make mistakes on what
18 they remember. Also two people may see the same event but
19 remember it differently. You may consider these differences,
20 but do not decide that testimony is untrue just because it
21 differs from other testimony.

22 However, if you decide that a witness has deliberately
23 testified untruthfully about something important, you may
24 choose not to believe anything that witness said. On the other
25 hand, if you think the witness testified untruthfully about

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1 some things but told the truth about others, you may accept the
2 part you think is true and ignore the rest.

3 The weight of the evidence as to a fact does not
4 necessarily depend on the number of witnesses who testify about
5 it. What is important is how believable the witnesses are and
6 how much weight you think their testimony deserves.

7 You are here only to determine whether each defendant
8 is guilty or not guilty of the charge in the indictment. The
9 defendants are not on trial for any conduct or offense not
10 charged in the indictment.

11 Although the defendants are being tried together, you
12 must consider and decide the case of each defendant separately.
13 Your verdict as to one defendant should not control your
14 verdict as to any other defendant.

15 All the instructions apply to each defendant unless a
16 specific instruction states that it applies to only a specific
17 defendant.

18 The punishment provided by law for this crime is for
19 the Court to decide. You may not consider punishment in
20 deciding whether the government has proved its case against
21 each defendant beyond a reasonable doubt.

22 You have heard testimony of witnesses who testified in
23 Spanish. Witnesses who do not speak English or are more
24 proficient in another language testify through an official
25 interpreter. Although some of you may know Spanish, it is

1 important that all jurors consider the same evidence.

2 Therefore, you must accept the interpreter's translation of the
3 witness's testimony. You must disregard any different meaning.

4 You must not make any assumptions about a witness or a
5 party based solely on the fact that an interpreter was used.

6 The indictment charges that the offense alleged in the
7 sole count was committed on or about certain months.

8 Although it is necessary for the government to prove
9 beyond a reasonable doubt that the offense was committed on a
10 date reasonably near the date alleged in the indictment, it is
11 not necessary for the government to prove that the offense was
12 committed precisely on the date charged.

13 You've heard testimony that each defendant made a
14 statement. It is for you to decide (1) whether the defendant
15 made the statement, and (2) if so, how much weight to give to
16 it. In making those decisions, you should consider all the
17 evidence about the statement including the circumstances under
18 which the defendant may have made it.

19 You've heard testimony from Manuel Herrera, a witness
20 who pleaded guilty to a crime arising out of the same events
21 for which the defendants are on trial. This guilty plea is not
22 evidence against the defendants, and you may consider it only
23 in determining this witness's believability.

24 For this reason, in evaluating the testimony of
25 Manuel Herrera, you should consider the extent to which or

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1 whether his testimony may have been influenced by this factor.
2 In addition, you should examine the testimony of Manuel Herrera
3 with greater caution than that of other witnesses.

4 You've heard testimony from a person, Shaun Martin,
5 who testified to opinions and the reasons for his opinions.
6 This opinion testimony is allowed because of the education or
7 experience of this witness.

8 Such opinion testimony should be judged like any other
9 testimony. You may accept it or reject it and give it as much
10 weight as you think it deserves considering the witness's
11 education and experience, the reasons given for the opinion,
12 and all the other evidence in the case.

13 I will now instruct you on the law as it applies to
14 the specific charge brought against the defendants in this
15 case. Both defendants, Ruben Rodriguez and Jaime Mayorga, are
16 charged in the indictment with conspiring to commit wire fraud
17 in violation of Section 1349 of Title 18 of the United States
18 Code. In order for each defendant to be found guilty of that
19 charge, the government must prove each of the following
20 elements beyond a reasonable doubt:

21 First, beginning no later than in or about October
22 2004 and continuing to in or about May 2007, there was an
23 agreement between two or more persons to commit wire fraud.

24 Second, each defendant became a member of the
25 conspiracy knowing of at least one of its objects and intending

1 to help accomplish it.

2 And third, one of the members of the conspiracy
3 performed at least one overt act on or after July 15th, 2006,
4 for the purpose of carrying out the conspiracy.

5 Conspiracy is a kind of criminal partnership, an
6 agreement of two or more persons to commit one or more crimes.
7 The crime of a conspiracy is the agreement to do something
8 unlawful. It does not matter whether the crime agreed upon was
9 committed.

10 For a conspiracy to have existed, it is not necessary
11 that the conspirators made a formal agreement or that they
12 agreed on every detail of the conspiracy. It is not enough,
13 however, that they simply met, discussed matters of common
14 interest, acted in similar ways, or perhaps helped one another.
15 You must find that there was a plan to commit at least one of
16 the crimes alleged in the indictment as an object of the
17 conspiracy with all of you agreeing as to the particular crime
18 which the conspirators agreed to commit.

19 One becomes a member of a conspiracy by willfully
20 participating in the unlawful plan with the intent to advance
21 or further some object or purpose of the conspiracy, even
22 though the person does not have full knowledge of all the
23 details of the conspiracy. Furthermore, one who willfully
24 joins an existing conspiracy is as responsible for it as the
25 originators. On the other hand, one who has no knowledge of a

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1 conspiracy but happens to act in a way which furthers some
2 object or purpose of the conspiracy, does not thereby become a
3 conspirator. Similarly, a person does not become a conspirator
4 merely by associating with one or more persons who are
5 conspirators, nor merely knowing that a conspiracy exists.

6 An overt act does not itself have to be unlawful. A
7 lawful act may be an element of a conspiracy if it was done for
8 the purpose of carrying out the conspiracy. The government is
9 not required to prove that the defendants personally did one of
10 the overt acts.

11 Under the second element of conspiracy to commit wire
12 fraud, the government must prove that each defendant knowingly
13 became a member of the conspiracy.

14 An act is done knowingly if the defendant is aware of
15 the act and does not act through ignorance, mistake, or
16 accident. The government is not required to prove that the
17 defendant knew that his acts or omissions were unlawful. You
18 may consider evidence of the defendant's words, acts, or
19 omissions along with all the other evidence in deciding whether
20 the defendant acted knowingly.

21 The defendants are charged in the indictment with
22 conspiracy to commit wire fraud in violation of Section -- that
23 should say 1349 -- of Title 18 of the United States Code. The
24 government is not required to prove any element of wire fraud,
25 nor is the government required to prove that wire fraud

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1 actually occurred. But you must understand what wire fraud is.

2 The elements of wire fraud are:

3 First, the person knowingly participated in a scheme
4 or plan to defraud or a scheme or plan for obtaining money or
5 property by means of false or fraudulent pretenses,
6 representations, or promises. Deceitful statements of
7 half-truths may constitute false or fraudulent representations.

8 Second, the statements made or facts omitted as part
9 of the scheme were material. That is, they had a natural
10 tendency to influence or were capable of influencing a person
11 to part with money or property.

12 Third, the person acted with the intent to defraud,
13 that is, the intent to deceive or cheat.

14 And fourth, the person used or caused to be used an
15 interstate wire communication to carry out or attempt to carry
16 out an essential part of the scheme.

17 In determining whether a scheme to defraud exists, you
18 may consider not only a person's words and statements but also
19 the circumstances in which they are used as a whole. With
20 respect to the third element of wire fraud, if a person had an
21 honest, good faith belief in the truth of a misrepresentation,
22 that person did not act with the intent to defraud. Acting
23 with reckless indifference to whether a statement was true or
24 false is no defense to the crime of wire fraud. Because direct
25 proof of knowledge or fraudulent intent, what a person is

SEALED **FILED**

JUL 14 2011

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY *[Signature]*
DEPUTY CLERK

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11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE EASTERN DISTRICT OF CALIFORNIA

13

14 UNITED STATES OF AMERICA,) CASE NO. 2:11CR296 WBS
15 Plaintiff,) VIOLATION: 18 U.S.C. § 1349 -
16 v.) Conspiracy to Commit Wire
17 MOCTEZUMA TOVAR,) Fraud; 18 U.S.C. § 981(a)(1)(C)
18 MANUEL HERRERA,) & 28 U.S.C. § 2461(c) -
19 RUBEN RODRIGUEZ,) Criminal Forfeiture
20 JAIME MAYORGA,
21 SANDRA HERMOSILLO,
22 JUN MICHAEL DIRAIN, and
23 CHRISTIAN PARADA RENTERIA,
24 Defendants.

25

26

INDICTMENT

27

The Grand Jury charges:

28

MOCTEZUMA TOVAR,
MANUEL HERRERA,
RUBEN RODRIGUEZ,
JAIME MAYORGA,
SANDRA HERMOSILLO,
JUN MICHAEL DIRAIN, and
CHRISTIAN PARADA RENTERIA,

29

defendants herein, as follows,

30

I. INTRODUCTION

31

At all times relevant to this Indictment:

1. Defendant MOCTEZUMA TOVAR was a real estate salesperson
2 licensed by the State of California and the founder and owner of Delta
3 Homes and Lending, Inc. (hereinafter "Delta Homes"). Defendant
4 MOCTEZUMA TOVAR resided in Sacramento, California.

5. Delta Homes was incorporated in California on or about
6 October 14, 2003, and operated as a real estate and mortgage loan
7 company. Delta Homes maintained offices in Sacramento and Woodland,
8 California.

9. Defendant MANUEL HERRERA was a real estate salesperson
10 licensed in the State of California and a loan officer at Delta Homes.
11 Defendant MANUEL HERRERA resided in Sacramento, California.

12. Defendant RUBEN RODRIGUEZ was a real estate salesperson
13 licensed in the State of California and a loan officer at Delta Homes.
14 Defendant RUBEN RODRIGUEZ resided in Sacramento, California.

15. Defendant JAIME MAYORGA was a real estate salesperson
16 licensed in the State of California and a loan officer at Delta Homes.
17 Defendant JAIME MAYORGA resided in West Sacramento and Woodland,
18 California.

19. Defendant SANDRA HERMOSILLO was a loan officer at Delta
20 Homes and a resident of Woodland, California.

21. Defendant JUN MICHAEL DIRAIN was a loan processor at Delta
22 Homes and a resident of Antelope, California.

23. Defendant CHRISTIAN PARADA RENTERIA was a loan officer at
24 Delta Homes and a resident of Sacramento, California.

25. II. CONSPIRACY TO COMMIT WIRE FRAUD

26. 9. From no later than in or about October 2004 and continuing
27 to in or about May 2007, in the State and Eastern District of
28 California, defendants MOCTEZUMA TOVAR, MANUEL HERRERA, RUBEN

1 RODRIGUEZ, JAIME MAYORGA, SANDRA HERMOSILLO, JUN MICHAEL DIRAIN, and
2 CHRISTIAN PARADA RENTERIA and others, did knowingly combine, conspire,
3 confederate, and agree with each other and with others unknown to the
4 Grand Jury to execute through the use of the wires in interstate and
5 foreign commerce a material scheme and artifice to defraud, and to
6 obtain money by means of material false and fraudulent pretenses,
7 representations and promises, in violation of Title 18, United States
8 Code, Section 1343.

9 10. The object of the conspiracy was to obtain residential home
10 loans from mortgage lenders based upon false and fraudulent loan
11 applications and supporting documents in order for the defendants to
12 obtain commissions and bonuses for themselves upon closing of the
13 transactions.

14 11. Between October 2004 and May 2007, through various
15 fraudulent acts set forth below, the defendants and others caused
16 various mortgage lenders to issue approximately 31 residential home
17 loans for the purchase and refinance of real property. The aggregate
18 sales price of these homes was in excess of \$10 million. As a result
19 of the defendants' actions, mortgage lenders and others suffered
20 losses of at least \$4 million.

21 **III. MANNER AND MEANS**

22 12. It was part of the conspiracy that defendants TOVAR,
23 HERRERA, RODRIGUEZ, MAYORGA, HERMOSILLO, DIRAIN, and PARADA, knowing
24 that prospective home buyers would not otherwise qualify for a home
25 loan, submitted fraudulent mortgage loan applications and supporting
26 documents, which falsely represented the borrowers' assets and income,
27 liabilities and debts, employment status, citizenship status, and
28 intent to occupy the property as a primary residence.

1 13. It was a further part of the conspiracy that defendants
2 TOVAR, HERRERA, RODRIGUEZ, MAYORGA, HERMOSILLO, DIRAIN, and PARADA
3 submitted fraudulent supporting documents to lenders, including: (1)
4 letters falsely representing the financial and employment status of
5 the borrower, (2) false verifications of rent, and (3) fraudulent
6 verifications of deposit.

7 14. It was a further part of the conspiracy that defendants
8 TOVAR, HERRERA, RODRIGUEZ, MAYORGA, HERMOSILLO, DIRAIN, and PARADA
9 provided money to borrowers in order to fraudulently inflate the
10 borrowers' assets and bank account balances.

11 15. It was a further part of the conspiracy that after
12 defendants TOVAR, HERRERA, RODRIGUEZ, MAYORGA, HERMOSILLO, DIRAIN, and
13 PARADA secured an approved loan based on the fraudulent bank account
14 balances, the borrowers returned to the defendants the money that had
15 been used to fraudulently inflate their assets and their bank account
16 balances.

17 16. It was a further part of the conspiracy that after the
18 lenders approved the fraudulent loan applications, defendants TOVAR,
19 HERRERA, RODRIGUEZ, MAYORGA, HERMOSILLO, DIRAIN, and PARADA used, or
20 caused to be used, wire transmissions to obtain home loans for Delta
21 Homes' clients and money for themselves upon closing of the
22 transactions.

23 17. Between October 2004 and May 2007, defendants TOVAR,
24 HERRERA, RODRIGUEZ, MAYORGA, HERMOSILLO, DIRAIN, PARADA, and others,
25 prepared, caused to be prepared, submitted, and caused to be submitted
26 to the lenders, materially false and fraudulent loan applications and
27 supporting documents for the following residential real properties in
28 the State and Eastern District of California:

1	Date Loan Issued	Address
2	10/5/04	7630 Community Drive, Citrus Heights, CA
3	10/24/05	3084 Rosemont Drive, Sacramento, CA
4	11/1/05	4113 Ramsey Drive, North Highlands, CA
5	11/22/05	2711 Norwood Avenue, Sacramento, CA
6	1/27/06	116 Duranta Street, Roseville, CA
7	2/6/06	300 Loretto Drive, Roseville, CA
8	2/21/06	1032 Enwood Road, Roseville, CA
9	3/7/06	4036 Clarewood Way, Sacramento, CA
10	8/7/06	6310 Calvine Road, Sacramento, CA
11	8/16/06	550 Thomas Street, Woodland, CA
12	8/24/06	5719 Vista Avenue, Sacramento, CA
13	9/11/06	7405 Auburn Oaks Street, #A, Citrus Heights, CA
14	10/3/06	6440 Lake Park Drive, Sacramento, CA
15	11/17/06	7630 Community Drive, Citrus Heights, CA
16	1/26/07	1032 Enwood Road, Roseville, CA
17	5/17/07	7495 21st Street, Sacramento, CA
18	5/17/07	780 Reuter Drive, West Sacramento, CA

All in violation of Title 18, United States Code, Section 1349.

FORFEITURE ALLEGATION: [18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c) - Criminal Forfeiture]

1. Upon conviction of the offense alleged in this Indictment, defendants MOCTEZUMA TOVAR, MANUEL HERRERA, RUBEN RODRIGUEZ, JAIME MAYORGA, SANDRA HERMOSILLO, JUN MICHAEL DIRAIN, and CHRISTIAN PARADA RENTERIA shall forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), all property, real and personal, which constitutes or is derived from proceeds traceable to such violation, including but not limited to:

1 a. A sum of money equal to the amount of proceeds obtained
2 as a result of the offense, for which defendants are convicted.

3 2. If any property subject to forfeiture, as a result of the
4 offense alleged in this Indictment:

5 (a) cannot be located upon the exercise of due diligence;
6 (b) has been transferred or sold to, or deposited with, a
7 third party;
8 (c) has been placed beyond the jurisdiction of the court;
9 (d) has been substantially diminished in value; or
10 (e) has been commingled with other property which cannot be
11 divided without difficulty;

12 it is the intent of the United States, pursuant to 28 U.S.C. §
13 2461(c), incorporating 21 U.S.C. § 853(p), to seek forfeiture of any
14 other property of said defendants up to the value of the property
15 subject to forfeiture.

16 A TRUE BILL.

17 [Redacted]
18 _____
19 _____
20 _____
21 BENJAMIN B. WAGNER
22 United States Attorney

23 _____
24 _____
25 _____
26 _____
27 _____
28

UNITED STATES DISTRICT COURT

Eastern District of California

Criminal Division

THE UNITED STATES OF AMERICA

vs.

MONCTEZUMA TOVAR, MANUEL HERRERA, RUBEN RODRIGUEZ, JAIME
MAYORGA, SANDRA HEROSILLO, JUN MICHAEL DIRAIN, and
CHRISTIAN PARADA RENTERIA

INDICTMENT

VIOLATION(S): 18 U.S.C. § 1349 - Conspiracy to Commit Wire
Fraud; 18 U.S.C. § 982(a)(1)(A) - Criminal Forfeiture

A true bill,

/S/

Foreman.

Filed in open court this 14 day

of July, A.D. 20 11

[Signature]

Clerk

Defendants Tovar, Herrera, Rodriguez, Mayorga, Herosillo &
Bail \$ Dicain -----

WARRANT: NO BAIL PENDING HEARING

Defendant Renteria - Summons to Issue, Bail
to be determined at hearing.

GPO 863 525

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PENALTY SLIP

MOCTEZUMA TOVAR, MANUEL HERRERA, RUBEN RODRIGUEZ, JAIME MAYORGA,
SANDRA HERMOSILLO, JUN MICHAEL DIRAIN and CHRISTIAN PARADA RENTERIA

VIOLATION: 18 U.S.C. § 1349 - Conspiracy to Commit Wire Fraud

PENALTY:
30 Years Imprisonment,
\$1,000,000 Fine, or both;
3 Years TSR

FORFEITURE

ALLEGATION: 18 U.S.C. § 982(a)(2)(A) - Criminal Forfeiture

PENALTY: As stated in the Indictment

COURT

ASSESSMENT: \$100 each count

199

1 THE COURT: Okay. You may call your first witness.

2 MR. LEE: The United States calls Natalia Murillo.

3 Your Honor to make it easier for the Court, the United States
4 could supplement 839 and just add that all of the documents
5 have been admitted from 579-1 so it would be easy to
6 distinguish.

7 THE COURT: No. That's fine.

8 (Whereupon the oath was administered.)

9 NATALIA MURILLO

10 was called as a witness, and having been duly sworn, was
11 examined and testified as follows:

12 THE WITNESS: Yes.

13 THE CLERK: Okay. Speak up into that microphone.
14 State your full name and spell your names for us, please.

15 THE WITNESS: Natalia Murillo, N-a-t-a-l-i-a, last
16 name M-u-r-i-l-l-o.

17 THE CLERK: Thank you very much.

18 THE COURT: Okay.

19 DIRECT EXAMINATION

20 BY MR. LEE:

21 Q. Good morning, Ms. Murillo.

22 A. Good morning.

23 Q. Did you reach out to Jaime Mayorga in the spring of 2007
24 to talk to him about buying a house?

25 A. Yes.

200

1 Q. What year were you born?

2 A. I'm sorry. In 1986.

3 Q. So how old were you in 2007 when you reached out to
4 Jaime Mayorga about buying a house?

5 A. 20.

6 Q. Were you working at that time in 2007?

7 A. Yes.

8 Q. What were you doing?

9 A. I was a medical assistant.

10 Q. And where were you working?

11 A. I was working at River Bend Medical Associates.

12 Q. Why did you decide back in the spring of 2007 that you
13 wanted to purchase a house?

14 A. I was pregnant.

15 Q. Where were you living at the time?

16 A. With my parents.

17 Q. Was there anyone else living in the house with you?

18 A. Yes.

19 Q. Who was living with you?

20 A. My ex-husband, my daughter, and two of my brothers, my mom
21 and my dad.

22 Q. You mentioned your ex-husband. What was your ex-husband's
23 name?

24 A. Luis Velasco.

25 Q. You mentioned two brothers. What were yours brothers'

1 Q. How did you know his family?

2 A. My brother went to school with his brother, and I went to
3 school with his cousin.

4 Q. You mentioned your brother went to school with
5 Mr. Mayorga's brother, which brother was that?

6 A. Antonio.

7 Q. So what did you do after you saw Mr. Mayorga's
8 advertisement in the magazine that you picked up at the
9 store?

10 A. I called him.

11 Q. And what happened after that?

12 A. I told him that I wanted to buy a house.

13 Q. And what were the next steps that you took with
14 Mr. Mayorga to buy that house?

15 A. He ran my credit.

16 Q. What happened after he ran your credit?

17 A. He told me I did not qualify to buy a house.

18 Q. Did he tell you why you didn't qualify to buy a house?

19 A. I really cannot remember what was the reason why.

20 Q. Did he talk to you about what you could do to qualify for
21 a house?

22 A. He suggested if there was somebody else that could help me
23 get the house.

24 Q. What did you understand that to mean?

25 A. I understood that somebody could cosign for the house.

1 Q. Did you in fact reach out to someone to have them cosign
2 the house with you?

3 A. At that moment I didn't. I had somebody in mind, but I --
4 that person did not want to sign for me.

5 Q. Who was that person that didn't want to sign for you?

6 A. My brother.

7 Q. You had mentioned previously that you had a husband at the
8 time named Luis. Did you ask Luis to cosign with you?

9 A. He wouldn't be able to. He was not a citizen of the
10 United States.

11 Q. You had mentioned that you were living with your parents
12 and that they own their home. Did you ask your parents to
13 cosign for you?

14 A. They wouldn't be able to cosign for me because they are on
15 disability, so they were not -- they're not working.

16 Q. You mentioned that you had someone in mind and that it was
17 your brother Francisco. Did you in fact talk to Francisco
18 about buying a house?

19 A. I did.

20 Q. What happened as a result of that?

21 A. He said no.

22 Q. Did he eventually agree to help you?

23 A. He did.

24 Q. Do you know what changed his mind?

25 A. Because I'm his sister and we usually, as family, help

1 each other.

2 Q. After Francisco agreed to help you, did you put Francisco
3 in touch with Jaime Mayorga to work out the details?

4 A. No.

5 Q. How did Jaime Mayorga get details from your brother about
6 cosigning with you?

7 A. I would always get the information for Jaime. It would be
8 myself or my ex-husband.

9 Q. So if Mr. Mayorga needed something, you would reach out to
10 your brother and get it and then transmit that information to
11 Mr. Mayorga?

12 A. Correct.

13 Q. To your knowledge, did Mr. Mayorga ever meet with your
14 brother Francisco without you?

15 A. No.

16 Q. To your knowledge, did Mr. Mayorga ever get any documents
17 from your brother without you?

18 A. No.

19 Q. Did you in fact get information from your brother to give
20 to Mr. Mayorga?

21 A. Will you repeat the question.

22 Q. Did you get information from Mr. Mayorga -- from your
23 brother Francisco to give to Mr. Mayorga?

24 A. Yes.

25 Q. What kind of information did you get?

1 Q. Can you spell that?

2 A. I think it's C-E-V-A.

3 Q. Do you know what he did for CEVA?

4 A. Yes. He would upload -- unload trucks.

5 Q. So he unloaded trucks?

6 A. Yes.

7 Q. To your knowledge, was your brother working at a company
8 called a Summer Green Landscaping Services in 2007?

9 A. No.

10 Q. Do you know anyone that did work at that company?

11 A. My ex-husband.

12 Q. I want to direct your attention to Exhibit 15B-4. Did you
13 give your brother any money to purchase the house on 21st
14 Street?

15 A. Yes. I had to put money into his bank account.

16 Q. Do you remember how much money you gave him?

17 A. I gave him about 12,000.

18 Q. Where did you get that \$12,000 from?

19 A. 2,000 were mine, and 10,000 I got them from Jaime.

20 Q. Why did Jaime give you \$10,000?

21 A. We needed money to -- we had to have money in the bank
22 account.

23 Q. Was this a gift to you and your brother from
24 Mr. Mayorga?

25 A. No.

1 Q. Did you have to give the money back?

2 A. Yes.

3 Q. Did you give the money back?

4 A. Yes.

5 Q. When did you give the money back?

6 A. After we purchased the house.

7 Q. One moment, your Honor.

8 Ms. Murillo, you previously said you were paying rent to
9 your parents. Do you remember how much that rent was?

10 A. About 350, 400.

11 Q. And was that per month? Per week?

12 A. No. It was per month.

13 MR. LEE: No further questions, your Honor.

14 THE COURT: Cross-examination.

15 CROSS-EXAMINATION

16 BY MR. PETERS:

17 Q. Good morning.

18 A. Good morning.

19 Q. Your brother Francisco was living with your mother,
20 correct?

21 A. Yes.

22 Q. And all of you were living together?

23 A. Correct.

24 Q. And Jaime was your real estate agent --

25 A. Yes.

1 Q. Okay. And when he bought that car, he went to a car
2 dealership and signed a contract to buy the car, correct?

3 MR. LEE: Objection. Foundation.

4 THE COURT: Sustained.

5 Q. BY MR. PETERS: Were you present when he bought a car?

6 A. No.

7 Q. Okay. When Jaime was showing you these houses, he told
8 you that you needed -- strike that. Did he talk to you about
9 your credit rating at the time?

10 A. I'm not -- I can't remember.

11 Q. Did he talk to you about your brother's credit rating at
12 that time?

13 A. Yes.

14 Q. Okay. You never told Jaime, did you, that Francisco was
15 not going to live in the house, correct?

16 A. I cannot remember.

17 Q. Okay. You were all living together, correct?

18 A. Yes.

19 Q. You really wanted a house very badly, did you not?

20 A. Yes.

21 Q. Okay. Were you pregnant at the time?

22 A. Yes.

23 Q. And your husband couldn't qualify for a loan, correct?

24 A. Correct.

25 Q. Did Jaime mention to you reserves and what reserves

220

1 Q. Okay. When all was said and done, you were very pleased
2 with the purchase of the house, correct?

3 A. Yes.

4 Q. And you were very pleased with Jaime's -- what Jaime did
5 in the purchase of that house, correct?

6 A. Yes.

7 MR. PETERS: Thank you.

8 THE COURT: Mr. Long.

9 MR. LONG: No. Thank you, your Honor.

10 THE COURT: Redirect?

11 MR. LEE: No further questions, your Honor.

12 THE COURT: Thank you for being here. You may step
13 down.

14 Call your next witness.

15 MR. LEE: The United States calls Francisco Murillo.

16 (Whereupon the oath was administered.)

17 FRANCISCO MURILLO

18 was called as a witness, and having been duly sworn, was
19 examined and testified as follows through the Spanish language
20 interpreter:

21 THE WITNESS: I swear.

22 THE COURT: All right. Let's give the interpreter a
23 microphone, please, and have the interpreter identify himself
24 for the record.

25 THE INTERPRETER: Spanish interpreter is Jesus Rivera.

1 A. Oh, I believe I was working there at night.

2 Q. So let me go back. Have you been working at CEVA
3 unloading cargo since 2007?

4 A. Yes.

5 Q. Were you working full time at CEVA when you helped your
6 sister purchase the house back in the spring of 2007?

7 A. Yes.

8 Q. I want to direct your attention on the screen in front of
9 you to Exhibit 15A-10. Back in 2007 when you helped your
10 sister purchase the house, were you working at CEVA and also at
11 the same time a company named A Summer Green Landscape
12 Company?

13 A. No. I was working only one job.

14 Q. So in 2007 you were not working as a supervisor at A
15 Summer Green Landscape Company while also working full time at
16 CEVA?

17 A. No. I was only working nighttime at my job. That's it.

18 Q. Please direct your attention on the screen to
19 Exhibit 15B-2, and that's page 2. Were you working as a
20 project manager at A Summer Green Landscaping Company back in
21 2007?

22 A. I was working with them doing yard work, but I don't
23 recall what year.

24 Q. Were you working for them in 2007 when you were working at
25 CEVA?

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1 A. I was working only one job, but I don't recall what job I
2 was working that year. Bad memory.

3 Q. You mentioned that you're currently making \$16.50 an hour.
4 Do you remember how much you were making per hour back in
5 2007?

6 A. I really don't recall.

7 Q. Do you recall if you were making more or less than you are
8 currently making?

9 A. Well, obviously less.

10 Q. I want to direct your attention to Exhibit 15B-3. Back in
11 2007, were you in charge of marketing to the bilingual market
12 for A Summer Green Landscaping Company?

13 THE INTERPRETER: Excuse me, Counsel. The name of the
14 company again?

15 MR. LEE: A Summer Green Landscape Company.

16 THE WITNESS: I really don't recall but -- these
17 things, as I said. I only remember where I've been working now
18 because I've been there for over ten years.

19 Q. BY MR. LEE: I see that you're communicating with the
20 Spanish language interpreter. Are you able to read English?

21 A. A little, not so much.

22 Q. Were you able to read English back in 2007?

23 A. No, not very well.

24 Q. Can you direct your attention to Exhibit 15A-15, page 8.
25 Is that your signature on the screen?

225

1 A. It looks like it.

2 Q. Do you remember having documents that you signed read to
3 you in Spanish before you signed them?

4 A. As I said, back then I was working nighttime. When I was
5 there, I hadn't slept, and I was doing a favor for my sister.
6 I was just there to sign papers.

7 Q. Please direct your attention to Exhibit 15B-2. Is that
8 your signature?

9 A. Yes. It looks like it, yes.

10 Q. Back in 2007 when you helped your sister purchase a house,
11 did you move into that house that your sister purchased?

12 A. No. I would just go visit there. But no, I didn't. I
13 helped her so she could live there with her husband.

14 Q. Back in 2007, where did you live?

15 A. I was living nearby there with my mother and my father.
16 They had a house, and I was renting.

17 Q. Do you remember how much you paid in rent?

18 A. I really don't recall.

19 Q. Did you pay rent to your parents?

20 A. Yes. I was helping them. I don't recall how much.

21 Q. Please direct your attention to Exhibit 15B-6. Is that
22 your parents' address on there on Milford Street?

23 A. Yes.

24 Q. Did you pay rent to ABBA Property Management back in 2007
25 while you were living with your parents?

233

1 was called as a witness, and having been duly sworn, was
2 examined and testified as follows:

3 THE WITNESS: Yes, sir.

4 THE CLERK: Okay. State your name, please, and spell
5 your names.

6 THE WITNESS: Manuel Herrera, M-a-n-u-e-l. Last name
7 Herrera, H-e-r-r-e-r-a.

8 THE CLERK: Thank you very much.

9 DIRECT EXAMINATION

10 BY MR. LEE:

11 Q. Good morning, Mr. Herrera. What do you do for a living?

12 A. I'm a sales rep for an auto auction.

13 Q. How long have you been doing that?

14 A. Almost six years.

15 Q. Back in 2004 to 2007, what were you doing for a living?

16 A. I was a loan officer, a realtor, and I managed a real
17 estate office.

18 Q. What was the name of the company that you worked for doing
19 all those things?

20 A. I worked for Delta Homes & Lending.

21 Q. How did you end up working at Delta Homes & Lending back
22 in 2004 through 2007?

23 A. Through a friend.

24 Q. What was that friend's name?

25 A. His name is Moctezuma Tovar.

1 Q. Does he also go by the name Mo Tovar?

2 A. Correct.

3 Q. How did you meet Mr. Tovar?

4 A. We worked at an auto dealership in Roseville.

5 Q. And why did you end up coming to work at Delta Homes?

6 A. He invited me to -- to the office when he was opening up
7 the business.

8 Q. Did you agree to go and work at the business?

9 A. Yes.

10 Q. Do you remember about when that was?

11 A. That was late 2003 when he opened up the business and he
12 invited me.

13 Q. When did you start working at Delta Homes?

14 A. Early 2004.

15 Q. You previously listed several jobs you had in relation to
16 Delta Homes. What was the primary business of Delta Homes?

17 A. They were in the business of providing loans to clients.
18 Well, they were a mortgage brokerage and a real estate office
19 and brokerage.

20 Q. Let me break those two things up. You said "mortgage
21 brokerage." What is a mortgage brokerage?

22 A. They assist clients in obtaining loans and submit them
23 through various lenders.

24 Q. You also said a real estate company. What did Delta Homes
25 do on the real estate side?

235

1 A. They assisted clients in obtaining properties and selling
2 properties for them.

3 Q. Prior to coming to work at Delta Homes, did you have any
4 experience in the real estate business?

5 A. No. I did not.

6 Q. Did you have any experience in the mortgage brokerage
7 business?

8 A. No. I did not.

9 Q. When you first started working at Delta Homes in early
10 2004, how many people worked there?

11 A. A handful of people, maybe ten.

12 Q. What were their names, to your recollection?

13 A. Mo Tovar, his wife Rosalyn, Brent Shaw, Jaime Mayorga,
14 Mike Dirain, Mark Anaya, and a few other people that I can't
15 recall their names right now.

16 Q. You mentioned Jaime Mayorga. Do you see Mr. Mayorga in
17 the courtroom today?

18 A. Yes, I do.

19 Q. Can you identify him by the article of clothing that he is
20 wearing?

21 A. He's the gentleman wearing a dark suit, a light shirt.

22 Q. Can you identify where he is in relation to the other
23 individuals at the table?

24 MR. PETERS: I'll stipulate he's identified him.

25 THE COURT: All right.

1 A. To satisfy the lender's guidelines and for deals to be
2 funded and eventually be compensated.

3 Q. When you say "compensated," what do you mean by that?

4 A. Being paid -- being paid commission for the transaction.

5 Q. You pleaded guilty in this case to conspiracy to commit
6 wire fraud, didn't you?

7 A. Yes.

8 Q. And you pled guilty pursuant to a plea agreement with the
9 United States; is that right?

10 A. Yes.

11 Q. And as part of that plea agreement, you agreed to assist
12 the United States, didn't you?

13 A. Yes.

14 Q. Are you testifying today because of that agreement with
15 the United States to assist the United States?

16 A. Correct.

17 Q. And are you testifying today because you hope to get a
18 reduced sentence as part of that assistance?

19 A. Yes.

20 Q. I want to return to your job as a loan officer back when
21 you started in 2004. What are the responsibilities of a loan
22 officer?

23 A. Communicate with the client, fill out an application, and
24 communicate with the loan processor.

25 Q. When you say communicate with the client, what do you mean

1 Would lender reps come to the office on Enterprise?

2 A. Yes.

3 Q. You also mentioned that you worked at an office on
4 Franklin in South Sacramento. Would lender reps come to that
5 office?

6 A. Correct.

7 Q. And what was your understanding of what the lender reps
8 were coming to the office for?

9 A. To assist us and provide us with qualifications.

10 Q. When you say "qualifications," what do you mean by
11 "qualifications"?

12 A. Qualify, to qualify a client for various programs that
13 they might have available for them.

14 Q. Is it fair to say the lender reps were like salespeople?

15 A. Yes.

16 Q. So you mentioned that you collected information from the
17 client and took it to the lender rep. What was the purpose of
18 you going to a lender rep with that information?

19 A. To get a prequalification and to see what different
20 programs they qualified for.

21 Q. When you say program, what do you mean by program?

22 A. Loan programs such as a 30-year fixed, an ARM loan, an
23 LTV, 80 percent LTV, hundred percent LTV, which most folks
24 requested.

25 Q. I'll come back to the definition of those, but right now I

1 Q. So does that mean that that is the person that collected
2 the information from the borrower?

3 A. That is correct.

4 Q. Is this form submitted to the lender?

5 A. Yes.

6 Q. If we could zoom out. If we go back to page 1, what is
7 the significance of borrower name on this form?

8 A. The person obtaining the loan.

9 Q. What's a coborrower?

10 A. A person obtaining the loan along with the borrower.

11 Q. So if this form is blank with respect to the coborrower,
12 there was only one person applying for this loan?

13 A. Yes.

14 Q. If we can go to page 2. On this form it says "base emp
15 income," and it lists "\$7,200." What is the significance of
16 that?

17 A. The borrower's monthly gross income is 7,200. That's
18 before taxes.

19 Q. You previously mentioned when we looked at the cover sheet
20 that this was a stated income, verified asset loan. Is this
21 the portion where the income is stated?

22 A. Yes.

23 Q. So this is how it is communicated to the lender what the
24 income of the borrower is?

25 A. Yes.

1 A. Wiring instructions from the title company.

2 Q. What's the purpose of wiring instructions?

3 A. The bank is going to wire the funds once it funds and
4 where they're going to be wired to.

5 Q. On the top right we see a loan number and "cond number 9."
6 Is that the same as the prior form that we've looked at that's
7 identifying the loan that this pertains to and the condition
8 that this pertains to?

9 A. Correct.

10 Q. Please direct your attention to Exhibit 15A-5. So that's
11 "cond 9" would be a condition that would appear on a form like
12 this?

13 A. Yes.

14 Q. We could take that down.

15 Earlier in your testimony you mentioned that you submitted
16 false information to lenders. How did you decide to start
17 doing that?

18 A. I learned at the very beginning stages while working at
19 Delta Homes & Lending.

20 Q. Who taught you?

21 A. Mo Tovar, the processor. Brent Shaw learned it from a
22 previous file for Mr. Jaime Mayorga, and collectively when the
23 other gentlemen joined the team, Mark Anaya and Mike Dirain.

24 Q. Did Mark Anaya and Mike Dirain teach you, or did you teach
25 them?

1 A. They had more experience than I did. They came from a
2 different mortgage company. So I learned from them.

3 Q. Did you teach other people at Delta Homes to submit false
4 information to lenders?

5 A. Eventually, yes.

6 Q. Why do you say eventually?

7 A. After I learned the process of falsifying information.

8 Q. How did you know which information to lie about?

9 A. Based on what the lenders required or what they wanted to
10 see on an application or conditions.

11 Q. So conditions like we just looked at in Exhibit 15A-5?

12 A. Yes.

13 Q. Earlier we looked at a verification of deposit. Did you
14 ever lend money to clients so that they could appear to have
15 more money in their bank account than they actually did?

16 A. Yes, I did.

17 Q. Did other loan officers at Delta Homes lend money to
18 clients to make it appear that they had more money in their
19 bank account?

20 A. Yes. It was a common practice.

21 Q. Who did you see do it?

22 A. Jaime Mayorga, Ruben Rodriguez, Christian Parada.

23 Q. How do you know that Jaime Mayorga gave money to his
24 clients to put in their bank account?

25 A. Because I saw him write the checks and exchange the checks

1 with the client.

2 Q. Did you ever talk to Jaime Mayorga about lending money to
3 clients to put in the client's bank account to deceive the
4 lenders?

5 MR. PETERS: Objection. Hearsay.

6 MR. LONG: And leading.

7 THE COURT: Sustained on leading.

8 Q. BY MR. LEE: You mentioned that you saw Jaime Mayorga
9 exchange checks with clients of his. Did you ever talk to
10 Jaime about that?

11 A. Yes.

12 Q. What were the nature of those conversations?

13 A. It varies. At times some of our conversations --

14 MR. PETERS: No. I'll withdraw the objection.

15 THE COURT: Okay. Go ahead.

16 THE WITNESS: A lot of the conversations were concern
17 on his behalf that the client wouldn't pay him back.

18 Q. BY MR. LEE: You mentioned that you saw Jaime Mayorga lend
19 money to his clients. Did you see Ruben Rodriguez lend money
20 to his clients?

21 A. Yes.

22 Q. Did you ever talk to Ruben Rodriguez about that?

23 A. Yes.

24 Q. Please direct your attention to Exhibit 31A-2. If we can
25 look at page 3. What is the significance of the \$6,500 on this

1 1003?

2 A. That's the funds that the borrower has in their bank
3 account.

4 Q. Can we please direct our attention to Exhibit 31D-2. What
5 is that?

6 A. That is a check coming from a borrower payable to me.

7 Q. Why would a borrower be writing you a check for \$6,800?

8 A. Because he borrowed the funds from me.

9 Q. Did you lend money to that borrower to deceive the
10 lender?

11 A. Yes, I did.

12 Q. Did you ever loan money to other loan officers so that
13 they could give that money to their clients?

14 A. Yes, I did.

15 Q. Who were those loan officers?

16 A. When Christian Parada first started working with us, I did
17 it to help him out and his client. I helped a number of loan
18 officers. Do you want me to mention and give you names?

19 Q. Yes.

20 A. Loruda Santana, Carla Velasquez, Carmen Munoz, Luz Torres,
21 Tony Barajas, Gustavo Rodriguez, Nick Rodriguez. Rest in
22 peace. He just passed away a couple months ago. Just to name
23 a few.

24 Q. Did you ever inflate the income of borrowers on the 1003
25 form?

1 A. Yes, I did.

2 Q. Was that common practice at Delta Homes?

3 A. Yes.

4 Q. Did Jaime Mayorga do that?

5 A. Yes.

6 MR. PETERS: Objection, unless it's by personal
7 knowledge.

8 THE COURT: Overruled.

9 Q. BY MR. LEE: Did Jaime Mayorga do that?

10 A. Yes.

11 Q. Did Ruben Rodriguez do that?

12 MR. LONG: Objection. Foundation.

13 THE COURT: Overruled.

14 THE WITNESS: Yes.

15 Q. BY MR. LEE: When you and other employees at Delta Homes
16 were working on a 1003, did you take any steps to make it
17 harder for the lender to figure out if the income had been
18 inflated on the loan application?

19 A. I'm sorry. Can you repeat the question again. I'm not
20 sure if I'm understanding it.

21 Q. Did you ever take steps to make it harder for the lender
22 to figure out if you had inflated the income on a loan
23 application?

24 A. Yes.

25 Q. Did you ever change the job title of a borrower?

1 A. Yes.

2 Q. What's a straw buyer?

3 A. The buyer applying for the loan but in reality it's a
4 different person that's going to be occupying the property and
5 is going to be making the mortgage payments on the property.

6 Q. So when we looked at that cover sheet that indicated owner
7 occupied, it would be someone other than the person that was
8 going to be occupying the residence?

9 A. Correct.

10 Q. Did you submit loan applications with straw buyers?

11 A. Yes.

12 Q. Did Jaime Mayorga submit loan applications with straw
13 buyers?

14 A. Yes.

15 MR. PETERS: Objection. Foundation.

16 THE COURT: Overruled.

17 Q. BY MR. LEE: How do you know that Jaime Mayorga submitted
18 loan applications with straw buyers?

19 A. I became in contact with the original borrower. We priced
20 loans with the original borrower and did not qualify or did not
21 obtain a prequalification, and then we submitted or we priced
22 the loan with another borrower for the same subject property.

23 Q. Did Ruben Rodriguez use straw buyers?

24 A. Yes.

25 MR. LONG: Objection. Foundation. Lack of personal

1 knowledge.

2 THE COURT: Overruled.

3 Q. BY MR. LEE: How do you know that Ruben Rodriguez used
4 straw buyers on loan applications?

5 A. I personally saw different borrowers for the same -- on an
6 application for the same subject property.

7 Q. When you were the branch manager at the Franklin Avenue
8 office of Delta Homes, did Jaime Mayorga work under you?

9 A. Yes.

10 Q. Did Ruben Rodriguez work under you?

11 A. For a few months, yes.

12 Q. After a few months, what happened?

13 A. He moved to the main location at Howe Avenue.

14 Q. What is an alternative trade line?

15 A. It is a trade line not reflected -- not commonly reflected
16 on a credit bureau and is added as an alternative when the
17 borrower lacks trade lines on their credit.

18 Q. You've said that, but you used a lot of jargon when you
19 said that. What is a normal trade line, if there is such a
20 thing?

21 A. A normal trade line or a conventional trade line would be
22 a credit card, a loan that's reported to the credit bureau.

23 Q. So when you run someone's credit report, the fact that
24 they had a credit card with American Express would show up on
25 the credit report?

1 A. Correct.

2 Q. And is it fair to say an alternative trade line would not
3 show up on that credit report?

4 A. That's correct. And that could possibly be an in-house
5 financing at a furniture store, a jewelry store.

6 Q. Did you falsify alternative trade lines on loan
7 applications?

8 A. Yes.

9 Q. Was it common practice at Delta Homes to falsify
10 alternative trade lines on loan applications?

11 A. Yes.

12 Q. Did Jaime Mayorga falsify alternative trade lines on loan
13 applications?

14 A. Yes.

15 Q. Did Ruben Rodriguez falsify alternative trade lines on
16 loan applications?

17 MR. LONG: Objection. Foundation. Lack of personal
18 knowledge.

19 THE COURT: Overruled.

20 THE WITNESS: Yes.

21 Q. BY MR. LEE: Were there common businesses that Delta Homes
22 used for alternative trade lines that were false?

23 A. Yes.

24 Q. Can you give me an example?

25 A. A jewelry store next to our business, next to our branch

1 expertise on?

2 A. Correct.

3 Q. And you also learned from some of the account
4 representatives that would come to Delta, correct?

5 A. Yes.

6 Q. And an account executive/loan representative, are those
7 interchangeable titles basically?

8 A. Yes.

9 Q. And these would be people who worked for the lending
10 companies who had come to Delta to market their materials?

11 A. Yes.

12 Q. They would try to get Delta Homes to sell their company's
13 loans, correct?

14 A. Correct.

15 Q. In competition, because there was competition between one
16 lender trying to get business from Delta versus other lenders
17 trying to get Delta's business, correct?

18 A. Yes.

19 Q. And as a part of your learning the real estate mortgage
20 loans business, some of the information you got came from those
21 account executives/loan representatives?

22 A. Correct.

23 Q. And they would teach you what their particular companies
24 would need on a loan application?

25 A. Correct.

1 A. Correct.

2 Q. And during the several months that you worked with
3 Ruben Rodriguez, you provided him with some training on how to
4 do real estate transactions, the loan transactions?

5 A. Yes.

6 Q. Now the questions I'll ask about Delta is going to go from
7 October of 2004 through May of 2007, okay? During that time
8 frame, the principal loans that were marketed or sold by Delta
9 as a mortgage broker were subprime loans?

10 A. The majority, yes.

11 Q. Say the vast majority, yes?

12 A. Yes.

13 Q. And subprime loans, they're targeting people who have
14 mediocre to poor credit?

15 A. Correct.

16 Q. Which is differentiated from people who have good credit
17 who might get prime loans or full doc loans?

18 A. Correct.

19 Q. And for stated income loans, how much documentation of the
20 person's income needed to be provided to the lender at issue?

21 A. For stated, very little or none at all.

22 Q. And stated income loans, those were developed by the
23 mortgage lending industry, correct?

24 A. Yes.

25 Q. In other words, it wasn't a Delta program?

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1 A. No.

2 Q. When the different account executives came to Delta from
3 many different companies, many of them would have these stated
4 income loans as something they would market to Delta,
5 correct?

6 A. Yes.

7 Q. And was that throughout the October '04 through May of
8 2007 time frame?

9 A. Correct.

10 Q. Did the fact that there was no verification or no
11 documentation of the person's income, did that make it a little
12 bit quicker and easier to do these loans, home mortgage
13 loans?

14 A. Yes.

15 Q. Fewer documents to gather to provide to the lenders?

16 A. Correct.

17 Q. And so it helped speed up the lending process?

18 A. Correct.

19 Q. And based on your experience in the '04 to '07 time frame,
20 housing prices were going up during that time frame, correct?

21 A. Yes.

22 Q. And especially '04, '05, '06, housing prices were going up
23 fairly quickly in the Sacramento area?

24 A. That's correct.

25 Q. A nice 15 to 20 percent per year?

1 agreed to become a government cooperator, correct?

2 A. Correct.

3 Q. And the plea agreement set forth the terms of your deal
4 with the United States Government, correct?

5 A. Yes.

6 Q. Including stating that you were facing a certain number of
7 years in prison?

8 A. Yes.

9 Q. And then it had sentencing calculations that would
10 estimate what kind of a sentence that you were looking at in
11 that particular deal?

12 A. Yes.

13 Q. It was your understanding that you were looking somewhere
14 between five and seven years in prison?

15 A. Yes.

16 Q. Minus whatever you could get as a reduction for
17 cooperating with the government?

18 A. Correct.

19 Q. And the deal that you struck with the government allows
20 your sentence to be reduced by up to 50 percent for your
21 assistance to the government, correct?

22 A. Correct.

23 Q. So you're hoping to save somewhere in the three- to
24 three-and-a-half-years range?

25 A. Yes.

1 Q. The term used in your plea agreement indicates you must
2 provide substantial assistance to the government, correct?

3 A. Yes.

4 Q. And substantial assistance means helping the government
5 prosecute other people?

6 A. By being truthful, yes.

7 Q. Well, substantial assistance means providing assistance to
8 the government prosecuting other people, correct?

9 A. Correct, by being truthful.

10 Q. The deal itself says you're assisting the government
11 prosecute other people?

12 A. Correct.

13 Q. Including Ruben Rodriguez?

14 A. Yes.

15 Q. And Jaime Mayorga?

16 A. Yes.

17 Q. And it's your understanding -- or is it your understanding
18 that the government will come up with its opinion of what
19 substantial assistance you've provided in this case?

20 A. Correct.

21 Q. And then the government will provide that recommendation
22 to your sentencing judge at or before the time of your
23 sentencing?

24 A. That's my understanding.

25 Q. And you're hoping that the government will recommend at

1 least a 50 percent reduction in your sentence?

2 A. Yes.

3 Q. If I could have you turn in the book in front of you to
4 Exhibit G2.

5 THE COURT: I don't have your exhibits. I don't think
6 I have your exhibits.

7 MR. LONG: You should have the binder. We had it here
8 a while ago.

9 THE CLERK: Pardon?

10 MR. LONG: We had it here last week.

11 MR. PETERS: Could be behind the witness.

12 THE CLERK: Are they on the witness stand?

13 MR. LONG: The witness copy is on the witness stand.
14 I could give your Honor the defense copy of this.

15 THE COURT: Just go ahead. Don't worry about it.
16 We'll find it.

17 MR. LONG: Thank you.

18 Q. Does this appear to be the plea agreement you signed with
19 the government?

20 A. Yes.

21 Q. And if you turn to the second page, which is actually page
22 6 of 14, is that your understanding of the cooperation
23 agreement between yourself and the government?

24 A. Yes.

25 MR. LONG: I would move G2 into evidence, your Honor.

1 The pages 1 and 6 of 14 are the only two pages I'm seeking to
2 move in.

3 THE COURT: Page 1 and 6, right?

4 MR. LONG: Correct.

5 THE COURT: Any objection?

6 MR. LEE: No objection, your Honor.

7 THE COURT: Be admitted. You can publish it.

8 (Defendants' Exhibit G2, pages 1 and 6, were admitted
9 into evidence.)

10 MR. LONG: Thank you. If we could have the second
11 page, page 6 of 14.

12 Q. So this is language that you read before you signed the
13 plea agreement?

14 A. Yes.

15 Q. So this is language you understood before you decided to
16 enter a plea of guilty in this case?

17 A. Yes.

18 Q. And this is where it says you can get up to half off on
19 your sentence for your cooperation?

20 A. Yes.

21 Q. And based on this writing, the last sentence of the top
22 paragraph, you understand it was within the sole and exclusive
23 discretion of the government to determine whether the defendant
24 has provided substantial assistance, correct?

25 A. Correct.

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1 Q. So to you that means that the prosecutors get to decide
2 how substantial your assistance was?

3 A. Yes.

4 Q. And based on that government assessment, they'll make a
5 recommendation to your sentencing judge about whether to reduce
6 your sentence and by how much?

7 A. Correct.

8 Q. And based on the very next sentence, you understand that
9 the government might make no recommendation of any reduction in
10 your sentence?

11 A. Correct.

12 Q. In the sentence, the second paragraph where it says,
13 "depending upon the level of assistance the government
14 determines that the defendant has provided," what's your
15 understanding of what "level of assistance" means?

16 A. How much I assist and cooperate with the government.

17 Q. Right. So if your substantial assistance is okay, you'll
18 get an okay reduction, versus if your assistance is great,
19 you'll get a great reduction?

20 A. By being truthful, yes.

21 Q. Now you touched on this in your direct examination from
22 the prosecution, but a full document loan, what is typically
23 required to verify income in a full document loan?

24 A. Pay stubs, W-2s, bank account statements.

25 Q. So on the income, pay stubs would be proof of how much

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1 how much income that potential borrower is making?

2 A. Yes.

3 Q. And in the October of '04 to May of 2007 time frame, is it
4 fair to say Delta's business was more subprime and not using
5 the full document loans?

6 A. Correct.

7 Q. And in subprime, one of the major ones was stated income,
8 stated asset?

9 A. Correct.

10 Q. And concerning the income part, you would not submit W-2s
11 as a part of a stated income loan?

12 A. Correct.

13 Q. And likewise, the lenders were not asking for the pay
14 stubs from the employers in a stated income loan?

15 A. Yes.

16 Q. And this was programs developed by many of the lenders in
17 the lending industry, correct?

18 A. Correct.

19 Q. When we were looking at the Delta loan cover earlier, when
20 the prosecutor was asking you questions, there was something
21 that said "lite doc." Is that a particular loan, or does that
22 cover the different stated income and no income loans?

23 A. That's limited documentation.

24 Q. And is that different than a stated income loan?

25 A. Yes.

1 Q. What is a lite doc as far as what happened at Delta during
2 the time frame I talked about?

3 A. They could have possibly required a pay stub and not a W-2
4 or vice versa or maybe just the tax return.

5 Q. But the stated income loans were used far more often by
6 Delta compared to that light doc?

7 A. Yes.

8 Q. And based on your experience at Delta during the time
9 frame of '04 to '07, the stated income, stated asset, was that
10 the most common loan?

11 A. Yes.

12 Q. And stated income, verified asset, also a common loan?

13 A. Yes.

14 Q. And stated income on the verified asset, so the stated
15 income verified asset, what proof of assets would be required
16 under verified assets?

17 A. Verification of deposit or bank statements.

18 Q. And the bank could choose how many months worth of bank
19 statements that was required, correct?

20 A. Yes.

21 Q. If they said they needed one month of bank statements,
22 they would provide one month of bank statements?

23 A. Correct.

24 Q. If they wanted six months, they could ask for six
25 months?