

1 UNITED STATES DISTRICT COURT  
2 WESTERN DISTRICT OF LOUISIANA  
3 LAFAYETTE DIVISION

4 \*\*\*\*\*  
5 UNITED STATES OF AMERICA CASE NO. 6:24-CR-00206-01

6 VERSUS JUDGE DAVID C. JOSEPH

7 GARY HAYNES MAGISTRATE JUDGE CAROL B.  
8 WHITEHURST

9 \*\*\*\*\*

10 OFFICIAL TRANSCRIPT OF JURY TRIAL  
11 VOLUME VIII OF IX (PAGES 1368-1625)  
12 HEARD BEFORE THE HONORABLE DAVID C. JOSEPH  
13 UNITED STATES DISTRICT JUDGE  
14 SEPTEMBER 17, 2025

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United States Court Reporter  
Western District of Louisiana

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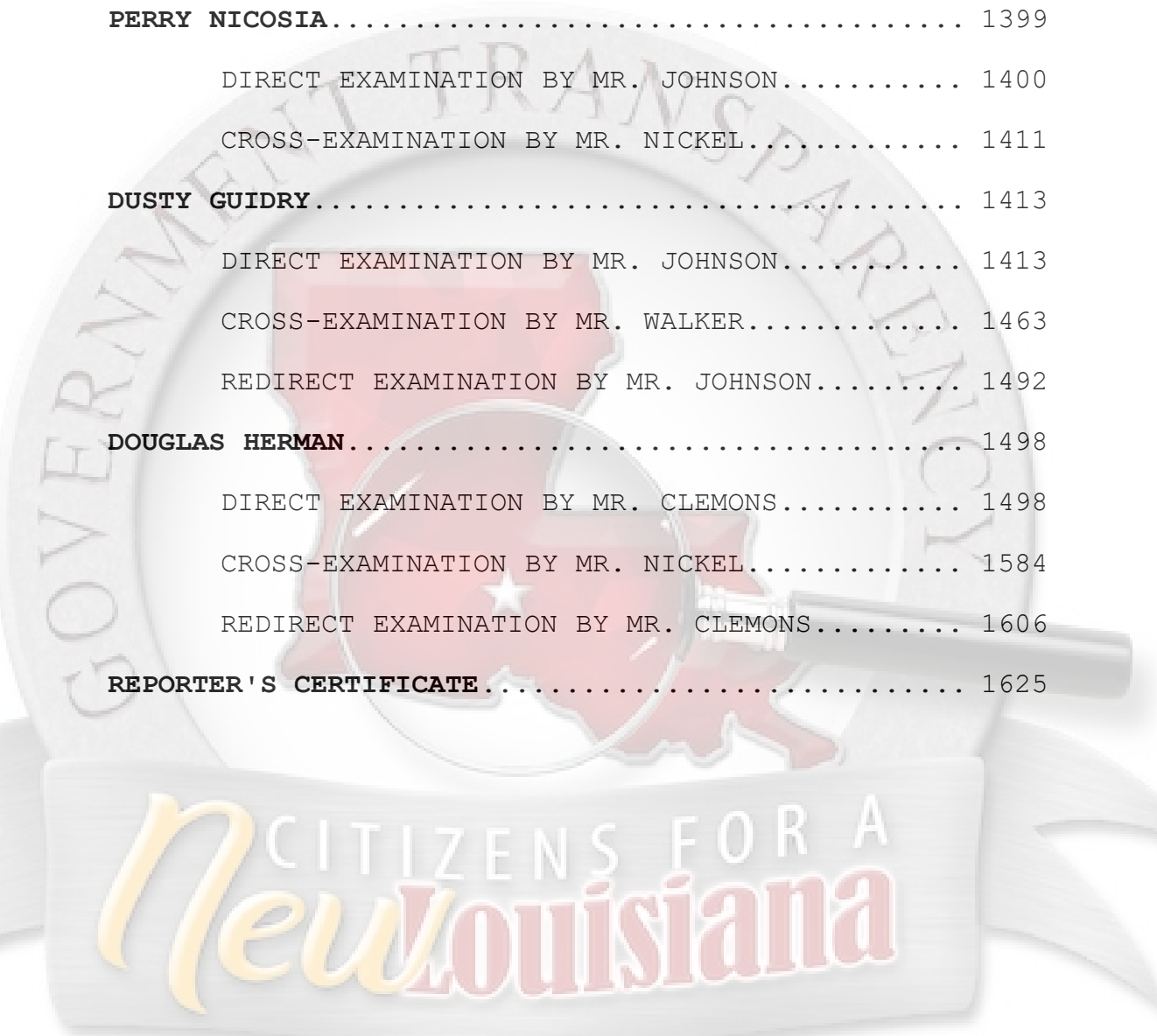
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**COURT PROCEEDINGS****SEPTEMBER 17, 2025**

(Court is called to order.)

**THE COURT:** Please be seated. We're back on the record in 24-cr-206, *United States versus Gary Haynes*. The defendant is present in court with counsel.

We have a preliminary charging conference set this morning. It's preliminary because it may be changed, depending on if anything needs to change as a result of the remainder of the defendant's case.

Has counsel had a chance to review the proposed jury instructions?

**MR. NICKEL:** Yes, Your Honor.

**THE COURT:** Mr. Clemons? Mr. Johnson?

**MR. CLEMONS:** Mr. Johnson reviewed them, Judge.

**MR. JOHNSON:** Yes, sir. I did review them. The only things that I see --

**MR. CLEMONS:** He just asked if you reviewed them.

**MR. JOHNSON:** Oh, sorry, yes. You weren't asking for my opinion on anything.

**THE COURT:** Since you are up, Mr. Johnson, you can go ahead and share them. Besides, I understand, based on what I received -- information I received this morning, that Mr. Franques is going to be called by the defense; is that right?

**MR. CLEMONS:** No.

1           **MR. JOHNSON:** I think Ms. Franques is going to be called  
2 by the defense, Your Honor.

3           **THE COURT:** Leonard is not?

4           **MR. JOHNSON:** He may be.

5           **MR. CLEMONS:** We haven't made that -- I thought we were  
6 on jury. We haven't made that decision yet.

7           **THE COURT:** Well, that affects the jury instructions  
8 because he is a coconspirator. So his name needs to be added.  
9 That's what I was bringing up.

10          **MR. CLEMONS:** Right. Yeah, we hadn't made that decision  
11 yet. We just wanted to put him on the list so the Government can  
12 be on notice that he is a possible witness. But we haven't made  
13 that permanent decision, Judge.

14          **THE COURT:** All right. I'm just bringing it up for that  
15 purpose.

16          **MR. CLEMONS:** No problem, Judge.

17          **THE COURT:** So we have that flagged. We also have, of  
18 course, Mr. Haynes' right to testify, which I have to discuss with  
19 him after the other witnesses have been presented.

20          So subject to that, those two things -- those are the two  
21 open areas we have right now. Anything else, Mr. Johnson?

22          **MR. JOHNSON:** No. That's what I was going to suggest.  
23 Those were the only two issues that I saw that might need changing,  
24 but the way that the Court has them written, it's predicting that  
25 those may change. So that was the only issue I was going to bring

1 up is just what you said.

2 **THE COURT:** And then as far as you had -- I didn't see  
3 your proposed expert. Are y'all going to call him or not?

4 **MR. CLEMONS:** That's what I was about to bring up, Judge.  
5 I see we have an expert opinion testimony. At this point we don't  
6 intend we think we need to call him. So if we don't call him, I  
7 would that would come out.

8 **THE COURT:** That will come out.

9 **MR. CLEMONS:** That's what I wanted to let the Court know.

10 **THE COURT:** That's the one other thing, yes.

11 **MR. CLEMONS:** Right. That's the one I stood up for,  
12 Judge.

13 **THE COURT:** Mr. Nickel?

14 **MR. NICKEL:** A few things, Judge. I just tagged some  
15 things and it's probably going to be repetitive. But, of course,  
16 page 3, asking not -- for the jury not to make an inference from  
17 the defendant not testifying.

18 **THE COURT:** You mean depending on whether he testifies or  
19 not?

20 **MR. NICKEL:** Yeah. Which we covered, but I'm just going  
21 through where I tagged. Specifically page 8, impeachment by prior  
22 inconsistencies. I know the defense spent a lot of time trying to  
23 impeach Mr. Guidry by his previous statements.

24 **THE COURT:** Correct.

25 **MR. NICKEL:** I don't know if they ever actually got

1 there. The process is to get the defendant to acknowledge that he  
2 did not say something or he said something different than a  
3 previous statement.

4 **THE COURT:** Correct.

5 **MR. NICKEL:** I don't know if we ever got there. Every  
6 time he said, I don't remember if I said that; I can't recall if I  
7 said that; yes, it would refresh my recollection. And I don't know  
8 if anything was admitted into evidence to actually impeach the  
9 witness.

10 **THE COURT:** And I thought about that. I was here most of  
11 the weekend working on these instructions. I thought about that.  
12 I generally agree with the premise that you are saying, Mr. Nickel.  
13 The reason I included it and I included it in vague terms, is  
14 because throughout the trial we've kind of referenced, and both  
15 sides have done it -- mostly the defense, but both sides have done  
16 it to some degree -- referenced prior interview statements. And so  
17 the issue has been brought up that there were other interviews.  
18 And this instruction is really designed to show that any headway  
19 that the defense counsel may have made with respect to showing the  
20 statements changed of witnesses, that needs to be treated as a  
21 credibility assessment. That's what it's telling the jury. It's  
22 not saying that it happened.

23 **MR. NICKEL:** So just to be clear, for example, I would  
24 agree that some witnesses said, "I don't remember being interviewed  
25 by the FBI," and then there was mention of a 302. Is that kind of

1 what we're talking about? Just the idea that they didn't remember  
2 getting interviewed?

3 **THE COURT:** Yeah. We didn't admit any prior statements.

4 **MR. NICKEL:** Right.

5 **THE COURT:** But it was admitted in the form of testimony  
6 in a sense: Didn't you say before that X, Y, and Z?

7 Yes, I did.

8 So that puts that issue before the jury. That's why I  
9 included it. The instruction nowhere says that anybody was  
10 impeached.

11 **MR. NICKEL:** Okay.

12 **THE COURT:** So I gave a lot of thought to that, and I was  
13 on the fence, but I decided out of an abundance of caution, because  
14 there were prior statements referenced by defense counsel mainly,  
15 that I would include the instruction.

16 **MR. NICKEL:** Yeah, Judge, the only other thing I had was  
17 the expert testimony that will probably come out, it sounds like,  
18 that I had tagged.

19 **THE COURT:** What about the substantive instructions? You  
20 know, I had to kind of create two of those.

21 **MR. NICKEL:** Yeah. So the interstate commerce with the  
22 public bribery, I think it's good, where we put in the Louisiana  
23 Revised Statute.

24 **THE COURT:** You're talking about the --

25 **MR. WALKER:** Use of a facility.

1           **MR. NICKEL:** The 1952.

2           **THE COURT:** Right. The two I'm talking about, though,  
3 that one we kind of created. The two I'm talking about is 5 and 6.

4           **MR. CLEMONS:** What page are you on, Judge?

5           **THE COURT:** We're talking about --

6           **MR. CLEMONS:** Page 30?

7           **THE COURT:** Page 32 is the conspiracy to commit money  
8 laundering. Here we have a conspiracy to money laundering without  
9 a substantive money laundering count in the indictment, which is  
10 odd. And so essentially, but, you know, of course, the provision  
11 of money laundering 1956, is it (a) (2)? Yeah, (a) (1). I'm sorry.  
12 1956(a) (1) was referenced in the indictment as the charge as the  
13 underlying offense to the conspiracy. And then, of course, so we  
14 have to incorporate that, but we also have to incorporate the  
15 specified, the SUA, specified unlawful activity. So it's  
16 incorporating two different statutes in this one conspiracy charge.  
17 And so that's why I had to work this out. I wanted Counsel to make  
18 sure they looked at that and make sure they agree that it's a fair  
19 representation of the offense.

20           **MR. NICKEL:** Right. So for the conspiracy to commit  
21 money laundering, I was thinking the same thing last night.

22           **THE COURT:** And I had to incorporate the elements of  
23 (a) (1), the 1956(a) (1) and I had to incorporate the elements of the  
24 specified unlawful offense, which we already had in Count 2.

25           **MR. NICKEL:** Right. And that's why -- I double-checked

1 it last night -- we do say in the count, "Reference paragraphs 1  
2 through 15."

3 **THE COURT:** Which is actually conspiracy, but that  
4 conspiracy then references Count 2 which is actually the SUA,  
5 because the conspiracy -- 371 conspiracy is not a SUA.

6 **MR. NICKEL:** Correct. I agree. I did not draft this  
7 indictment, of course, but I --

8 **MR. CLEMONS:** Judge, I think you see why we filed the  
9 bill of particulars.

10 **THE COURT:** Right. And I think ultimately I decided,  
11 looking at this, that because the underlying -- the offense against  
12 the United States in Count 1 was Count 2, 666, that that's  
13 encompassed in 1 through 15, and that is a SUA for purposes of  
14 Count 5.

15 **MR. NICKEL:** Right. To make a long story short, I don't  
16 know how we could have done it better than you did. I'm fine with  
17 it the way it is.

18 **THE COURT:** I like the sound of that.

19 **MR. NICKEL:** We're on the same page.

20 **THE COURT:** And then Count 6, of course, there's been a  
21 lot of case law about this Sarbanes-Oxley 1512. There is the fish  
22 case, Yates I think it was. And so, you know, it needs to be  
23 narrowly drafted, you know. I think here the word "corruptly." We  
24 have that definition from another instruction by the Fifth Circuit.  
25 But ultimately I think we got -- there's not a Fifth Circuit

1 pattern on this particular subsection of 1512, but we used some  
2 other circuit instructions, as well as some Fifth Circuit case law,  
3 to kind of come up with this.

4           Anyway, I did want to bring these two to your attention.  
5 Any other suggestions with respect to those two counts?

6           **MR. NICKEL:** Nothing from the Government.

7           **MR. JOHNSON:** There was an instruction I think discussed  
8 in the case law under *McConnell* that narrowed the official act  
9 definition that said association is not enough; that it has to be

10 --

11           **THE COURT:** Yeah. I think that's in there. Isn't it?

12           **MR. JOHNSON:** I had a note to bring that up, but I may  
13 have missed it.

14           **MR. CLEMONS:** Do you know what page offhand, Judge?

15           **THE COURT:** We're talking about 34 and 35. What case is  
16 that?

17           **MR. JOHNSON:** *McConnell*, maybe, Your Honor. I can find  
18 it.

19           **THE LAW CLERK:** It might be page 26, Judge. 26 talks  
20 about mere presence.

21           **THE COURT:** That's what I'm thinking of for sure.

22           **THE LAW CLERK:** That's not incorporated into the  
23 conspiracy to commit money laundering.

24           **THE COURT:** He's talking about the obstruction. You're  
25 talking about the obstruction. You're talking about the conspiracy

1 instruction; right?

2 **MR. JOHNSON:** On the quid pro quo aspect of it, where he  
3 talks about it has to be tied to a specific act; that mere  
4 association is not enough I think is what we're concentrating on.

5 **THE COURT:** That's not in the instruction. That's not  
6 instruction. I was talking about Count 6.

7 **MR. JOHNSON:** Okay. My bad. I'm talking about --

8 **THE COURT:** So Count 6, we don't have anything else on.  
9 So conspiracy -- yeah, mere association in a conspiracy  
10 is not enough. And I think that's in both instructions. Look at  
11 page 33. "Mere presence at the scene of an event, even with  
12 knowledge that a crime is being committed --" that's on page 33 as  
13 to Count 5. And then it's on page 22 as to Count 1. Is that  
14 right?

15 **MR. NICKEL:** 26.

16 **THE COURT:** 26 as to Count 1. And the quid pro quo  
17 you're talking about, Mr. Johnson, that is, of course, that's a  
18 requirement. And it's specifically referenced in Count 2 under 666  
19 that quid pro quo is defined and it's laid out in detail that there  
20 has to be a quid pro quo for it to be a public bribery.

21 **MR. JOHNSON:** I think what I just need to do is go review  
22 that case and see if I have anything that we would be able to  
23 suggest be added to it, but I'm fine with it as it stands now.

24 **THE COURT:** Well, let me know if you see something in  
25 that case. If you think something about mere association needs to

1 be added to any of the instructions, we'll take a look at that  
2 before we instruct the jury. But if you don't bring it up to me,  
3 I'll assume there's nothing needs to happen.

4 **MR. JOHNSON:** Agree.

5 **THE COURT:** Otherwise, we are going to just modify  
6 according to if the defendant testifies; we're going to modify it  
7 to take out the expert witness instruction; and we're going to  
8 modify it to include Mr. Franques, if he testifies.

9 **MR. NICKEL:** Judge, one more thing that Mr. Loew reminded  
10 me of. At the beginning after our stipulation, I think you gave a  
11 brief jury instruction on what a stipulation is. Could we put that  
12 in the final jury instructions, as well, just because it has been a  
13 while since they've heard about it?

14 **THE COURT:** As to what a stipulation is? You want me to  
15 put in the stipulation into the jury instructions?

16 **MR. NICKEL:** Both, if you could.

17 **THE COURT:** What I can do is -- under Count 2; right?

18 **MR. NICKEL:** Yes, Your Honor.

19 **THE COURT:** That's the only one it applies to. Under  
20 Count 2 we can add a sentence to the second element. "The parties  
21 have stipulated that this element has been met and you must --" I  
22 can essentially say something like, "The parties have stipulated  
23 that this is the case and you, you know, can -- don't have to have  
24 anymore evidence on that," or something like that. I have done  
25 that before in jury instructions.

1           **MR. NICKEL:** Sure. That's good with me, Judge. This  
2 element has agreed to have been met, anything like that. Just as  
3 long as it's mentioned again. It's just been a while since we  
4 talked about it. It was the first thing we talked about.

5           **THE COURT:** Okay.

6           **MR. CLEMONS:** We wouldn't have any objection to that,  
7 Judge. No objection.

8           **THE COURT:** All right. I'll add a sentence to that,  
9 then.

10           Verdict form, any suggestions? Changes?

11           **MR. NICKEL:** No, Your Honor.

12           **THE COURT:** We also got printed out this morning a motion  
13 filed at 3:00 this morning by the defendant. Has the Government  
14 received a copy of that?

15           **MR. LOEW:** Yes, Your Honor.

16           **THE COURT:** I read through it this morning. I think I  
17 understand the evidentiary rule under which the defendant is trying  
18 to admit it. What I'm not clear about is the relevancy of this  
19 alleged correction by Ms. Franques.

20           **MR. JOHNSON:** Your Honor, to address that, the defense's  
21 theory has been that this wasn't an objected investigation; that  
22 the FBI was steering the case towards Mr. Haynes; and that they  
23 would not be able to corroborate the fact that a conspiracy  
24 occurred. Ms. Franques' statement is perfectly in line with the  
25 defense's theory of the case. And so we have her -- so the way I

1 understand it is she goes in for an interview. Afterwards she goes  
2 back in for an interview to correct the statements. Then she goes  
3 back in and they still don't get it right. And so then she sends  
4 her own personal e-mail explaining how the FBI agents have: You  
5 said Haynes, you said motherly instinct. I never said that. I  
6 never, you know, said, you know... It literally is the defense's  
7 theory of the case.

8 So now, although we had worked with Ms. Franques around  
9 accommodating her being present in New Orleans for the surgery of  
10 her father, we find out I think yesterday that she intends to plead  
11 the Fifth. So we have to be able to present our defense, Your  
12 Honor, and not everybody come in and say, Oh, I can't. So that's  
13 David Burton's pleading the Fifth. That's Montoucet pleading the  
14 Fifth, and that's Michelle Franques pleading the Fifth.

15 Our position is, is that our hands are being, you know,  
16 tied from putting on, you know, evidence. So there has to be some  
17 happy medium. And the Court has the authority. And that's my, in  
18 my opinion, the purpose of a Kastigar letter is to say we're not  
19 going to use this against you. Your statements are going to be  
20 protected.

21 So if she intends to plead the Fifth and the Court allows  
22 her to plead the Fifth and doesn't say, no, we're not going to  
23 allow you to plead the Fifth because as long as your statements are  
24 consistent with what's in your 302 and your corrections, as long as  
25 this is what you're saying, then there's no way you can be

1 prosecuted for that -- it can't be used against you -- then the  
2 Court can remedy the situation by allowing her to testify and not  
3 allowing her to plead the Fifth. Or, two, it can allow us to get  
4 in her own corrections, which I would point out is different than a  
5 302. The 302 is, hey, this is what an FBI said someone else said.

6 In this unique circumstance, she got to the point where  
7 she was so frustrated apparently she typed up her own document, all  
8 right, and points that contains all-caps letters, her statement,  
9 and hand-delivered it to the Government via AUSA Lauren Gardner.  
10 So it is, in fact, her statement. It's not someone saying what she  
11 said. It's her typing it up and saying it.

12 **THE COURT:** You're saying the relevance is to show that  
13 the FBI was motivated against your client in its investigation?

14 **MR. JOHNSON:** That's right. And that this witness,  
15 specifically the person that -- and there has been testimony to  
16 this. Leonard Franques, he owns and operates a business with his  
17 wife. The testimony from Agent Herman.

18 **THE COURT:** Essentially, she says in the parts you've  
19 outlined, she says she doesn't know. She doesn't know a lot of  
20 things. That's what she's telling you.

21 **MR. CLEMONS:** Judge, she also repeatedly says the FBI was  
22 trying to get to --

23 **THE COURT:** Right. And that's why I'm trying to clarify.  
24 Your point is that it's to say that the FBI had an objective in  
25 mind when they did this investigation?

1           **MR. CLEMONS:** Absolutely. And the objective was to  
2 implicate Gary Haynes. She said repeatedly, They kept trying to  
3 put words in my mouth, in essence, by saying Gary Haynes. And she  
4 just gave several examples of that's not correct: You put in 302  
5 that Gary Haynes was to do this and to do that. I did not say  
6 that.

7           And that's the gist of the corrections, Judge. Not that  
8 they made mistakes, but that they had ill motives; that they wrote  
9 the 302 inaccurately to portray and to implicate Gary Haynes as  
10 being involved in her conspiracy.

11           And she says, for example, the two checks Gary Haynes  
12 gave to F4, "I have no idea what he gave those checks to F4 for."  
13 The 302 said it was in support, I think, of CBT. But she clearly  
14 says, "I don't know why Gary Haynes made those payments." So not  
15 just corrections, Judge, but corrections directly involving our  
16 client and the Government attempting to implicate our client  
17 unjustly by writing a 302 that's flagrantly inaccurate.

18           **THE COURT:** Isn't Special Agent Herman on your list?

19           **MR. CLEMONS:** Yes, sir.

20           **THE COURT:** Is he the author of the 302?

21           **MR. CLEMONS:** It's one of his colleagues. In this  
22 particular 302, I think one of his colleagues authored it, but he  
23 is certainly aware of it and he knows what happened.

24           **THE COURT:** What's the Government's -- has the Government  
25 read this motion?

1           **MR. LOEW:** Pretty quickly this morning, Your Honor.

2           **THE COURT:** Yeah. Me, too.

3           **MR. LOEW:** So I'll do my best. So I think the biggest  
4 problem with getting this in is, first of all, the Kastigar letter  
5 very specifically protects her in the two statements that she gave  
6 to the United States, not her testimony on the witness stand. So I  
7 think that's why if she intends to take the Fifth, that would be  
8 why; based on her testimony, not based on the protected statements,  
9 if they are true.

10           The bigger problem is her -- my understanding is she gave  
11 her first interview on the day that they searched their home in  
12 December of 2021. She got a copy of the 302 shortly thereafter.  
13 And in March of 2022 on the second interview, she made handwritten  
14 corrections, and they're written on the Court's copy as an exhibit  
15 to the defendant's motion. And then 3<sup>1</sup>/<sub>2</sub> years later she submitted  
16 --

17           **THE COURT:** It was 3<sup>1</sup>/<sub>2</sub> years later?

18           **MR. LOEW:** Yeah. In April of '25 is when she submitted  
19 the typed-out letter to the U.S. Attorney's Office. And all of  
20 those are inconsistent with each other. And I wasn't able to go  
21 through every single one, but there are some glaring  
22 inconsistencies. For example, in the first interview in December,  
23 she said that the reason they entered the scheme was because of  
24 greed. In the March -- so the next time she was interviewed, in  
25 March of '22, she said, In hindsight, probably wasn't greed; it was

1 vanity. And then in her correction 3<sup>1</sup>/<sub>2</sub> years later, in April of  
2 '25, she said: I said my motivation was for Leonard to be proud of  
3 me.

4 So another example was, as defense counsel just  
5 represented, that the purpose of the CBT payments was for  
6 reimbursement in the first one. Well, in the second one she said  
7 something totally different. In the second 302, in March, she said  
8 the purpose of the CBT was for the defendant to revenue share.

9 **THE COURT:** You're saying the corrections failed the  
10 reliability test based on the temporal proximity to the original  
11 interview, to the events in question, and to the internal  
12 inconsistencies with the other statements?

13 **MR. LOEW:** Certainly the corrections that were  
14 typewritten and submitted in 2025. But further, if they wanted to  
15 get in the 302s, those have to be reliable, also, and they have to  
16 be trustworthy. That's the whole idea of the exception. If a  
17 witness is unavailable, the statement has to be trustworthy because  
18 there's no ability to cross-exam. Well, there is nothing  
19 trustworthy about any of these statements. That's the problem.

20 **THE COURT:** Right. So reliability is what you're saying.  
21 Let me pose this to you, Mr. Johnson.

22 **MR. CLEMONS:** Can I correct one thing that I misspoke?

23 **THE COURT:** Yes. Go ahead.

24 **MR. CLEMONS:** You asked about Mr. Herman.

25 (The court reporter asked counsel to speak into microphone.)

1           **MR. CLEMONS:** I'm so sorry, Ms. Beth.

2           Judge, as you can imagine we've got so many 302s. Mr.  
3 Herman I don't think participated in the original 302, but the  
4 follow-up, I guess, corrected 302, he certainly participated in, in  
5 the one on March 10<sup>th</sup> of '22. So I just wanted -- I didn't want the  
6 record to be unclear. In other words --

7           **THE COURT:** He wasn't there for the original interview?

8           **MR. CLEMONS:** He wasn't there for the original interview  
9 I don't believe. But I know for a fact -- and I can confirm that,  
10 Judge. No, it doesn't reflect that -- I can't say he wasn't there.  
11 His name is not listed as being present for the original interview,  
12 but the record clearly shows that on March 10<sup>th</sup> of '22 when she was  
13 interviewed Mr. Herman was present.

14           **MR. LOEW:** He was there. He was just interviewing Mr.  
15 Franques, not Ms. Franques.

16           **MR. CLEMONS:** Because it was at their home, Judge.

17           **THE COURT:** All right. So this is -- these are the  
18 takeaways:

19           Number one, the relevance of the statement for the  
20 defendant's purposes is to show that the FBI was motivated in its  
21 investigation to build a case against Mr. Haynes.

22           My question is, and there are -- I agree with the  
23 Government -- there are reliability problems with the typewritten  
24 letter, as well as some internal inconsistencies with the  
25 handwritten letter. But I think that objective can be solved by

1 cross-examining Doug Herman on what Ms. Franques subsequently told  
2 the FBI after her interview because the purpose would not be to  
3 show those are true. The purpose would be to show that the FBI was  
4 motivated in how it drafted the original 302.

5 Any objection to that?

6 **MR. CLEMONS:** We certainly won't object to that, but we  
7 certainly want more relief. But I'll let Mr. Johnson address it.

8 **MR. JOHNSON:** Exactly what he said. I wouldn't object to  
9 that. What I would also like to point out in terms of relevancy,  
10 Your Honor, is that there has been testimony in this case that  
11 Michelle Franques operated the day-to-day business of Midway Media.  
12 Testimony from her statements saying she had no idea what these,  
13 you know, payments were for is directly relevant, goes at the heart  
14 of the Government's conspiracy. The testimony was Leonard owns the  
15 company, but Michelle Franques, she works there. She does the  
16 day-to-day.

17 I would also point out that when the Government says, Oh,  
18 well, later on she came and she made notes, I'm not positive that  
19 those are Michelle Franques' notes on the 302. They may be, but I  
20 think they may be the agent's notes. And then I think whenever  
21 they followed up, she understood they still hadn't gotten it right,  
22 so she put it in writing. And we didn't get that until April of  
23 2025, Your Honor, because it wasn't turned over to us until April  
24 of 2025. But I have no idea about the interaction between the two.  
25 What I do know is that saying, Hey, the way we typed it up, what

1 she said she said, you know, it's not reliable because it  
2 contradicts our 302 --

3 A 302 is a description of what she said. She felt  
4 pressure enough to get it right and did so in a circumstance where  
5 she was arguably going outside of her 302. So I think that, from a  
6 reliability perspective, is --

7 **THE COURT:** Fair enough, Mr. Johnson. I understand. The  
8 Government didn't present any evidence from Michelle Franques in  
9 its case in chief.

10 **MR. JOHNSON:** It did. It did indirectly, Your Honor.  
11 They said she's the one --

12 **THE COURT:** She cashed -- she wrote the check; right?  
13 She handed the check.

14 **MR. JOHNSON:** Correct. And they put that check up on the  
15 screen. And there is also testimony from I think Agent Herman, as  
16 well as from Dusty, regarding Michelle Franques and her actions.  
17 This goes directly against what they've put forward, albeit  
18 undirectly. We haven't heard directly from Ms. Franques, but they  
19 have talked about her actions and what she did. And this directly  
20 refutes that.

21 **THE COURT:** And that's why I think it's fair game for  
22 cross-examination on the FBI's interaction with her. And I'm going  
23 to allow that. But I'm not going to allow these statements in when  
24 we don't -- first of all, they lack substance because she doesn't  
25 remember anything. They do show, I agree they show that she

1 thought the FBI had an animus in how they wrote up the 302. So the  
2 best way to address that is to let defense counsel cross-examine  
3 the FBI on that. So that's where we're going to go with it.

4 **MR. JOHNSON:** I understand, Your Honor. Just for the  
5 record, I would point out that Dusty Guidry up on the witness stand  
6 says he doesn't know what the payments were for. So to that  
7 extent, what she's saying about, I don't know, you know, I don't  
8 remember, you know, these payments or what they were for, actually  
9 matches Dusty Guidry, and both are exculpatory to the defense, Your  
10 Honor. So the fact that both sides of the conspiracy, especially  
11 with the person who was conducting the day-to-day activity I think,  
12 even though it's an I don't know --

13 **THE COURT:** You're talking about the payments from your  
14 client to F4?

15 **MR. JOHNSON:** Correct. That's right.

16 **THE COURT:** Yeah, and I don't think there was  
17 contradictory evidence. Was there? I mean, there was discussion  
18 of investment in certain enterprises; right? It was all very vague  
19 and I don't know that it was fully formed in anybody's mind,  
20 frankly, from the evidence we've heard so far.

21 **MR. CLEMONS:** I like the way you think, Judge.

22 **MR. JOHNSON:** I do, too. Thank you, Your Honor.

23 **MR. LOEW:** I don't think this affects the analysis, but  
24 if I had represented that the handwriting on the 302 in December of  
25 the corrections that were made, that's Agent Herman's handwriting.

1 So further cross-examination for defense counsel if they call him.

2 **THE COURT:** Yeah. Fair enough. And that would have been  
3 based on what Agent Herman heard from Ms. Franques at that time.  
4 And he's putting annotations on the prior 302 according to what her  
5 new memory was about that event.

6 **MR. LOEW:** Yes.

7 **MR. JOHNSON:** That's correct.

8 **THE COURT:** Okay. So the motion is denied as to entering  
9 the corrections into evidence, but the -- it's granted insofar as  
10 agents can be cross-examined regarding the contents of that  
11 finding; that that is not being offered for the truth of Ms.  
12 Franques' statements but rather for any animus, as alleged by the  
13 defendant, of the FBI in this investigation.

14 **MR. NICKEL:** Judge, just one more thing, because Agent  
15 Herman is going to be my witness. I would just like to note at  
16 this point he has been on the stand twice, cross-examined twice.  
17 The defense is just calling him again in their case. Rule 403  
18 prohibits cumulative evidence, undue delay.

19 We broke at 2:45 yesterday when they had a witness  
20 sitting right here. And I would just note that if their direct  
21 examination of Doug Herman is going to be to that, it just be to  
22 that because we had him ready to go here yesterday. It was 2:45.  
23 They said they didn't have any witnesses. They said they had  
24 three, now they have seven. So I would just like to remind that  
25 403 prohibits everyone from presenting cumulative evidence, from

1 unduly delaying this trial, from wasting time. That's in the rule.

2 **MR. CLEMONS:** May I address that, Judge?

3 **THE COURT:** Is there anything else you need Doug Herman  
4 for?

5 **MR. CLEMONS:** Judge, we have no desire to delay the  
6 trial. We have no desire to present cumulative evidence. We have  
7 a right to present our defense and our theory in a certain order,  
8 just like the Government did. We broke at 2:00 on Friday. Doug  
9 Herman was right there. They could have called him, but I  
10 understood he was a summary witness. Well, we're going to use Doug  
11 Herman as a summary witness in our case to bring up things that he  
12 has not testified about before, and this is just one example.

13 **THE COURT:** And that's what 403 is, it's to make sure we  
14 don't have cumulative testimony. I recognize and appreciate the  
15 time concern raised by the Government. I think we have wasted a  
16 lot of time in this trial by breaking early. I don't normally do  
17 that. In fact, I've never done that, and I probably won't do it  
18 again. Because of the circumstances of this trial and what has  
19 gone on, I have done that two days. We're not going to do it  
20 today. You know, and if Agent Herman is questioned on things he  
21 has already testified about, then that might be subject to a 403  
22 objection.

23 **MR. CLEMONS:** Yes, sir.

24 **THE COURT:** All right. What else?

25 **MR. WALKER:** The only other thing is, Your Honor, the

1 defense is calling Dusty Guidry. And I would state the same thing.  
2 If they intend to -- they crossed Dusty Guidry for a day. If they  
3 intend to go back through the things they previously cross-examined  
4 him about at length --

5 **THE COURT:** I sustained the 403 objection when the  
6 Government wanted to replay a lot of videos, so I will probably  
7 sustain an objection if we go through things we have already gone  
8 through on the defense side, as well.

9 **MR. WALKER:** Thanks, Judge.

10 **MR. LOEW:** Your Honor, the only other issue --

11 **MR. CLEMONS:** Wait. No, we're on this issue.

12 **MR. LOEW:** I'm sorry.

13 **MR. JOHNSON:** The issues that we intend to go through  
14 with Dusty Guidry, Your Honor, just to get out ahead of that issue,  
15 may sound like things that he's testified to, but they are being  
16 contradicted later in testimony. And so we intend to go through  
17 that with him. It's not a complete, you know, recross-examination  
18 of the witness. I'm just suggesting there are topics that we've  
19 talked about that will overlay. The point of which, though, is not  
20 to repeat them. The point is to draw clarification from them. And  
21 so I just want to put Your Honor on notice of that.

22 **THE COURT:** I'm going to be paying attention, and I'll be  
23 able to make a judgment call at that point.

24 **MR. CLEMONS:** And, Judge, we have no desire to delay  
25 trial. We're going to finish the evidence today. No question

1 about that.

2 Judge, also, one point I wanted to bring up is Michelle  
3 Franques. She's here in the courtroom. Mr. Robideaux text us  
4 sometime yesterday that she was pleading the Fifth, but we knew we  
5 had this issue to deal with. So he text last night, "What to do?"

6 I said, "Just have her up here."

7 Do you want to just --

8 **THE COURT:** Let's put her on the witness stand right now.

9 **MR. CLEMONS:** That's what I wanted to let you know,  
10 Judge.

11 **MR. WALKER:** Your Honor, is her attorney here?

12 **MR. CLEMONS:** I haven't seen her attorney. He knows she  
13 was going to be here because he text me, "What to do?"

14 And I said, "Have her come here." I don't know whether  
15 he's here or not.

16 **MR. WALKER:** No, I understand.

17 **MR. CLEMONS:** I haven't seen him, but she's here.

18 **MR. WALKER:** It is my understanding that the defense  
19 attorney was going to be here. If he is going to be here, I think  
20 if she is going to be testifying, she has the right to have her  
21 attorney, specifically because he did notify the party that he  
22 intended to recommend she plead the Fifth. Just as with the prior  
23 witness on it, you asked specific questions about what your  
24 attorney has said, and I think that the attorney should be allowed  
25 to be here.

1           **THE COURT:** Yeah. I would like to have had Mr. Burton's  
2 attorney there, come with him yesterday, too. If I was a criminal  
3 defense attorney, I sure would have been there with him.

4           **MR. CLEMONS:** But, Judge, keep in mind, the attorney is  
5 the one who asked me should she come and what time. And I said,  
6 Yes. We start at 8:30. Have her there.

7           So I mean, we can let her wait wherever. I just want the  
8 Court to know that I told her attorney to have her here and that we  
9 would deal with it because I didn't want to make the decision, no,  
10 just release her. So he knew, but we can wait until he gets here.  
11 I think somebody needs to contact him.

12           **THE COURT:** Somebody call Mr. Robideaux. His office is  
13 right down the street.

14           **MR. WALKER:** He may be here right now. I have no idea.

15           **MR. CLEMONS:** You want me to go check and see if I see  
16 him?

17           **THE COURT:** He's come in?

18           **MR. WALKER:** He's here?

19           **THE COURT:** He's here.

20           **MR. CLEMONS:** Want me to go get him, Judge?

21           **THE COURT:** He's in the courtroom across. We'll talk to  
22 her on the stand before we bring the jury in real quick.

23           **MR. CLEMONS:** Yeah. That's why I wanted to let you know.  
24 Before you brought the jury in, we could deal with that.

25           **THE COURT:** All right. Very good.

1           **MR. JOHNSON:** We'll bring another issue up. We talked to  
2 Perry Nicosia last night, Your Honor. He said he would be here.  
3 He is not here yet. So we will keep the Court updated on Mr.  
4 Nicosia.

5           **THE COURT:** Thank you.

6           **MR. WALKER:** And not that it matters. He called the  
7 United States Attorney for the Western District who then called the  
8 head of the appellate division for the Western District. The  
9 appellate division then brought the note to me. I called Mr.  
10 Nicosia and told him, "You need to be here," and he told me that he  
11 would be here. I wouldn't recognize him if he walked in.

12           **MR. CLEMONS:** That was last night or this morning?

13           **MR. WALKER:** No. In the afternoon.

14           **THE COURT:** I think I see Mr. Robideaux there. Ms.  
15 Franques, can you come up to the witness stand, please?

16           I'll note that Ms. Michelle Franques is here in court  
17 with her attorney, Mr. Jason Robideaux. We have asked them to come  
18 into court, having been apprised that based on the discussions  
19 between defense counsel and Mr. Robideaux that Mr. Robideaux's  
20 client Michelle Franques intends to plead the Fifth Amendment right  
21 against self-incrimination to the questions that are going to be  
22 posed by defense counsel. You can go ahead and be seated, ma'am.

23           If defense counsel will please proffer to the Court and  
24 to the witness what subject matters they intend to question Ms.  
25 Franques about today.

1           **MR. CLEMONS:** Judge, we would intend to question Ms.  
2 Franques about several topics: One, the checks that F4 received  
3 from my client, whether she knew or did not know the purpose of  
4 those checks; whether she knew or did not know any information  
5 about whether our client was involved in any scheme involving the  
6 preTI program and Midway Media and CBT.

7           We would also question her about the so-called Wildlife  
8 and Fisheries schemes, whether she had any knowledge whatsoever of  
9 our client having a role in those schemes.

10           We'd question her about our client open up MD Law bank  
11 account and reactivating that company and whether she had any  
12 information about the purpose allegedly to further the scheme or  
13 why our client may have reactivated that LLC.

14           But we would also question her extensively, Judge, about  
15 the 302 that she gave to the FBI, the follow-up 302 that she wrote,  
16 and more importantly the corrections that she wrote in detail,  
17 typed, going paragraph-by-paragraph where she is telling the FBI  
18 that the information they have in the 302 attribute to her that she  
19 allegedly said was not correct. We'd specifically go into  
20 information in detail about the information she said about our  
21 client and how the FBI was trying to steer the conversation to our  
22 client, trying to basically get her to implicate our client as to  
23 why he wrote the checks, why he opened up MD Law, why he had any  
24 affiliation with her husband or with Dusty Guidry and she  
25 repeatedly said, "I did not say that." In essence, she said,

1 You're putting words in my mouth.

2 So that's the summary of the nature of that testimony,  
3 Judge.

4 **THE COURT:** All right. Ms. Franques, have you discussed  
5 with your attorney, Mr. Robideaux -- yeah, we'll swear her in.

6 **THE DEPUTY CLERK:** Raise your right hand, please, ma'am.  
7 Do you solemnly swear or affirm that the testimony you give in this  
8 matter will be the truth, the whole truth, and nothing but the  
9 truth, so help you God?

10 **THE WITNESS:** Yes.

11 **MICHELLE FRANQUES,**  
12 after having first been duly sworn, did testify as follows:

13 **THE COURT:** Ms. Franques, have you discussed with your  
14 attorney, Mr. Robideaux, the topics on which the defendant intends  
15 to question you today?

16 **THE WITNESS:** Yes, Your Honor.

17 **THE COURT:** Has he given you any advice with respect to  
18 that testimony?

19 **THE WITNESS:** Yes, Your Honor.

20 **THE COURT:** And what is that?

21 **THE WITNESS:** He said for me to plead the Fifth  
22 Amendment.

23 **THE COURT:** And that's to all the topics that you just  
24 heard Mr. Clemons talk about?

25 **THE WITNESS:** Yes, Your Honor.

1           **THE COURT:** Thank you, Ms. Franques, you may step down.

2           **THE WITNESS:** Thank you.

3           **MR. JOHNSON:** We have, Your Honor, that she wants to  
4 follow that advice and she doesn't want to talk about the  
5 corrections that she made to the FBI, just for the record.

6           **THE COURT:** All right. Ms. Franques, and you intend to  
7 follow your attorney's advice and not testify today.

8           **THE WITNESS:** Yes, sir.

9           **THE COURT:** I mean, not testify substantively other than  
10 to plead the Fifth?

11           **THE WITNESS:** Yes, sir.

12           **THE COURT:** May Ms. Franques be released from her  
13 subpoena?

14           **MR. WALKER:** We have no objection to her being released  
15 from her subpoena.

16           **MR. CLEMONS:** Based upon that, Judge, we certainly don't  
17 oppose her being released, Judge.

18           **THE COURT:** Ms. Franques, you're released from your  
19 subpoena.

20           Thank you for being here, Mr. Robideaux.

21           **MR. CLEMONS:** Judge, I guess just to be abundantly safe,  
22 just remind her that her husband is still under subpoena and I  
23 don't think he would --

24           **THE COURT:** Ms. Franques, don't talk about this case with  
25 anybody until its conclusion. Okay, ma'am?

1           **THE WITNESS:** Yes, sir.

2           **MR. CLEMONS:** Thank you, Judge.

3           **THE COURT:** Ready for the jury now?

4           **MR. CLEMONS:** Yes, Your Honor.

5           **MR. WALKER:** I think we are. Do we know who the first  
6 witness is that's going to be called?

7           **MR. CLEMONS:** If Mr. Nicosia is here, he's going to be  
8 called. If not, Mr. Guidry.

9           **THE DEPUTY CLERK:** Angela informed me there is a witness  
10 in the witness room, but she doesn't know his name.

11           **MR. JOHNSON:** Mr. Nicosia's here.

12           (Jury present.)

13           **THE COURT:** Please be seated. Good morning, ladies and  
14 gentlemen. Thank you again for being here on time. We are ready  
15 to call the next defense witness. I'll ask at this time the  
16 defendant to call its next witness.

17           **MR. JOHNSON:** Yes, Your Honor. The defense calls Perry  
18 Nicosia.

19           **THE DEPUTY CLERK:** Raise your right hand, please, sir.  
20 Do you solemnly swear or affirm that the testimony you give in this  
21 matter will be the truth, the whole truth, and nothing but the  
22 truth, so help you God?

23           **THE WITNESS:** I do.

24   **PERRY NICOSIA,**

25           after having first been duly sworn, did testify as follows:

1 **DIRECT EXAMINATION BY MR. JOHNSON:**

2 Q. How are you doing, Mr. Nicosia?

3 A. Good.

4 Q. Good. My name is Adam Johnson. I have a few questions for  
5 you.

6 A. Sure.

7 Q. You recall we briefly spoke on the phone?

8 A. Yes, we did.

9 Q. Please state your full name for the record, please.

10 A. Perry Nicosia.

11 Q. And what is it you do, Mr. Nicosia?

12 A. I'm the district attorney of St. Bernard Parish.

13 Q. Now, did you have occasion to come to know Dusty Guidry?

14 A. Yes.

15 Q. Tell me how that came about.

16 A. I was elected in 2014, and as a newly elected DA, as a former  
17 judge, I wanted to set up a diversion program in St. Bernard  
18 Parish. I went to St. Charles Parish to see how they run theirs.  
19 I went to Baton Rouge Parish to see how they run their diversion  
20 program. And I went to Plaquemines Parish, my adjacent parish.  
21 And through Hillar Moore, I met Dusty Guidry who assisted my  
22 office, along with Joel Chaisson in St. Charles and Charlie  
23 Balette, and those connections were made so we could formulate a  
24 program.

25 Q. And how would you describe Dusty's notoriety in terms of PTI

1 programs at that point in time?

2 A. Hillar Moore was known to have a very good diversion program.

3 And when you go to the meetings, the DA meetings, it seems like

4 that was somebody people relied on in his particular office.

5 Q. Right. And what you mean is Dusty Guidry got the benefit of

6 Hillar Moore's credibility, so to speak?

7 A. Sure. Absolutely.

8 Q. Now, whenever he came in, you said he came in and set up your

9 program; is that right?

10 A. Well, we used some of their forms and contracts and models and

11 rehab facilities or online facilities. I think St. Charles had

12 similar. We followed a lot of St. Charles. And that's 10 years

13 ago, 11 years ago. So the minute details of which -- we used a

14 combination. So I'm not going to say it was all Dusty and Hillar.

15 It was just a combination of what worked for us. And we started

16 really small because we had no diversion program. So we started

17 small and kind of grew. And over time we really don't follow -- we

18 kind of do our own thing now. It kind of evolved into what works

19 for us.

20 Q. Sure. Can you name some of the vendors that were used whenever

21 Dusty set your initial program up?

22 A. Oh, man. It was a resource place. Woodlake, I want to say,

23 maybe. Don't quote me on that. I'm not sure. I don't even

24 remember the guy's name, but it was a resource center. And the

25 girl who set my program up no longer works for me. She only worked

1 there about three or four years.

2 Q. What was her name?

3 A. Gretchen Smith. Worked with Dusty. And then once I got a new  
4 person, we sort of I think, you know, did our own. And we learned  
5 once we started our program that there were other resource  
6 facilities available. So we started doing our own thing as far as  
7 finding closer people. And, you know, more and more programs  
8 became available, and there's more available today, of course, than  
9 there was ten years ago. So as we did that, we tried to get other  
10 facilities that are closer and learn more about it. And that's  
11 part of growing the program and making it more available.

12 Q. Sure. Did you do business with David Burton?

13 A. Yes.

14 Q. What service did he provide?

15 A. Online classes.

16 Q. Did you do business with Lake Wellness or Leonard Franques'  
17 companies?

18 A. Not that I remember, no.

19 Q. Did you do business with Joe Prejean?

20 A. No.

21 Q. So it was Woodlake. And is that Randall Gomez?

22 A. Randy. Randy is his name. What did you say the last name was?  
23 The last name?

24 Q. Gomez.

25 A. Maybe so. Yes. There was a Randy.

1 Q. And Burton Services; correct?

2 A. Burton did online.

3 Q. Did David Burton also come in and set up your website?

4 A. He had his own external website that worked -- integrated I  
5 guess with, I think it was like 17 DAs he had done. He did a lot  
6 of our online classes.

7 Q. And as part of your agreement with the Burton Services, did the  
8 DA's office revenue share with some of its service providers?

9 A. With -- do we -- does the DA's office, my office, revenue  
10 share?

11 Q. Yes.

12 A. No.

13 Q. So what I mean is, is you don't get a cut of David Burton's  
14 classes?

15 A. He charges us an invoice for the classes he provides, and we  
16 pay the invoice at the end of each month.

17 Q. Okay. So people log on, they take the classes. All of the  
18 money goes to your DA's office, and then y'all cut an invoice to  
19 David Burton per class?

20 A. That's the way David Burton did it. Now, we had more than  
21 David -- we had, you know, multiple choices of online classes.

22 Q. Okay.

23 A. So that's the way his office worked it. Like, we have other  
24 facilities, you go pay the class directly and bring us the  
25 certificate. And that works differently.

1 Q. Okay. I understand. Now, as part of your association with  
2 Dusty Guidry, your office's association with Dusty Guidry, are you  
3 aware of anyone receiving kickbacks for associating with Dusty or  
4 his partner vendors?

5 A. Absolutely not.

6 Q. Okay. Now, separately did you come to be involved or  
7 associated with GPP, a business known as GPP?

8 A. Yes.

9 Q. In what way? Can you explain?

10 A. Yes. I received a call from District Attorney Joe Waitz.  
11 Again, this is way back. But Joe Waitz had called a DA or two --  
12 I'm not sure who, but I know there was more than just one DA. His  
13 son-in-law was -- I think it was his brother, also, did some  
14 marketing, or it was a credit card company. And Joe Waitz had  
15 called. His son-in-law was going to market for the credit card  
16 processing company, and they wanted to meet some of the local  
17 sheriffs around because the sheriffs I think were looking for  
18 somebody new, I want to say. It's real -- it's not clear exactly  
19 how.

20 But my introduction to it was when they wanted to meet  
21 some local sheriffs. Joe called me. I contacted St. Bernard  
22 sheriff, the St. Tammany sheriff, the St. Charles sheriff, the  
23 Plaquemines. We just kind of said, Hey, there is a new credit card  
24 company out there. Would y'all be -- maybe they can save y'all  
25 some money. They want to talk to you. Not sure who you use.

1 It was sort of like just an introduction to meeting  
2 people to maybe grow and do some credit business. Again, his name  
3 was Rene Bonneval, I think.

4 Q. Yes. And for his marketing services, did Rene receive a  
5 percentage of commissions?

6 A. That was, I think, the way it was set up, yes. He would --  
7 whatever business he brought to GPP, I think he worked through  
8 them.

9 Q. Okay. And by all accounts, you understood GPP to be a very  
10 legitimate credit card business; correct?

11 A. I think so. I assume it still probably is, as far as I know.  
12 I would think it is.

13 Q. And they did business in several parishes in North Louisiana;  
14 correct?

15 A. I'm not sure. I thought it was national and this was a local  
16 affiliate of a national company, but I don't know that.

17 Q. Sure. Who was the owner of GPP?

18 A. The one I remember is Chris Nelson.

19 Q. Understood. And you understood that Dusty Guidry had some  
20 affiliation with GPP, as well; correct?

21 A. Yes.

22 Q. Did you understand Gary Haynes to have any affiliation with  
23 GPP?

24 A. No.

25 Q. Were you ever informed by Dusty Guidry that he had an interest

1 or had invested in GPP?

2 A. That who had?

3 Q. Gary Haynes.

4 A. Oh, no. Never heard the name before, but for the news.

5 Q. Did you become aware, at any point in time, that Dusty was  
6 receiving kickbacks from some of the vendors that he had  
7 recommended for your program, PTI program?

8 A. For my -- not my program.

9 Q. Okay. Are you aware that he was receiving kickbacks from Randy  
10 Gomez?

11 A. Not that I'm aware of, no.

12 Q. Do you still use Woodlake as part of your program?

13 A. No. It was far away, so after a couple of years we found  
14 closer facilities, because we were learning and it was too  
15 inconvenient. And Gretchen in my office did a good -- you know, we  
16 just kind of -- at that time there weren't a lot of facilities to  
17 go to, none on the South Shore. So but as time passed, they got  
18 closer and closer, and it's silly to go way out there.

19 Q. Sure.

20 A. Which is why.

21 Q. Did you have any -- were you aware that at the time that it was  
22 recommended, or up until now, that Dusty Guidry had a business  
23 interest with David Burton?

24 A. At that time, absolutely not. I'm trying to remember now if I  
25 read that in the paper or something. So, yeah, no personal

1 knowledge, but I might have read that or people talk about it. But  
2 not at that time, absolutely not.

3 Q. So you didn't know at the time that you brought Dusty Guidry in  
4 that he was getting half of the commission or half of the cost of  
5 the classes from David Burton?

6 A. I'm learning that today as I sit here.

7 Q. Okay. And to be clear, you were -- so you were involved with  
8 Dusty as it relates to PTI program; right?

9 A. Through my office, yes.

10 Q. Correct. And then you had an interest or a business  
11 relationship with GPP. Isn't that correct?

12 A. I was helping them make contacts, sure.

13 Q. And did GPP pay you through your wife a percent -- not your  
14 wife, but your girlfriend -- a percentage of the commissions from  
15 companies that you brought GPP in the area you were in?

16 A. Nothing from anything I brought, no.

17 Q. So you never received any payment from GPP; is that correct?

18 A. I think she have received a \$2,000 check back at some  
19 point, but I think it was for -- I'm not sure what companies it  
20 was. It was like a Ford dealership. It was, you know, I don't  
21 know exactly what. There was an itemized list. And when her and I  
22 broke up, I don't know what happened. I wanted her to take it with  
23 her. I'm not doing marketing and all of that. So it wasn't my  
24 interest and nothing I wanted to be involved in.

25 Q. So she received some sort of payment, but it was a small

1 payment, is what you are suggesting?

2 A. I remember it being \$2,000. Around that amount, not exactly.

3 Q. Sure. And did GPP run into various problems in terms of how it  
4 processed transactions?

5 A. I think they struggled.

6 Q. Okay. Is it true that the problem with GPP was, is that  
7 whenever a transaction was processed, that it showed the different  
8 splits in where the money was going on people's credit card  
9 statements?

10 **MR. NICKEL:** Objection. Leading.

11 **THE COURT:** Sustained.

12 **BY MR. JOHNSON:**

13 Q. What were the problems that GPP ran into with respect to, you  
14 know, processing?

15 A. The little bit I understood was that they couldn't get it to  
16 work. I don't know what that means, but without -- I don't  
17 understand the processing and how it works, but they couldn't get  
18 it to work.

19 Q. Okay.

20 A. And I think -- go ahead. I'm sorry.

21 Q. No. You just don't understand the specifics?

22 A. No, no. I don't understand the specifics.

23 Q. But the way GPP worked was -- I'm sorry. I don't want to ask a  
24 leading question.

25 Did you have to put any money down to invest in GPP?

1 A. I wasn't an investor. I had no financial interest, no.

2 Absolutely not.

3 Q. Are you aware of Joe Waitz having to pay money to invest in

4 GPP?

5 A. I'm not aware of any of that.

6 Q. Are you aware of Dusty Guidry having to pay money to invest in

7 GPP?

8 A. No, not that I'm aware of.

9 Q. But you are aware that Chris Nelson was the owner; correct?

10 A. Yes.

11 Q. And according to your knowledge, it was a commission-based  
12 relationship; is that correct?

13 A. Like a marketing. That's what I understood. You know, market,  
14 bring in business, and if anything is made, yes.

15 Q. Then you get a percentage of it; is that right?

16 A. Yes, yes.

17 Q. And you're still currently the DA; correct?

18 A. Yes.

19 Q. And your relationship with GPP, has it ended? Or does it  
20 continue?

21 A. No. I broke up with my girlfriend and that was a long time,  
22 many years -- five years ago, I guess, you know. And it went away.

23 Q. What about your relationship with Dusty Guidry?

24 A. Same. At some point when, I guess, all the trouble arose, it  
25 just, everything -- never heard anything.

1 Q. And you've not been charged with any crime, whatsoever;  
2 correct?

3 A. Absolutely not.

4 Q. Mr. Nicosia, and I'm pronouncing that right?

5 A. Yes, Nicosia.

6 Q. I've said this. We've got a Nicosia in Lake Charles, so we  
7 screw it up.

8 Did you ever attempt to invest in GPP?

9 A. Absolutely not.

10 Q. The relationship was just you tried to refer them business? Is  
11 that accurate?

12 A. I was helping Rene Bonneval, because Joe Waitz and I are good  
13 friends, and make those connections with -- they could get the --  
14 help them get some business just by engaging a meeting or two or  
15 something like that.

16 Q. And the -- Rene Bonneval, he is who to Joe Waitz, as far as you  
17 understand?

18 A. If you're asking me just what I know off the top my head, I'm  
19 thinking son-in-law, but I'm not sure. I'm thinking son-in-law,  
20 but I'm not 100 percent positive.

21 Q. Rene Bonneval, did he have a company that he formed? Do you  
22 recall that?

23 A. Maybe so, vaguely. I'm not sure.

24 Q. Do you know the name of the company?

25 A. No.

1 Q. Do you recall, though, him forming an LLC for purposes of  
2 receiving commissions from GPP referrals?

3 A. You're talking about Rene?

4 Q. Yes.

5 A. What he did? I'm not sure. I would think he did. I remember  
6 something about him having a company. You know what I mean? I  
7 would think it was a company, but I'm not positive. I don't want  
8 to say for sure.

9 Q. Understood. Did the commission that was paid to your  
10 girlfriend at the time, did she have a contract with GPP?

11 A. No, I don't think.

12 **MR. JOHNSON:** No further questions, Your Honor.

13 **THE COURT:** Thank you, Mr. Johnson.

14 **CROSS-EXAMINATION BY MR. NICKEL:**

15 Q. Hey, Mr. Nicosia. How are you?

16 A. Good, good. How are you?

17 Q. Do you have any knowledge about a public bribery scheme in the  
18 15<sup>th</sup> JDC here in Lafayette?

19 A. Absolutely not.

20 **THE COURT:** Any redirect?

21 **MR. JOHNSON:** No, Your Honor.

22 **THE COURT:** Thank you, Mr. Nicosia. You may step down  
23 and you're released from your subpoena.

24 **THE WITNESS:** Thank you, Judge.

25 **THE COURT:** Mr. Johnson, you may call your next witness.

1           **MR. JOHNSON:** Sure, Your Honor. The defense would call  
2 Dusty Guidry to the witness stand.

3           Your Honor, may we approach to talk about something  
4 before we start with him?

5           (Begin bench conference.)

6           **MR. JOHNSON:** Your Honor, I'm going to specifically  
7 request that with respect to this witness that I be allowed to lead  
8 him under 611. He is a party adverse to my client. He is being  
9 called as part of our case, the defense's case, but I should be  
10 allowed to lead this witness. I believe this type of witness is  
11 exactly what 611 contemplates.

12           **THE COURT:** Government's response to that?

13           **MR. WALKER:** I mean, he's calling the witness. I  
14 understand what he's saying.

15           **THE COURT:** Yeah, I'm going to allow it.

16           **MR. WALKER:** Yeah, I don't see a way. I don't see a good  
17 response.

18           **THE COURT:** He is the Government's cooperator. He  
19 returned State's evidence to help the Government build its case.

20           **MR. CLEMONS:** Mr. Walker said he doesn't see a good  
21 response. I think we need to go back and get started.

22           **MR. WALKER:** The other thing is we intend to lead him  
23 during our cross-examination of him, as well.

24           **THE COURT:** That's fair.

25           **MR. WALKER:** So everybody's going to lead.

1 (End bench conference.)

2 **THE COURT:** Mr. Guidry, you are still under oath.

3 **DUSTY GUIDRY,**

4 after having first been duly sworn, did testify as follows:

5 **DIRECT EXAMINATION BY MR. JOHNSON:**

6 Q. Good morning, Mr. Guidry. How are you?

7 A. Good morning.

8 Q. My name is Adam Johnson. We met previously. I have a few  
9 questions for you. Is that okay?

10 A. Sure.

11 Q. Now, I want to talk to you about how the DA's office was set up  
12 and get some clarity, if that's okay. Do you recall testifying  
13 under direct that in Baton Rouge there was no assistant district  
14 attorney supervising the pretrial diversion department?

15 A. No, not directly.

16 Q. And do you recall testifying that you didn't have a supervisor  
17 because you had -- there were 50 attorneys that reviewed cases in  
18 Baton Rouge; is that right?

19 A. Yes.

20 Q. And in Baton Rouge the way your program was set up was you were  
21 the director; right?

22 A. Correct.

23 Q. And attorneys reviewed the cases. The cases could come into  
24 the DA's office. They would be assigned to a division where a  
25 prosecutor was; correct?

1 A. Right.

2 Q. They would review the case?

3 A. Yes.

4 Q. And then refer it to pretrial diversion to you; correct?

5 A. Yes.

6 Q. Okay. And your testimony was that that's not how the Lafayette  
7 Parish District Attorney's Office worked; correct?

8 A. Yes.

9 Q. And your testimony, is it your testimony that when the files  
10 initially come to the DA's office, they are reviewed first by  
11 pretrial diversion and then sent to the reviewing attorneys  
12 afterwards?

13 A. They got cases two ways. They got them from the direct  
14 attorney, and then they reviewed them, ran the raps for generic  
15 acceptability and then sent them back.

16 Q. Okay. Now, so much like Baton Rouge, when cases initially came  
17 in, the majority of the time they were sent to the assigned  
18 prosecutor in the division; correct?

19 A. I couldn't say. I wasn't in the file room. I don't know where  
20 they did them, but I know, for a fact, we could go in there -- if  
21 they got a new batch, we could pull them, run raps, and send them  
22 back to the attorney, saying they appeared to be eligible.

23 Q. Okay. Now, with respect to the crime of OWIs.

24 A. Okay.

25 Q. Typically when OWIs come into an office, those are cases where

1 rap sheets have to be run to see if it's going to be a second  
2 offense or third offense or if the person has any prior offenses;  
3 is that right?

4 A. Sure.

5 Q. That happened specifically routinely with OWIs; correct?

6 A. They ran raps on everybody.

7 Q. Right.

8 A. Regardless of the offense.

9 Q. But prior to sending the file to the associated prosecutor,  
10 first its rap sheets are run to determine which offense, and then  
11 that's sent to him; is that right?

12 A. I'm not sure.

13 Q. Okay. Is that how it worked in Baton Rouge?

14 A. Raps were run.

15 Q. So I just want to get clarity on your testimony. It's not your  
16 testimony, then, that before any case is accepted into pretrial  
17 diversion that both the reviewing attorney track prosecutor and  
18 Gary Haynes reviewed those cases for prosecutorial merit and  
19 acceptance into the pretrial diversion program?

20 A. I can't speak about the prosecuting attorney, I mean, yeah,  
21 prosecuting attorney.

22 Q. So whenever a case came in, was assigned to the reviewing --  
23 the track prosecutor, and it came back to pretrial diversion, your  
24 understanding is Zoila either accepted it or rejected it; correct?

25 A. Yes.

1 Q. And for cases that were close or there was a question about how  
2 the policy applied, is it your understanding she then might go to  
3 you or Gary for those types of situations?

4 A. Yes.

5 Q. But it was not as if that whenever the files arrived at the  
6 DA's office, that first they went to Gary Haynes to review every  
7 single file and then decide whether it was passed on to a track  
8 prosecutor?

9 A. No. The rap was run first.

10 Q. But he didn't review every case that came into the DA's office  
11 before it went to the track prosecutor?

12 A. No.

13 Q. And the majority, the mass majority of cases when they came in,  
14 although you were not in the file room, they came in, put in  
15 intake, sent to their appropriate division prosecutor or track  
16 prosecutor; correct?

17 A. Okay.

18 Q. Right?

19 A. Yes.

20 Q. And the way that they were then referred back to pretrial  
21 diversion by an assistant district attorney who had reviewed them;  
22 correct?

23 A. Yes.

24 Q. And then Zoila would make the decision whether or not to set or  
25 reject. And if she had questions, she then might go to you or Gary

1 Haynes to talk about, hey, does this one fit under the program; is  
2 that right?

3 A. Yes.

4 Q. And at the time, in 2021, you had been brought in to help  
5 assist with the program; right? We've covered that.

6 A. Correct.

7 Q. And there were changes being made by Don Landry to the program;  
8 correct?

9 A. Yes.

10 Q. Intentional changes being made by Don Landry to the program;  
11 correct?

12 A. Yes.

13 Q. Second offender program?

14 A. Yes.

15 Q. Reduction of the lookback period on the rap sheet from ten  
16 years to five years?

17 A. Say that again. I missed the question.

18 Q. Reduction in the lookback period for the rap sheet from ten  
19 years to five years?

20 A. Yes.

21 Q. He was specifically authorizing people who qualified in his  
22 administration for pretrial to, once they were done with their  
23 conditions, to be terminated from supervision; right?

24 A. Say that again.

25 Q. Sure. So the supervision period --

1 A. Right.

2 Q. -- was reduced from 12 months to 9 months; correct?

3 A. Yes.

4 Q. And then in certain instances he allowed people to be  
5 terminated early, as soon as they completed their conditions;  
6 correct?

7 A. Could be, yes, in certain situations.

8 Q. Right. And that was all changes that were coming in right  
9 around that time; correct?

10 A. Yes.

11 Q. Okay. Which was a pretty significant change from the prior  
12 administration; correct?

13 A. Yes.

14 Q. And those changes were made at the direction and in  
15 consultation with Don Landry; correct?

16 A. Yeah, there were across-the-board changes, yes.

17 Q. Right. And designed to increase revenue; correct?

18 A. Right.

19 Q. Satisfy, get rid of cases from the backlog; right?

20 A. Yes.

21 Q. And generally just dispose of cases more quickly, given how  
22 many was coming through the office; is that right?

23 A. Yes. There was an abundance.

24 Q. Now, do you remember Judge Michelle Odinet?

25 A. Yes.

1 Q. And do you recall how she ran her court system?

2 A. I went a handful of times. I'm not an expert on it, but I been  
3 a few times.

4 Q. Sure. And did you go over -- the couple of times that you  
5 went, were those superarraignment or superdocket days? Do you  
6 recall that term?

7 A. Yeah, there were thick dockets.

8 Q. Right. And those were designed to get everybody arraigned in  
9 bulk in the courtroom; correct?

10 A. Yes.

11 Q. And your purpose in going over there with Zoila specifically  
12 was those people who hadn't responded to maybe a previous letter  
13 sent to them, it was designed to find people that were pretrial  
14 eligible and take them into pretrial; correct?

15 A. Offer them the opportunity, yes.

16 Q. That's right. Sign them up if you can?

17 A. If you can, yeah.

18 Q. And so that's why you were over there with Zoila doing that,  
19 both of y'all; correct?

20 A. Yes.

21 Q. It also was designed to siphon out cases away from those  
22 superdockets and to help with disposing of cases or only putting  
23 cases in the court system that, you know, were supposed to be in  
24 the court system; is that right?

25 A. That is right.

1 Q. Now, you recall testifying about Barry Petry?

2 A. Yes.

3 Q. And you recall being asked questions from the Government about  
4 the types of cases you were okay with going to pretrial?

5 A. Yes.

6 Q. And the mass majority of cases you don't have an issue going to  
7 pretrial; right?

8 A. No. You're right. That's right.

9 Q. But you recall asking him specifically about the Barry Petry  
10 case; correct?

11 A. Asking who?

12 Q. You. You recall the Government asking you specifically?

13 A. Oh, yes, yes, yes.

14 Q. And do you recall testifying that that case, that you had  
15 concerns about; right?

16 A. Yes.

17 Q. You recall that you had -- it was about the what-ifs? What  
18 could happen if you put a guy like this in there; right?

19 A. Right.

20 Q. In addition to having a concern about what if he reoffended,  
21 you had some concerns that it could upset your ability to get  
22 kickbacks if the DA found out that you were putting cases like  
23 Barry Petry into the program and something happened; right?

24 A. It could shut down the program completely.

25 Q. Right. And so the implication, obviously, is that you didn't

1 want Barry Petry in pretrial diversion for those kinds of reasons;  
2 right?

3 A. Yeah.

4 Q. That's an absolute lie, isn't it?

5 A. What is?

6 Q. Isn't it true that you personally processed Barry Petry's  
7 payments to Michelle Franques and to Joe Prejean with Barry on the  
8 phone in Barry Petry's case?

9 A. We might have called -- I don't recall, but we might have  
10 called from the office and he gave him the information.

11 Q. You processed his payments; correct?

12 A. I didn't process nothing. I don't have a credit card  
13 processor.

14 Q. You called Michelle Franques on the phone with Barry Petry and  
15 you had her take his payment. Isn't that correct?

16 A. Yes.

17 Q. You, then, did the same thing with Joe Prejean, personally;  
18 correct?

19 A. I'm not sure about Joe. I mean, it could be. I just don't  
20 recall.

21 Q. And after Mr. Petry passed away unexpectedly, did you not call  
22 Leonard Franques and tell him that, Hey, you don't have to refund  
23 the money?

24 A. Yes.

25 Q. And joked about it with him?

1 A. Yes.

2 Q. That it was an easy case. That they don't come like this very  
3 often; right?

4 A. Yes.

5 Q. Despite that, you got up there on the witness stand under  
6 Government questioning and testified that you didn't want Barry  
7 Petry in the program?

8 A. He was a risk, high-risk case.

9 Q. You didn't just want him in the program. You arranged both  
10 payments?

11 **MR. WALKER:** Objection, Your Honor. The witness has  
12 answered, and he is misstating what the witness has said.

13 **THE COURT:** Mr. Guidry, you can explain any answers you  
14 wish to explain on the witness stand, okay. It doesn't have to be  
15 yes or no. If you want to give more explanation, you can do so.  
16 All right?

17 Please proceed, Mr. Johnson.

18 **THE WITNESS:** Okay.

19 **BY MR. JOHNSON:**

20 Q. Your testimony -- in your testimony, you said it was Gary's  
21 decision to put him in pretrial diversion. Isn't that correct?

22 A. Yes.

23 Q. And that you didn't want him in pretrial diversion because he  
24 was high risk; right?

25 A. Yes.

1 Q. You personally referred him to Michelle Franques, who you got  
2 kickbacks from; right?

3 A. Right.

4 Q. And Joe Prejean, who you got kickbacks from; correct?

5 A. Yes.

6 Q. You talked about how he was a dentist and how you could make a  
7 lot of money off of this case. Isn't that correct?

8 A. Yes.

9 Q. And this was a case specifically that you knew that Don Landry  
10 -- you had talked to Don Landry specifically about helping this  
11 individual. Isn't that right?

12 A. I don't recall that part.

13 Q. You recall a guy named Chad Vallo, a police juror, calling Don  
14 Landry?

15 A. Oh, yeah. Yes, I remember that.

16 Q. Right?

17 A. Yes.

18 Q. Don Landry then calling you. You saying to Zoila, Don Landry  
19 told me to handle this. You recall that?

20 A. I do not.

21 Q. Then you recall setting up the payments with Michelle Franques  
22 and Joe Prejean; right?

23 A. Yes.

24 Q. Bragging about how much money you're going to make off this  
25 guy; right?

1 A. Yes.

2 Q. And then afterwards, talking about how he died, nobody's got to  
3 refund the money; right?

4 **MR. WALKER:** Objection, Your Honor. Asked and answered  
5 and argumentative.

6 **THE COURT:** Overruled, but move on. You can answer that  
7 last question. Is that correct?

8 **THE WITNESS:** Sir?

9 **THE COURT:** He asked you a question. You have to answer  
10 that last question.

11 Can you repeat the last question?

12 **THE WITNESS:** Yeah, please.

13 **BY MR. JOHNSON:**

14 Q. After the favor is requested from Don, you personally referred  
15 them to Michelle Franques, personally referred them to Joe Prejean.  
16 You processed the payment. You're on the phone with Michelle  
17 Franques giving him his credit card numbers; right?

18 A. Yes.

19 Q. And then after he suddenly dies, you joke with both of those  
20 individuals about how you don't have to refund any money; right?

21 A. Yes.

22 Q. But you didn't want him in the program. That was your  
23 testimony on direct.

24 A. Correct.

25 Q. That it was Gary's fault; right? Right?

1 A. It wasn't his fault. I mean, it was nobody's fault. Meaning  
2 he was put in the program, he has to do something.

3 Q. You also, you remember testifying that you didn't want Bradley  
4 Zaunbrecher in the program; right?

5 A. There was calls about it, as well.

6 Q. And we had to refresh your recollection about those calls;  
7 right?

8 A. Correct.

9 Q. One of which specifically, or multiple calls with Don Landry  
10 himself; right?

11 A. Right.

12 Q. Wherein he tells you, Handle this for me, and you tell others,  
13 Don's told me to handle this personally, to design a personal  
14 program; right? Do you recall it? Or are we going to have to  
15 excuse the jury and me run that tape by you --

16 A. No.

17 Q. -- one more time?

18 A. Yeah, we heard it the other day.

19 Q. All right. Thank you.

20 Tara Wells. You personally referred her husband, David  
21 Harrison, to Joe Prejean; correct?

22 A. Yes.

23 Q. Bragged about how much money you were going to make off of it  
24 because of what she did for a living. Isn't that correct?

25 A. Yes.

1 Q. You did the same exact thing with Onebane, Timothy Onebane,  
2 didn't you?

3 A. I don't recall that case. Oh, yeah. Yeah, I do.

4 Q. You sent it to Joe Prejean; right?

5 A. Right.

6 Q. Talked about how the kid is in a bind; right?

7 A. Right.

8 Q. Needs help; right? Right?

9 A. Right.

10 Q. Dominic Sunseri. Did the same exact thing; right?

11 A. Right.

12 Q. Coordinated directly with Joe Prejean and made, what, a \$9,000  
13 lick off that case? Half of 18?

14 A. I don't recall.

15 Q. You remember making money off that case, though?

16 A. Yeah.

17 Q. All of those cases, every single one of them, Don was directly  
18 involved in and asked you to handle. Isn't that correct?

19 A. Some of them, yes, I do recall, but I don't recall all of them.

20 Q. The mass majority, if not all of them; is that fair?

21 A. Fair.

22 Q. Now, my client writes you some checks to invest in businesses;  
23 correct?

24 A. Correct.

25 Q. And your testimony is, is that he wanted all in on every single

1 scheme; right?

2 A. I mean, he wanted GPP and Wildlife.

3 Q. He didn't want to be involved in CBT. Isn't that right?

4 A. He was already involved in that.

5 Q. Okay. All right. So you just forgot to mention that right  
6 there.

7 **MR. WALKER:** Objection, Your Honor. Argumentative.

8 **THE COURT:** Sustained.

9 **BY MR. JOHNSON:**

10 Q. Okay. Now, as part of your -- you received, according to  
11 Leonard Franques and some of the wire, I think, calls, that you  
12 received a check sometime in December for \$40,000; is that right?  
13 As payment for the CBT proceeds?

14 A. Yes, I guess.

15 Q. In reality, you received the \$40,000 check in August of 2021.  
16 Isn't that right?

17 A. I don't recall.

18 **MR. JOHNSON:** Let's show it to him.

19 **MR. CLEMONS:** Just one minute, Your Honor.

20 **MR. JOHNSON:** I want to show just the witness Defense  
21 Exhibit 6.

22 **BY MR. JOHNSON:**

23 Q. That's the \$40,000 check; right?

24 A. It is.

25 Q. And so that's on 08/31/2021; right?

1 A. Yep.

2 Q. That is five days after my client writes a check to F4 for  
3 \$50,000. Isn't that correct?

4 A. Yes.

5 Q. And you recall Leonard Franques talking to -- on the wire  
6 saying that, you know, telling Gary that, Hey, when CBT does good,  
7 I cut Dusty a check for \$40,000; right?

8 A. Yes.

9 Q. So how does -- how does a \$40,000 check in August of 2021  
10 become a \$40,000 check issued in December of 2021 for CBT,  
11 according to Leonard Franques?

12 A. I don't understand the question.

13 Q. Well, the debt hadn't been paid off; right?

14 A. No, it had not.

15 Q. According to your -- according to what I understand is, is that  
16 the reason my client never got any kickback payments in MD Law was  
17 because you -- y'all were supposed to be paying off a debt  
18 associated with the CBT investment, right, by Leonard?

19 A. Yes. CBT was paid off.

20 Q. Oh, my goodness. It got paid off. That's what you're saying  
21 now?

22 A. It got paid off after Gary paid the balance.

23 Q. Okay. But that's not what you testified to initially. You  
24 said the debt wasn't paid off. It hadn't started being paid out  
25 yet.

1 A. CBT had been --

2 **MR. WALKER:** Your Honor, my objection is he just answered  
3 -- he just asked two different questions. He said, "You said the  
4 debt wasn't paid off? You didn't get --"

5 **THE COURT:** Mr. Johnson, can you please stay behind the  
6 podium?

7 **MR. JOHNSON:** Sorry. Judge. It's so hard.

8 **THE COURT:** Stay behind the podium. Don't be  
9 argumentative. Just ask the witness questions.

10 **BY MR. JOHNSON:**

11 Q. You previously testified that the reason my client had not  
12 received any payments was because the debt for CBT had not been  
13 paid off yet and so it wasn't paying off. Isn't that correct?

14 A. I don't recall.

15 **MR. JOHNSON:** Your Honor, I'd like to offer, file, and  
16 introduce Defense Exhibit 6, please, and publish it to the jury.

17 **THE COURT:** Any objection?

18 **MR. WALKER:** No, Your Honor.

19 **THE COURT:** Without objection, let it be entered. And we  
20 can publish it.

21 **BY MR. JOHNSON:**

22 Q. So according to your testimony now, the debt from Leonard's  
23 investment in CBT had been paid off; right?

24 A. In CBT, it had.

25 Q. And it had to have been paid off at least by August of 2021

1 because you're receiving \$40,000 checks from CBT; right?

2 A. Right.

3 Q. So why, then, if Gary was invested in CBT and the debt was paid  
4 off in August, why wasn't Gary receiving payments to MD at Law as  
5 part of this kickback scheme that you and the Government are  
6 suggesting my client was involved in?

7 A. I don't know. I didn't control the money.

8 Q. Oh. So we'd need to hear from, I guess, Michelle Franques?

9 **MR. WALKER:** Objection, Your Honor. That's inappropriate  
10 and the Court knows why it's inappropriate.

11 **THE COURT:** Please disregard the last question, ladies  
12 and gentlemen.

13 **BY MR. JOHNSON:**

14 Q. Would we need to hear from Leonard Franques?

15 **MR. WALKER:** Same objection, Your Honor.

16 **MR. CLEMONS:** No, that's not the same objection.

17 **THE COURT:** Overruled. We need to hear from --

18 **MR. WALKER:** Your Honor, one other thing. I would simply  
19 ask, as we have said twice before, the party who is handling the  
20 witness is the party who should object and respond to objections.

21 **THE COURT:** That's correct.

22 **BY MR. JOHNSON:**

23 Q. So it's your testimony now that the debt was paid off; right?

24 A. Yes. We talking about CBT?

25 Q. Yeah.

1 A. Yeah.

2 Q. Now, let's leave that right there for just a second and come  
3 back to it. The Wildlife and Fisheries investment had not started  
4 -- had not started receiving funds yet; is that correct?

5 A. That is correct.

6 Q. And GPP at this time was also not making any money; is that  
7 correct?

8 A. Minimal, if any.

9 Q. Right. So you weren't receiving payments from GPP over this  
10 period of time?

11 A. I got one check.

12 Q. For a very small amount; correct?

13 A. Yes.

14 Q. And correct me if I'm wrong, that was prior to my client ever  
15 investing in GPP; correct?

16 A. I believe so.

17 Q. Okay. So those two investments are not paying out yet, and,  
18 but CBT is paying out. And you're receiving \$40,000 payments, but  
19 your testimony is MD at Law is set up by my client to receive money  
20 from all three. And you're getting paid as early as August, but my  
21 client's not getting paid anything as it relates to CBT. Because  
22 you don't control the money; right?

23 A. It didn't go to my account, no.

24 Q. It didn't go to your account?

25 A. The initial -- all the money the programs made went to Midway

1 Media.

2 Q. Not that \$40,000, did it?

3 A. No.

4 Q. And is it your testimony to this jury was that the reason that  
5 you needed my client and MD at Law was because you wanted to funnel  
6 money through MD at Law as part of the kickback scheme; right?

7 A. For Wildlife, yes.

8 Q. So if you needed MD at Law to funnel money from CBT through my  
9 client, and if this check for \$40,000 is for CBT, according to you  
10 and Leonard, why is it -- wouldn't it be deposited in MD at Law if  
11 you needed MD at Law?

12 A. I don't know how he paid Gary or what Gary did with his money.

13 Q. The whole purpose, though, of MD Law, one of the purposes was  
14 to run the kickback payments through MD at Law; right? That was  
15 your testimony?

16 A. Yes.

17 Q. Except this one didn't run through MD at Law?

18 A. It was run in his portion.

19 Q. Did the Government put pressure on you to say that my client  
20 was involved in CBT?

21 A. No.

22 Q. None whatsoever?

23 A. No.

24 Q. Isn't it true that my client was only involved in the Wildlife  
25 and Fishery investment and GPP investment? Isn't that the truth,

1 Dusty?

2 A. No.

3 Q. And the reason that he wasn't receiving payments from CBT and  
4 you were, and the reason those payments weren't going to MD at Law  
5 is because my client wasn't involved in CBT, was it?

6 A. He was.

7 Q. Now, the way that these hustles work with you is you like to  
8 bring one party, connect them with another party, and make a profit  
9 off the deal. Isn't that correct?

10 A. Yes.

11 Q. And the deal with Jack Montoucet, which you testified my client  
12 had no idea about Jack Montoucet; correct?

13 A. I don't understand the question.

14 Q. You and Leonard were the only people that knew y'all had paid  
15 off Jack Montoucet. Isn't that true?

16 A. As far as what?

17 Q. Pay to -- designed an agreement to where after he left office  
18 you would pay him his money; correct?

19 A. That is correct, yes.

20 Q. Ordered and paid for a mule; correct? A side-by-side vehicle;  
21 correct?

22 A. I believe he did, yeah. Leonard bought one, yes.

23 Q. My client had no idea about that; correct?

24 A. I don't know if he did or didn't.

25 Q. You were pitching the Wildlife and Fisheries deal as a

1 legitimate investment for people to buy into. Isn't that correct?

2 Tell the truth, Dusty.

3 A. I don't -- I mean, pitching -- I only told Gary about it.

4 Q. Did you meet a man named Chris Quebedeaux and offer to sell him  
5 your interest in the Wildlife and Fisheries investment for  
6 \$700,000?

7 A. Yes.

8 Q. You made that pitch to him after you had been arrested on the  
9 drug charges. Isn't that correct?

10 A. That timeline, I'm unsure of.

11 Q. And you weren't pitching it to him as a, Hey, I'm involved in  
12 this kickback scheme where I have bribed Jack Montoucet? You were  
13 describing it as a legitimate business you can invest in that's  
14 going to make a lot of money off of a portion of the violations.  
15 Isn't that correct?

16 A. Yes.

17 Q. That's how you got people to invest in these investments, was  
18 you weren't pitching a kickback scheme. You were pitching an  
19 investment opportunity that made legitimate sense. Isn't that  
20 correct?

21 A. It was only a kickback for me because I was directly related  
22 with the agency.

23 Q. And Leonard Franques was a credible individual; right?

24 A. Yes.

25 Q. A well-known businessman; right?

1 A. Yes.

2 Q. And the reason Jack got a portion of the profits, right, is  
3 because you needed Jack to okay everything; right?

4 A. He was a top man in the department.

5 Q. Right. And so you bring Leonard together with Jack. Jack gets  
6 a little money, you get a little money; right?

7 A. Right.

8 Q. With GPP, you connect the DAs with GPP, right, because you  
9 don't run GPP; right?

10 A. I do not.

11 Q. And in exchange for connecting them up, you get a little  
12 payment; right?

13 A. Right.

14 Q. DAs, they get a little payment through a relative of theirs;  
15 right? Rene Bonneval; right?

16 A. I don't know how they did it.

17 Q. The relationship between you and -- and that's GPP and that's  
18 Wildlife and Fisheries; right?

19 A. Uh-huh.

20 Q. But with pretrial diversion, you had business relationships  
21 established with Joe Prejean prior to ever arriving at the DA's  
22 office; correct?

23 A. Yes.

24 Q. And the deal was you sent him clients, he paid you money back;  
25 right?

1 A. Right.

2 Q. Nobody else got paid in the deal; right? You weren't kicking  
3 back anybody at the Baton Rouge Parish District Attorney's Office,  
4 were you?

5 A. Oh, no, no, no.

6 Q. Right?

7 A. No.

8 Q. Because you were the guru; right?

9 A. If you say so.

10 Q. Everybody says so. The same with Woodlake; right?

11 A. Right.

12 Q. The same with David Burton; right?

13 A. Right.

14 Q. The same with Leonard Franques; right?

15 A. Right.

16 Q. But suddenly you get popped with drugs and for the first time  
17 in your existence as a pretrial coordinator, suddenly now Gary  
18 Haynes is a part of a kickback scheme on the pretrial diversion  
19 that you control and have controlled everywhere you have gone. Is  
20 that because that's the truth? Or is that because that's what the  
21 Government wanted you to say? Tell the truth.

22 A. What's the question?

23 Q. You didn't need Gary Haynes. You were the pretrial guru.  
24 Isn't that correct?

25 A. He needed to sign off on them.

1 Q. And so your testimony is, is that for the first time -- even  
2 though in Baton Rouge you referred to Joe Prejean and got paid  
3 money; right?

4 A. Right.

5 Q. Nobody else getting paid anything; right?

6 A. Correct.

7 Q. Same setup. You're pretrial director, got a bunch of ADAs  
8 referring the cases; right?

9 A. Right.

10 Q. No middle man; right? Nobody getting a kickback at the DA's  
11 office; right?

12 A. Right.

13 Q. Because when you work inside the program, you can send all the  
14 customers you want to them; right?

15 A. Right.

16 Q. You don't need another middle man. There's nobody else to kick  
17 back because you don't need anybody else; right?

18 A. Right.

19 Q. And that's why there's not any evidence that exists at all of  
20 you talking about CBT or some business relationship, of you talking  
21 about CBT prior to your arrest in December of 2021. Isn't that  
22 right?

23 A. I don't know.

24 Q. It's why when I asked you that question earlier, you said, Oh,  
25 he was involved in WLF and GPP, and you didn't mention CBT. Isn't

1 that correct?

2 A. What's the --

3 **MR. WALKER:** I'll object. That mischaracterizes what he  
4 testified to.

5 **MR. JOHNSON:** I'll withdraw the question, Your Honor.

6 **THE COURT:** Okay.

7 **BY MR. JOHNSON:**

8 Q. Isn't it true that the only time Gary suddenly became involved  
9 in CBT was after the federal government arrested you on December  
10 10, 2021?

11 A. I don't know specifically when he got brought in. He got  
12 brought in by Leonard, and I was told about it after the fact.

13 Q. Okay. So just to be clear, your testimony is that with respect  
14 to this specific kickback scheme, directly involving the pretrial  
15 diversion guru, despite it not having worked in a way previously  
16 that involved anybody else receiving kickback money except you,  
17 your testimony is that in this specific deal that Leonard, the  
18 nonpretrial guru, approached Gary about coming in and arranged the  
19 terms of his portion of the kickback? Is that your testimony?

20 A. Leonard brought him in because he thought bringing this -- his  
21 role in the city prosecutor's office would be a big revenue  
22 generator.

23 Q. Well, I'm sure if that's the case, and since you have been  
24 charged with coconspirators, that we'll hear from Leonard Franques  
25 by the end of this case; right? From the Government?

1           **MR. WALKER:** Objection, Your Honor.

2           **THE COURT:** Sustained.

3           **BY MR. JOHNSON:**

4           Q. But your testimony is that just with respect to this deal with  
5 my client, that Leonard handled the communication with Gary;  
6 correct?

7           A. On bringing him in, yes.

8           Q. And that it was Leonard's idea to bring him in? That's your  
9 testimony just now; right?

10          A. Yes. I was told after the fact.

11          Q. Even though -- and just to be clear, your testimony to this  
12 jury is that you didn't know about it until after the fact;  
13 correct?

14          A. I don't -- there was a conversation between Leonard and I. I  
15 don't recall if it was before or -- but it was right about the time  
16 that he talked to Gary about coming in because he ran the City and  
17 he felt the City could be a big revenue generator, as well.

18          Q. Okay. To be clear, though, the City never got a pretrial  
19 diversion set up; right?

20          A. They -- if it did, it kicked off at the end. I don't remember.

21          Q. But your testimony has also been that Leonard Franques set up a  
22 meeting directly with Josh Guillory about the pretrial diversion  
23 scheme; right?

24          A. He was -- he met with him specifically, about what I don't  
25 know, but it was -- talked to him about a contract.

1 Q. Do you recall specifically having a conversation with Leonard  
2 where Leonard Franques and you discuss giving Josh Guillory 5,000  
3 bucks and him -- will do whatever you want? In fact, him asking  
4 you, Do you want a spot on the commission? Do you remember that?

5 A. No.

6 Q. Do you remember, What you want from him? Do you recall that?

7 A. No.

8 Q. But your testimony here today is that you needed Gary Haynes  
9 and MD at Law to funnel money that you began accepting in August --

10 **MR. WALKER:** Excuse me. This is the third time it's been  
11 asked and answered, and I object.

12 **MR. JOHNSON:** And they got to play their videos 150  
13 times, Judge.

14 **MR. WALKER:** That's just a lie.

15 **THE COURT:** That's not the Court's ruling, Mr. Johnson.  
16 You know that. All right. We can't keep repeating over and over  
17 again, but you may ask the question one more time.

18 **MR. JOHNSON:** Thank you, Judge.

19 **MR. CLEMONS:** Judge, at some point I'm going to request a  
20 midmorning break. We've been here since 8:30.

21 **THE COURT:** I agree with that, as well.

22 **MR. JOHNSON:** I can stop now, Your Honor. I'm not done,  
23 though.

24 **THE COURT:** About how much longer do you have, Mr.

25 Johnson?

1           **MR. JOHNSON:** I think probably an hour. I will know  
2 more, though, once I have a chance to talk to Mr. Clemons.

3           **THE COURT:** Let's take a break. We'll have a 15-minute  
4 break. We'll come back at 10:30. All rise for the jury.

5           (Jury not present.)

6           **THE COURT:** If counsel will approach sidebar real quick.  
7 Mr. Guidry, you can step down for now. Please don't talk to  
8 counsel during the break. Okay?

9           **THE WITNESS:** Okay. Do I have to?

10          **THE COURT:** You don't have to. You can sit there if you  
11 want.

12          (A conversation was held off the record.)

13          (Off the record at 10:17 a.m.; resumed at 10:31 a.m.)

14          **THE COURTROOM SECURITY OFFICER:** All rise for the jury.

15          (Jury present.)

16          **THE COURT:** Please be seated. Mr. Johnson, you may  
17 continue.

18          **MR. JOHNSON:** Thank you, Judge.

19 **BY MR. JOHNSON:**

20 Q. Mr. Guidry, --

21          **MR. JOHNSON:** I'm sorry. I want to pull up Defense  
22 Exhibit 4. I think it's already been introduced.

23 **BY MR. JOHNSON:**

24 Q. 08/26, my client cuts F4 a check for \$50,000; correct?

25 A. Yes.

1 Q. 08/31, what does that say in the memo line there on the bottom  
2 left?

3 A. "WLF" or "WLK."

4 Q. And then five days later, on 08/31, you get a check for --

5 **MR. JOHNSON:** And that's Defense Exhibit 6. Bring that  
6 up.

7 **BY MR. JOHNSON:**

8 Q. -- \$40,000; right?

9 A. Yes.

10 Q. Now, do you recall -- in the audio clips that the Government  
11 played, do you recall hearing a portion of a meeting on January 4<sup>th</sup>  
12 between Leonard Franques and my client where Leonard Franques says,  
13 you know --

14 (Audio playing.)

15 **MR. WALKER:** Objection. Excuse me. Objection.

16 **THE COURT:** What are we doing here? What's playing?

17 **MR. WALKER:** He is playing a conversation between Gary  
18 Haynes and Leonard Franques. This witness wasn't at the meeting.  
19 He hasn't heard the conversation. You don't have the right to  
20 refresh or play a call like that to this witness to try to refresh  
21 his memory. So I would object to the call being played with this  
22 witness.

23 **THE COURT:** What's the foundation for this witness to  
24 testify about it?

25 **MR. JOHNSON:** One, this video is already in -- I mean,

1 this audio is already in evidence. And Judge, at some point the  
2 defense has got to be able to play some of the same evidence.

3 **MR. WALKER:** Excuse me. Sidebar.

4 **THE COURT:** Let's discuss this at sidebar.

5 (Begin bench conference.)

6 **THE COURT:** Has the witness ever heard this call before?

7 **MR. WALKER:** Never. Never heard the consensual  
8 recording. Never heard the call.

9 **THE COURT:** You can't introduce other evidence from this  
10 trial to a witness who doesn't have personal knowledge of it.  
11 That's the problem with that. I don't have a problem playing the  
12 call that the Government has already introduced. You can do it  
13 through Doug Herman if you'd like to play the call.

14 **MR. JOHNSON:** That's fine. We can do it that way.

15 **MR. WALKER:** Your Honor, the other thing I would ask,  
16 when I objected, the defense turned to the jury and said, "What am  
17 I supposed to do?" I would ask that that kind of theatrics,  
18 looking at the jury, is inappropriate in a federal court.

19 **THE COURT:** Well, I have told Mr. Johnson, "Please stay  
20 behind the podium." He can be emotional if he thinks it helps his  
21 client, but you have to maintain the decorum of the Court.

22 **MR. JOHNSON:** Yes, sir. Yes, sir.

23 **MR. CLEMONS:** And Judge, may I just interject something?  
24 A recording used to refresh his recollection, he doesn't have to be  
25 a party to it. We can use something extrinsically to refresh his

1 recall.

2 **THE COURT:** He has never heard it. How is this going to  
3 refresh his recollection?

4 **MR. CLEMONS:** If the conversation is something that's  
5 familiar to him, then it possibly could refresh his recollection,  
6 Judge. Just because he has never heard it but if he understands  
7 the topic, that may refresh his recollection, whether he heard the  
8 call or not. Anything can be used to refresh somebody's  
9 recollection. And either it refreshes it or it doesn't. They  
10 don't have to be a party to it to refresh their recollection. And  
11 that's all we're simply trying to do. We can do it outside the  
12 jury's presence.

13 **THE COURT:** He wasn't part of the conversation on the  
14 call and he's never heard the conversation on the call. I don't  
15 know how that could possibly refresh his recollection. You can --

16 **MR. JOHNSON:** Ask him if he ever listened to that audio?  
17 Can I ask him if he ever listened to it? I take your word for it,  
18 Luke. But can I ask the witness that question?

19 **THE COURT:** Yeah, you can ask that.

20 **MR. CLEMONS:** He had a lot of prep.

21 (End bench conference.)

22 **BY MR. JOHNSON:**

23 Q. Have you -- you had a lot of prep sessions; is that right? You  
24 testified to that previously.

25 A. A handful.

1 Q. And during those prep sessions, the Government went over  
2 various calls with you. Isn't that correct? That's your previous  
3 testimony?

4 A. Yes.

5 Q. Do you recall listening to audio from a meeting between my  
6 client and Leonard Franques on January 4<sup>th</sup>?

7 A. No, I do not.

8 Q. Okay. Now, you recall being questioned about the meeting with  
9 Barry Sallinger sometime in November of 2021?

10 A. Yes.

11 Q. And do you recall the Government asking you whether or not you  
12 discussed your drug charge with Mr. Sallinger during that meeting?  
13 Do you recall that?

14 A. I don't recall that.

15 Q. That would have been impossible, though, right, because the --  
16 **MR. WALKER:** Objection, Your Honor. He just testified he  
17 didn't recall it and now he's saying it's possible. He's asking  
18 the witness to speculate.

19 **MR. JOHNSON:** I said impossible.

20 **MR. WALKER:** And it's already been covered. It's  
21 cumulative.

22 **MR. JOHNSON:** I'm getting to another point, Your Honor.

23 **THE COURT:** I'll let the question proceed. Go ahead, Mr.  
24 Johnson.

25 **MR. JOHNSON:** Thank you, Judge.

1 **BY MR. JOHNSON:**

2 Q. You were arrested on December 10, 2021; right?

3 A. Yes.

4 Q. Okay. The meeting with Mr. Barry Sallinger where you became --  
5 with Don; right? You know what meeting I'm talking about?

6 A. Yes. I don't recall the date.

7 Q. But it was before your arrest.

8 A. Okay.

9 Q. Right?

10 A. Yes.

11 Q. And that's the meeting we talked about at length where you  
12 became sort of exclusive provider for the criminal defense  
13 attorneys; correct? The e-mail was generated?

14 A. Yes.

15 Q. You started communicating directly with them; correct?

16 A. For a short period, yes.

17 Q. Their staffs?

18 A. Yes.

19 Q. You did, though, you have had meetings where you've discussed  
20 your drug charges with Mr. Sallinger, though, haven't you?

21 A. He was representing me at the onset.

22 Q. Right. You hired Barry Sallinger to represent you on the drug  
23 charges --

24 **MR. WALKER:** Objection.

25 **BY MR. JOHNSON:**

1 Q. -- you got arrested for --

2 **MR. WALKER:** Excuse me. Objection. I don't see the  
3 relevance of this. The fact that Barry Sallinger was hired in  
4 connection with drug charges, I don't see the relevance.

5 **THE COURT:** What's the relevance?

6 **MR. JOHNSON:** Any connection to Barry Sallinger, either  
7 before or after December 10<sup>th</sup>, I think is relevant for purposes of  
8 showing how close they were and how much he did not need my client  
9 at all at any point in time. I think it's a point we've made.  
10 We've laid a good foundation for it. And this is, by the way,  
11 Judge, at a period of time that is prior to the raid on May 9,  
12 2022, which is the date that the Judge alleges that this conspiracy  
13 happened, between January 1<sup>st</sup> --

14 **THE COURT:** Let's talk about it at sidebar.  
15 (Begin bench conference.)

16 **THE COURT:** There's a relevancy objection by the  
17 Government. So when was the -- when was the -- from the testimony  
18 in this trial, there was a meeting between Don Landry, Dusty Guidry  
19 -- Gary Haynes was not there -- to discuss the relationship with  
20 Barry Sallinger's firm and Donald Cleveland's firm. When did that  
21 meeting take place?

22 **MR. WALKER:** Meeting took place November 11<sup>th</sup> of 2021.

23 **THE COURT:** Okay. And the arrest was December 12<sup>th</sup> of  
24 2021?

25 **MR. WALKER:** Of 2021.

1           **MR. JOHNSON:** 10<sup>th</sup>.

2           **MR. WALKER:** That's correct.

3           **THE COURT:** And when was he retained by -- when did he  
4 retain Mr. Sallinger?

5           **MR. WALKER:** Sometime in January.

6           **THE COURT:** So the arrangement was already worked out by  
7 the time that he had retained him. So what's the relevance from  
8 that point of view?

9           **MR. JOHNSON:** It shows a close connection to Barry  
10 Sallinger and the case which we have tried to emphasize as relevant  
11 to both sides. There is a relationship that exists with Sallinger  
12 so much so that he lets him --

13           **THE COURT:** What's the relevance beyond the fact that he  
14 retained him, which he's already testified to?

15           **MR. JOHNSON:** I wasn't planning on going into it past  
16 that point, but I would like a clear answer to the question because  
17 he started objecting as he was answering my question. I believe  
18 that was what happened. If he's clear, answer so far isn't great.

19           **MR. WALKER:** I would submit that he asked the question  
20 about Sallinger. The witness said yes. I then stood up and  
21 objected that this was not relevant, and then we came to the  
22 sidebar.

23           **THE COURT:** Okay. Let's just move on. They've heard  
24 that.

25           (End bench conference.)

1 **BY MR. JOHNSON:**

2 Q. So to clear up some prior testimony, your testimony previously  
3 was that you delivered the checks to Leonard for Mr. Haynes;  
4 correct? For his investments?

5 A. I could have, yes.

6 Q. But that was your testimony, that you did; correct?

7 A. I delivered some. I don't recall.

8 Q. Okay. It's possible, then, you delivered the checks?

9 A. Yes.

10 Q. But Leonard was the one who spoke to my client about the CBT  
11 deal specifically and arranged those terms; right?

12 A. Yes.

13 Q. Now, you remember a guy by the name of William Rosevally?

14 A. No.

15 Q. I think you referred to him as Bill. Did you handle his  
16 payment arrangements through the pretrial system?

17 A. I may have.

18 Q. Do you recall telling him, "You have two hours to get this  
19 done"?

20 **MR. WALKER:** Only objection, Your Honor, is he said he  
21 doesn't remember the person's name, he doesn't know if he -- he  
22 said, "I may have." He doesn't know if he did it. And now the  
23 defense is continuing with questions as if he remembers any of  
24 those things.

25 **MR. JOHNSON:** I'd like to --

1           **MR. WALKER:** He's already said he doesn't.

2           **MR. JOHNSON:** I apologize. I would like to refresh his  
3 memory, Your Honor. Take a break and refresh his memory. I have  
4 the calls ready on my computer.

5           **THE COURT:** Okay. Which calls do you want to refresh his  
6 recollection with?

7           **MR. JOHNSON:** One second, Your Honor. So I think it is  
8 Session 4580, Session 4589, Session 4298, Session 4304.

9           **MR. WALKER:** Your Honor, my response, my additional  
10 response is he had the ability to ask all of these questions on  
11 cross-examination. This entire area has been covered. He's simply  
12 now talking about specific cases which he could have brought up. I  
13 object. It's not relevant at this point, and it's cumulative.

14           **THE COURT:** Have these clips been entered into evidence  
15 already?

16           **MR. JOHNSON:** No, Your Honor.

17           **THE COURT:** We spent a day and a half on this witness.  
18 We spent a day and a half on this witness already, and most of that  
19 -- well, at least half of that was cross-examination. And the  
20 Government is right, you did have a chance to go through all this.  
21 So we'll discuss at sidebar what additional information that has  
22 not previously been testified to you seek to enter, but we're not  
23 going to go through anything again.

24           **MR. JOHNSON:** That's what I'm saying. These are not --  
25 these have not been introduced into evidence. This is the first

1 time I have talked about these calls, and I believe this is the  
2 remainder of the calls that I plan to ask him about, period, as  
3 part of my examination. And I am nearing the end.

4 **THE COURT:** Well, let's discuss it at sidebar.

5 (Begin bench conference.)

6 **THE COURT:** These calls were ones that Mr. Guidry was on?

7 **MR. JOHNSON:** Yes.

8 **MR. WALKER:** He's had the ability to do this. He had the  
9 ability to do it. I did a half a day. They did an entire day of  
10 cross-examination on this person. They could have brought these  
11 calls out during their cross-examination and chose not to. Now  
12 they're introducing additional. It's -- all of the evidence is  
13 cumulative.

14 **THE COURT:** What's the subject matter of the calls?

15 **MR. JOHNSON:** He is on the phone with William Rosevally.  
16 He is threatening him. He says, "You got two hours to get this  
17 done or I'm fucking done dealing with you. I told you don't fuck  
18 around with me." He is processing a payment to Michelle Franques  
19 for \$4,000. It's not running. It's getting declined. And then  
20 he's picking up the phone and saying, "You got one hour to figure  
21 this shit out."

22 **MR. WALKER:** I object to that testimony. It's  
23 inflammatory. It's not relevant to -- excuse me. It's not  
24 relevant to anything that couldn't have been covered on cross. He  
25 did cover everything about what the person was doing on

1 cross-examination for an entire day. Now he's simply just trying  
2 to find additional stuff that he can attack him with. I object.

3 **THE COURT:** Well, attacking the witness' credibility is  
4 part of his job.

5 **MR. WALKER:** And he has done it over and over again, and  
6 he got to cross-examine for a day.

7 **THE COURT:** What's the relevance? Even if he does  
8 remember that, what's the relevance?

9 **MR. JOHNSON:** The relevance is, Your Honor, is that in  
10 his testimony, okay, in his testimony and in records, he downplays  
11 his involvement at the DA's office consistently. And I'll be  
12 honest, Judge. This may not be the best argument, but I'm going to  
13 be candid with you. When we had to excuse the jury the last time,  
14 I was trying to play these things but I couldn't find them because  
15 I thought we were going to just be able to go off the exhibit list  
16 and I was just going to be able to run them. And I couldn't find  
17 them and so I just didn't play them then. I'm trying to go back  
18 over what I intended to go over with him initially, but I just  
19 couldn't find it because I knew you were, like, where the jury was  
20 waiting.

21 **THE COURT:** We had the jury out for 45 minutes to an hour  
22 or something. We have to be efficient with their time.

23 **MR. JOHNSON:** I understand.

24 **MR. CLEMONS:** Judge, can I just briefly say one thing?  
25 Judge, we're taking 2 1/2 days max to put on our case, Judge. We

1 are resting our case this afternoon. The Government had a week.

2 **THE COURT:** How long will the clips take to play?

3 **MR. JOHNSON:** Not long. I can reduce it down to two if  
4 you want. I can just have the calls with Mr. Rosevally. They are  
5 very short. He is threatening him and getting off the phone. I  
6 think they're two or three minutes a piece.

7 **THE COURT:** I'll let him listen to them.

8 (End bench conference.)

9 **THE COURT:** Ladies and gentlemen, we're going to take  
10 another quick break and come back and finish Mr. Guidry's testimony  
11 after that. So we will come back around 11, but we'll get you when  
12 we're ready for you. Okay? All rise for the jury.

13 (Jury not present.)

14 **THE COURT:** Please be seated. Counsel, you can approach  
15 the witness and play the two calls that you mentioned.

16 **MR. JOHNSON:** Thank you, Judge.

17 **THE COURT:** For the record, the witness is on both of  
18 these calls that were kind of turned over in discovery to the  
19 defendant. Please identify which call you're playing for the  
20 defendant and the exhibit number and the date of that call for the  
21 witness. For the witness, we're going to need to tell him the day  
22 of the call, and for the record, we need to know the exhibit number  
23 and where it comes from in the discovery.

24 **MR. JOHNSON:** So it's Session 4580. We'll mark it as  
25 Defense Exhibit 273.

1           **THE DEPUTY CLERK:** 273, not admitted.

2           (Audio recording playing.)

3           **MR. WALKER:** For the record, November 16 of 2021.

4           **THE COURT:** And who was the person on the call?

5           **MR. WALKER:** Dusty Guidry was one of the people on the  
6 call. I don't know the other person on the call.

7           **MR. JOHNSON:** William Rosevally, Your Honor.

8           **THE COURT:** The witness may or may not know that.

9           **MR. JOHNSON:** Sorry. Next we're going to play Session  
10 4589, and that's Defense Exhibit 274.

11           (Audio recording playing.)

12           **THE COURT:** We can get the jury back in.

13           **THE COURTROOM SECURITY OFFICER:** All rise for the jury.  
14 (Jury present.)

15           **THE COURT:** Please be seated. Mr. Johnson, you may  
16 continue.

17           **MR. JOHNSON:** Yes, Your Honor.

18 **BY MR. JOHNSON:**

19 Q. So during the break while the jury was excused, we listened to  
20 Sessions 4580 and 4589, calls that took place on November 16, 2021.  
21 Do you recall that?

22 A. Yes.

23 Q. Do you recall those calls being between you and a person named  
24 William Rosevally or Billy Rosevally?

25 A. Yes.

1 Q. Do you recall you threatening him in that call?

2 A. Yes.

3 Q. Do you recall you saying, "You got two hours. I'm not fucking  
4 with you"? Do you recall that?

5 A. Yes.

6 Q. Do you recall telling him that if he didn't pay or you got one  
7 more call from them saying insufficient funds that you were calling  
8 his lawyer and you were filing a bill of information against him in  
9 that hour?

10 A. I don't have the ability to file a bill of information.

11 Q. Do you recall saying that?

12 A. Yes.

13 Q. Despite this, your status as a guru, you told the FBI, you told  
14 Mr. Herman on May 12<sup>th</sup> that you were a glorified runner at the DA's  
15 office in Lafayette. Isn't that correct?

16 A. Correct.

17 Q. That was a lie, wasn't it?

18 A. Not necessarily, considering what I was get paid and the amount  
19 of running around I did.

20 Q. Okay. Your running around, though, was to other different  
21 pretrial diversion locations in the state of Louisiana that you  
22 were referring yourself business and paying yourself with through  
23 the vendors; correct?

24 A. No.

25 Q. And using your cell phone to do all that?

1 A. Probably.

2 Q. Okay. Now, I'm not going to go into too much detail, but  
3 you've reached a plea agreement with the Government. You recall  
4 testifying about that?

5 A. Yes.

6 Q. And the way the plea agreement works is there is this  
7 provision, it's called a 5k, that's been explained to you, hasn't  
8 it?

9 A. Yes.

10 Q. It's what's called a motion for substantial assistance;  
11 correct?

12 A. I guess, yeah.

13 Q. And what the agreement spells out in layman's terms --

14 **MR. WALKER:** Your Honor, this was covered the last time  
15 he testified. It's cumulative. I would object.

16 **MR. JOHNSON:** I didn't cover this line of questioning.

17 **THE COURT:** I think the Government called him. I don't  
18 think he was cross-examined on it. Go ahead.

19 **BY MR. JOHNSON:**

20 Q. So the way that works is, is you plead guilty; right?

21 A. Right.

22 Q. You're not sentenced; right? You currently haven't been  
23 sentenced?

24 A. Oh, no. That's correct.

25 Q. Right?

1 A. That is correct.

2 Q. And if you testify and do a good job for the Government, right,  
3 and cooperate, then once you're done they can file what's called a  
4 motion to ask the Court to be lenient on you, given your  
5 substantial assistance in the case; correct?

6 A. Yes.

7 Q. And it's referred to as 5k; right?

8 A. Okay.

9 Q. Right?

10 A. I guess that's what it's called.

11 Q. Okay. So your agreement with the Government in a way is kind  
12 of like your agreement with Jack Montoucet in the Wildlife and  
13 Fisheries scheme, isn't it? Right?

14 A. I don't see it.

15 Q. Well, wasn't the deal with Jack is we reach an agreement;  
16 right?

17 A. Okay.

18 Q. You perform under the agreement; right?

19 A. Okay.

20 Q. And then after Jack leaves office, you and Leonard pay him a  
21 bunch of money; right?

22 A. Correct.

23 Q. You see the connection?

24 A. Not really.

25 Q. But the deal with the Government's plea is you give them Gary

1 Haynes. Isn't that right?

2 A. My agreement was to testify.

3 Q. In Dusty Guidry terms, would you refer to this arrangement as  
4 one last hustle?

5 A. No.

6 Q. Because it takes money, right, for it to be a hustle, I guess  
7 to you; right?

8 A. No.

9 Q. According to your testimony, Leonard's idea to bring Gary in  
10 and he handled the communication on that part; right?

11 A. I don't say yes.

12 Q. And then according to your testimony -- but you don't know when  
13 Gary got involved in CBT; right?

14 A. I don't recall.

15 Q. And Joe Prejean, according to your testimony, knew that he was  
16 paying Gary; right?

17 A. Right.

18 Q. Are you aware whether Joe Prejean's testified in this case for  
19 the Government?

20 A. I'm not aware.

21 Q. So it's all just based on your word; right?

22 A. I guess. I don't know who's testified.

23 **MR. JOHNSON:** Your Honor, I'd like to show just the  
24 witness Defense Exhibit 276. Scroll down. Can you scroll down?

25 Scroll down. All right.

1 **BY MR. JOHNSON:**

2 Q. Dusty, who is Brandi Hollier?

3 A. My sister.

4 Q. Do you recall me asking about whether or not your sister was  
5 affiliated?

6 A. I did and I didn't recall. I do remember the question and my  
7 answer was I didn't recall.

8 Q. I thought you said no.

9 **MR. WALKER:** Objection.

10 **BY MR. JOHNSON:**

11 Q. Was I wrong?

12 **MR. WALKER:** Excuse me. Objection.

13 **THE COURT:** The jury will rely on their own memory.

14 **BY MR. JOHNSON:**

15 Q. What does this document appear to be?

16 **MR. JOHNSON:** Go to the first page, if you don't mind,  
17 Douget, just to the witness.

18 **THE WITNESS:** It says, "Website Sales Agreement."

19 **BY MR. JOHNSON:**

20 Q. You're aware and you testified that you negotiated the sale of  
21 student safety courses; right?

22 A. Correct.

23 Q. Between Leonard Franques and Burton Services; correct?

24 A. Correct.

25 Q. And you testified that as part of this agreement Leonard

1 Franques didn't know that you were actually getting paid a portion  
2 of that purchase price; right?

3 A. Correct.

4 Q. And I asked you were you aware of that agreement, and you said  
5 yes; correct?

6 A. Correct.

7 Q. And this appears to be that agreement, does it not?

8 A. It looks like it.

9 Q. And in this agreement there are listed partners that receive a  
10 commission for payment for Burton Services; correct?

11 A. Correct.

12 Q. And the purpose of those partners being listed in the agreement  
13 is to make sure they continue to receive the percentage moving  
14 forward under the sales agreement with Leonard Franques. Isn't  
15 that correct?

16 A. Correct.

17 Q. Your sister's name appears in that document, does it not?

18 A. It does.

19 Q. As a specific percentage; correct?

20 A. Yes.

21 **MR. JOHNSON:** Your Honor, I'd like to offer, file, and  
22 introduce that exhibit as Defense Exhibit 276.

23 **MR. WALKER:** Your Honor, I would object. The best the  
24 witness said is, "It appears to be." That's all he said.

25 **THE COURT:** You have to lay a foundation that the witness

1 knows this to be an authentic document.

2 **BY MR. JOHNSON:**

3 Q. Do you have any reason to doubt the authenticity of this  
4 document at all?

5 **MR. WALKER:** That's an objection.

6 **THE COURT:** Have you ever seen the document before, Mr.  
7 Guidry?

8 **THE WITNESS:** It looks familiar. Yes, sir.

9 **THE COURT:** You want to follow up on that, Mr. Johnson?

10 **MR. JOHNSON:** Sure.

11 **BY MR. JOHNSON:**

12 Q. Does this look like the document that you and David Burton  
13 discussed and shared between each other on the breakdown of how the  
14 sale was going to take place?

15 A. It looks like it.

16 Q. Do you have any reason to doubt the authenticity of it? Looks  
17 like the document you remember seeing?

18 A. There's no reason.

19 **MR. JOHNSON:** I would like to offer, file, and introduce  
20 and publish.

21 **THE COURT:** Any objection?

22 **MR. WALKER:** No, Your Honor.

23 **THE COURT:** Without objection, let it be entered.

24 **MR. JOHNSON:** I'd like to publish that at this point in  
25 time.

1 **BY MR. JOHNSON:**

2 Q. See Brandi, is that Hollier or Hollier?

3 A. Hollier.

4 Q. Okay. On the criminal charges that you were arrested for, what  
5 prosecutor ultimately handled those criminal charges? Is handling  
6 those criminal charges?

7 A. Ask it again.

8 Q. What prosecutor is currently handling your state criminal  
9 charges?

10 A. I don't know.

11 Q. You don't know where they're from?

12 A. Oh, they're in St. Martin.

13 Q. So the case is being prosecuted under -- in St. Martin Parish?

14 A. It is.

15 Q. Is it being handled by the St. Martin Parish District  
16 Attorney's Office?

17 A. It is.

18 Q. I thought they were recused. Are they not recused?

19 A. No.

20 Q. And those charges stemming from that December 2021 arrest are  
21 still pending?

22 A. That is correct.

23 Q. In 2025?

24 A. That is correct.

25 Q. When's the last time you went to court on those charges?

1 A. July, I believe.

2 Q. Of this past year?

3 A. A couple of months ago, July.

4 Q. And the case was just continued?

5 A. Yes.

6 Q. Was it continued due to your ongoing federal prosecution?

7 A. Yes, I guess.

8 Q. But you haven't received any assistance from the Government at  
9 all --

10 A. No.

11 Q. -- on that case; right?

12 A. No.

13 Q. You think you'd look a little different testifying in orange?

14 **MR. WALKER:** Objection, Your Honor. Argumentative.

15 **THE COURT:** Sustained. He testified he hadn't received  
16 any help from the Government on that charge.

17 **MR. JOHNSON:** No further questions, Your Honor. Thank  
18 you.

19 **CROSS-EXAMINATION BY MR. WALKER:**

20 Q. So I'm going to cover a lot of different things that he  
21 covered, and I may cover them out of order. If I ask you a  
22 question and it's confusing, please just ask me to ask it in a  
23 different way.

24 A. Okay.

25 Q. You pled guilty; is that right?

1 A. On this, yes.

2 Q. And you pled guilty both to the Fish and Wildlife scheme and  
3 also the DA bribery scheme?

4 A. Yes.

5 Q. What is the one thing you have to do in your plea of guilty?

6 A. Be truthful.

7 Q. Who is going to sentence you in this case?

8 A. The Judge will.

9 Q. This man who is listening to your testimony?

10 A. Yes, it is.

11 Q. And he's going to make a decision as to what your sentence is?

12 A. Yes.

13 Q. Can you receive a benefit whether the defendant Gary Haynes is  
14 convicted or not?

15 A. That's my understanding, yes.

16 Q. So you're not testifying -- we're not telling you what to say  
17 other than to tell you the truth?

18 A. Correct.

19 Q. In every meeting that we've had with you, have we told you to  
20 tell the truth?

21 A. Yes.

22 Q. In the meetings we've had with you, have we asked you questions  
23 about what happened so we can understand?

24 A. Yes.

25 Q. The defense began his cross-examination talking to you about

1 the fact that Baton Rouge is different than Lafayette; right?

2 A. Right.

3 Q. In Baton Rouge there was no Gary Haynes. There was no person  
4 who was an assistant district attorney who was overseeing the  
5 pretrial intervention program as there is in Lafayette; is that  
6 right?

7 A. Right.

8 Q. So as a result of that, would you deal with a whole variety of  
9 people?

10 A. Yes.

11 Q. In Lafayette was Gary Haynes the person over the pretrial  
12 intervention program?

13 A. Yes.

14 Q. As a result of that, were you having to deal with him as it  
15 relates to cases?

16 A. Yes.

17 Q. The defense talked about the fact that people bring cases to  
18 pretrial intervention. ADAs can bring trials to -- I mean bring  
19 cases to pretrial intervention.

20 A. Yes.

21 Q. In fact, were there a lot of cases where Gary Haynes would have  
22 to approve the cases to go into pretrial intervention?

23 A. Yes.

24 Q. Do you remember phone calls that were played and documents that  
25 were shown where you would have to get Gary Haynes' permission to

1 get a case into pretrial intervention?

2 A. I do.

3 Q. The defense talked about -- and I want to -- because the  
4 defense talked about different things at different times, I want to  
5 see if we can clear up the timeline.

6 A. Okay.

7 Q. Don Landry came into office when?

8 A. January '21.

9 Q. And thereafter, were you and Gary Haynes hired?

10 A. Yes.

11 Q. By July 6<sup>th</sup> of 2021 --

12 **MR. WALKER:** And I'd like to show the witness Exhibit  
13 35-001. And it's already been introduced. Everything I'm going to  
14 be showing has been introduced. I'd ask that it be published. I  
15 think you still had it on defense's rather than the prosecution's.

16 **THE DEPUTY CLERK:** No, I don't.

17 **MR. WALKER:** Can you blow that up? Thank you.

18 **BY MR. WALKER:**

19 Q. Do you see a conversation between you and Leonard Franques?

20 A. I do.

21 Q. What's the date?

22 A. July 6, '21.

23 Q. Do you see, (as read), "I talked to Big G. When you get back  
24 we will go one-third each with you to be paid up front. Then we  
25 start revenue sharing"?

1 A. Right, yes, sir.

2 Q. Who were the three people that were to get the one-third of the  
3 money from pretrial intervention?

4 A. Me, Leonard, and Gary.

5 Q. So, and in the same conversation, are you talking about the  
6 fact that Gary's doing a good job, that y'all are making a lot of  
7 money?

8 A. Yes.

9 Q. So by July 6<sup>th</sup> of 2021, was there an agreement that you and  
10 Leonard Franques and Gary Haynes were going to get one-third each  
11 of the CBT money?

12 A. Yes, minus expenses.

13 **MR. WALKER:** Can you now go to -- in the same day --  
14 could you go to 35-002. And could you blow the top up.

15 **BY MR. WALKER:**

16 Q. Same day, July 6<sup>th</sup> of 2021? You see the date there on the --

17 A. On the right, yes.

18 Q. On the same day that you're talking about the fact that there's  
19 going to be a one-third split between you in July, are you also  
20 talking about all the cases he's putting into CBT?

21 A. Yes.

22 Q. The jury heard a lot of phone calls about the bribery scheme.  
23 The defense talked about things that happened in mid and late  
24 November. So I want to talk to you about, first of all --

25 **MR. WALKER:** You can take that down.

1 **BY MR. WALKER:**

2 Q. -- as it relates to the time when you got -- the time when you  
3 had the meeting with Barry Sallinger.

4 A. Okay.

5 Q. Was that in mid-November, mid-to-late November of 2021?

6 A. Yes.

7 Q. And you got arrested about three weeks later?

8 A. Give or take, yes.

9 Q. So between January and July, based on that text message we just  
10 saw -- and by the way, when you were sending out those text  
11 messages, did you know there was a wiretap we were intercepting  
12 your text messages or your phone calls?

13 A. No, I did not.

14 Q. So were those conversations you were having with Leonard  
15 Franques?

16 A. Yes.

17 Q. About how Gary was doing?

18 A. Yes.

19 Q. And about how much money he was going to be getting?

20 A. Yes.

21 Q. So at some point between January and July of 2021, about five  
22 months before the meeting that happened with the DA and Sallinger,  
23 y'all were already talking about the three-way split that was going  
24 to occur in the money from CBT?

25 A. Yes.

1 Q. And had there been an agreement?

2 A. Verbal, yes.

3 Q. By October 16<sup>th</sup>, were y'all actively discussing ways that Gary  
4 Haynes could be paid off?

5 A. Yes.

6 Q. And were the payments -- what were the payments for?

7 A. The third of the CB -- of Leonard's -- from Midway Media.

8 Q. And was the reason he was getting that money because of the  
9 fact that he was helping facilitate getting cases moved into the --  
10 get through PTI and get cases assigned to CBT?

11 A. Yes.

12 Q. In fact, are there many calls where you talk about the fact  
13 that y'all make your money by getting cases moved into CBT?

14 A. Right.

15 **MR. WALKER:** I'm going to be playing a few calls and I'm  
16 playing these calls -- they're all from this defendant to either  
17 Leonard Franques or Gary Haynes, and they're directly in response  
18 to the cross-examination that the defendant has done. He has  
19 attacked saying that this witness is the only evidence. That's the  
20 words he just used.

21 **MR. CLEMONS:** Your Honor, why is he talking in front of  
22 the jury?

23 **THE COURT:** Let's discuss -- first of all, does the  
24 defense object to playing more calls related to the direct  
25 examination?

1           **MR. JOHNSON:** Judge, the primary objection that I have  
2 related to the calls is that I'm not getting to play the things  
3 that I have.

4           **THE COURT:** Let's discuss this at sidebar.

5           (Begin bench conference.)

6           **THE COURT:** The key difference is that Mr. Guidry was not  
7 on the call you wanted to play. That's the difference.

8           **MR. JOHNSON:** The Rosevally call, he's on that call,  
9 Judge. I'm not getting to play that, either.

10          **THE COURT:** That's the rules of evidence.

11          **MR. JOHNSON:** Well, I think that impeaches his testimony,  
12 Your Honor. I made that clear. I'm just putting it on the record.  
13 I understand your ruling, though.

14          **THE COURT:** He admitted to every single thing on that  
15 call. I heard it and the defendant heard it. And he admitted to  
16 every single thing on that call.

17          **MR. JOHNSON:** But on direct he didn't. He testified to  
18 the exact opposite thing. You remember, I asked him --

19          **THE COURT:** The jury will remember that. You can point  
20 their attention to it on the redirect if you want.

21          **MR. WALKER:** And the calls I'm playing, the defense  
22 directly said that this witness he made up -- as in he actually  
23 said it directly to the witness; that he made up everything after  
24 he got stopped in December. The witness said, no, that's not true.  
25 But he specifically said that and he said it multiple times. These

1 calls are to rebut that; to show that their relationship was  
2 ongoing from July up until that point. And so it's relevant.

3 **MR. JOHNSON:** This witness -- one, I didn't say he made  
4 up all this stuff after he got arrested. I never said the word  
5 "made up." What I would also point out is that this witness has  
6 testified he doesn't know when Gary got involved in CBT. So how is  
7 this relevant if he has already testified he don't know and he  
8 don't know what the checks are for? Because they are just playing  
9 videos to replay videos to use it under the guise of I'm refreshing  
10 this witness' memory.

11 **THE COURT:** How long are the calls?

12 **MR. WALKER:** There are about five calls and they're not  
13 long. I'm going to play the call for him, and they are directly  
14 relevant, just as the July text message was directly relevant,  
15 because he has suggested that there was no scheme between them.  
16 The text messages shows a scheme and the additional call showed  
17 there was a scheme, which is exactly what he is saying didn't  
18 happen.

19 **THE COURT:** I'll allow it.

20 (End bench conference.)

21 **MR. WALKER:** I'm going to be playing a series of calls.  
22 The first call I want to play and then discuss is 002-003. You  
23 know what? Pull that one down. I don't want to play that one  
24 first. I want to play another one before I play that one. I  
25 apologize. 210-001.

1 (Audio recording playing.)

2 **MR. WALKER:** Your Honor, to facilitate, because this is a  
3 relatively long call, I'd ask that it be paused and moved to about  
4 three-quarters of the way to the end, halfway to the end.

5 **MR. JOHNSON:** Judge, I have no objection, nor would I be  
6 surprised with the idea that we want to clip calls in this case.  
7 So I have no objection to it.

8 **THE COURT:** Right. Let's clip them as tight as we can to  
9 just get the points across, Mr. Walker.

10 **MR. WALKER:** That's my plan, Your Honor.

11 **THE COURT:** The jury has heard all these calls.

12 (Audio recording playing.)

13 **MR. JOHNSON:** Judge, so maybe I was confused at the  
14 sidebar, but the objection would be relevance. This is a call  
15 between him and Michelle Franques.

16 **MR. WALKER:** It absolutely is, and there is going to be a  
17 statement made shortly that is going to show the relevance of it as  
18 it relates to this defendant and the other coconspirators.

19 **MR. JOHNSON:** It's a self-serving statement, Judge. He's  
20 not trying to impeach his testimony. He's trying to use this  
21 statement to support the witness' statement, which makes the  
22 statement improper, the same reasons he's objected to some of my  
23 evidence.

24 **MR. WALKER:** That's not true. If the defense attacks the  
25 credibility of the witness, the United States has the right to then

1 respond and demonstrate evidence that supports his credibility.  
2 That's just basic federal criminal law.

3 **THE COURT:** What rule of evidence is that, Mr. Walker?

4 **MR. WALKER:** If the defense attacks a witness'  
5 credibility, we have the right to introduce evidence to demonstrate  
6 --

7 **THE COURT:** Right. I agree. What rule of evidence is  
8 that?

9 **MR. WALKER:** That is a really good question.

10 **THE COURT:** He is correct, Mr. Johnson, he can do that.

11 **MR. JOHNSON:** I understand, Your Honor. I think it's  
12 613. My concern, though, is that we're -- he's saying he's allowed  
13 to defend his credibility but I'm not allowed to play videos to  
14 attack his credibility.

15 **MR. WALKER:** Excuse me. Wait, hold on.

16 **THE COURT:** Let's just proceed.

17 (Audio recording playing.)

18 **MR. WALKER:** That's good.

19 **BY MR. WALKER:**

20 Q. So when you were talking about the CBT and the money you could  
21 make, was there a website that had the CBT courses in it?

22 A. Yes.

23 Q. And if they didn't play the CBT courses, what effect did that  
24 have on the money you could make?

25 A. It would reduce it.

1 Q. Do you lose?

2 A. Yes.

3 Q. In that and talking about Gary, was that Gary Haynes?

4 A. Yes.

5 Q. And was he a person who stood to lose because of the fact that  
6 enough courses weren't being taken?

7 A. We all could lose, yes.

8 **MR. WALKER:** If we could play 212-001. If you could  
9 pause it.

10 **BY MR. WALKER:**

11 Q. Did you see October 14<sup>th</sup> of 2021? If you need to back it up for  
12 a second so you can see.

13 A. I saw it, yes.

14 Q. So that is over a month -- that was over a month prior to any  
15 meeting you had and over two months before -- or about two months  
16 before you got arrested?

17 A. Correct.

18 Q. Okay.

19 (Audio recording playing.)

20 **MR. WALKER:** You can stop it now.

21 **BY MR. WALKER:**

22 Q. So is that Gary Haynes acknowledging that he was sending people  
23 to the CBT courses?

24 A. It is.

25 Q. That's October 14<sup>th</sup>. Do you remember a phone call on October

1 16<sup>th</sup> that related to the pickup truck he could get?

2 A. Yes.

3 **MR. JOHNSON:** Your Honor, I think we're just going back  
4 through direct, where he's picking and choosing what conversations,  
5 clipping them up and then just presenting them as if -- I don't  
6 think I mentioned anything about this, I don't think that's  
7 directly related, and I don't think he ought to be allowed to go  
8 through all these audio clips again and present this narrative as a  
9 defense to something I have attacked when the witness' credibility  
10 speaks for itself. He has testified multiple times. It's just  
11 being used as an excuse to replay --

12 **THE COURT:** Mr. Johnson, you issued the timeline and  
13 asked questions about, for example, when, you know, when the  
14 agreement was reached with Mr. Haynes. The witness said he didn't  
15 know. That's been put at issue. This cross-examination, as I  
16 understand it, is meant to address that. And I'll allow it.

17 **MR. JOHNSON:** That's fair, Your Honor.

18 **MR. WALKER:** Thank you.

19 **MR. JOHNSON:** Just note my objection.

20 **BY MR. WALKER:**

21 Q. So on October 14<sup>th</sup>, Gary Haynes was talking about getting more  
22 cases into CBT. You just heard that phone call?

23 A. Yes, sir.

24 **MR. WALKER:** I'm going to play 213-001.

25 **BY MR. WALKER:**

1 Q. You see October 16<sup>th</sup> ?

2 A. I do.

3 Q. Gary Haynes is a participant?

4 A. Yes, sir.

5 (Audio recording playing.)

6 **MR. WALKER:** Pause it.

7 **BY MR. WALKER:**

8 Q. The money that he was spending on the truck, what was its  
9 purpose?

10 A. Say it again. Ask it again.

11 Q. Sure. What was Leonard going to be purchasing him a truck for?  
12 Why was he going to purchase him a truck?

13 A. As payment.

14 Q. Payment for what?

15 A. As a form of payment from CBT.

16 Q. Was that part, then, of the money that he was to receive in the  
17 kickback scheme?

18 A. Yes.

19 **MR. WALKER:** Now, can you move it --

20 **BY MR. WALKER:**

21 Q. So at the beginning of the conversation, he's talking about the  
22 pickup truck. Would you say he was excited?

23 A. Yes.

24 **MR. WALKER:** Okay. Can you now go to the second half of  
25 the call? Just scroll all the way. That's good right there. If

1 you can back it up just a little bit. Perfect. Right there.

2 (Audio recording playing.)

3 **MR. WALKER:** You can pause it now. Play a little more.

4 I'm sorry. One more.

5 (Audio recording playing.)

6 **MR. WALKER:** You can pause it now.

7 **BY MR. WALKER:**

8 Q. So right after he talks about getting the truck from Leonard  
9 Franques, was he talking about incentivizing them to get classes  
10 done early?

11 A. Yes.

12 Q. Were those CBT classes?

13 A. They were.

14 Q. Did that relate to the DA bribery scheme?

15 A. It did.

16 Q. The defense suggested that you were making the decisions; that  
17 Gary Haynes wasn't making the decisions, in his examination of you.

18 **MR. JOHNSON:** Your Honor, is that testimony? Or can we  
19 put that in the form of question? What I'm saying is, is he's  
20 saying I have said something or done something. He's not asking a  
21 question. He's pausing. But yet he simultaneously objects anytime  
22 we do the same thing to set up our questions.

23 **THE COURT:** Sustained. Sustained.

24 **MR. WALKER:** I'm going to show you a series --

25 **THE COURT:** You can point the witness to what you're

1 talking about, but don't make a bold statement like that.

2 **MR. WALKER:** I'm going to show you Exhibit 7, page 4, the  
3 Tara Wells. Can you blow up the top part of that?

4 **BY MR. WALKER:**

5 Q. Can you see who that's from?

6 A. From Gary.

7 Q. And does it relate to the Tara Wells case?

8 A. Yes, it does.

9 Q. And in that conversation, can you see that he's talking about  
10 not only he has the DWIs, but he's also checking on the drug court  
11 program?

12 A. Yes.

13 **MR. WALKER:** If we could go to page 5 of the same  
14 document. Would you blow up the top part.

15 **BY MR. WALKER:**

16 Q. Is this from you?

17 A. Yes.

18 Q. And you see it involves Tara Wells?

19 A. It does.

20 Q. You see the caution section? It says, "Caution. This e-mail  
21 originated from outside..."

22 A. Yeah.

23 Q. What is the thing that you say right after the caution section?

24 A. (As read) "Would inpatient affect her drug court? Or would we  
25 be looking at an IOP with special conditions? Ultimately up to

1 Gary so this is just a general question."

2 **MR. WALKER:** Could you go to page 6? Could you blow up  
3 the bottom --

4 **BY MR. WALKER:**

5 Q. First of all, this is Tara Wells again. You can see her name  
6 at the top?

7 A. Yes.

8 **MR. WALKER:** Could you blow up the bottom half.

9 **BY MR. WALKER:**

10 Q. Do you recognize the initials that are at the bottom?

11 A. Yes.

12 Q. Whose are those?

13 A. Gary's.

14 **MR. WALKER:** If we could go to page 9 -- I'm sorry,  
15 Exhibit 9, page 2.

16 **BY MR. WALKER:**

17 Q. Do you recognize that this case involves Dominic Sunseri? The  
18 defense asked you about Dominic Sunseri.

19 A. It does.

20 **MR. WALKER:** Could you go to page 9 of the same document.

21 **BY MR. WALKER:**

22 Q. You can see that's Dominic Sunseri at the top?

23 A. Oh, yes.

24 **MR. WALKER:** Can you blow up the bottom half of it?

25 **BY MR. WALKER:**

1 Q. Who is the person who approved it?

2 A. Gary.

3 Q. And can you read what it says?

4 A. "Will do dismissal letter on front end."

5 Q. Is that what you testified to previously; that he did it on the  
6 front end?

7 A. I did.

8 Q. The defense talked about Barry Petry. And he said that -- I'm  
9 going to ask you questions about Barry Petry, and I'm going to play  
10 United States Exhibit 217-003.

11 **MR. WALKER:** First of all, pause it before we get  
12 started.

13 **BY MR. WALKER:**

14 Q. Barry Petry was the dentist; is that correct?

15 A. Correct, yes.

16 Q. And he was the sex offender who was charged with misdemeanor  
17 sexual battery?

18 A. Yes.

19 Q. Who was it that brought up Barry Petry to you in bringing the  
20 case?

21 **MR. WALKER:** We'll play 217 --

22 **MR. JOHNSON:** Your Honor, note my continued objection.  
23 My position would be to give the jury all of the calls.

24 **THE COURT:** I understand, Mr. Johnson. Thank you. I'm  
25 allowing this testimony to go on.

1 **BY MR. WALKER:**

2 Q. This is November 12<sup>th</sup>?

3 A. Okay.

4 (Audio recording playing.)

5 **MR. WALKER:** Can you pause it now?

6 **BY MR. WALKER:**

7 Q. So who was it who brought up the putting the dentist into  
8 pretrial intervention?

9 A. Gary.

10 **MR. JOHNSON:** Judge, I think that mischaracterizes the  
11 evidence.

12 **THE COURT:** The jury will come to their own conclusion  
13 about that, Counsel.

14 **MR. JOHNSON:** Thank you, Judge.

15 **BY MR. WALKER:**

16 Q. You acknowledged in your testimony yesterday that that was a  
17 high-risk case. Do you remember saying that putting Barry Petry  
18 into pretrial intervention was a high-risk case?

19 A. Yes.

20 Q. Why was it a high-risk case?

21 A. The nature of the offense.

22 Q. And was the concern that something could happen -- if it came  
23 out, it could affect the district attorney?

24 A. Yes.

25 Q. The defense showed you a \$40,000 check. First of all, do you

1 remember bringing checks, the F4 checks, to Michelle Franques?

2 A. Yes.

3 Q. And the defense showed you those checks. After you got those  
4 checks, do you remember getting a \$40,000 check from Michelle  
5 Franques?

6 A. I do now.

7 Q. Okay. Do you remember that that was a loan?

8 A. Yes.

9 Q. The defense talked about the Wildlife and Fisheries case.

10 A. Right.

11 Q. The Wildlife and Fisheries case involved you?

12 A. Yes.

13 Q. You were a commissioner of Wildlife and Fisheries.

14 A. I was.

15 Q. Did Gary Haynes know that?

16 A. Yes.

17 Q. It involved Leonard Franques.

18 A. Yes.

19 Q. Leonard Franques was the vendor who was going to be the vendor  
20 for Wildlife and Fisheries violations?

21 A. Yes.

22 Q. You were to get kickbacks.

23 A. Right.

24 Q. Did Gary Haynes know that you were going to be receiving  
25 kickbacks?

1 A. Yes.

2 Q. Also Jack Montoucet was to be receiving kickbacks.

3 A. He was.

4 Q. Do you remember a conversation between you and Gary Haynes  
5 where Gary Haynes asked you how Jack Montoucet was going to be  
6 paid?

7 A. Yes.

8 Q. Okay. Was he to be paid monthly? Was Jack Montoucet to be  
9 paid monthly? Or was he going to be paid at the end?

10 A. No. He was going to wait 'til his term in office was over or  
11 he was no longer the secretary, and then they were going to give  
12 him -- for the backpay, he would get a sign-on bonus for going to  
13 work for Leonard's company, and then he would just get, I presume,  
14 monthly thereafter.

15 Q. Did you tell Gary Haynes that?

16 A. Yes.

17 Q. Do you remember what his response was?

18 A. I don't recall.

19 Q. When he paid -- well, strike that.

20 The defense talked about MD at Law.

21 A. Right.

22 Q. Did MD at Law have a purpose in the Wildlife and Fisheries  
23 scheme?

24 A. It was -- that's where the money was going to be deposited.

25 Q. And when you say "the money," are you talking about your cut of

1 the money?

2 A. My half and his half of my third.

3 Q. So for the Wildlife and Fisheries scheme, were you to get a  
4 third of the money?

5 A. Yes.

6 Q. Was Leonard Franques to get a third of the money?

7 A. Yes.

8 Q. Was Jack Montoucet to get a third of the money?

9 A. Yes.

10 Q. So Jack Montoucet was -- he was the person who, one, he was the  
11 official for Wildlife and Fisheries; is that right?

12 A. Correct.

13 Q. But you were also a commissioner for Wildlife and Fisheries?

14 A. Right.

15 Q. Did Gary Haynes agree to let you put your Wildlife and  
16 Fisheries money into his MD at Law account?

17 A. Yes.

18 Q. So the defense characterized that as an investment. Was he  
19 going to be a part of the kickback scheme?

20 **MR. JOHNSON:** Objection, Your Honor. He's doing the same  
21 thing again that you told him not to do just a few minutes ago.

22 **MR. WALKER:** What? I don't understand what you're  
23 talking about.

24 **MR. JOHNSON:** He's saying what testimony was, and he's  
25 asking a question based off what he said the testimony was.

1 Formulate a question, ask him the question.

2 **THE COURT:** We talked about it before. He can lead him  
3 because he's on cross, but, Mr. Walker, make sure you're asking a  
4 question. Okay?

5 **BY MR. WALKER:**

6 Q. Was Gary Haynes to be a part of the Wildlife and Fisheries  
7 kickback scheme?

8 A. Yes.

9 Q. Was he a benefit to you in the Wildlife and Fisheries scheme?

10 A. Yes.

11 Q. Is that because his money -- because the Fish and Wildlife  
12 money would go into his MD at Law account?

13 A. Yes.

14 Q. Did you also want him to be in the Wildlife and Fisheries  
15 scheme because of the benefit he was giving you at the DA's office?

16 A. Yes.

17 Q. And if you know, was the money -- his money from the DA's  
18 office scheme, was MD at Law one of the places he was going to  
19 deposit that money?

20 A. I believe so, yes.

21 Q. So hopefully, from the timeline -- we've talked about the  
22 things that happened in July. You remember the text messages from  
23 July?

24 A. Yes.

25 Q. The one that said there was a third -- it was going to be a

1 one-third split for all three?

2 A. Oh, yeah. Yes.

3 Q. And did that agreement continue?

4 **MR. JOHNSON:** Judge, are we just redoing his cross now?

5 **MR. WALKER:** I'm not.

6 **THE COURT:** He's still talking about the timeline, Mr.  
7 Johnson. I'm going to allow it. If there's a new objection, let  
8 me know; otherwise, I have ruled on it.

9 **MR. JOHNSON:** I understand, Judge.

10 **BY MR. WALKER:**

11 Q. So between July and November, was he the exclusive person who  
12 was overseeing making the decisions on the pretrial intervention  
13 program?

14 A. Yes.

15 Q. Is that the reason why in numerous e-mails and text messages  
16 you would say, "I have to check with Gary to see if it's okay"?

17 A. Correct.

18 Q. In fact, were there a lot of cases he was having to sign off  
19 on?

20 A. Yes.

21 Q. Do you remember your prior testimony -- well, let me ask you  
22 this in a different way.

23 Were there stacks of files on his desk that he had to  
24 come in and sign off on if they were to go in pretrial  
25 intervention?

1 A. Yes.

2 Q. And was one of the problems you had, at least early on, getting  
3 him to go in and sign off and approve these pretrial interventions?

4 A. Yes.

5 Q. After he agreed to accept the money, did he -- was he  
6 incentivized to work harder to get those things signed off more  
7 quickly?

8 **MR. JOHNSON:** Objection, Your Honor. He says after he  
9 got the money? My client has not received any money.

10 **MR. WALKER:** I didn't say --

11 **MR. JOHNSON:** Mischaracterizes the evidence.

12 **THE COURT:** Beth, can you read the question back to me?

13 (The court reporter read back the question.)

14 **THE COURT:** So the question was after he agreed to accept  
15 money. The jury will, of course, rely on their own recollection  
16 and their own belief whether that's the truth or not. But the  
17 witness can answer the question.

18 **MR. JOHNSON:** Thank you, Your Honor.

19 **BY MR. WALKER:**

20 Q. After he agreed to accept the money, the kickback money, was he  
21 better about signing off on --

22 A. Yes.

23 Q. Did that benefit you?

24 A. It did.

25 Q. Did it benefit Leonard Franques?

1 A. It did.

2 Q. The defense talked about the fact that he had paid off the  
3 money; that Leonard Franques had recouped his money.

4 A. Right.

5 **MR. JOHNSON:** Is that a question, Judge?

6 **MR. WALKER:** I'm getting ready to ask the question. If  
7 the defense is going to object --

8 **THE COURT:** Overruled.

9 **MR. WALKER:** Thank you.

10 **BY MR. WALKER:**

11 Q. Did you listen to calls where there were discussions between  
12 you and Gary Haynes about the fact that he would begin getting  
13 payments from CBT from Leonard Franques beginning in January?

14 A. Yes.

15 Q. In the discussions about the truck that he was to receive from  
16 Leonard Franques, were there discussions about the fact that that  
17 was going to be paid off in January or he would get that in  
18 January?

19 A. Yes.

20 Q. In the October 16<sup>th</sup> conversation that we listened to,  
21 specifically where he's excited about the truck, did y'all talk  
22 about the fact that he could get that truck in January?

23 A. Yes.

24 Q. Were all of the conversations with Gary Haynes as it relates to  
25 the kickback scheme, were they discussions about the fact that he

1 could begin receiving them in either late December or January?

2 A. Yes.

3 Q. In December, you got arrested?

4 A. Yes.

5 Q. Did that impact whether y'all -- did that impact whether --  
6 when he was going to begin getting paid?

7 A. Yes.

8 Q. Did he express concern about getting paid?

9 A. Yes.

10 Q. Was he specifically concerned about getting paid by CBT?

11 A. Yes.

12 Q. Was he comfortable getting paid by F4?

13 A. Yes.

14 Q. Was that because -- well, first of all, Leonard Franques owned  
15 F4; is that right?

16 A. Correct.

17 Q. And Leonard Franques owned CBT?

18 A. Right.

19 Q. F4, unless you dug deep, would it be obvious that F4 related to  
20 the DA bribery scheme or CBT?

21 **MR. JOHNSON:** Judge, are we now qualifying this witness  
22 as an expert and getting opinion testimony from him?

23 **THE COURT:** CBT, are you talking about Midway Media, Mr.  
24 Walker? Is that what you're talking about?

25 **MR. WALKER:** That is correct.

1           **MR. JOHNSON:** He is asking for his opinion on what he  
2 would be more likely to see it. He's basically asking him to give  
3 opinion testimony.

4           **THE COURT:** You can ask him why, if he knows, why that  
5 was done that way.

6           **BY MR. WALKER:**

7           Q. Do you know why he was comfortable getting it from F4 versus  
8 Midway Media?

9           A. I wasn't aware he was getting paid -- I didn't know which  
10 company or whatever Leonard was using to pay him.

11          Q. But do you remember a conversation that happened in the  
12 boardroom that was videotaped?

13          A. Yes.

14          Q. Did you know it was being videotaped?

15          A. I did not.

16          Q. Did Gary Haynes know it was being videotaped?

17          A. I don't believe, no.

18          Q. Do you remember a statement where he expressed he was concerned  
19 about getting paid by CBT?

20          A. Right.

21          Q. But that he wasn't concerned about getting paid by F4?

22          A. Right.

23          Q. Do you know why he wasn't concerned about getting paid by F4?

24          A. Because that had nothing to -- F4 didn't have anything to do  
25 with the DA's office or the classes.

1           **MR. WALKER:** Your Honor, could I have a moment?

2           **THE COURT:** Sure.

3           **MR. WALKER:** Thank you.

4           **BY MR. WALKER:**

5           Q. The PTI scheme --

6           A. Okay.

7           **MR. JOHNSON:** Not a question, Judge. Is it?

8           **THE COURT:** He's pointing the witness to something, Mr.  
9 Johnson. It's allowable. To a point, it's allowable.

10          **BY MR. WALKER:**

11          Q. The PTI scheme, did Gary Haynes become involved in it by the  
12 middle of 2021?

13          A. Yes.

14          Q. You saw the text from July of 2021?

15          A. Correct.

16          Q. How is it that he found out about the Fish and Wildlife scheme?

17          A. Overheard phone calls -- I mean, it was nearing the completion  
18 or the start of the program and, I mean, those calls occupied a  
19 vast majority of my time.

20          Q. So had he already been brought into the PTI scheme before the  
21 Fish and Wildlife scheme --

22          A. Yes.

23          Q. -- had taken off?

24          A. Yes.

25          Q. Did you want to keep him in the PTI scheme?

1 A. Yes.

2 Q. Was that a way to make money?

3 A. It was.

4 Q. And were you interested in making money?

5 A. Yes.

6 Q. Was one of the reasons you agreed -- well, when he found out  
7 about the Fish and Wildlife scheme, was he excited about that?

8 A. Yes.

9 Q. Did he want to get involved in it? Or did he say, I don't want  
10 anything to do with that?

11 A. Wanted to get involved.

12 Q. Did you let him into the Fish and Wildlife scheme to keep him  
13 happy for the PTI scheme?

14 A. Yes. It was the same three people involved, with the exception  
15 of Jack, so...

16 **MR. WALKER:** Your Honor, that's all I have.

17 **THE COURT:** Okay. Any redirect, Mr. Johnson?

18 **MR. JOHNSON:** Yes, Your Honor.

19 Can you pull up Government's Exhibit 35, please? Zoom in  
20 on the right portion.

21 **REDIRECT EXAMINATION BY MR. JOHNSON:**

22 Q. That's July 6<sup>th</sup>; right?

23 A. Yes, it is.

24 Q. (As read), "I talked to Big G. When you get back we will go  
25 one-third each --" Wait a second. Hold on. I'm sorry. I thought

1 Leonard handled the communication on the -- I thought Leonard  
2 handled the communication on the PTI deal. I didn't realize you  
3 handled the communication. Was it Leonard or was it you that  
4 handled the communication on the PTI deal?

5 A. Leonard.

6 Q. This doesn't have to do with the PTI deal, does it?

7 A. That is the PTI deal.

8 Q. At the top you're discussing one thing with Leonard; correct?

9 A. Correct.

10 Q. At the bottom you're discussing something separate, are you  
11 not?

12 A. That's the CBT. The bottom is the -- I mean, the green part is  
13 talking about the CBT driving.

14 Q. The bottom part of this text message doesn't reference CBT,  
15 does it. You could be talking about two different things, couldn't  
16 you?

17 A. Say that again.

18 Q. You could be talking about two different things in this text  
19 message, could you not?

20 A. It says "CBT driving" right there.

21 Q. Right. It doesn't say "CBT driving" at the bottom, does it?

22 A. What bottom are you referring to?

23 Q. The first part -- let me say this. When you say (as read), "I  
24 talked to Big G. When you get back we will go one-third each --"

25 A. Right, right. Okay.

1 Q. Do you reference CBT in that section of the message?

2 A. No.

3 Q. And your testimony today was, is that you didn't handle the  
4 conversation with Guidry -- I'm sorry, with my client about the  
5 numbers. That Leonard handled the communication; correct?

6 A. Leonard's the one that brought him in, yes.

7 Q. And that he handled -- you didn't find out until after the  
8 fact; right?

9 A. Correct.

10 Q. This text message is before the fact; right?

11 A. Before what fact?

12 Q. Before your alleged agreement with my client on CBT. This is  
13 you apparently discussing it, according to the Government --

14 **MR. WALKER:** Objection, Your Honor.

15 **BY MR. JOHNSON:**

16 Q. -- before --

17 **MR. WALKER:** Excuse me. Objection. That  
18 mischaracterizes the person's testimony.

19 **THE COURT:** The jury will rely on their own memory of the  
20 testimony referred to if they can determine what testimony that is.

21 **BY MR. JOHNSON:**

22 Q. Isn't that message in two different paragraphs?

23 A. Yes.

24 Q. Isn't it entirely possible you're talking about Wildlife and  
25 Fisheries in the second half?

1 A. Let me --

2 **MR. JOHNSON:** Thanks, Doug.

3 **THE WITNESS:** Bottom half is talking about CBT driving.

4 **BY MR. JOHNSON:**

5 Q. Even though it doesn't say that?

6 A. Even -- that's what it's talking about.

7 Q. Okay. But just to be clear, your testimony was, is that you  
8 didn't find out that Gary had been brought into the PTI scheme --  
9 which is CBT; right?

10 **MR. WALKER:** Objection. Asked and answered four times.

11 **THE COURT:** Sustained.

12 **BY MR. JOHNSON:**

13 Q. This text message shows you knowing about something prior to  
14 that thing happening; correct?

15 A. Ask it again.

16 Q. This text message seems to show you knowing about something  
17 before something is actually happening; right?

18 A. Yes.

19 Q. But you testified earlier, under my cross-examination or under  
20 my examination, that you didn't find out until Leonard about the  
21 PTI scheme and him being -- my client being brought in until after  
22 the fact; right?

23 A. After the fact of what?

24 Q. About him being brought in.

25 A. I don't recall when Leonard brought him in.

1 Q. So let me get this straight. Is it that he asks you questions  
2 and you say, "Yes," and I ask you questions and you say, "I don't  
3 recall"?

4 **MR. WALKER:** Objection, Your Honor. That's  
5 argumentative.

6 **THE COURT:** Sustained. I think we've gone over this  
7 several times, Mr. Johnson.

8 **MR. JOHNSON:** I'm not asking you any more questions.  
9 Thanks, Mr. Guidry.

10 **THE COURT:** Mr. Guidry, you may step down. May this  
11 witness be released from his subpoena?

12 **MR. CLEMONS:** I think he can be, Judge.

13 **THE COURT:** Mr. Guidry, you are released from your  
14 subpoena. You may step down.

15 **THE WITNESS:** Thank you.

16 **THE COURT:** All right. It's about noon. Let's take our  
17 lunch break. We'll come back at 1:15. We will finish our evidence  
18 this afternoon. Depending on what time that is, I will either  
19 instruct you this afternoon or tomorrow morning, and then you'll  
20 hear closing arguments from Counsel before your deliberations. But  
21 that's the general plan. All rise for the jury.

22 (Jury not present.)

23 **THE COURT:** Court will be in recess until 1:15.

24 (Off the record at 11:58 a.m.; resumed at 1:20 p.m.)

25 **THE COURT:** Anything we need to address before we bring

1 the jury back?

2 **MR. WALKER:** Nothing that I'm aware of, Your Honor.

3 **MR. CLEMONS:** No, Judge.

4 **THE COURT:** I'm going to say. There has been too many  
5 stray comments by counsel in front of the jury. If you have an  
6 objection to any question the other party is asking, stand up, say  
7 one or two words about what your objection is or the rule of  
8 evidence number pertaining to it. If I want any more information  
9 about it, I'll let you know. If I want a response from the other  
10 side, I'll let you know. Otherwise, I'll rule on it. All right?

11 **MR. CLEMONS:** Thank you, Judge.

12 **MR. WALKER:** And Your Honor, I apologize for not knowing  
13 the number when you asked me the question, what's the number, and I  
14 just didn't know.

15 **THE COURT:** That's fine. That was where I was trying to  
16 go with this. That's what I like to do. I like to just hear what  
17 the rule of evidence is or what the one-or-two-word objection is  
18 and then otherwise we have a lot of stray comments to the jury. Of  
19 course, I'm going to instruct them at the end of the trial they're  
20 not to consider what's said by lawyers, but I like to keep that to  
21 a minimum.

22 **THE COURTROOM SECURITY OFFICER:** All rise for the jury.

23 (Jury present.)

24 **THE COURT:** Please be seated. Good afternoon.

25 Mr. Clemons, please call your next witness.

1           **MR. CLEMONS:** Call Special Agent Doug Herman, Judge.

2           **THE COURT:** Agent Herman, you remain under oath.

3   **DOUGLAS HERMAN,**

4 after having first been duly sworn, did testify as follows:

5           **DIRECT EXAMINATION BY MR. CLEMONS:**

6 Q. Agent Herman, just restate your name for the record.

7 A. Doug Herman.

8 Q. Mr. Herman, I have a few questions to cover, a multitude of  
9 topics. If you need me to rephrase something, let me know. I've  
10 never been accused of being soft-spoken, but if you need me to  
11 speak up, let me know and we'll get through these.

12           I want to first bring your attention to Mr. Don Landry.  
13 How many times, so I can be certain, how many times did you  
14 interview him as far as a sit-down interview?

15 A. As far as a sit-down interview --

16 Q. Well, I don't mean literally, but I mean face-to-face, --

17 A. Like me and him?

18 Q. -- not a phone call. Yeah, not a phone call, but just  
19 sometimes with a witness you may just call to get one question  
20 answered.

21 A. Sure. There was -- with us, there was two. There was the day  
22 of the -- night of the search warrant -- I'm sorry. I'm getting my  
23 dates mixed up now. May 9, 2022.

24 Q. The search warrant at the DA's office.

25 A. Search warrant at the DA's office. We did it in his office.

1 Q. Right.

2 A. There was one shortly after. For whatever reason, I'm thinking  
3 that was on a Saturday we came in to meet with him.

4 Q. Was that the one with his attorney Gerald Block?

5 A. With Mr. Block, yes. Those were the real sit-downs. I met  
6 with him as we were getting ready for this trial. When he met with  
7 prosecutors, we were there.

8 Q. Right. Yeah, I'm not talking about trial prep, but I'm talking  
9 about interviews, I guess, as a part of the investigation.

10 A. Correct. And the only other contact would have been if we had  
11 to subpoena some files we may not have found during the search  
12 warrant, would have been through Mr. Block. And then, but I don't  
13 remember another sit-down interview.

14 Q. And as far as you can recall, those two are the only two that  
15 generated 302s; correct?

16 A. As far as I can recall.

17 Q. Right. And in this first meeting on May 9<sup>th</sup> that was in the  
18 DA's office, but I don't think we got clarity. I don't want to  
19 assume it was in his office. Where exactly in the DA's office was  
20 that first interview?

21 A. Inside his office.

22 Q. His personal office, okay.

23 And isn't it true during this first interview, he made no  
24 mention of Joe Prejean possibly extorting people out of money, did  
25 he?

1 A. No, he did not. I don't think so.

2 Q. And if he did, that's something you would recall and document;  
3 right?

4 A. We certainly would have documented it. I don't think, because  
5 I think -- and I haven't looked at these 302s in a while. I think  
6 the second interview was when he wanted to bring that up.

7 Q. Well, we're going to get to the second one. I want to take  
8 them one at a time.

9 A. All right.

10 Q. But no mention at the first one that you recall; correct?

11 A. No, sir.

12 Q. And isn't it true that after the first interview, while you  
13 were still -- again, when I'm saying "you" generally speaking, I'm  
14 talking about the FBI collectively. Isn't it true that after that  
15 first interview, he approached the agents a couple of times about a  
16 couple of things he wanted to clarify. You remember that?

17 A. Are you referring to that night, the night of the search  
18 warrant?

19 Q. The night -- the first interview, the night of the search  
20 warrant on --

21 A. Yes, I think so.

22 Q. -- May 9<sup>th</sup>. You got to let me finish. I'm still on the May  
23 9<sup>th</sup>, the date of the raid and the day you first interviewed him.

24 A. Yes.

25 Q. So my question is: Isn't after y'all finished the interview,

1 at least a couple times he approached the agents and said there  
2 were a couple of things or something he wanted to clarify or better  
3 explain from his interview?

4 A. Yes.

5 Q. Okay. Now, go ahead. Tell us what those were. Do you  
6 remember?

7 A. I don't remember. I would have to look at the 302. But there  
8 was, while the search was taking place -- the interview with him  
9 was finished, he approached and wanted to clarify something.

10 Q. He wanted to clarify some detail of his statement?

11 A. Yes, sir. I don't remember what that was.

12 Q. Okay. And he also told you that Dusty Guidry, he thought  
13 Dusty's access card was taken; correct?

14 A. Correct.

15 Q. That's one of the things he wanted to correct because he wanted  
16 to correct to say, no, it's only daytime now. Remember that?

17 A. Yes, sir. That is correct. I do remember that was clarifying  
18 because I think when we interviewed him, he said Dusty didn't have  
19 an access card.

20 Q. Right. Now, what I really want to get to now is the follow-up  
21 interview, May 21, with Mr. Block. He has a Kastigar agreement;  
22 correct?

23 A. Correct.

24 Q. And that's when he brought up for the first -- and how did --  
25 let me rewind.

1           How did that second interview come about? Did he call  
2 you and say, Hey, guys, I really want to talk to y'all; I got some  
3 stuff to clarify?

4           Or did y'all reach out to him and say, Hey, Mr. Landry,  
5 we're just following up? How did that second interview come about  
6 with his attorney?

7 A. I don't think it was us reaching out to him. I don't know if  
8 it was him reaching out to the U.S. Attorney's Office or -- because  
9 we don't give Kastigar or proffer letters. At some point there was  
10 communication between Mr. Block and the United States Attorney's  
11 Office.

12 Q. You're thinking at some point his attorney reached out to the  
13 U.S. Attorney's Office, your best recall?

14 A. Best recall. I don't remember us reaching out to him for more  
15 information. I just don't recall how it originated.

16 Q. Okay. But when you met with him, that's the same day he  
17 executed the Kastigar; correct? The same day?

18 A. It may have been.

19 Q. And is that the time where he told you that he had obtained,  
20 quote, third-party information that Joe Prejean -- and he didn't  
21 use the term shaken down. He used the term taken money for people  
22 in return for getting charges dismissed. That's when he first  
23 brought this to you in the second interview; correct?

24 A. I believe so.

25 Q. And he said he got it, like, third-party information or

1 something to that effect?

2 A. Something to that effect.

3 Q. I think he said it came to him as a rumor. Remember that?

4 A. Yes.

5 Q. Now, isn't it true that your investigation revealed that he  
6 didn't get it third party; he got it directly from Gary Haynes, who  
7 had gotten it directly from Mr. Stefanski's -- I'm sorry Mr.  
8 Zaunbrecher's attorney? Correct? That's what your investigation  
9 revealed; right?

10 **MR. NICKEL:** Objection. Hearsay.

11 **MR. CLEMONS:** Your Honor, he can testify as to what his  
12 investigation revealed. I'm not asking what anybody told him. I'm  
13 sorry.

14 **THE COURT:** I'll let him answer the question. Go ahead,  
15 Mr. Herman.

16 **BY MR. CLEMONS:**

17 Q. You need me to repeat it? Or are you --

18 A. No. I'm trying to think where the information -- I believe Mr.  
19 Landry said he got it from Mr. Haynes.

20 Q. I'm sorry.

21 A. I believe -- this is a while ago. Mr. Landry said he got that  
22 information from Mr. Haynes.

23 Q. Right.

24 A. The chain, I just don't remember. What you said could be true.

25 I don't remember.

1 Q. Right. But you remember he didn't say it was just some random  
2 stranger with some stray rumor; right?

3 A. Correct.

4 Q. He gave you some specificity on where he got this information  
5 about Joe Prejean from?

6 A. Correct.

7 Q. And your recollection is he got it from one of his assistant  
8 DAs, my client?

9 A. Yes, sir, Mr. Haynes.

10 Q. And you would agree that Mr. Stefanski was representing Mr.  
11 Zaunbrecher?

12 A. Yes.

13 Q. And isn't it true he did not approach Joe Prejean, one of his  
14 vendors, one of his supporters for the Black community. He told  
15 you never approached him about this allegation, did he?

16 A. Yeah, I don't think he ever approached him.

17 Q. No. We know he didn't approach him. He told you he didn't  
18 approach him; right?

19 A. I think he did -- I mean, I'm saying, I think he did tell us  
20 that. I haven't looked at the 302 in a long time.

21 Q. But you have no reason to dispute that?

22 A. No.

23 Q. And he didn't tell you, or he didn't approach Dusty Guidry, who  
24 was also implicated with the shakedown of Joe Prejean, his PTI  
25 guru. He never approached Dusty Guidry about Prejean shaking

1 anyone down, did he?

2 A. Never did.

3 Q. Now, y'all discussed domestic violence cases and whether they  
4 should be in the PTI program; correct?

5 A. That was -- are you talking about the interview with Mr.  
6 Landry?

7 Q. Yes, sir. I'm still on Landry.

8 A. I don't recall. We may have.

9 Q. Do you recall him saying, "Only with victim approval"?

10 A. Something -- that sounds right.

11 Q. Let's talk about Michelle Franques.

12 A. Sure.

13 Q. Ms. Franques was not charged in any aspect of this  
14 investigation with any crimes; correct?

15 A. Correct.

16 Q. Lauren Guidry. Let's refresh the jury on who Lauren Guidry is.

17 A. Lauren, I believe she's now his ex-wife. Lauren Guidry was  
18 married to Dusty Guidry during the time frame of 2021-2022.

19 Q. And she was not charged with any criminal conduct as it relates  
20 to her role in these so-called schemes and as a part of your  
21 investigation, was she?

22 A. She has not been charged.

23 Q. And lastly, Joe Prejean's wife. Do I have the name right,  
24 Juanita?

25 A. You have it right.

1 Q. Joe Prejean's wife or ex-wife -- I don't know what the  
2 situation is. But either way, Ms. Juanita Prejean, she was never  
3 charged with any crimes based on her role in any of these alleged  
4 schemes, was she?

5 A. She never was.

6 Q. And isn't it true, Agent, that your investigation revealed that  
7 all three of these women were criminally culpable and they were  
8 deeply involved in the so-called schemes; correct?

9 A. Correct.

10 Q. And you put that -- and that wasn't a secret. You put that in  
11 your affidavit for one of your search warrants; correct?

12 A. I think I put it in multiple affidavits.

13 Q. So it wasn't your decision on whether they got charged or not,  
14 was it?

15 A. It's not. I have no say in it.

16 Q. Now, help me out while I'm on Michelle Franques. What type of  
17 agreement -- there was an agreement offered to her. She rejected  
18 it, but there was, like, a nonprosecution immunity agreement  
19 offered to Michelle, and she basically turned it down. Remember  
20 that?

21 A. I know something was offered to her. I don't know the details  
22 of it.

23 Q. What do you remember being offered to her, Special Agent?

24 A. Something similar to what you said.

25 Q. And you remember her rejecting it; correct?

1 A. Yes.

2 Q. And she still didn't get charged; right?

3 A. Still hasn't been charged.

4 Q. You ever seen that situation where someone is criminally  
5 involved, your investigation says in several locations where  
6 they're criminally involved, they're given a Kastigar letter,  
7 they're given an offer of immunity, they turn it down and say, I  
8 don't want your agreement, and they still don't get charged? You  
9 never seen that before, have you?

10 A. I don't think I have.

11 Q. I don't think you have.

12 You seen anything in your investigation regarding Juanita  
13 Prejean? Did she get offered anything similar to what Michelle got  
14 offered?

15 A. No, she didn't.

16 Q. What about Dusty's ex-wife? Did she get that immunity  
17 agreement and she turned it down?

18 A. No.

19 Q. Just Michelle; right?

20 A. Just Michelle.

21 Q. We're going to certainly get to Michelle in a minute, so I  
22 guess we'll mentally pin that.

23 Let's move on to Sonya Anderson.

24 **MR. CLEMONS:** And I want to get the note. I think my  
25 note shows Defense Exhibit 16. Can we get it just for the jury --

1 just for the witness and me? The note that we've introduced, the  
2 handwritten note.

3 **THE DEPUTY CLERK:** It was published.

4 **MR. CLEMONS:** I just want to make sure I have the right  
5 one, though, before I blast it to the world and you tell me it's  
6 the wrong one. There we go. Is that 16, Ms. Lisa?

7 **THE DEPUTY CLERK:** Yes, sir.

8 **MR. CLEMONS:** Judge, 16 has already been introduced. Can  
9 we --

10 **THE COURT:** Publish it.

11 **BY MR. CLEMONS:**

12 Q. And you saw this note; correct?

13 A. I did.

14 Q. And just tell the jury, because we covered a lot in eight days.  
15 Just refresh them briefly on what this is.

16 A. This is a note that Ms. Anderson testified to, referenced  
17 yesterday, that she wrote starting on December 9, 2021.

18 Q. And do you know for a fact that the FBI seized several files;  
19 correct? PTI files?

20 A. Correct.

21 Q. Made copies, gave the originals back to the DA's office;  
22 correct?

23 A. Correct.

24 Q. And you know for a fact that my client and myself came here to  
25 Lafayette just about a month ago to look at those copies at the FBI

1 -- not at your office, but in the FBI office; correct?

2 A. Yes, sir.

3 Q. And this letter would be one of those documents that was in one  
4 of those packets; correct?

5 A. I'm not sure about this letter specifically. I don't remember.

6 Q. But you don't dispute that it comes from one of the PTI files?

7 A. Correct.

8 Q. Do you recall which file it was even in?

9 A. No. Or if it was loose on somebody's desk. I don't remember.

10 Q. Okay. But it was certainly seized as a part of the raid;  
11 correct?

12 A. I believe so.

13 Q. And this first part, it says -- let's start at the top -- 12/09  
14 of '21. Where is that in relation to the -- Is that the day Dusty  
15 got arrested? the next day?

16 A. Day before.

17 Q. Day before, okay.

18 "Per Gary Haynes, no DWI second program." Am I reading  
19 that right?

20 A. That's how I read it.

21 Q. And that's showing that, per Gary, the program is being  
22 terminated; right?

23 A. That's the way I read it.

24 Q. And you recall the DA saying that program was only in effect  
25 for a short period of time. Do you remember Mr. Landry saying

1 that?

2 A. Yes, sir.

3 Q. But your investigation revealed that it was in place for  
4 several months, didn't it?

5 A. Yes, sir.

6 Q. Do you remember how long, how many months your investigation  
7 revealed he had that DWI second program?

8 A. It was in relatively early -- it started relatively early in  
9 his tenure, maybe in the Spring.

10 Q. March? April?

11 A. Yes, sir.

12 Q. All right. Then changes. Does that say, "Changes"; correct?

13 A. I'm sorry. Oh, towards the middle?

14 Q. Yes, sir.

15 A. I read it as, "Changes."

16 Q. Read what that says.

17 A. (As read) "Not catering to certain lawyers. Compliance with  
18 program."

19 Q. Okay. And then nobody's getting preferential treatment now.

20 Now, let's go to the last section. So this is Sonya  
21 documenting something she was told by Zoila; correct?

22 A. Correct.

23 Q. And Zoila is getting the information from whom?

24 A. Don Landry.

25 Q. And does this reflect that Dusty Guidry is still a part of the

1 office?

2 A. That's exactly what it says. "Dusty Guidry is still a part of  
3 the office."

4 Q. And this was supposed to be during the time where Don Landry  
5 told you Dusty Guidry was suspended; correct?

6 A. Correct.

7 Q. Because this was, what, five days after his alleged arrest and  
8 his suspension; right?

9 A. Right.

10 Q. Now, the exact date, was it December 9, of the arrest?

11 A. 10.

12 Q. 10<sup>th</sup>, okay.

13 And when was the first time you saw this note, if at all,  
14 prior to trial?

15 A. I don't remember seeing it. It would have been well after --  
16 so the search warrant was -- and I don't know if it's been brought  
17 up before or not. But the search warrant, because of potential  
18 attorney-client privilege issues, was not done -- it was seized by  
19 a team unrelated to the case. It went through what we call taint  
20 review of lawyers. And then we saw the -- at some point much later  
21 on, I actually got to review the evidence. I don't recall seeing  
22 this specific note. If I did, I did. I saw a lot of stuff.

23 Q. Do you recall seeing it in court when we played it the other  
24 day?

25 A. I recall seeing it in court, certainly.

1 Q. When we played it the other day; correct?

2 A. Yes.

3 Q. Now, you referred to the taint team and attorney-client  
4 privileged information. None that -- if the taint team found any  
5 privileged information or any work product, it never got turned  
6 over to me and Mr. Haynes; correct? We would have never seen it;  
7 correct?

8 A. I don't know what they do with it if they did.

9 Q. But they don't release it to the defendant. That's the whole  
10 purpose, is to protect attorney-client privileged information;  
11 right? That's the purpose of the taint team; right?

12 A. I don't know what they did, what the taint -- it's made up of  
13 attorneys. I don't know what they do with the information.

14 Q. Okay. But they have no reason to hold information that's  
15 relevant to the case from you, do they?

16 A. A reason to hold it from me? Yes. That would be because it's  
17 attorney-client privilege and I shouldn't see it.

18 Q. Right. I'm talking about information that the jury has seen  
19 that's relevant.

20 A. Correct.

21 Q. They would not withhold that from you, would they?

22 A. No, I don't think so. No.

23 Q. Okay. Now, let's talk about Mr. Guidry. Mr. Guidry pled to a  
24 bill of information; correct?

25 A. Correct.

1           **MR. CLEMONS:** And I want to get Defense Exhibit 190, just  
2 show it to the witness.

3 **BY MR. CLEMONS:**

4 Q. You're familiar with his plea agreement; right?

5 A. I'm sorry.

6 Q. You're familiar with Mr. Guidry's plea agreement?

7 A. I am.

8 Q. And you were present when he pled guilty; right?

9 A. I was.

10 Q. This courtroom; right?

11 A. Yes.

12 Q. In front of this judge; right?

13 A. Yes, sir.

14 Q. We got 190 up. Are you able to see it?

15 A. Sort of. Okay.

16 Q. And just tell the -- I can scroll through the whole thing, but  
17 that look like the beginning of a bill of information as part of a  
18 plea agreement?

19 A. Yes, it does.

20 Q. That is the bill that he pled to; correct?

21 A. It is.

22           **MR. CLEMONS:** Your Honor, at this time I'd like to offer  
23 Defense Exhibit 190.

24           **MR. NICKEL:** Can we just scroll through the whole thing  
25 just to make sure it's what we have?

1           **MR. CLEMONS:** Sure. For the record, Judge, we got it off  
2 of PACER.

3           **THE COURT:** Certainly looks that way.

4           **MR. NICKEL:** No objection, Your Honor.

5           **THE COURT:** It does have the addendum to the plea  
6 agreement in there.

7           **MR. CLEMONS:** I'm sorry, Judge.

8           **THE COURT:** It has an addendum to the plea agreement in  
9 there.

10          **MR. CLEMONS:** Yeah, it certainly does. And I want to  
11 question him about it, too, Judge.

12          **THE COURT:** Well, we'll --

13          **MR. CLEMONS:** We may need to close the courtroom or  
14 whatever you need to do, Judge, but this jury certainly needs to  
15 know about all the -- they need to know about his entire plea  
16 agreement.

17          **MR. NICKEL:** Can we approach, Judge?

18          **THE COURT:** Yes, let's approach.

19                (Begin bench conference.)

20          **THE COURT:** So it looks like the bill of information was  
21 pulled from PACER. It looks like the plea agreement and the  
22 attachments to the plea agreement, the other documents in the plea  
23 packet were produced by the Government to y'all.

24          **MR. CLEMONS:** I'm pretty sure that's what we have in  
25 front, Judge.

1           **MR. NICKEL:** Everything was.

2           **THE COURT:** And that, of course, includes the addendum  
3 which deals with cooperation of Dusty Guidry, which I understand  
4 you want to question the witness about and that's fine, but --

5           **MR. CLEMONS:** He's already testified that he had a  
6 cooperation agreement, too, Judge.

7           **MR. WALKER:** The issue is it's a thing --

8           **MR. CLEMONS:** I thought we had one witness rule, Judge.  
9 I mean, Mr. Walker wanted one person to argue.

10          **THE COURT:** At this point, is it even a concern?

11          **MR. CLEMONS:** It's public. The whole world knows.

12          **THE COURT:** His testimony is public. He cooperated with  
13 the Government. He testified to that.

14          **MR. CLEMONS:** That's my point.

15          **THE COURT:** I'm just trying to think through this.

16          **MR. CLEMONS:** Oh, I'm sorry.

17          **THE COURT:** Is there any reason --

18          **MR. NICKEL:** I wasn't thinking about that. I was  
19 thinking about his cooperation is still contingent on Montoucet's  
20 case and there's language in there about that. But at this point I  
21 don't know how we parse that out.

22          **MR. CLEMONS:** Your Honor, it's too late to. I don't  
23 think that can be parsed out at this point. You're right. They  
24 filed a 404(b) to get him in. They can't take it out now, Judge.

25          **THE COURT:** Anybody see any problem with admitting this

1 document and letting him talk about it?

2 **MR. WALKER:** Maybe it will have to be put under seal at  
3 some point. The reason for the addendum of the plea agreement is  
4 because if he's incarcerated.

5 **THE COURT:** We'll make note to file the addendum to the  
6 plea agreement under seal just because there is also a structural  
7 reason. We don't want to know, you know -- anyway there's a real  
8 risk of violence in prison for having those publicly available on  
9 PACER.

10 **MR. CLEMONS:** Oh, I know, Judge. I have no problem with  
11 it being under seal. I understand.

12 **THE COURT:** That's the concern. So we will put that  
13 under seal later, but it won't restrict us from dealing with it in  
14 trial today.

15 (End bench conference.)

16 **THE COURT:** Any objection to the proposed exhibit? This  
17 is Defense Exhibit...?

18 **MR. CLEMONS:** 190, 1-9-0, Judge.

19 **THE COURT:** Any objection to 190 being entered and  
20 published?

21 **MR. NICKEL:** No, Your Honor.

22 **BY MR. CLEMONS:**

23 Q. Mr. Herman, and I guess -- are you able to read it? Or do you  
24 want to get half a page --

25 A. I can read it. I can read it. I just have to get close, away

1 from the mic.

2 Q. Keep in mind, Mr. Herman, you're stepping on me. You got to  
3 let me finish my question before you start talking. Okay? Because  
4 the court reporter got to get every word.

5 So my question was: Do you want me to break it up half a  
6 page at a time? Or that's fine like that?

7 A. I can read it like this.

8 Q. So, now, let's talk about the first page. Explain to the jury  
9 what the first page of Mr. Dusty's plea agreement was.

10 A. It's the bill of information.

11 Q. Explain to the jury what a bill of information is as opposed to  
12 an indictment.

13 A. A bill of information is when someone chooses to plead guilty  
14 to an offense prior to being indicted by a grand jury, where  
15 they're -- usually they have an attorney with them and the attorney  
16 and the United States Attorney's Office agree that they'll plead  
17 guilty without the indictment.

18 Q. So it's something that somebody is cooperating and instead of  
19 being indicted or a case going to a grand jury, an agreement is  
20 reached with the person, their attorney, and the prosecutor that  
21 the person is going to enter a plea via a bill of information.

22 Because the defendant has a choice; right?

23 A. Correct. And the defendant would certainly have a say in that.

24 Q. Right. His attorney would be involved in that process?

25 A. Should be.

1 Q. You have any reason to doubt Mr. Guidry's attorney, Mr.  
2 Lorenzi, was not involved?

3 A. Not whatsoever.

4 Q. Okay. Just want to make sure.

5 And that's distinguished from an indictment vehicle by  
6 which my client was charged. That's the opposite, or that's the  
7 other alternative to a bill of information; correct?

8 A. Correct.

9 Q. Now, I just want to make sure we're abundantly clear, the  
10 charges. And you're familiar with what the charges are that were  
11 in the bill of information for Mr. Guidry; correct? You're  
12 familiar with the charges in the bill?

13 A. Yes. I remember that --

14 Q. I'll give you a chance to look at them, but I just want to know  
15 if you're generally familiar with them.

16 A. Yes.

17 Q. Three counts; correct?

18 A. Correct.

19 **MR. CLEMONS:** Let's go to page 2, Mr. Douget.

20 **BY MR. CLEMONS:**

21 Q. Tell the jury what the first count of the bill is.

22 A. Conspiracy to commit an offense.

23 Q. And is that related to the PTI program in the district  
24 attorney's office; correct? Do you need to look? At any point if  
25 you need to scroll down, just let us know.

1 A. I'm looking at it. That's it.

2 Q. Okay. And that's a conspiracy to commit what offense?

3 A. Bribery.

4 Q. And it's commonly referred to as 666?

5 A. Correct.

6 Q. And tell the jury why we refer to bribery as 666, also, so they  
7 won't be confused.

8 A. That's the statute number, Title 18, United States Code, 666  
9 bribery involving an agency that receives federal funds.

10 Q. So Count 1 covers the bribery scheme involving the local  
11 district attorney's office and the PTI program; correct?

12 A. Correct.

13 Q. Let's go to Count 2. Hold up just one minute. Let's go to  
14 Section 13.

15 **MR. CLEMONS:** Can you blow that up for me? There we go.

16 **BY MR. CLEMONS:**

17 Q. Are you able to read that?

18 A. Yes. Paragraph 13?

19 Q. Yes, sir. You're able to see it?

20 A. Yes.

21 Q. Who is PO-1? Who is that referring to?

22 A. That's your client, the defendant, Mr. Haynes.

23 Q. So it says they increased the profits and/or made payments to  
24 Dusty Guidry, PO-1, and their coconspirators; correct?

25 A. Correct.

1 Q. No mention of how much the alleged payments were, is there, in  
2 that section?

3 A. Correct.

4 Q. Let's go to Section 18. Who is Vendor 1 referenced here?  
5 because they're not named by name.

6 A. Right. Vendor 1 in this one is going to be Leonard Franques.

7 Q. And read to the jury specifically what it says.

8 A. (As read) "Also in furtherance of the conspiracy and to effect  
9 its objects, Dusty Guidry agreed to accept payments and things of  
10 value from Vendor Number 1 in exchange for causing and directing  
11 that pretrial diversion defendants be assigned to classes offered  
12 by Vendor Number 1. Specifically, Vendor Number 1 offered and  
13 Dusty Guidry accepted to purchase and payments toward a vehicle for  
14 Dusty Guidry and his wife."

15 Q. So this is basically saying that Dusty Guidry agreed to accept  
16 payments from Vendor Number 1, being Leonard Franques, and also  
17 agreed to purchase a vehicle for Dusty Guidry and his wife;  
18 correct?

19 A. That's correct.

20 Q. No mention of the defendant nowhere in there, right, in that  
21 section?

22 A. No, sir.

23 Q. Who is Vendor Number 2?

24 A. It's been a minute since this was done. I'm pretty sure Vendor  
25 2 was David Burton.

1 Q. Okay. So Counts 1 and 3 of this bill that my client got  
2 charged by, they carry five years' Bureau of Prisons.

3 **MR. NICKEL:** Yeah, that's mischaracterization, Judge.  
4 His client wasn't charged by this bill. Mr. Guidry was.

5 **MR. CLEMONS:** I'm sorry. Mr. Guidry. Thank you, Mr.  
6 Nickel.

7 **THE COURT:** That's correct.

8 **BY MR. CLEMONS:**

9 Q. So Counts 1 and 3 carry up to five years' Bureau of Prisons;  
10 correct?

11 A. I'm not sure on the statute.

12 Q. I'm sorry?

13 A. I'm not sure on the statute.

14 Q. But it's in the plea agreement; right?

15 A. It should be, yes, sir.

16 Q. Okay. Do you know Count 2 carries up to ten years' Bureau of  
17 Prisons?

18 A. I didn't know that. I did not.

19 Q. Now, Dusty Guidry was not charged with money laundering, was  
20 he?

21 A. I'm sorry. I thought you paused.

22 Q. I did because I wanted an answer.

23 A. Oh, okay. I thought you paused and were about to add something  
24 on.

25 Q. No, no, no.

1 A. No. Dusty was charged with the two bribery schemes related to  
2 the DA's office, the Wildlife and Fisheries. And then the third  
3 count was the conspiracy?

4 Q. I can't answer your question.

5 A. Right.

6 Q. I can only ask questions.

7 A. That's what I remember.

8 Q. So I'm going to repeat my question.

9 A. Sure.

10 Q. Dusty Guidry was not charged with money laundering, was he?

11 A. I don't think so.

12 **MR. CLEMONS:** You can take that down, Mr. Douget.

13 **BY MR. CLEMONS:**

14 Q. And your investigation revealed, according to Dusty Guidry, he  
15 was running money through the so-called shell corporations he set  
16 up in his wife's name; correct?

17 A. Correct.

18 Q. In America that's money laundering; correct?

19 A. It was money laundering.

20 Q. But even though the Government's plea packet bill of  
21 information referred to the companies -- I think it was Skyline  
22 Media and DJG, they are mentioned; correct?

23 A. Correct.

24 Q. They're not called shell corporations, or dummy corporations,  
25 when it came time for Mr. Dusty Guidry to plead guilty, were they?

1 A. No, sir.

2 **MR. CLEMONS:** Let's go to paragraph 20.

3 **BY MR. CLEMONS:**

4 Q. I think you said number 2 is Burton. Did I get that right?

5 A. I'm reading. I'm trying to remember.

6 Q. I just want to be sure because the vendor is not named. I  
7 don't want to get my vendors mixed up.

8 A. Vendor 2 was Burton.

9 Q. Okay. No mention of Dusty Guidry in there scheming with  
10 Burton; right?

11 A. No.

12 Q. I mean, no mention of Gary Haynes? I'm sorry.

13 A. No, sir.

14 Q. Okay. So Vendor Number 1 is Franques; correct?

15 A. Correct.

16 Q. So we don't have him scheming with Burton. Let's go to Section  
17 18 to see if we got Gary Haynes scheming with Leonard Franques.  
18 Let's go to Section 18. Read that for the jury.

19 A. (As read) "Also in furtherance of the conspiracy and to effect  
20 its objects, Dusty Guidry agreed to accept payments and things of  
21 value from Vendor Number 1 in exchange for causing and directing  
22 that pretrial diversion defendants be assigned to classes offered  
23 by Vendor Number 1. Specifically, Vendor Number 1 offered and  
24 Dusty Guidry accepted the purchase and payments towards a vehicle  
25 for Dusty Guidry and his wife."

1 Q. No mention of Dusty Guidry allegedly kicking money back to my  
2 client, is there?

3 A. No, sir.

4 Q. No mention of Vendor Number 1 paying any money directly to my  
5 client, is there?

6 A. Not in that paragraph.

7 Q. No mention of Vendor Number 1 agreeing to pay any money to my  
8 client, is there?

9 A. Not in that paragraph.

10 Q. Yeah, we on that paragraph. All these questions are about that  
11 paragraph.

12 Now, Mr. Herman, I bet you remember Mr. Guidry testifying  
13 last week about a one-third split. Do you remember that?

14 A. I do.

15 Q. And he was talking about the PTI scheme; correct?

16 A. Correct.

17 Q. And he was talking about the vendors program; correct?

18 A. Correct.

19 Q. And he gave an example; correct? Do you remember that? Or you  
20 want some help?

21 A. No. I think the 80/80/20, where he talked about splitting a  
22 thousand.

23 Q. Wait, the what?

24 A. I remember an example he gave. So I do remember an example.

25 Q. Tell me the example you remember.

1 A. Was it something like if somebody made \$10,000 and he gets a  
2 portion, how the portions are split? Is that what you're referring  
3 to?

4 Q. Remember him giving the example of, say, if a program costs 185  
5 --

6 A. Okay.

7 Q. Let me finish. -- and the administrative fee would be 35, that  
8 would leave him 150 left? Do you remember that?

9 A. I do.

10 Q. And we would split it \$50 for Franques, \$50 for Dusty, 50 for  
11 that man (indicating)? Remember that?

12 A. I do.

13 Q. Where is that in the plea agreement?

14 A. I don't remember that being in there.

15 Q. You need time to look? Or you going to tell the jury it's not  
16 in there?

17 A. I don't think it's in there.

18 Q. Now, did Dusty plead to anything as it relates to the Wildlife  
19 and Fisheries scheme? Or was his plea entirely related to the PTI  
20 program?

21 A. No. He also pled to the Wildlife scheme.

22 Q. Okay. And that would be Count 3; correct?

23 A. I believe so.

24 **MR. CLEMONS:** I'm sorry. Mr. Douget, if you can get page  
25 6, Count 3, pulled up for us.

1 **BY MR. CLEMONS :**

2 Q. And let me know if that refresh your recollection about what  
3 count the Wildlife -- the alleged Wildlife and Fisheries scheme  
4 was.

5 A. That's correct.

6 Q. Okay. And Public Official Number 2, who is being referred to  
7 as Public Official Number 2, who was an employee and agent of  
8 Wildlife and Fisheries at least on or about May 1<sup>st</sup> of '19 until at  
9 least December '21?

10 A. That's Jack Montoucet.

11 Q. Mr. Montoucet. And it'd been a while, so remind the jury of  
12 Mr. Montoucet's -- he was the secretary of Wildlife and Fisheries?

13 A. He was. He was the secretary of Wildlife and Fisheries during  
14 this time frame.

15 Q. Not charged in this case but in a -- I guess what I would call  
16 a companion case?

17 A. He has been charged --

18 Q. Right.

19 A. -- related to this investigation.

20 Q. Right. Related to this so-called scheme and this  
21 investigation; correct?

22 A. Correct.

23 Q. Related to this scheme right here we're about to read about;  
24 correct?

25 A. Yes, sir.

1 Q. And he's been charged. His charges are still pending?

2 A. They are.

3 Q. Okay. And so Vendor Number 1, that's Franques; correct?

4 A. Vendor 1 was Franques.

5 Q. Who is 6?

6 A. Six was either going to be related to GPP or this is a third --  
7 there's another company involved, referred to as Invoke (phonetic)  
8 that was that processing the payments. I would have to -- again,  
9 it's been two years since I've seen this, so I would have to look  
10 back at it.

11 Q. There's a lot of companies floating around, too; right?

12 A. I think there are.

13 Q. So it would either be GPP or Invoke?

14 A. Invoke. Do you want me to get into the weeds of how Invoke got  
15 involved in this?

16 Q. No. I think we already testified to that.

17 Is there any mention of that man (indicating), Gary  
18 Haynes, being involved in any aspect of this so-called Wildlife and  
19 Fisheries scheme that Dusty Guidry was billed for and pled to in  
20 front of Judge Joseph?

21 A. No, sir.

22 Q. But you do know that Dusty Guidry told this jury under oath  
23 that my client was a part of the Wildlife and Fisheries scheme;  
24 correct?

25 A. Correct.

1 Q. And you do know that the Government filed a 404(b) notice in  
2 this case so they can get that evidence before the jury; correct?

3 A. Correct.

4 Q. Because the indictment in this case is only about the PTI  
5 program in Lafayette; correct?

6 A. That's correct.

7 Q. There's no mention of Wildlife and Fisheries nowhere in this  
8 indictment in this case; correct?

9 A. That's correct.

10 Q. But Mr. Guidry told you that my client had a role in Wildlife  
11 and Fisheries; correct?

12 A. Correct.

13 Q. And he told you that my client -- let me make sure I got it  
14 right. Wildlife and Fisheries -- again, a third, a third, a third.  
15 But this time the third is Mr. Jack Montoucet, Mr. Leonard  
16 Franques, and Mr. Dusty Guidry; correct?

17 A. That's right.

18 Q. And according to Mr. Guidry, the guru, my client was supposed  
19 to get half of his third; correct?

20 A. That's correct. That was between Dusty and your client.

21 Q. That's what I just said, but I want to make sure we're  
22 communicating. Dusty said that my client was supposed to get  
23 one-third -- one half of his third; correct?

24 A. Correct.

25 Q. And this the one Dusty said was going to be the big one; right?

1 I mean, PTI was kind of play money compared to what Wildlife and  
2 Fisheries was going to do; correct?

3 A. Correct. And to specify, because this is where it gets broken  
4 up, the Wildlife and Fisheries part, there's the violations, then  
5 there's the hunters and boaters education.

6 Q. Courses.

7 A. According to Dusty, with your client is specific to the  
8 violations.

9 Q. But either way, it was supposed to get very, very big?

10 A. Supposed to get very big.

11 Q. I mean, I know it had two components. They had the education  
12 courses and the violations.

13 A. Correct.

14 Q. But the bottom line is he's claiming my client was getting in  
15 on it and he was going to get 50 percent of Dusty's third of a big  
16 number, whatever that big number turned out to be; correct?

17 A. Correct.

18 Q. And remind the jury what Dusty Guidry claimed my client was  
19 going to do to get those thousands and maybe millions of dollars.  
20 What was he going to bring to the table in the Wildlife and  
21 Fisheries scheme to get all that money?

22 A. He wasn't bringing anything to the table.

23 Q. Dusty was just going to be a nice guy and just break him off  
24 millions of dollars in the Wildlife and Fisheries scheme. That's  
25 your testimony that Mr. Dusty said?

1 A. I don't think -- I think Dusty said it was to keep him happy.  
2 He wanted in and he had put money in. I think that was Dusty's  
3 testimony. But if you're asking me what was Mr. Haynes able to do  
4 for Wildlife and Fisheries --

5 Q. No, no, no, no, no, sir.

6 A. Okay.

7 Q. Thank God we got a record. I asked you what Dusty Guidry  
8 claimed that my client was going to do for Wildlife and Fisheries.  
9 That's my question. Not what he was going to do, but what Dusty  
10 claimed he was going to do in return for these millions of dollars.

11 A. I don't remember him saying he was going to do anything.

12 Q. Because he couldn't do anything for Wildlife and Fisheries;  
13 correct?

14 A. Correct.

15 Q. So do you remember Dusty telling the story that, well, one  
16 thing he was going to do was he was setting up MD Law so all the  
17 Wildlife and Fisheries money can go into MD Law and then we can  
18 disburse it from MD Law? Do you remember him telling that story?

19 A. I do.

20 Q. You found no evidence to support that, did you?

21 A. No, other than Dusty's statements.

22 Q. Leonard Franques didn't cosign that, did he?

23 A. No. Leonard didn't know Gary was even involved in the  
24 Wildlife.

25 Q. Okay. You're getting ahead of me, Agent Herman. You can't

1 steal my thunder. You got to let me get there.

2 A. I apologize.

3 Q. You got to let me get there. But while we're in the kitchen.  
4 So Leonard had no knowledge that this man (indicating) was supposed  
5 to be in on Wildlife and Fisheries; correct?

6 A. Not until the consensual recordings started in  
7 December-January, '21 and '22.

8 Q. When he was an FBI agent?

9 A. He wasn't an FBI agent. But when he was working with the FBI.

10 Q. So if someone is working under the authority of the FBI at  
11 their direction -- I'm not saying he's a special agent, but don't  
12 you agree he couldn't go out there and do whatever he wanted. He  
13 did what the FBI directed him to do; correct?

14 A. Correct.

15 Q. Okay. And so that's when Gary Haynes got involved in the  
16 Wildlife and Fisheries, once Franques became an agent of the FBI;  
17 right?

18 A. No. Mr. Haynes and Mr. Franques are meeting and talking and  
19 those are being recorded. And then I think it was the second one  
20 where Mr. Haynes tells Mr. Franques that he had also bought into  
21 the Wildlife and Fisheries scheme and Mr. Franques didn't know  
22 anything about that.

23 Q. Okay. Now, isn't it true, Mr. Herman, the more you talk to  
24 Dusty Guidry regarding any aspect of this case, the more his story  
25 changed?

1 A. Dusty has been -- and I'm sorry I'm taking a minute to answer  
2 this, because I'm trying to find the best way to answer it. Dusty  
3 is --

4 Q. I would like for you to answer and then explain.

5 A. Sure. I can't answer that with a direct "yes" or "no." Dusty  
6 has, since the day I met Dusty, on May 12, 2022, he's admitted to  
7 everything. Trying to figure out exactly how he did it and who was  
8 involved in what, that's where it becomes, you know -- trying to  
9 figure out exactly what was going on with the Wildlife scheme,  
10 what's the difference between the hunters and boaters violations  
11 and Mr. Haynes' part in it. Trying to get that -- I'm not going to  
12 say his story has changed. Us getting a grasp of his story has  
13 been -- we've had to talk to him multiple times.

14 Q. Because the details of who was doing what for whom and who was  
15 getting paid for what have been fluid. Wouldn't you agree with  
16 that?

17 A. With Mr. Haynes? Or with Mr. Guidry?

18 Q. With Mr. Guidry. That's why you had to talk to him multiple  
19 times; correct?

20 A. No. He has been pretty direct on who was getting what.

21 Q. For example, I just asked you ten minutes ago what Gary Haynes  
22 was allegedly doing for the Wildlife and Fisheries schemes per  
23 Dusty Guidry. Remember that question?

24 A. Correct.

25 Q. And your answer was, "Absolutely nothing." Remember that?

1 A. Correct.

2 Q. And then I had to remind you that Dusty Guidry sat on that  
3 stand and claimed my client opened up MD Law so all the money from  
4 Wildlife and Fisheries could come into MD Law. You remember that?

5 A. Okay. And I'm sorry, I mis--

6 Q. No. Do you remember that?

7 A. I do. And I misunderstood your question. I thought you meant  
8 in an official capacity as far as that. I didn't understand that  
9 aspect of it.

10 Q. Oh, so when I asked what my client was doing for Wildlife and  
11 Fisheries, you took it to mean what he was doing in an official  
12 capacity for Wildlife and Fisheries. That -- let me finish.  
13 That's your testimony?

14 A. That's what I thought you asked. Yes, sir.

15 Q. So you thought the words "official capacity" came out of my  
16 mouth?

17 A. They didn't come out your mouth. That's how I understood it.  
18 I didn't understand your question. I apologize.

19 Q. Okay. Now, let's move on to Dusty Guidry's plea agreement.  
20 The Government made an agreement not to prosecute Mr.  
21 Guidry for any other offenses; correct?

22 A. I think that's part of it.

23 **MR. CLEMONS:** Can I get page 2 of the plea agreement, Mr.  
24 Douget? It's going to be paragraph C(1). I think that's still the  
25 bill of information. You got to scroll down. Keep going. There

1 we go. Can you blow up that first paragraph?

2 **BY MR. CLEMONS:**

3 Q. Take a minute to read that, Mr. Herman.

4 A. Okay.

5 Q. Explain to the jury briefly what agreement our government is  
6 making with Dusty Guidry.

7 A. Sure. If he fulfills the obligations, which is to cooperate  
8 and be truthful, the Government agrees that it will not prosecute  
9 him for any other offense known to the Government based on the  
10 investigation which forms the basis of the bill of information.

11 Q. Let's break this down and make sure the jury gets it. That  
12 first component, if he completely fulfills all obligations and  
13 agreements under this plea agreement -- that determination is made  
14 by the U.S. Justice Department; correct?

15 A. Correct.

16 Q. So he has some incentive to make sure they're pleased with his  
17 so-called cooperation; correct?

18 A. Correct. And the obligations are to be truthful and cooperate.

19 Q. He has some incentive for them to be pleased with his  
20 cooperation, doesn't he?

21 A. Of course.

22 Q. But let's get to the second part, which is, "The Government  
23 agrees it will not prosecute the defendant for any other offense  
24 known to the Government based on the investigation which forms the  
25 basis of this bill." That's granting a lot of benefit to Mr.

1 Guidry, isn't it?

2 A. It is.

3 Q. Because, Mr. Herman, the Government knew a lot about a lot of  
4 criminal conduct basically all over this state that Dusty Guidry  
5 engaged in, and he's getting immunity from being prosecuted for any  
6 other criminal conduct other than what's in this bill of  
7 information; correct?

8 A. Correct.

9 Q. He's getting a big benny, isn't he?

10 A. He pled to two big schemes, but, yes, this is -- he was  
11 involved in others.

12 Q. And he's getting to walk away from those others?

13 A. Correct.

14 **MR. CLEMONS:** Now, let's get to -- can we get to the plea  
15 agreement addendum? Just scroll down, Mr. Douget. We going to  
16 come back to that. I want to get the plea agreement addendum.  
17 Stop, stop, stop. Go back up.

18 **BY MR. CLEMONS:**

19 Q. Do you recognize that document, Agent Herman?

20 A. I do.

21 Q. What is that?

22 A. That describes the elements of the offense for Counts 1 and 3.

23 **MR. CLEMONS:** Go to the next page. Next page, Mr.  
24 Douget. Go ahead.

25 **BY MR. CLEMONS:**

1 Q. Now, since you didn't know what the penalties are, look at that  
2 and see if that refresh your recollection about what the max  
3 penalties are for Counts 1 and 3 and Count 2. Once you have your  
4 memory refreshed, just tell the jury.

5 A. So Counts 1 and 3 are a term of imprisonment of not more than 5  
6 years, and then Count 2 is a term of imprisonment not more than 10  
7 years.

8 **MR. CLEMONS:** Now, can you keep scrolling to see if you  
9 can find the -- it's called the plea agreement addendum? Is that  
10 the last page?

11 **BY MR. CLEMONS:**

12 Q. While he's looking, the plea agreement addendum, you know what  
13 that is; correct? Where we talk about cooperation in plea  
14 agreements. If somebody chooses to cooperate -- it's not on there,  
15 Mr. Herman. If somebody choose to cooperate, they get a separate  
16 addendum attached to their plea agreement that talks about if they  
17 cooperate and what they could possibly get for it.

18 **MR. CLEMONS:** There we go. I think we got it.

19 **THE WITNESS:** I'm familiar with them.

20 **BY MR. CLEMONS:**

21 Q. Okay.

22 A. The U.S. Attorney's Office does these. I'm familiar with what  
23 they are.

24 Q. That's all I ask is if you're familiar with it.

25 A. Sure.

1 Q. Are you able to see it now?

2 A. I am.

3 **MR. CLEMONS:** Okay. And go to the next page, Mr. Douget.  
4 Blow up Section 4 and 5.

5 **BY MR. CLEMONS:**

6 Q. Read that last -- and just briefly tell the jury what Section 5  
7 deals with.

8 A. So the Government may ask the Judge to, at the time of  
9 sentencing, to advise the Judge he has provided substantial  
10 assistance.

11 Q. And in federal court we use sentencing guidelines; correct?

12 A. We do.

13 Q. And after somebody is convicted by trial or plea, Probation or  
14 Parole calculate a recommended guideline range to Judge Joseph.

15 A. Correct.

16 Q. And it's just a recommendation. The Judge can impose whatever  
17 sentence the statute allows, but they give the Judge a  
18 recommendation; correct?

19 A. Correct.

20 Q. And a 5k is a motion. Can a defendant file his own 5k? Or  
21 does the Government have to file it?

22 A. No. The 5k is a motion filed by the Government.

23 Q. And it's asking the Judge to do what on behalf of the  
24 defendant?

25 A. To go below the sentencing guidelines.

1 Q. And the Judge can still do what he chooses, but it's a  
2 recommendation or a request from the Government to help out  
3 somebody who cooperated; correct?

4 A. That's correct.

5 Q. And that's in Mr. Guidry's plea agreement; correct?

6 A. It is.

7 Q. And he's incentivized and I'm sure he's hoping to get a 5k,  
8 wouldn't you think?

9 A. I would be.

10 Q. I certainly would. That's a fair point. But now we talked  
11 about 5k. But I want you to read the last sentence about 5ks in  
12 that paragraph.

13 A. You want me to read it out loud?

14 Q. Yes, sir.

15 A. "The decision shall be in the sole and nonreviewable discretion  
16 of the Government."

17 Q. And what decision are we talking about?

18 A. To request the 5k.

19 Q. In other words, it's putting him on notice: Only we decide  
20 whether we file the 5k; correct?

21 A. That's correct.

22 Q. And if we choose not to, there's nowhere you can go for relief.  
23 You can't moan and complain to anybody. It's in our sole and  
24 nonreviewable discretion; right?

25 A. That's correct.

1 Q. Now, you were present. I think you mentioned this, that you  
2 were present when my client pled guilty; right?

3 A. When your client pled guilty?

4 Q. I'm sorry. Mr. Guidry pled guilty.

5 A. Yes, I was.

6 Q. And the plea agreement was entered and he was questioned to  
7 make sure he fully understand what he was doing; correct?

8 A. Correct.

9 Q. Probably stood right here at this podium. Or some judges let  
10 you stand at the table. But he stood up.

11 A. I'm sure.

12 Q. And you were present; correct?

13 A. I was when he pled.

14 Q. And Judge Joseph got him to tell, in his own words, what he  
15 did. Do you remember that?

16 A. I have been through a lot of pleas. I don't remember Dusty's.  
17 That's usual. And I know Judge Joseph does it, makes sure they  
18 know what they're pleading to.

19 Q. That's his style; right?

20 A. Yes, sir.

21 Q. And when Judge Joseph asked him what he did, no mention did he  
22 mention Gary Haynes or refer to Gary Haynes, did he?

23 A. I don't recall.

24 Q. You have no recollection of it, do you?

25 A. No.

1 Q. If you saw the transcript from that colloquy, would that  
2 refresh your recollection? Let me finish, sir. You got to let me  
3 finish.

4 If I showed you the colloquy and the transcript from when  
5 Dusty Guidry stood right here and told Judge Joseph, in his own  
6 words, what he did, would that refresh your recall about what Dusty  
7 Guidry said he did?

8 A. I'm sure it would. I agree with you, if that's -- that he  
9 didn't say, "Mr. Haynes."

10 Q. He didn't make any reference to Mr. Haynes, did he?

11 A. No, sir.

12 Q. So a minute ago you didn't recall, but now you recall that he  
13 didn't say "Haynes" and he didn't make any reference to Haynes when  
14 Judge asked him to say, in his own words, what he did; right?

15 A. Right.

16 Q. Because these plea agreements, are they written by the  
17 defendants themselves? Or are they written by attorneys?

18 A. They're written by attorneys.

19 Q. But some judges want to hear directly from you, man-to-man or  
20 woman-to-man: Tell me, in your own words, what you did.

21 A. Right.

22 Q. He did the same thing with Leonard Franques, didn't he?

23 A. Yes, sir.

24 Q. And at no point did Leonard Franques mention my client or refer  
25 to my client, did he?

1 A. No, sir.

2 Q. Joe Prejean?

3 A. Same thing.

4 Q. Same thing what? They need to hear it.

5 A. No, didn't mention your client.

6 Q. Or refer to him?

7 A. No, sir.

8 Q. Because when I say "mention," I mean say "Gary Haynes" or say  
9 something that alludes to Gary Haynes. They didn't mention him by  
10 name, they didn't allude to him when they told the judge, in their  
11 own words, what they did to break the law, did they?

12 A. No, sir.

13 **MR. CLEMONS:** Now, we're going to go to Leonard Franques'  
14 plea agreement, Exhibit 192. And I just mainly want to get on the  
15 record what he pled to in contrast to what Mr. Guidry pled to.

16 **BY MR. CLEMONS:**

17 Q. Do you recognize that?

18 A. It's Leonard Franques' plea agreement.

19 Q. Okay. And do you recall, and I can show you any part of it you  
20 want, what Mr. Franques pled guilty in this courtroom to?

21 A. He pled guilty related to the Wildlife scheme.

22 Q. And do you know what potential penalty he is facing.

23 A. That was the five-year, I believe.

24 Q. Either way, it's lower than what Dusty is facing; correct?

25 A. Correct.

1 Q. And he pled by bill of information; correct?

2 A. He did.

3 **THE COURT:** Will counsel approach, please, the sidebar.

4 (Begin bench conference.)

5 **THE COURT:** Mr. Clemons, I don't know if you're going  
6 there, but we're not going to get into statutory exposure of your  
7 client.

8 **MR. CLEMONS:** Not at all, Judge.

9 **THE COURT:** That shouldn't be the jury's consideration at  
10 all.

11 **MR. CLEMONS:** No. I want to get into what Franques pled  
12 to, Judge, not what my client's facing.

13 **THE COURT:** Not comparing those maximums to your client  
14 because that would be improper.

15 **MR. CLEMONS:** No, No. Judge, I just want them to know  
16 because Mr. Franques reached a plea agreement. In order to  
17 understand the plea agreement, you've got to know what a person is  
18 facing because --

19 **MR. NICKEL:** I would just like to note that it has been  
20 backdoored in at this point; that it has been shown to the jury  
21 what the maximum penalty is; that we filed a motion to prohibit  
22 that thing. And the statutes that Mr. Guidry is charged with are  
23 the same statues that Mr. Haynes is charged with; therefore, the  
24 jury now knows what the statutory exposure is.

25 **THE COURT:** For conspiracy and for 666, you mean.

1           **MR. CLEMONS:** Judge, they put Mr. Guidry's plea packet on  
2 the exhibit --

3           **MR. NICKEL:** That's why we --

4           **MR. CLEMONS:** Excuse me.

5           **MR. NICKEL:** -- file motions before trial.

6           **MR. CLEMONS:** Judge, he --

7           **MR. NICKEL:** So to stand up and object and make it a big  
8 deal, they see it and they start asking about it. And now it's  
9 backdoored.

10          **MR. CLEMONS:** Judge, they put Mr. Guidry's plea agreement  
11 on their exhibit list, whether they introduced it or not, because  
12 his plea agreement shows that he has been incentivized. They know  
13 why his plea agreement is relevant, Judge. I don't know whether  
14 they have introduced it -- maybe they have -- but it's clearly on  
15 their exhibit list. So now something on their exhibit list, they  
16 want to complain because we're going into what's on their exhibit  
17 list.

18          **MR. NICKEL:** How do you know that that sheet was in the  
19 exhibit?

20          **THE COURT:** What was my ruling in regards to that?

21          **MR. NICKEL:** Mr. Clemons said, Of course, I wouldn't let  
22 in improper penalty evidence; it's improper.

23          **THE COURT:** Well, I wish you would have objected when you  
24 first seen him going there.

25          **MR. NICKEL:** When I argued this motion, I said, Judge, I

1 like to get ahead of these things, because once I argue it and  
2 object at trial, then the jury is alerted to it and they start  
3 thinking. And that's why I filed the motion and I mentioned that  
4 at the motion hearing.

5 **MR. CLEMONS:** Judge, I want the record to be clear. I'm  
6 not going anywhere. I'm going into the plea agreement that's been  
7 filed into the record. I'm not doing anything to talk about what  
8 my client's exposure is. I'm talking about what Dusty Guidry's  
9 exposure is and what incentive he has to say what the Government  
10 wants him to say. That's what I was going into. But it has  
11 nothing to do with my client.

12 **THE COURT:** I'm instructing the jury that punishment  
13 shouldn't be part of their consideration. At this point, I don't  
14 know if there's anything we can do about it.

15 **MR. NICKEL:** I think just not mention anything.

16 **THE COURT:** What's the relevance of the statutory maximum  
17 for Franques?

18 **MR. CLEMONS:** Because Mr. Franques, Judge, he got a plea  
19 agreement from the Government. They made a decision, for whatever  
20 reason, not to call him and because --

21 **THE COURT:** You can talk about the charge he pled to, but  
22 let's not talk about the maximum penalties anymore.

23 **MR. CLEMONS:** No, I'm not talking about it.

24 (End bench conference.)

25 **BY MR. CLEMONS:**

1 Q. Anyway, Mr. Herman, we were discussing -- and I want to find  
2 the bill of information to what Mr. Franques pled guilty to. Do  
3 you remember that?

4 A. I do.

5 Q. And if I'm not mistaken, he pled almost entirely to the  
6 Wildlife and Fisheries scheme.

7 A. That's correct.

8 Q. Did he have any involvement in his plea agreement in the  
9 pretrial intervention scheme?

10 A. I don't know where it was written. Again, these are done by  
11 the United States Attorney's Office. Somewhere in there, I believe  
12 it was in the factual basis --

13 Q. But it was --

14 A. -- something related to the district attorney's office.

15 Q. But it was primarily about the Wildlife and Fisheries?

16 A. He pled to the Wildlife and Fisheries conspiracy.

17 Q. And that was the main point I wanted to get across.

18 Now, let's get to his plea agreement. And he entered a  
19 stipulated factual basis to his plea agreement, as well?

20 A. I'm sure he did.

21 Q. And before we get to that, do you remember another addendum to  
22 Mr. Guidry's plea agreement, a relevant conduct addendum? Do you  
23 remember that?

24 A. I remember something additional. I don't know if we're talking  
25 about the same thing, but there was something additional to his

1 plea.

2 Q. And that discussed all the relevant conduct that was involved  
3 in his particular case. Do you remember that? I'll show it to you  
4 if it would refresh your memory.

5 A. It would.

6 **MR. CLEMONS:** Can you go back to Mr. -- there we go.

7 **BY MR. CLEMONS:**

8 Q. You need to scroll through it? Or are you...

9 A. No. This is the part I was thinking of. I wanted to make sure  
10 I was on the same page this time.

11 Q. Yeah, I just wanted to make sure. Explain to the jury what  
12 this relevant conduct addendum is.

13 A. This relates to -- we've heard a lot over the past two weeks  
14 about GPP. In Dusty Guidry's plea there was an addendum  
15 referencing his involvement in the GPP aspect of the case.

16 Q. But what does this addendum do, though? What's the purpose of  
17 it in a plea agreement, to talk about a relevant conduct addendum?

18 A. I don't know. I don't do plea agreements.

19 Q. Do you know if it has any relation to the sentencing and how  
20 much relevant conduct can be factored in?

21 A. I believe relevant conduct can be factored in. That's a  
22 belief. I don't know.

23 Q. Now, let's get back to Mr. Franques' plea agreement. In his  
24 plea agreement, there is a Public Official 2. That's Mr.

25 Montoucet?

1 A. I --

2 **MR. CLEMONS:** Can we get to his plea? His stipulated  
3 factual basis, Mr. Douget. Mine are not Bates stamped, but it's  
4 going to be a stipulated factual basis as a part of Mr. Franques'  
5 plea agreement. There we go.

6 **BY MR. CLEMONS:**

7 Q. Let me know if you can see that.

8 A. I can see the factual basis.

9 **MR. CLEMONS:** Turn to the next page.

10 **THE DEPUTY CLERK:** Did you want this shown to the jury?

11 **MR. CLEMONS:** Has that been offered yet? Yes, Mr.  
12 Franques is just in front of the witness.

13 Judge, at this time I do want to go ahead and offer Mr.  
14 Franques' plea agreement because I want to question him about the  
15 stipulated factual basis.

16 **THE COURT:** Any objection?

17 **MR. NICKEL:** Subject to what was discussed at sidebar, no  
18 objection.

19 **THE COURT:** I'll admit it.

20 **MR. CLEMONS:** Thank you, Ms. Lisa. Go to page 2. Can  
21 you make this first full paragraph a little bigger? There we go.  
22 You can blow it up a little bit more.

23 **BY MR. CLEMONS:**

24 Q. So Dusty served as a commissioner; correct?

25 A. Correct.

1 Q. And you talked about the scheme with the courses and the  
2 violations; correct?

3 A. Correct.

4 Q. Any mention of Gary Haynes in there?

5 A. No. PO-2 is going to be Jack Montoucet.

6 Q. I'm sorry?

7 A. PO-2 is Jack.

8 Q. I know that, but my question is: Were you talking about the  
9 meat of the offense? Is there any mention of this man being  
10 involved? is my question.

11 A. No, sir.

12 Q. Okay. Next paragraph. In exchange for Guidry. See anything  
13 about Gary Haynes in there?

14 A. No, sir.

15 Q. Anything about Gary Haynes reactivating MD Law so they can put  
16 all those millions of dollars into MD Law account?

17 A. No, sir.

18 **MR. CLEMONS:** Go to the next page.

19 **BY MR. CLEMONS:**

20 Q. And then that one paragraph for purposes of relevant conduct,  
21 that's the only reference to the PTI scheme in Mr. Franques' plea  
22 agreement; correct?

23 A. I think the continuing paragraphs are related to it.

24 Q. The PTI?

25 A. PTI.

1 Q. I'm sorry. Go ahead.

2 A. Yeah, relevant conduct, as you were saying earlier.

3 Q. Right. Now, let's move to Mr. Franques. You had an  
4 opportunity to speak with him; correct?

5 A. Yes.

6 Q. And isn't it true --

7 **MR. CLEMONS:** You can take that down, Mr. Douget.

8 **BY MR. CLEMONS:**

9 Q. -- Mr. Franques never told you that my client had any role in  
10 the so-called Wildlife and Fisheries scheme, did he?

11 A. Yeah, I don't think he knew Mr. Haynes had a role in it.

12 Q. My question is: He never told you that my client had any role  
13 in the Wildlife and Fisheries scheme?

14 A. That's correct.

15 Q. So if my client's role was to receive millions of dollars in MD  
16 Law, who would be generating the revenue to go into that account?

17 A. Mr. Franques.

18 Q. So don't you think it would be logical for Mr. Franques to  
19 know, oh, we setting up this dummy corporation so that we can hide  
20 all these millions of dollars and Gary Haynes going to be involved  
21 since it was going to be his money going into that? Wouldn't that  
22 be logical?

23 A. At the time, the violations hadn't started, so I don't -- that  
24 was -- Dusty would have told him where to put the money. And I  
25 don't know if that conversation -- I think they might have touched

1 on that in what we called the boardroom meeting. But the money  
2 from the other side was already going to Dusty, the other side of  
3 the Wildlife scheme, and it wasn't going to MD Law. He had another  
4 -- we have used multiple terms, but another company called Coastal  
5 Construction and Interior Design that was getting, I guess, the  
6 licensing and hunters-boaters ed money.

7 Q. My point remains. Dusty claimed the money from the Wildlife  
8 scheme was going to MD Law and then getting disbursed; correct?  
9 That was the plan?

10 A. That's what he said.

11 Q. I'm sorry?

12 A. That's what he said.

13 Q. And as far as all your interviews with Franques, he had no  
14 knowledge of that plan, did he?

15 A. That's correct.

16 Q. Now, let's move on to the PTI scheme. You heard Dusty say it  
17 was Leonard's idea to bring that man (indicating) into the PTI  
18 scheme; correct?

19 A. Correct.

20 Q. Mr. Franques didn't tell you that, did he?

21 A. No.

22 Q. So the scheme that's at the root of this case, the two other  
23 coconspirators can't even agree on who brought in the third  
24 coconspirator; correct?

25 A. Correct. I guess the origin of how Mr. Haynes, that first

1 introduction to, "Hey, we're doing a kickback scheme here; you want  
2 to play?" like, where that came from, whether it was Mr. Franques  
3 or Mr. Guidry, hasn't been made clear.

4 Q. You tailed off at the end. What?

5 A. It hasn't been made clear as to who made that first broach of,  
6 Hey, this is what we're doing; you want in? That's never been made  
7 clear.

8 Q. Well, Dusty Guidry sat up there clearly a couple of times and  
9 said Franques brought him in.

10 A. He did.

11 Q. And Franques denies that; correct?

12 A. Correct.

13 Q. So you're right. It hadn't been clear, but they're saying two  
14 polar opposite things; right?

15 A. That's right.

16 Q. Now, it's alleged, and I've seen it several times, that my  
17 client put up all this money. And the Government doesn't dispute  
18 my client put up \$219,000. That's not disputed; correct?

19 A. I think it's two hundred nineteen, five, but correct.

20 Q. Around there. Close enough.

21 And the Government's theory is he was doing this so that  
22 he could get involved in these schemes and get kicked back; right?

23 A. Correct. Based on your client's own statements.

24 Q. Right. But at no point does the Government allege what  
25 percentage or what amount he's getting. In other words, he's

1 supposed to be getting proceeds, but at no point in any of these  
2 302s, in any of these calls, in any of this evidence does it say,  
3 Okay, Gary Haynes, you're putting up 219,000; you're getting 5  
4 percent of the profit; you're getting 10 percent of the profit?  
5 Nowhere is it stipulated what he's getting in return for getting  
6 involved in the schemes, is it?

7 A. It's in the wire calls.

8 Q. Oh, it's in the wire calls. The wire calls say what percentage  
9 he's going to get, of the proceeds?

10 A. There is specific calls, and I'm thinking of one just off the  
11 top of my head, with Leonard and Dusty are talking about what Mr.  
12 Haynes is going to get and how that's going to be split.

13 Q. Okay. But shouldn't the man who's putting up \$219,000 know  
14 what he's going to get? You say another two coconspirators, they  
15 knew. But shouldn't the man putting skin in the game, 219,000, at  
16 some point he should know, okay, this is what I'm getting for my  
17 219,000?

18 A. I would think so.

19 Q. Now, according to Mr. Franques -- you first interviewed him at  
20 his home; correct?

21 A. Yes, sir. December 8.

22 Q. I'm sorry?

23 A. Yes, sir. December 8<sup>th</sup>.

24 Q. Right. And the children had left. His wife was still there.

25 But we never got the details of the interview. Was this in one

1 room? Were they separated? Explain to us how they were  
2 interviewed.

3 A. Sure. The actual interview. After we approached Mr. and Mrs.  
4 Franques, and we told them what we knew, they requested counsel, at  
5 which time they had attorneys come to the residence. At which time  
6 a couple of assistant U.S. attorneys came to give -- they went over  
7 the Kastigar, the proffer. After that, Mr. Franques and an  
8 attorney met with myself, another agent, and I believe the  
9 financial analyst for us while Mrs. Franques and her attorney met  
10 with two other agents. So they were interviewed separately.

11 Q. In separate rooms, each with their own attorney?

12 A. Yes, sir.

13 Q. Were they ever brought together and had a joint interview or  
14 talked to together in the same room?

15 A. No, not for the actual interview.

16 Q. Bring your attention to the first interview. And Mr. Franques  
17 was questioned about the PTI scheme; correct?

18 A. Correct.

19 Q. And isn't it true he said Guidry wanted to do a three-way  
20 split: him, Franques -- Franques, Guidry, and Haynes; correct?

21 A. Correct.

22 Q. And that's what Guidry said on that witness stand under oath,  
23 said there was a three-way split; correct?

24 A. Correct.

25 Q. And when you talk to Franques, Franques says, No, there was no

1 three-way split; correct?

2 A. Franques' indication to me was it was going to be -- Mr. Haynes  
3 was going to get a portion of the split from Dusty.

4 **MR. NICKEL:** Objection, Your Honor. Can we approach?

5 **THE COURT:** Yes.

6 (Begin bench conference.)

7 **MR. NICKEL:** Judge, asking any witness what was said at a  
8 different time for the truth of the matter asserted is hearsay, so  
9 that's my objection. It's a hearsay objection. The last five  
10 questions have been hearsay.

11 **MR. CLEMONS:** I'm not asking for the truth. I'm asking  
12 to find out what they said because they said clearly contradictory  
13 things. So I'm not asking him what he said is for the truth. I'm  
14 offering it to show that their two main witnesses are contradicting  
15 each other. I'm not saying what Franques says was the truth or not  
16 the truth. I just want -- the jury has a right to know Franques  
17 told them something diametrically opposed to what Guidry told them.

18 **THE COURT:** Response to that?

19 **MR. NICKEL:** Well, it's only contradictory if it's true.  
20 And then that was the last question. The last three before that  
21 were all hearsay.

22 **MR. CLEMONS:** No, Judge. It's contradictory whether it's  
23 true or not. If I say red and you say white, they are  
24 contradictory.

25 **THE COURT:** I think you can phrase your questions, you

1 know: Did Mr. Franques say this and Mrs. Franques say that? And  
2 then if you have several points, you can go down the line and then  
3 that's it on that.

4 **MR. CLEMONS:** And that's what I was doing, Judge.

5 **THE COURT:** You need to do it in that way.

6 **MR. WALKER:** Your Honor, may I step outside for one  
7 moment?

8 **THE COURT:** Yes.

9 (End bench conference.)

10 **BY MR. CLEMONS:**

11 Q. Isn't it true Mr. Franques says he didn't agree and feel  
12 comfortable with that three-way split?

13 A. I'm trying to recall. So Franques --

14 Q. If you need to look --

15 A. It was not consistent with Dusty. If I remember right, Dusty  
16 understood it or wanted it to be a three-way split or less from Mr.  
17 Haynes; whereas, Franques didn't want to split three ways. He was  
18 going to still split with Dusty, and then Dusty was going to --  
19 Dusty's portion was going to be shared with Gary.

20 Q. And isn't it true, according to Franques, he never did split  
21 three ways with Gary?

22 A. Correct.

23 Q. He didn't want to and he didn't do it?

24 A. He didn't.

25 Q. Isn't it true initially Mr. Franques says my client paid him

1 \$50,000?

2 A. I'm trying to remember from the first interview. You're  
3 talking about the \$50,000 check?

4 Q. Right. And if you need to take a moment to check your 302, I  
5 mean...

6 A. I think that's right. I think it was the first one -- the  
7 first time we met he said that Mr. Haynes invested 50,000.

8 Q. And that was in Midway Media?

9 A. Yes.

10 Q. And he didn't mention anything else about \$32,000 check, did  
11 he?

12 A. Not that first one.

13 Q. I'm sorry?

14 A. I don't think so.

15 Q. Isn't it also true he told you, You got to watch Dusty because  
16 he's a hustler?

17 A. Probably, yes.

18 Q. And he also told you --

19 A. I don't remember if that's in the 302, but that sounds like  
20 something he'd definitely say.

21 Q. You don't dispute it?

22 A. No.

23 Q. And he also said, You got to watch Dusty with money. You  
24 remember that? Don't trust him? You got to watch him with money?

25 A. Yes.

1 Q. Now, I want to get to the second interview because that  
2 occurred on March 9<sup>th</sup>. Am I right?

3 A. Of 2022?

4 Q. Yes, sir. I'm sorry.

5 A. It occurred in March of 2022. The exact day, I'm not sure.

6 Q. And that came about, it looks like because Mr. Franques and his  
7 attorney wanted to, quote, clarify some things; correct?

8 A. I don't know if that's the sole reason it came about. It was  
9 going to be their formal meeting with not just agents but with  
10 prosecutors on the case. But they did -- and before that, they  
11 were shown that, that attorneys were shared their 302s from their  
12 prior interviews.

13 Q. And that's my question. How did it come about where they got  
14 to see their 302 from the first interview prior to the second  
15 interview?

16 A. I don't --

17 Q. I'm sorry. I'm talking strictly the Franques.

18 A. With the Franqueses?

19 Q. Yes, sir.

20 A. That's something that would have been done between the  
21 attorneys. We, FBI, we don't share 302s.

22 Q. Right. That's what I want to get to. I mean, in other words,  
23 you sit down and interview somebody, it's your work product, it's  
24 your summary what they say; correct?

25 A. Correct.

1 Q. And generally speaking, they don't get a chance to correct it  
2 or proof it; correct?

3 A. Correct.

4 Q. They don't get to look at it and come back and say, Hey, Mr.  
5 Herman, we met last week; I want to talk to you because these  
6 things are wrong. That's not the way y'all operate; correct?

7 A. No.

8 Q. So this was out of the norm. And you're saying in some kind of  
9 way you think it's between his attorney and somebody in the U.S.  
10 Attorney's Office to facilitate that meeting?

11 A. Yes, sir.

12 Q. And prior to that meeting, he had already had a copy of his  
13 first interview; correct?

14 A. Correct.

15 Q. And he corrected some things from the first interview; correct?

16 A. Correct.

17 Q. And isn't one of the main things he wanted to correct is all of  
18 a sudden he had a recollection of memory on how much money my  
19 client had given; correct?

20 A. That was part of it, yeah.

21 Q. Didn't it go from -- what was his changed recall regarding  
22 checks from my client?

23 A. I don't remember if it was -- because the first one he said it  
24 was just one check.

25 Q. For 50,000.

1 A. For 50,000. I don't remember if the second one, if he  
2 clarified the two checks.

3 Q. But at some point he clarified that, oh, it was two checks: one  
4 for 50,000 and one for 32,000.

5 A. Okay.

6 Q. Correct?

7 A. Correct. I'd have to look back at the 302, if I can.

8 Q. Sure. Like I said, at any point if you need to --

9 A. Sure. There was a correction of the checks.

10 Q. Okay. And he had forgotten about this \$32,000 check; correct?

11 A. Yes, sir.

12 Q. And isn't it true he wanted you to clarify that the first check  
13 was an investment from Gary Haynes; correct?

14 A. Correct.

15 Q. And isn't it true that, according to Mr. Franques, Haynes  
16 believed he had given more than 200,000 to Mr. Franques, \$200,000?

17 A. Yeah. So Mr. Franques had learned subsequent to the first  
18 interview that Mr. Haynes believed that he had given more than that  
19 82,000.

20 Q. Okay. And at no point does he mention that it was supposed to  
21 be part of a so-called Wildlife and Fisheries scheme, did he?

22 A. No.

23 Q. And isn't it true he also -- because his wife was involved in  
24 receiving checks and writing checks, Michelle; correct?

25 A. Correct.

1 Q. And he told you his wife believed that Gary was investing;  
2 correct?

3 A. Correct.

4 Q. And he went on to talk about other things he was involved with,  
5 didn't he?

6 A. He did.

7 Q. And when he talked about the Wildlife and Fisheries scheme, he  
8 talked about it in detail and the violations and the courses. In  
9 no point did he mention that Gary Haynes had any role or any  
10 involvement in that, did he?

11 A. No.

12 Q. Did y'all ask him if Mr. Haynes had any involvement?

13 A. No, sir, because at that point, again, we had been up on, you  
14 know, I forget the amount of months of wiretaps and obviously all  
15 the consensuals, and we kind of knew how the Wildlife scheme came  
16 about.

17 Q. Now, let's move on to Michelle Franques. She was interviewed  
18 on December 8<sup>th</sup> at her home; correct?

19 A. Correct.

20 Q. Mr. Robideaux was her attorney. Did she have the Kastigar --  
21 did y'all have the Kastigar ready? Or did somebody have to call  
22 Mr. Robideaux to come over while somebody drafted a Kastigar? Or  
23 y'all had that ready when y'all hit the house?

24 A. I don't know if they had it ready or not, but the prosecutors  
25 on the case at the time were aware of what we were doing, the fact

1 that they may ask for an attorney and this may come up. So they  
2 were ready to be called, and the prosecutors came to the house.

3 Q. So they were at the ready?

4 A. Yes.

5 Q. And she gave a statement and she gave a 302 to the agents;  
6 correct?

7 A. Correct.

8 Q. And it's my understanding that you were in the house but you  
9 were interviewing basically Leonard while some of your colleagues  
10 were interviewing Michelle; correct?

11 A. Correct.

12 Q. And like Leonard, Michelle got an opportunity to read her 302;  
13 correct?

14 A. Correct.

15 Q. And her 302 was of the first interview that you had at her  
16 home; correct?

17 A. Correct.

18 Q. And after getting and reading that 302, explain to the jury  
19 what she did.

20 A. She came with -- she had changes she wanted to make when she  
21 met with us. Again, I think it was March when she met for her  
22 formal what we call -- we often call it a proffer or debriefing,  
23 where the defense attorneys as well as the attorneys for the  
24 Government are present.

25 Q. Not only she had changes, she had corrections; correct?

1 A. Correct.

2 Q. In other words, this wasn't somebody, Hey, maybe I forgot this.  
3 Maybe, like Don Landry say, he forgot to mention something and he  
4 wanted to mention it. She flat out needed to correct some things  
5 that the agent had written in that 302 that she strongly denied  
6 ever saying; correct?

7 A. That's what she said, yes.

8 Q. That's what we're going by. Right.

9 And before we go into detail on that, let's -- her  
10 husband, Franques, how many times was he met with prior to trial?

11 A. Franques?

12 Q. Leonard.

13 A. Yeah, I know. Two or three.

14 Q. Okay. When was the most recent time prior to trial?

15 A. Not --

16 Q. Trial started Monday the 8<sup>th</sup>.

17 A. I know. I'm trying to think. It was either the week before  
18 trial or the week prior to that.

19 Q. And did the agents or the Government have the mock examination,  
20 the dress rehearsal, like they did with Dusty? They brought him to  
21 the courtroom.

22 A. No. I don't think he was ever brought into a courtroom.

23 Q. Okay. Now, in her corrections, she start off by saying that  
24 several things were factually incorrect; correct?

25 A. Correct.

1 Q. She said in her corrections she asked to record the meeting and  
2 was told she could not record and not even take notes; correct?

3 A. She said that, yes.

4 Q. Now, is that true? Did you check with your colleagues and say,  
5 Did y'all tell her she couldn't record or take notes?

6 A. That's not going to be true. I don't know if I checked with my  
7 colleagues or not, but that's not accurate.

8 Q. So people being interviewed, they're allowed to record the  
9 interview, but the agents can't. That's your testimony?

10 A. Right. We wouldn't -- I mean, nobody would -- number one, she  
11 had an attorney right there with her. Nobody -- and I know the  
12 agents that interviewed her. The fact that -- they wouldn't say,  
13 You can't record or take notes. I just don't see that happening.

14 Q. Okay. So you don't see it --

15 A. And certainly the notes part. You can -- I don't see why  
16 somebody wouldn't be able to take their own notes.

17 Q. But you don't see that happening. You know Ms. Franques made  
18 these stern allegations in April of this year; correct?

19 A. Yeah, the allegations were in April of 2025 regarding the  
20 December 2022 interview.

21 Q. And at no point did you go to your colleague and say, Look,  
22 guys or girls, she's making these allegations. Is this true? You  
23 didn't do that; correct?

24 A. No.

25 Q. And it's your testimony that the agents can't record, but it's

1 permissible for the person getting interviewed to record?

2 A. Permissible, I mean, we don't -- I would never stop somebody  
3 from doing it. I don't even know if there's a policy against it.  
4 I've never had it happen or somebody -- I don't remember anybody  
5 ever asking to do it.

6 Q. Okay. And you recall her saying that what's in the 302 was  
7 agent's perception but not the things she said; correct?

8 A. I remember that being in her, I guess, the thing she had  
9 dropped off at the U.S. Attorney's Office, the notes.

10 Q. Now, one thing she pointed out is she said, "I never said that  
11 I felt, quote, something was wrong at times with payments to Dusty  
12 Guidry." She made that as a correction; correct?

13 A. That was one of her notes, yes.

14 Q. Because she did talk about payments to Dusty; correct?

15 A. Correct.

16 Q. She points out that Dusty said I should not refund the  
17 dentist's money. Remember that?

18 A. I do.

19 Q. That's Mr. Petry; correct?

20 A. That's Mr. Petry.

21 Q. She said she did it anyway; right?

22 A. She did.

23 Q. And she also talked about Gary Haynes, didn't you?

24 A. She did.

25 Q. She said, "I said many, many, many times that I did not know

1 what the checks that Haynes wrote to F4 were for." That's what she  
2 said in her corrections; correct?

3 A. In her notes, yes.

4 Q. Right. And she says in her notes, "The FBI would not take that  
5 as an answer." That's what Ms. Franques said; right?

6 A. That was in her notes, yes.

7 Q. She said the agents kept asking her over and over about Haynes.

8 A. Correct. That was in her notes.

9 Q. Right. And that's what I'm referring to.

10 Now, she also talked about the Lafayette City Court  
11 contract; correct?

12 A. Are you talking about her notes?

13 Q. All this is in her -- what I'm calling her e-mailed, typed-up  
14 corrections. That's what you mean by notes?

15 A. Yeah, from April of this year.

16 Q. Right.

17 A. Right.

18 Q. Where she e-mailed them, typed them up, and I think Jason's  
19 lawyer delivered them to Ms. Gardner?

20 A. I think so. I think that's right. Her lawyer delivered the  
21 typed-written notes to Ms. Gardner.

22 Q. Right. Well, that's the note I'm referring. And you've read  
23 these; correct?

24 A. I have.

25 Q. She went on talking about CBT and city court; correct?

1 A. Correct.

2 Q. And one of her corrections was she said that Dusty Guidry was  
3 the one who brought the checks, not Haynes. Remember her saying  
4 that?

5 A. Yes.

6 Q. And she also said the pending Lafayette City Court contract was  
7 being handled by Greg Logan, not by Haynes. She said that;  
8 correct?

9 A. Correct.

10 Q. And remind the jury who Greg Logan was.

11 A. Greg Logan was the city parish attorney right under Josh  
12 Guillory, who was here yesterday.

13 Q. And she said as a correction, "I said Leonard and I met with  
14 Greg Logan to get that contract, and the FBI did not put that in  
15 the 302." Do you remember that? She said that?

16 A. Correct. And referring to the first 302.

17 Q. Correct. Her original 302.

18 A. You're referring to the December 8<sup>th</sup> 302, yes.

19 Q. Right. Her original one at her house?

20 A. The original one at her house, yes.

21 Q. And she broke it down, by paragraph, the things she was  
22 correcting; correct?

23 A. Correct.

24 Q. Paragraph 14, she said, "I never --" and put never in all caps.

25 Remember that?

1 A. Uh-huh.

2 Q. "I never said, quote, could be split by Haynes. I only said D.  
3 Guidry was paid his commission. The FBI added the name Haynes."  
4 Do you remember that?

5 A. I remember her notes saying that, yes.

6 Q. Right. That's what I'm talking about. Remember her saying  
7 that, "I never talked to Haynes about that, ever. Never said that  
8 D. Guidry and Haynes were to split the CBT profits"? So her 302  
9 says she claimed they were supposed to split the profits. She's  
10 saying in the corrections she never said that.

11 A. Right, referencing the December 302.

12 Q. Right. She went on to say, "I have no knowledge of any  
13 arrangement between Dusty Guidry and Haynes." That's what she  
14 said?

15 A. That's what she said.

16 Q. She also said, "I never said Haynes' payments were being held  
17 until an official contract is signed."

18 A. Correct, in her notes.

19 Q. Remember her saying in her notes, "The FBI was pressing me hard  
20 on Haynes. The FBI kept saying that if I knew anything about  
21 Haynes that I needed to tell them. I kept saying repeatedly, 'I do  
22 not know anything about Haynes.'"

23 A. I remember that being in her notes.

24 Q. Okay. Now, and when did you bring her in and question her  
25 after you got these notes to say, Okay, ma'am, you're saying one

1 thing in these notes. You said one thing March 10<sup>th</sup>. I don't  
2 believe your notes. Let's get to the bottom of it.

3 When did you do that?

4 A. Didn't.

5 Q. So you're challenging her credibility of what she put in her  
6 notes, but at no point did you attempt to contact her attorney to  
7 bring her in to challenge her in what she was saying in her  
8 corrections; correct?

9 A. No. She was going -- she was very angry with us. She was  
10 venting. And at no point -- I mean, we interviewed her immediately  
11 that day, December, then we gave her the 302, which she clarified  
12 when we met in March. And then in April of 2025, as the reason I  
13 think she was contacted again was related to the Wildlife case,  
14 hence Ms. Gardner's involvement, we all of a sudden get these  
15 notes. And it's sort of -- I don't think you can just continue  
16 trying to argue with her if she thinks that of us.

17 Q. Did you sit down -- who are the two agents who did the  
18 interview with her?

19 A. The December 2022 interview were Dan English and Haley Justice.

20 Q. When did you sit down with Dan and Haley and say, Hey, guys,  
21 you know, I just want to clear this up. Ms. Franques is making  
22 strong accusations against us. I need to know what, if any, of her  
23 accusations are true? When did you do that?

24 A. I didn't. Dan's no longer with the Bureau. Haley's  
25 transferred. I could have called them. But, also, I know them. I

1 especially know Dan very well. These strong accusations, it's just  
2 not -- it's not Dan.

3 Q. So you know Dan, and the other woman you say was transferred?

4 A. She voluntarily transferred. It wasn't like she --

5 Q. She's still with FBI?

6 A. She's still with the Bureau.

7 Q. And you didn't think it was important enough to get with them  
8 and say, Hey, guys, is any of this true? Is there some gray area  
9 here? You didn't think that was important enough, did you?

10 A. No.

11 Q. Okay. Now, she also said she had a meeting at the 15<sup>th</sup> JDC  
12 office and she was told that Don Landry put Haynes in charge of the  
13 PTI program. Do you remember that?

14 A. Was this, again, in her notes?

15 Q. Yes, sir.

16 A. Okay.

17 Q. And she said, "Don Landry is the one who approved my classes to  
18 be used for the PTI program. I told the FBI I do not deal with  
19 Haynes, I usually deal with the ladies in the office, such as  
20 Zoila. The FBI did not write down anything about that." Do you  
21 remember that?

22 A. I do.

23 Q. And I want some clarity on how and when your office got those  
24 corrections.

25 A. You're referring to the notes from the --

1 Q. Yeah, the typed notes, right. Right.

2 A. We were -- Lauren Gardner is another assistant U.S. attorney  
3 with the U.S. Attorney's Office here. She is the one who received  
4 them from Mr. Robideaux, who is Michelle's attorney. At some point  
5 shortly when that happened, we were notified that I think it was  
6 Michelle dropped off a letter or something like that.

7 Q. Okay. And you were notified by whom? By your -- I'm sorry.  
8 Go ahead.

9 A. I don't remember. It would have been either -- there's a good  
10 chance it would have been Lauren Gardner, possibly by other  
11 prosecutors in the office.

12 Q. And Ms. Gardner talked to you about that? Or she just gave it  
13 to you?

14 A. I'm sure we would have talked about it.

15 Q. Okay. Let's talk briefly about this indictment in this case.

16 A. Okay.

17 Q. And this indictment was presented to the grand jury?

18 A. It was.

19 Q. Crafted by the U.S. Attorney's Office?

20 A. Yes.

21 Q. And you're familiar with it; correct?

22 A. I am.

23 Q. Okay. Now, in the indictment it says that entering into the  
24 PTI program was at the discretion of the district attorney or those  
25 employees in the DA's office with authority for administering the

1 program; correct?

2 A. Yes.

3 Q. Isn't it true that Don Landry told the jury, and it's on his  
4 website, that he's got sole discretion over who gets in the  
5 program?

6 A. He's the district attorney, yes.

7 Q. We know that. But didn't he tell the jury, and it's on his  
8 website, that he's got the sole discretion ultimately on who gets  
9 in?

10 A. I don't remember the exact words he used. He's the district  
11 attorney. He has the overall discretion.

12 Q. Now, you also said that the defendant Haynes and coconspirator  
13 Guidry approved additional participants in the PTI program to  
14 increase referrals to Franques' company; correct?

15 A. Correct.

16 Q. And no mention in the indictment does it say that Don Landry  
17 was pushing his ADAs to put more cases in the program, does it?

18 A. No.

19 Q. It doesn't say he met with them monthly to talk about PTI and  
20 getting more cases, does it?

21 A. No, sir.

22 Q. Now, the indictment also talks about MD Law being open;  
23 correct?

24 A. Correct.

25 Q. The indictment fails to mention that no money was ever put into

1 MD Law account other than the 15,000 my client put.

2 A. Okay.

3 Q. Right? The indictment doesn't say -- the indictment says MD at  
4 Law was open for nefarious purposes to get kickbacks; right?

5 A. Correct.

6 Q. But at no point does the indictment say, Oh, by the way, no  
7 kickbacks were ever put in that account, does it?

8 A. No, sir.

9 Q. The indictment says Mr. Franques planned to obtain a truck for  
10 my client, worth 81,000; correct?

11 A. Correct.

12 Q. At no point does it say that my client never obtained a truck,  
13 does it?

14 A. It does not.

15 Q. The indictment talks about Person Number 1, on November 10<sup>th</sup> of  
16 '21, the defendant Gary Haynes authorized the enrollment of Person  
17 Number 1 in the PTI program. Remember that?

18 A. Yes.

19 Q. He's charged with sexual assault; correct?

20 A. Correct.

21 Q. Tell the jury who Person Number 1 is.

22 A. That's going to be Barry Petry.

23 Q. So we didn't name Mr. Petry by name, but we put an acronym in,  
24 number 1. And we told the grand jury that Gary Haynes authorized  
25 Mr. Petry into the program; correct?

1 A. Correct.

2 Q. At no point was the grand jury told that Chad Vallo called the  
3 DA directly for help for Mr. Petry, did we?

4 A. No, sir.

5 Q. And isn't it, in fact, the evidence shows that Don Landry  
6 authorized Dr. Petry in the program, and not my client?

7 A. I think the evidence is your client -- I think for Petry  
8 specifically, it's either a Karpel note or an e-mail where he says,  
9 "Put Petry in PTI."

10 Q. If your boss tell you to put him in PTI, he's not authorizing  
11 it. The boss is the one who authorized it.

12 A. Okay.

13 Q. Wouldn't you agree?

14 A. Yes.

15 Q. Not who put him in, who authorized it. Don Landry authorized  
16 it. Wouldn't you agree?

17 A. Right. And so did Mr. Haynes.

18 Q. You also talk about Person Number 2. Person Number 2 having  
19 OWI and Person Number 2 getting arrested while having -- in the  
20 program and got his or her third OWI. Remember that?

21 A. Yes.

22 Q. Tell the jury who Person Number 2 is.

23 A. That's Bradley Zaunbrecher.

24 Q. At no point do you tell the grand juror, Oh, by the way, when  
25 Don Landry found out that Bradley Zaunbrecher, who was already in

1 the program and got a DWI third, he called Dusty Guidry and talked  
2 to Dusty Guidry about it, not Gary Haynes. You didn't mention that  
3 to the grand jury; correct?

4 A. Correct.

5 Q. And you didn't mention to the grand jury that Don Landry, who  
6 knew about the DWI third, authorized Mr. Zaunbrecher to stay in the  
7 DWI -- stay in the program, did he?

8 A. Correct.

9 Q. Lastly, on Count 2 you talk about bribery. And you talk about  
10 my client getting two \$10,000 checks; correct?

11 A. Correct.

12 Q. You call them kickbacks; correct?

13 A. Correct.

14 Q. At no point do you tell the grand jury that my client never  
15 cashed those checks, do you?

16 A. I wasn't in the grand jury.

17 Q. I'm talking about -- I'm sorry.

18 A. I've been referring -- you're referring to the document; right?

19 Q. Yeah, yeah, because the document is what the grand jury got.

20 Yeah, so to be clear when I say, "tell the grand jury," I'm talking  
21 about what you told them via the written indictment.

22 A. The written indictment, I don't think so.

23 Q. You don't think so what?

24 A. That it was brought up that they were never cashed or  
25 deposited.

1 Q. Right. But it would have implied to a reasonable person that  
2 if somebody got two \$10,000 checks, a reasonable person would  
3 deduce that person either cashed or deposited those checks,  
4 wouldn't he?

5 A. Could be.

6 Q. But at no point is that made clear that they were never cashed  
7 or deposited; right?

8 A. Correct.

9 Q. Now, the money laundering count, the indictment accuses him of  
10 conspiring to commit money laundering; correct?

11 A. Correct.

12 Q. And you would agree, Mr. Herman, that money laundering could be  
13 committed in several different ways; correct?

14 A. Correct.

15 Q. And at no point in this indictment does it specify what my  
16 client allegedly did to launder money, does it?

17 A. I'm not sure. I haven't -- I'm not sure on the money  
18 laundering count what it says.

19 Q. Okay. The last count is the obstruction of justice; correct?

20 A. Correct.

21 Q. February 3<sup>rd</sup>; right?

22 A. Correct.

23 Q. At no point does it say what my client did specifically to  
24 obstruct justice, did it?

25 A. I'm not sure what it says in that regard.

1 Q. And you know in order to obstruct justice it has to be an  
2 official proceeding going on; correct?

3 **MR. NICKEL:** Objection, Judge. He's asking him for a  
4 legal conclusion.

5 **THE COURT:** Sustained. The jury will be instructed on  
6 the law by me tomorrow morning.

7 **BY MR. CLEMONS:**

8 Q. So I want to show you, Mr. Herman, Exhibit --

9 **MR. CLEMONS:** Just for the witness.

10 **BY MR. CLEMONS:**

11 Q. -- Exhibit Number 22. Are you able to see it, Mr. Herman?

12 A. No, nothing there.

13 Q. Are you able to see it now? I'm just asking, can you see it?

14 A. Oh, I can see it, yes.

15 Q. I just want to make sure you see it. I didn't want to ask you  
16 questions about it if you can't see it. Take a moment to look at  
17 it, Mr. Herman.

18 A. Got it.

19 Q. Okay. And are you able to recognize that document?

20 A. I am.

21 Q. And explain to us what it is.

22 A. This is notes from the Franqueses. And I don't remember if it  
23 was obtained during the search of their house or the business,  
24 Midway Media. But it's notes about their payments, from when we  
25 were there December 8<sup>th</sup>.

1 Q. And when you executed a search warrant at their home?

2 A. Correct.

3 Q. And you said you don't know if it's from the home or the  
4 office, did you say?

5 A. I just don't remember where exactly we got it from, but I  
6 remember this note.

7 **MR. CLEMONS:** Anyway, I'd like to offer Defense Exhibit  
8 22.

9 **MR. NICKEL:** No objection, Judge.

10 **THE COURT:** Without objection, let it be entered.

11 **BY MR. CLEMONS:**

12 Q. You need a minute to look at it?

13 A. No, I remember it.

14 Q. And it's breaking down monthly payments. And I think the  
15 evidence is abundantly clear now that Michelle Franques handled the  
16 finances?

17 A. She did.

18 Q. And what monthly -- these six monthly payments, just summarize  
19 what that's breaking down.

20 A. So it's breaking down the money that Dusty Guidry gets. It's  
21 related to the CBT, the evaluations, and how it goes. And  
22 including from the Wildlife scheme.

23 Q. Okay. So Dusty gets a monthly payment from each one of these  
24 different revenue streams.

25 A. Correct.

1 Q. Okay. And did you find any document like that any remotely  
2 similar to Gary Haynes and what he was supposed to get or received?

3 A. No, we didn't.

4 **MR. CLEMONS:** Just one minute, Your Honor. I'm sorry,  
5 Mr. Herman. Can you put it back up? I don't know who controls  
6 things around here. I'm sorry, Ms. Lisa. I should have been  
7 talking to you the whole time.

8 **BY MR. CLEMONS:**

9 Q. The CBT 50 percent Midway and Burton and LaPlus to Skyline  
10 Media, just use that as one example. From your detailed  
11 investigation, what's that saying?

12 A. So that's referencing the money from the CBT courses, where  
13 it's going from Midway Media. And I think, if I remember correct,  
14 there's part of that because Burton hosts the site.

15 Q. Was what?

16 A. Burton. His, David Burton's business gets some of the Midway  
17 Media money because -- we have kind of gone over this before --  
18 Burton hosts the CBT courses on his website. Technically, I don't  
19 know what that means, but I know he gets a little bit of it.

20 Then to Skyline Media, which is a company, it's a shell  
21 corporation. It's under Lauren Guidry's name. It's where Dusty  
22 got paid related to the PTI program. And the ACH means that's how  
23 the money is getting to him.

24 Q. And the Guy Talley (SIC), Tara Wells, and Treyton Barrow, those  
25 were PTI defendants; correct?

1 A. Correct.

2 Q. And what's being represented in relation to them?

3 A. The money that goes into Midway to Skyline Media and how it  
4 gets there, the ACH transfer.

5 Q. And what is Dusty getting? I mean, is he getting a percentage?

6 A. He is. And it goes into -- all of this goes into the Midway  
7 Media, I guess, pile of money. And the financial analyst would be  
8 a lot better at explaining this than me.

9 Q. Right.

10 A. And then Dusty gets a percentage of it.

11 Q. So it goes into the Midway pile, and then Dusty gets kicked a  
12 percentage from that --

13 A. Correct.

14 Q. -- pile; correct?

15 A. Yes, sir.

16 **MR. CLEMONS:** Thank you. Tender the witness, Your Honor.

17 **THE COURT:** Let's take a 15-minute break and we'll come  
18 back and finish Agent Herman's testimony. All rise for the jury.  
19 (Jury not present.)

20 **THE COURT:** Agent Herman, you may step down, but don't  
21 talk to Counsel during the break.

22 **THE WITNESS:** Yes, sir.

23 **THE COURT:** I'll ask defense counsel, what's your plan  
24 for the rest of the afternoon?

25 **MR. CLEMONS:** My plan, Judge, is to redirect Agent Herman

1 and rest.

2 **THE COURT:** All right.

3 **MR. WALKER:** And is our plan, then, Your Honor, to break  
4 for the day, you'll get us jury instructions, and then we'll start  
5 back tomorrow morning, read jury instructions, and do our  
6 arguments?

7 **THE COURT:** So you don't anticipate a rebuttal case at  
8 this point?

9 **MR. WALKER:** At this point I do not anticipate a rebuttal  
10 case.

11 **MR. CLEMONS:** Our case is over, other than redirect.

12 **THE COURT:** All right. Then I'll speak to Mr. Haynes.

13 Mr. Haynes, will you approach the podium, please, for me.

14 Mr. Haynes, your attorney has just informed me that you intend to  
15 rest your case in this matter after the conclusion of Mr. Herman's  
16 testimony today. I have to inform you, it is your constitutional  
17 right to testify or not testify in this trial. It's your trial.

18 And regardless of what your attorney has advised you to do,  
19 ultimately it's your decision whether to testify or not.

20 Have you made that decision?

21 **THE DEFENDANT:** Yes, sir.

22 **THE COURT:** And have you consulted with your attorney  
23 about that decision?

24 **THE DEFENDANT:** Yes, sir.

25 **THE COURT:** And do you understand that it is solely your

1 decision?

2 **THE DEFENDANT:** Yes, sir.

3 **THE COURT:** What's your decision?

4 **THE DEFENDANT:** I'm not going to testify.

5 **THE COURT:** All right. Court will be in recess until  
6 3:20.

7 **THE COURTROOM SECURITY OFFICER:** All rise.

8 (A conversation was held off the record.)

9 **THE COURT:** Our plan is after Mr. Herman's testimony, we  
10 will break for the day. We'll pass out a copy of the final jury  
11 instructions. I think there's, unless -- does anybody have  
12 anything else based on what's happened today?

13 **MR. WALKER:** Take the defendant out and then take out the  
14 expert.

15 **THE COURT:** We have taken out the expert and taken out  
16 the defendant already.

17 **THE LAW CLERK:** No, I have been waiting.

18 **THE COURT:** We are going to take out the defendant.

19 **MR. CLEMONS:** Want to keep you under suspense.

20 **THE COURT:** The final jury instructions won't have the  
21 sources and won't have the name of the instruction. It will have  
22 Instruction 1 and Instruction 2. That will be the final form that  
23 we'll hand out today and then I'll read them first thing tomorrow  
24 morning. You'll have a copy.

25 **MR. CLEMONS:** 9:00 in the morning?

1           **THE COURT:** That's fine.

2           **MR. CLEMONS:** Okay. Thank you, Judge.

3           **MR. JOHNSON:** I did look at that instruction and that  
4 language is included from *McDonnell*. I just wanted to point that  
5 out.

6           **THE COURT:** Thank you. Thank you for doing that.

7           (Off the record at 3:10 p.m.; resumed at 3:22 p.m.)

8           **THE COURT:** Please be seated. One more thing before we  
9 bring the jury back in. I would like the defense to redact from  
10 the plea packets of Mr. Guidry and Mr. Franques the maximum  
11 penalties for the offenses for which they are charged because that  
12 will be available to the jury and, as pointed out by the  
13 prosecutor, those are the same offenses for which Mr. Haynes has  
14 been charged.

15           **MR. CLEMONS:** Any particular method? Regular black  
16 highlighter?

17           **THE COURT:** I think the only place it's going to be is in  
18 maximum penalty and constitutional rights sheet. Is that correct?

19           **MR. WALKER:** It's in the plea agreement, too.

20           **THE COURT:** It's in the plea agreement, too?

21           **MR. NICKEL:** The old plea agreements had it in the plea  
22 agreement itself, so I think it would be in there.

23           **MR. CLEMONS:** Judge, all I'm asking is could the Court or  
24 the clerk do it because I know you can do it electronically, you  
25 know, where it's just blacked out or you can actually take it out.

1 With us being here in Lafayette, we just don't have those  
2 capabilities. All we can do is just black out the old-fashioned  
3 way, is what I'm saying.

4 **THE COURT:** I think it's in several places.

5 **MR. WALKER:** Your Honor. On behalf of the defense, I  
6 spoke to the defense's better person in the back, and she said she  
7 can do it on her computer and then have it ready for tomorrow.

8 **THE COURT:** Okay.

9 **MR. CLEMONS:** That's going to put the pressure on us to  
10 make sure we catch every single one. See, I'm hearing that it's  
11 more than one. I know it's normally in the elements. That's the  
12 only time I normally see it.

13 **MR. WALKER:** In the plea packet, too. It always has the  
14 sentence in the plea packet.

15 **THE COURT:** Yeah, maybe in the beginning, the beginning  
16 of the plea packet, maybe.

17 **MR. WALKER:** So what it does, yeah, it's got the  
18 Government's agreement, the defense agreement, and then it's got  
19 the sentencing. So it should be in the third section of the plea  
20 agreement.

21 **THE COURT:** And then in the maximum penalty and  
22 constitutional rights.

23 **MR. WALKER:** Is there a reason to have the maximum  
24 penalty constitutional rights?

25 **THE COURT:** We can take that sheet out completely.

1           **MR. CLEMONS:** We don't need it at all.

2           **THE COURT:** So we can take that sheet out of both of them  
3 and then just redact it in the plea agreement itself.

4           **MR. WALKER:** Can I just go look at it?

5           **MR. CLEMONS:** I mean, that's fine. I'd rather the Court  
6 do it as opposed to me doing it and trying to figure out, make sure  
7 I don't miss nothing because I wasn't looking for it.

8           **THE COURT:** We'll handle this after we finish for today.  
9 Let's bring the jury back in.

10           **THE COURTROOM SECURITY OFFICER:** All rise for the jury.

11           (Jury present.)

12           **THE COURT:** Please be seated. Mr. Nickel, please proceed  
13 when you're ready.

14           **CROSS-EXAMINATION BY MR. NICKEL:**

15           Q. Hello, Agent Herman. A few follow-up questions to what you  
16 were asked by defense counsel on direct examination.

17                     You recall defense counsel categorizing Mr. Haynes'  
18 investments as investments in legitimate businesses; correct?

19           A. Correct.

20           Q. And you would disagree with that categorization; correct?

21           A. Very much so.

22           Q. And, in fact, after Mr. Haynes paid all this money to these  
23 legitimate businesses, he had some consensual meetings with Mr.  
24 Franques; right?

25           A. He did.

1 Q. At one of these consensual meetings, he told Mr. Franques how  
2 he was going to lie to his CPA about the source of the funds;  
3 correct?

4 A. Correct.

5 Q. At one of these consensual meetings, he asked Leonard Franques  
6 if it was safer for him to get money or safer for him to get cash.

7 A. Correct. I don't know if it was cash or the truck. But, yes,  
8 there was a debate on how he was going to get --

9 Q. You're right. The debate was whether it was safer for him to  
10 get a truck or whether it was safer for him to get cash; correct?

11 A. Correct. Or money, yes. And I think that came up in multiple  
12 meetings.

13 Q. Right. And these checks were after -- were paid before Mr.  
14 Haynes acknowledged the scheme was illegal during the January 12,  
15 2022, boardroom meeting; correct?

16 A. Correct. One of the checks was paid before that January 12<sup>th</sup>  
17 meeting.

18 Q. And the February 3<sup>rd</sup> was, in fact, paid after?

19 A. The February 1<sup>st</sup> check was paid after.

20 Q. February 1<sup>st</sup>. The February 3<sup>rd</sup> was their last meeting where he  
21 acknowledged it; correct?

22 A. February 3<sup>rd</sup> was when they met and he acknowledged the receipt  
23 of the checks.

24 Q. Okay. And these investments in legitimate businesses, after he  
25 made these investments in legitimate businesses, he, in fact, told

1 Mr. Franques and Mr. Guidry, during that January 12<sup>th</sup> boardroom  
2 meeting, that he was going to be clever and subtle about pushing  
3 CBT; correct?

4 A. He did say that.

5 Q. And he also told Mr. Franques and Mr. Guidry constantly to stay  
6 off the phone; correct?

7 A. Correct.

8 Q. And he constantly told -- or he at least told Mr. Franques to  
9 delete his text messages; correct?

10 A. He did on the February 3<sup>rd</sup> when they were at Jason's Deli. He  
11 said, Delete the texts.

12 **MR. NICKEL:** I'd like to bring up Defense Exhibit 22.

13 **BY MR. NICKEL:**

14 Q. When was this -- you were asked on direct examination when was  
15 this gotten. Was this during the search warrant of Mr. and Mrs.  
16 Franques' house?

17 A. It was either the house or the business, but December 8<sup>th</sup> of  
18 2021.

19 Q. So they were both executed on the same day?

20 A. They were.

21 Q. So this note is at least as old as December 8, 2021; correct?

22 A. Sure.

23 Q. And Mr. Haynes wasn't supposed to get a cut of anything until  
24 January of 2022; correct?

25 A. That's correct.

1 Q. If I could ask you about Guy Halley. Do you remember his  
2 situation?

3 A. Yes.

4 Q. What was Mr. Halley's situation?

5 A. Mr. Halley was in the, what they were calling the PTI, the OWI  
6 second program. Meaning, he had his second offense, OWI case.  
7 While he was in the PTI program, he got another one in Florida. Is  
8 that what you're asking?

9 Q. Yes. And did they keep him in?

10 A. They kept him in.

11 Q. Did you later find out he was being shook down by Mr. Prejean?

12 A. I'm sorry.

13 Q. Sorry. Did you later find out he was being shook down by Mr.  
14 Prejean?

15 A. We found out while he was getting shaken down by Mr. Prejean.

16 Q. What about Ms. Tara Wells? We heard some information about  
17 earlier in the trial. Can you remind us what happened to her?

18 A. Tara had two DUIs in Lafayette in very close proximity in 2020.  
19 One may have been August/September, another in December. They both  
20 had aggravating child endangerment, maybe reckless driving.  
21 Meanwhile, she had a drug case in St. Martin Parish at the same  
22 time.

23 Q. Do you recall her attorney Mr. Alfred Boustany III e-mailing  
24 Mr. Haynes and Mr. Guidry asking, with all this going on, can she  
25 get into this OWI second program; correct?

1 A. Correct. I remember that.

2 Q. Do you remember Mr. Guidry saying, Look, this is ultimately up  
3 to Gary?

4 A. I do.

5 Q. And she was let in; correct?

6 A. She was.

7 Q. Mr. Treyton Barrow, do you recall what his case was about?

8 A. Mr. Barrow, he was the one that had -- I think he had -- he was  
9 in PTI and then had another charge. Off the top of my head, I  
10 believe he was one of those.

11 **MR. NICKEL:** Okay. Now, we can take this down.

12 **BY MR. NICKEL:**

13 Q. Do you remember, on direct examination, when you were asked  
14 about the purpose of MD at Law?

15 A. Correct.

16 Q. And Mr. Guidry said it was going to be used for multiple  
17 purposes; right?

18 A. Mr. Guidry did, yes.

19 Q. What account did Mr. Haynes tell Mr. Franques to pay the checks  
20 to?

21 A. MD at Law.

22 Q. The two checks that Mr. Franques actually delivered to Mr.  
23 Haynes, where were they to?

24 A. They were to MD at Law.

25 Q. At whose direction?

1 A. At Mr. Haynes' direction.

2 **MR. NICKEL:** Okay. I'd like to pull up, it's Defense  
3 Exhibit 192. And if we could just pull that up and flip through  
4 the pages. If I could show this witness Government's Exhibit 44.

5 **BY MR. NICKEL:**

6 Q. Do you recognize this document, Agent Herman?

7 **THE DEPUTY CLERK:** It's the same.

8 **MR. NICKEL:** It's the same, but we didn't have the  
9 defense's version.

10 **THE COURT:** Do you know what defense exhibit it is?

11 **MR. NICKEL:** I do, but I don't know the page that I need  
12 to go to.

13 **THE DEPUTY CLERK:** If it's their exhibit, do they want it  
14 admitted? Or do we just show it?

15 **THE COURT:** You want to admit this Government 44?

16 **MR. NICKEL:** I would like to. Then I can go to the page  
17 that I know.

18 **THE COURT:** So is this the plea agreement with -- I think  
19 the defense exhibit had the bill of information on the first part  
20 of it. This is just the plea agreement and the accompanying  
21 documents?

22 **MR. NICKEL:** Yes, Your Honor.

23 **THE COURT:** All right. Does it have the part we talked  
24 about a moment ago in it?

25 **MR. NICKEL:** I believe it does, but I can direct us to

1 the actual page I'm asking about, if we can do that.

2 **THE COURT:** Just redact that part on your exhibit, as  
3 well.

4 **MR. NICKEL:** Sure.

5 **THE COURT:** Any objection to admitting 44?

6 **MR. CLEMONS:** No objection, Judge.

7 **THE COURT:** All right.

8 **MR. NICKEL:** If we can go directly to page 18.

9 **THE DEPUTY CLERK:** Tell me when she's ready. I'll let  
10 the jury have it when she's ready.

11 **BY MR. NICKEL:**

12 Q. Do you recognize this page? You were actually asked about it  
13 on direct examination.

14 A. Yes, I do.

15 Q. What is this document?

16 **THE COURT:** We can publish it, Lisa.

17 **THE DEPUTY CLERK:** Okay.

18 **THE WITNESS:** This is part of Mr. Franques' plea  
19 agreement.

20 **BY MR. NICKEL:**

21 Q. And I believe on direct examination it was quickly mentioned,  
22 but can we read from the first full paragraph -- there you go -- on  
23 down?

24 A. Sure. You want me to read it?

25 Q. Yes, please.

1 A. (As read) "For purposes of relevant conduct, the parties  
2 stipulate and agree that Franques, Dusty Guidry, and Public  
3 Official Number 1 entered --"

4 Q. Pause right there. Who is Public Official Number 1?

5 A. Gary Haynes.

6 Q. Okay.

7 A. "-- entered into another agreement, also in the Western  
8 District of Louisiana, related to the pretrial diversion program of  
9 the district attorney's office with the 15<sup>th</sup> Judicial District of  
10 Louisiana. Franques stipulates and agrees that beginning on or  
11 about January 11, 2021, and continuing to on or about December 8,  
12 2021, Franques knew that Guidry and PO-2 -- I'm sorry PO-1 were  
13 employees and agents of the District Attorney's Office 15<sup>th</sup> Judicial  
14 District with responsibility over the pretrial diversion program in  
15 the 15<sup>th</sup> Judicial District Attorney's Office. Franques knew that  
16 criminal defendants with pending felony and misdemeanor cases  
17 within the 15<sup>th</sup> Judicial District and who participated in the  
18 diversion program --"

19 **THE DEPUTY CLERK:** A little slower.

20 **THE WITNESS:** "-- who had participated in the diversion  
21 program were required to take educational courses to complete it.  
22 Franques owned a company that provided such courses. Franques,  
23 Guidry, and PO-1 entered into agreement by which Guidry and PO-1  
24 would use their positions to add Franques' company to the list of  
25 approved vendors for the pretrial diversion program and steer

1 participants in the pretrial diversion program to take classes from  
2 Franques' company. In exchange for Guidry and PO-1 steering --"

3 **MR. NICKEL:** You can go to the next page. Just the top  
4 if you can blow that up.

5 **THE WITNESS:** "-- steering participants to Franques'  
6 courses, Franques agreed to kick back a portion of its profits from  
7 the pretrial diversion program to Guidry and PO-1."

8 **MR. NICKEL:** We can take that down.

9 **BY MR. NICKEL:**

10 Q. And you were asked about the indictment, correct, and whether  
11 you reviewed the indictment?

12 A. Correct.

13 Q. And you recall being asked about the things that it was alleged  
14 Mr. Haynes did?

15 A. Yes.

16 Q. And do you recall being asked about what the indictment alleges  
17 as far as it goes to Mr. Guidry and Mr. Haynes' role in the PTI  
18 program?

19 A. I do.

20 Q. Specifically, do you recall that it says, (as read) "The  
21 defendant, Gary Haynes, and/or coconspirator Guidry approved  
22 additional participants in the PTI program to increase the  
23 referrals to companies owned and/or operated by Mr. Franques to  
24 generate more elicited proceeds"?

25 A. I do.

1 Q. So let me ask you this: The scheme was Mr. Haynes and/or Mr.  
2 Guidry putting people into pretrial programs, specifically having  
3 them take CBT courses to go to Mr. Franques; correct?

4 A. Correct.

5 Q. Do you recall the meeting with Barry Sallinger's clients and  
6 how they were going to go directly to Dusty?

7 A. I do.

8 Q. So if all of these clients for Barry Sallinger were going to go  
9 to Dusty, a part of this conspiracy, and he would send them to  
10 Leonard, would that still generate money for Leonard?

11 A. Yes.

12 Q. And that money would still go to Mr. Haynes and Mr. Guidry;  
13 correct?

14 A. Correct.

15 Q. I want to ask you about the interview of Ms. Michelle Franques.  
16 Correct?

17 A. Sure.

18 Q. So that was in March -- the last interview, the last 302,  
19 right, was in March of 2022?

20 A. March of 2022.

21 Q. And you received corrections to that in 2025?

22 A. Correct. We received -- it's not a letter but a typed document  
23 in 2025.

24 Q. Okay. And, in fact, 3<sup>1</sup>/<sub>2</sub> years later; correct?

25 A. Correct.

1 Q. After Ms. Franques' husband had pled guilty; correct?

2 A. Correct.

3 Q. Did Ms. Franques ever know that she was criminally culpable?

4 A. Did Ms. Franques?

5 Q. Yes.

6 A. Yes.

7 Q. Did she eventually find out?

8 A. That she was criminally culpable?

9 Q. Yes.

10 A. Yeah, the day we approached her, on December 8<sup>th</sup> we told her as  
11 much.

12 Q. Okay. After the interview with Michelle Franques in, I guess  
13 in the very first meeting, correct, after that, Mr. Franques  
14 started cooperating; correct?

15 A. Correct. They both were.

16 Q. That's when Mr. Haynes made the statement during the January  
17 12<sup>th</sup> consensual recording; correct?

18 A. Yes.

19 Q. During the December 14<sup>th</sup> consensual?

20 A. Yes.

21 Q. During the February 3<sup>rd</sup> consensual; correct?

22 A. Correct.

23 Q. By the time that you had interviewed Ms. Franques and were  
24 asking her about Mr. Haynes, you had been up on Mr. Guidry's T3;  
25 correct?

1 A. Correct. We had been up on Mr. Guidry. The first interview of  
2 Ms. Franques was December 8<sup>th</sup>. We had been listening to Mr.  
3 Guidry's calls since September 21.

4 **THE COURT:** Just for the jury, what's a T3?

5 **THE WITNESS:** A wiretap.

6 **BY MR. NICKEL:**

7 Q. And we had, in fact, listened to some of those recordings  
8 earlier in this case; correct?

9 A. We did.

10 Q. Did some of those recordings show Mr. Haynes' involvement in  
11 this scheme?

12 A. Yes.

13 Q. So when you approached Ms. Franques, you had that knowledge of,  
14 for example, Mr. Leonard Franques talking to Mr. Guidry about  
15 getting Gary a truck?

16 A. Correct. There were multiple conversations intercepted,  
17 meaning the phone conversations were heard by us relative to how  
18 they were going to pay Mr. Haynes.

19 Q. Okay. You were asked on direct examination about what Mr.  
20 Guidry's understanding of the split was; correct?

21 A. Correct.

22 Q. And what Mr. Franques' understanding of what the split was;  
23 correct?

24 A. Correct.

25 Q. Mr. Haynes acknowledged, correct, during a consensual

1 recording, that him and Gary -- him and Dusty were going to split  
2 the CBT money; correct?

3 A. He did.

4 Q. Okay. You were asked on direct examination about those two  
5 things; right? Mr. Franques' knowledge of Mr. Haynes being  
6 involved; correct?

7 A. Yes.

8 Q. And specifically what his percent was?

9 A. Correct.

10 Q. And did you review calls in which Mr. Franques is asking Mr.  
11 Guidry, What's the split with Gary and what's the split with Jack?

12 A. Yes. I mean, that's one call I do specifically remember, was  
13 Mr. Franques and Dusty Guidry were talking. At the start of the  
14 year, I think they wanted to sit down with Michelle and figure out  
15 what are we doing with Jack, what are we doing with Gary, how are  
16 we going to split them.

17 **MR. NICKEL:** Judge, I would like to publish one call  
18 that's previously admitted. That's 245-001.

19 **THE COURT:** Okay.

20 (Audio recording playing.)

21 **BY MR. NICKEL:**

22 Q. Who's Big G?

23 A. Gary Haynes, the defendant.

24 Q. And what is Mr. Franques talking to Mr. Guidry about there?

25 A. About how they're going to be splitting the money.

1 Q. So if we could go back to the beginning of this call. And if  
2 you can tell us the date. What's the date on this, Agent Herman?

3 A. November 14, 2021.

4 Q. This is, in fact, before Mr. Franques started cooperating;  
5 correct?

6 A. Yes, sir, almost a month before.

7 Q. Before Mr. Guidry was ever arrested; correct?

8 A. Correct.

9 **MR. NICKEL:** I'd like to show Government's 43. I believe  
10 that it's Defense 190. It's Mr. Guidry's plea packet. If we can  
11 pull it up as Government's 43.

12 **MR. CLEMONS:** Has it been admitted?

13 **MR. NICKEL:** It's been admitted. Defense Exhibit 190 has  
14 been admitted. I would like to do the same thing we did with Mr.  
15 Franques' plea packet and admit this plea packet as Government's  
16 43.

17 **THE COURT:** Any objection?

18 **MR. CLEMONS:** Judge, I don't know what he means about the  
19 same thing.

20 **THE COURT:** It's the plea packet for Dusty Guidry, the  
21 plea packet.

22 **MR. CLEMONS:** Right. But he said do the same thing.

23 (Counsel confers off the record.)

24 **MR. CLEMONS:** Oh, no problem.

25 **THE COURT:** I'll admit it.

1           **MR. NICKEL:** Can we go directly to page 8?

2           **BY MR. NICKEL:**

3           Q. Do you see this, Agent Herman?

4           A. I do.

5           Q. What's the very first thing, the very first paragraph that Mr.  
6           Dusty Guidry's plea agreement addendum says?

7           A. (As read) "The defendant agrees to cooperate fully and  
8           truthfully in the Government's investigation into this and any  
9           other criminal matter about which the defendant has knowledge."

10          Q. Has Mr. Guidry ever been told that his testimony is contingent  
11          on Mr. Haynes being convicted of anything?

12          A. No.

13          Q. What was Mr. Guidry told his cooperation is based on?

14          A. Tell the truth.

15          Q. Okay. Showing up when you needed him to show up, answering  
16          questions when he did?

17          A. Correct. To continue to cooperate with the Government and to  
18          be truthful about it.

19          Q. Okay. You were asked a lot about being present during Mr.  
20          Franques' and Mr. Guidry's plea hearings; correct?

21          A. Yes, sir.

22          Q. And the Judge asking what they did and them describing it;  
23          correct?

24          A. Correct.

25          Q. Are they required to implicate others when they say what they

1 did?

2 A. No.

3 Q. Mr. Guidry, specifically, right, he didn't talk about a lot of  
4 people; right? He pled to three different things -- two different  
5 things: Louisiana Department of Wildlife and Fisheries, of which  
6 he was a commissioner; the PTI scheme at the 15<sup>th</sup> JDC. Correct?

7 A. Correct.

8 Q. And there was also the addendum, the GPP factual, I guess,  
9 other relevant conduct; correct?

10 A. Correct.

11 Q. And there was a lot of people involved in a lot of these  
12 things; correct?

13 A. Yes, sir.

14 Q. And some people are still being charged?

15 A. Yes, sir.

16 Q. Mr. Montoucet, how recently has he been charged?

17 A. He got charged in April/May.

18 Q. And so all of these people that Mr. Guidry had involved in, for  
19 example, Louisiana Department of Wildlife and Fisheries, he didn't  
20 mention every single one of them at his plea; correct?

21 A. No. I don't think we named any names.

22 Q. Okay. On direct examination you were asked about the provision  
23 of the plea agreement where it says, "The Government agrees not to  
24 prosecute Dusty Guidry for anything involving this criminal case";  
25 correct?

1 A. Correct.

2 Q. Does that apply to future crimes?

3 A. No.

4 Q. Does that apply to his drug case that he got pulled over for  
5 whenever you were investigating this?

6 A. No. Yeah, we have nothing to do with that case.

7 Q. Okay. Does it involve anything before this case that Mr.  
8 Guidry may have gotten into?

9 A. No. It's solely related to this investigation.

10 Q. Okay. You were asked about substantial assistance on direct  
11 examination.

12 A. Yes, I was.

13 Q. Do you make that determination?

14 A. No.

15 Q. It's a motion; correct?

16 A. It's a motion filed by the Government.

17 Q. And so does the Government decide whether it's granted?

18 A. Whether it's granted or not, no. It's a motion that's  
19 requested upon the Judge, is my understanding of it.

20 Q. You heard the defendant acknowledge -- I'm sorry, you heard Mr.  
21 Guidry acknowledge that the outcome of this case has no bearing on  
22 his cooperation; correct?

23 A. Correct.

24 Q. Mr. Guidry, in fact, had an official capacity with the  
25 Louisiana Department of Wildlife and Fisheries; correct?

1 A. Correct. He was a commissioner.

2 Q. And that's, in fact, one of the reasons he wanted Mr. Haynes to  
3 open up MD at Law?

4 A. Yes, that's correct.

5 Q. But Mr. Haynes himself said to Mr. Franques that that's where  
6 he wanted his checks from PTI, from CBT to go; correct?

7 A. That's correct.

8 Q. And when Mr. Haynes was delivered those checks by Michelle  
9 Franques, and you heard the recordings when he acknowledged to  
10 Leonard that he had gotten them, --

11 A. I did.

12 Q. -- he never said, You sent this to the wrong person?

13 A. No.

14 Q. He never said that you wrote it to the wrong LLC?

15 A. No. I think on the January 12<sup>th</sup> one they confirmed with Dusty  
16 where they wrote it to, to MD at Law.

17 Q. And even acknowledged, right, he was going to sit on them?

18 A. Yes.

19 Q. Okay. Agent Herman, you don't draft factual stipulations in  
20 the plea documents; correct?

21 A. No, sir.

22 Q. You don't draft any of that; correct?

23 A. No, sir.

24 Q. Is it sent to you to see if you even agree with it?

25 A. Sometimes. Not all of it but oftentimes the facts will be to

1 make sure that they are not way off base with something. I think  
2 -- I know in Dusty's, Dusty Guidry's plea, the factual part, you  
3 know, we had to work with. But as far as the actual plea agreement  
4 in totality and what the final copy is, absolutely not.

5 Q. Okay. I want to ask you about the Ms. Sonya Anderson's note  
6 that was pulled up. I'm not going to pull it up again.

7 **MR. NICKEL:** In fact, we can take that down.

8 **BY MR. NICKEL:**

9 Q. Do you recall where it said Mr. Guidry or Mr. Haynes was not  
10 catering to certain lawyers?

11 A. I recall where it said conflicts with lawyers. I don't  
12 remember if it said specifically Mr. Haynes.

13 Q. Sure.

14 A. But there was a part about because of conflict with lawyers.

15 Q. Sure. And it, in fact, said Mr. Sallinger's going to be  
16 handled by Dusty Guidry; correct?

17 A. I think so.

18 Q. A coconspirator in this case?

19 A. Correct.

20 Q. Who has pled guilty to having an arrangement with Mr. Franques?

21 A. Correct.

22 Q. To push defendants to CBT?

23 A. To push defendants to, yeah, Mr. Franques' online businesses  
24 and other businesses.

25 Q. At the same place that Mr. Haynes was going to get paid from in

1 January; correct?

2 A. Correct.

3 Q. Do you remember Mr. Haynes being surprised when Mr. Franques  
4 told him, "I've been paying Dusty Guidry 40 a month"?

5 A. I do.

6 Q. Do you recall Mr. Haynes' response to that?

7 A. "He's supposed to be splitting that with me."

8 Q. You were asked at the beginning of direct examination of  
9 several people who have not been charged in this case; correct?

10 A. Correct.

11 Q. Do you determine who gets charged in this case?

12 A. Not at all.

13 Q. Are you the lead case agent on this case? Or were you?

14 A. I was. I hate using that term "lead" because once you're a  
15 case agent, you're a case agent. It makes others diminish. But  
16 I've been -- yes, I'm probably the most prominent role.

17 Q. And are you the lead case agent on Jack Montoucet?

18 A. Same.

19 Q. And that takes up a lot of your time; right?

20 A. A lot, yes.

21 Q. And people are still being charged; correct?

22 A. Correct.

23 Q. The first -- I'm talking about Mr. Don Landry, the interview,  
24 the first interview that was mentioned after the search warrant at  
25 the DA's office. Do you recall that?

1 A. I do.

2 Q. And Mr. Landry, you asked him about Mr. Prejean; correct?

3 A. That first interview and you said after the search warrant.

4 You're talking about the one the night of the search warrant?

5 Q. Yes.

6 A. Yeah, I'm sure because I think we asked about all the vendors.

7 Q. Did you later find out that Mr. Landry, in fact, asked Mr.

8 Haynes to look into Mr. Prejean?

9 A. I did.

10 Q. And Mr. Landry told you that?

11 A. Yeah, Mr. Landry did, I believe.

12 Q. Okay. I want to talk about how you got to Mr. Haynes from the  
13 beginning of this investigation. Okay?

14 A. Sure.

15 Q. When did you first get a tip that something was going on at the  
16 DA's office?

17 A. The first tip was July 13<sup>th</sup> of 2021. The actual, the next day  
18 was the day we kind of got the information that it's likely going  
19 to be at the DA's office.

20 Q. Was the tip, Hey, Mr. Haynes is involved in something illegal?

21 A. No. The only person that was -- I guess the tip was about was  
22 Joe Prejean, Big Poppa.

23 Q. What was the tip about with Joe Prejean?

24 A. That he was extorting somebody with pending criminal charges at  
25 the district attorney's office for a lot of cash, basically to be

1 able to take care of their charges.

2 Q. And that's it? Mr. Prejean's name was the only name that was  
3 mentioned about extortion; correct?

4 A. Correct.

5 Q. Where did the investigation go from that cooperator tip with  
6 Mr. Prejean?

7 A. I don't want to go through the whole process. It ended up  
8 going to Dusty Guidry.

9 Q. Okay. In fact, you got a T3 wiretap authorization for Mr.  
10 Guidry; correct?

11 A. Correct.

12 Q. And not for Mr. Haynes, for Mr. Guidry; correct?

13 A. Mr. Guidry.

14 Q. And during those -- during that wiretap investigation is when  
15 Mr. Haynes popped up on your radar; correct?

16 A. Well, he had popped up a little earlier. Before we were on  
17 Dusty Guidry's telephone, listening to his, there were some  
18 indication in Mr. Prejean's wire. But he really got going in Mr.  
19 Guidry's wire.

20 Q. Okay. A lot of things got going during Mr. Guidry's wire;  
21 correct?

22 A. Understatement, yes.

23 Q. Yes. But eventually Mr. Haynes was -- you did get his bank  
24 record from MD at Law; correct?

25 A. Correct.

1 Q. And you did see that MD at Law had actually been defunct for  
2 several years; correct?

3 A. That's correct.

4 Q. And you, in fact, investigated Mr. Haynes; saw that three days  
5 after the search warrant at the DA's office, he closed his bank  
6 account associated with MD at Law. Correct?

7 A. That's correct.

8 Q. You were doing a lot of financial investigations for a lot of  
9 people; correct?

10 A. For a lot of subjects in this investigation. And I'm saying --  
11 we're saying I did. The team did. The financial. We had a whole  
12 team of financial agents and analysts working this case.

13 Q. Okay.

14 A. So yes.

15 **MR. NICKEL:** Nothing further, Your Honor. Thank you.

16 **REDIRECT EXAMINATION BY MR. CLEMONS:**

17 Q. Agent Herman, can you clarify when my client became a target of  
18 your investigation?

19 A. Sure.

20 Q. When? That's all I'm looking for, the date.

21 A. The date?

22 Q. Yes, sir. Approximate.

23 A. Oh, the approximate date. So when we were on the first Joe  
24 Prejean, 30 days of listening to him, there was a call relative to  
25 one of the defendants who they got to pay a lot of cash. They

1 talked about how they were going to break some off for Mr. Gary  
2 Haynes.

3 Q. Who is "they"?

4 A. Joe Prejean and Dusty.

5 Q. So there's a call on Prejean's wire or Dusty's wire?

6 A. It was on Prejean's wire, I'm pretty sure.

7 Q. And Prejean or Dusty said they going to allegedly break off to  
8 my client?

9 A. Right. It was \$25,000. They were talking about how to split  
10 it. And then they talked about breaking some off. I don't know if  
11 they said Gary Haynes or Big G, something like that.

12 Q. I asked you -- you said "they." Which one claimed they were  
13 breaking something off to my client? because we're hearing this for  
14 the first time.

15 A. I believe this was Joe Prejean. I believe it was Joe that said  
16 it.

17 Q. I'm sorry?

18 A. I believe it was Joe that said it. It was a discussion between  
19 the two of them.

20 Q. And did Joe Prejean -- who didn't testify this week; correct?

21 A. No, he didn't.

22 Q. And he never told you he ever gave my client a dime, did he?

23 A. Joe Prejean, not that I know of.

24 Q. Excuse me?

25 A. Not that I know of.

1 Q. He never told you -- if he told you he gave my client money,  
2 you would know of it; right?

3 A. So what he said, he gave it to Dusty and Dusty was going to  
4 give him. So Joe directly to your client, no. I have no  
5 information that Joe directly to Mr. Haynes.

6 Q. Right. Yeah, I'm talking about Joe, not Dusty. Okay.

7 So I still need an approximate date of when he became a  
8 target. You told me what you think led to it, but I want to know  
9 when he became a target.

10 A. So, I mean, that term, it's not like we list on a board a date,  
11 target. That would have been the time where, as this investigation  
12 is going on, is, Oh, Mr. Haynes is involved, too, because obviously  
13 we had identified Dusty by that point. So I'm going to give you  
14 late August 2021. No, no, no. I'm sorry. Because we got up on  
15 late August. September.

16 Q. So you're saying September of '21, he was a target?

17 A. I just think the target is the wrong term. A subject, meaning  
18 that there's indications that he could be doing something wrong.

19 Q. He was a subject of your investigation, then?

20 A. Correct. He may be involved in the conspiracy.

21 Q. And the colleagues and agents you're working with knew he was a  
22 subject of the investigation?

23 A. Yeah, I'm sure they did.

24 Q. Okay. Now, you referenced MD Law. MD Law opened May of '21;  
25 correct?

1 A. Are you talking about the account?

2 Q. The reactivation of MD Law.

3 A. With the Secretary of State?

4 Q. Right.

5 A. Yes.

6 Q. Yeah, the corporation was reactivated in May of '21?

7 A. Reactivated, yes.

8 Q. June is when the account was opened?

9 A. Yes, sir.

10 Q. And the account was closed May '22.

11 A. May 12, 2022.

12 Q. And it was designed to put money in. The money wasn't  
13 scheduled to come in until late December or January, but even as of  
14 May not a penny had come in, even though it was designed to come  
15 in; correct?

16 A. That's correct.

17 Q. Now, let's talk about Michelle Franques. We talked about the  
18 nonprosecution agreement that she rejected.

19 **MR. CLEMONS:** Can we show just the witness -- what  
20 exhibit number are we on? 277. Can we mark it, just for the  
21 record, as 277 and just show the witness?

22 **BY MR. CLEMONS:**

23 Q. I'll give you a chance to look at it. Do you remember in your  
24 original testimony we were talking about Michelle Franques and the  
25 nonprosecution immunity agreement that she turned down?

1 A. I remember talking about it.

2 Q. Does that look like it?

3 A. I don't think I ever saw it, but -- go ahead.

4 Q. But that looks like what that is, though, whether you saw it or  
5 not?

6 A. Yes. That looks like what it would be.

7 Q. It's related to this case, *U.S. versus Gary Haynes*.

8 A. *U.S. versus Gary Haynes* and in the Government's investigation  
9 into Jack Montoucet. So this would have been before Jack was  
10 indicted.

11 Q. Right. But my point is related to this investigation, this  
12 case, is all I'm saying?

13 A. It does.

14 **MR. CLEMONS:** Can we go to the bottom of the document?  
15 No, all the way to the bottom. Not that page. The entire  
16 document.

17 **BY MR. CLEMONS:**

18 Q. Just tell the jury whose names are on there.

19 A. Michelle Franques, Alexander C. Van Hook, John Luke Walker John  
20 Nickel, Lauren Gardner, and LaDonte Murphy.

21 Q. And all the people at the bottom are assistant U.S. attorneys  
22 and Mr. Van Hook is the acting U.S. Attorney; correct?

23 A. That's correct.

24 Q. Ms. Franques and also Jason Robideaux, her attorney.

25 Do you know about the date this was drafted and submitted

1 to Jason and his client?

2 A. Spring of this year, and that's an estimate.

3 Q. Yeah, that's fine.

4 A. I don't know the answer to that, but it was before Jack was  
5 indicted, based on the way it looks and it's written.

6 **THE COURT:** Mr. Herman, have you ever seen this document  
7 before?

8 **THE WITNESS:** Your Honor, I don't remember seeing it. I  
9 don't know why I would have seen it. It doesn't have to do with  
10 the FBI.

11 **MR. CLEMONS:** Your Honor, at this time I'd like to offer  
12 277.

13 **MR. NICKEL:** Objection, Your Honor. It's outside the  
14 scope of cross-examination, as well as he hasn't laid a foundation  
15 for this witness to get it into evidence. He's never seen it.

16 **MR. CLEMONS:** Judge, I don't think it's outside the  
17 scope. He questioned him extensively about Michelle Franques,  
18 about the corrections that she made, and whether she had some  
19 incentive. He trying to imply whether she had some incentive to  
20 try to help her husband who had been indicted and she had not been  
21 indicted. I think the jury's got a right to know that a  
22 nonprosecution agreement was offered to her and what it says. I  
23 mean, they're not disputing the authenticity of the document. We  
24 got the document from the Government.

25 **THE COURT:** What's the witness' relationship with the

1 document, though, Mr. Clemons? That's the problem. He had never  
2 seen it before.

3 **MR. CLEMONS:** Because he was case agent in both cases  
4 that are referenced, the Wildlife and Fisheries case and the Gary  
5 Haynes case. That's his connection.

6 **MR. NICKEL:** That doesn't mean he has seen every single  
7 document associated with this case.

8 **MR. CLEMONS:** But he doesn't have to see it to be  
9 relevant, Judge. I'm not saying he saw it. He's saying he may  
10 have seen it, may have not.

11 **THE COURT:** Approach the sidebar.

12 (Begin bench conference.)

13 **THE COURT:** What part of the agreement are you trying to  
14 reference?

15 **MR. CLEMONS:** I just want to get the agreement in. It's  
16 just a three-page agreement. There's no particular part I want to  
17 reference. I just want the jury to have a right to see the actual  
18 agreement that she rejected. There's no part I want to go into,  
19 Your Honor.

20 **THE COURT:** This witness has said that she was offered  
21 one and that I don't know what else we can do. We can't  
22 authenticate the document with this witness. The witness can't  
23 answer any questions about it because he has never seen it before.  
24 So I don't think it's admissible.

25 **MR. WALKER:** Your Honor, can I say one other thing? The

1 defense should not say, "I think the jury has the right to see this  
2 document." That's inappropriate. He said that. That's how he  
3 responded to the objection. "I think the jury has the right to see  
4 this document." That's inappropriate.

5 **THE COURT:** I'm not going to let it in.

6 (End bench conference.)

7 **BY MR. CLEMONS:**

8 Q. Mr. Herman, you recall Mr. Nickel questioning you about  
9 Michelle Franques and when she made the correction e-mail; correct?

10 **MR. CLEMONS:** You can take that down, Mr. Douget.

11 **THE WITNESS:** The correction document?

12 **BY MR. CLEMONS:**

13 Q. Right. I thought it was in the form of an e-mail that was  
14 typed up and brought to the U.S. Attorney's Office.

15 A. It was a typed document. I don't know if it was e-mailed or  
16 brought.

17 Q. Yeah. I saw an e-mail thread, that's why I was referring to it  
18 as an e-mail.

19 But, anyway, at the time she gave her first interview, on  
20 December 8<sup>th</sup> of '21 -- the document, whenever it was drafted, was to  
21 correct what she thought was flawed in her first interview;  
22 correct?

23 A. I would assume.

24 Q. You would assume? Doesn't she clearly address the first 302?

25 That's the whole purpose of her sending the corrections, to address

1 the December 8<sup>th</sup> 302?

2 A. It can be. I can't get inside of Michelle Franques' mind. So  
3 that's how I would take it, is that she typed it related to her  
4 first interview.

5 Q. You say you can't get in her mind, but doesn't she say, These  
6 are the corrections I want to make to the 302 from my first  
7 interview?

8 A. Yes.

9 Q. Okay. And at the time she did her first interview, her husband  
10 was not an informant for the FBI, was he?

11 A. No, sir.

12 Q. At the time she made her first interview that she had to  
13 strongly correct, her husband had not pled guilty and agreed to  
14 cooperate with the FBI; correct?

15 A. Correct.

16 Q. And her husband has pled guilty and he is still pending  
17 sentence in this court; correct?

18 A. Correct.

19 Q. So you're not aware of any -- and her and her husband are still  
20 together as far as you know; correct?

21 A. Correct.

22 Q. And you've seen them up here at court together this week;  
23 correct?

24 A. I haven't seen them together. I have seen them.

25 Q. Both up here?

1 A. Both up here, not together.

2 Q. Right.

3 A. I don't know if they're together or not.

4 Q. But my point is: You have no reason to believe she would want  
5 to intentionally do something to alienate the Government when her  
6 husband still hasn't been sentenced; correct?

7 A. I wouldn't think so.

8 Q. Now, Mr. Nickel's asked you about -- he initially asked you  
9 about whether our position was that our client invested in  
10 legitimate businesses. Do you remember that?

11 A. I do.

12 Q. And legitimate businesses, for example, the Wildlife and  
13 Fisheries online courses where people can take courses in order to  
14 get their boating and fishing license online, that, in and of  
15 itself, is a legitimate business; correct?

16 A. In and of itself, if you don't know how that contract was  
17 obtained, is legitimate. If you know the insides, then I can't say  
18 that it's legitimate.

19 Q. Nothing about how the contract was obtained. I'm talking about  
20 the business itself. Not how the business got obtained or the  
21 contract. I understand the Government's position. It was a no-bid  
22 contract and Mr. Montoucet gave him preferential treatment. I'm  
23 talking about the business of doing online courses to get your  
24 boating and fishing license and somebody charging a legitimate fee  
25 for those courses --

1 A. Right.

2 Q. -- is a legitimate business?

3 A. Right. And I know we have done this every time. In and of  
4 itself, it could be legitimate.

5 Q. Okay. Same thing with a credit card processing company, GPP.  
6 From all indications, it wasn't a well-run operation because  
7 everybody stopped using it; but using a processing company to  
8 process credit cards, get compensated a fee for it, is a legitimate  
9 business?

10 A. In and of itself, the business is legitimate. That being a  
11 third-party processor.

12 Q. And even Midway Media and the companies -- they ran several  
13 companies through Midway Media; correct?

14 A. Correct.

15 Q. And CBT courses are legitimate courses in furtherance of a PTI  
16 program to offer help to people who may need that help in return  
17 for a fee; correct?

18 A. Correct.

19 **MR. CLEMONS:** That's all I have, Your Honor.

20 **THE COURT:** All right. Special Agent Herman, you may  
21 step down. Thank you, sir.

22 Mr. Clemons?

23 **MR. CLEMONS:** We're talking about some records that Mr.  
24 Johnson had offered. Can you say whether they're in or not?

25 **THE COURT:** Sure.

1           **MR. CLEMONS:** Because I think we want to get them in.  
2 I'm not sure if they are.

3           **MR. JOHNSON:** They're the rejection forms, Your Honor.

4           **MR. CLEMONS:** That we talked about at sidebar.

5           **THE COURT:** Let's approach the sidebar real quick.

6 (Begin bench conference.)

7           **THE COURT:** Mr. Johnson, do you have the Bates number?  
8 First of all, what's the defense exhibit number?

9           **MR. JOHNSON:** 11.

10          **THE COURT:** And do you have the Bates number you would  
11 like admitted?

12          **MR. WALKER:** Your Honor, it's our position if they're  
13 going to introduce because --

14          **THE COURT:** You want to introduce them all?

15          **MR. WALKER:** Let's introduce them all.

16          **THE COURT:** Defense 11 will be admitted. Is there  
17 anything that needs to be altered from that exhibit or taken away?

18          **MR. JOHNSON:** I don't think so. I can flip through it.  
19 We just copied 990 pages. I thought we were going to have a  
20 discussion about it. But that's fine. I don't mind introducing  
21 the whole thing.

22          **MR. WALKER:** I'd say just introduce the whole thing.

23          **THE COURT:** Defense 11 is admitted, Lisa.

24          **MR. WALKER:** Can I ask one other thing?

25          **THE COURT:** Yeah.

1           **MR. WALKER:** So we redact out all the personal  
2 identifying information. Maybe there's none on there.

3           **MR. JOHNSON:** I didn't do that.

4           **MR. WALKER:** You're supposed to.

5           **MR. CLEMONS:** He just said he wants them all in.

6           **MR. WALKER:** I don't have any opposition to it.

7           **MR. LOEW:** You didn't do it on any of them, did you?

8           **MR. JOHNSON:** No.

9           **MR. WALKER:** Judge, it's introduced. We can move that it  
10 be sealed at the conclusion of the trial.

11           **THE COURT:** What we'll do is we'll introduce it as a  
12 sealed exhibit and --

13           **MR. JOHNSON:** It's all public information; right? It's  
14 state versus whatever the client's name is.

15           **MR. WALKER:** It has personally identifiable information.  
16 It's got anything like that, that's all personal information.

17           **MR. JOHNSON:** I think it's just state versus the client's  
18 name. I don't think it actually has any -- I mean, it's fine. We  
19 can do it under seal.

20           **THE COURT:** We'll enter the exhibit under seal. I don't  
21 see that there is much in those documents except stuff that's PII,  
22 frankly. So we'll enter the whole thing under seal.

23           (End bench conference.)

24           **THE COURT:** Anything other than that, Mr. Clemons?

25           **MR. CLEMONS:** With that, the defense rests it's case.

1           **THE COURT:** Does the Government rest its entire case?

2           **MR. WALKER:** We do, Your Honor.

3           Ladies and gentlemen of the jury, you have now heard all  
4 of the evidence in this case. Tomorrow morning, I will, first  
5 thing at 9:00 in the morning, I will begin instructing you on the  
6 law. I have directed that additional copies of my instructions  
7 will be printed out for you to take into the deliberation room. So  
8 you should pay attention, but it is a lot of information. I'm just  
9 telling you, you will have copies of those instructions in the jury  
10 room, as well.

11           You have now heard all the evidence in the case.  
12 Tomorrow after my instructions you will hear closing arguments from  
13 the Government and then the defendant. And then the Government,  
14 since it has the burden of proof, has the right to do what we call  
15 a rebuttal closing argument. So that's the order: Government,  
16 defendant, Government. And at that point I will send you in to  
17 deliberations until you reach a verdict.

18           But for now, again, don't discuss the case. Although  
19 we've heard all the evidence, your job is still very much in play  
20 and I ask that you not discuss this case with anybody else. I ask  
21 that you not watch the local news. It's very important that you  
22 maintain your isolation from any external influences and just  
23 direct your attention to what's been presented here in court.

24           Thank you so much for your attention and we'll see you  
25 tomorrow morning. All rise for the jury.

1 (Jury not present.)

2 **THE COURT:** You can be seated. I think our courtroom  
3 deputy, Ms. Lacombe, is waiting on the Government to provide the  
4 audio clips and form that can go back to the jury as part of the  
5 evidence. Ms. Lacombe, is there any other evidence that's been  
6 admitted that you don't have and aren't able to send back tomorrow?

7 **THE DEPUTY CLERK:** No, sir. Both of the defense and the  
8 Government have approved the exhibit lists and I think we're good  
9 to go.

10 **THE COURT:** Okay. Anything else?

11 **MR. WALKER:** Is it possible, Your Honor -- I know that  
12 the jury is not here -- that the defense -- I just don't want to do  
13 this in open court. Could we approach the sidebar to say something  
14 very quickly.

15 **THE DEPUTY CLERK:** With the caveat, both of those plea  
16 agreements are on top for them to alter.

17 **THE COURT:** The plea agreements need still to be redacted  
18 as instructed.

19 **THE DEPUTY CLERK:** That's it.

20 **THE COURT:** And that's the Government's plea agreements  
21 for Guidry and Franques and the defendant's plea agreements for  
22 Guidry and Franques.

23 **THE DEPUTY CLERK:** That's correct.

24 **THE COURT:** Let's go to sidebar.

25 (Begin bench conference.)

1           **THE COURT:** You want electronic copies of the redacted  
2 plea packet?

3           **THE DEPUTY CLERK:** I need a copy to go back to the jury  
4 and then I'll need electronic on the jump drive. For now, I just  
5 need whatever is going back to the jury.

6           **THE COURT:** Physical copies of what's going back to the  
7 jury for now. Redacting the maximum penalties for each count.

8           **MR. CLEMONS:** And I think John is going to do both.

9           **MR. NICKEL:** For y'all, it's 190 and 192.

10          **THE COURT:** It should be a very easy, easy task.

11          **MR. WALKER:** So this is just a thing and I want to say it  
12 not in the presence of everybody.

13          **MR. CLEMONS:** We need it on the record?

14          **MR. WALKER:** Well, kind of. It should be on the record.  
15 Mr. Clemons, in the past, in cases that I have  
16 prosecuted, in doing his closing arguments --

17          **THE COURT:** This is character evidence?

18          **MR. WALKER:** No. He tends to address the jurors by name.  
19 So he'll say, Mr. Jones, this, or Ms. Smith, whatever. He uses  
20 their names. I think that's not appropriate. The Court doesn't  
21 address jurors by name when we're talking. We refer to the jurors.

22          **THE COURT:** Yeah, the jury should be addressed as a whole  
23 by both Government and defense counsel.

24          **MR. WALKER:** Thank you. That's all I have.

25          **THE DEPUTY CLERK:** Are there any demonstratives for

1 closings?

2 **MR. NICKEL:** Yes, I have one.

3 **THE COURT:** Have the demonstratives been exchanged? What  
4 are the demonstratives? Just evidence that's been admitted?

5 **MR. NICKEL:** Yes.

6 **THE COURT:** Do you have any demonstratives? I assume  
7 you're doing the close, Mr. Clemons.

8 **MR. CLEMONS:** Why you assume that, Judge?

9 **THE COURT:** Not that Mr. Johnson --

10 **MR. CLEMONS:** Yeah, I'm going to do it, Judge. We have a  
11 couple of charts. We have already exchanged them. I'm not sure  
12 because my one hour is going to go fast. If we do, we do have some  
13 demonstratives that we have already given to the Government. I'm  
14 not saying I'm going to use them, but we've exchanged those two  
15 weeks ago.

16 **THE COURT:** Make sure anything -- you don't have to give  
17 your whole presentation, but anything you were going to include in  
18 a visual needs to be exchanged and I need to have a chance to rule  
19 on any objections to them.

20 **MR. CLEMONS:** And that's my point. I have already done  
21 that. Now, there may be some exhibits, just like the Government,  
22 that we would use that's already in evidence.

23 **THE COURT:** That's fine.

24 **MR. NICKEL:** Mine's all exhibits that have already been  
25 in evidence.

1           **THE COURT:** I'm guessing you are doing the first close  
2 and Luke's going to do the second close.

3           **MR. NICKEL:** Got that right.

4           **THE COURT:** Am I three for three?

5           **MR. WALKER:** You're knocking it out of the park.

6           You have a PowerPoint. So I don't know if we can do an  
7 exchange of PowerPoint.

8           **MR. NICKEL:** I have not, but there's no demonstratives.  
9 It's just all exhibits --

10          **MR. JOHNSON:** I'll take a look. I'd like a copy of it.  
11 I mean, if it goes in front of the jury and for some reason we see  
12 an error, I don't want to stand up and object in your closing  
13 argument.

14          **THE COURT:** Do you have -- if so, then the parties can  
15 just exchange demonstratives.

16          **MR. CLEMONS:** We have already sent the charts and I don't  
17 even think we are going to use it.

18          **THE COURT:** Is there a PowerPoint?

19          **THE DEPUTY CLERK:** The Government has a PowerPoint.

20          **MR. NICKEL:** It has no demonstratives in it. It's just  
21 exhibits that have previously -- it's the jury instructions that we  
22 typed. It's the indictment and it's the exhibits.

23          **THE COURT:** Okay.

24          **MR. JOHNSON:** Again, I'm not saying it's got an error,  
25 but I don't want anything happening live. So I don't understand.

1 Just e-mail it to me and let me take a look at it. What's the  
2 problem there?

3 **MR. NICKEL:** I don't want to exchange closing arguments.

4 **MR. JOHNSON:** Oh, that's not closing arguments. That's  
5 just exhibits.

6 **THE COURT:** I'm not going to make -- it probably goes  
7 through entire closing, so I'm not going to make the parties do  
8 that unless it's on equal footing. If it's on equal footing, then  
9 I'll allow.

10 **MR. JOHNSON:** Remember to bring a slide show next time.

11 **THE COURT:** No one wants an objection during their  
12 closing. So, I mean, that's the risk if you don't exchange them.

13 **MR. CLEMONS:** And I don't have a PowerPoint, Judge.

14 **MR. NICKEL:** Like, everything that is going to be in  
15 there is an exhibit, the indictment, or the jury instructions.  
16 Everything that's going back with the jury.

17 **MR. CLEMONS:** Judge, I would be shocked if I need to  
18 object to somebody's closing. I don't have a PowerPoint, so  
19 there's nothing for me to exchange. It's all up here and at some  
20 point it's going to get on some paper.

21 **THE COURT:** Very good. We will be in recess until 9:00  
22 tomorrow morning.

23 (End bench conference.)

24 **THE COURT:** Let's open court at 8:45. I don't anticipate  
25 there's anymore changes to anymore suggestions, but if you see any

