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1 LOS ANGELES, CALIFORNIA; WEDNESDAY, JUNE 4, 2014

2 7:58 A.M.

3 -000-

4 (Open court out of the presence of the jury.)

5 THE COURT: On the record, everybody's here but the
6 jury. I'm a little concerned about the activities out in the
7 front of the courthouse that the jury has -- we've got a bunch
8 of people outside the courthouse that the jury has to walk
9 through and carrying signs and saying, "Smart jurors are hung
10 jurors. No victim of crime," something like, "Judges have the
11 law, jury has the power." The import of these messages is
12 clear. All right.

13 Anyway, never mind. Okay. I want to talk to the jurors
14 one a time. I want to find what effect this has had on any of
15 them. I'm a big Fifth Amendment person, but do not, do not, do
16 not screw with this process, okay?

17 To the extent that anybody over here has got some control
18 over that, exercise it, 'cause if there's consequences -- well,
19 if you got skin in the game, might be --

20 MR. LAWRENCE: Your Honor, the only concern that we
21 had, we had discussed whether we should attempt to speak with
22 the people, but to the extent we're with them and talking to
23 them, it makes it appear as if we're somehow connected with
24 them.

25 THE COURT: What do you think the appearance is now?

1 MR. LAWRENCE: I understand what the perception
2 could be. That's our concern.

3 THE COURT: Let me tell you something. The
4 appearance now is that this is something you all staged, that
5 they're only there when the jury leaves for the day at the end
6 of the day and our jury leaves earlier than any other jury. So
7 what does it look like? So don't worry about appearances. To
8 the extent that you can exercise some control, I strongly
9 encourage you to do so. I really do, okay?

10 But anyway, as the jury continues to straggle in, and one
11 at a time I just want to bring them out here in the least
12 coercive-looking environment possible and that's why I'm not
13 going to put on the robe. I just want to have a chat.

14 MR. LAWRENCE: Your Honor, to the extent we're able
15 to speak to them, is there some message we can give them about
16 the boundaries in terms of the exercising their free speech
17 rights versus --

18 THE COURT: Tell them the message has been received;
19 the jury has seen them, okay? But I don't want them feeling
20 intimidated.

21 MR. LAWRENCE: Understand.

22 THE COURT: Okay. But the message is received. We
23 all know. Okay?

24 MS. SHEMITZ: Your Honor --

25 THE COURT: It makes our job in here harder. Now

1 we're going to have to really craft some jury instructions.
2 You guys didn't want jury nullification to begin with; now you
3 have people out here screaming, "Jury nullification." This is
4 making your job very difficult.

5 MS. MARGOLIN: Especially if there's an instruction.
6 The problem -- of course we don't want that because then the
7 jury feels like it's -- whatever. It's not good.

8 THE COURT: It's not good. It sucks. I know they
9 mean well and all that, but they don't need that.

10 MS. MARGOLIN: I agree.

11 MS. SHEMITZ: Your Honor, I just wanted to put on
12 the record that one of our agents found on the internet last
13 night information suggesting that the defendant had dinner with
14 an organizer of the jury nullification demonstrators. So I
15 just wanted to make that clear to the Court.

16 THE COURT: Okay. You know, at the end of the day
17 if this thing goes wrong, there's only one person to pay. That
18 person needs to do whatever it is in his power to make things
19 right. This agent, this agent (inaudible.)

20 MS. SHEMITZ: I didn't hear that.

21 THE COURT: Good. Sheila, I need -- Boss, would you
22 bring them out one at a time?

23 Why don't you guys grab seats? I appreciate the
24 informality. That's a big deal. Okay. Thank you.

25 Go sit down. Grab a seat.

1 MS. SHEMITZ: Your Honor, there's no mike over here
2 for us, so --

3 THE COURT: You know why? 'Cause you're not going
4 to say anything. If you want to talk -- and I will invite you
5 to talk -- come up to the bar, okay? I just want to ask each
6 one of them. If you guys have additional questions, come on up
7 and ask a question.

8 MS. MARGOLIN: I think it's -- I mean, just what I
9 think is best is if the Court does it because having the
10 government do it --

11 MS. SHEMITZ: I won't do it unless I need to ask the
12 Court.

13 THE COURT: Yes. What I want you guys -- not
14 hanging around like you do during jury selection -- just sit.
15 I just want to have a chat.

16 MS. MARGOLIN: That's very good.

17 THE COURT: Anybody. Just bring me somebody.

18 MS. SHEMITZ: I just want to say that I would like
19 to have the jurors sit in the jury box.

20 THE COURT: No.

21 MS. SHEMITZ: Okay.

22 THE COURT: Okay. Wait a minute. Let me hear your
23 reason.

24 MS. SHEMITZ: I think that the -- this is a very
25 important inquiry that we're about to embark on and it is

1 critical that they understand the gravity of what they're doing
2 and the questions that the Court is asking them. I think that
3 they need to understand that this is a very serious process and
4 it's not a joke, and if they have felt some pressure or some
5 influence, they need to be absolutely honest. And they get
6 sworn from the jury box, they listen to the testimony from the
7 jury box, and then in all likelihood they are most comfortable
8 in the jury box.

9 THE COURT: Okay. All right. That's a good point.

10 MS. SHEMITZ: Okay.

11 THE COURT: My concern is this -- and raise your
12 hand if you disagree with me -- they lie like hell.

13 MS. SHEMITZ: Okay.

14 THE COURT: And at this point they will lie to keep
15 that seat. First they lie not to get in that seat; now they
16 will lie to keep that seat.

17 MS. SHEMITZ: Right.

18 THE COURT: I need the truth.

19 MS. SHEMITZ: Okay.

20 THE COURT: I agree with you a hundred percent, this
21 is critical. I want it as relaxed as possible so they don't
22 feel intimidated so I can get the truth. Maybe what I'm trying
23 to create is a situation where they think it's no big deal to
24 give me the truth. I don't know. I don't know the right
25 thing. I think we're all after the same thing.

1 Okay. David, you're right. We'll put them here, okay?
2 We'll put them here 'cause they're probably more comfortable
3 here. Okay.

4 MS. MARGOLIN: Your Honor, can you also make sure
5 you don't suggest they should feel intimidated? You know what
6 I mean? We're going to ask if they are, but they don't feel
7 like they should be. You know what to do.

8 MR. LAWRENCE: Just don't want a suggestion that
9 there's been threats against them or anything.

10 THE COURT: No. Have there?

11 MR. LAWRENCE: Not that I know of.

12 MS. MARGOLIN: No.

13 THE COURT: Obviously, it's no big deal.

14 MR. LAWRENCE: They might make assumptions about
15 what the questions are about, drawing no suggestions.

16 THE COURT: You guys are making me nervous.

17 Come on. You're Mr. Flores, right?

18 THE JUROR NO. 1: Mr. Park.

19 THE COURT: You're sitting down here. Sit down,
20 make yourself comfortable. When you leave at the end of the
21 day, you see the people outside with the signs, right?

22 THE JUROR NO. 1: Uh-huh.

23 THE COURT: Okay. Do you remember what any of the
24 signs say?

25 THE JUROR NO. 1: Said some jurors have the power or

1 something like that. I don't know the exact words that --

2 THE COURT: What does that mean to you? What
3 message is that conveying to you, if any?

4 THE JUROR NO. 1: That we have the power to make the
5 decision in whatever case we're on.

6 THE COURT: Do you think that those signs are
7 directed to this jury?

8 THE JUROR NO. 1: Uhm, actually, I'm not sure. I
9 just saw the sign. I'm not sure if that was for us or for
10 everyone.

11 THE COURT: All right. So you don't feel that any
12 particular message has been delivered to you?

13 THE JUROR NO. 1: (Nods head.)

14 THE COURT: You don't think the signs are being
15 directed to you?

16 THE JUROR NO. 1: Were they?

17 THE COURT: No, no, I'm not suggesting that they
18 are. I just have to make sure that the activities that go on
19 around the courthouse, to the extent that they impact or affect
20 my jury, you know, don't affect the outcome of this case. All
21 right? 'Cause I'm going to give you an instruction, if I
22 haven't already, that your decision has to be made based upon
23 things that you see in here inside this courtroom and I don't
24 want your decisions to be influenced by anything extraneous.
25 That's all.

1 THE JUROR NO. 1: Okay.

2 THE COURT: And right now that is having no effect
3 at all?

4 THE JUROR NO. 1: No, not at all.

5 THE COURT: Excellent. Thank you, Mr. Park.
6 Appreciate it, buddy.

7 In order?

8 THE COURTROOM DEPUTY: Ernest next. You can just
9 sit right there on the end.

10 THE COURT: Mr. Riggs, good morning, sir. I just
11 wanted to chat with you --

12 THE JUROR NO. 2: Yes, sir.

13 THE COURT: -- about the folks that are gathered
14 around the front of the courthouse on the Spring Street side.
15 Have you noticed them?

16 THE JUROR NO. 2: I saw them and got tunnel vision.

17 THE COURT: Good. You didn't see the signs?

18 THE JUROR NO. 2: No, sir.

19 THE COURT: You saw the signs?

20 THE JUROR NO. 2: Didn't see the signs, no, sir.

21 THE COURT: Did you have a guess as to why they're
22 here?

23 THE JUROR NO. 2: No, I don't.

24 THE COURT: Do you have a guess as to who those
25 signs are directed towards?

1 THE JUROR NO. 2: No.

2 THE COURT: Okay. Thank you, sir. Appreciate it.

3 THE COURTROOM DEPUTY: Teresa?

4 THE COURT: I'm sorry. I didn't ask if any of you
5 guys want to sound off, all right, if you want to chat.

6 THE COURTROOM DEPUTY: Come on. Come on.

7 THE COURT: How are you?

8 THE JUROR NO. 3: Good, your Honor.

9 THE COURT: I want to ask you about the people out
10 in front of the courthouse. Have you seen them the other day?

11 THE JUROR NO. 3: The front of --

12 THE COURT: Spring Street side when you leave at the
13 end of the day. Haven't seen anybody out there?

14 THE JUROR NO. 3: No. I pass -- I pass -- I passed
15 the witness room and I saw somebody there, but I didn't
16 actually look at --

17 THE COURT: You haven't seen anything outside on the
18 streets?

19 THE JUROR NO. 3: No.

20 THE COURT: Good-bye.

21 More of those, this is going to get quick.

22 THE COURTROOM DEPUTY: Christina.

23 THE COURT: How are you? I want to ask you about
24 whether or not you've seen people out on the streets on the
25 Spring Street Courthouse?

1 THE JUROR NO. 4: The protestors? I have observed
2 them, yes.

3 THE COURT: Have you? Have you seen the signs?

4 THE JUROR NO. 4: Briefly. I couldn't tell you what
5 they say.

6 THE COURT: Couldn't tell me what they say. Do you
7 have any idea why they're there?

8 THE JUROR NO. 4: I can make an assumption.

9 THE COURT: What's the assumption?

10 THE JUROR NO. 4: They are pro pot.

11 THE COURT: So you think those signs are directed at
12 whom?

13 THE JUROR NO. 4: Again, an assumption.

14 THE COURT: Yes, ma'am?

15 THE JUROR NO. 4: I guess to try to sway us towards
16 the legalization of marijuana, which has nothing to do with
17 this case.

18 THE COURT: Okay. So you don't feel -- you don't
19 feel any pressure either -- any way?

20 THE JUROR NO. 4: Approximately zero.

21 THE COURT: Zero. Good number?

22 THE JUROR NO. 4: Yeah.

23 THE COURT: All right. I just want to -- and I will
24 tell you this again -- that guy over there on the end, he needs
25 your decision based upon the things you see in here and hear,

1 not out there.

2 THE JUROR NO. 4: Absolutely.

3 THE COURT: Thank you, dear. Appreciate it.

4 THE COURTROOM DEPUTY: Kelly.

5 THE COURT: Whatever. I just -- I wanted to ask you
6 about the folks outside on the Spring Street side. Have you
7 seen them?

8 THE JUROR NO. 5: Oh, yes, I saw them yesterday.

9 THE COURT: 'Cause if you say no, we're done. You
10 saw them yesterday?

11 THE JUROR NO. 5: Yes.

12 THE COURT: What did you see?

13 THE JUROR NO. 5: I just saw they had signs that
14 said, "Jurors have power," or something like that.

15 THE COURT: "Jurors have the power." Who do you
16 think those signs are directed at?

17 THE JUROR NO. 5: No idea.

18 THE COURT: No idea?

19 THE JUROR NO. 5: Nope.

20 THE COURT: What do you think they're advocating?

21 THE JUROR NO. 5: I don't know.

22 THE COURT: Have no idea?

23 THE JUROR NO. 5: No. I don't know anything about
24 it.

25 THE COURT: Okay. Is it having any influence or

1 impact or effect on you at all?

2 THE JUROR NO. 5: No.

3 THE COURT: Then it's been very nice chatting with
4 you.

5 THE JUROR NO. 5: Okay.

6 THE COURTROOM DEPUTY: Michael.

7 THE COURT: Mr. Laforte, how are you, sir? Doesn't
8 matter. I just wanted to chat with you for a brief second
9 about the folks out on the Spring Street side of the courthouse
10 that you may encounter at the end of the day.

11 THE JUROR NO. 6: Okay.

12 THE COURT: Have you seen them?

13 THE JUROR NO. 6: No.

14 THE COURT: Have you been going out the Spring
15 Street side?

16 THE JUROR NO. 6: I've been going out Main 'cause I
17 get here late, parking out across the street.

18 THE COURT: It's been so nice talking with you. Our
19 work here is done.

20 THE JUROR NO. 6: Thank you.

21 THE COURT: Thank you, sir.

22 THE COURTROOM DEPUTY: Casey.

23 THE COURT: Ms. Bratton, how are you?

24 THE JUROR NO. 7: Good.

25 THE COURT: I want to chat with you. Some people we

1 have out on the Spring Street side of the courthouse carrying
2 signs, etc., have you seen them?

3 THE JUROR NO. 7: I saw them yesterday.

4 THE COURT: Did you?

5 THE JUROR NO. 7: Yeah.

6 THE COURT: Do you remember what any of the signs
7 said?

8 THE JUROR NO. 7: I think I only had a chance to
9 read one of them and it said, like, "Jurors have all the
10 power."

11 THE COURT: What does that mean to you?

12 THE JUROR NO. 7: I assume it refers to juries being
13 able to say no to a law even if, like, that's what the law
14 says, if they feel that it's an unjust law.

15 THE COURT: Right. What jury do you think those
16 signs are being directed towards?

17 THE JUROR NO. 7: Not this one.

18 THE COURT: Not this one?

19 THE JUROR NO. 7: Not this one.

20 THE COURT: Why do you say that?

21 THE JUROR NO. 7: I -- I mean, I guess that's just
22 me personally, 'cause I don't feel there's any, like, unjust
23 laws being talked about in this court.

24 THE COURT: Okay. All right. So it's not having
25 any effect on you then?

1 THE JUROR NO. 7: Huh-uh.

2 THE COURT: All right. Thank you, dear. Appreciate
3 your time.

4 THE JUROR NO. 7: I just thought it was weird.

5 THE COURTROOM DEPUTY: Dana.

6 THE COURT: Off the record.

7 (Discussion off the record.)

8 THE COURT: How are you this morning?

9 THE JUROR NO. 8: I'm good. How are you?

10 THE COURT: I want to talk to you about the
11 individuals gathered outside.

12 THE JUROR NO. 8: Okay.

13 THE COURT: Have you seen them?

14 THE JUROR NO. 8: The individual --

15 THE COURT: Carrying signs.

16 THE JUROR NO. 8: Sorry?

17 THE COURT: Spring Street in the afternoon?

18 THE JUROR NO. 8: Oh, no.

19 THE COURT: Haven't seen them at all?

20 THE JUROR NO. 8: I don't think so.

21 THE COURT: You don't think so?

22 THE JUROR NO. 8: I don't know what you're talking
23 about.

24 THE COURT: Which side do you -- which side of the
25 building do you leave at the end of the day?

1 THE JUROR NO. 8: On Spring Street.

2 THE COURT: Spring Street?

3 THE JUROR NO. 8: Uh-huh.

4 THE COURT: You didn't see anybody out there
5 carrying signs yesterday?

6 THE JUROR NO. 8: I did, but I don't know what it
7 was about.

8 THE COURT: You don't?

9 THE JUROR NO. 8: Huh-uh.

10 THE COURT: Don't remember what any of the signs
11 were about?

12 THE JUROR NO. 8: No.

13 THE COURT: Didn't stop to read?

14 THE JUROR NO. 8: No. I don't do that. I just mind
15 my own business.

16 THE COURT: Okay. So it's having no effect on you
17 one way or the other, right?

18 THE JUROR NO. 8: No.

19 THE COURT: Thank you so much.

20 THE JUROR NO. 8: Okay.

21 THE COURTROOM DEPUTY: Diana.

22 THE COURT: Ms. Perez.

23 THE JUROR NO. 9: Yes.

24 THE COURT: I want to talk to you about the
25 people -- it's not a large crowd -- but a few people gathered

1 outside the courtroom on the sidewalk on the Spring Street side
2 in the afternoon when you all leave. Have you seen them?

3 THE JUROR NO. 9: The one that was protesting?

4 THE COURT: Yeah, or whatever it is.

5 THE JUROR NO. 9: On my way out.

6 THE COURT: Okay. Did you stop to see what the
7 signs said?

8 THE JUROR NO. 9: Huh-uh.

9 THE COURT: You didn't.

10 THE JUROR NO. 9: No. I saw a camera up and I
11 didn't want to be on film, so I went around all of that. So --

12 THE COURT: All right. Good. Well, I would -- my
13 only reason for talking to you all, I want to make sure that
14 everyone remembers that this is serious business, and I want
15 you all to be making your decision based upon the things that
16 come out of a witness's mouth while they're sitting in that
17 chair and anything else that you see come into evidence in this
18 room.

19 THE JUROR NO. 9: Okay.

20 THE COURT: Things that happen outside the room,
21 well, this is Los Angeles, all right? So, all right. I
22 just -- I don't want you to be affected by anything taking
23 place outside this room. If you are, I want you to bring it to
24 my attention, okay?

25 THE JUROR NO. 9: Okay.

1 THE COURT: Thank you, dear. Appreciate it.

2 THE COURTROOM DEPUTY: Roxanne.

3 THE COURT: Ms. Ramirez, how are you?

4 THE JUROR NO. 10: Good. How are you?

5 THE COURT: Have you seen the folks outside in the
6 afternoon on the Spring Street side of the courthouse?

7 THE JUROR NO. 10: Uhm, when I walked out, yeah.

8 THE COURT: With the signs, etc.?

9 THE JUROR NO. 10: Yeah.

10 THE COURT: Do you remember what any of the signs
11 said?

12 THE JUROR NO. 10: Something "jury."

13 THE COURT: Something "jury"?

14 THE JUROR NO. 10: I never looked, so I know we're
15 not supposed to get involved in outside.

16 THE COURT: Okay. Good.

17 THE JUROR NO. 10: And I figured it was not a good
18 thing.

19 THE COURT: Okay.

20 THE JUROR NO. 10: Yeah.

21 THE COURT: I want you -- I want you to keep doing
22 that.

23 THE JUROR NO. 10: Okay.

24 THE COURT: Okay? We're almost there. I think
25 we're getting down to the short strokes in this trial.

1 THE JUROR NO. 10: All right.

2 THE COURT: And it's going to be submitted to you
3 for decision and I want to make sure that your decision is
4 based upon nothing other than what happens in this room.

5 THE JUROR NO. 10: Right. Yeah.

6 THE COURT: All right. So people are doing whatever
7 they do outside. That's fine. Let them do that. But you're
8 involved in serious business and you did the absolutely right
9 thing by just sort of turning away and walking away. Thank
10 you. I appreciate it, okay?

11 THE JUROR NO. 10: Okay.

12 THE COURT: That was it. Thank you.

13 THE JUROR NO. 10: Okay.

14 THE COURTROOM DEPUTY: Crystal.

15 THE COURT: How are you this morning?

16 THE JUROR NO. 11: Good. How are you?

17 THE COURT: I just want to chat with you for a
18 second about what you may or may not have noticed out in front
19 of the courthouse on the Spring Street side yesterday
20 afternoon.

21 THE JUROR NO. 11: Yeah.

22 THE COURT: You see the folks?

23 THE JUROR NO. 11: Yeah.

24 THE COURT: Okay. You see the signs?

25 THE JUROR NO. 11: Yeah.

1 THE COURT: You remember what any of them said?

2 THE JUROR NO. 11: Uhm, something about jurors
3 holding power or something.

4 THE COURT: What did that mean to you?

5 THE JUROR NO. 11: I don't know. I just kind of
6 ignored it.

7 THE COURT: Did you?

8 THE JUROR NO. 11: Yeah.

9 THE COURT: What jury do you think it was directed
10 to, if any?

11 THE JUROR NO. 11: This one, probably.

12 THE COURT: And now you're sure, right?

13 THE JUROR NO. 11: Yeah.

14 THE COURT: All right. Is this going to have any
15 effect on you, you think?

16 THE JUROR NO. 11: No.

17 THE COURT: All right. Let me tell me what I want
18 you to do, okay? I want you to remember that what you're doing
19 here, what you're all doing, is really, really important.

20 THE JUROR NO. 11: Uh-huh.

21 THE COURT: Okay? It's my personal belief that as
22 citizens this is the most important service that we can
23 provide -- not necessarily the ballot box -- this. People's
24 lives are at stake.

25 THE JUROR NO. 11: Uh-huh.

1 THE COURT: I need to make sure that all of you tune
2 out the noise.

3 THE JUROR NO. 11: Yeah.

4 THE COURT: Okay? And concentrate on what the
5 lawyers are putting on through the witnesses and the exhibits
6 in this room, okay?

7 THE JUROR NO. 11: Yep.

8 THE COURT: That's the only fair thing for
9 Mr. Kleinman.

10 THE JUROR NO. 11: Right.

11 THE COURT: All right.

12 THE JUROR NO. 11: Okay.

13 THE COURT: If you can do that, we're in good shape.

14 THE JUROR NO. 11: Yeah.

15 THE COURT: Thank you, dear.

16 THE JUROR NO. 11: Thank you.

17 THE COURTROOM DEPUTY: Joshua.

18 THE COURT: Mr. Flores, good morning again. How are
19 you?

20 THE JUROR NO. 12: Good. And you?

21 THE COURT: Good. I wanted to ask whether or not
22 you've seen the people outside on the Spring Street side of the
23 courthouse in the afternoon?

24 THE JUROR NO. 12: No.

25 THE COURT: No, you haven't seen a thing? Which way

1 do you leave in the afternoon?

2 THE JUROR NO. 12: Through Main Street, I believe.

3 THE COURT: Main Street?

4 THE JUROR NO. 12: Yeah.

5 THE COURT: And that's your habit?

6 THE JUROR NO. 12: Yeah. Main Street to Union

7 Station and Union Station to here.

8 THE COURT: It's been such a pleasure talking with
9 you.

10 THE JUROR NO. 12: Thanks.

11 THE COURT: Bye-bye.

12 THE JUROR NO. 12: Bye.

13 THE COURTROOM DEPUTY: Ruth.

14 THE COURT: How are you?

15 THE ALTERNATE JUROR NO. 1: Good morning.

16 THE COURT: What is this all about?

17 THE ALTERNATE JUROR NO. 1: Well, I know. We've
18 been sequestered.

19 THE COURT: Don't we do this every day?

20 THE ALTERNATE JUROR NO. 1: Not like this, no.

21 THE COURT: Okay. I want to ask you about you leave
22 out of the Spring Street door in the afternoon?

23 THE ALTERNATE JUROR NO. 1: Yes, I do.

24 THE COURT: And you see the folks gathered out with
25 the signs out on the sidewalk?

1 THE ALTERNATE JUROR NO. 1: There were some people
2 there yesterday, yes. I did not speak to any of them.

3 THE COURT: You didn't?

4 THE ALTERNATE JUROR NO. 1: No, I did not.

5 THE COURT: No exchange of views?

6 THE ALTERNATE JUROR NO. 1: Nope. I did not.

7 THE COURT: Read the signs?

8 THE ALTERNATE JUROR NO. 1: Nope. I did not.

9 Honestly, I did not.

10 THE COURT: You don't know what the signs say?

11 THE ALTERNATE JUROR NO. 1: Nope.

12 THE COURT: All right.

13 THE ALTERNATE JUROR NO. 1: Nope. I noticed there
14 was a bunch of police and things like that, but I just walked
15 by.

16 THE COURT: I want you to keep walking by, okay?

17 THE ALTERNATE JUROR NO. 1: Yes. I will do that.

18 THE COURT: I don't want you influenced by anything
19 outside this room.

20 THE ALTERNATE JUROR NO. 1: Okay.

21 THE COURT: In terms of the important decision you
22 may have to make, okay?

23 THE ALTERNATE JUROR NO. 1: Okay.

24 THE COURT: Thank you, dear. Appreciate it.

25 THE ALTERNATE JUROR NO. 1: Sure.

1 THE COURTROOM DEPUTY: Sonia.

2 THE COURT: Uh-huh. Sonia, how are you doing this
3 morning?

4 THE ALTERNATE JUROR NO. 2: How are you?

5 THE COURT: I want to ask you about -- well, tell me
6 which way you exit the courthouse when you leave in the
7 afternoon.

8 THE ALTERNATE JUROR NO. 2: At the end of the day?

9 THE COURT: Uh-huh.

10 THE ALTERNATE JUROR NO. 2: Through the Spring
11 Street exit.

12 THE COURT: So you see the folks out there
13 yesterday?

14 THE ALTERNATE JUROR NO. 2: What folks? The people
15 in the --

16 THE COURT: What did you see yesterday when you
17 left?

18 THE ALTERNATE JUROR NO. 2: Lot of people in the
19 lobby.

20 THE COURT: Lot of people in the lobby. What about
21 on the sidewalk?

22 THE ALTERNATE JUROR NO. 2: Sidewalk?

23 THE COURT: That's out by the street.

24 THE ALTERNATE JUROR NO. 2: Not so many. They're
25 mainly inside right here.

1 THE COURT: See people carrying signs?

2 THE ALTERNATE JUROR NO. 2: Oh, yes, yes.

3 THE COURT: Saw those, huh?

4 THE ALTERNATE JUROR NO. 2: I did see that.

5 THE COURT: Do you remember what the signs said?

6 THE ALTERNATE JUROR NO. 2: Uhm, I don't remember.

7 Something for jurors.

8 THE COURT: Yeah. Okay. Something about jurors.

9 Had no impact on you at all, huh?

10 THE ALTERNATE JUROR NO. 2: No, 'cause I didn't know
11 what it was about.

12 THE COURT: Didn't know what it was about?

13 THE ALTERNATE JUROR NO. 2: Outside.

14 THE COURT: I want you to stay ignorant, would you
15 please, for the duration of this trial?

16 THE ALTERNATE JUROR NO. 2: Okay.

17 THE COURT: I don't want you reading signs. People
18 have a right to say whatever they want to say, they do. All
19 right? And to -- the decision you may have to make in here
20 needs to be based upon what you see in here and hear in here,
21 not out in the streets. Okay?

22 THE ALTERNATE JUROR NO. 2: Okay.

23 THE COURT: None of us have any control over what's
24 going on out there on the streets, and we need to know
25 everything that is going into your mind and into your

1 decision-making process when you're back there trying to reach
2 a verdict, and we don't want noise interfering with that.
3 Okay?

4 THE ALTERNATE JUROR NO. 2: Okay.

5 THE COURT: So I want you to just kick that out of
6 your mind if you see, you know, activities out there. And
7 people have a right to do that. They picket courthouses and
8 city hall and government buildings to communicate their
9 messages. Fine. Fine. But what we're doing here, this
10 important work that we're doing here, it cannot be polluted by
11 any extraneous messages. I don't want you paying attention to
12 anything out in the streets. Can you do that?

13 THE ALTERNATE JUROR NO. 2: Okay.

14 THE COURT: Thank you, dear. Appreciate it.

15 MS. SHEMITZ: Your Honor, could we have a moment --

16 THE COURT: Do whatever you want.

17 MS. SHEMITZ: Because we're -- for this witness we
18 wanted to show her the exhibits on the screen so the jury can
19 see them, and we're having trouble just getting it orchestrated
20 technically. So we just need a few minutes.

21 THE COURT: What's a few? You don't know really.
22 You don't know how long it's going to take?

23 MS. SHEMITZ: I really don't know.

24 THE COURT: All I want to know is whether or not
25 they ought to go back in the jury room and cool their heels.

1 MS. SHEMITZ: I think so.

2 THE COURT: Okay.

3 THE COURTROOM DEPUTY: No, no. I told them go back
4 into the jury room.

5 THE COURT: Okay.

6 (Brief pause in the proceedings.)

7 THE COURTROOM DEPUTY: Calling item 1, CR 11-893,
8 United States of America versus Noah Kleinman.

9 Counsel, please state your appearances.

10 MR. KOWAL: David Kowal, Julie Shemitz for the
11 United States. With us at the counsel table is Pat Kelly,
12 Michael Johnson.

13 THE COURT: Good morning.

14 MR. LAWRENCE: Good morning, your Honor.

15 Raza Lawrence, Allison Margolin, Joseph Seiler for Noah
16 Kleinman. Our client is present.

17 THE COURT: Good morning.

18 MR. KOWAL: Your Honor, we had two housekeeping
19 matters. One was a request involving the discussion you just
20 had with the jurors. The second regards the exhibits that came
21 in -- or did not come in during Mr. Montoya's examination.

22 With respect to the examination we just had, your Honor,
23 we certainly didn't have any problems with any of your
24 questions. The one suggestion we have is for a number -- but
25 not all of the jurors -- you pointed out to them that you

1 wanted them to focus on what goes on in this courtroom instead
2 of what goes on outside. Because you didn't get a chance to
3 say that to every single one of them, and some of them, if
4 they're following your admonition, are back there not knowing
5 what all that was about, my proposal there is a preliminary
6 instruction that you already read to them that may just address
7 their concerns and reinforce the Court's points. That's
8 instruction No. 5, and that's just what evidence is not;
9 there's also instruction No. 4, what it is.

10 And the last part of it, which is again -- I would just
11 read the whole instruction if the Court is willing -- but the
12 last one says what is not evidence is anything you see or hear
13 in the court when court is not in session, etc. You can just
14 explain, you know, "To those jurors who have any confusion
15 about the process we went through, let me just address it by
16 reading you -- reminding you of these two instructions I've
17 given."

18 THE COURT: You think that will clear everything up
19 in their minds?

20 MR. KOWAL: That would be my suggestion, reinforcing
21 the general message the Court has, besides the inquiry, "This
22 is what evidence is; this is what evidence is not." But if the
23 Court has any concerns --

24 THE COURT: I don't. I will err on the side of
25 caution. I hate -- and sometimes it's unavoidable -- I hate

1 creating an issue in their minds when it's not an issue and
2 they become curious about things that become a diversion or
3 distraction. But I have no problem. I can -- yeah, I either
4 ad lib it, which is always a bad idea, or I will read -- I will
5 read the instruction because I -- you know, I'm certainly going
6 to, once again, advise them about what is evidence and what is
7 not evidence.

8 MR. KOWAL: I think it's --

9 THE COURT: Which one is it?

10 MR. KOWAL: If you have the book --

11 THE COURT: I do.

12 MR. KOWAL: -- which is I think is 2003, I think the
13 numbering may have changed.

14 THE COURT: No, 2010. Never mind. No, I'll go to
15 Table of Contents, "What is Not Evidence 3.7."

16 MR. KOWAL: No, I have it as 1.3 and 1.4, your
17 Honor, "What is Evidence and What is Not."

18 THE COURT: You're wrong. It's okay to be wrong.
19 All right. (Reading:)

20 "Anything you may have seen or heard when.

21 Court was not in session is not evidence. You are
22 to decide the case solely on the basis of evidence
23 received at the trial."

24 Is that what you were looking for?

25 MR. KOWAL: I guess the wording's a little different

1 now. Let me just hand you the government's proposed. I'll
2 refer defense counsel to -- it's on pages--

3 THE COURT: What?

4 MR. KOWAL: It's Instruction No. -- on pages 5 and 6
5 of the government's proposed instructions and I'll bring it to
6 the Court.

7 THE COURT: I'm going to give it right back to you
8 'cause I've got -- oh, here they are. I've got it. I have 5
9 and 6.

10 MR. KOWAL: Page 5 and 6. The first one is What
11 Evidence Is and the second one is What Evidence Is Not.

12 THE COURT: Okay. Yeah. Here's evidence. Yeah.
13 Yeah, okay. I'll do that.

14 Any -- any objection to that one way or the other?

15 MS. MARGOLIN: Your Honor, I mean, I don't think
16 it's particularly harmful. I do think it's like the pink
17 elephant. People didn't associate anything or didn't hear
18 anything definitely. Didn't seem like anybody was affected, so
19 I don't think there's any need to do that.

20 If we do read that, I think it would cause more
21 speculation than it would any alleviation of concerns. I don't
22 think there are any concerns, but --

23 THE COURT: You know what? I don't disagree with
24 that point and this is why I always have a problem with us
25 trying to unring a bell by admonishing them, "You are to

1 disregard that testimony."

2 They go, "Yeah. Right." Okay? Because you're making a
3 big deal about it, I'm going to really remember that.

4 I'm afraid of doing that here, but I will do whatever you
5 all want.

6 MR. KOWAL: Your Honor, if the defense objects,
7 then, you know, that's their choice; we won't give it. It was
8 just a suggestion just to clear up any confusion in the jurors'
9 minds. But if the defense is going to raise -- you know, I
10 don't know if that was an objection or not. If it's an
11 objection, then we'll withdraw our request.

12 MS. MARGOLIN: Yes. Thank you.

13 THE COURT: That's the right thing. But you do
14 understand I will be giving both of these instructions at the
15 conclusion of the case? You understand that?

16 MS. MARGOLIN: That instruction you just proposed?

17 THE COURT: Yeah.

18 MS. MARGOLIN: Yeah, of course.

19 THE COURT: All right. Actually both of them, What
20 Is Evidence, and the separate instruction, What Is Not. Okay.

21 MR. LAWRENCE: Your Honor, before the jurors came
22 out, I wanted to raise --

23 MS. SHEMITZ: We're still on.

24 THE COURT: They're still on housekeeping item
25 No. 1. Go ahead.

1 MR. KOWAL: This is regards there were a series of
2 exhibits that Ms. Shemitz addressed with Mr. Montoya during his
3 direct examination. It was the government's understanding they
4 came in, but there was confusion as to whether they came in
5 procedurally. These were exhibits that she did not ultimately
6 discuss with Mr. Montoya, and the concern that defense counsel
7 had raised and the Court had raised with the parties was
8 whether -- whether any of these basically the government had
9 snuck them in by bringing in e-mails that might not have been
10 with Mr. Montoya.

11 So we went over the list with defense counsel and the
12 courtroom clerk yesterday, and my understanding -- and they can
13 confirm -- is that I'm going to read in the ones that they've
14 looked over and they agree that they did involve Mr. Montoya,
15 and we would then remove -- ask to confirm that these exhibits
16 have gotten -- are admitted for evidence and can be sent to the
17 jury, even though Mr. Montoya didn't specifically discuss them,
18 that there was enough of a foundation that they involved him
19 and the other -- the other facts. So --

20 THE COURT: The bottom -- the bottom line is that
21 you and defense counsel have gone over this and reached a
22 stipulation.

23 MR. KOWAL: I believe so.

24 THE COURT: Great. If you had done that before
25 trial, we wouldn't have be having the discussion now. No, it's

1 fine.

2 MR. KOWAL: And they didn't have the time to go
3 through all these. I'm going to read the ones that we believe
4 should be confirmed, and they can confirm it for the record, if
5 that's okay.

6 THE COURT: Okay.

7 MR. KOWAL: And this is Government's Exhibits 53 to
8 60, 63 to 64.

9 THE COURT: Uh-huh.

10 MR. KOWAL: 66, 68 to 70, 73, 74, 85, 93, 95, 97,
11 and 99. And I should point out what may have been discussed by
12 Ms. Shemitz but is not coming in is Exhibit 98.

13 THE COURT: Right. I remember that.

14 MR. KOWAL: And so the government would hereby --
15 would make a record to confirm that these are now going to be
16 admitted into evidence notwithstanding any objection.

17 THE COURT: Well, okay.

18 MR. KOWAL: Yeah.

19 THE COURT: My understanding is you've reached a
20 stipulation or agreement with the government regarding those
21 exhibits, right?

22 MR. LAWRENCE: Your Honor, our concern is in the
23 beginning of Montoya's testimony he was shown a stack of
24 e-mails and he authenticated that these were all communications
25 involving him. And it turns out again there were

1 communications, e-mails in there that had nothing to do with
2 him that were slipped in and attempted to be admitted into
3 evidence.

4 MS. SHEMITZ: Slipped in?

5 MR. LAWRENCE: Well --

6 THE COURT: Wait a minute. Time out. Time out.

7 MR. SEILER: Can we just have a moment, your Honor?
8 There's some confusion of which items were on the list and
9 which were not.

10 MR. LAWRENCE: The confusion is whether the Court
11 admitted the entire stack of e-mails in the beginning of
12 Mr. Montoya's testimony or not because we believe included
13 within the original collection of e-mails were e-mails that
14 were neither to nor from Mr. Montoya.

15 MR. KOWAL: Okay. Your Honor --

16 THE COURT: The ones that are in dispute have been
17 stated on the record. It was my understanding that the
18 government has met with you all to discuss each of these
19 individual exhibits and had reached a conclusion or decision or
20 stipulation that they all were either authored by or were sent
21 to Mr. Montoya, could be deemed authentic, and we could move
22 them now into evidence.

23 MR. KOWAL: Let me try to clear this up because I
24 guess I've been talking to two different defense counsel and I
25 want to make the record clear.

1 I mentioned No. 98 because the clerk was confirming with
2 me today that 98 wasn't one -- Ms. Shemitz did not read 98 to
3 Mr. Montoya.

4 THE COURT: Right.

5 MR. KOWAL: It did not come in. I'm just reading
6 the list. So all the ones I listed were ones that Mr. Montoya
7 discussed. They all involved Mr. Montoya. There were none
8 with -- that came up of the ones I just listed that we tried to
9 sneak in or he confirmed that they weren't there.

10 There was one, I understand, that the defense got ample
11 opportunity to cross-examine on -- I think that was Exhibit
12 No. 35 -- with one of the witnesses. That's already -- that's
13 bridge -- water under the bridge. It's nothing to do with
14 Mr. Montoya.

15 So all the ones I just read were ones that we went over
16 with Mr. Montoya. He authenticated them properly and
17 correctly; the Court admitted them. We've looked through them
18 now. Defense has looked at them now. They all did involve
19 Mr. Montoya. Ms. Shemitz did specifically bring it to the
20 attention of the jury e-mail by e-mail. And so I think that's
21 our clear record and defense counsel will correct me if I'm
22 wrong.

23 MR. LAWRENCE: I just -- we would just request that
24 government not use this method again where they ask a witness
25 to authenticate an entire stack of e-mails because it's

1 happened with Montoya and Landolph that --

2 THE COURT: I understand the trial class that you
3 want to have here. I just want to know what are we going to do
4 with these exhibits so I can bring the jury out? It's
5 45 minutes late.

6 Now, is there an objection to any of those exhibits that
7 he just enumerated? I'll read it again, if necessary.

8 MR. LAWRENCE: Not to those specific exhibits.

9 THE COURT: Thank you. Bring the jury out.

10 MR. LAWRENCE: We have another issue --

11 THE COURT: Yes.

12 MR. LAWRENCE: -- regarding the computer.

13 THE COURT: Oh, yes.

14 MR. LAWRENCE: We were just given the opportunity to
15 look at the computer and the markings on the computer, etc.

16 THE COURT: And the Post-its, etc.

17 MR. LAWRENCE: Right. There have been some e-mails
18 a few days ago from the Court about the authentication of the
19 computer.

20 THE COURT: Yes.

21 MR. LAWRENCE: The government had e-mailed they had
22 another witness who was going to authenticate it.

23 THE COURT: Yes.

24 MR. LAWRENCE: And we heard from Ms. Thabet. Her
25 testimony was she recognized it because it was -- she recalled

1 it was a MacBook Air and it had particular Post-its on the
2 computer.

3 THE COURT: Yes.

4 MR. LAWRENCE: Well, we had a chance to look at the
5 computer, and first of all, there's a Post-it and a sticker
6 stuck on top of the computer that's nowhere in Exhibit 116 in
7 the photo of the computer recovered from the scene.

8 In addition, there are two other Post-its on the inside of
9 the computer. It's not clear whether those were there at the
10 time or not because they're not in the photo.

11 But it's clear that someone has manipulated this computer
12 adding Post-it stickers since the time it was recovered because
13 they're not in the photograph. So...

14 THE COURT: The photograph is a photograph of the
15 laptop with the lid closed.

16 MR. LAWRENCE: Well, there's a -- there's --
17 Exhibit 116, right, there's nothing on the top. But now we are
18 looking at the exhibit, there's a Post-it and a sticker stuck
19 to the top of whatever the actual computer is that's up there.
20 It doesn't appear to be the same item in here or someone has
21 been manipulating the items stuck to the computer.

22 THE COURT: And you asked the government about that?

23 MR. LAWRENCE: We haven't -- we just saw it now. We
24 haven't discussed with them --

25 THE COURT: I can't answer your question. I don't

1 know. Ask them. This isn't something we need to clutter the
2 record with.

3 MR. LAWRENCE: Well, it's clear that the items stuck
4 to the computer have been manipulated with --

5 THE COURT: Don't use the inflammatory kind of words
6 like that. That impugns the integrity of the officers of the
7 court. I haven't heard them doing that to you. When you start
8 talking about manipulating evidence, you're raising serious
9 charges.

10 MR. LAWRENCE: I'm sorry. I didn't -- I didn't mean
11 that. They've been changed. Whatever is stuck to the computer
12 has changed from the time it was recovered to now, it's clear
13 from the photo.

14 THE COURT: I'm sorry. What are we doing?

15 MR. LAWRENCE: We're objecting to the admission of
16 this computer --

17 THE COURT: You haven't cross-examined this witness
18 yet. Why don't you wait until you do that?

19 MR. LAWRENCE: Okay. And the other item is -- the
20 other issue here is this witness has testified multiple times
21 it was a MacBook Air that was recovered. This one is a MacBook
22 Pro that's up here, a completely different model of computer.
23 In addition, this witness testified she had taken this computer
24 --

25 THE COURT: Stop. Just stop. Stop.

1 MR. LAWRENCE: Okay.

2 THE COURT: Not now.

3 MR. LAWRENCE: Okay.

4 THE COURT: Okay. Not now.

5 MS. SHEMITZ: Just -- your Honor, just for the
6 record, we disclosed the existence of this computer in
7 discovery when the indictment was unsealed in this case or
8 shortly thereafter. In every letter regarding discovery since
9 then, the defense has been given the opportunity to examine the
10 evidence and they have not availed themselves of that
11 opportunity. So I just wanted to bring that to the attention
12 of the Court.

13 THE COURT: I didn't have any doubt of that.

14 All right. Just for the record, with respect to those
15 exhibits that Mr. Kowal read off with 53 to 60 and ending with
16 Exhibit 99, everything included within that list that he read
17 off, they'll be admitted in evidence.

18 All right. This Post-it says, "Return to," what? "PKGID"
19 with a number? You know anything about that, the Post-it that
20 they're talking about that constitutes the manipulation of
21 evidence?

22 MS. SHEMITZ: May I have a moment, your Honor?

23 Okay. We believe it was a Post-it put on there by the
24 digital evidence lab technicians, their own markings, but
25 those -- just so it's clear and the Court knows this -- these

1 are not the Post-its or stickers that the witness was referring
2 to yesterday.

3 THE COURT: I know that.

4 MS. SHEMITZ: Okay.

5 THE COURT: Do you realize that this Post-it on the
6 outside lid of this laptop computer has now, what?

7 Contaminated the hard drive? All right. We're going to throw
8 this laptop out because of that Post-it.

9 Okay. Bring me a jury. Put it in the trash.

10 MS. SHEMITZ: Thanks, Judge.

11 THE COURT: Mr. Lawrence, there is a time to make
12 these points, okay?

13 MR. LAWRENCE: Understood.

14 THE COURT: Okay. Just not now.

15 MR. KOWAL: Your Honor, can we put the witness up on
16 the stand?

17 THE COURT: I'm sorry?

18 MR. KOWAL: Can we put the witness back up on the
19 stand?

20 THE COURT: Please. Absolutely. She wasn't
21 supposed to have left the stand.

22 MR. KOWAL: We didn't want her to be here while we
23 discussed off the records.

24 (Ms. Thabet entered the courtroom.)

25 THE COURT: You did sleep here last night, right?

1 THE WITNESS: Yes, I did. Good morning, your Honor.

2 THE COURT: Good morning, Ms. Thabet. Sorry for the
3 delay, but we had a lot of work to take care of this morning.

4 THE COURTROOM DEPUTY: All rise.

5 (Open court in the presence of the jury:)

6 THE COURT: All right. We're back on the record in
7 the Kleinman matter, and the jury has joined us, this time as a
8 group. Ms. Thabet has resumed her place on the witness stand.

9 And Ms. Shemitz, you may continue your examination.

10 MS. SHEMITZ: Okay. Okay.

11 THE COURT: By the way, Ms. Thabet, remember you are
12 still under oath from yesterday, okay?

13 THE WITNESS: Yes, your Honor.

14 MS. SHEMITZ: Your Honor, may I have permission to
15 publish Exhibit 106 which is in evidence?

16 THE COURT: Sounds -- listen, if it's in evidence,
17 you need not ask. Just go for it, okay?

18 MS. SHEMITZ: Okay. Thank you.

19 **KATHY THABET, PREVIOUSLY SWORN, RESUMED THE STAND**

20 DIRECT EXAMINATION RESUMED

21 BY MS. SHEMITZ:

22 Q Okay. Ms. Thabet, I'm going to show you what you've
23 previously identified and went into evidence as Government's
24 Exhibit 106. Can you explain what this is?

25 A The FedEx receipt.

1 Q For what?

2 A For shipping a package of money orders from Philadelphia
3 from myself to my mother's home address in my mother's name.

4 Q And what were the -- what did those money orders
5 represent? Were they payment for something?

6 Don't guess. If you don't know, that's fine. Don't
7 guess. Okay. And --

8 MS. MARGOLIN: Objection. Move to strike.
9 Relevance.

10 THE COURT: I'm sorry. What was said?

11 MS. MARGOLIN: Oh, well, the exhibit, actually.

12 MS. SHEMITZ: No, she didn't say she recognized the
13 exhibit.

14 MS. MARGOLIN: Oh, okay.

15 THE COURT: I missed the answer. What was the
16 answer that's being stricken?

17 MS. SHEMITZ: Your Honor, I asked the witness if she
18 knew whether or not the money orders were payment for something
19 and she --

20 THE COURT: She couldn't answer.

21 MS. SHEMITZ: She did not answer.

22 THE COURT: Right. So there's nothing to strike
23 there. What are we striking now?

24 MS. SHEMITZ: Nothing.

25 MS. MARGOLIN: I want to strike the exhibit.

1 THE COURT: Strike the exhibit?

2 MS. MARGOLIN: Yes, for relevance. She can't
3 remember anything. She can't remember what it's for.

4 THE COURT: Oh, no. Overruled. Nice try, though.

5 Q (BY MS. SHEMITZ:) Ms. Thabet, I'm showing you now some
6 items that were inside the FedEx envelope. And do you
7 recognize these?

8 A Yes, I do.

9 Q How do you recognize those?

10 A They are envelopes from the hotel we were staying at.

11 Q And I'm also going to show you this lovely item. Do you
12 recognize this?

13 A Yes, I do.

14 Q What is it?

15 A It is a magazine in which the money orders were inside of
16 the FedEx package.

17 Q Okay. And I'm just going to show you one of these. You
18 recognize this?

19 A Yes, I do.

20 Q And what is it?

21 A They're money orders that were obtained from Philadelphia
22 and New York throughout the stay in January.

23 Q Thank you.

24 MS. MARGOLIN: Objection. Move to strike. She said
25 that it was from two different places. Personal knowledge.

1 THE COURT: Just on the legal grounds?

2 MS. MARGOLIN: Right. Personal knowledge.

3 THE COURT: Sustained.

4 MS. MARGOLIN: Move to strike.

5 THE COURT: Not yet. Lay a foundation, please.

6 MS. SHEMITZ: Yes, your Honor.

7 Q (BY MS. SHEMITZ:) Ms. Thabet, do you know where -- first
8 of all, are you the person who packaged the money orders into
9 the FedEx envelope?

10 A Yes, I am.

11 Q And where did you get those money orders?

12 A From a variety of 7-Eleven's and check cashing places
13 throughout Philadelphia and New York.

14 Q Okay. Were you given the cash to purchase those money
15 orders?

16 A I had the money, yes.

17 Q Okay. Why were you in Philadelphia?

18 A To collect a payment from Phats.

19 Q Okay. And Phats is -- who is Phats?

20 A I don't know if he's Brian Watson or Terrence Smith.

21 Q No, no. I'm not asking his name. Who is he in relation
22 to this case?

23 A He is the Philadelphia connect or the Philadelphia buyer.

24 MS. MARGOLIN: Objection. Move to strike. Personal
25 knowledge.

1 THE COURT: Overruled.

2 Q (BY MS. SHEMITZ:) Okay. I'm showing you now what's in
3 evidence as Government's Exhibit 1. And I'm going to ask you
4 to take a look at it, if I can open it. No, I can't open it.

5 Now, Ms. Thabet, you've previously testified that you
6 recognized this laptop and you discussed the sticky notes on
7 the laptop, so we're looking at one of them. Can you explain
8 what this is, this bright yellow sticky?

9 A It is a Post-it with the person's name of who brought it,
10 which is Oso, the date, which is March 16th. It says "NOG-PR1"
11 which means OG from project No. 1, and it is 957 grams .3 and
12 trim worth of 1,121 grams, and it's saying what went out is --
13 from project 1 is 2.5 pounds.

14 Q What is -- what's the little T in parentheses?

15 A Trim.

16 Q And OG-PRI?

17 A OG is a strain of marijuana. PR1 is project number. So
18 they were for different grow projects.

19 Q And who was Oso?

20 A Oso was a small-time grower.

21 Q Okay. Did you meet him?

22 A Yes, I have.

23 Q All right. I'm going to ask you to take a look at this
24 second Post-it over here --

25 THE COURT: Wait a minute. Ah, do you recognize the

1 handwriting on that Post-it?

2 THE WITNESS: Yes, I do, your Honor.

3 THE COURT: Whose is it?

4 THE WITNESS: I believe it belongs to Paul Montoya.

5 THE COURT: Thank you.

6 Q (BY MS. SHEMITZ:) And this Post-it, this second one here,
7 can you explain to us what that means?

8 A Yes. "TW account" was for Trainwreck.

9 Q And who was Trainwreck?

10 A James Stanley.

11 Q Okay.

12 A He is a grower from up north.

13 And you think you can enlarge it?

14 Q Yes.

15 A I'm sorry.

16 Q I'm sorry.

17 A That is stuff that came in and it was supposed to go on to
18 the books. So it's saying that Trainwreck brought down
19 139 grams of hash, 163 grams of New York Diesel, which is a
20 strain, but they were littles or shake.

21 Q What does that mean?

22 A The strain was little buds, they were not full. Or they
23 were shake, which they were the bottom of the bag.

24 Q Okay. And what does it mean if it's a little bud and not
25 full?

1 A The price is cheaper for them as it -- as opposed to if
2 they were the larger buds.

3 Q Does that have to do with the quality of the marijuana?

4 A Yes, it does.

5 Q Okay. And what's the next line?

6 A The next line is "half of OG at 4150," which is a half
7 pound of OG at 4150 for the pound price, so half of the 4150
8 would be the cost for that half.

9 "Half of Bob," which is Bob Marley is usually the name of
10 that strain.

11 Q Half -- half of what?

12 A A half pound.

13 Q Okay.

14 A "Half of log PI," I'm not sure what that is.

15 Q Okay. You can turn that screen towards you --

16 A Oh.

17 Q -- if that would be easier.

18 A I don't think I can.

19 THE COURTROOM DEPUTY: I think it goes up and down.

20 THE COURT: But if you break it, you buy it. You
21 don't plan on crying, do you?

22 THE WITNESS: I don't.

23 THE COURT: Okay.

24 THE WITNESS: Thank you.

25 Q (BY MS. SHEMITZ:) Okay. And the next line below "log

1 PI"?

2 A "New York Diesel."

3 Q Uh-huh.

4 A "The half pound at 3500."

5 Q 3500 what?

6 A \$3500 for the pound.

7 Q Okay. And the next one?

8 A "A half pound of Sour Grape Haze Trainwreck, "which means
9 it's one of Trainwreck's strains.

10 Q And now can you see this little notation here "TW" and
11 then it says "7 K-U-P." Do you know what that means?

12 A Means he is -- he picked up \$7,000.

13 Q Okay. And over here on the far right in the bottom
14 right-hand corner, are you able to see that?

15 A Uhm, vaguely.

16 Q Okay. I don't think I can do that any more. Better?

17 THE COURT: Very good.

18 MS. SHEMITZ: Thank you.

19 THE WITNESS: I can't read what that says.

20 Q (BY MS. SHEMITZ:) Okay. Do you know whose handwriting
21 this Post-it is in?

22 A The defendant's.

23 MS. MARGOLIN: Objection. Move to strike.

24 Expertise. Foundation.

25 THE COURT: I think it's already been established

1 that she's familiar with the defendant's handwriting, so I'll
2 overrule the objection.

3 Q (BY MS. SHEMITZ:) Ms. Thabet, was it -- was it common
4 practice to have these Post-its of this nature floating
5 around --

6 A Yes.

7 Q -- to record transactions?

8 A Yes, it was.

9 Q And who used these types of records?

10 A Myself, the defendant, and on some occasions Mr. Montoya.

11 Q Okay. Now, after you and the defendant and Mr. Montoya
12 would record these transactions on these little pieces of
13 paper, would you transfer the information somewhere?

14 A Yes.

15 Q Where?

16 A They would go into the laptop that is actually present.

17 Q This -- this laptop?

18 A Yes.

19 Q Okay. I want to try to show you something else. So
20 yesterday you identified this laptop as a MacBook Pro, but can
21 you take a look at the -- the designation here on the top of
22 the laptop?

23 MS. MARGOLIN: Objection. Misstates the testimony
24 and leading.

25 MS. SHEMITZ: I'm sorry.

1 THE COURT: Overruled.

2 Q (BY MS. SHEMITZ:) Yesterday you identified it as a
3 MacBook Air, but I'm calling your attention to this sign here.
4 Do you know what that means?

5 MS. MARGOLIN: Objection. Leading.

6 THE COURT: Overruled.

7 THE WITNESS: Yes. It means the name of the laptop
8 is a MacBook Pro.

9 Q (BY MS. SHEMITZ:) Does that change your -- your certainty
10 about whether or not this is the laptop that was used to record
11 the books and records by the defendant?

12 A Not at all.

13 MS. MARGOLIN: Objection. Leading and improper
14 refreshing recollection.

15 THE COURT: Overruled.

16 MS. SHEMITZ: Okay. Can we have a second, your
17 Honor?

18 THE COURT: Uh-huh.

19 Q (BY MS. SHEMITZ:) Ms. Thabet, I'm showing you now a
20 portion of Government's Exhibit 119 in evidence. Is this
21 something that you recognize?

22 A Yes, it is.

23 Q And can you explain what this is?

24 A These are the books that are on the laptop in front of
25 you.

1 Q Okay. And now, this is one spreadsheet on the books,
2 and -- so I just asked Special Agent Kelly to show you or point
3 your attention to the bottom line of the spreadsheet where the
4 arrow is. Can you explain what those different designations or
5 names mean?

6 A Each tab is a different person or a different location.

7 Q Okay. And the tabs are -- is each tab a spreadsheet?

8 A Yes, it is.

9 Q Okay. So let's just go through the spreadsheets one at a
10 time.

11 If you could show Ms. Thabet the name on this spreadsheet,
12 please, by scrolling across.

13 MS. MARGOLIN: Objection to her being able to lay a
14 foundation to all of these. She previously testified to
15 just -- I'm sorry.

16 THE COURT: Little premature. Hang on.

17 MS. SHEMITZ: They're already in evidence, your
18 Honor.

19 Okay. Can you scroll across to the right so that
20 the title of this spreadsheet is visible? No, no, no.

21 Q (BY MS. SHEMITZ:) Okay. So based on what's before you
22 now to the -- on the far right side of this spreadsheet, who
23 was it for?

24 MS. MARGOLIN: Objection. Foundation. Personal
25 knowledge.

1 THE COURT: Hang on a sec. I don't even understand
2 the question. Who was it for?

3 MS. SHEMITZ: Yeah.

4 THE COURT: What does that mean?

5 MS. SHEMITZ: Which customer was it?

6 THE COURT: Ah, different. All right. Overruled.

7 THE WITNESS: 4eyes.

8 Q (BY MS. SHEMITZ:) And did you know who 4eyes was?

9 A Yes, I did.

10 Q And did you ever meet 4eyes?

11 A Yes, I have.

12 Q Okay. All right. Let's go to the next one. Can you go
13 to the top line 1 -- I mean line 2? Okay.

14 And this one, do you recognize who this is for?

15 A Yes, I do.

16 Q Who is it for?

17 A Alven.

18 Q And who is Alven?

19 A Alven is Mr. Montoya's brother-in-law.

20 Q Okay. And using this spreadsheet as an example, can you
21 just go through line 2 and line 3 and line 4 and line 5 and
22 explain to us what the various designations mean?

23 A Sure. Date is the date that the purchase or the payment
24 had been made.

25 Quantity would be broken down into a half pound, a pound,

1 a quarter pound, or 4, 5, 6, 7 pounds. So on this day there
2 were 2 Tasers sold at \$500 apiece.

3 The line total is the total amount for the items that were
4 taken.

5 Right below it is 1 hollister -- holster -- I'm sorry --
6 at a hundred dollars.

7 Right below that is 1 pound of Purple LA Confidential.
8 It's \$4600 for the pound.

9 Right below that is 2 pounds of Super Bubba and it's \$4500
10 for the pound, 9,000 for the 2.

11 Below that is 2 pounds of Bubba Kush for \$4500 for the
12 pound, 9 thousand for both.

13 Below that is 2 pounds of OG Bubba, \$4500 for the pound.

14 Q Okay. Let's skip down to line 17. And what does that
15 denote?

16 A That denotes that there was one payment made on November
17 4th in the amount of \$6,800 which reduced the balance that they
18 had previously had of 74,100 to 67,300.

19 MS. MARGOLIN: Objection. Foundation. Just
20 continuing objection on foundation to the ones that she hasn't
21 personally tabulated.

22 THE COURT: Overruled. Actually, we can read this,
23 so it's -- all right. But thank you. Overruled.

24 Q (BY MS. SHEMITZ:) Can we go to the next one, "Aaron"?
25 Who was Aaron?

1 A Aaron is another customer.

2 Q And did you meet him?

3 A Yes, I did.

4 Q And by the way, the dates on this, could -- could you
5 click on the date -- no, just on August 12th, click on it,
6 please. Okay.

7 And can you tell from that what date it was?

8 A Yes. It was August 12th, 2008.

9 MS. SHEMITZ: Okay. Pat, can you scroll over to the
10 right side of the spreadsheet? Right.

11 Q (BY MS. SHEMITZ:) Okay. And what does this box on the
12 top, the red box mean?

13 A It means that that is the balance that is owed.

14 Q All right. Let's go to the next one, "AK473." Who is
15 AK473?

16 A AK473 is Southwest.

17 Q Okay.

18 A Anthony Gordon.

19 Q Okay. And the next one, "Brandan"?

20 A Brandan is a supplier who was a friend of Zachary Hummell.

21 Q Okay. And the next one, "Clint"?

22 A Clint is a person who would come get small quantities and
23 whose name was used for other grow houses.

24 Q And "Gincy"?

25 A That is Gelsy and that was the defendant's next door

1 neighbor and Chino's girlfriend.

2 Q Okay. And the next one?

3 A Chino is -- was the defendant's next door neighbor as well
4 as the person who was picking up packages or having packages
5 delivered for New York.

6 Q The next one, please?

7 A The same person, but this is just Chino's New York page,
8 things that were going out to New York.

9 Q Okay. And what about "Old Chuckle"?

10 A Old Chuckle is the defendant's page.

11 Q And "Dave New York"?

12 A Dave New York is who we were getting the rental cars from.

13 Q Okay. And did you also meet him?

14 A Yes, I have. I've met everyone in these books.

15 Q Okay. And the next one?

16 A David was a small-time buyer that would come down and make
17 purchases.

18 Q "Domold"?

19 A Domold is another buyer that would come make purchases of
20 pounds.

21 MS. SHEMITZ: Can you go up to the top of that one,
22 Pat, line 1 -- line 2, yeah.

23 Q (BY MS. SHEMITZ:) Okay. And again, Ms. Thabet, are we
24 still in 2008 for these spreadsheets?

25 A Could you click -- yes, we are.

1 Q Okay. And the next one, "Domnew"?

2 A Domold, the one you just passed, is his old page. His new
3 page is his new page, new spreadsheets.

4 Q Got it. Do you know when the new spreadsheet was created
5 or why it was created?

6 A Because his last spreadsheet was completely full and so
7 that's why at the very top of most pages it'll have a balance
8 forward.

9 Q Okay. And the next one, "Don"?

10 A Don is -- he was a friend of Dom's that would come down
11 and they would purchase pounds.

12 Q Okay. All right. "Old Ian"?

13 A Ian is a -- he was a supplier as well as a buyer. He was
14 on a larger scale of purchasing and supplying.

15 Q Okay. And you said he was also a supplier? What did he
16 supply?

17 A He would supply marijuana and hash.

18 Q And where was he supplying marijuana from? Only if you
19 know.

20 A I'm sorry. Could you rephrase the question?

21 Q Do you know where he was getting his marijuana?

22 A I -- I don't know.

23 Q Okay. All right. The next one "Iannev"?

24 A It is the same as Old Ian, just the new page.

25 Q Uh-huh. And "Jack"?

1 A Jack is an empty page, so I don't know who that is.

2 Q Okay. "James Oly"?

3 A James Oly was a small time. He would come and get
4 anywhere from a quarter pound every so often.

5 Q And what was "Life"?

6 A Life was a store called Life Group.

7 Q And where was that located?

8 A On La Brea.

9 Q And the next one "Jessepe"?

10 A Jessepe was -- is a friend of the defendant's who would
11 pick up pounds of marijuana.

12 Q And "Jeproxx"?

13 A Jeprox is a name for Randy who was a buyer.

14 Q Do you know which Randy that was? Do you know his last
15 name?

16 A Randy Cruzado.

17 Q And "Jeproxx2"?

18 A Just his second page.

19 Q Uh-huh. How frequent a buyer was Jeprox?

20 A He has three pages, so pretty frequent.

21 Q Okay. How about "Jeproxx3"?

22 A The same person.

23 Q Okay. "John Buddie"?

24 A John Buddie was a Canadian supplier that would come down
25 and bring pounds of marijuana.

1 Q Can you go to the top of that spreadsheet now?

2 So in this case when the -- so looking at line 2, was that
3 a sale of five pounds or a purchase of five pounds?

4 A He brought down five pounds to -- to the defendant.

5 Q Okay. And so the defendant bought five pounds? Is that
6 what you're saying?

7 A Correct.

8 Q Okay.

9 A John was a supplier to the organization.

10 Q Okay. And the next one, "J-u-s-t, Just"?

11 A That is Justin. He was also a -- he was initially a
12 supplier and then he disappeared somewhere down the line.

13 Q Okay. "Maxx"? Who was Maxx?

14 A Maxx was also a buyer.

15 Q Okay. And "MattKm"?

16 A MattKm was someone who would go up north and do some
17 trimming. He was a friend of Noah's -- I'm sorry -- he was a
18 friend of Noah's and Zack's. He was Zack's and Noah's next
19 door neighbor, I believe.

20 Q Okay. And the next one, please?

21 A That's Mark Long Beach. He was also a buyer.

22 Q And next one, "NoHoZ"?

23 A That is for NoHo.

24 Q And "NNCC"?

25 A NNCC was a -- or is a large buyer -- buyer and sometimes

1 he would supply as well, but very rarely. He was more so on a
2 large-scale buyer.

3 Q Okay. And the next one, "Oso"?

4 A Oso was a small-time grower.

5 Q Uhm. So then is it fair to say that these are
6 purchases --

7 A Correct.

8 Q -- of Oso or purchases from Oso or --

9 A These are purchases from Oso.

10 Q Okay.

11 A There's small things that looks like he picked up a
12 quarter pounds of a couple things here or there.

13 Q How can you tell from this spreadsheet whether he was
14 buying or selling?

15 A If you scroll all the way to the right --

16 Q Uh-huh?

17 A -- there's usually notes regarding whether there needs to
18 be a price check or something of the sort. If you go all the
19 way back to the left -- I'm sorry -- my left, yeah -- there is
20 a balance forward which means that there had been a prior page.
21 There is a payment of 1500, meaning he picked up a total -- you
22 can see of what went out based on there's no parentheses. What
23 came in, there's parentheses. So on this page, this was just
24 his page for his small purchases.

25 Q Okay. Got it.

1 And what about "Oldpnut"?

2 A I believe this is Paul Montoya's books.

3 MS. MARGOLIN: Objection. Move to strike. Personal
4 knowledge.

5 THE COURT: What's the basis of your belief?

6 Q (BY MS. SHEMITZ:) Do you know whether this is Paul
7 Montoya's books?

8 A I know that this is Paul Montoya's books.

9 Q And the next one, "Pnut"?

10 A It's also Mr. Montoya's books.

11 Q And next, "Otto"?

12 A Otto was a buyer.

13 Q Did you meet Otto?

14 A Yes, I did. That was his old page and it was copy and
15 pasted and then --

16 Q Okay. Got it.

17 All right. How about "Plife"? What was that?

18 A That was also a store, Pure Life.

19 Q And how about "Pupu"?

20 A I don't know who that is.

21 Q Okay. The next one, "Petey"?

22 A Petey was a supplier.

23 Q Uh-huh?

24 A He would bring down strains.

25 Q Do you know from where?

1 A I believe he grew them himself.

2 Q Okay. Don't guess. Don't guess.

3 All right. What about "Philly"?

4 A Philly is Phats from Philly.

5 Q And what about "Q"?

6 A Q was a -- just a buyer.

7 Q Did you meet Q also?

8 A Yes, I did.

9 Q All right. And "Rasta"?

10 A Rasta was a friend of the defendant's that would pick up
11 every once in a while.

12 Q And "SF"?

13 A SF was a supplier who would come down from San Francisco.

14 Q Okay. So then is it fair to say these are purchases from
15 SF, not sales to SF?

16 A That is correct.

17 Q Okay. And the first line, what was purchased at line 2?
18 I'm sorry.

19 A Line 1 it was 77 pounds of cheap Kush. Line 2 is 104
20 pounds of Bomb Kush, good Kush.

21 Q And --

22 A The cheap Kush was at 3700 a pound and the good Kush was
23 at 4100 a pound.

24 Q Okay. And the next one, "Scott"?

25 A Scott was a supplier and a buyer.

1 Q All right. Let's see if we can show this. Can you see on
2 this any purchases from Scott?

3 A There is no purchases on this page. When there is a
4 purchase, it will be in the middle line. It'll say "to" and
5 who it was given to, whether it was given to myself, whether it
6 was given to the defendant, or it'll just say "picked up from."
7 So there's no notes on the middle of this one, so there is
8 nothing on this page that he was picked up from.

9 Q Okay. And can you scroll down a little bit more? Right.
10 Okay. Now with respect to line 21, can you explain what
11 that fractional number is?

12 A Yes. It's not a full pound.

13 Q Okay. And so then the price was what?

14 A The pound price is supposed to be 5300, but because it's
15 not a full pound, the total price came out to \$4,638 for the
16 amount that was taken.

17 Q Okay. And the next one is "Sean"?

18 A Sean is a supplier that would come from up north.

19 Q Okay. So can you explain what's going on on this
20 spreadsheet?

21 A Sure. Everything pretty much that you see on this
22 spreadsheet is all purchases from Sean.

23 Q Okay.

24 A And everything in parentheses is payments that were made
25 to him for his purchases.

1 Q So looking at line 6, what does that mean?

2 A There was a payment of 102,500 made to him.

3 Q From -- from who? Who made the payment?

4 A Either Mr. Montoya or Mr. Kleinman -- sorry -- the
5 defendant.

6 Q Uh-huh?

7 A Most of the time it was the defendant that dealt with
8 Sean.

9 Q Okay. All right. Next one, "Steve"?

10 A Steve was also a supplier that would come from up north.

11 Q And with respect to this spreadsheet, does it show
12 purchases from Steve?

13 A That is correct.

14 Q Okay. So you're saying all of these are purchases from
15 Steve?

16 A Yes, I am.

17 Q Okay. And the next one, "Thai"?

18 A Thai was a small-time buyer.

19 Q How about "TW account"?

20 A That is Trainwreck account, which is James Stanley
21 account.

22 Q So what's recorded on this one?

23 A This one is payment, money owed for orders that have
24 previously come down.

25 Q When you say "come down," what are you talking?

1 A They came down from up north where --

2 Q What's up north?

3 A Up north, I believe James Stanley lived up north where he
4 had grow houses. I don't know the exact location.

5 Q That's okay.

6 MS. MARGOLIN: Objection. Move to strike. Personal
7 knowledge.

8 THE COURT: Overruled.

9 Q (BY MS. SHEMITZ:) Did you ever meet James Stanley?

10 A Yes, I have, as well as I have been up north and seen both
11 his grow houses.

12 Q Okay. Were you ever present when Mr. Stanley was paid?

13 A Yes, I was.

14 Q And how was he paid?

15 A In cash.

16 Q Who paid him?

17 A I paid him on several occasions, as well as the defendant.

18 Q Okay. And with respect to this spreadsheet, can you
19 explain a little bit what this means, "first order, payment
20 within, second order"? What do those designations mean?

21 A Money owed for the first order is the first order of
22 things that had came down.

23 Q Came down from --

24 A I'm sorry -- of marijuana that had came down from up
25 north, driven them down. So it shows where the first orders

1 were, showing what the orders are. Uhm, it breaks it down.

2 Okay. So --

3 Q Stop. Go back to the first order and let's get an
4 explanation of what that is. Okay. So you're talking about
5 column K, first drop off?

6 A Correct.

7 Q Okay. And then what's the next, uhm, designation, 18
8 October?

9 A That -- that is -- this is all part of the first drop. So
10 the first drop which is the first order that came, there was 8
11 on October 18th -- there was 8 NorCal Kushes. When it says
12 "split," it means it was from the split project, which means
13 it's not the James Stanley project alone. It was the grow
14 house that was -- that belonged to Mr. Stanley as well as to
15 the defendant, and so that's why it says split. Under it says
16 "TWs." It means that is just for James Stanley's project, his
17 own grow house.

18 And then it lists what came down. So from the split,
19 there was 8 NorCal Kushes that came down at 3200 a piece.

20 Q 3200 per pound?

21 A Per pound.

22 Q Uh-huh.

23 A So the total value for that was 25,600, saying the money
24 owed to Mr. Stanley is 6400, then money owed off TW bill --
25 Trainwreck -- had -- or Mr. Stanley had a balance that had

1 previously already been owed, so they deducted \$6400 from --
2 there was \$6400 deducted from his bill, and then there was 2 --
3 \$12,800 that was for them, the defendant, as well as, I
4 believe, Mr. Montoya.

5 Q Okay. And let's go back over to the left. And what does
6 "Payment from K" mean?

7 A Payment from K means I am the one that made that payment.

8 Q Okay.

9 A Usually it says who made the payment and that's why it
10 says payment with N and payment with K.

11 Q Now that date, November 10th, 2008, do you remember that?

12 A Yes, I do.

13 Q What do you remember about that?

14 A I remember that the defendant as well as Mr. Montoya were
15 in the Philippines and I was responsible for these books as
16 well as for making out payments, collecting payments.

17 Q All right. Let's go to the next one, "Turtle." And do
18 you know Turtle?

19 A Yes, I do.

20 Q Okay. And who was he?

21 A Turtle is Christopher Landolph.

22 Q All right.

23 A He's a long-time friend of the defendant, and he was a
24 large-scale supplier.

25 Q So is this spreadsheet all purchases from Mr. Landolph

1 or --

2 A That is correct.

3 Q Okay. In the line 7, for example, what is the
4 description? What does that mean, "MO"?

5 A That means that Turtle had been paid in money orders.

6 Q All right. And the next one, "TWreck."

7 A That is also Mr. -- James Stanley's page. Excuse me.

8 Q Are these purchases or sales?

9 A Uhm, these are sales, except for on line 2 where it says,
10 "Purple Bubba from us to TW." So this was something he had
11 picked up.

12 Q Okay. And how about "Zztop"? Who was that?

13 A Zztop is a friend of the defendant who the defendant had
14 been selling to for years. He would come around and pick up
15 just different quantities of stuff, of marijuana.

16 Q What's -- what's -- what is "Sample"? What's that
17 spreadsheet?

18 A Sample is just a blank spreadsheet so that if you needed
19 to make a new tab, you can copy and paste.

20 Q Okay. And how about "Old NoHo"?

21 A It's NoHo's old books.

22 Q What do these purchases represent?

23 A Purchases of marijuana or hash, or hash oils, or edibles.

24 Q And then there's a second tab, "Old NH"?

25 A That is also an old NoHo page.

1 Q How about "inventory"?

2 A Inventory was an inventory of products on hand at the time
3 or money.

4 Q So in this case -- I'm sorry. You okay?

5 A Excuse me.

6 Q You okay? So in this case on this sheet, can you tell us
7 what these designations mean?

8 A This is a inventory of money that is owed. So it's saying
9 that there is a total of \$925,651 that are owed in total.

10 Q Okay. And what was the -- what's line 3?

11 A Cash that's coming in.

12 Q Okay. And line 4?

13 A Cash that's also coming in.

14 Q And what's line 5?

15 A Products that's come in.

16 Q Okay. And is that a valuation of the product?

17 A I'm sorry. Can you rephrase that?

18 Q \$170,000, what does that mean?

19 A It means it's \$170,000 worth of product that came.

20 Q Okay. And same for line 6?

21 A That is correct.

22 Q And what about line 7?

23 A That means there was another inventory done later on and
24 there was that much that was made as a payment, \$566,623.

25 Q Uh-huh. And finally line 8?

1 A There was 15 Kushes that were picked up as product.

2 Q Does that say who picked them up or was that a purchase of
3 Kush or was that a sale of Kush?

4 A It was a purchase. If you move farther down, it explains
5 who owes everything and where the inventory come from.

6 Q Okay.

7 A So this inventory is basically just keeping track of the
8 total money that is owed total, and then whether the money is
9 only collectible or not. It would be product would be replaced
10 rather than the money, and so that still came in as money down
11 the line anyway because it would be sold. So that's why it's
12 listed as money.

13 Uhm, on this spreadsheet you're looking at right now where
14 it lists all the names, it's listing who owes what and that's
15 where your totals come from of where the inventory is.

16 Q Okay. Can you explain that a little bit more? What do
17 you mean "where the inventory is"?

18 A So most of the money and the people's names you see here,
19 this is collectible money, it's not the people having
20 disappeared. And so there would be a tally done of what
21 everybody owes to get an idea of what is potentially coming in
22 soon, and that's what the inventory meant.

23 For some of the uncollectible money, it would be --
24 marijuana would be given instead of the money because the
25 person can't pay the money back or things of that sort. There

1 were situations where people gave motorcycles because they
2 couldn't pay their balance, and so that's still considered
3 money coming in.

4 Q Got it. Okay. All right. What about sheet 1? What is
5 this? Go all the way to the top. Is there a name on this one?

6 MS. MARGOLIN: Your Honor, is there any way that the
7 government could refer to this by the page number of the
8 exhibit so we can follow along?

9 THE COURT: All right. Let me see. Does that C36
10 mean anything up in the upper left-hand corner?

11 MS. SHEMITZ: No. I wish it did, but it doesn't.

12 THE COURT: All right. Well, there are page numbers
13 at the bottom of each hard copy, all right? Would that help?

14 MS. SHEMITZ: The page numbers -- those are Bates
15 stamp numbers that were done for the purpose of discovery.
16 However, the exhibit is actually the exhibit of the hard drive.

17 THE COURT: Oh.

18 MS. SHEMITZ: So it doesn't have the page numbers on
19 it.

20 THE COURT: And even though -- even though what we
21 see here are probably the information that appear under each of
22 these tabs --

23 MS. SHEMITZ: Uh-huh.

24 THE COURT: -- looking at the hard copies here,
25 we're not able to tell which tab.

1 MS. SHEMITZ: If you look at the upper right-hand
2 corner of the hard copy, it says the name of the tab.

3 THE COURT: Okay. All right. What would be the
4 best exhibit to look under? I'm looking at 119.

5 MS. SHEMITZ: Uh-huh.

6 THE COURT: Is that -- is that the one that we
7 should --

8 MS. SHEMITZ: Yeah, that's what we're looking at,
9 your Honor.

10 THE COURT: Okay. Need some more?

11 MS. MARGOLIN: I'm good.

12 THE COURT: They would like to have, to the extent
13 that you can, for example -- well, crap. Every time we go from
14 tab to tab we're moving to a different page in this book,
15 correct?

16 MS. SHEMITZ: Correct. That's correct.

17 THE COURT: So it's going to be tough.

18 MS. SHEMITZ: And the name of the tab appears in the
19 upper right right-hand corner of the sheet.

20 THE COURT: Oh, I see the name now, yes.

21 MS. SHEMITZ: Right.

22 THE COURT: Right. Following along?

23 MS. MARGOLIN: Now I am.

24 THE COURT: All right. Thank you.

25 Q (BY MS. SHEMITZ:) Next one "HYD." Do you know what this

1 one is, Ms. Thabet?

2 A That's for the Hydrostore.

3 Q Can't hear you.

4 A I'm sorry. That's for the Hydrostore.

5 Q What is the Hydrostore?

6 A The Hydrostore is a store that sold equipment and
7 nutrients for grow houses and grow operations.

8 Q Who owned that store?

9 MS. MARGOLIN: Objection. Calls for hearsay.

10 Q (BY MS. SHEMITZ:) Do you know who owned that store?

11 A Not for a fact, no.

12 THE COURT: Takes care of that.

13 Q (BY MS. SHEMITZ:) Okay. All right. Next one, "crab
14 man," who was crab man?

15 A Crab man was a buyer.

16 Q And sheet 2, I think that's it. Okay. Do you know what
17 this is about?

18 A This is -- I'm sorry. This is about pounds that were
19 coming down from up north.

20 Q Okay. And can you explain this to us?

21 A If you stretch out column C a little more, so it'll
22 show -- column C is the pounds price without the driver, and
23 then if they had somebody driving them down, they would be a
24 hundred dollars more.

25 THE COURT: Hmm.

1 Q (BY MS. SHEMITZ:) Okay. And what -- how about line 10
2 there where it says "shipping costs"? What is that?

3 A Shipping costs.

4 Q Yeah, okay. Shipping to where?

5 A I don't know where these were being shipped.

6 Q Okay. And how about line 11?

7 A Line 11 is 6 Triple Berry Goos, which is a pound -- it's
8 the strain of marijuana and it's breaking it down. If they
9 want that they're -- these are with a driver so they're \$2900 a
10 pound, and then there's a breakdown of 30 or 6 Triple Berry
11 Goos, that's 29, that's going to take it to the 17,4. The
12 total sales price of it is 22,500.

13 Q So is 17,400 the cost to the group?

14 A That is correct.

15 Q And what about 22,500? What is that?

16 A That is what their -- the plan to sell it for would have
17 brought back.

18 Q So the difference between that would be profit?

19 A Correct.

20 Q Okay. All right. Is that the end of --

21 THE COURT: Uh-huh. Okay.

22 MS. SHEMITZ: Your Honor, we're planning to bore you
23 and the jury some more with the next spreadsheet, so if you
24 wanted to take a break, this might be a good time.

25 THE COURT: We should talk. Yes, we'll do that. Is

1 that okay? 'Cause you all haven't been out here that long, but
2 poor Deb has been out here since about 8 doing it. So let's
3 take our first break. 15 minutes. We'll come back at 10.

4 Remember the admonition, please.

5 THE COURTROOM DEPUTY: All rise.

6 (A recess was taken.)

7 THE COURT: All right. Back on the record. Jury is
8 present. All counsel are present as is the defendant.

9 Ms. Thabet has returned to the witness stand.

10 All right. Julie -- Ms. Shemitz.

11 Q (BY MS. SHEMITZ:) Okay. Ms. Thabet, we're going to have
12 you take a look at another set of spreadsheets. By the way,
13 did you know the password for the spreadsheet?

14 A Yes, I did.

15 Q What was it?

16 A Isabella.

17 MS. SHEMITZ: Can you click on one of the dates so
18 we can see what year it is, please?

19 Q (BY MS. SHEMITZ:) Okay. What year does this show?

20 A 2008.

21 Q And this is for 4eyes again?

22 A Yes.

23 MS. MARGOLIN: Objection. Foundation. Personal
24 knowledge.

25 THE COURT: Overruled.

1 Q (BY MS. SHEMITZ:) Okay. Ms. Thabet, if you look at the
2 very top of this exhibit, the title of "New OG," okay, is this
3 set of spreadsheets similar in form and content as to the
4 previous set of spreadsheets that we just went through?

5 A Yes.

6 Q And does it record the same information in the same ways?

7 A Yes, it does.

8 Q Okay. So I'm going to ask that we just go over a few
9 things. So let's go to line 4 of this one. Can you explain in
10 this line what "QP" means?

11 A Means quarter pound.

12 Q Okay. And the total amount over in the line total, what
13 does that mean?

14 A It was put in wrong, but it means -- says 1 but it says QP
15 next to it and that's a quarter pound price.

16 Q How about line 9?

17 A Line 9 states that there was an adjustment that was made,
18 so 4eyes had been undercharged something for \$150.

19 Q Okay. And how about in line 17?

20 A Line 17 means that 4eyes took a Persy, which means a
21 eighth for personal use.

22 Q An eighth of what?

23 A An eighth of marijuana.

24 Q An eighth of what?

25 A An eighth of an ounce.

1 MS. SHEMITZ: Your Honor, just for the record, this
2 is Exhibit 120 that we're looking at.

3 THE COURT: Thank you.

4 Q (BY MS. SHEMITZ:) Okay. Let's go to the spreadsheet for
5 "Alven Old Transfer." And what is the date of the first entry?

6 A February 4th, 2009.

7 Q All right. And let's look at line 16. Can you explain
8 what this means? First of all, tell us what shake is again?

9 A Shake is the bottom of the pound of marijuana. It's when
10 it gets broken up or gets tossed around, it tends to shake up
11 on the bottom, and so the shake is the very end of the bag and
12 it's a lot cheaper than what the pound or eighth price would be
13 for that.

14 Q Okay. So in this line, what -- 240 what?

15 A 240 grams of shake.

16 Q And the unit price was what?

17 A 3 -- 3.75 a gram, so it's \$900 for the 240 grams.

18 Q Okay. Got it. All right. And then let's go to Bill,
19 right? Okay. And what's the date on line 70?

20 A I'm sorry. On what line?

21 Q Sorry. We're going to go to it. Okay. Line 70.

22 A The date is November 8th, 2009.

23 Q Okay. And what is the meaning of this line?

24 A What that means is there was one pound and a little less
25 than a quarter pounds that was returned.

1 Q Okay. And what does 494 mean?

2 A What that means is the grams. It means there was
3 265 grams of something and 229 grams of something else and that
4 was what was returned.

5 Q Okay. So how did it work if someone wanted -- a customer
6 wanted to return product?

7 A Customers were different than suppliers. So if a customer
8 wanted to return something, it would just get returned back in
9 their books so it would show up as if it was a payment. If a
10 vendor wanted to return something, it would show up as a RTV
11 which would mean return to vendor. That would be in the middle
12 line.

13 Q Was the vendor returning it or were you returning it to
14 the vendor?

15 A That is if we were returning it back to the vendor. So it
16 would show up as a RTV which is return to vendor. If a
17 customer had been returning something, it would just show up as
18 a payment or it would just get removed from their books.

19 Q Okay. Gotcha. All right. And let's go to MLB. Right.
20 Okay. What's the date of the beginning of this one?

21 A April 3rd, 2009.

22 Q All right. And let's go to -- well, let's go to line 8
23 first. Okay. What does this mean?

24 A A half pound of C. I don't know what C is.

25 Q Okay. Was C a strain that you're not familiar with?

1 MS. MARGOLIN: Objection. Calls for speculation.
2 Leading.

3 THE COURT: Sustained.

4 MS. SHEMITZ: Okay.

5 THE WITNESS: There were no --

6 MS. SHEMITZ: You can't answer.

7 THE WITNESS: Sorry.

8 Q (BY MS. SHEMITZ:) Do you know what C is?

9 A C would not have been a strain. C might have been --
10 would have been an abbreviation that was put in to change
11 something later and it just wasn't changed.

12 Q Okay. Gotcha. Is the unit price in that row significant
13 in row 8?

14 MS. MARGOLIN: Objection. Personal knowledge.

15 THE COURT: Overruled.

16 THE WITNESS: Yes, because the pound price for
17 whatever the C is would be \$4500.

18 Q (BY MS. SHEMITZ:) Okay. And can you tell from that
19 whether a return or a payment or sale was made?

20 A On this date of April 10th, there was a payment made of
21 \$15,000. On the same date there was a half pound of C taken, a
22 half pound of Q taken, a half pound of T taken, a quarter pound
23 of TSRH taken, which is a strain, a pound of OG 45 taken, and a
24 quarter pound of DJ Short taken.

25 Q Okay. Got it. Can you scroll down on this one, please?

1 Okay. Keep going.

2 Okay. In line 52, what does this mean?

3 A Mark had a -- a tobacco and delivery store where he would
4 be able to get cigarettes for -- at wholesale prices, so he
5 would bring cigarettes -- cartons of cigarettes down for us at
6 a reduced price.

7 Q And scroll down just a little bit more.

8 Okay. All right. Let's go to line 45. What's the
9 designation "Mex"?

10 A Mex is Mexican weed.

11 Q Okay. And the price for Mexican weed was what?

12 A \$600 a pound.

13 Q Okay.

14 MS. SHEMITZ: Okay. May I have a moment, your
15 Honor?

16 THE COURT: Uh-huh.

17 MS. SHEMITZ: Okay. We have nothing further, your
18 Honor.

19 THE COURT: Cross?

20 CROSS-EXAMINATION

21 BY MS. MARGOLIN:

22 Q Ms. Thabet, when you used Post-its --

23 THE COURT: Is your mike on?

24 MS. MARGOLIN: Oh, I'm sorry. Thank you.

25 Q (BY MS. MARGOLIN:) Ms. Thabet, when you used Post-its,

1 why would you use Post-its versus just a piece of paper to do
2 books?

3 A There was both. Post-its were just easier because you
4 could stick them on to the laptop or leave them on a desk
5 somewhere for someone to make sure that they were put into the
6 books.

7 Q Okay. And you could just stick them to the laptop with
8 nothing else, correct? Just stick them right on?

9 A Yeah. If you were leaving -- if you were running behind
10 or you had to run out or help someone else or you were helping
11 multiple people at one time, it was easier to just write it on
12 a Post-it and then input it in the books. If the books were
13 not present at the time, it was easier to write them down and
14 then text them or on burner phones give that information.

15 Q Okay. And when you use a Post-it, you don't need to use a
16 Post-it and tape, correct?

17 A Sometimes the Post-it was old, so tape was used.

18 Q Well, I asked you whether or not you were asked to ever
19 use tape on a Post-it.

20 A Myself, no.

21 Q Okay. And showing you -- may I approach or -- I'm sorry.
22 I'm sorry. Thanks -- Exhibit 1. And just showing you what's
23 been previously marked as Government Exhibit 1, the Post-its
24 that are on the computer there, they're taped on, correct?

25 A That's correct.

1 Q Okay. Now, Ms. Thabet, while you were testifying earlier
2 today, you said at one point, "Mr. Kleinman -- sorry. I meant
3 the defendant." Do you recall testifying earlier like that?

4 A Yes.

5 Q Okay. And why were you sorry that you called Mr. Kleinman
6 by his actual name?

7 A Because I was told I need to refer to him as the
8 defendant.

9 Q Okay. And who told -- and who told you to refer to him as
10 the defendant instead of by his name Mr. Kleinman?

11 A I don't remember if that was my legal team or the
12 prosecutor.

13 Q Okay. And approximately how many sessions did you have --
14 I'm sorry. By the prosecutor, do you mean Ms. Shemitz here?

15 A Yes, I do.

16 Q Okay. So you're saying you're not sure if it was your
17 attorney or Ms. Shemitz who told you to refer to him as the
18 defendant; is that correct?

19 A That's correct.

20 MS. SHEMITZ: Objection. Asked and answered.

21 THE COURT: Overruled.

22 Q (BY MS. MARGOLIN:) Okay. And approximately how many
23 times did you meet with Ms. Shemitz to go over the case?

24 A I proffered with Ms. Shemitz on a few different occasions.

25 Q Okay. And can you please just tell us approximately when

1 in time that was?

2 A My proffers?

3 Q Yeah. Just approximate month, year.

4 A The first one was seven months after the initial arrest.

5 Q Okay. And when was the initial arrest for you? When were
6 you arrested?

7 A I was arrested on October 5th, 2011.

8 Q Okay. So you're also a defendant, is that fair to say?

9 A That's correct.

10 Q Okay. And were you also told to call Mr. Montoya
11 Mr. Montoya when you testified and not to call Mr. Montoya the
12 defendant?

13 A That's not true.

14 Q No, I just asked you what were you -- what's not true?

15 A I was never instructed to call him Mr. Montoya.

16 Q Okay. But you referred to Mr. Montoya throughout this
17 testimony as Mr. Montoya not Defendant Montoya; isn't that
18 right?

19 A That's correct.

20 Q Okay. Why is that?

21 A Because we were --

22 MS. SHEMITZ: Objection. Relevance.

23 THE COURT: It is completely irrelevant, but answer
24 the question, and then let's move on.

25 THE WITNESS: Because we were at the trial of

1 Defendant Kleinman, not Montoya.

2 Q (BY MS. MARGOLIN:) Okay. And how long was the -- well,
3 how long was your relationship with Mr. Montoya? How long did
4 it last?

5 A Four or five years, four years.

6 Q Okay. And when you say four years, are you talking about
7 your professional relationship with him and/or your romantic
8 relationship?

9 A Both.

10 Q And you refer to Mr. Montoya as a quote, "silent partner."
11 Is that how you referred to him?

12 A For NoHo, yes, I did.

13 Q Okay. Now, when you were going over the books with
14 Ms. Shemitz, there was a name of one supplier named Pnut; is
15 that correct?

16 A That's not correct.

17 Q Oh?

18 A I said Pnut was Paul Montoya's page.

19 Q Okay. And you have the exhibit in front of you?

20 A No, I do not.

21 Q Okay. What did you mean -- what does it mean to you to be
22 a silent partner?

23 A My understanding was he was not involved in the day-to-day
24 activities. He was on the back end looking -- he would either
25 bring in investors or just help his friends that were -- had

1 other, uhm, stores. That was my understanding of him being a
2 silent partner.

3 Q Okay. Now, in this case you agreed to some type of plea
4 agreement, correct?

5 A That's correct.

6 Q Okay. And in that agreement you agreed that certain facts
7 were true; isn't that correct?

8 A That is correct.

9 Q Okay. Isn't it true that you agreed that Mr. Montoya
10 participated in hiring you?

11 A That is not correct.

12 Q Okay. Would it refresh your recollection to look at the
13 plea agreement that you signed?

14 THE COURTROOM DEPUTY: What exhibit?

15 MS. MARGOLIN: Oh, I'm sorry. I'm sorry. I need to
16 mark as exhibit -- is this Exhibit A?

17 THE COURT: No, they're all numbers, but it'll be
18 the next sequentially.

19 MS. MARGOLIN: Oh.

20 THE COURT: What are we up to? Hang on. Hang on a
21 sec.

22 THE COURTROOM DEPUTY: 127 --

23 THE COURT: We're probably up to 130, 'cause 129
24 yesterday? Oh, you know what? We -- let's just use --

25 MS. MARGOLIN: I think the U.S. Attorney made an

1 exhibit.

2 THE COURT: That's right. That's right. 127 for
3 her.

4 (Exhibit 127 marked for identification.)

5 THE COURTROOM DEPUTY: Okay.

6 THE COURT: Let's use Exhibit 127.

7 MS. MARGOLIN: Again, and does the witness have it?

8 THE COURT: We're going to get it.

9 MS. MARGOLIN: Okay. 127? Thank you so much.

10 Q (BY MS. MARGOLIN:) And I'm drawing your attention to
11 page 23, lines 5 through 12.

12 A I'm sorry. What line?

13 Q Lines 5 through 12, page 23.

14 A Okay.

15 Q Okay. So isn't it true that Mr. Montoya participated in
16 the process of hiring you for NoHo Caregivers?

17 THE COURT: Why don't you rephrase that?

18 MS. MARGOLIN: Okay.

19 Q (BY MS. MARGOLIN:) Does this document refresh your
20 recollection as to whether or not Mr. Montoya also participated
21 in hiring you?

22 A I think you've taken it out of context. I began
23 working --

24 Q The question was a yes or no.

25 MS. SHEMITZ: Objection. Let the witness finish the

1 answer.

2 THE COURT: Let her answer.

3 THE WITNESS: Okay. You've taken it out of context
4 because I began working with Mr. Kleinman when Mr. Kleinman,
5 the defendant, hired me in 2007. This part that you're reading
6 pertains only to NoHo Caregivers and it's talking about in
7 2008. So in 2008 Mr. Kleinman, the defendant, was the one that
8 sent me out to NoHo Caregivers and there is when, yes, Paul
9 began giving me instructions. But I was initially hired by the
10 defendant Kleinman.

11 Q (BY MS. MARGOLIN:) Okay. But Mr. Montoya did also hire
12 you, correct? Or is this statement wrong?

13 MS. SHEMITZ: Objection. Asked and answered.
14 Misstates the testimony.

15 THE COURT: Sustained.

16 Q (BY MS. MARGOLIN:) Okay. You also testified yesterday
17 about -- about the meeting of Phats. Do you recall testifying
18 like that, about meeting Phats?

19 A Yes, I do.

20 Q Okay. Did Phats or does Phats have some type of accent?

21 A Yes, he did.

22 Q And can you describe for us his accent?

23 MS. SHEMITZ: Objection. Relevance.

24 THE COURT: Sustained.

25 Q (BY MS. MARGOLIN:) Okay. Would it surprise you to learn

1 that Mr. Montoya testified --

2 MS. SHEMITZ: Objection. Calls for speculation.

3 THE COURT: Just ask the question, no preempt.

4 MS. MARGOLIN: Okay. Okay.

5 Q (BY MS. MARGOLIN:) Isn't it true that --

6 THE COURT: No.

7 Q (BY MS. MARGOLIN:) -- between -- I'm sorry. Okay.

8 From dealings with Mr. Montoya and Phats, would it be fair
9 to say that Mr. Montoya could understand what Phats was saying?

10 A Better than Mr. Kleinman, yes.

11 Q Okay. And that first meeting was actually between Phats
12 and Mr. Montoya, not Mr. Kleinman; isn't that true?

13 MS. SHEMITZ: Objection. Vague as to time.

14 THE COURT: Sustained.

15 Q (BY MS. MARGOLIN:) Okay. There was an initial meet- --
16 there's an initial time that you've discussed yesterday where
17 Phats came into -- where did he come in?

18 A Are you asking me?

19 MS. SHEMITZ: Objection. Vague.

20 THE COURT: Let her -- we don't have a question yet.

21 Q (BY MS. MARGOLIN:) Okay. Where did you first meet Phats?

22 A At Southwest.

23 Q At Southwest Caregivers; is that right?

24 A That's correct.

25 Q Okay. And at that time Mr. Montoya was there also,

1 correct?

2 A That's not correct.

3 Q Okay. And what date did this occur?

4 A I don't remember.

5 Q And did you take any notes regarding this introduction of
6 Phats to Southwest?

7 A Take any notes prior?

8 Q At that time, just about what happened?

9 A No, I never took notes about much of anything.

10 Q Okay. And with respect to the books, approximately how
11 often did you make entries?

12 A It was daily when the defendant and Mr. Montoya were out
13 of town and out of state. Other than that it was very rare
14 because the books were with Mr. Kleinman.

15 Q Okay. So you said when -- so can you please tell us
16 when -- if you can remember -- was it the time in the
17 Philippines -- when Mr. Kleinman, Mr. Montoya were in the
18 Philippines that you -- that was the only period of time you
19 did the day-to-day entries; is that correct?

20 A That's one of the times, yes.

21 Q Okay. So that was one time. And can you recall right now
22 specifically any other times?

23 A They went to the Philippines, I believe, two times. They
24 went to Vegas, they went to Hong Kong. So whenever they were
25 out of state or out of the country, yes, I was responsible for

1 the books.

2 Q Okay. And can you tell us the actual time periods that
3 you were responsible for the books, such and such date to such
4 and such date, for example?

5 A No, I couldn't. I could tell you November of 2008 they
6 were in the Philippines. I have notes from when -- after I
7 reviewed all of the evidence and discovery and the books and
8 the text messages where I could give you clearer dates of when
9 they were in Vegas as well as other places. But to tell you
10 off the top of my head, no, I couldn't.

11 Q Okay. So when you were replying to questions from
12 Ms. Shemitz here regarding the records, that was based upon
13 your understanding of the books, but not that you actually
14 wrote those entries in, correct?

15 A I'm not sure which ones you're talking about. We just
16 went through 30.

17 Q Other than the ones from 2008, would it be fair to say you
18 don't have any recollection of putting in any of those entries?

19 A To tell you off top, no. Yes, there were some that I put
20 in and some of them say "payment made to K," some say "K
21 given," which is me.

22 Q Okay. So where -- if the books where they don't say "made
23 by K" or "payment given," then you didn't have anything to do
24 with that entry, correct?

25 MS. SHEMITZ: Objection. Misstates the testimony.

1 THE COURT: Sustained.

2 Q (BY MS. MARGOLIN:) Okay. Can you please explain what you
3 mean by this K?

4 A On a lot of the memorandum most it will say "payment given
5 to K" or "K gave to so and so." Those I did. In November of
6 2008 when they were in the Philippines, those I did. When they
7 were out of state or out of the country, those I did. Other
8 than that, I did not do them.

9 Q Okay. And you can't tell us about any other dates other
10 than November 2008, correct?

11 A Correct. And it wasn't even the full month of
12 November 2008.

13 Q Okay. So then was it a week?

14 A It was two-and-a-half, three weeks.

15 Q Okay. And do you recall the dates?

16 A Not off the top of my head.

17 Q Okay. So then for one-and-a-half weeks of November
18 someone did half the books -- I'll withdraw it. I'll withdraw
19 it. That's fine.

20 Okay. So you recall doing the books in terms of being
21 responsible for day-to-day books for about two weeks in
22 November 28th; is that correct?

23 A That is correct --

24 MS. SHEMITZ: Objection. Asked and answered.

25 Misstates the testimony.

1 THE COURT: I want to have a sidebar so bad, but I'm
2 going to resist. All right. Sustained.

3 Q (BY MS. MARGOLIN:) Now, do you recall testifying about
4 the shipment to Philadelphia?

5 MS. SHEMITZ: Objection. Vague as to time.

6 THE COURT: Sustained.

7 Q (BY MS. MARGOLIN:) Okay. Isn't it true that at the
8 direction of Mr. Montoya --

9 THE COURT: You're going to learn.

10 MS. MARGOLIN: I'm sorry.

11 THE COURT: Practice, practice, practice.

12 MS. MARGOLIN: I'm sorry, I'm sorry. Okay.

13 Q (BY MS. MARGOLIN:) Did Mr. Montoya direct you to send
14 marijuana in computer towers to Phats?

15 MS. SHEMITZ: Objection. Again, vague as to time.

16 MS. MARGOLIN: I'm sorry. I'll rephrase it.

17 THE COURT: No, just tack on a date or a year.

18 MS. MARGOLIN: Yeah, yeah.

19 Q (BY MS. MARGOLIN:) On August 26, 2008, did Mr. Montoya
20 direct you to send marijuana in computer towers to Phats?

21 A Are you talking about FedExing them out or you talking
22 about actually packaging and doing -- I'm confused as to your
23 question.

24 Q Okay. What did Mr. Montoya direct you to do with respect
25 to that package on August 26th of 2008?

1 A I was just given an address by Mr. Montoya and I was told
2 to FedEx it. The package was done by your -- by Defendant
3 Kleinman.

4 Q Okay. Now, you were paid in money in addition to getting
5 your marijuana; isn't that correct?

6 A That's not correct.

7 MS. MARGOLIN: Okay. May I just have a moment, your
8 Honor?

9 May I show the witness Government Exhibit 71,
10 please?

11 THE WITNESS: Thank you.

12 Q (BY MS. MARGOLIN:) Okay. Ms. Thabet, what does it mean
13 that, you know, where you said, "Even the 2 gees you paid me
14 with" -- I'm sorry.

15 THE COURT: Be more specific. Where in this
16 document --

17 THE WITNESS: Oh, I'm sorry.

18 Q (BY MS. MARGOLIN:) Drawing your attention to the
19 November 14, 2008, e-mail between yourself and Mr. Montoya, you
20 indicated --

21 THE COURT: Date -- what was the time?

22 MS. MARGOLIN: Oh, I'm sorry, at 10:52 P.M. Thank
23 you. I apologize.

24 THE COURT: Thanks.

25 Q (BY MS. MARGOLIN:) When you said, "And even the 2 gees

1 you paid me with," were you referring to something other than
2 money?

3 A This was the time where they were all in the Philippines.
4 I was left with \$2,000 for turkey bags, burner phone cards,
5 minutes, and things of that sort. So was it money? Yes. Was
6 it payment directed just for me? No.

7 Q You're saying they left you with \$2,000 for supplies?

8 A \$2,000. I was left with both Mr. Montoya as well as
9 Mr. Kleinman's burner phones and they were going to run out of
10 minutes. We needed turkey bags. I was also living in The Spot
11 at the time, so there were bills and other things that were
12 also due, so that's what that money was for.

13 Q Okay. And Mr. Montoya was your boyfriend the time that
14 you worked at NoHo, correct?

15 A That is correct.

16 Q Okay. And you never asked him to pay you actual money?

17 A Mr. Montoya paid my rent as well as my bills, and I also
18 worked with the security company, so, no. I was compensated in
19 marijuana, yes. I was given cash here and there. It was not
20 payment. It was pocket money that Montoya would give me.

21 Q Okay. And the rent, was that something other than paid
22 with money?

23 A The rent was paid for by Mr. Montoya and Mr. Kleinman
24 because, again, there was a safe with marijuana there.

25 Q And your bills?

1 A My bills were paid for by Mr. Montoya.

2 Q Okay. With money, correct?

3 A That's correct.

4 Q Okay. So when you say you didn't get paid, you mean that
5 you only got pocket change directly and that your bills were
6 directly paid for? That's what you're saying?

7 A My bills were paid. My rent was paid. Food was taken
8 care of because I was with Mr. Montoya or with Mr. Kleinman
9 most of the days. My cigarettes were purchased, so I was
10 pretty well taken care of, yes.

11 Q So now -- sorry for going back -- going back to your
12 description of Mr. Montoya as a silent partner, drawing your
13 attention to -- let me make sure I'm on the right exhibit.

14 MS. MARGOLIN: Your Honor, I have a exhibit but I
15 have it by -- I believe it's Government 119 by the page number
16 at the bottom. She was previously shown it on the screen, so
17 may I just show her what I'm talking about?

18 THE COURT: The spreadsheets?

19 MS. MARGOLIN: Yes.

20 THE COURT: Just indicate -- what's the number at
21 the bottom of the page?

22 MS. MARGOLIN: 87, 88, 89.

23 THE COURT: Okay.

24 THE COURTROOM DEPUTY: Wait. One at a time.

25 Q (BY MS. MARGOLIN:) Have you reviewed those?

1 A Yes.

2 Q Okay. So pages 87 through 93, those all have to do with
3 Mr. Montoya's what? Explain to us.

4 A I'm sorry. Mr. Montoya's what?

5 Q I don't know. I want you to explain to us what these
6 pages refer to, Mr. Montoya pages. The total balance is
7 112,000?

8 MS. SHEMITZ: Objection. Vague.

9 THE COURT: Overruled.

10 THE WITNESS: Okay. So the first line was a return
11 to vendor.

12 Q (BY MS. MARGOLIN:) Well, I'm actually asking for a
13 description of what -- you don't have to go line by line. But
14 for example, at the top what is, "Total balance 101,027"? What
15 does that mean on page 87 at the top, the top of 87 "total
16 balance"?

17 A I understand, but I actually need to look at it so I can
18 give you an accurate answer. If you would just give me one
19 second. That is the money that is owed to Mr. Montoya.

20 Q And it's owed for what?

21 A It's owed for work or marijuana he picked up from on
22 vendors he dealt with or one particular vendor he dealt with.

23 Q And turning your attention to page 92 at the top "Total
24 balance 138,065, Pnutnew," can you please explain what that
25 means?

1 A If you look at the top line, there's a balance transfer
2 from the one you just had, so there was just some more things
3 added to it. The initial books that you have of Pnut ended
4 and, therefore, Pnutnew was created. The balance transfer from
5 the old books, which I'm holding, is -- was transferred on the
6 top of the line and there were things added to that.

7 Q Okay. And with respect to pages 87 through 93, would it
8 be fair to say you didn't put in anything relating to these
9 books, make any entries?

10 A That is correct, other than when, again, they were in the
11 Philippines and I believe I had made one or two entries in
12 here.

13 Q Okay. Turning your attention now to page 153 of
14 Government Exhibit 119, do you see that page?

15 A Yes, I do.

16 Q Okay. Can you please read for us where it says "total
17 owed" and then how much was owed to Old Chuckle?

18 A All money owed is --

19 Q I asked for how much money owed to Old Chuckle.

20 MS. SHEMITZ: Objection. Assumes facts not in
21 evidence. It's not what it says.

22 THE COURT: I don't know if that -- are you asking
23 her just to read what the page says?

24 MS. MARGOLIN: Well, it says "total owed" and then
25 there's an entry of different people. So I'd say yeah, that's

1 what I'm asking her to read. I mean, maybe I'm not
2 understanding it correctly but --

3 THE COURT: Well, aside from the fact that the
4 document speaks for itself, if you're asking her independent
5 recollection of this document, that's different.

6 Q (BY MS. MARGOLIN:) Okay. Did you prepare this document?

7 A No, I did not.

8 Q Okay. I'll move on. Now, with respect to NoHo
9 Caregivers, were you familiar with -- tell us what you were
10 familiar with there in terms of documents.

11 A Can you be a little clearer?

12 Q Yes. What kinds of documents did you deal with at NoHo
13 Caregivers?

14 A Documents such as labels? As what? You talking about the
15 books? Are you talking about the back door end of things? Are
16 you talking about the front door?

17 Q Let me ask -- well, let me ask you that. In your e-mails
18 between you and Mr. Montoya, you never used the word "back
19 door," correct?

20 A I don't recall, but I don't believe so.

21 Q Okay. Did anybody tell you to use that term when
22 testifying?

23 A No.

24 Q Okay. So I was asking you what documents you were
25 familiar with relating to NoHo Caregivers. You said labels.

1 Give me an example. Tell me --

2 A Yeah. There was labels, there were sign-in sheets, there
3 were recommendations, there were applications, there was --

4 MS. SHEMITZ: Objection, your Honor.

5 THE COURT: This is so irrelevant.

6 MS. MARGOLIN: I'm getting to the relevant portion.

7 THE COURT: Please.

8 MS. SHEMITZ: It's irrelevant and in violation of
9 the Court's prior ruling of the in limine motion. I'd move to
10 strike.

11 MS. MARGOLIN: That's not --

12 THE COURT: All right. Let's get there, please.

13 MS. MARGOLIN: Okay. All right.

14 Q (BY MS. MARGOLIN:) When individuals came to NoHo
15 Caregivers, would it be fair to say they signed a document
16 saying that --

17 MS. SHEMITZ: Objection.

18 Q (BY MS. MARGOLIN:) -- their transaction wasn't a sale?
19 That's all -- that's --

20 MS. SHEMITZ: Objection. Relevance.

21 MS. MARGOLIN: Same thing as before.

22 MS. SHEMITZ: I'm sorry, Debi.

23 THE COURT: I'm going to permit her to answer that
24 question, but -- all right. Go ahead. Go. Answer.

25 THE WITNESS: I'm sorry. Could you repeat that?

1 THE COURT: When people came through the front door,
2 did they sign some document saying "This is not a sale"?

3 THE WITNESS: I don't believe that's the exact
4 wording of what was said, no.

5 MS. MARGOLIN: Okay. May -- may I approach? Well,
6 I'd like to -- or may I have Ms. English approach with an
7 impeachment material I'd like her to look at?

8 THE COURT: That doesn't impeach.

9 MS. MARGOLIN: I'm sorry?

10 THE COURT: That doesn't impeach. You could have
11 the Declaration of Independence in your hand. That doesn't
12 mean that when people walked through the door they were handed
13 that document and told to sign it.

14 MS. MARGOLIN: I understand. But I believe that
15 she --

16 THE COURT: And you know what else? This case isn't
17 about them, is it?

18 MS. MARGOLIN: Okay. I'll just ask one more
19 question, move on.

20 THE COURT: Good.

21 Q (BY MS. MARGOLIN:) Isn't it true that when people came
22 through the front door, they also signed the agreement saying
23 that they jointly owned all the marijuana there?

24 MS. SHEMITZ: Objection. Asked and answered.

25 MS. MARGOLIN: It's a different question.

1 THE COURT: She means it's been asked and answered
2 by a different witness.

3 MS. MARGOLIN: For a different --

4 MS. SHEMITZ: No, no.

5 MS. MARGOLIN: With a different location.

6 THE COURT: Go ahead.

7 THE WITNESS: The forms that were used for people to
8 sign upon coming in was not saying that they jointly owned. It
9 was saying that they were agreeing that NoHo was their
10 caregiver and that anything they were doing was per a donation,
11 which in fact was not accurate. Those --

12 MS. SHEMITZ: Objection, your Honor. 403.

13 THE COURT: Sit down.

14 MS. SHEMITZ: Move to strike. Relevance.

15 THE COURT: What? Come here.

16 (At sidebar out of the presence of the jury:)

17 THE COURT: We have one of those situations where we
18 got one attorney going down a road with a hostile witness who
19 may say anything and who is about to blow her up, and you're
20 objecting.

21 MS. SHEMITZ: Well --

22 THE COURT: Well, what? There's a time.

23 MS. SHEMITZ: Because defense counsel's line of
24 questioning is designed to elicit the following information:

25 This is a place where patients come.

1 THE COURT: Uh-huh.

2 MS. SHEMITZ: They want medicine.

3 THE COURT: Uh-huh.

4 MS. SHEMITZ: They were there to sign forms, to
5 designate the store their caregiver, etc. --

6 THE COURT: Yes.

7 MS. SHEMITZ: -- indicating --

8 THE COURT: She's about to blow her up. Are you
9 listening to her?

10 MS. SHEMITZ: Who up? How so?

11 THE COURT: She's about to say that this paperwork
12 is BS.

13 MS. SHEMITZ: Well --

14 THE COURT: I know. I know. I know sometimes you
15 just let people shoot themselves.

16 MR. LAWRENCE: Your Honor?

17 THE COURT: Yes. What are you doing in this? Go
18 sit down. You got nothing to this.

19 MS. MARGOLIN: Okay. Well, I think that I should be
20 able to allow -- the Court already knows my strategy. It's not
21 about the medical marijuana stuff. It's the joint ownership
22 thing, okay?

23 THE COURT: Mr. Montoya's already said that's BS.

24 MS. MARGOLIN: First of all, it was a different
25 location. I just want to get in at the time there was only one

1 document and the document ownership says it's jointly owned.
2 That's all I have.

3 MS. SHEMITZ: Wait a minute. Wait a minute. You
4 have a document from NoHo --

5 MS. MARGOLIN: Yes.

6 MS. SHEMITZ: -- that says it was joint owned?

7 MS. MARGOLIN: Yes. Sure.

8 MS. SHEMITZ: I'd like to see that. I haven't seen
9 it.

10 THE COURT: Okay. I didn't see that one.

11 MS. MARGOLIN: That's all I'm doing.

12 THE COURT: Okay. Wait. This isn't going to work
13 out well for you.

14 MS. MARGOLIN: I'm done -- I'm done with -- that's
15 all I needed to get in was this document that it was jointly
16 owned.

17 MS. SHEMITZ: Could we see it, please?

18 MS. MARGOLIN: I'm happy to show it to you.

19 MR. KOWAL: Just to clear up, the witness was giving
20 a nonresponsive answer. She was -- whether it was from defense
21 counsel's question or not, Ms. Shemitz's objection was 403,
22 relevance, that it was nonresponsive, she was going into things
23 that were relevant certainly to the theory that defense counsel
24 has just elicited. So we would request that the last question
25 be struck. If defense counsel wants to ask that limited

1 question and the Court's going to allow it, can we please stick
2 to that limited topic about joint ownership?

3 MS. MARGOLIN: Yes.

4 MR. KOWAL: And then we'll try to make sure we stay
5 to that. Certainly don't want this whole narrative about
6 the --

7 MS. SHEMITZ: What documents were -- she was --

8 MR. KOWAL: May not have been defense counsel's
9 fault. It may have been a nonresponsive answer from the
10 witness. But it certainly -- it doesn't seem to be relevant to
11 defense counsel's theory, so we would ask it be stricken.

12 MS. MARGOLIN: The reason I asked her about the
13 document's because if I had just asked her about this, she
14 would say -- I had to get her to say this is part of the
15 documents, otherwise she probably would have said she doesn't
16 even recognize it.

17 THE COURT: So that's where you're going with these
18 documents?

19 MS. MARGOLIN: That what I'm doing. She keeps
20 saying -- okay. I'll show it to her and say, "Is this what the
21 thing said?" And that's better for me because that's what it
22 says. That's all I want to get out, it's jointly owned.

23 MR. KOWAL: Again, your Honor, we would request that
24 the last answer be struck.

25 THE COURT: Hang on. Hang on. Hang on. Hmm,

1 there's no answer recorded to the question about when they come
2 in the -- that they have to sign a document saying if the
3 transactions's not a sale. There's no answer. Drop it.

4 But anyway, I know she was about to just completely blow
5 that theory up and here you guys are jumping up and down.

6 MR. KOWAL: Well, she was talking about other things
7 that were inappropriate and she was talking, and as Ms. Shemitz
8 pointed out -- you said that there's no answer and maybe we
9 could just get it struck. And I would propose that defense
10 counsel simply ask, "Do you recall if there was a -- if there
11 was a agreement that all the marijuana was jointly owned?" If
12 she says no, she doesn't recall that, she can show her the
13 document and we'll see her answer and then Ms. Shemitz can deal
14 with it on redirect like we did on Mr. Montoya.

15 MS. MARGOLIN: That's fine. That's great.

16 MR. KOWAL: But all this other stuff she was talking
17 about, we would like to start with we'd like stricken the last
18 answer --

19 THE COURT: There's no answer.

20 MR. KOWAL: -- start again.

21 MS. MARGOLIN: I accept your proposal. That sounds
22 excellent.

23 MR. KOWAL: We were here in the courtroom. She was
24 saying stuff when Ms. Shemitz had to jump up, so I don't know
25 if the court reporter got it, but --

1 THE COURT: What were you saying?

2 MS. SHEMITZ: She started to describe the variety of
3 documents that were used at NoHo for patient entry, log sheets
4 and so forth, recommendations.

5 THE COURT: Okay.

6 MS. SHEMITZ: I mean --

7 THE COURT: I see your point. Okay. I didn't see
8 it going in that direction, but okay. All right. So we clear
9 how we're going to do it?

10 MS. MARGOLIN: I'm very happy to do it the way he
11 proposes.

12 MR. KOWAL: And can we strike the last answer?

13 THE COURT: I don't know how she'll do it. I'll
14 just tell Deb.

15 MR. KOWAL: Thank you.

16 THE COURT: All right.

17 (Open court in the presence of the jury.)

18 THE COURT: All right. Ladies and gentlemen, to the
19 extent you can remember the last answer, it is stricken. You
20 are instructed to disregard it and not take it into
21 consideration during the course of your deliberations.

22 All right. Ms. Margolin. Turn the mike off.

23 Q (BY MS. MARGOLIN:) Okay. I'll try this again.

24 Ms. Thabet, when individuals entered NoHo Caregivers, they had
25 to sign some type of agreement, is that true?

1 A Front door customers, yes.

2 Q Okay. And as part of that agreement, they agreed that
3 their contributions to NoHo for any products are used to ensure
4 the continued operation of it and that any transaction in no
5 way constitutes commercial promotion or sale --

6 MS. SHEMITZ: Objection, your Honor.

7 Q (BY MS. MARGOLIN:) -- is that correct --

8 THE COURT: Overruled.

9 Q (BY MS. MARGOLIN:) -- that that was part of the agreement
10 they signed?

11 A Can you repeat the last sentence of what you just said?

12 MS. SHEMITZ: Objection, your Honor. This
13 completely controverts what was decided at sidebar.

14 THE COURT: I thought this is the way you decided to
15 proceed.

16 MS. SHEMITZ: No, that's not the question that you
17 authorized asked.

18 MS. MARGOLIN: There are two --

19 THE COURT: I think it's going to be fine. Go
20 ahead.

21 MS. MARGOLIN: Want me --

22 THE COURT: Read the last phrase, please.

23 Q (BY MS. MARGOLIN:) Yeah. The last phrase, "In no way
24 constitutes commercial promotion or sale of any item," was that
25 part of the agreement?

1 A Probably. I don't have that in front of me. It's been
2 years so --

3 Q Okay. Would it refresh your recollection to view the
4 agreement?

5 A Sure.

6 MS. MARGOLIN: Okay. Can I mark it as an exhibit
7 or -- I'd like to mark NoHo Caregivers' agreement as
8 Exhibit 128.

9 THE COURT: Higher than that, isn't it? I think.
10 Pretty sure it is.

11 MR. KOWAL: It'll be Defense Exhibit 5.

12 MS. MARGOLIN: The Court asked me --

13 THE COURT: Time out. Time out. Let me get one
14 thing clear. We don't have Government exhibits and defense
15 exhibits. There's one list of exhibits and they're mine.

16 MS. MARGOLIN: Yeah.

17 THE COURT: All right. Where are we at?

18 MR. KOWAL: Going to be 130.

19 THE COURT: 130?

20 MS. MARGOLIN: Thank you. Thank you, Mr. Kowal.

21 (Exhibit 130 marked for identification.)

22 MS. MARGOLIN: May I ask the second question before
23 we approach to make it a little easier?

24 THE COURT: Okay.

25 Q (BY MS. MARGOLIN:) Okay. In a moment we'll allow you to

1 see the agreement. I'm just going to ask you one more
2 question.

3 When individuals enter, customers enter NoHo Caregivers,
4 they also sign the agreement indicating that they authorize the
5 entity to jointly possess the marijuana jointly with other
6 members of NoHo Caregivers under membership agreements, and
7 also that any marijuana possessed by NoHo Caregivers is the
8 collective property of everyone who is also under the
9 membership agreement and the property of NoHo Caregivers; was
10 that also part of the agreement?

11 A Sounds about right, yes.

12 Q Okay. And with respect to the other clause that you said
13 you needed to refresh your recollection -- may I have the --
14 may Ms. English please refresh her recollection?

15 THE COURT: Please.

16 THE COURTROOM DEPUTY: Come around. Come around.
17 Come around.

18 MS. MARGOLIN: Sorry.

19 Q (BY MS. MARGOLIN:) Ms. Thabet, drawing your attention to
20 Paragraph 6 of the NoHo Caregivers agreement, does that refresh
21 your recollection?

22 A Uhm, yes.

23 Q Okay. And with respect to that agreement, was that -- the
24 agreement you're looking at -- was that the agreement that the
25 individuals had to sign when they came into NoHo?

1 A Yes.

2 Q Okay. So having refreshed your recollection, is it true
3 that individuals that came into NoHo Caregivers signed an
4 agreement saying that this transaction did not constitute a
5 sale?

6 A They could sign whatever they want. They paid for it.

7 Q No. I asked you a question whether or not that was signed
8 by the individuals who came into NoHo Caregivers, a yes or no
9 answer.

10 A Front door customers, yes.

11 MS. MARGOLIN: Okay. May I have just a moment? I
12 think I'm almost done.

13 THE COURT: Okay. Can I do the redirect?

14 MS. SHEMITZ: No.

15 MS. MARGOLIN: I have no further questions.

16 THE COURT: Okay.

17 THE COURTROOM DEPUTY: You need it, Julie?

18 MS. SHEMITZ: Yes.

19 MS. MARGOLIN: I'm sorry. I'd like to move -- I'm
20 sorry. Thank you.

21 THE COURT: You should rethink the whole thing. 130
22 into evidence? Is that what you want?

23 MS. MARGOLIN: Yes, your Honor. And later on I have
24 to move in something else in evidence.

25 MS. SHEMITZ: Objection.

1 THE COURT: Right. We will defer the discussion on
2 that till the later time.

3 MS. MARGOLIN: Your Honor, may I also move into
4 evidence the -- I'm sorry. May I just have a moment to confer
5 with counsel, your Honor?

6 THE COURT: Sure, all you want. But the train pulls
7 out of the station. Go. What?

8 MS. MARGOLIN: Your Honor, I'm sorry. I had one
9 more question to ask her. I apologize. May I just have a
10 moment?

11 THE COURT: What's your question?

12 MS. MARGOLIN: Okay.

13 Q (BY MS. MARGOLIN:) You worked at TRC also; is that
14 correct?

15 THE COURT: Oh.

16 THE WITNESS: That's not correct.

17 MS. MARGOLIN: Okay. No more questions.

18 THE COURT: I've lost control. What?

19 THE COURTROOM DEPUTY: Yes, you did. Yes.

20 THE COURT: I apologize. Jesus. Okay.

21 REDIRECT EXAMINATION

22 BY MS. SHEMITZ:

23 Q Ms. Thabet, this spreadsheet for Pnut you testified was
24 for Mr. Montoya; is that correct?

25 A That is correct.

1 Q Okay. And what -- in the line 3, what does that
2 designate? What does that denote?

3 MS. MARGOLIN: Objection. Foundation. Personal
4 knowledge.

5 THE COURT: Overruled.

6 THE WITNESS: What that means is there was a total
7 of a little less than three pounds that were purchased of 213
8 OG.

9 Q (BY MS. SHEMITZ:) Purchased by who?

10 A Purchased by Mr. Montoya.

11 Q Okay. And the price?

12 A Price is \$4500 a pound.

13 Q And do you see at the far right of the spreadsheet there's
14 a K?

15 A Yes, I do.

16 Q What does that mean?

17 A That means that that 123 OG was given to me.

18 Q And -- can you scroll down a little bit to -- let's see --
19 line 16.

20 Okay. Do you know what this means?

21 A There was a payment that was given for Wu Tang.

22 Q What do you mean "given for"?

23 A Wu Tang is a grower and he had a grow house that was in
24 downtown L. A. It was a church converted into a grow house.
25 And so this \$12,000 was a payment for marijuana he had grown.

1 Q So are you saying this was a purchase of marijuana from
2 Wu Tang?

3 A It's saying "PN," which means Paul and Noah, "Wu's cut."
4 So means that there's a three-way split between Paul, Noah, and
5 Wu Tang for the weed that was grown.

6 Q Okay. But what does the payment mean? I mean, where did
7 the payment go?

8 A It was from the marijuana that was sold and they evenly
9 distributed the proceeds after the costs for growing it.

10 Q Okay. And then the next line, line 17, what is that
11 about?

12 A There was return to vendor worth \$10,000 to lower the
13 debt.

14 Q So can you explain what that means?

15 A RTV means marijuana that was picked up by -- from
16 suppliers, and so what it means is it was returned. And what's
17 written right here was these pounds were returned to reduce the
18 debt.

19 Q Okay. Debt to the seller?

20 A Debt to the supplier.

21 Q Okay. Go to line 19. What does this mean?

22 A It is another return to vendor. Most of -- do you mind if
23 I make a quick comment?

24 Q No. Go ahead.

25 A Okay. Most of Pnuts' books, which is Mr. Montoya, they're

1 all dealings with Bill, which was someone that only Mr. Montoya
2 was dealing with. So Bill would give the marijuana to
3 Mr. Montoya, so they would go on to Mr. Montoya's books because
4 the deal between Bill and Mr. Montoya was that Mr. Montoya was
5 responsible for the weed Bill was giving him, not NoHo, not
6 anyone else, just Mr. Montoya. So therefore, they went on
7 Paul's books. So a lot of the time when you see the 213, the
8 818, the BGK, a lot of these strains, these are all Bill's
9 strains. And so this amount that's owed is technically money
10 that's owed to Bill, but it's under Paul's books because Paul
11 was responsible for this money. So when there's RTVs, the weed
12 was returned back to Bill to reduce the debt because the debt
13 was getting too high.

14 Q Okay. And in line 22?

15 A It was another return to vendor.

16 Q What does "Money orders project W" mean?

17 A Money orders were taken or were -- since -- returned to
18 vendor. There were money orders that were given back and it
19 went to project W which is project Wu Tang.

20 Q Now, with respect to all of these books that you've been
21 talking about today, how did you learn about the books?

22 A I was taught how to utilize the books by Mr. Kleinman, the
23 defendant, because they were leaving and they wanted -- I was
24 trusted enough to maintain the books while they were gone. So
25 that is how I learned about them.

1 Q Okay. And after you learned about them, did they ask you
2 to participate in keeping those books?

3 MS. MARGOLIN: Objection. Leading.

4 THE COURT: I'm going to permit it.

5 Go ahead.

6 THE WITNESS: I maintained the books whether I had
7 the laptop or -- I'm sorry -- the laptop or not, and that was
8 when I was dropping off marijuana or dealing with other people.
9 When the laptop was not present, I was still writing it on
10 Post-its or on papers or texting or calling them in to the
11 defendant so he could put them into the books. So in a sense,
12 yes, I was still responsible for maintaining books.

13 MS. SHEMITZ: Your Honor, could the witness be shown
14 Exhibit 127, please?

15 Q (BY MS. SHEMITZ:) Do you recognize that, Ms. Thabet?

16 A Yes, I do.

17 Q And what is that?

18 A That is my plea agreement.

19 Q Okay. I'm going to ask you to take a look at
20 Paragraph 2-G on page 2.

21 A Yes.

22 Q Just read that to yourself and tell us if you remember it.

23 A Yes, I do.

24 Q And what does it say?

25 A It says that part of my agreement is that I will always be

1 honest and be truthful with the Court, Probation, and Pretrial
2 Services.

3 Q Okay. And could you take a look now at Exhibit 4 -- I'm
4 sorry -- page 4, Paragraph 4-A. Just read that to yourself.
5 Do you remember that?

6 A Yes, I do.

7 Q Okay. Without -- without reading it, can you tell us what
8 you remember about what it says?

9 A It says that I will respond truthfully whether in court
10 and in grand jury or being asked any questions.

11 Q Okay. And finally, take a look at Paragraph 7-E on
12 page 8. Do you recall that?

13 A Yes.

14 Q And what does that provision say?

15 A It means whether my assistance helps or doesn't, and
16 whether this trial is a win or lose, my responses don't affect
17 anything.

18 Q Okay. So with respect to this agreement, the terms of
19 this agreement, would -- does the outcome of this proceeding
20 have any bearing on your agreement?

21 A Not at all, no.

22 Q Okay. Now, defense counsel asked you to take a look at
23 the NoHo Caregivers agreement and you did. And you said that
24 there was a provision in here that said that all of the
25 marijuana was collectively owned. Was that true?

1 A No, it was not.

2 Q And how do you know that?

3 A Because people could not just walk off the street and say
4 they owned a part of it and walk out with it. That's why it
5 was kept in the back, in a safe, with a lock, and there was
6 only certain people permitted back there. Nothing was given
7 out unless it was sold.

8 Q Okay. And in order to get marijuana, did you have to
9 provide money?

10 A Absolutely.

11 Q So in Paragraph 6 of the agreement which you were also
12 asked about, where it says, "Any transaction in no way
13 constitutes commercial promotion or sale of any item," was that
14 true?

15 MS. MARGOLIN: Objection. Calls for a legal
16 conclusion.

17 THE COURT: Overruled.

18 THE WITNESS: No, that's not true.

19 Q (BY MS. SHEMITZ:) Okay. And how do you know that?

20 A Because everything was for sale in there. There was
21 nothing that was given for free. There was no such thing as
22 donation, what you felt you should pay, you should pay. There
23 was a price for everything. And that's just what it was.

24 MS. SHEMITZ: I have nothing further, your Honor.

25 THE COURT: Any recross?

1 MS. MARGOLIN: Just give me a moment.

2 THE COURT: How long do you expect to be?

3 MS. MARGOLIN: Five minutes.

4 THE COURT: Go.

5 MS. MARGOLIN: Sure.

6 RE CROSS-EXAMINATION

7 BY MS. MARGOLIN:

8 Q Ms. Thabet, you haven't been sentenced yet in this case,
9 correct?

10 A That is correct.

11 Q Okay. And as part of your plea agreement, if the
12 government determines that you haven't provided substantial
13 assistance through your testimony, your deal could be off,
14 correct?

15 A That is not true at all.

16 Q Okay. Do you still have the exhibit in front of you?

17 A Yes, I do.

18 Q Okay. Can you please read page 7 lines 10 through 24?

19 THE COURT: I almost want to intercede and save us
20 some time.

21 MS. MARGOLIN: Okay.

22 THE COURT: It's my understanding this agreement is
23 no longer in place.

24 MS. SHEMITZ: No, this is the second agreement, your
25 Honor.

1 THE COURT: It's the CASA agreement?

2 MS. SHEMITZ: This is the CASA agreement.

3 THE COURT: Okay. I didn't know.

4 MS. MARGOLIN: That was nerve wracking.

5 THE COURT: Okay.

6 Q (BY MS. MARGOLIN:) Drawing your attention to page 7,
7 lines 10 through 25 --

8 THE COURT: I see it.

9 THE WITNESS: You want me to read it out? Is that
10 what you asked me to do?

11 Q (BY MS. MARGOLIN:) Well, can you read it to yourself
12 first?

13 A Sure.

14 Q So -- have you read it?

15 A Okay.

16 Q Okay. So it says that only if the USAO -- who's the USAO?

17 A The United States Attorney.

18 Q So the agreement says that if they determine --

19 MS. SHEMITZ: Objection, your Honor. She can't
20 read -- it's not in evidence. Not in evidence.

21 THE COURT: Okay. You're right.

22 MS. SHEMITZ: Can't be read from.

23 THE COURT: Okay. You're right. Just ask her --

24 MS. MARGOLIN: Sure.

25 THE COURT: -- her understanding.

1 Q What (BY MS. MARGOLIN:) What is your understanding, then,
2 of the substantial assistance clause?

3 A My understanding is whether I offer substantial assistance
4 or not, it has no bearing on my deal. I pled guilty before
5 anything. I was trying to proffer before I pled guilty and so
6 whether I offer substantial assistance or not, as long as I
7 tell the whole truth, that's all that matters.

8 Q Okay. So your understanding is that -- I'll leave it at
9 that.

10 I have no further questions -- or -- I'm sorry. I'm
11 sorry. Let me just -- your Honor, may I -- I know it's not in
12 evidence now, but -- I'll move on?

13 Ms. Thabet, isn't it true that this -- that this clause
14 says the following: "If the" --

15 MS. SHEMITZ: Objection.

16 MS. MARGOLIN: Impeachment.

17 THE COURT: Impeachment, no. We ask what her
18 understanding was. How do you impeach?

19 MS. MARGOLIN: Okay. I have nothing further.

20 THE COURT: Good.

21 MS. MARGOLIN: Thank you.

22 THE COURT: All right. We're going to take a break,
23 ladies and gentlemen, until 20 of the hour. Please, remember
24 the admonition.

25 THE COURTROOM DEPUTY: All rise.

1 (A recess was taken.)

2 THE COURTROOM DEPUTY: All rise. You may be seated.
3 This Court is once again in session.

4 MS. SHEMITZ: The witness will be here in one
5 moment, your Honor.

6 THE COURT: All right. Counsel, the defendant, the
7 jury is present. Thank you. Casey Wheat.

8 **CASEY BAUER WHEAT, GOVERNMENT'S WITNESS, WAS SWORN**

9 THE COURTROOM DEPUTY: Please be seated.
10 Please state your full name for the record.

11 THE WITNESS: Casey Bauer Wheat, B-a-u-e-r, last
12 name W-h-e-a-t.

13 MS. SHEMITZ: Thank you, your Honor.

14 DIRECT EXAMINATION

15 BY MS. SHEMITZ:

16 Q Mr. Wheat, how old are you?

17 A I'm 43.

18 Q And what do you do for a living?

19 A I teach surf lessons.

20 Q Have you ever been convicted of a crime?

21 A Yes.

22 Q What and when?

23 A Uhm, possession of OxyCoton[sic], a wet reckless, two
24 DUIs, this case.

25 Q And -- and -- what -- before this case, during what period

1 were those other convictions?

2 A It all started in 2009. Before that, no. Speeding
3 tickets.

4 Q Okay. And have you plead guilty in this case?

5 A Yes.

6 Q And what did you plead guilty to?

7 A Distribution of marijuana.

8 Q All right. And have you been sentenced?

9 A Yes, I have.

10 Q And what sentence did you receive?

11 A I received six months at Vinewood --

12 MS. MARGOLIN: Objection. Move to strike.

13 THE COURT: Come.

14 (At sidebar out of the presence of the jury:)

15 THE COURT: I shouldn't, but okay. Maybe you know
16 something I don't. I'm telling you, you guys are something.
17 You guys object when you shouldn't. All right. If you're
18 worried about the fact that they should not be considering
19 penalties -- is that it? Okay. Yes or no?

20 MS. SHEMITZ: Yes.

21 THE COURT: Is that it?

22 MS. SHEMITZ: Yes. I'm sorry --

23 THE COURT: You want to let this guy talk. You
24 should let him go. He's got the sweetest deal other than --

25 MS. MARGOLIN: I know, but that's not good for us.

1 It suggests that's what our client was guilty -- I know what
2 you're saying. It goes both ways. It goes both ways.

3 MS. SHEMITZ: We don't need it. I'll withdraw it.

4 MR. KOWAL: We agree to strike it.

5 MS. SHEMITZ: We agree to strike it. It's fine.

6 MS. MARGOLIN: Yeah.

7 THE COURT: You're right. Okay.

8 MS. MARGOLIN: Okay.

9 (Open court in the presence of the jury.)

10 THE COURT: All right. The witness's last response
11 with the fact about his sentence is stricken. Jury's
12 instructed to disregard it. Do not consider it in connection
13 with your deliberations.

14 Q (BY MS. SHEMITZ:) Okay. Prior to being sentenced, were
15 you addicted to drugs?

16 A Yes, I was.

17 Q And what drugs?

18 A OxyCoton.

19 Q And when did you start using drugs? How old were you?

20 A Hmm, about 18 years old.

21 Q And when did you stop using drugs?

22 A I'm going on 10 months sober.

23 Q Were you using drugs during the time period for which you
24 were charged in this case?

25 A Yes, I was.

1 Q And were you also selling drugs?

2 A Yes, I was.

3 Q Do you know Noah Kleinman?

4 A Yes.

5 Q How do you know him?

6 A I met with Noah, uhm, through an associate, James, who
7 gave me an encrypted BlackBerry. I called him to -- for
8 distribution of marijuana. I met with him at Islands Burgers
9 in Huntington Beach on Beach Boulevard and Edinger off the 405
10 Freeway.

11 Q Okay. Do you recall approximately when that was?

12 A Uhm, around 2007. 2007, 2008.

13 Q Okay. Do you see Mr. Kleinman in the courtroom today?

14 A Yes, I do.

15 Q Could you point him out, please?

16 A He's in the middle of the -- in the middle next to his
17 attorney.

18 MS. SHEMITZ: Okay.

19 THE WITNESS: I don't want to point, but --

20 THE COURT: What color's his suit?

21 THE WITNESS: It's light cream.

22 THE COURT: All right. The record will reflect that
23 he's indicating the defendant.

24 Q (BY MS. SHEMITZ:) What were the circumstances of your
25 meeting with him at Islands?

1 A Distribution of marijuana.

2 Q Okay. But give us a little bit more background. Why did
3 you meet with him? Who set it up and --

4 A James asked me if I still had a connection for
5 distribution. I said yes. He said he had someone that was
6 doing it, needed it, and he gave me the BlackBerry, and which I
7 contacted him. We met up --

8 Q Wait, wait, wait.

9 MS. MARGOLIN: Objection. Move to strike.
10 Narrative.

11 THE COURT: All right. Sustained.

12 What I want you to do, Mr. Wheat, is just listen very
13 carefully to the question asked and just respond strictly to
14 that question. If follow-up is needed, counsel will ask
15 another question.

16 THE WITNESS: Okay.

17 Q (BY MS. SHEMITZ:) Oh, I think I asked you what were the
18 circumstances of the meeting. And who set up the meeting?

19 A James.

20 Q And who was James?

21 A James was an associate of mine that I worked with in early
22 2000.

23 Q And when you say associate, you mean associate in the drug
24 business?

25 A Correct.

1 Q Okay. And why did James introduce you to Mr. Kleinman?

2 MS. MARGOLIN: Objection. Calls for speculation.

3 THE COURT: Sustained.

4 Q (BY MS. SHEMITZ:) Do you know why James introduced you to
5 Mr. Kleinman?

6 A Why he introduced me to him, I believe, is because --

7 Q Don't tell me what you believe. Just do you know if --
8 why he introduced you to Mr. Kleinman?

9 A 'Cause he wanted me to distribute marijuana for him.

10 Q Who wanted you to distribute marijuana for him?

11 A James was -- was introducing me to Noah for distribution,
12 'cause he needed and he knew that I could provide that.

13 Q Who -- who needed the distribution that you were going to
14 provide?

15 MS. MARGOLIN: Objection. Speculation.

16 THE WITNESS: The defendant.

17 THE COURT: Sustained.

18 MS. SHEMITZ: I'm trying to get the he and the who,
19 your Honor.

20 THE COURT: Uh-huh, I know.

21 MS. SHEMITZ: Okay.

22 THE COURT: But I think everybody knows already by
23 now.

24 MS. SHEMITZ: Okay.

25 Q (BY MS. SHEMITZ:) For whom were you going to provide

1 distribution services?

2 A The defendant.

3 Q And when you met with the defendant, did he tell you what
4 he wanted you to do?

5 A Yes.

6 Q What did he tell you?

7 A That he wanted to ship marijuana back east.

8 Q Do you recall specifically where back east?

9 A Pennsylvania and New York.

10 Q And were you able to arrange shipping for him?

11 A Yes, I was.

12 Q And how were you able to do that?

13 A Through a shipping company.

14 Q And did you have a connection to that shipping company?

15 A Yes, I did.

16 Q What was your connection to the shipping company?

17 A A friend of mine in Huntington Beach.

18 Q What do you mean by that?

19 A Uhm, a friend that I knew who I talked to and he said if I
20 ever needed to that he could provide it because he had worked
21 at a shipping --

22 MS. MARGOLIN: Objection. Move to strike. Hearsay.

23 THE COURT: Sustained.

24 Q (BY MS. SHEMITZ:) Your friend that you're discussing now,
25 what was his name?

1 A Lonnie.

2 Q And Lonnie, what was his connection to the shipping
3 company?

4 A His father ran Dotline Shipping.

5 Q Okay. And you said that he had offered you something.
6 What did he offer you?

7 MS. MARGOLIN: Objection. Calls for hearsay.

8 THE COURT: Overruled.

9 Q (BY MS. SHEMITZ:) Go ahead.

10 A Could you repeat the question, please?

11 Q Did Lonnie offer you a service?

12 A Yes.

13 Q What service did he offer you?

14 A To move product from here to back east.

15 Q And when you say product, what do you mean?

16 A Marijuana.

17 Q Why did he make that offer to you?

18 MS. MARGOLIN: Objection. Calls for speculation.
19 Calls for hearsay.

20 THE COURT: Sustained.

21 Q (BY MS. SHEMITZ:) Do you know why Lonnie offered that
22 service to you?

23 A Uhm, he offered that service for a profitability, you
24 know, that I was, you know, involved and around people that
25 were making money.

1 MS. MARGOLIN: Objection. Move to strike.

2 Nonresponsive. Calls for speculation. Narrative.

3 THE COURT: I'm going to overrule that.

4 Q (BY MS. SHEMITZ:) All right. When you say that you were
5 around people involved in making money, what are you talking
6 about?

7 A Illegal activity.

8 Q What kind --

9 A Selling marijuana.

10 Q Okay. Now, the first time you met with the defendant, did
11 he ask you for a particular shipment? Were you talking about a
12 particular shipment to be sent at a particular time?

13 A No, not on the first meeting.

14 Q Okay. What did you discuss at the first meeting?

15 A We discussed the length, how long it would take to get
16 there, how much we would be paid for our services.

17 Q Okay. And how much were you to be paid for your services?

18 A 300 bucks -- \$300 a pound.

19 Q Uhm, did you actually arrange for the defendant to ship
20 marijuana to the East Coast?

21 A Yes, I did.

22 Q And approximately how many times did you make those
23 arrangements?

24 A Three.

25 Q And did you actually charge the defendant for the

1 shipping?

2 A Yes.

3 Q Was there a minimum quantity for the shipment?

4 A No.

5 Q Did you give the defendant any specific instructions about
6 how to pack the marijuana for shipment?

7 A Just to seal it multiple times, vacuseal so there'd be no
8 smell and no -- you know, no odor.

9 Q Okay. All right. And what type of container was the
10 marijuana shipped in?

11 A Wood container, a crate.

12 Q Okay. How did that crate get to the defendant?

13 MS. MARGOLIN: Objection. Personal knowledge.

14 THE COURT: Do you know?

15 THE WITNESS: Do I? Yes.

16 THE COURT: Do you know?

17 THE WITNESS: Yes.

18 THE COURT: Okay. Answer the question.

19 THE WITNESS: I rented a U-Haul two times.

20 Q (BY MS. SHEMITZ:) And what did you do with the U-Haul?

21 A The crate was already built, drove to Los Angeles, picked
22 up the product and shipped it.

23 Q Okay. When you say the crate was already built, who built
24 the crate?

25 A Myself and Lonnie.

1 Q And what did the crate look like?

2 A It was about four feet by four feet, just a box, a wood
3 crate.

4 Q A square?

5 A Just a square crate, yes.

6 Q Uh-huh. And do you have an idea of how much marijuana
7 could fit in the crate?

8 A We already knew how much we were shipping, so we built the
9 crate accordingly.

10 Q How much were you shipping that first time?

11 A I believe the first time was somewhere around 20, 30.

12 MS. MARGOLIN: Objection. Move to strike. Personal
13 knowledge.

14 THE COURT: Overruled.

15 Q (BY MS. SHEMITZ:) Did you follow basically the same
16 procedure for each of the three shipments?

17 A Yes.

18 Q Let's talk about the first time you picked up a shipment
19 for the defendant. Where did you go to pick up the shipment?

20 A In Los Angeles.

21 Q And do you know approximately where?

22 A It was in the Los Feliz area, I believe.

23 Q What kind of vehicle were you in?

24 A I was in a U-Haul.

25 Q And were you alone?

1 A No, I was not.

2 Q Who were you with?

3 A My friend Red.

4 Q And who was driving?

5 A I believe he was driving.

6 Q Okay. When you got to the pick up location, what
7 happened?

8 A We met with the people.

9 Q What people?

10 A I have no idea what their names were. It was the only
11 time I met them.

12 Q Okay. Was the defendant there?

13 A No, he was not.

14 Q Did the defendant tell you who you were going to be
15 meeting with?

16 A Yes.

17 Q And did you have trouble getting the truck onto the
18 property?

19 A It was a tight squeeze, but, yes.

20 Q Explain the layout of the property and why it was a
21 problem backing the truck in.

22 A It was single-story apartments probably about six deep
23 facing each other and there was a -- say, like a driveway
24 garden down the middle that had cement so you could drive down
25 the middle.

1 Q And what happened when you backed in there?

2 A We just backed up to the apartment.

3 Q Okay.

4 A Went in, opened the U-Haul, and then proceeded to put the
5 product in the U-Haul.

6 Q Are you talking about marijuana?

7 A Yes.

8 Q Okay. And when you put it in the U-Haul, did you just put
9 it right into the truck or did you put it into the crate?

10 A Into the crate.

11 Q Who put it in the crate?

12 A I believe we all were, you know, helping, yeah.

13 Q Okay. How many people met you at the location?

14 A I believe there was two people at the house, so my friend
15 Red, myself, two other people.

16 Q Can you describe the two other people?

17 A One was a lady, the other was a male. I can't -- it was
18 real brief.

19 Q After the marijuana was placed inside the crate, who
20 sealed it up?

21 A I believe I did.

22 Q And when you were done packing the crate, what did you do?

23 A We left.

24 Q Okay. Where did you go?

25 A We drove it to Dotline Shipping.

1 Q And what did you do at Dotlin Shipping?

2 A We signed a form and just dropped it off for shipping for,
3 you know, the location and just --

4 Q Who gave you the information about where to ship it?

5 A The defendant.

6 Q And do you know whether the crate was received?

7 A Yes, it was.

8 Q How do you know that?

9 A 'Cause I was paid half up front, half on delivery.

10 Q And did you receive your second payment?

11 A Yes, I did.

12 Q All right. Now with respect to the second shipment, do
13 you recall approximately when that was?

14 A Uhm, I would say 2009.

15 Q Okay. And how did you obtain the marijuana for that
16 shipment?

17 A That was provided by the defendant.

18 Q Did you have to go somewhere to pick it up?

19 A Yes, I did.

20 Q Where did you have to go?

21 A Los Angeles again.

22 Q And who gave you the address where to go?

23 A The defendant.

24 Q What type of location was it that you went to?

25 A Single-story house with a backyard, a gate in the back.

1 Q And where was the marijuana?

2 A In the house.

3 Q Did you go in the house?

4 A I didn't go in the house.

5 Q Okay.

6 A Stayed in the courtyard, the backyard.

7 Q How did you get the marijuana?

8 A It was handed to me in boxes.

9 Q By who?

10 A People that were there. Couldn't -- there was a few
11 people there, few more people this time, but I didn't go in the
12 house and couldn't even -- I know it was all males this time,
13 so --

14 Q Was the defendant there?

15 A No.

16 Q Where was this shipment going?

17 A Back east to Pennsylvania.

18 Q And who was involved in setting up this shipment?

19 A The defendant and I.

20 Q Now, for this shipment, were you using a truck?

21 A Once -- yes. I was in a U-Haul.

22 Q And who rented the U-Haul?

23 A I did.

24 Q And what happened when you got to the place where the
25 marijuana was? What happened when you went to pick up the

1 marijuana?

2 A On the second time?

3 Q Uh-huh.

4 A Yes. I was just handed the boxes, once again I put inside
5 the crate, sealed the crate, drove off in the U-Haul.

6 Q And did you take it somewhere?

7 A To Dotline Shipping.

8 Q What arrangements did you make for shipment?

9 A Same thing as before, fill out the shipping form, address,
10 and drop it off at the shipping yard.

11 Q In order to make this happen and be sure that you were not
12 detected, did you have to do anything special or talk to
13 anybody special?

14 A No.

15 Q After you delivered the crate this second time, did you
16 get stopped by law enforcement?

17 A Yes. On my way home from Los Angeles driving down Beach
18 Boulevard in Huntington Beach, I was pulled over by Huntington
19 Beach Police.

20 Q And what happened?

21 A He, uhm -- he just said my tags were expired. I was in a
22 U-Haul so -- and he didn't give me a ticket and that was about
23 it.

24 Q Did this second shipment make it to its destination?

25 A Yes, it did.

1 MS. MARGOLIN: Objection. Move to strike. Calls
2 for hearsay.

3 Q (BY MS. SHEMITZ:) Do you know whether it got to its
4 destination?

5 A Yes, it did.

6 Q How do you know?

7 A I was paid.

8 Q And was there a third shipment?

9 A Yes.

10 Q And do you know approximately when that happened?

11 A Uhm, same year, 2009, I believe.

12 Q Who made the arrangements with you?

13 A The defendant.

14 Q And what arrangements did you make?

15 A The same arrangements.

16 Q Were you using a crate this time as well?

17 A Yes.

18 Q And was the shipping method the same?

19 A This time it was -- I believe it was different. We were,
20 uhm -- we had the truck come to Huntington Beach.

21 Q What was in Huntington Beach?

22 A We were at Lonnie's house and we had Dotline Shipping pick
23 it up there.

24 Q How did the marijuana get to Huntington Beach?

25 A You know, I can't recall. I have no idea.

1 Q Where was this last shipment going?

2 A Same place.

3 Q And --

4 A Pennsylvania.

5 Q And do you know if it arrived at its destination?

6 A Once again, I was paid, so I believe so.

7 Q Now, did you have a BlackBerry?

8 A Yes.

9 Q Who gave you the BlackBerry?

10 A James.

11 Q And did you get more than one BlackBerry?

12 A Not by James.

13 Q Did you get BlackBerries from someone else?

14 A I've had a personal BlackBerry myself that I bought,
15 but --

16 Q Okay. With respect to this particular BlackBerry, what
17 did James tell you about it?

18 A That the phone was encrypted.

19 Q And what was the purpose of the BlackBerry?

20 A So the texts could not be read.

21 Q By whom?

22 A Uhm --

23 MS. MARGOLIN: Objection. Leading.

24 THE COURT: I'm going to allow it. Overruled.

25 THE WITNESS: I can answer? By law enforcement.

1 Q (BY MS. SHEMITZ:) Do you recall your BlackBerry screen
2 name?

3 A I have no idea.

4 Q And who did you use the BlackBerry to communicate with?

5 A The defendant.

6 Q Aside from you and the defendant, do you remember anyone
7 else who had a BlackBerry?

8 A No. No.

9 Q When was the last time you talked with the defendant?

10 A Hmm, back in 2009.

11 Q And do you remember the date that you got arrested?

12 A It was 2011, October, I believe the 28th.

13 Q And is that when you stopped using drugs?

14 A I asked to be put into a residential -- or rehab, which I
15 went and did six months at the Phoenix House in Santa Ana.

16 MS. SHEMITZ: Okay. I have nothing further, your
17 Honor.

18 THE COURT: All right. Cross? Come on, now.
19 You've done this before. Who's going to do this, if anyone?

20 MR. LAWRENCE: Your Honor, I believe we have no
21 questions for this witness.

22 THE COURT: All right. Good. No questions. Thank
23 you.

24 Thank you, Mr. Wheat. You may step down, sir. See you
25 tomorrow.

1 Q Are you employed?

2 A Yes.

3 Q What do you do?

4 A Tattoo artist.

5 Q And do you have a criminal record?

6 A Yes, ma'am.

7 Q When was the first time you were convicted of an offense?

8 A It was May 2006.

9 Q And what was the offense?

10 A Possession with intent -- possession with intent -- I'm
11 sorry. Possession of a controlled substance while armed.

12 Q Okay. And did -- what sentence did you receive for that?

13 A I received one year in jail.

14 Q Okay. And were you convicted a second time?

15 A Yes, ma'am.

16 Q And what was that for?

17 A Possession with intent to distribute marijuana.

18 Q And did -- what sentence did you receive for that
19 conviction --

20 MS. MARGOLIN: Objection.

21 THE COURT: Sustained.

22 Q (BY MS. SHEMITZ:) Were you arrested and charged in this
23 case?

24 A Yes, ma'am.

25 Q What were you charged with?

1 A Conspiracy to distribute and possession with intent to
2 distribute marijuana.

3 Q And have you plead guilty?

4 A Yes, ma'am.

5 Q What did you plead guilty to?

6 A Possession with intent to distribute and conspiracy to
7 distribute marijuana.

8 Q Are you expecting to receive some consideration in the
9 form of a reduced sentence in exchange for your cooperation
10 with the government and your testimony here today?

11 A Yes, ma'am.

12 Q Do you know Noah Kleinman?

13 A Yes, ma'am.

14 Q And when did you first meet him?

15 A I met him in the fall of 2007.

16 Q Where and how did you meet him?

17 A I met him at a marijuana storefront in -- was it Western
18 Caregivers? No, uhm, excuse me -- yeah, I think it was
19 Western.

20 Q And where was that storefront?

21 A It was in, uhm, West Hollywood.

22 Q Do you see Mr. Kleinman in the courtroom today?

23 A Yes, ma'am.

24 Q Could you please identify him?

25 A He is sitting at the table over there with a brown jacket

1 on.

2 THE COURT: All right. The record will reflect that
3 the defendant has been identified.

4 Q (BY MS. SHEMITZ:) Sir, why did you meet with Mr. Kleinman
5 that first time?

6 A To sell him marijuana.

7 Q And did -- did you in fact sell him marijuana that day?

8 A Yes, ma'am.

9 Q Did he pay you for the marijuana?

10 A Yes, ma'am.

11 Q What did he tell you?

12 A He told me that he liked the marijuana that I brought and
13 that if I could bring more down in the future, he'd be willing
14 to buy more.

15 Q Uhm, were you at the storefront that you've mentioned at
16 the time of this conversation?

17 A Yes, ma'am.

18 Q And did you see any other people there selling marijuana
19 to the defendant that day?

20 A Yes, ma'am.

21 Q Approximately how many?

22 A Four to five sitting in the lobby.

23 Q And after that day, did you sell marijuana to the
24 defendant again?

25 A Yes, ma'am.

1 Q And how did you get paid?

2 A In cash.

3 Q How much were you paid for the marijuana you sold to the
4 defendant?

5 A Roughly \$3,000 a pound.

6 Q And did that vary?

7 A Yes, it varied on quality and different types.

8 Q Did you sell your marijuana to anyone else aside from the
9 defendant?

10 A Yes, ma'am.

11 Q Did you -- where did you get the marijuana that you were
12 selling?

13 A I grew the marijuana.

14 Q Okay. Where did you grow it?

15 A At my home in Grass Valley, California.

16 Q And did you know other people that were also growing
17 marijuana?

18 A Yes, ma'am.

19 Q Did you also supply marijuana to the defendant on behalf
20 of other growers?

21 A Yes, ma'am.

22 Q How did you communicate with the defendant in the
23 beginning at that time, 2007?

24 A Through cell phone.

25 Q And how often did you see the defendant?

1 A Once every two weeks, three weeks or so.

2 Q Did you sell him marijuana on each occasion that you saw
3 him?

4 A Not on every occasion.

5 Q How frequently did you see him and sell him marijuana?

6 A At least once a month.

7 Q Where was he when you saw him?

8 A Uhm, either at his storefront or I seen him at his home,
9 also.

10 Q And did you also meet Paul Montoya?

11 A Yes, ma'am.

12 Q Who is Paul Montoya?

13 A Paul Montoya was Noah Kleinman's partner.

14 Q When you brought marijuana to sell, who did you speak
15 with?

16 A Noah.

17 Q And who determined the price -- price or prices that would
18 be paid for the marijuana?

19 A Those discussions I would have with Noah Kleinman.

20 Q Who determined how much marijuana to buy from you?

21 MS. MARGOLIN: Objection. Calls for speculation.

22 THE COURT: Overruled. If you know.

23 THE WITNESS: Uhm, I think they discussed it amongst
24 themselves. I'm not a hundred percent sure.

25 Q (BY MS. SHEMITZ:) Okay. Were you selling marijuana to

1 other people during this time period?

2 A Yes, ma'am.

3 Q That shop that you mentioned, was it always at that shop
4 that you saw the defendant -- when you didn't see him at his
5 home, was it always at that shop that you saw him?

6 A No, ma'am.

7 Q Where else did you see him?

8 A There was a storefront in North Hollywood also.

9 Q Do you remember the name of that storefront?

10 A NoHo.

11 Q How did you learn about the storefront?

12 A The one in North Hollywood?

13 Q Yes. I'm sorry.

14 A I was told to meet him there after we met a few times at
15 the Western one.

16 Q Who told you to meet him?

17 A Noah.

18 Q Do you know, yes or no, who owned NoHo?

19 A Yes, I do. I cannot remember his name at the moment,
20 though.

21 Q Okay. How would you describe Mr. Kleinman's role and
22 Mr. Montoya's role in this enterprise?

23 MS. MARGOLIN: Objection. Calls for speculation.

24 THE COURT: It may be vague.

25 MS. MARGOLIN: And vague.

1 THE COURT: Okay. Let's go with vague.

2 Q (BY MS. SHEMITZ:) Did you -- when you would go to North
3 Hollywood --

4 A Yes.

5 Q -- or when you would meet with the defendant, was
6 Mr. Montoya ever there?

7 A Yes, ma'am.

8 Q And were you present when they had discussions about the
9 business?

10 A Yes, ma'am.

11 Q Did you learn about their relative roles with respect to
12 the business?

13 A Yes, ma'am.

14 Q And what did you understand their relative roles to be?

15 A That Noah and Paul were the partners and that they ran the
16 storefronts.

17 Q Now, when you went to NoHo, were there other people there
18 besides the defendant?

19 A Yes, ma'am.

20 Q Who might be there?

21 A Uhm, a girl named Kathy and then they had some other
22 employees, one by the name of Mark, and there was a couple
23 other people that would work the store.

24 Q What did they do working the store?

25 A They would sell marijuana.

1 Q And did you see other suppliers like yourself selling
2 marijuana there to the defendant?

3 A Yes, ma'am.

4 Q How many -- well, uhm, when you visited, typically how
5 long would you stay there?

6 A It would vary from an hour to a couple hours.

7 Q And while you were there, did you see other people coming
8 in to sell marijuana to the defendant?

9 A Yes, ma'am --

10 MS. MARGOLIN: Objection. Calls for speculation as
11 to their purpose.

12 THE COURT: Sustained.

13 Q (BY MS. SHEMITZ:) Did you see other people come into the
14 store?

15 A Yes.

16 Q Which way did they come into the store? Did they come in
17 the front door? Did they come in --

18 MS. MARGOLIN: Leading.

19 Q (BY MS. SHEMITZ:) -- the back door?

20 THE COURT: No. First you were going to say vague
21 and I was going to sustain that. So this is tangential. Don't
22 worry about it.

23 Answer the question, please.

24 THE WITNESS: I saw people come in both the front
25 door and the back door.

1 Q (BY MS. SHEMITZ:) What was in the back of the store?

2 A A small storage area.

3 Q And what was in the front of the store?

4 A There was a -- when you first came in through the store,
5 there would be a security guard and a counter and then another
6 door. And when you came through that door, there would be
7 glass counters and a couch and marijuana for sale.

8 Q Okay. And how many times did you go to NoHo to sell
9 marijuana to the defendant?

10 A At least once a month for like a few years.

11 Q When you were there, were you present when other
12 individuals came into the store?

13 A Yes.

14 Q Were you present when other individuals came into the back
15 room of the store?

16 A Yes.

17 Q And were you privy to conversations between those
18 individuals and the defendant?

19 A Yes.

20 Q And did you know what they were doing there, some of those
21 individuals?

22 MS. MARGOLIN: Objection. Calls for hearsay, and
23 vague on the part of other people.

24 MS. SHEMITZ: Co-conspirator statement, your Honor.

25 THE COURT: Just calls for yes or no. Please

1 answer.

2 THE WITNESS: Yes.

3 Q (BY MS. SHEMITZ:) What did they discuss?

4 MS. MARGOLIN: Objection. Calls for hearsay
5 regarding the other people.

6 THE COURT: Overruled.

7 THE WITNESS: Sale and purchase of marijuana.

8 Q (BY MS. SHEMITZ:) Where was the marijuana kept?

9 A In safes in the back room.

10 Q And did you ever see the marijuana in the safe?

11 A Yes, ma'am.

12 Q What was the most marijuana you remember seeing back there
13 in the safe or in the office at one time?

14 A Anywhere from 25 to 30 pounds.

15 Q In addition to selling marijuana to the defendant, did you
16 also buy marijuana?

17 A Yes, ma'am.

18 Q What for?

19 A For -- to sell it.

20 Q What kinds of quantities did you purchase?

21 MS. MARGOLIN: Objection. Vague as to time.

22 THE COURT: Sustained.

23 Q (BY MS. SHEMITZ:) How many times did you purchase
24 marijuana from the defendant?

25 A Five times.

1 Q Okay. And on each -- can you give us an average amount
2 that you purchased from him those five times?

3 A Ten pounds.

4 Q Each?

5 A Yes.

6 Q Did you ever ship marijuana out of state?

7 A Me? No.

8 Q All right. At some point did you approach the defendant
9 about a marijuana business opportunity?

10 A Yes, ma'am.

11 Q Do you recall approximately when that was?

12 A Spring of 2008.

13 Q And what was your proposal?

14 A To invest in a grow opportunity in Northern California.

15 Q And did he agree to it?

16 A Yes, ma'am.

17 Q Can you explain the arrangement and the plans for the
18 growing operation?

19 A We needed money to put in a well and to invest in the
20 infrastructure to grow the marijuana, and so they invested
21 roughly \$25,000 for half the marijuana grown there.

22 Q Okay. When you say "they," who are you referring to?

23 A Paul Montoya and Noah Kleinman.

24 Q And they received a 50 percent share in the operation?

25 A Yes, ma'am.

1 Q And who had the other 50 percent?

2 A I had the other 50 percent.

3 Q Okay. Where was the operation located?

4 A Trinity County, California.

5 Q And who ran the operation?

6 A I did.

7 Q And who worked there?

8 A I did. Another person name of Randy worked there and
9 anybody else that I could find to help out at the time.

10 Q What types of jobs did the people who worked there do?

11 A Watering, fertilizing, in the beginning cutting down trees
12 and, you know, digging holes.

13 Q Okay. How were -- how were the people who worked there
14 paid?

15 A In marijuana.

16 Q And who paid them?

17 A It was all paid through Noah.

18 Q When was the first harvest from that growing operation?

19 A It would have been in the fall of 2008.

20 Q And do you recall approximately how much came from that
21 harvest?

22 A About 90 pounds.

23 Q Who worked on that harvest?

24 A Well, Noah came up to help and he brought some people from
25 Los Angeles, and then there was a couple of people from

1 Northern California.

2 Q And who paid those people?

3 A Noah Kleinman.

4 Q What did do you with the marijuana from that harvest?

5 A It was given to NoHo Caregivers.

6 Q And how many harvests did you have from that operation?

7 A Just one from that operation.

8 Q Did the defendant visit that operation more than once?

9 A No.

10 Q Now, during this time period -- we're talking about 2008
11 now?

12 A Yes, ma'am.

13 Q -- how were you communicating with the defendant?

14 A Through a -- beginning it was cell phone. About halfway
15 through the year I received a BlackBerry device.

16 Q Who gave you the BlackBerry?

17 A Noah Kleinman.

18 Q Did you have to pay for it?

19 A Yes, ma'am.

20 Q Approximately how much did you have the pay?

21 A \$1600.

22 Q And who explained to you how to use it?

23 A Noah Kleinman.

24 Q How did you communicate using the BlackBerry?

25 A It was through e-mail. It was an encrypted e-mail.

1 Q And do you recall your e-mail address on the BlackBerry?

2 A Whew. I just looked at it. I think it was Striker.

3 Q Okay. And did you have a nickname that the defendant used
4 for you?

5 A Yeah.

6 Q What was it?

7 A Trainwreck, or short for Trainwreck was T dub.

8 Q And did the defendant also have a nickname?

9 A Yes, ma'am.

10 Q What nickname did you use for him?

11 A Chuckles.

12 Q Did you program his nickname into your BlackBerry?

13 A No.

14 Q When you received e-mails from him, uhm, did they come up
15 with his nickname?

16 A Sometimes.

17 MS. SHEMITZ: May I have moment, your Honor?

18 THE COURT: Uh-huh.

19 MS. SHEMITZ: Go ahead? Okay.

20 Q (BY MS. SHEMITZ:) Mr. Stanley, take a look at the folder
21 in front of you, and if you could turn to the first exhibit,
22 please, Exhibit 18.

23 Okay. Put it up.

24 THE COURTROOM DEPUTY: Julie, Julie, did you say 18?

25 16?

1 MS. SHEMITZ: I can't read without my glasses. I
2 shouldn't even try. 16. I'm sorry.

3 Your Honor, may we have a --

4 THE COURT: Whatever you want.

5 MS. SHEMITZ: -- I'm sorry -- brief sidebar?

6 THE COURT: Yes.

7 (At sidebar out of the presence of the jury:)

8 THE COURT: You not doing well? You not doing well,
9 feeling well?

10 MS. SHEMITZ: No, I'm fine.

11 THE COURT: Okay.

12 MS. SHEMITZ: Thank you. I'm a little hungry,
13 but --

14 THE COURT: I know. I could use a burger.

15 MS. SHEMITZ: I am a little befuddled at the moment
16 because I can't put the e-mail on the screen to show to the
17 witness if it's not in evidence. So that's why the procedure
18 that I was following before to ask him to look at them and
19 identify them --

20 THE COURT: Uh-huh.

21 MS. SHEMITZ: -- was preferable.

22 THE COURT: Uh-huh.

23 MS. SHEMITZ: So I'm not sure how the Court wants me
24 to -- because I'm worried that -- I'm going to have to go
25 through it twice, in other words.

1 THE COURT: No. Here's what we're going to do. I'm
2 going to blank out the jury monitors, all right? That's all.
3 So do whatever you're going to do, ask him to take a look at
4 it. After he does and says, "Yes, this is mine," then we'll go
5 through the laborious process -- I should stab you all in the
6 eye. I hate going through all this. I didn't know I was
7 dealing with children.

8 MR. KOWAL: May I suggest something? Why don't we
9 just take them at, like, three or five at a time? Just put the
10 folder up there or have him look at the exhibit book, "I'd like
11 you to look at Exhibits 1, 2, 3, 4, 5. Are those e-mails you
12 participated" -- lay your foundation, then admit those five
13 subject to the objection, and then we'll start publishing those
14 five, then do the next one. Can we do that, your Honor?

15 THE COURT: We can do that.

16 MS. SHEMITZ: You're so sad.

17 THE COURT: I am, 'cause what I'm thinking about
18 doing is -- why don't you guys take a half hour, take some
19 lunch. We're going to sit here, go through the exhibits, and
20 then I will take my bat, and if you raise a frivolous objection
21 about an exhibit, I'll beat you to death.

22 MS. MARGOLIN: I'd rather eat lunch during that.
23 Can we do that?

24 THE COURT: Yeah. Okay. Go. Go. Half hour. Go.

25 THE COURTROOM DEPUTY: All rise.

1 THE COURT: Remember the admonition. I don't know
2 if this is too early or not. Just go. No, come back.

3 (Open court out of the presence of the jury.)

4 MR. KOWAL: Just let him lay a foundation.

5 THE COURT: All I was going to do is have him do it,
6 go through them all, and then we'll go on the record and have
7 you -- have you examine exhibits.

8 MR. KOWAL: All right. All right.

9 THE COURT: That's all, just quickly. All right?

10 MR. KOWAL: Sure.

11 THE COURT: I want you to go through all of the
12 e-mails in there.

13 THE WITNESS: Okay.

14 THE COURT: And if there's -- are there any in there
15 that don't have Striker on here?

16 MS. SHEMITZ: No.

17 THE COURT: Go through all of them, make sure that
18 these are all e-mails either sent from you or to you.

19 THE WITNESS: Just look through them?

20 THE COURT: Yes.

21 THE WITNESS: Okay. No problem.

22 (Brief pause in the proceedings.)

23 THE COURT: All right. Mr. Stanley, have you
24 completed your review of all of the exhibits, the e-mails?

25 THE WITNESS: Yes. I checked them all.

1 THE COURT: All right. With respect to each and
2 every one of those e-mails where your name is mentioned, do you
3 recognize being either the author or the recipient of those
4 e-mails?

5 THE WITNESS: Yes, sir.

6 THE COURT: All right. Mr. Lawrence, any objection
7 with respect to the authenticity of these e-mails that
8 Mr. Stanley has now reviewed?

9 MR. LAWRENCE: He's indicated he's reviewed them
10 all. He's either the sender or receiver on all of them?

11 THE COURT: All of them.

12 MR. LAWRENCE: All right. No objection.

13 THE COURT: Go to lunch. Go to lunch. When you
14 come back, just sit right down.

15 (A recess was taken.)

16 (Open court in the presence of the jury.)

17 THE COURT: All right. Jury's returned. All of
18 counsel, the defendant are present. Mr. Stanley has resumed
19 his place on the witness stand. We've taken care of a little
20 business outside of the presence of the jury with respect to
21 exhibits.

22 All right. Counsel, you may continue.

23 MS. SHEMITZ: Thank you, your Honor.

24 Q (BY MS. SHEMITZ:) Mr. Stanley, with respect to the folder
25 that was given to you before the break, did you have a chance

1 to review the entire contents of the folder?

2 A Yes, ma'am.

3 Q And what was in the folder?

4 A E-mails.

5 Q And did you recognize the e-mails?

6 A Yes, ma'am.

7 Q Were you a party to every one of those e-mails?

8 A Yes, ma'am.

9 Q And can you tell us the date of the first e-mail and the
10 date of the last e-mail?

11 A The first e-mail date was August 18, 2008, and the date on
12 the last e-mail was December 23rd, 2008.

13 MS. SHEMITZ: Your Honor, at this time I'm moving
14 into evidence the following exhibits: 16, 17, 19, 21, 41, 47,
15 50, 52, 59, 61, 63, 64, 66, 67, 69, 70, 73, 74, 75, 83, 89, 97,
16 and 98?

17 THE COURT: Any objection? Small groan from the
18 jury.

19 MS. MARGOLIN: No. Thank you.

20 THE COURT: No objection, all right. They'll all be
21 admitted. Another groan.

22 (Exhibits received into evidence.)

23 Q (BY MS. SHEMITZ:) All right. Let's take a look at the
24 first exhibit, No. 16. Can you tell us who that's from and who
25 it's to, the date and time, and what it's about?

1 A That was from me, T dub, to Noah Kleinman who is Firefox
2 and it says, "This is a test," and the response was, "Enjoy
3 your new Berry."

4 Q So what's that about?

5 A That's -- I just received the BlackBerry from Noah
6 Kleinman and so I was sending e-mail to him to test it, and him
7 responding to me.

8 Q And how -- how -- how much earlier had you received the
9 BlackBerry? When did you receive the BlackBerry in relation to
10 that first e-mail?

11 A I can't be a hundred percent sure, but it was more than
12 likely that same day.

13 Q Okay. Where were you?

14 A I was in Los Angeles.

15 Q Did he give it to you personally?

16 A Yes, ma'am.

17 Q And did you pay him at that time?

18 A I don't know if I prepaid for it or if I paid him at that
19 exact moment.

20 Q All right. Let's look at Exhibit 17. Okay. Let's take a
21 look at the upper portion of this exhibit, the e-mail at 10:59
22 that starts, "Good morning, buddy." Who is that from and who
23 is it to?

24 A That's from Noah Kleinman to me.

25 Q And what's it about?

1 A The previous couple days we'd gone deep sea fishing so I'd
2 just probably gotten home from the trip, and so it's basically
3 asking me if we caught -- cooked the fish that we brought home.

4 Q Is that all that this e-mail's about?

5 A Oh, no. It's talking about the BlackBerry.

6 Q Uh-huh.

7 A And talking about the fact that you can, uhm, type
8 anything because it's an encrypted e-mail, and that just make
9 sure you sign -- make sure it's encrypted before you send it.

10 Q Okay.

11 A Just trying to explain to me how to use it.

12 Q Why did you buy this BlackBerry from Mr. Kleinman?

13 A So that we could discuss the marijuana operations with
14 somewhat we felt is a level of privacy.

15 Q Okay. And why did you need privacy?

16 A Because we were breaking the law.

17 Q Moving on to Exhibit 19. And Mr. Stanley, you have to
18 look at page 2 of the exhibit; the earliest e-mail's at the
19 bottom of the string. So I'm referring your attention to the
20 e-mail on August 20, 2008, at 10:32 A.M.

21 A Yes, ma'am.

22 Q What is that about?

23 A It's me asking if any of the -- if there are any cuttings,
24 which is referring to small plants, of the Lemon Kush, which is
25 a strain of marijuana, and if there's any around that he could

1 send up for me to grow.

2 Q And who are you talking to?

3 A I would be talking to Firefox which was Noah Kleinman.

4 Q Okay. And the e-mail just above that at 12:08 P.M., who
5 is it from and who is it to?

6 A It is from Noah Kleinman to me, and it's explaining where
7 the Lemon Kush came from, and that he's just asking me if I
8 liked it, as well as asking if the two of the workers that he'd
9 sent up are -- how they're doing.

10 Q Okay. Why would he ask you how the workers were doing?

11 A Making sure they were doing their job and doing a good job
12 at it.

13 Q What was their job?

14 A At that time they would have been trimming marijuana.

15 Q Uh-huh. Okay. Calling your attention to the next one up
16 in the string which is on the preceding page, this is
17 August 20, 2008, at 1:12 P.M. Who is it from and who is it to?

18 A It is from myself to Noah Kleinman.

19 Q And what's it about?

20 A And it's basically explaining that I tried the Lemon Kush
21 and I liked it, and that it's really -- it's strong but it
22 doesn't last, but I really would like some clones of it.

23 Q Okay. What would you do with the clones?

24 A I would grow them in --

25 Q Okay. And the next e-mail above that at 1:14 P.M.?

1 A Earlier he had basically -- he'd asked if I wanted some SD
2 clones which would have been Sour Diesel, and that he's
3 explaining that he cannot -- he couldn't get the Lemon Kush but
4 he can get Sour Diesel.

5 Q What's Sour Diesel?

6 A It's a strain of marijuana.

7 Q Okay. And the e-mail above that, who is it from, who is
8 it to?

9 A It's from me to Noah and it's --

10 Q What's it about?

11 A It says I've already gotten some -- some Arcus -- I don't
12 know what that means -- but I had already received some Sour
13 Diesel from whoever Arcus is last time but a different
14 phenotype's also good. So there's different kind.

15 Q What's a phenotype?

16 A A phenotype is the same strain of marijuana but it's a
17 different type.

18 Q And the e-mail just above that at 1:17 P.M.?

19 A It's from Noah to me and he basically says, "Sure, I'll
20 keep the new ones for you also." So he'll get me some new Sour
21 Diesel cut -- clones.

22 Q Okay. And the one above that?

23 A And so I say, "Nice, but I'll take some of the pure,"
24 which is another strain of marijuana, "if you can get that.
25 And I'll take any other good tested exotics, anything that will

1 produce something that people are going to like."

2 Q Okay. So why were you asking him for Lemon and these
3 other strains of marijuana? Why did you want different
4 strains?

5 A To sell at the storefronts, to grow and to sell.

6 Q Is there a reason why these different strains were
7 selling?

8 MS. MARGOLIN: Objection. Nothing. I'll --

9 THE COURT: Overruled.

10 THE WITNESS: Different varieties of marijuana sell
11 at different prices. Excuse me. And I'm always -- I was
12 always looking for new strains to grow.

13 Q (BY MS. SHEMITZ:) All right. Calling your attention to
14 Exhibit 21, again, you have to look at the second page first,
15 the bottom of the second page -- or middle of the second page,
16 rather -- August 21, 2008, at 2:26 P.M. Who is it from and who
17 is it to?

18 A It's from myself to Noah Kleinman.

19 Q And what's it about?

20 A Money that I owed him.

21 Q You need to explain it.

22 A The -- it says -- I'd asked him if he'd done the books yet
23 on the marijuana that had been grown or I had purchased and
24 that I gave Gelsy \$25,000 for them.

25 Q And who is Gelsy?

1 A Gelsy was a employee that Noah had sent up to help trim
2 marijuana.

3 Q And why did you give Gelsy 25,000?

4 A Because I owed Noah and Paul Montoya money.

5 Q And did you ask her to deliver the money?

6 A Yes.

7 Q Okay. And the e-mail above that?

8 A It's from Noah to myself, and he says, "Yes, I did the
9 books," and he'll forward the new balance, and then asked how I
10 was doing.

11 Q Okay. And the e-mail just above that going on to the
12 first page at 2:39 P.M.?

13 A It was from myself to Noah, and I said, "Good, I got
14 everything done."

15 Q You don't have to read it; just tell us what it's about.

16 A Oh. It's explaining that the turning has been completed
17 and that Gelsy and John are getting better at doing their job.

18 Q Okay. Now, Gelsy and John were workers trimming, right?

19 A Yes, ma'am.

20 Q And how much were they getting paid?

21 A \$200 a pound.

22 Q Next e-mail above that, who is it from and who is it to?

23 A It's from Noah to myself.

24 Q Uh-huh.

25 A And it's explaining where we are as far as money owed.

1 Q Okay. How much money was owed and from who to who?

2 A It starts off with I gave him 40, which would have been
3 40,000, and it left a balance, and then he sold me it looks to
4 me about seven more pounds.

5 Q Uh-huh.

6 A And then left us a balance of 82,900.

7 Q Uh-huh.

8 A And then it subtracts the 25,000 I gave to Gelsy to bring
9 down and left a balance of 57,900.

10 Q Okay. And just above that, what's your response?

11 A I say it looks about right but I didn't have my exact --
12 all my paperwork in front of me.

13 Q Okay. And then the final e-mail on this page, who is it
14 from and who is it to?

15 A It looks like it's from Firefox, which would be Noah, and
16 to me, Striker. And he's asking me how many more BlackBerries
17 I need 'cause he has to order them ahead of time.

18 Q Had you asked him for more BlackBerries?

19 A I must have.

20 Q Well, don't --

21 A I'm not sure.

22 Q Okay. All right. Turning your attention to Exhibit 41,
23 and again, starting with the page 2, the e-mail September 24th,
24 2008, at 9:56 A.M., who is it from and who is it to?

25 A It's from Noah to myself.

1 Q Okay. And what's this about?

2 A Some money was lost in the mail from Randy to -- that was
3 owed to Noah and Paul.

4 Q Uh-huh.

5 A And there was -- it came up -- some came up missing. And
6 so it explains that I paid 35,000 down, and he's trying to
7 figure out exactly what happened.

8 Q Okay. And he's trying to figure out exactly what happened
9 why?

10 A Because the money was lost on the East Coast.

11 Q And did you know about the money being lost on the East
12 Coast?

13 A Yes. I found out about it, yes.

14 Q How did you find out about it?

15 A From Randy.

16 Q And who was --

17 MS. MARGOLIN: Objection. Move to strike. Hearsay.

18 MS. SHEMITZ: Co-conspirator's statement, your
19 Honor.

20 THE COURT: Overruled.

21 Q (BY MS. SHEMITZ:) Who was Randy?

22 A Randy was a friend of mine.

23 Q Was he in business with you?

24 A He was.

25 Q And what happened?

1 A He attempted to mail a large sum of money from the East
2 Coast back to the West Coast and it was -- it came up missing.

3 Q Approximately how much money did he send back?

4 A Roughly \$60,000.

5 Q Now, in this e-mail where it says, "You sent only 35 down
6 here, correct? I thought it was 40 you had," what does that
7 mean?

8 A I sent him 35,000. I -- at some point I had maybe told
9 him that I was going to send 40,000, but I'd only sent 35,000.

10 Q And when he says, "I'm under big pressure to make some
11 payments now and I'm short and can't take full orders from my
12 suppliers," what does that mean?

13 A That he owed people money.

14 Q For what?

15 A For marijuana.

16 Q All right. Moving on to the next e-mail in the string,
17 above that, which starts on the first page at the bottom,
18 September 27, 2008, at 6:13 P.M. --

19 A Yes.

20 Q -- who's that from and who's it to?

21 A It's from myself to Noah.

22 Q And what's it about?

23 A So it explains that --

24 Q No. I need you to explain, if you know, what this means.

25 A The short, which is the money that was lost, was \$68,000.

1 Q Okay.

2 A And that there's still 20,000 on the East Coast. And
3 because he lost the 68,000, he -- Randy was worried about how
4 to get the last 20,000 back.

5 Q What does it mean, "Randy got stopped and busted for minor
6 shit but they got his burner and work phone and he's freakin
7 and doesn't know what to do"? What does that mean?

8 A Randy was on the East Coast and he got in trouble for
9 something -- I think it was a driver's license issue -- and
10 during the stop, they confiscated his work phone, which is his
11 phone that's in his personal name and his what they call a
12 burner phone which is a prepaid cell phone.

13 Q Uh-huh. And what did you say about that, about the short?

14 A That the only thing I can do is pay back the money that
15 was owed and -- and I'll pay it back out of marijuana that was
16 grown.

17 Q Okay. And the next e-mail up which is 11:12 P.M. on
18 September 27th, who is it from and who is it to?

19 A It is from Noah to myself.

20 Q Uh-huh.

21 A And it uses the word Pski, but it's Paul Montoya.

22 Q Okay.

23 A He told him that I was out of range. He's asking about
24 what phone -- what information was on Randy's iPhone that was
25 seized by the police.

1 Q Why was he asking you that?

2 MS. MARGOLIN: Objection. Calls for speculation.

3 THE COURT: Sustained.

4 Q (BY MS. SHEMITZ:) Okay. Based on the e-mail that's
5 before you, do you know why he was asking you that?

6 MS. MARGOLIN: Objection. Calls for speculation.

7 THE COURT: Calls for yes or no.

8 THE WITNESS: Yes.

9 Q (BY MS. SHEMITZ:) Okay. Why was he asking you that?

10 MS. MARGOLIN: Calls for speculation.

11 THE COURT: Sustained. Lay some foundation.

12 Q (BY MS. SHEMITZ:) Based on the e-mail before you and your
13 memory of what this was about, do you know why he was asking
14 you what information was on the phones Randy lost?

15 A Because it may be incriminating.

16 Q Okay.

17 MS. MARGOLIN: Objection. Move to strike. Personal
18 knowledge. Calls for speculation.

19 THE COURT: Nonresponsive to the question. I need
20 to know how do you know these things?

21 THE WITNESS: Because I knew all these people
22 personally.

23 THE COURT: Were these subjects discussed?

24 THE WITNESS: Which subjects?

25 MS. SHEMITZ: May I, your Honor?

1 THE COURT: That we talked about.

2 Q (BY MS. SHEMITZ:) Mr. Stanley?

3 A Yes.

4 Q Did you discuss with the defendant and your other
5 co-conspirators the use of burner phones?

6 A Yes.

7 Q What was the reason for the use of burner phones?

8 A To mask our identities.

9 Q Okay. And what was the reason for the use of
10 BlackBerries?

11 A To hide incriminating evidence.

12 Q And what was the reason -- or did you discuss with the
13 defendant what information was on the phones that were seized
14 from Randy?

15 A Yes.

16 Q What information was on the phones seized from Randy?

17 A Text messages and e-mails.

18 Q And did you discuss with the defendant why he was worried
19 about the information that was on the phones?

20 A No.

21 Q Okay. Now, I'm going to ask you further about this
22 e-mail. There's a line in here, "Doesn't make sense if he got
23 busted for minor shit." What does that mean?

24 A Why they would seize the phones.

25 Q What do you mean?

1 A He's asking, uhm, why did they seize the phones if he only
2 got in trouble for something minor like a -- like a traffic
3 issue.

4 Q Okay. Then the next line, "I'm with Pookie right now. He
5 wants to know what day he should plan on coming up there and
6 helping you." What is that about?

7 A He's asking if I need any more help and then when it would
8 be a good time for Pookie, which is John, to come up and help.

9 Q Okay. He was another worker?

10 A Yes, he was a worker.

11 Q And the next e-mail above that at 23 -- or 11:27 P.M., who
12 is it from and who is it to?

13 A It's from myself to Noah.

14 Q And what's it about?

15 A The beginning of it's a place to start trimming marijuana,
16 the first sentence.

17 Q Okay. You need to explain.

18 A In the first sentence, I'm explaining, it says, "Yeah, we
19 are going to get a place to start work," which is a place to
20 start trimming marijuana, "so we're going to need help."
21 That's concerning the last sentence asking when Pookie should
22 come up.

23 Q Okay.

24 A And then I go into the explanation of the rest of the
25 questions that he had on the previous e-mail, whether we don't

1 know exactly what was on the phone. And then I ask --
2 basically I'd asked Randy to tell me, 'cause we were all
3 communicating through text messages, and I'm waiting on a
4 response of what was on the phone. And then I explained to him
5 what had happened --

6 Q To who?

7 A To Randy on the East Coast.

8 Q No, no. You explained to who?

9 A I explained to Noah what had happened to Randy on the East
10 Coast.

11 Q Okay. And explain.

12 A He was stopped for speeding and had a suspended license.
13 He had -- he was in possession of marijuana and \$6,000 and a
14 bunch of paperwork regarding marijuana that was shipped to the
15 East Coast, and so that was all in his possession.

16 Q Okay.

17 A And at that time the police seized his burner phone and
18 his legitimate personal business phone. And he sat in jail for
19 six days before they released him on his own recognizance.

20 Q How about the last sentence?

21 A He's -- I'm explaining to Noah what Randy had told me
22 about the money that was missing, the \$68,000, and Randy had
23 explained to me that he thinks it got stolen because UPS is the
24 company he used to send. It has no record of the shipment and
25 the guy that he gave the package to at the store hasn't been

1 back to work since.

2 Q Okay. And how about the last line of that e-mail?

3 A He -- I'm explaining to Noah that Randy is really upset
4 because there's a lot of people out there that are begging to
5 buy marijuana.

6 Q All right. Let's move on to the next e-mail, Exhibit 47.
7 And again, the e-mail on the second page begins at the bottom
8 of the first page. So it's October 18th, 2008, at 5:39 P.M.
9 Who is it from, who is it to?

10 A It's from me to Paul.

11 Q Uh-huh.

12 A And I'm explaining that, uhm, there -- marijuana has been
13 given to -- to one of his drivers and that it was triple
14 wrapped and everything was labeled by strain.

15 Q Okay. And then on the second page do you see the
16 continuation?

17 A Yes. That's the different types of marijuana and how many
18 were sent.

19 Q Now, the one that says, "TW, mine from house," what is
20 that about?

21 A Those were pounds that I had grown myself.

22 Q And how about where it says, "N, ours from up north"?

23 A That was the marijuana that was grown out of the joint
24 project between me, Paul, and Noah.

25 Q And how about "H"?

1 A Those were pounds of marijuana that I'd gotten from
2 friends of mine.

3 Q Other growers?

4 A Other growers, yes.

5 Q And the e-mail just above that, so now we're at
6 October 19, 2008, at 12:41 P.M.

7 A This is from Paul to myself.

8 Q Uh-huh?

9 A And he's asking me how much we want for the different
10 pounds that were sent in cash.

11 Q Okay. Now, he says, "The NorCal smells funny." What does
12 that mean?

13 A It had gotten some mold in it and so it gave it a off
14 smell.

15 Q And what about the numbers in that e-mail? What are those
16 about?

17 A Those numbers are suggestions on how much he would pay us
18 for the marijuana that he -- that we had delivered.

19 Q And how much --

20 A In pounds.

21 Q Pardon?

22 A In pounds. So 3200 would be 3200 per pound.

23 Q And what's "SGH"?

24 A It's a strain called Sour Grape Haze.

25 Q And what's Fire?

1 A It's another strain of marijuana.

2 Q Okay. All right. We can move on from this one.

3 Exhibit 50. And again turning to page 2 of this one,
4 Mr. Stanley, let's look at the e-mail that starts at the bottom
5 of page 1, so it's October 21, 2008, at 10:25.

6 A Uh-huh.

7 Q Okay. Do you see what part of it's on page 2?

8 A Yes.

9 Q Okay. What's that about?

10 A Right. At the bottom it's explaining from Noah -- Noah to
11 myself -- and he's on his way from Los Angeles to come help at
12 my house in Northern California. And he says that he'd just
13 woken up in Stockton and I tell him he's about two hours from
14 me, and that I have a tattoo appointment and I still need to
15 prepare the marijuana that's being sent down.

16 Q Okay. And above that on page 1 at the bottom, we're at
17 October 21st at 10:12 A.M., who is it from and who is it to?

18 A It's from Noah to myself.

19 Q Uh-huh. And what's it about?

20 A It's Noah explaining that he was trying to just do a
21 turnaround, which would be drive straight up, pick up the
22 marijuana, and drive straight back to L A.

23 Q Okay.

24 A And that he brought a lot of turkey bags to wrap all the
25 marijuana in.

1 Q And turkey bags were what?

2 A They're used to conceal the smell of marijuana.

3 Q And above that, the 10:29 A.M. e-mail, from who to who?

4 A It's from myself to Noah. I'm asking if he brought any
5 big duffel bags to put all the marijuana in.

6 Q And what was his response?

7 A He says, "Yep," so, yes.

8 Q All right. We can move on to the next one, Exhibit 52.

9 Starting with the bottom one, at October 22nd, 2008, at
10 2:52 P.M., from who to who?

11 A It's from Noah to myself.

12 Q And what's it about?

13 A It's about marijuana that I had sent to L. A.

14 Q Okay. And what's -- what is he talking about?

15 A Uhm, the prices. Uhm, it says, "You give me 29 on the
16 TBG." The TBG's a strain of marijuana and 29 would refer to
17 \$2900 per pound.

18 Q Okay.

19 A And then it goes on to the Grape Krush and it says, "33,"
20 which would be \$3300 per pound.

21 Q And what did he say after that?

22 A That they just want to sell everything as fast as possible
23 so they can start buying more marijuana.

24 Q Okay.

25 A And that the price has to be competitive so they'll sell

1 fast.

2 Q And was he -- uhm, the price of 29 for TBG, was that a
3 good price?

4 A At that time in the marketplace, it was a little high. It
5 was -- it was all grown outdoors where the Grape Krush was
6 grown indoors, so the Grape Krush is a little easier to sell
7 compared to the outdoor grown Triple Berry Goo.

8 Q All right. And with respect to the line starting, "To
9 bring work now we have to be competitive also to get these
10 cashed out fast," what was your understanding of that?

11 A That because -- I mean, this message was sent on
12 October 22nd. In California people harvest marijuana outdoors
13 in huge quantities in the middle of October. So if we didn't
14 sell these ones fast, there would be a large amount coming down
15 to L. A. which would make it harder to sell in the future.

16 Q Okay. Would it affect the price?

17 A Yes.

18 Q How would it affect the price?

19 A It would drive -- you would have to drop your prices to
20 compete with other growers and sellers.

21 Q All right. Now, let's skip up to the top e-mail, 10-22-08
22 at 1503, so 3:03 P.M. Who is it from, who is it to?

23 A It's from Noah to myself.

24 Q Uh-huh. And what's it about?

25 A It's discussing our relationship, the fact that I was

1 grateful that they were helping me sell my marijuana and that
2 Noah was -- I felt it was a mutually beneficial relationship,
3 that they liked the weed that I was growing.

4 Q Okay. And what was the bit about the Philippines?

5 A He mentioned the fun that they were going to have in the
6 Philippines at that time. Noah and Paul were preparing a trip
7 to go to the Philippines.

8 Q And then what about the numbers just below that, "The
9 total order is 61,100"? What was that about?

10 A That was the amount we discussed, the 2900 and the 3300 on
11 the previous e-mails. That was the total amount of marijuana
12 that was sent down to L. A.

13 Q And what about, "We are going to deduct \$30,500"?

14 A That's how much was going to come off the debt that I had
15 to Noah and Paul.

16 Q What debt did you have to Noah and Paul?

17 A From the loss that we discussed earlier of the \$68,000.

18 Q From Randy?

19 A From Randy.

20 Q And why were you responsible for that debt?

21 A Because I made the introductions between Randy and Paul
22 and Noah, and that to continue a working relationship with
23 them, it was on me to make sure that debt was paid for.

24 Q Okay. Moving on to the next e-mails, 59, Exhibit 59. Can
25 you take a look at these two pages together, Mr. Stanley, and

1 tell us generally what this string of e-mails is about? You
2 have to look at it from the bottom up.

3 A Right. This string of e-mails is discussing the purchase
4 of -- it begins with the purchase of a nice covered trailer and
5 more equipment for a new property that Paul and Noah had
6 purchased and we were going to set up to grow marijuana there.

7 Q Okay. Where was that property?

8 A Again it was in Trinity county.

9 Q And what type of property was it?

10 A It was 20 acres in Trinity County that was again used to
11 grow marijuana. We were going to build some green houses and
12 an indoor grow room on.

13 Q What kind of equipment did you have to buy?

14 A We bought indoor growing equipment. We bought a trailer,
15 we bought green houses, we purchased, uhm, all kinds of stuff
16 to set the houses up so the people who were living there to,
17 you know, live there as far as maybe it was refrigerators and
18 TVs and that kind of stuff.

19 Q When you say "the people who were living there," what --
20 who was living there?

21 A It worked -- well, Mark and Pookie ended up living there.

22 Q Okay. And who were they?

23 A They were workers that worked for Noah and Paul.

24 Q And what was their job?

25 A To maintain the grow property.

1 Q Did you have a name for that grow?

2 A We called it P1.

3 Q Is this -- now, this is October 30th, 2008. Is this the
4 first property that you bought with Paul and Noah?

5 A Yes.

6 Q Okay. All right. Exhibit 61? Now, this one let's start
7 on page 2 at the bottom, October 29th, at 9:41 P.M. Who's it
8 from, who's it to?

9 A It's from Noah to myself.

10 Q Okay. And what's this about?

11 A It's discussing the third order of marijuana that was sent
12 to Los Angeles.

13 Q What does that mean, the third order?

14 A Uhm, this was the third set of pounds that had left
15 Northern California and went to -- so there'd been two previous
16 shipments from Northern California to Southern California.

17 Q And did this third order, these pounds, come from a
18 particular place, if you know?

19 A By looking at the strain names, yes, they came from the
20 property that we had invested in to buy the well and the
21 infrastructure for the first investment that I made with Noah
22 and Paul.

23 Q Okay. And those three strains were strains you were
24 growing?

25 A Yes.

1 Q And the prices for those three strains, are those good
2 prices or adequate prices or bad prices?

3 A They were market-- they were right about where the market
4 was.

5 Q And how about that line, "14,700 owed to you cash," and so
6 on? What does that mean?

7 A That was -- he was going to send me \$14,700 and then he
8 was going to remove 14,700 off the old balance that I had.

9 Q And would that pay off your balance?

10 A I don't think so.

11 Q All right. The e-mail above that which begins on the
12 bottom of page 1, October 28, 2008, at 9:50 P.M., who is it
13 from and who is it to?

14 A It was from myself to Noah.

15 Q Uh-huh. And what's it about?

16 A It's the breakdown on the third order of marijuana that
17 was shipped down.

18 Q What is GK Indo?

19 A That was Grape Krush grown inside.

20 Q And what did you mean when you said, "I just need
21 everything from the GK Indo"?

22 A Because I owed -- that was not -- didn't belong to me,
23 that I had gotten it from a friend, another grower, and that I
24 needed to pay them in full, and that the rest of the marijuana
25 that was sent can be split, half going to my debt.

1 Q Okay. So now where it says, "7200 for the GK," what does
2 that mean?

3 A So that I needed \$7200 for the pounds of Grape Krush that
4 was sent down.

5 Q Okay. What is "MK is 39,000"?

6 A The -- the amount of marijuana that was sent, MK, which
7 should have been Master Kush, is \$39,000, and then the next
8 line BBH, which is Blueberry Haze, would have been \$5400, so
9 basically leaving me a total of \$22,000 for half, and because
10 the other half would have went to Noah and Paul as part of
11 their investment. So it left a total of \$11,100 to be sent for
12 me and the same amount off my debt which would be another
13 \$11,100 off my debt.

14 Q Okay. Good. And then the e-mail above that which starts
15 in the middle of page 1, November 1st, 2008, at 1:55 P.M.,
16 who's it from and who is it to?

17 A It's from Noah to myself. And he's basically telling me
18 that I did my math incorrectly.

19 Q Okay.

20 A That I needed to double-check my math.

21 Q And did you do that?

22 A Yes.

23 Q Now, the e-mail above that, or two above that, rather, at
24 2:29 P.M., who is it from and who is it to?

25 A It's from Noah -- I'm sorry -- from myself to Noah.

1 Q 2:29 P.M.?

2 A That one's from Noah to myself.

3 Q Okay. And what's that about?

4 A Uhm, earlier I'd asked that if I could pick up all the
5 money that was owed to me on my next trip to L. A., and he's
6 explaining that he's having trouble selling the Monster Kush
7 and that they'll try and pay everybody out everything before
8 they leave.

9 Q And where -- where were they going?

10 A To the Philippines.

11 Q Exhibit 63. Okay. Look at the bottom of this sheet.

12 MS. SHEMITZ: Your Honor, may I inquire of the court
13 clerk, did we already discuss this one? This is Exhibit 63.

14 THE COURTROOM DEPUTY: (Nods head.)

15 MS. SHEMITZ: We did. Okay. We'll skip over this
16 one and move on to Exhibit 64, please. We've got that one,
17 too? Okay. We'll skip that one. Oh, you're all so happy.
18 We'll skip 66.

19 THE COURTROOM DEPUTY: Yes.

20 THE COURT: We did that.

21 MR. KOWAL: May I speak to counsel for a sec?

22 THE COURT: I think we did all the rest.

23 THE COURTROOM DEPUTY: Yes.

24 MS. SHEMITZ: Thank you.

25 Q (BY MS. SHEMITZ:) Okay. Let's go to Exhibit 67, please.

1 So, Mr. Stanley, could you look at the second page first? The
2 e-mail that says November 4th, 10:37 P.M., who is that from and
3 who is that to?

4 A It's from Noah to myself.

5 Q Uh-huh. And what's it about?

6 A It's about Dave, New York Dave coming up to my house.

7 Q Anything else?

8 A Just that he -- you know, that I'd met him before and that
9 he gave him my phone number so that I would -- you know, I
10 could expect a phone call from him.

11 Q Okay. And then the e-mail above that is at the very top
12 of that second page, the header is at the bottom of the first
13 page, November 5th, 2008, at 3:23 P.M. Who is it from and who
14 is it to?

15 A At the very top one?

16 Q No, no.

17 A Which one?

18 Q The top of the second page is the text of the e-mail that
19 begins at the bottom of the first page. Check out the screen.

20 A Yeah, I'll do that. Okay.

21 Q Okay. Let's skip that one.

22 A I'm lost.

23 Q Let's go to the next one above that.

24 A Oh, I see it.

25 Q We're on page 1 --

1 A I got it.

2 Q -- so we're on the e-mail on November 5th, 2008, at
3 3:28 P.M.

4 A Got it.

5 Q Who is it from and who is it to?

6 A It's from Noah to myself.

7 Q Okay. And what is this about?

8 A I'm not sure.

9 Q Okay. That's all right. What about the e-mail above that
10 at 6:28 P.M.?

11 A Uhm, at 6:28 P.M. it's from myself to Noah. I'm asking if
12 he can send me the number for the last 36 pounds I sent down.

13 Q And what does that mean, "the numbers"?

14 A The price breakdown of how much they sold them for, how
15 much was owed.

16 Q Okay. And who -- who determined the price that they
17 paid -- that they sold the pounds for that you provided?

18 A Those discussions were had with Noah Kleinman.

19 Q Okay. And the e-mail above that at 6:51 P.M.?

20 A It's from Noah to myself and he's explaining that he
21 didn't have the books with him, that they were getting busy
22 before they left for the Philippines, but he didn't -- and he
23 hadn't had a chance to do the breakdowns, and the NYC Diesel --
24 the NYCD is a strain name called the New York City Diesel and
25 it was the most expensive out of all the ones that's sent, and

1 all the rest of them were at the same as the last prices.

2 Q Okay. Do you recall what the NYC Diesel was price wise?

3 A I don't.

4 Q Okay. Moving on to the e-mail above that, at 6:54 P.M.,
5 who is it from and who is it to?

6 A Above that would have been -- it's from myself to Noah and
7 I basically said no problem, we'll figure it out when you guys
8 get home from the Philippines.

9 Q Okay. And the last one on that page at 1755 or 5:55 P.M.?

10 A It's from Noah to myself and he says you can guesstimate
11 it really close, but somebody did a really bad trim job on it,
12 so that he's going to have to sell it cheaper than he would
13 before. And it says the NYD was 34 -- he thinks was 3400.

14 Q Okay. What -- what would happen in a trimming job that
15 would make it less valuable?

16 A If it wasn't trimmed, all the leaf wasn't trimmed off, or
17 if too much of the leaf was trimmed off, it takes a certain
18 skill level to make it look really nice.

19 Q All right. Moving on to exhibit -- let's skip exhibit --
20 oh, no, I'm sorry. We'll do Exhibit 68, please.

21 THE COURTROOM DEPUTY: 68.

22 MS. SHEMITZ: 68. Once again did not have my
23 glasses on. 69.

24 THE COURTROOM DEPUTY: That's in.

25 MS. SHEMITZ: That's in?

1 Q (BY MS. SHEMITZ:) Okay. Can you take a look at that one?

2 A Looking at it. This e-mail's from myself to Paul Montoya.

3 Q Uh-huh? And what's it about?

4 A It's about the medical marijuana law that passed in
5 Michigan.

6 Q And what are you talking about with Paul?

7 A That there could be an opportunity to ship marijuana to
8 Michigan in large quantities.

9 Q Okay. Moving on to Exhibit 70. We can skip that one,
10 sorry. Is that one done?

11 Okay. 73, Sheila? Okay.

12 Okay. Let's look at Exhibit 74. And let's look at the
13 bottom of page 1, the e-mail November 24, 2008, at 11:10 A.M.
14 Who's it from and who's it to?

15 A Wrong one. It is from Paul to myself.

16 Q Okay. What's it about?

17 A It refers to the No. 10. I do not know if that was
18 \$10,000 or 10 pounds of marijuana.

19 Q Okay.

20 A But that I would bring it to NoHo storefront.

21 Q That you would bring it to NoHo?

22 A That's what it says.

23 Q Okay. Who was the e-mail from?

24 A It's from Paul to myself so that he -- I guess he would
25 bring it to NoHo storefront.

1 Q Okay. And the e-mail just above that?

2 A It's from myself to Paul saying I'll see him in a little
3 while.

4 Q So where were you at that point?

5 A I was -- I was in L. A.

6 Q Why were you in L. A.?

7 A More than likely for money -- to pick up money.

8 Q And the e-mail above that, November 24th, 2008, at 12:42,
9 who is it from, who is it to?

10 A It was from Paul to myself and he's asking me where I was.

11 Q Okay. And the one above that?

12 A My response was NoHo.

13 Q And how about the one above that, 12:43 P.M.?

14 A He says he'll see me in a few minutes and he's asking if
15 Chuckles was at NoHo.

16 Q Okay. Who is it from and who is it to?

17 A It's from Paul to myself.

18 Q And who is Chuckles?

19 A Chuckles is a nickname that was for Noah Kleinman.

20 Q Okay. And what was your response to that question?

21 A Yes.

22 Q All right. Next e-mail, Exhibit 75. All right. At the
23 bottom of the page, November 25th, 2008, at 1:53 P.M., who is
24 it from and who is it to?

25 A It's from Noah to myself.

1 Q And what's it about?

2 A That they weighed 11 pounds of the marijuana that was
3 brought down, and that they were -- they did not weigh what
4 they were supposed to weigh, and that they were -- they needed
5 to adjust the prices on some other strains.

6 Q All right. When it says, "They are all short 5 to 10 from
7 448," what does that mean?

8 A 5 to 10 grams short of 448, but they all should weigh 454.
9 That's 454 grams.

10 Q And when it says, "A large amount of them in total have
11 been short"?

12 A Just explaining that they haven't weighed what they were
13 supposed to weigh.

14 Q Okay. And with respect to the next lines, "We need price
15 adjustment on the Lemon, Lemon Skunk, Skunk," and so on, why
16 does he want a price adjustment?

17 A Because he's having trouble selling them.

18 Q All right. Next e-mail above that, 2:32 P.M., from who to
19 who?

20 A It's from myself to Noah.

21 Q Uh-huh. And what's it about?

22 A It's myself explaining that the -- unless someone took
23 something -- some marijuana out of the bags, that they should
24 be right, they should have weighed what they were supposed to
25 weigh.

1 Q What else did you tell him?

2 A Well, then I go on to explain that as far as lowering the
3 price on the marijuana that I sent him, that I have already
4 paid back a huge sum of money, over 100,000 to them, and that
5 all the work that I did on the project after paying back that
6 money, I didn't make any money at all. And so that I really
7 don't want them to drop the price 'cause I mean every dollar --
8 I need to make every dollar that I can.

9 Q Okay. And what was his response?

10 A He says then we're going to have to basically hold on to
11 the marijuana because the market's flooded, and that they're
12 having trouble selling them.

13 Q Okay. Moving on, next e-mail is Exhibit 83. Okay. Look
14 at the one at the bottom, December 6th, 2008, 7:48 P.M. Who is
15 it from and who is it to?

16 A It's from myself to Noah.

17 Q Uh-huh.

18 A And I say, "Mike is just passing Bakersfield," so it's a
19 driver with a load of marijuana and he's about an
20 hour-and-a-half away, and I give him his cell phone number so
21 he can call him to make arrangements to have it dropped off.

22 Q Okay. And the e-mail above that?

23 A It's talking about prices per gram for hash and kief.

24 Q What's kief?

25 A Kief is the crystal from the marijuana before it's broken

1 down and made into hash.

2 Q Okay. And where did you get kief?

3 A It's from trimming and from shaking of the marijuana, that
4 you basically shake all the crystals off of it and collect
5 them.

6 Q And who was Mila?

7 A Mila was a worker that was -- that Noah had sent up to
8 trim.

9 Q And what about M and R and H?

10 A M would be Mark, R would be Randy, and I'm not a hundred
11 percent sure on H.

12 Q Okay. And what is he telling you there?

13 A What was the question?

14 Q What is he telling, "Tell M and R and H I said hi." Why
15 is he telling you that?

16 A Because they've been up there trimming marijuana for a
17 while, just, "Tell them I said hi."

18 Q Okay. All right. You know what, before we move on from
19 that one, tell me the first line of that e-mail, December 7th,
20 2008, at 183314 or 6:33 P.M., what is the first line?

21 A It says, "Yo, what's up buddy. It's me Chuckles."

22 Q Okay. And do you recognize the e-mail address up in the
23 top portion of this --

24 A Yes.

25 Q -- section?

1 A From Diamond.

2 Q Was he using Diamond at that time?

3 A He received a new BlackBerry.

4 Q Okay. Next exhibit, Exhibit 89. Okay. Take a look at
5 the bottom of page 1, December 11th, 2008, at 9:11 P.M. Who is
6 it from and who is it to?

7 A It's from Noah to myself.

8 Q Okay. And what is this about?

9 A It's talking about money owed.

10 Q All right. Who owes who money?

11 A It looks like to me it looks like Noah and Paul owe me
12 money.

13 Q Okay. And it says, "Bell before the last order was 66,715
14 and new order is 121, 279." What did that mean?

15 A It would mean \$121,279 was owed.

16 Q Okay. And was that based on the order that you guys were
17 discussing on December 6th that was on the way down from
18 Bakersfield?

19 A Yes.

20 Q All right. Then it says, "Plus we owe you like 5K more"?

21 A Yes.

22 Q And why was that?

23 A I do not remember.

24 Q Okay. How about the e-mail above that, from who to who?

25 A It's from myself to Noah.

1 Q Uh-huh.

2 A And I said, "Okay. That works."

3 Q Okay. And then the next one above that at 9:34 P.M.?

4 A That there's a lot of variables and that we really need to
5 sit down in person and go over all the numbers and finalize and
6 get an exact number.

7 Q Who was that from and --

8 A It was from Noah to myself.

9 Q Okay. Let's move on. Is 97 taken care of? No.

10 Okay. Let's go over 97. So look at the bottom of the
11 first page. We're at December 23rd, 2008, at 10:53 A.M.

12 A The e-mail's from Paul to myself.

13 Q Uh-huh.

14 A And he's asking if my -- one of my boys -- somebody that
15 worked for me had left already.

16 Q And what was he talking about?

17 A Somebody driving from Northern California to Southern
18 California.

19 Q For what purpose?

20 A To deliver marijuana.

21 Q All right. And how about above that?

22 A I respond with, "He's 20 minutes from there."

23 Q Okay. And the e-mail above that at 11:02 A.M.?

24 A It was from Paul to myself.

25 Q Uh-huh.

1 A He asked, he said, "I thought he was leaving in the
2 morning, but he's already here?" And that Chuck, which is
3 Noah, will respond to him.

4 Q Okay. And then you asked him a question about that at
5 1:01 P.M. What's that about?

6 A It's Noah -- I'm sorry -- it's from -- it's from myself to
7 Paul. I was asking him how much is he bringing up, which would
8 be money, how much money is he bringing up with him.

9 Q And who's "he"?

10 A Whoever Paul was sending with the driver. I'm not sure.

11 Q Okay. And the e-mail above that, December 23rd at 1:04
12 P.M.?

13 A It is from Paul to myself. He said he's bringing \$30,000
14 and a quarter pound of some Dank, which is high-grade personal
15 marijuana for myself.

16 Q Okay.

17 A He didn't have time to get bags.

18 Q What does that mean?

19 A I may have requested that he bring duffel bags.

20 Q Okay.

21 A And then he says, "This looks more like NY Diesel," so
22 that's the -- referring to the personal marijuana that he's
23 sending up for me.

24 Q And what does it mean, "It's pretty dry with a lot of
25 shake"?

1 A I'm not sure. He must be referring to the marijuana that
2 I had sent down.

3 Q All right. Do you know whether that marijuana arrived?

4 A I am not a hundred percent sure.

5 Q Okay. Were you getting paid for that marijuana?

6 A The 30,000 he was bringing up would have been on a
7 previous trip, so I do not know where we're at as far as the
8 time frame.

9 Q Okay. And what about your last e-mail in this string at
10 13:06, meaning 1:06 P.M., at the top of the page?

11 A "What is it worth?"

12 Q Yeah. What are you asking him?

13 A I must be referring to the marijuana that was sent down on
14 the last shipment.

15 Q Okay. And why are you asking him what it's worth?

16 A Because I hadn't got a response on how much they owed me.

17 Q Okay. And who was going to decide how much it was worth?

18 A Noah Kleinman usually made those decisions.

19 Q All right. Next exhibit is 98. Okay. Mr. Stanley,
20 this -- the first one at the bottom of page 2, December 23rd,
21 2008, who is it from and who is it to?

22 A It's from Noah Kleinman to myself.

23 Q And what's he talking about?

24 A That he'd gotten a new BlackBerry.

25 Q And what was the name on the new BlackBerry?

1 A Nuke.

2 Q Okay. And the e-mail above that?

3 A My response was, "New one again?"

4 Q Okay. Why did you say that?

5 A 'Cause he'd already gotten a new one not too long before
6 that.

7 Q Okay. Let's move to the bottom of page 1. So we're at
8 December 23rd at 6:09 P.M. Who's it from and who's it to?

9 A It's from Noah Kleinman to myself.

10 Q Okay.

11 A And he says he took this BlackBerry back from Neo. Neo's
12 referring to the owner of the -- of NoHo -- NoHo storefront.

13 Q Okay. And what about, "Anyway saw your boy," and etc.?

14 A Uhm, he saw my driver, Mike.

15 Q Uh-huh.

16 A And overall the stuff that he brought down there was over
17 a half pound of shake that they had to take out of the pounds
18 that were sent down. And then he's asking me what's the lowest
19 they can sell them at.

20 Q What does it mean that there was a half pound of shake?

21 A That there was leaf, not just flowers of marijuana, in the
22 bags with the -- in the pounds of marijuana.

23 Q And did that have an impact on the quality?

24 A It had an impact on price.

25 Q Okay. And the e-mail above that, December 23rd at

1 6:14 P.M.?

2 A That's my response saying that we've already taken out a
3 quarter pound of leaf and I was hoping for 3900 a pound, but
4 I'll go as low as 35- to 36-, and that explained that it looked
5 really nice when it left my house.

6 Q Okay. And how about the e-mail above that, 6:19 P.M.,
7 from who to who?

8 A It's from Noah to myself.

9 Q Uh-huh.

10 A And that he's not trying to shortchange me, that he
11 e-mails that they paid 3900 for the last ones but they didn't
12 have any shake. And then after looking at them, that price was
13 too high. And then he gives me a cell phone number to call him
14 on.

15 Q Okay. Why did he give you that cell phone number?

16 A I don't -- the only reason I can think of, either having
17 trouble with his BlackBerries or he's getting rid of his
18 BlackBerry.

19 Q Okay. And the e-mail above that?

20 A I respond with, "That's okay, totally understand. So what
21 do you think they're worth? What do you think they'll sell
22 for?"

23 Q And what was his response?

24 A That he could pay 3400 to 3500 a pound.

25 Q What does it mean, "I can pay 34 or 35 for the

1 three-pound" --

2 A 31-pound -- oh, that he can pay 34- to 3500 for the three
3 pounds, 'cause he probably only got four pounds, but after
4 removing 224 grams of shake out of it, that it wasn't four
5 pounds.

6 Q All right.

7 A And then he explains that he can sell the shake for 3 or 4
8 dollars a gram, and that they can't take a loss on the shake,
9 so basically they can't pay me for it because they've just been
10 burglarized and they lost \$50,000.

11 Q Okay.

12 MS. SHEMITZ: Your Honor, it's 2:25. I'm going to
13 go into some more discussion of another topic now. Is this a
14 good time to stop?

15 THE COURT: It is, 'cause in a few minutes I've got
16 another case I've got to deal with. So this is a great time to
17 stop.

18 MS. SHEMITZ: Okay.

19 THE COURT: All right. Ladies and gentlemen, we're
20 going to adjourn for the evening. I sense from the way the
21 Government is chewing through this witness list that we are
22 getting close.

23 All right. So remember the admonition. Remember what we
24 talked about this morning, and I'll see you first thing. Okay?

25 THE COURTROOM DEPUTY: All rise.

1 (Open court out of the presence of the jury.)

2 THE COURT: Anything we need to discuss quickly?

3 MS. SHEMITZ: Yes, your Honor.

4 THE COURT: What's up?

5 THE COURTROOM DEPUTY: You can be seated.

6 MS. SHEMITZ: Your Honor, we have a motion we are
7 going to file later -- I just want to give the Court a
8 heads-up --

9 THE COURT: Okay.

10 MS. SHEMITZ: -- about the witnesses noticed on the
11 defendant's exhibit list --

12 THE COURT: Uh-huh.

13 MS. SHEMITZ: -- concerning --

14 THE COURT: First of all, has there been any
15 discussion recently about that? We may not have to deal with
16 it.

17 MS. SHEMITZ: Uhm, no.

18 THE COURT: Okay. Let's just have a word as you're
19 walking out.

20 MS. SHEMITZ: Very well.

21 THE COURT: Thank you. I'm going to be especially
22 interested if this expert we have been talking about is going
23 to be necessary.

24 MR. LAWRENCE: Your Honor, we have some more
25 information on that topic of the defense witness.

1 THE COURT: Uh-huh.

2 MR. LAWRENCE: We have a -- one additional potential
3 defense witness. He's also an expert and his name is Stewart
4 Richland. He's a corporate attorney and he would be an expert
5 on the area of ownership of collectives and the business
6 structure of the collectives, and he would -- nothing to do
7 with the medical marijuana laws -- just opining on the
8 contracts that were signed by people going through the door,
9 the language and that, and disputing some of what the witness
10 said today regarding ownership interest.

11 THE COURT: I don't think anybody's signed any
12 agreements that were taking care of business out the back door,
13 but we'll talk about it.

14 MS. MARGOLIN: Your Honor, actually there was
15 testimony. We actually noted this by Montoya that there were
16 some of the people who coming in from the back door had signed
17 the agreements. We're very sure of that. We wrote it down at
18 the time. So there's -- there's both.

19 THE COURT: And then what?

20 MS. MARGOLIN: The Court --

21 THE COURT: No. And then what? What does this
22 mean?

23 MS. MARGOLIN: And this means -- I mean, the
24 Court -- we discussed it that -- what does it mean? You want
25 to know what we're trying to get from this?

1 THE COURT: Okay.

2 MS. MARGOLIN: That the marijuana is co-owned by all
3 the people and that it's not sold or not distributed because
4 everyone constructively possesses it from the beginning.

5 THE COURT: Do we just completely discount
6 Ms. Thabet's testimony today?

7 MS. MARGOLIN: No, no. Well, actually what
8 Ms. Thabet said was -- when we asked her about the collective
9 ownership, she said the only reason -- she responded that it
10 wasn't, because in her mind if it was really a collective
11 ownership, that anybody could just come in and take it at any
12 time, and that's exactly what we want the expert to opine in
13 that in any collective structure that doesn't mean that it's a
14 free for all, that that's not equitable, that a free for all is
15 not the same as collective ownership. And this would be not
16 about any medical marijuana issue, solely about -- I'm sorry --
17 solely about this limited defense that we've articulated to the
18 Court.

19 THE COURT: Got you. Yes, sir.

20 MR. KOWAL: That theory is completely irrelevant to
21 any element or defense for this Court. If the Court's jury
22 instructions for possession are a person must have either
23 physical possession or the intention or ability to control it,
24 joint ownership has nothing to do with it; it has nothing to do
25 with the distribution of marijuana as defined in the jury

1 instructions. This is simply a back door way under Rule 403 --
2 in violation of Rule 403 for them to get at the idea of
3 collectives, cooperatives, ownership, and nothing to do with
4 the elements here. And some of that will be spelled out in the
5 government's motion that we will file.

6 THE COURT: You can file. Listen, why don't you
7 give your expert the day off. You won't have any experts
8 testifying regarding collectives. Collectives are not involved
9 in this case. All right? Anyway, see you all tomorrow. I've
10 got other business to take care of.

11 MS. SHEMITZ: Thank you, your Honor.

12 MS. MARGOLIN: Your Honor, may we respond to the
13 motion?

14 THE COURT: Oh, yeah, yeah.

15 MS. MARGOLIN: Once they file it?

16 (Proceedings adjourned at 2:28 P.M.,
17 until Thursday, June 5, 2014, at 8:00 A.M.)

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