

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

Case No. 8:19-cv-00886-VMC-SPF

OASIS INTERNATIONAL GROUP
LIMITED; OASIS MANAGEMENT, LLC;
SATELLITE HOLDINGS COMPANY;
MICHAEL J. DACORTA; JOSEPH S.
ANILE, II; RAYMOND P. MONTIE, III;
FRANCISCO "FRANK" L. DURAN; and
JOHN J. HAAS,

Defendants,

and

MAINSTREAM FUND SERVICES, INC.;
BOWLING GREEN CAPITAL
MANAGEMENT LLC; LAGOON
INVESTMENTS, INC.; ROAR OF THE
LION FITNESS, LLC; 444 GULF OF
MEXICO DRIVE, LLC; 4064 FOUNDERS
CLUB DRIVE, LLC; 6922 LACANTERA
CIRCLE, LLC; 13318 LOST KEY PLACE,
LLC; and 4OAKS LLC,

Relief Defendants.

**MOTION FOR SUMMARY JUDGMENT ON BEHALF OF DEFENDANT
MICHAEL J. DACORTA**

MOTION FOR SUMMARY JUDGMENT

COMES NOW, Defendant, **Michael J. DaCorta** (hereinafter “DaCorta”) by and through his undersigned Attorney Ronald J. Kurpiers, II of Kurpiers Law Firm, P.A. who hereby moves this Honorable Court for Summary Judgment in the above-captioned matter pursuant to Rule 56 of the Federal Rules of Civil Procedure.

In support of this motion, Mr. DaCorta submits the following memorandum of law and supporting trial testimony, affidavits and exhibits showing Mr. DaCorta is entitled to Summary Judgment on the Plaintiff’s First Amended Complaint.

INTRODUCTION

This case involves a dispute between Commodity Futures Trading Commission (“CFTC”) and Michael J. DaCorta as well as other named Defendants regarding allegations that Mr. DaCorta and others ran a “Ponzi Scheme” and acted in violation of Federal Statutes listed hereinbelow.

Plaintiff’s First Amended Complaint (Doc. 110) alleges the following:

Count One: Violations of Section 4b(a)(2)(A)-(C) of the Act, 7 U.S.C. § 6b(a)(2)(A)-(C) (2012) and Regulation 5.2(b), 17 C.F.R. § 5.2(b)(1)-(3). (2018) (Forex Fraud by Misrepresentations, Omissions, False Statements, and Misappropriation) (All Defendants).

Count Two: Violations of Section 4o(1)(A)-(B) of the Act, 7 U.S.C. § 6o(1)(A)-(B); (Fraud and Deceit by Commodity Pool Operator's (CPO) and Associated Person's (AP) of Commodity Pool Operator's(CPO)) (All Defendants).

Count Three: Violations of Sections 2(c)(2)(C)(iii)(I)(cc), 4k(2), 4m(1) of the Act, 7 U.S.C. §§ 2(c)(2)(C)(iii)(I)(cc), 6k(2), 6m(1) (2012) and Regulations 5.3(a)(2), 17 C.F.R. § 5.3(a)(2) (Failure to Register as a CPO and Retail Forex CPO and AP of a CPO and AP of Retail Forex CPO) (All Defendants).

Count Four: Violations of Regulation 4.20(b)-(c), 17 C.F.R. § 4.2(b)-(c) (2018) (Failure to Receive Pool Funds in Pools' Names and Commingling Pool Funds) (Defendants OIG, OM, Satellite Holdings, **DaCorta**, Anile, Montie and Haas).

Count Five: Violations of Regulation 4.21, 17 C.F.R. § 4.21 (2018) (Failure to Provide Pool Disclosures) (Defendants OIG, OM, Satellite Holdings, **DaCorta**, Anile, Montie and Haas).

The evidence before this Honorable Court shows the allegations within the First Amended Complaint are based upon (1) incomplete financial evidence; (2) omissions of corporate assets; (3) incomplete calculations of Oasis International Group Ltd's ("OIG") solvency; (4) Plaintiff's failure to provide a balance sheet for Oasis Management LLC ("OM") and OIG; (5) a misunderstanding of operations of OM and OIG; and (6) unsupported presumptive opinions.

Mr. DaCorta argues the material facts of this case are not in dispute. Discovery is closed as of June 16, 2023 pursuant to this Honorable Court's Case Management and Scheduling Order (Doc. #657). Plaintiff has failed to establish a dispute of material facts and is unable to produce admissible evidence to support its claim. Based on the undisputed facts and applicable law, Michael J. DaCorta is entitled to Summary Judgment as a matter of law.

RELEVANT PROCEDURAL HISTORY

1. In accord with Federal Rules of Evidence and established case law, the record shows Oasis Management LLC (OM) and Oasis International Group LTD (OIG) were never insolvent.¹ Therefore, Mr. DaCorta did not make Ponzi or “Ponzi-like” payments. (*See Exhibits JP-B & JP-C*) as alleged in the First Amended Complaint.

2. On April 15, 2019, Plaintiff, Commodity Futures Trading Commission, (hereinafter “CFTC”) filed a multiple count civil Complaint alleging Injunctive Relief, Civil Monetary Penalties, Restitution, Disgorgement and Other Equitable Relief. (Doc. #1). Also on April 15, 2019, Plaintiff filed a Motion for Statutory Restraining Order, Motion for Preliminary Injunction containing various exhibits and declarations (Doc. #4).

3. On June 12, 2019, Plaintiff, CFTC filed their First Amended multiple count Complaint alleging Injunctive Relief, Civil Monetary Penalties, Restitution, Disgorgement and Other Equitable Relief. (Doc. #110).

4. On June 26, 2019, the United States through Assistant United States Attorney Rachelle DesVaux Bedke filed her *Notice of Appearance* and *Motion to*

¹ *In re Thomas Aircraft Parts Co., Inc.*, No. 05-24182-BKC-JKO, ADV. NO. 06-1542-BKC-JKO-A, at *6 (Bankr. S.D. Fla. Dec. 12, 2006) (“An entity is “insolvent” when “the sum of . . . [an] entity’s debts is greater than all of such entity’s property, at a fair valuation. . . .” 11 U.S.C. § 101(32)(A).”)

Intervene on behalf of the United States (Doc. #147) and filed a *Motion to Stay all Proceedings* pending conclusion of the Criminal matter pending in Case No. 8:19-cr-605. (Doc. ## 148 and 149).

5. On July 12, 2019 this Honorable Court granted the United States Motion to Intervene and Motion to Stay until January 6, 2020 when the stay would be automatically lifted. (Doc. #179).

6. On January 6, 2020, the United States filed their Motion to Extend the Stay of the Civil Proceedings (Doc. #213) and on January 7, 2020, filed an Amended Motion to Stay. (Doc. #215). On January 28, 2020, the Court granted the United States' Motion to Extend the Stay in the Civil Proceedings until July 2020. (Doc. #228).

7 On July 16, 2020, the United States filed their Motion to Extend the Stay in the Civil Proceedings. (Doc. #282). On July 24, 2020, the Court granted the United States Motion to Extend the Stay and have the civil proceedings remain administratively closed until January 2021. (Doc. #290).

8. On January 19, 2021, the United States filed their Motion for Further Extension of the Stay of Civil Proceedings. (Doc. #353). On January 19, 2021, the Court granted the United States Further Motion to Stay until July 2021. (Doc. # 354).

9. On July 26, 2021, the United States filed their Motion to Further Extend the Stay in the Civil Proceedings. (Doc. #418). On July 27, 2021, the Court granted the United States Motion for Further stay until January 24, 2022. (Doc. #418).

10. On January 24, 2022, the Stay was automatically lifted in this matter.

11. In 2011, Mr. DaCorta incorporated Oasis Management, LLC (**OM**) a Wyoming Limited Liability Corporation for which Mr. DaCorta was General Partner and Chief Executive Officer (CEO) from November 11, 2011 to April 15, 2019.

12. In June 2012, Mr. DaCorta hired securities Attorney Joseph S. Anile, II (hereinafter "Attorney Anile"). Mr. DaCorta trusted and relied solely on Attorney Anile regarding all legal matters, business and personal, for himself, OIG, and OM. Attorney Anile was previously counsel to Lehman Brothers, Inc. from January 1, 2014 through April 24, 2019. This led the Mr. DaCorta to have trust, confidence, and faith in Attorney Anile's professional work and advice.

13. Mr. DaCorta paid Attorney Anile for his services through Bowling Green Capital Management, which was Attorney Anile's personal LLC. Attorney Anile and his wife, Mary Anne Anile were the only signatories on their Bowling Green Capital Management LLC Account.

14. In 2012, Attorney Anile incorporated two (2) broker-dealers: Oasis Global FX, Ltd., ²(OGLtd) in New Zealand and Oasis Global FX, S.A. (“OGSA”) in the country of Belize. Each of these entities were licensed foreign-currency-exchange dealers.

15. Mr. DaCorta never solicited funds for OGLtd or OGSA.

16. In March 2013, Attorney Anile incorporated Oasis International Group, Ltd (OIG), a Cayman Islands Limited Corporation, for which Mr. DaCorta was CEO from March 1, 2013 to April 15, 2019.³

17. The facts show OIG was a diversified corporation engaged in investments designed to produce varied revenue streams from real-estate purchases and sales; business purchases, operations, and sales; Foreign Exchange (Forex) Trading; precious metal investing, along with other endeavors.

18. OM and OIG collateralized all properties they owned through ATC Brokers in London.

19. OIG was the sole customer of Broker-dealers OGLtd and OGSA. OIG did not trade for any individual resident of the United States or any group of residents in the United States in any capacity.

² On June 30, 2015, OGLtd was dissolved.

³ The name of each of the following limited liability companies use the address of the real estate the LLC owns for the LLC’s name. Further, OIG owned all the interest in each of these limited liability companies: 444 Gulf of Mexico Drive, LLC; 4064 Founders Club Drive, LLC; 4058 Founders Club Drive, LLC; 7312 Desert Ridge Glen; 6300 Midnight Pass Road; 13318 Lost Key Place, LLC and Lagoon Investments, LLC the office building.

20. OGLtd or OGSA did no retail forex transactions.⁴

21. At all times relevant, both OM and OIG were neither insolvent, nor about to be insolvent, nor dissolved; nor did Oasis forfeit any of its corporate rights, nor fail to lawfully meet any financial obligation.

22. Up until April 18, 2019, when the Court Appointed Receiver, Burton Wiand, Esq. shut down OIG, every lender signed a Promissory Note and Loan Agreement (“PNLA”) and “Agreement and Risk Disclosure” (“ARD”). If any lender did not sign these documents, OIG returned their loan in full. Those Agreements are attached and incorporate herein as Defendants *S.J. Exhibit 1*.

TRIAL TESTIMONY OF KEVIN JOHNSON

**USA v. Michael DaCorta in United States District Court for the Middle District
of Florida, Tampa Division in Case No. 8:19-cr-605
(Trial Testimony (“T.T.”) Day 12, May 3, 2023 (Document 223, Pages 127-177))**

Mr. Johnson resides at 205 Appletree Lane, Clarks Summit, South Abington, Pennsylvania. (Doc. 223, T.T. Page 127, lines 11-12).

At some point in time around 2017 Mr. Johnson became aware of an investment opportunity through a company called Oasis International Group (OIG). (Doc. 223, T.T. Page 130, lines 7-13). Mr. Johnson became familiar with OIG through a friend known as “Ray Montie” (Doc. 223, T.T. Page 130, lines 14-16) who

⁴ OGLtd and OGSA set the spread price for trades executed exclusively for Oasis International Group, LLC (“OIG”) and Oasis Management, LLC (“OM”).

he had been friends since the 1990's. Mr. Johnson worked as a consultant with a company that Ray Montie was associated with called Ambit Energy. (Doc. 223, T.T. Page 130, lines 19-22).

Mr. Johnson's understood OIG's investment was an opportunity to put money into an investment that was going to be diverse in many ways and probably a better return on his money than putting it into a checking account. He was under the impression the company was not just generating money from trading but also from real estate investments, from silver, gold, and other things going on. (Doc. 223, T.T. Page 132, lines 3-9). Mr. Johnson understood he could invest whatever he wanted to invest and there would be either a monthly or annual minimum of 12 percent rate of return with the possibility of a larger upside as well. (Doc. 223, T.T. Page 133, lines 23-25 and Page 134, line 1).

Mr. Johnson believed his investment was different from other investments he had participated in it was diversified with many revenue streams or opportunities like silver, real estate, and whatever else generated money. (Doc. 223, T.T. Page 134, lines 13-16).

Mr. Johnson was just a lender to the company who lent his money with a promissory note that would receive a minimum of 12 percent with a possibility of a greater upside. And there were many avenues of revenue stream. (Doc. 223,

T.T. Page 136, lines 4-8). Mr. Johnson loaned \$15,000 to OIG and his now wife loaned \$17,000. (Doc. 223, T.T. Page 138, lines 9-18).

Mr. Johnson and his wife had conversations with Mr. DaCorta and Mr. DaCorta answered all questions about the investment and was very transparent. (Doc. 223, T.T. Page 139, lines 15-19).

Mr. Johnson had previously worked in the real estate industry and he was more confident in his investment knowing OIG was investing in real estate as well. (Doc. 223, T.T. Page 140, lines 9-14).

Mr. Johnson was not concerned a portion of his investment money was being used to buy gold and silver as that made him more comfortable. (Doc. 223, T.T. Page 140, lines 18-22).

Mr. Johnson was also told some of the loan amount would be used to invest in start-up companies and he did not object as this was proof of further diversity of the investments. (Doc. 223, T.T. Page 141, lines 8-19).

Mr. Johnson testified whenever he or his wife needed money from their investment, they would submit a form to request the money and there was a time-frame it could be returned to them and they did that. They requested money on two to three occasions, including interest payments and the return came back always faster than what the promissory note had said. They never had any

problems getting their money back. (Doc. 223, T.T. Page 141, lines 23-25 and Page 142, lines 1-8, Page 149, lines 24-25).

Mr. Johnson was not troubled to learn that OIG used lender funds to host and pay for a holiday party. (Doc. 223, T.T. Page 151, lines 1-6).

Mr. Johnson's understanding as to Attorney Anile's role at OIG was, he was the attorney, legal counsel for the company. (Doc. 223, T.T. Page 151, lines 21-24).

Mr. Johnson referred others to the Oasis loan investment opportunity including his wife and two others. (Doc. 223, T.T. Page 154, lines 12-14).

The reason Mr. Johnson loaned money is because it was a very diverse situation and not just based on one type of way to generate income. (Doc. 223, T.T. Page 156, lines 19-21). Mr. Johnson was not concerned with how OIG was going to be able to repay the principal and interest. (Doc. 223, T.T. Page 157, lines 1-3).

Mr. Johnson's decision to loan money to OIG would not have been affected if he learned that the spread revenue that was being generated to determine whether the investor was getting the 1 percent per month or higher interest was being funded through lenders' money, in other words, the spread and the interest he was getting was part and parcel from loan money. (Doc. 223, T.T. Page 157, lines 4-10). The reason he was not concerned was because of the diversity in the different investments that were going on in OIG. He knew it was a very involved operation that was generating money from many different sources and his biggest

concern was that he knew he would get what was promised back to him in his promissory note and there was a bigger picture with this investment rather than just what was based on the trading. (Doc. 223, T.T. Page 157, lines 13-18). The main reason for Mr. Johnson's investment/loan was based on the diversity of the company. (Doc. 223, T.T. Page 160, lines 13-16).

Mr. Johnson identified his overall summary of the daily activity of the trades associated with his personal account, withdrawals, spreads, deposits, things pertaining to the business's daily activity of trading. It only showed him the daily interest that he was getting. As an investor that was really all he cared about. (Doc. 223, T.T. Page 165, lines 7-17).

SWORN DECLARATION OF JASON MCKEE
Defendants S.J. Ex. 2

In approximately 2017 Jason McKee became involved in a company known as "Ambit Energy" which was a direct sales company who sold electricity to customers. (Sworn Declaration of Jason McKee ¶ 3). While working for Ambit Energy, Mr. McKee became familiar with various friends who had invested in a new company known as "Oasis International Group (hereinafter "OIG"). Mr. McKee understood OIG was a "diversified company" that you could loan money to the company and receive a good rate of return. He understood the diversified company would invest in forex trading, real estate investments, purchasing and selling gold and silver and buying into different businesses and companies.

(Sworn Declaration of Jason McKee ¶ 4). Mr. McKee personally spoke to Michael DaCorta and Ray Montie regarding the investment opportunities and the background of OIG. (Sworn Declaration of Jason McKee ¶ 6). Mr. McKee understood the OIG investment was through a loan program through a Promissory Note which would provide an annual rate of return of 12% or 25% of the transaction fees that the company generated. (Sworn Declaration of Jason McKee ¶ 7).

During Mr. McKee's involvement with OIG, he personally met Attorney Anile who was the attorney for OIG. Mr. McKee had previously known Ray Monte but also met office employee Deborah Cheslow and Joseph Paniagua. (Sworn Declaration of Jason McKee ¶ 9)

Mr. McKee personally loaned \$323,000 to OIG after he signed a Promissory Note with the same terms as previously referenced herein. (Sworn Declaration of Jason McKee ¶ 10). After his initial loan Mr. McKee was able to log into a website and access what the daily interest created. Mr. McKee was not able to view any trading information but did not care as his loan to OIG was to make money and do whatever was done to make money on the loaned amount. (Sworn Declaration of Jason McKee ¶ 11). Mr. McKee personally withdrew from OIG \$33,000.00 in interest with no problems and/or issues at all. (Sworn Declaration of Jason McKee ¶ 12). Mr. McKee personally did not care how his money was used, or invested so

long as there was a return on his money he loaned. (Sworn Declaration of Jason McKee ¶ 13)

Mr. McKee loaned OIG his money. He did not care what they did with it, and he did not care about what licenses OIG had or needed to have. Mr. McKee was under a loan agreement. He did not care about profits and losses. Mr. McKee knew hundreds of people who had loaned money to this company and nobody had ever had a problem getting their money back or nobody he knew filed a complaint against the company. (Sworn Declaration of Jason McKee ¶ 16)

Mr. McKee personally believes that the reason that neither him nor his friends and family have not received their investment back is because of the government intervention. (Sworn Declaration of Jason McKee ¶ 18)

Mr. McKee did not require Michael DaCorta to inform him of trading losses as it was his business and if he met his obligation to Mr. McKee, he was ok with that. (Sworn Declaration of Jason McKee ¶ 19)

SWORN DECLARATION OF JOHN PANIAGUA

Defendants S.J. Ex. 3

John Paniagua holds a Bachelor's degree from New York Institute of Technology; a Masters in Science degree from Columbia University and a Ph.D. in Mechanical Engineering from the State University of New York at Stony Brook. (Sworn Declaration of John Paniagua, ¶2).

John Paniagua is certified as a professional risk management in finance. (Sworn Declaration of John Paniagua, ¶3).

Mr. Paniagua is currently employed at KKR and possess 25 years of professional experience in financial services, including 17 years in the New York Stock Exchange Regulation Technology Group. KKR is a private equity firm in New York City that raises capital using risk management techniques and they do investments across major lines of business including insurance, real estate companies and buy and restructure companies then take them public. (Sworn Declaration of John Paniagua, ¶4). Mr. Paniagua has worked at the New York Stock Exchange as a consultant in the year 2004 and he became a full-time employee in 2007 when he was working in regulation technology. (Sworn Declaration of John Paniagua, ¶5). Mr. Paniagua ran the Market Surveillance Technology team that developed over 100+ market surveillances to monitor the trading markets at the New York Stock Exchange (“NYSE”). (Sworn Declaration of John Paniagua, ¶6).

Mr. Paniagua holds a Series 65 certification for the Registered Investment Advisor (“RIA”) Uniform Law Examination in New York State, which certification covers investment vehicles, regulation, ethical practices, and economics for wealth-management services, including analysis of balance sheets, income statements, and cash-flow statements. (Sworn Declaration of John Paniagua, ¶8).

Attached is his analysis of the accounts associated with OIG and, if required, to testify in court regarding these facts Mr. Paniagua is prepared to do so. (Sworn Declaration of John Paniagua, ¶9).

Mr. Paniagua testified at the Trial of *USA v. Michael DaCorta* in United States District Court for the Middle District of Florida, in Case No. 8:19-cr-605 on May 3, 2023. Mr. Paniagua testified on behalf of Mr. DaCorta although the United States had also requested his testimony and prepared him for testimony but did not call him as a witness. Mr. Paniagua met with the U.S. Attorney's office on numerous occasions about the data base he created for OIG. (Sworn Declaration of John Paniagua, ¶10).

Mr. Paniagua became aware of OIG through his brother, Joseph Paniagua back in 2014 and ended up investing in OIG. His initial investment was \$100,000.00 and it grew to \$212,000.00 by 2018. Mr. Paniagua never had any conversations with anyone associated with OIG prior to his investment. (Sworn Declaration of John Paniagua, ¶11).

By 2018 Mr. Paniagua's investment was transferred to a loan program from him to OIG when Mr. Paniagua was provided an option to either take his money out of OIG or switch over to a loan to OIG which allowed a certain percentage which was a minimum of 1 percent or 25 percent of the spread the investment was capturing to be paid out. (Sworn Declaration of John Paniagua, ¶12).

As part of Mr. Paniagua's due diligence prior to investing/loaning money to OIG, he performed a risk management analysis on the company. First off, the rule of thumb in any investment is to diversify. He saw a certain percentage of investment went into trading and the rest in other assets. Mr. Paniagua's belief was OIG was invested in properties, real estate, commodities like silver and gold and into small companies. He believed this was a sound strategy. (Sworn Declaration of John Paniagua, ¶13).

During his time investing in OIG, he did not withdraw any of his principal or interest. Mr. Paniagua was allowed to withdraw his loan at any time but chose not to do so. (Sworn Declaration of John Paniagua, ¶14).

During Mr. Paniagua's participation in OIG he was asked to build a reporting system for the company which allowed a user to see their respective accounts in OIG. (Sworn Declaration of John Paniagua, ¶15).

Mr. Paniagua built a program using Amazon Web Services which was a cloud-based account that pulled data from the trading system which were the spreads. This information then added to the balance of an investor daily and then presented the user to log in and it was presented as a report. Clients could log in to see how they were doing daily. The data was generated by ATC/Spotex Trading System which was referred to as the "Back Office." There were risk

disclosures in the application process for each investor to read and acknowledge and agree by signature. (Sworn Declaration of John Paniagua, ¶16).

Mr. Paniagua's main and only concern in loaning money to OIG was receiving interest on his loan. There was not a time where he did not receive interest on his loan. (Sworn Declaration of John Paniagua, ¶17).

Mr. Paniagua was shown at the trial of Mr. DaCorta a settlement agreement between Mr. DaCorta and NFA (Defendants Exhibit "308"). Mr. Paniagua was not familiar with this agreement prior to investing in OIG. (Sworn Declaration of John Paniagua, ¶18). If Mr. Paniagua had been advised of this settlement agreement with NFA he still would have loaned money to OIG because the investments were diversified. (Sworn Declaration of John Paniagua, ¶19).

Mr. Paniagua was not concerned with how OIG ran their business or how they marketed additional investments. They ran their business as they saw fit and his only concern was getting his return and getting his money back if he ever pulled it out. Some companies are not profitable in the beginning. And based on time and the management and leadership, Mr. Paniagua believed you can grow the company and become profitable. (Sworn Declaration of John Paniagua, ¶20).

Mr. Paniagua has provided an unbiased, objective analysis based on industry standards, sound scientific principles, and methodologies in his attached analysis of OIG. (Sworn Declaration of John Paniagua, ¶21).

In providing the attached analysis, Mr. Paniagua relied upon his education, training, and experience in the field of financial services and financial regulation, in addition to the relevant information made available to him. (Sworn Declaration of John Paniagua, ¶22). Mr. Paniagua has not been compensated, promised compensation, or agreed to any contingency payment for providing this analysis and affidavit. (Sworn Declaration of John Paniagua, ¶23).

Mr. Paniagua has reviewed and analyzed the following documents, including but not limited to, the following attached Exhibits:

1) Oasis ATC & Investment Overall Fund Flows (Ex. JP-A)

This diagram incorporates inflows and outflows of OIG's Mainstream (Bank of America and Citibank) and Oasis Management LLC (Wells Fargo) bank accounts. (Ex. JP-A)

2) Oasis Management LLC (OMLLC) Balance Sheet (Ex. JP-B)

This is the balance sheet generated from the bank statements and real estate appraisals for OMLLC as of April 2019. (Ex. JP-B)

3) Oasis International Group Ltd (OIG) Balance Sheet (Ex. JP-C)

This is the balance sheet generated from the bank statements and real estate appraisals for OIG as of April 2019. (Ex. JP-C)

4) Omnibus Analysis (Ex. JP-D)

OIG's Omnibus sole trading account. (Ex. JP-D)

5) Spreads vs Lenders Withdrawal-Acct Closure (Ex. JP-E)

Shows that average monthly Spread earnings were 167% of average monthly liabilities for Account Closures and Withdrawals combined. **(Ex. JP-E)**
(Sworn Declaration of John Paniagua, ¶24).

From Mr. Paniagua's analysis, the Commodities Futures Trading Commission ("CFTC") neither audited nor examined Oasis International Group's ("OIG") financial books and records. (Sworn Declaration of John Paniagua, ¶25).
From Mr. Paniagua's analysis, the CFTC never provided any balance sheet of OIG's finances and never entered one into evidence. (Sworn Declaration of John Paniagua, ¶26). It is Mr. Paniagua's opinion that without a balance sheet, solvency was not ascertainable. (Sworn Declaration of John Paniagua, ¶27).

Therefore, Mr. Paniagua's analysis of the attached cash flows, and income flows from the fund flows analysis verify that OIG and OM were always "*solvent*" both before, and at the time of the CFTC's seizure of OIG and OM on April 18, 2019; (*See Ex. JP-B and JP-C*). (Sworn Declaration of John Paniagua, ¶28).

TRIAL TESTIMONY OF HAROLD MCFARLAND

USA v. Michael DaCorta in United States District Court for the Middle District of Florida, Tampa Division in Case No. 8:19-cr-605
(Trial Testimony ("T.T.") Day 11, May 2, 2022 (Document 222, Pages 288-307))
(Trial Testimony ("T.T.") Day 12, May 3, 2022 (Document 223, Pages 5-93))

Mr. McFarland is a Certified Public Accountant (CPA) since 1993, a certified management accountant, and a certified fraud examiner. (Doc. 222, T.T. Page 288,

lines 19-25). Mr. McFarland has a bachelor's and Master's degree in accounting and several independent courses from other universities including MIT and Stanford. (Doc. 222, T.T. Page 289, lines 1-5). Mr. McFarland's current work is in forensic accounting and analysis for the past 27 years. (Doc. 222, T.T. Page 290, lines 6-10).

Mr. McFarland is also involved in litigation support dealing with providing attorneys and Judges with an understanding of complex subjects. Mr. McFarland is also involved in accounting database forensics because he has a background in computer database forensics. (Doc. 222, T.T. Page 291, lines 7-25).

Mr. McFarland has performed quite a bit of work in cyber security and is also a licensed private investigator. (Doc. 222, T.T. Page 292, lines 1-12).

Mr. McFarland has been qualified as an expert witness in forensic accounting probably 25 to 30 times in the last ten years and has testified in Court as a forensic accountant. (Doc. 222, T.T. Page 294, lines 13-23).

Mr. McFarland was retained by the Office of the Federal Defender for the Middle District of Florida for testimony in the trial of *USA v. Michael DaCorta* to conduct a forensic review. (Doc. 222, T.T. Page 294, lines 24-25 and Page 295, line 1).

Mr. McFarland reviewed multiple bank statements, all the asset information, precious metals and residences including the bank records for all the

relevant entities including ATC omnibus online trading account. (Doc. 222, T.T. Page 295, lines 15-25). Mr. McFarland conducted an examination relevant to or relating to the assets owned by OIG including conducting a review of information relating to precious metals and the cost of them as various times. (Doc. 222, T.T. Page 296, lines 1-8). Mr. McFarland researched the general market conditions and the specific economic conditions into forex trading and the market, stock market and currency markets in general. (Doc. 222, T.T. Page 296, lines 10-12). Mr. McFarland reviewed the Oasis entities including Oasis Management, Oasis International Group, Oasis Belize, Oasis Nevis. (Doc. 222, T.T. Page 296, lines 17-21).

Mr. McFarland testified that prior to 2017, Oasis used equity financing and then after 2017 they converted to debt financing. (Doc. 222, T.T. Page 299, lines 8-18).

Mr. McFarland reviewed both the promissory notes and agreement and Risk Disclosure statements. (Governments Exhibit 205A). With regards to Paragraph No. 3 of the Agreement and Risk Disclosures, Mr. McFarland testified that Oasis had considerable leeway in how they invested the loan proceeds. (Doc. 222, T.T. Page 301, lines 5-22).

Mr. McFarland testified the agreements specify Oasis was able to purchase or sell foreign exchange products, securities, commodities, exchange or off-

exchange products, business assets, liabilities, purchase or sale of real estate, or any other purpose including general company use, company payment or loans to company affiliates. (Doc. 222, T.T. Page 301, line 23-25 and Page 302, lines 1-5).

Mr. McFarland testified Oasis suffered trading losses during the early part of 2018, which were substantial including the first quarter of 2018 where they lost \$12 million in those three months. (Doc. 222, T.T. Page 302, lines 9-17).

Mr. McFarland testified 2018 was not a good year looking at economic forecasters. He cited sources such as CNN Business which stated 2018 was the worst year for stocks in ten years. CNBC said the S&P fell more than 6 percent, worst in a decade. Yahoo Finance, stock market was the worst since 2008. It was not a good year for stocks and the market in general. (Doc. 222, T.T. Page 302, lines 18-25 and Page 303, lines 1-4).

Mr. McFarland testified he saw that after Oasis incurred these losses, Oasis took corrective action when they slowed down their pace of trading significantly and moved a lot of money to more stable assets such as real estate and precious metals. Oasis was involved in real estate purchases before they incurred the losses in the early part of 2018 and they continued after they incurred losses in 2018. Oasis was involved in precious metals before the losses that were incurred in 2018 and continued after they incurred the losses in the early part of 2018. (Doc. 222, T.T. Page 303, lines 12-25 and Page 304, lines 1-15).

Mr. McFarland was familiar with the silver position that Oasis had taken in the first part of 2018 after silver started falling. Oasis took a forward position which basically meant they did not own the actual gold – silver in this case. As silver prices go up, they get the increase in the silver price based on what the base was that they bought even though they do not own the base. They get the increases, or if it goes down, they must pay the difference, the decreases. Mr. McFarland determined the silver prices went up and if Oasis had sold that silver position on September 24, 2019 the gain was just under \$20 million, which would have erased the trading losses from the early part of 2018. (Doc. 222, T.T. Page 304, lines 16-25 and Page 305, lines 1-16).

Mr. McFarland was familiar with the amount the Receiver sold Oasis' silver position for back in April 19 which was \$1,558,000. Mr. McFarland testified that if Oasis silver position had been left undisturbed, Oasis could have realized \$20 million on their silver position within the market. Ultimately, if Oasis held the silver position into 2021 the top value would have been \$56,506,000.00 as of August 6, 2020. (Doc. 223, T.T. Page 8, lines 8-25 and Page 9, lines 1-3).

Mr. McFarland testified to *Defense Exhibit 84* which was a chart of valuations of the 3.8 million ounces of silver held by Oasis showing Oasis' silver position at various points in time. On December 31, 2019 the silver position would have been \$11,248,000.00. In June 30, 2020 it would have been \$12,540,000.00. If it

was held to August 6, 2020 the value would have been \$56,506,000.00. If Oasis had been able to hold their silver position a few months past the time they were shut down the value of the silver position would have been \$19 million. (Doc. 223, T.T. Page 10, lines 11-25 and Page 11, lines 1-7).

Mr. McFarland testified that precious metals are considered a good hedge against certain market factors. Generally precious metals are considered a good hedge against market volatility and against inflation. Between April of 2019 and the end of 2019, the value of silver went up about 17 times, proving investing in silver was a prudent business decision. (Doc. 223, T.T. Page 11, lines 12-25 and Page 12, lines 1-6). Mr. McFarland believed that Oasis investing in a silver position would have helped to secure the lenders because silver did go up substantially. (Doc. 223, T.T. Page 12, lines 7-11).

Mr. McFarland testified that he analyzed data that showed Oasis owned properties of different tiers in terms of values. *Defense Exhibit 76* was identified and admitted into evidence which showed a summary all the residential properties that had been owned by Oasis. *Defense Exhibit 76* was based on Mr. McFarland's review of the appraisals for all the properties as well as adding them all together. The total purchase prices for the Oasis properties were \$9,246,499.00. It also reflects appraised value of the Oasis properties as of April 1, 2019 at \$10,100,000.00 and the total appraised value as of January 30, 2022 at

\$14,882,000.00. Thus, showing a profit of over \$5 million from date of purchase to the dates if it was still held by Oasis. Mr. McFarland opined that the purchases of these properties promoted the stability of Oasis because real estate has traditionally been a very good investment because it steadily increases. (Doc. 223, T.T. Page 27, lines 1-25 and Page 28, lines 1-15).

Mr. McFarland also calculated overall assets of Oasis at different periods of times. At the time the Receiver took possession of Oasis in April 2019, Oasis had in its bank accounts \$10,500,000.00. The Oasis properties were worth \$10,100,000.00. There was physical cash in the amount of \$175,000.00. At the time the Receiver seized Oasis the overall value of the assets of Oasis would have been \$23,038,000.00. If Oasis had been left undisturbed, the total value would be in his opinion about \$46,729,000.00. Therefore, in his professional opinion, Michael DaCorta was attempting to build a successful business. Assuming, Oasis would have closed out their silver position at \$20 million, Oasis would have been able to satisfy a demand for a lender within 90 days. (Doc. 223, T.T. Page 30, lines 8-25 and Page 31, lines 1-12 and Page 32, lines 1-25 and Page 33, lines 1-7).

Mr. McFarland testified in all the records he reviewed, when a request was made from a lender for a return of their loan/investment it was fulfilled within the 90 days. (Doc. 223, T.T. Page 33, lines 8-12).

Mr. McFarland testified if all lenders wanted their loans paid at the same time, Oasis would not have had sufficient assets to do that, which are like a run on a bank except those funds are secured by the FDIC. But Oasis was generating sufficient income on a regular basis to be able to satisfy any demands that were made at any given time. (Doc. 223, T.T. Page 33, lines 13-25 and Page 34, lines 1-7).

TRIAL TESTIMONY OF MICHAEL DACORTA

USA v. Michael DaCorta, in United States District Court for the Middle District of Florida, Tampa Division in Case No. 8:19-cr-605 (Trial Testimony ("T.T.") Day 10, April 29, 2022 (Document 221, Page 179-259) (Trial Testimony ("T.T.") Day 11, May 2, 2022 (Document 223, Pages 8-266))

Michael DaCorta testified on his own behalf on April 29, 2022 and May 2, 2022. Mr. DaCorta is 57 years old and grew up in the Bronx, New York. (Doc. 221, T.T. Page 186, lines 9-11). Mr. DaCorta attended Lehman College in the Bronx majoring in Economics for three and a half years but did not graduate due to work commitments. (Doc. 221, T.T. Page 190, lines 23-25). At around the age of 21, Mr. DaCorta passed his Series 7 and Series 63 licenses. Mr. DaCorta began working as a broker at Stuart-James & Company in White Plains, New York. He then accepted a job at Waterhouse Securities where he worked as an equity's trader. Mr. DaCorta worked for approximately eight to ten firms on Wall Street during this time. (Doc. 221, T.T. Page 192, lines 1-25 and Page 193, line 1 and Page 195, lines 21-25).

In 2002, Mr. DaCorta formed a company known as ICT (International Currency Traders) which was a Commodity Trading Advisor and which Mr. DaCorta was the President and head trader. Mr. DaCorta operated ICT from 2002 to 2009 (Doc. 221, T.T. Page 221, lines 20-25 and Page 222, lines 1-7).

In 2005, Mr. DaCorta became a member of NFA and he registered with the CFTC. and passed his Series 3 license which was a Commodities license. (Doc. 221, T.T. Page 222, lines 14-25). In October 2008 ICT stopped operating. After its close, the NFA contacted Mr. DaCorta to conduct a closing audit. (Doc. 221, T.T. Page 226, lines 9-16). As part of NFA's audit Mr. DaCorta decided to sign an informal settlement agreement with them in August 9, 2010. (Doc. 221, T.T. Page 226, lines 17-19). This agreement was entered into evidence as Governments Exhibit 111. (Doc. 221, T.T. Page 226, lines 23-25 and Page 227, lines 23-25). Mr. DaCorta testified the agreement was pretty simple. Mr. DaCorta agreed to not become a member of NFA, to seek membership or become registered with a CFTC member firm or become a principal in one. (Doc. 221, T.T. Page 227, line 1 and Page 228, lines 1-2).

In 2011, Mr. DaCorta began working with Ambit Energy and Ray Montie. In 2012 after trading some of Ray Montie's money and making profit, Mr. DaCorta started a company known as Oasis Management which was purchased from a company known as Corp. 95. Mr. DaCorta was the general partner and there were

limited partners (six to eight) including Ray Montie. (Doc. 221, T.T. Page 233, lines 9-25 and Page 236, lines 20-25 and Page 237, lines 11-19).

After multiple in-person meetings between Mr. DaCorta, Ray Montie and Attorney Anile, the group decided to set up a registered investment advisor in the Cayman Islands. (Doc. 221, T.T. Page 248, lines 12-19). The company would be called Oasis International Group, (OIG) which would be owned 100% by Oasis Management, LLC. (Doc. 221, T.T. Page 249, lines 1-19). OIG offered preferred shares in a stock offering to raise capital. (Doc. 221, T.T. Page 251, lines 1-19).

In 2012-2013, OIG was domiciled in the Cayman Islands and the incorporation documents were all drafted by Attorney Joseph Anile. (Doc. 222, T.T. Page 25, lines 14-19).

Mr. DaCorta testified the first thing they did to raise capital was to sell preferred shares of stock in OIG. They were equity stakeholders that provided equity working capital to the company. (Doc. 222, T.T. Page 26, lines 1-17). OIG then purchased their broker-dealer at that point in time. The business model was to take on non-U.S. foreign exchange customers and/or Eligible Contract Participants (ECPs), which were exempt from regulatory issues. (Doc. 222, T.T. Page 26, lines 20-23). If someone wanted to participate as an investor or ECP, they had to fill out an extensive questionnaire and Attorney Anile would solely decide whether to accept those folks as ECP or not. (Doc. 222, T.T. Page 27, lines 5-12).

From 2014 to December 2016 Oasis had 10 to 12 ECP participants. (Doc. 222, T.T. Page 28, lines 1-5).

When OIG got off the ground there were three (3) principals: Attorney Anile (President and compliance officer), Ray Montie (helped with marketing) and Mr. DaCorta (who was to trade and look for other business investment opportunities to diversity the company). (Doc. 222, T.T. Page 30, lines 17-25 and Page 31, lines 1-13). At some point in time, Mr. DaCorta decided to move the company from New York to Florida. Mr. DaCorta denied OIG or Oasis Management, LLC was ever a Ponzi scheme. (Doc. 222, T.T. Page 43, lines 5-9)

Mr. DaCorta testified at the end of 2016 is when Oasis decided to go completely to a loan program where Oasis would take -- first thing Oasis did was told everyone that was a customer they could either close their account and take their money or they can convert it to a loan. Oasis offered to buy all the preferred shareholders' shares back to make sure Oasis had no other shareholders in the company. So, the first thing Oasis did was repurchase or convert the preferred shareholders and then also close all the existing customer accounts. Once that was achieved, which Mr. DaCorta thought was sometime in March, Oasis began to take in new loans. (Doc. 222, T.T. Page 46, lines 12-20).

At the end of 2016 when Oasis converted everybody, Oasis created the loan program. The loan program was designed so lenders would be loaning the money

directly to OIG. OIG would then manage all the money for OIG to make sure it follows the agreement that was provided to everybody. So, the loan agreement to them was simply a promissory note. Oasis promised to pay the lenders back their principal on 90 days' notice. (Doc. 222, T.T. Page 45, lines 18-25 and Page 46, lines 1-3).

At that point in time Oasis principals decided they would absorb any profit and loss and they would pay the lender a specific amount of interest or a specific amount of additional interest based upon Oasis' trading volume but that the profit and loss would be OIG's. (Doc. 222, T.T. Page 48, lines 16-20).

A percentage of the loan proceeds would be used for collateral deposit for foreign exchange trading, and the balance of it could be used for pretty much any investment decision we decided we would like to make. Oasis could pretty much make many different decisions, but we stuck to real estate, physical silver and gold, and other businesses, so equity financing. The loans were to be used for the operating expenses of OIG. Under the terms of the loan agreement, the loan money could be used for private equity that OIG was seeking. Under the terms of the loan agreement, the loan money to be used for the purchase of hard gold and silver. (Doc. 222, T.T. Page 50, lines 7-25).

Mr. DaCorta testified the terms of the loans were very simple. Someone loaned Oasis money. That capital is Oasis' to run the company with. Oasis

promised them 12 percent per year or 25 percent of the transaction fees, whichever was greater. (Doc. 222, T.T. Page 51, lines 7-10).

Mr. DaCorta testified that in 2017 only he was doing the forex trading and that was from March to December 2017. (Doc. 222, T.T. Page 54, lines 19-24).

Mr. DaCorta testified that the Oasis companies owned in total eleven (11) properties between OIG and Oasis Management. (Doc. 222, T.T. Page 71, lines 22-23). The goal for acquiring these properties was to make money for OIG. It was a process of diversifying the portfolio, buying assets that would appreciate as the dollar would depreciate. (Doc. 222, T.T. Page 76, lines 1-14).

Mr. DaCorta testified there was another change in the business model from 2017 to 2018. Oasis needed to enhance the customer service aspect of the business which meant they needed to automate some of the operation in the back office. They hired John Paniagua who was a computer programmer/computer specialist to write the program so in early mid-2018, they started testing the concept. (Doc. 222, T.T. Page 117, lines 2-24).

Mr. DaCorta testified in 2017 and 2018 there were losses in OIG. In 2017, they were net positive at the end of the year for the difference between the spreads and the P&L. In 2018, once Mr. DaCorta had some losses and they were moving forward, the markets were very difficult in 2018. Mr. DaCorta immediately began to take corrective action towards the mid to end of the year. Those corrective

actions included slowing down of trading, and beginning to accumulate the silver position. (Doc. 222, T.T. Page 45, lines 18-25 and Page 46, lines 1-3).

Mr. DaCorta testified he and Attorney Anile had Oasis investors sign risk disclosure agreements that Attorney Anile had created in the end of 2018, which gave Oasis the ability to do whatever Oasis wanted with the money. (Doc. 221, T.T. Page 252, lines 4-9).

Mr. DaCorta testified the spread revenue was real. OIG put in \$20,650,000 leaving \$2 million with \$9 million in rollovers and brokerage fees.

Mr. DaCorta testified he did not intend to deceive or cheat investors or lenders out of their money. (Doc. 222, T.T. Page 264, lines 21-25 and Page 265, line 1).

MEMORANDUM OF LAW
THE SUMMARY JUDGMENT STANDARD

Summary Judgment is appropriate “if the movant shows there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed.R.Civ.P. 56(a). A properly supported motion for summary judgment is not defeated by the existence of a factual dispute. *Anderson v. Liberty Lobby, Inc.* 477 U.S. 424,249 (1986). Only the existence of a *genuine* issue of material fact will preclude summary judgment *Id.* (*emphasis added*).

The moving party bears the initial burden of showing that there are no genuine issues of material fact. *Hickson Corp. v. N. Crossarm, Co.*, 357 F.3d 1256,

1260, (11th Cir. 2004). When the moving party has discharged its burden, the nonmoving party must then designate specific facts showing the existence of material fact. *Jeffrey v. Sarasota White Sox, Inc.* 64 F.3d 590, 593-94 (11th Cir. 1995). If there is a conflict between the parties' allegations and evidence, the nonmoving party's evidence is presumed to be true and all reasonable inferences must be drawn in the nonmoving party's favor. *Shotz v. City of Plantation, Florida* 344 F.3d 1161, 1164 (11th Cir. 2003) and *United States v. Four Parcels of Real Property*, 941 F.2d 1428, 1437 (11th Cir. 1991).

Pursuant to Federal Rule of Civil Procedure 56, Summary Judgment shall be granted "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." See also *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986); *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986); *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574 (1986). Summary judgment may be entered only where there are no genuine issues of material fact. See *Twiss v. Kury*, 25 F.3d 1551, 1554 (11th Cir. 1994). "[The] mere 'scintilla' of evidence supporting the [nonmoving] party's position will not suffice; there must be enough of a showing that the jury could reasonably find for that party." *Allen v. Tyson Foods, Inc.*, 121 F.3d 642, 646 (11th Cir. 1997).

ARGUMENT

1. As a matter of law OIG and/or OM were not a “Ponzi Scheme”

The legal standard defining a “Ponzi scheme” is established in *Mossler Acceptance Company v. Martin*, 322 F.2d 183 (5th Cir. 1963), *Warfield v. Byron*, 436 F.3d 551, 558 (5th Cir. 2006), citing *Cunningham v. Brown*, 265 U.S. 1, 7–8, 44 S.Ct. 424, 428, 68 L.Ed. 873 (1924), the original Ponzi case; *In re Universal Clearing House Co.*, 60 B.R. 999 (D. Utah 1986), and *affirmed in Wiand v. Lee*, 753 F.3d 1194, 1201 n.3 (11th Cir. 2014).

The record evidence fails to support any set of facts to support an allegation that Mr. DaCorta operated a Ponzi scheme. Proof of insolvency is a necessary predicate to the operation of a Ponzi scheme. Insolvency is determined by application of the “balance sheet test” which is a comparison of the debtor’s debt obligations to the debtor’s assets, which is the substance of a balance sheet. Plaintiff has never provided and/or offered any balance sheet into evidence in support of its allegations contained within the First Amended Complaint proving OIG was in fact insolvent. The evidence supports the contrary analysis that OIG at the time of the seizure by the CFTC, was in fact *solvent* and therefore did not meet the standard tests for insolvency.

Pursuant to Fla. Stat. § 726.103 (“(1) A debtor is insolvent if the sum of the debtor’s debts is greater than all of the debtor’s assets at a fair valuation.”).

The term “insolvent” means . . . financial condition such that the sum of [the] entity’s debts is greater than all [the] entity’s property, at a fair valuation”) 11 U.S.C. § 101 (32)(A).

“To determine whether a debtor is insolvent, the Court must compare the debtor’s debt obligations with the debtor’s assets, at fair value, as of the relevant date. This is often described as the balance sheet test.” *Mukamal v. Nat’l Christian Charitable Found., Inc. (In re Palm Beach Fin. Partners, L.P.)*, 598 B.R. 885, 889–90 (Bankr. S.D. Fla. 2019).

[T]he Ponzi scheme operator’s insolvency – is necessarily present in every Ponzi scheme. See *Warfield v. Byron*, 436 F.3d 551, 558 (5th Cir.2006) (noting that “a Ponzi scheme . . . is, as a matter of law, insolvent from its inception”) (citing *Cunningham v. Brown*, 265 U.S. 1, 8, 44 S.Ct. 424, 68 L.Ed. 873 (1924); *Wiand v. Lee*, 753 F.3d 1194, 1201 n.3 (11th Cir. 2014).

A Ponzi scheme uses the principal investments of newer investors, who are promised large returns, to pay older investors what appear to be high returns, but which are a return of their own principal or that of other investors. *In re Fin. Federated Title & Trust, Inc.*, 309 F.3d 1325, 1327 n. 1 (11th Cir.2002). There is no proof of such a scheme by OIG and/or Mr. DaCorta. The entities used to perpetrate the scheme usually conduct little to no legitimate business operations. *Id.* Again, this fact is not supported by assets and evidence seized in the case by the CFTC and the Court Appointed Receiver. OIG and its affiliated companies were conducting legitimate business operations with Forex trades, purchases of silver and gold, purchases of real estate and purchases of other businesses to operate.

Ponzi schemes typically do not generate profits sufficient to provide their promised returns, but rather use investor money to pay returns, thereby making

them insolvent and they become more insolvent with each investor payment. *See id.* at 1332 (“, a Ponzi scheme is driven further into insolvency with each transaction.”) (quoting *In re Universal Clearing House*, 60 B.R. 985, 999 (D.Utah 1986)); see also *Cunningham*, 265 U.S. at 7–8, 44 S.Ct. 424. As cited in *Burton W. Wiand, Partners, L.P. v. Lee*, 753 F.3d 1194 (11th Cir. 2014).

2. OIG was always “Solvent.”

Plaintiff has offered no balance sheet into evidence showing assets and liabilities for OIG. On April 15, 2019, Plaintiff CFTC filed a Motion for Statutory Restraining Order, Motion for Preliminary Injunction containing various exhibits and declarations (Doc. #4) with their initial Complaint (Doc. #1), which confirms that OIG was *solvent* when the government seized its operations:

- “As of November 30, 2018 [4.5 months before the Complaint was filed] [the OGFXS] account had a balance of approximately \$750,000.” (Doc. #4-1, ¶ 30).
- As of April 2, 2019, at conclusion of the initial review, the ATC trading account held a balance of \$2,045,921.65. (Doc. #4-1, ¶ 32);
- As of February 28, 2019, the OM Wells Fargo account ending in 9302 held a balance of \$2,736,828.57. (Doc. #4-1, ¶ 44);
- As of February 28, 2019, the OM Wells Fargo account ending in 3887 held a balance of \$605.29. (Doc. #4-1, ¶ 47);
- As of February 28, 2019, the Citibank account ending in 0764 held a balance of \$6,572,388.07. (Doc. #4-1, ¶ 56);

- As of March 5, 2019, the Citibank account ending in 1174 held a balance of \$57,819.65. (Doc. #4-1, ¶ 73);
- As of March 13, 2019, the Citibank account ending in 5606 held a balance of \$550,148.47. (Doc. #4-1, 74); Oasis' cash assets detailed in Doc. #4-1 total \$12,713,711.70:
- For the 6-month period from October 1, 2018 through March 31, 2019, the average monthly cost of Lender Account Closings plus Lender Withdrawals was (\$880,592.28). (*See Ex. JP-E*).
- In the same 6-month period, the average transaction fee income for the company was \$1,468,565.88 (*See Ex JP-E*); 1.67 times the average rate of account closings and withdrawals.
- Even without its monthly transaction fee income and other diversified OIG business income sources (rental, mortgage, and sales covering operational expenses), it would have taken Oasis 14.4 months to deplete its cash assets.
- **Exhibit JP-B** is OM's balance sheet on 18 April 2019 showing assets equal to \$34,729,822.08.
- Therefore, Oasis was always solvent. Oasis did not operate a Ponzi scheme. Oasis never made any "Ponzi-like" payments.

3. Oasis Did Not Operate a Commodity Pool ("CPO")

The evidence confirmed that OIG traded exclusively for its own corporate account as an Eligible Contract Participant (“ECP”). Plaintiff’s allegation that Oasis violated statutes and regulations by operating an unlicensed Commodity Pool is based on a misunderstanding of the true operation of OIG and OM operations. OM traded under a rule exemption for a few limited partners as well as ECP and Accredited Investors (“AI”). But OIG never traded for individuals, limited partners, or accredited investors. Further, Plaintiff has not offered any evidence showing OIG traded for any of the designations. Lenders were not promised a share of trading profits, nor exposed to the risk of trade losses. Lenders were promised as follows “Any unpaid Loan Amount due hereunder received the greater of (a) interest calculated at the rate of twelve percent (12.00%) per annum, or (b) twenty-five percent (25.00%) of the Transaction Fees as outlined in the Loan Agreement.

29. Mr. DaCorta maintains that the CFTC had no jurisdiction over OM and OIG because said corporations: (1) were eligible contract participants contrary to the allegations contained within the First Amended Complaint, (2) operated no commodity pools, contrary to the allegations contained within the First Amended Complaint and (3) engaged in no “retail forex transactions” contrary to the allegations contained within the First Amended Complaint.

30. Eligible Contract Participants–OGLtd, and OGSA traded on their corporate account as eligible contract participants (“ECP”) for their sole customer OIG. (Title 7 U.S.C. 2(c)(2)(B)(i)(II)).

31. “Eligible Contract Participant” (“ECP”) is defined by Title 7 U.S.C. §1a(18)(A)(v)(III)(aa-bb), § 2(c)(2)(C)(i)(I)(aa), and is referred to in 17 CFR §§ 5.1:(d)(1), (e)(1), (f)(1), and (h)(1)(ii)(i-k).

32. No transaction described under 7 U.S.C. § 2(c)(2)(B) or 2(c)(2)(C) applies to OIG, OGLtd, or OGSA, since only an ECP executed all forex transactions.

33. The CFTC had no jurisdiction over OM, OIG, OGLtd, or OGSA because Title 7 U.S.C. 2(c)(2)(C)(i)(I)(aa), limits the Trade Commission’s jurisdiction as follows:

Commission jurisdiction–(C)(i)(I) This subparagraph shall apply to any agreement, contract, or transaction in foreign currency that is – (aa) offered to, or entered into with, a person **that is not an** eligible contract participant. . . . [bold type added].

34. Thus, Title 7 U.S.C. §2(c)(2)(D)(i) explicitly excludes CFTC jurisdiction over OM, OIG, OGLtd, and OGSA’s trading activities.

35. **Commodity Pools**–The First Amended Complaint states:

Defendants have fraudulently solicited hundreds of members of the public (“pool participants”) to invest approximately \$75 million in two commodity pools – Oasis Global FX, Limited and Oasis Global FX, SA – that purportedly would trade in forex.

(First Amended Complaint, para. 1, Doc.# 110).

36. However, Title 7 U.S.C. § 1a(10)(A) defines a “**commodity pool**” as “any investment trust, syndicate, or similar form of enterprise operated for the purpose of trading commodity interests” (Doc. # 465, p.9). But neither OGLtd nor OGSA was an “investment trust, syndicate, or similar form of enterprise operated for the purpose of trading commodity interests”

37. The First Amended Complaint inaccurately refers to OGLtd and OGSA as “commodity pools” stressing this inaccurate assertion 328 times, citing Title 7 U.S.C. § 1a(18)(A)(xi) as support which is a section pertaining only to “individuals”.

38. The parties engaging in forex transactions on behalf of OIG were corporations, and more specifically, both were ECPs under relevant statutes and regulations. Neither OGLtd, OGSA or OIG traded for any individual resident of the United States in any capacity.

39. Since, OGLtd and/or OGSA were not “commodity pools,” there was not, (as the First Amended Complaint claims): “Oasis pool,” “pool fund,” “pool participant,” “pool property,” “pool disclosure,” “forex pool,” “pool,” “pool operator,” or “Investment Pool.” (Doc. # 1, pp. 5-6, 13, 27, 31-33, 35-40).

40. Further, according to Title 17 CFR § 5.1(d)(1), no person under the control or supervision of OIG was a commodity pool operator (“CPO”); and according to Title 17 CFR § 5.1(d)(2), neither was any person an “Associated Person” (“AP”).

(Title 7 U.S.C. 1a). Thus, there were no “pool participants” nor associated persons because there were no commodity pool operators nor commodity pools with which to associate. Plaintiff CFTC has failed to provide any evidence and/or support for their unfounded assertions within the First Amended Complaint as outlined herein.

41. **Retail Forex**— The First Amended Complaint alleges Mr. DaCorta conducted “retail forex” [sic]. Plaintiff, however, does not define what they mean when they say “retail forex.”

42. Forex is an abbreviation for “foreign currency exchange,” which is an interbank currency market. Foreign exchange trading is not retail foreign exchange transactions. “Retail forex transactions” are defined as “any account, agreement, contract or transaction described in section 2(c)(2)(B) or 2(c)(2)(C) of the Act.” (See 17 C.F.R. § 5.1(h)(m)).

43. Only forex dealers and forex brokers can access the forex market. A forex dealer is a company that offers intermediary services, matching counterparties for its clients on the forex market. Deals are formed on behalf of the company (and at the company’s expense) through financial agreements between the company and its clients. The amount of the dealers’ fees is the “spread” (the difference between the bid and asking prices of the currency being traded). By contrast, a broker offers

only intermediate functions on entering the forex market, and cannot match counterparties or set spreads.

44. Mr. DaCorta did not operate, manage, or engage in any retail foreign transactions. (17 CFR § 5.1(b)). First, neither OGLtd nor OGSA were ever retail foreign exchange dealers. (17 CFR § 5.1(h)(1)). Second, no person under the control or supervision of OM or OIG was an associated person of a retail foreign exchange dealer. (17 CFT § 5.1(h)(2)). Third, neither OM nor OIG held a retail forex account (17 CFR § 5.1(i)(ii)(i)) and neither did OM nor OIG ever offer any retail forex account agreements (17 CFR § 5.1(j)). OM or OIG had no retail forex customers. (17 CFR § 5.1(k)). Fourth, neither OM or OIG produced or held any retail forex obligations. (17 CFR § 5.1(l)). Finally, neither OM nor OIG transacted any retail forex business. (17 CFR § 5.1(m)).

CONCLUSION

Based on the undisputed material facts, the Sworn Declarations of Jason McKee (Ex. S.J. 2) and John Paniagua (Ex. S.J. 3) (including Exhibits JP-A through JP-E) as well as the Sworn Trial Testimony from Kevin Johnson, Harold McFarland and Michael J. DaCorta, all applicable statutes and Federal Regulations, all applicable case law, and the arguments set forth hereinabove, Defendant Michael J. DaCorta respectfully requests this Court enter an order granting Summary Judgment in his favor.

/s/ Ronald J. Kurpiers, II,
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Attorney for Defendant Michael J. DaCorta

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 17, 2023, I electronically filed the foregoing with the Clerk of Court for the Middle District of Florida using their CM/ECF system, which is obligated to send notice of electronic filing to:

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PROMISSORY NOTE AND LOAN AGREEMENT

12/21/2018

FOR VALUE RECEIVED, the undersigned, Oasis International Group, Ltd., a Cayman Island corporation having its registered office at 309 Ugland House, Grand Cayman, KY1-1104, Cayman Islands (the "Maker"), hereby promises to pay to [REDACTED] (the "Payee"): (i) in lawful monies of the United States, in immediately available funds, the principle sum of LOAN AMOUNT ([REDACTED]) (the "Loan Amount") in one (1) installment or as otherwise directed by Payee pursuant to the terms hereof. Payment of the Loan Amount, or any part thereof, shall be made on the earlier of (i) the demand of Payee, upon ninety (90) days advance written notice (the "Maturity Date"), or (ii) immediately upon the occurrence of an Event of Default, as hereinafter defined. Payment shall be forwarded to the Payee at [REDACTED], [REDACTED], United States or at such other place as the Payee shall specify.

1. **Interest.** Any unpaid Loan Amount due hereunder shall receive the greater of (a) interest calculated at the rate of twelve percent (12.00%) per annum, or (b) twenty-five percent (25.00%) of the Transaction Fees (as hereinafter defined), provided, that upon the occurrence of an Event of Default (as hereinafter defined), the unpaid Loan Amount hereof shall bear interest at the maximum rate of interest permitted by the law of the jurisdiction of the Payee from the date of such Event of Default until the default is cured. Any amount due Payee pursuant to this Section 1 shall be payable, upon demand of Payee made within one (1) business day prior to the end of a calendar month, within five (5) business days following the end of said calendar month. If, at the end of a calendar month, Payee has not made demand for payment in accordance with the preceding sentence, the Maker shall add all amounts due to Payee pursuant to this Section 1 to the Loan Amount. It is understood and agreed by the parties hereto that any amount of increase of the Loan Amount will be subject to the same terms and conditions of the Loan Amount pursuant to the terms hereof. Transaction Fees shall equal the fees charged by the Maker upon the Loan Amount in its ordinary course of business through a proprietary trading account of Maker.

2. **Events of Default.**

- (a) Any of the following events shall constitute an Event of Default hereunder
- (i.) the Maker shall fail to make any payment of principle or interest when due under this Promissory Note and Loan Agreement (this "Note") and such failure shall not be remedied within five (5) days after written notice from Payee to Maker thereof;
 - (ii.) failure by the Maker to perform or observe any other term, condition, obligation, or covenant binding in it under this Note or any other related loan document, which if susceptible to cure shall continue unremedied for a period of fifteen (15) days after the earlier of the date the Maker shall have actual knowledge thereof or notice thereof shall be given to the Maker by the Payee;



(iii.) the Maker shall: (a) make an assignment for the benefit of creditors; (b) commence (as the debtor) a case in bankruptcy or any proceedings under any other insolvency law; or (c) admit in writing its inability to pay its debts as they become due;

(iv.) a case in bankruptcy or any proceeding under any other insolvency law shall be commenced against the Maker (as the debtor) and: (a) a court having jurisdiction over the premises enters an order for relief against the Maker (as the debtor); (b) the case or proceeding remains undismissed for ninety days; or (c) the Maker admits or consents to the material allegations against it in such a case or proceeding;

(v.) a trustee, receiver, agent, or custodian (however named) is appointed or authorized to take charge of substantially all the property of the Maker for the purpose of enforcing a lien against such property or for the purpose of general administration of such property;

(vi.) if any representation by the Maker in this Note or any other related loan document is materially incorrect or untrue in any respect during the term of this Note;

(vii.) the Maker notifies the Payee in writing of its inability to perform its obligations hereunder or otherwise disaffirms, rejects, or repudiates any of its obligations hereunder;

(b) The Maker immediately shall give the Payee notice of the occurrence of any matter referred to in Section 2(a)(iii.), 2(a)(iv.), 2(a)(v.) or 2(a)(vi.) hereof, but failure to give such notice shall not affect in any matter the Payee's rights hereunder. At any time while the Event of Default is continuing, the Payee may declare the principal of and interest accrued on this Note, if any, to be forthwith immediately due and payable, without diligence, notice, presentment, demand or protest, all of which are hereby expressly waived by the Maker ("Acceleration of Payment").

3. **Suits for Enforcement of Remedies.** If there shall be any Acceleration of Payment, or if the Maker otherwise shall fail to pay the unpaid principal amount hereof or interest thereon, the Payee may proceed to enforce the payment of this Note, or to enforce any other legal or equitable right of the Payee. No right or remedy herein or in any other agreement of instrument conferred upon the Payee is intended to be exclusive of any other right or remedy, and each and every such right or remedy shall be cumulative and shall be in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise.

4. **Miscellaneous.**

(a) The Maker represents that it has full power, authority and legal right to execute and deliver this Note and that the obligation to make payment provided for in this Note is absolute and unconditional.

(b) The Maker agrees to pay all costs of collection of any amount due hereunder when incurred, including, without limitation, reasonable attorney's fees and expenses. Such costs shall be added to the principal balance then due. No forbearance, indulgence, delay or failure to exercise any right or remedy with respect to this Note shall operate as a



waiver, or as acquiescence in any default, nor shall any single or partial exercise thereof or the exercise of any other right or remedy.

(c) The Maker shall have the right at any time to prepay the Note (including accrued interest, if any) in whole or in part. Any such prepayment may be made without premium or penalty of any kind. All payments shall be applied first to interest due and then to principal

(d) The headings of the various sections of this note are for the convenience of reference only and shall in no way modify any of the terms or provisions of this Note

(e) Any notice required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given when personally delivered or two days after being mailed certified or registered mail, to the address of the parties set forth in the preamble to this Note or at such other address as the intended recipient shall have given to the other party hereto pursuant to the provisions hereof

(f) This Note shall be binding upon the successors and permitted assigns of the Maker, and shall inure to the benefit the successors and permitted assigns of the Payee. If any term of this Note shall be held invalid or unenforceable, the validity of the other terms and provisions hereof shall in no way be affected thereby. Neither this Note nor any of the rights of the Payee hereunder, shall be assigned or assignable without prior written consent of the Maker, and any assignment without such consent shall be null and void.

IN WITNESS WHEREOF, the undersigned have executed this Note on the date first above written.

MAKER:

OASIS INTERNATIONALGROUP, LTD.

By

Michael DaCorta
Chief Executive Officer



AGREEMENT AND RISK DISCLOSURES

This Agreement sets forth the terms and conditions governing your Loan Account ("Account") at Oasis International Group, Ltd. ("Oasis"), and all agreements and any transactions in this Account with Oasis. In this Agreement, the undersigned lender is referred to as "Lender" or "You".

1. **Short-Term Unsecured Loan.** By signing the Promissory Note and Loan Agreement, Lender is loaning Oasis money on a short-term unsecured basis. There is no collateral provided by Oasis to the Lender in connection with any money, including any interest thereon, loaned to Oasis by Lender. If Oasis becomes insolvent and You have a claim for amounts loaned or interest earned on transactions with Oasis, your claim may not receive a priority. Without a priority, You are a general creditor and your claim will be paid, along with the claims of other general creditors, from any monies still available after priority claims are paid. Even lender funds that Oasis keeps separate from its own operating funds may not be safe from the claims of other general and priority creditors. In addition, your account is not insured under any insurance program, or by any other entity. In the event Oasis should become insolvent, it is possible that You would lose the entire amount in your Account.

2. **Loans and Withdrawals.** Any loan made by You will require that You complete (or update) the information on the Application so that a Promissory Note and Loan Agreement can be generated for acceptance by Oasis. Payments from an Account require a withdrawal request form signed by all required account holders and submitted in writing to Oasis. A withdrawal of any loan principal amount will be made, in accordance with the terms and conditions of the Promissory Note and Loan Agreement, upon ninety (90) days advance written notice from Lender to Oasis. A withdrawal of any unpaid interest amount may only be made by Lender on or by the last day of a calendar month. The Withdrawal Request Form requires a minimum of three (3) Business Days from receipt of the withdrawal request for issuance of a check or wire transfer of funds in accordance with the Promissory Note and Loan Agreement.

3. **Use of Funds.** At any time, in Oasis' sole discretion and without prior demand or notice, Oasis may use any or all money loaned by Lender, including any interest thereon, for any purpose whatsoever including without limitation any investment; the purchase or sale of foreign exchange products, securities or commodities, exchange or off-exchange products; the purchase or sale of any businesses assets or liabilities, the purchase or sale of any real estate; or for any other purpose, including any general company use or payment, any company payment or loans to any company affiliate, officer, employee, or third party, any company indebtedness or other company obligations. Lender hereby agrees that Oasis may, at any time and from time to time, in the sole discretion of Oasis, apply and transfer from any of Lender's funds with Oasis to any of Oasis' other accounts, whether held at Oasis or other individuals or entities in connection with any Oasis investment. Lender hereby authorizes Oasis to sell, pledge, rehypothecate, assign, invest, commingle and otherwise use any money loaned to it by Lender, including any interest thereon. Where Lender's Loan Account consists of more than one loan, this authorization shall apply to all loans, including any interest thereon. Anything to the contrary notwithstanding, including without limitation, any rule, regulation or law, Oasis shall have the right to sell, pledge, rehypothecate, assign, invest, commingle and otherwise use any



money loaned to it by Lender, including any interest thereon, free from any claim or right of any nature whatsoever of the Lender. Any failure by Oasis to enforce its rights hereunder shall not be deemed a future waiver of such rights by Oasis.

4. Representations and Warranties.

- a. Lender will execute and deliver all documents, give all notices, make all filings and take such other actions as Oasis, in its sole discretion, deems necessary or desirable to evidence or perfect any security interest in favor of Oasis or to protect Oasis' interests with respect to any money, including any interest thereon, loaned to Oasis by Lender.
- b. Lender has read and understands the provisions contained in this Agreement, including, without limitation, Oasis' risk disclosure statements herein contained. Lender will review the Agreement each time it is amended, as provided herein. Lender will not lend Oasis any money unless Lender understands Oasis' revised Agreement, and Lender agrees that in effecting any continuation of a loan or any interest thereunder, Lender is deemed to represent that Lender has read and understands Oasis' revised Agreement as in effect at the time of such loan.
- c. Lender agrees to comply with all applicable laws. Lender shall not use the Loan Account with Oasis for any illegal activity.
- d. All information provided by Lender to Oasis, including information regarding Lender's experience and investment sophistication, is true, correct and complete, and Lender will notify Oasis promptly of any changes in such information.
- e. The risk capital and/or intended loan amount provided as part of the Lender application and any subsequent loans Lender makes to Lender's Loan Account in excess of such pre-disclosed amount(s), including any interest thereon, represents Lender's total risk capital which, should it be lost in its entirety, would not alter the Lender's lifestyle.

5. Oasis' Regulators. Oasis is governed by the laws of the Cayman Islands.

6. Risk Disclosure Statements.

- a. Lender is aware that Oasis may invest money loaned to it by Lender, including any interest thereon, in foreign exchange and/or spot metal trading. Lender understands and agrees that foreign exchange trading and spot metal trading is highly speculative and is suitable only for those investors who (a) understand and are willing to assume the economic, legal and other risks involved, and (b) are financially able to assume losses significantly in excess of margin or deposits. Foreign exchange and spot metal trading may not be an appropriate investment for Lender's retirement funds. Lender represents, warrants and agrees that Lender understands these risks; that Lender is willing and able, financially and otherwise, to assume the risks of Oasis engaging in foreign exchange and /or spot metal trading with Lender's money and that loss of Lender's entire Loan Account, any principal and interest, will not change Lender's life style.
- b. Lender understands and agrees that Oasis and its third party suppliers make no warranties or representations of any kind, whether express or implied for Oasis' investment of Lender's funds hereunder. Oasis and its third party suppliers also disclaim any warranty of merchantability or fitness for any particular purpose and will not be responsible for any damages that may be suffered by Lender, including loss of funds, data, non-deliveries or service interruptions by any cause or errors or omissions by You.



Your use of any information obtained by way of your Oasis Loan Account is at your own risk, and Oasis and its third party suppliers specifically deny any responsibility for the accuracy or quality of information obtained through their services. Connection speed represents the speed of an end-to-end connection. Oasis and its third party suppliers do not represent guarantees of speed or availability of end-to-end connections. Oasis and its third party suppliers shall not be subject to any damages or liability for any errors, omissions or delays therein including unavailability. The licensed products and all components thereof are provided on an "as is" basis and are separate and distinct from the services provided by Oasis hereunder.

c. Any investment made by Oasis is based upon information believed to be reliable, but Oasis cannot and does not guarantee the accuracy or completeness thereof or represent that information will reduce or eliminate the risk inherent in any such investment. Any investment recommendations provided by Oasis to Lender do not constitute an offer to buy or sell, or the solicitation of an offer to buy or sell, any investment made by Oasis, including without limitation any foreign exchange, cross currency, or metal contracts. Any decision by Lender to enter into any transaction with Oasis and each decision whether such investment is appropriate or proper for Lender is an independent decision by Lender. Oasis is not acting as an advisor or serving as a fiduciary to Lender. Lender agrees that Oasis has no fiduciary duty to Lender and no liability in connection with and is not responsible for any liabilities, claims, damages, costs and expenses, including attorneys' fees, incurred in connection with Lender following any of Oasis' investment recommendations or taking or not taking any action based upon any recommendation or information provided by Oasis.

d. Lender is aware that Oasis will invest money loaned to it by Lender, including any interest thereon, in foreign exchange transactions. Lender understands and agrees that foreign exchange transactions carry a high degree of risk and any transaction involving currencies is exposed to, among other things, changes in a country's political condition, economic climate, acts of nature - all of which may substantially affect the price or availability of a given currency. Speculative trading in the foreign exchange market is a challenging prospect with above average risk. You must therefore carefully consider your investment objectives, level of experience and appetite for such risk prior to loaning any money to a participant in this market. Most importantly, do not invest money that You are not in a position to lose. You should be aware that off-exchange Forex transactions are not regulated. You should also be aware that Oasis can rapidly lose all of the funds loaned to it by You. That is, Oasis' trading on a margin basis means that any market movement will have a proportionate effect on its deposited funds. This can work for Oasis as well as against Oasis. The possibility exists that Oasis could sustain a total loss of margin funds. Oasis' trading system is designed to automatically liquidate all open positions if its margin deposit is in jeopardy so that it cannot lose more than the funds that it has on deposit in its account. There are also risks associated with Oasis' utilizing an Internet-based trade execution software application including, but not limited to, the failure of hardware and software. Oasis maintains back-up systems and contingency plans to minimize the possibility of system failure. Finally, You should thoroughly investigate any statements which minimize the importance of, or contradict any of the risk warnings discussed herein. Such statements may indicate potential fraud.



7. **Charges.** Oasis is compensated for its services through the use of the funds loaned by Lender, including any interest thereon. Oasis may charge Lender for incidental banking-related fees such as wire charges for deposits/withdrawals and monthly data fees. Fees do not currently, but may in the future include such things as statement charges, account transfer charges, fees imposed by any interbank agency, bank, contract, market or other regulatory or self-regulatory organization arising out of Oasis' use of Lender's funds hereunder.

8. **Service Agents.** Oasis utilizes the consulting services of Loan Service Agents to introduce lenders to Oasis and service the accounts so introduced. The Loan Service Agents are consultants and not employees of Oasis. If Lender's Loan Account has been introduced to Oasis by a Loan Service Agent, Lender understands, acknowledges, and agrees that: (i) Oasis shall provide Loan Service Agent with all of Lender's Loan Account information provided by Lender to Oasis on an ongoing basis, including without limitation, all of Lender's personal information and account balances (including any deposits or withdrawals); (ii) Loan Service Agent shall not be permitted to make any deposit or withdrawal to or from Lender's account; (iii) Oasis shall not be liable for any act or omission of any Loan Service Agent; and (iv) Oasis may compensate the Loan Service Agent for introducing Lender's Loan Account to Oasis and servicing the same.

9. **Special Requests.** Lenders of all countries may be asked to comply with requests for special information by Oasis as required by any governmental unit or regulatory agency. This includes, but is not limited to, special calls for information. In the event of a special call for information, Oasis or its agent shall be required to obtain the information set forth by any governmental unit or regulatory agency requesting information. Lenders are required to provide a copy of a valid government issued photo ID. The ID must include: 1.) Name; 2.) ID number; 3.) Date of birth; and 4.) Address. This will be accepted as a single form of identification for account opening purposes. If the government issued photo ID does not contain an address or other required criteria, separate documents will be required.

10. **Communications.** Reports, statements, notices and any other communications from Oasis may be transmitted to Lender by (x) placement on Oasis' Website; or (y) mail or other delivery service to Lender's current address as reflected on Oasis' records. Lender hereby consents to receive account statements (monthly and daily statements) online. Oasis will provide Lender with password-protected access to online reports. Lender will be able to generate daily, monthly and annual account statements detailing transaction activity, profit and loss statements, etc. Statements are deemed received when made available to Lender by Oasis, regardless of whether Lender actually accessed the statement. Lender is responsible for alerting Oasis to any change in Lender's e-mail address. This consent shall be effective until revoked by Lender in writing and received by Oasis according to this paragraph. Lender shall notify Oasis immediately of any change in Lender's address by e-mail to customersupport@oasisglobaltd.com or by mail or other delivery service to Oasis International Group, Ltd. at any authorized current address thereof. All communications sent by Oasis shall be deemed effective when deposited by Oasis in the mail or with another delivery service, or when received by a transmitting agent (such as an Internet service provider) for transmission to Lender, whether actually received by Lender or not. All communications sent by Lender shall not be deemed effective until accepted by Oasis.



11. **Oasis' Responsibilities.** Oasis shall not be liable to Lender for any claims, losses, damages, costs or expenses, including attorneys' fees, caused, directly or indirectly, by any events, actions or omissions, including, without limitation, claims, losses, damages, costs or expenses, including attorneys' fees, resulting from civil unrest, war, insurrection, international intervention, governmental action (including, without limitation, exchange controls, forfeitures, nationalizations, devaluations), natural disasters, acts of God, market conditions, inability to communicate with any relevant person or any delay, disruption, failure or malfunction of any transmission or communication system or computer facility, whether belonging to Oasis, Lender, any market, or any settlement or clearing system.

12. **Intellectual Property and Confidentiality.** All copyright, trademark, trade secret and other intellectual property rights in the Oasis Online System ("System") shall remain at all times the sole and exclusive property of Oasis and/or its 3rd party service providers and Lenders shall have no right or interest in the System(s) except for the right to access and use the System(s) as specified herein. Lender acknowledges that the System(s) are confidential and have been developed through the expenditure of substantial skill, time, effort and money. Lender will protect the confidentiality of Oasis and/or its 3rd party service providers by allowing access to the System(s) only by its employees and agents on a need to access basis. Lender will not publish, distribute, or otherwise make information available to third parties any information derived from or relating to the System(s). Lender will not copy, modify, de-compile, reverse engineer, and make derivative works of the System(s) or in the manner in which it operates.

13. **Indemnification; Force Majeure.** Lender agrees to indemnify and hold Oasis, its shareholders, officers, directors, affiliates, employees, agents, successors and assigns harmless from and against any and all liabilities, claims, losses, damages, costs and expenses, including attorneys' fees, incurred by Oasis arising out of: (i) Lender's failure to fully and timely perform its obligations hereunder; and (ii) any of Lender's representations and warranties made that may at any time be untrue or incorrect; and (iii) any failure or omission by any third party provider to Oasis, including without limitation, any software provider used by Oasis in connection with the Oasis Online System. Lender also agrees to pay promptly to Oasis any and all claims, losses, damages, costs and expenses, including attorneys' fees, incurred by Oasis in the enforcement of any of the provisions of this Agreement, any Promissory Note and Loan Agreement, Loan, including any interest thereon, and other transactions hereunder, and any other agreements between Oasis and Lender and the collection of any amounts due hereunder and thereunder. Notwithstanding any other provision contained herein, Oasis shall not be responsible for any losses incurred by Lender nor shall Oasis be liable for any action taken, delay or any failure to take any action required to be taken hereunder or otherwise to fulfill its obligations hereunder (including without limitations the failure to receive or make any payment) in the event and to the extent that the taking of such action, delay or such failure arises out of or is caused by or directly or indirectly due to war, act of terrorism, insurrection, riot, labor disputes, civil commotion, act of God, accident, fire, water damage, loss of power,

explosion, any law, decree, regulation or order of any government or governmental body (including any court or tribunal), or any other cause (whether similar or dissimilar to any of the foregoing) whatsoever beyond its reasonable control or the reasonable control of any delegate, banking, or securities or currency exchange systems. In any such event, Oasis will use



commercially reasonable efforts to recommence performance or observance as soon as practicable.

14. **Disclosure of Lender Information.** Oasis will not share or sell information regarding its lenders and/or prospective lenders, except to its employees, agents, partners, and associates as required in the ordinary course of Oasis' business conducted on behalf of lenders, including, but not limited to, Oasis' banking or credit relationships in accordance with Oasis' privacy policy. Oasis may also disclose to regulatory agencies and law enforcement authorities' information regarding Lender and Lender's transactions in response to a request for such information or in response to a court order or subpoena. To read Oasis' entire privacy policy, please visit: <http://oasisglobaltd.com/privacy-policy.php>.

15. **Joint and/or Trust Accounts.** If more than one natural person executes this Agreement as Lender, all such natural persons agree to be jointly and severally liable for the obligations assumed in this Agreement. If this Agreement is executed by a trust, unincorporated association, partnership, custodian or other fiduciary, such Lender hereby agrees to indemnify, defend, save and hold free and harmless Oasis for any liabilities, claims, losses, damages costs and expenses, including attorneys' fees, resulting directly or indirectly from breach of any fiduciary or similar duty or obligation or any allegation thereof, including attorneys' fees.

16. **Amendments.** Lender understands, acknowledges and agrees that Oasis may amend or change this Agreement at any time. Oasis will provide notice to Lender of any such amendment or change by posting the amendment or change to the Website or by sending an e-mail message to Lender. Lender agrees to be bound by the terms of such amendment or change on the earlier of: (x) ten (10) days after Oasis has posted notice of such amendment or change to the Oasis Website; or (y) on the date of the addition of any loan amount, or any interest thereon. In the event that Lender objects to any such change or amendment, Lender agrees to provide notice to Oasis to make payment pursuant to the terms and conditions of the Promissory Note and Loan Agreement and withdraw all funds in Lender's Loan Account within ten (10) Business Days after notice of the amendment or change has been posted to the Oasis Website. No waiver or amendment of this Agreement may be implied from any course of dealing between the parties or from any failure by Oasis or its agents to assert its rights under this Agreement on any occasion or series of occasions. No oral agreements or instructions to the contrary shall be recognized or enforceable.

17. **Termination.** This Agreement shall continue and be in effect until termination by Lender or Oasis. Lender may terminate this Agreement if: (i) Lender has no loans outstanding or has requested payment in full pursuant to the terms and conditions of the Promissory Note and Loan Agreement and no liabilities are held by or owed by Lender to Oasis; and (ii) Lender has provided written notice to Oasis pursuant to the terms and conditions of the Promissory Note and Loan Agreement.; and (iii) Oasis has received the notice as provided in said Promissory Note and Loan Agreement. Oasis may, in its sole discretion, terminate the Promissory Note and Loan Agreement and this Agreement at any time, effective as of the close of business on the day notice is sent to Lender. Termination by either party shall not affect any loans or other transactions previous entered into and shall not relieve either party of any obligations set out in the Promissory Note and Loan Agreement and this Agreement.



18. **Entire Agreement; Counterparts; Signatures.** This Agreement together with the Lender Application and the Promissory Note and Loan Agreement embodies the entire agreement between Oasis and the Lender, superseding any and all prior written and oral agreements. In the event of any conflict of any term or condition, or lack thereof, between this Agreement and the Lender Application and/or the Promissory Note and Loan Agreement, this Agreement shall govern and control. This Agreement may be executed and delivered in counterparts (which delivery may be effected by verifiable facsimile or electronic transmission), and all of such counterparts when taken together shall be deemed to constitute one and the same instrument. It is hereby

understood and agreed by and between Oasis and the Lender and signatories to this Agreement that any/or all facsimile or electronic transmissions of this document are considered to be original and are legal and binding instruments. Therefore the signatories hereto are irrevocably bound and committed to adhere to the terms and conditions set forth herein.

19. **Recordings.** Lender acknowledges and agrees that any and all conversations between Lender and Oasis principals, agents, employees or associates, including any Oasis Service Agents and customer service and operations desks may, at the option and in the sole discretion of Oasis, be recorded electronically with or without the use of an automatic tone warning device. Lender further agrees to the use of such recordings and transcripts thereof as evidence by either party in connection with any dispute or preceding that may arise involving Lender or Oasis.

20. **Binding Effect; Assignment.** This Agreement shall be continuous and shall cover, individually and collectively, all Loan Accounts of Lender at any time opened or reopened with Oasis, irrespective of any change or changes at any time in the personnel of Oasis or its successors, assigns, or affiliates. This Agreement, including all authorizations, shall inure to the benefit of Oasis and its successors and assigns, whether by merger, consolidation, or otherwise and shall be binding upon Lender and/or the personal representatives, heirs, executor, administrator, trustee, legatees, legal representative, successors and assigns of Lender. Lender may not assign its rights or responsibilities under the Agreement or any part hereof without the prior written consent of Oasis. Oasis may, in its sole discretion, assign the Agreement and any or all of its rights and obligations hereunder without consent of Lender.

21. **ARBITRATION.**

a. Any dispute, controversy or claim arising out of or in connection with this Agreement, including without limitation any question regarding the existence, validity, interpretation, breach or termination of the Agreement (a "Dispute") shall be referred to arbitration at the written request of either Party in and pursuant to the Cayman Arbitration Law, 2012 (the "Rules") and finally resolved by arbitration under the Rules which Rules are deemed to be incorporated by reference into this clause. Judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof.

b. The Parties to this Agreement agree that:



- i. the number of arbitrators shall be three, appointed in accordance with the Rules;
 - ii. the place of the arbitration shall be Cayman Islands; and
 - iii. the language to be used in the arbitration proceedings shall be English.
- c. If any Dispute raises issues which are substantially the same as or connected with issues raised in a Dispute which has already been referred to arbitration (an "Existing Dispute"), or arises out of substantially the same facts as are the subject of an Existing Dispute (a "Related Dispute"), the arbitrators appointed or to be appointed in respect of any such Existing Dispute shall also be appointed as the Arbitrators in respect of any Related Dispute.
- d. The arbitrators, upon the request of one of the Parties to a Dispute which itself wishes to be joined in any reference to arbitration proceedings in relation to a Dispute, shall join such Party to any reference to arbitration proceedings in relation to that Dispute and may make a single, final award determining all Disputes between them. Each of the Parties to this Agreement hereby consents to be joined to any reference to arbitration proceedings in relation to any Dispute at the request of a Party to that Dispute.
- e. Where, pursuant to the above provisions, the same arbitrators have been appointed in relation to two or more Disputes, the arbitrators may, with the agreement of all the Parties concerned or upon the application of one of the Parties, being a party to each of the Disputes, order that the whole or part of the matters at issue shall be heard together upon such terms or conditions as the arbitrators think fit. The arbitrators shall have power to make such directions and any provisional, interim or partial awards as they consider just and desirable.

22. **Law and Jurisdiction; Severability.** This Agreement is governed by, and shall be construed in accordance with the laws of the Cayman Islands without giving effect to any conflict of laws doctrine that would interfere with or prevent the application of this provision. With respect to any suit, action or proceeding ("Proceeding") relating to this Agreement, Lender irrevocably (i) submits to the exclusive jurisdiction of the government, regulatory authorities, and courts located in the Cayman Islands (collectively, the "Forum"); (ii) agrees to service of process in any legal proceeding by sending copies thereof by registered or certified mail, if practicable (postage prepaid) to the other party at the address set forth in this Agreement or updated as provided herein (where service of process is being made by Oasis); (iii) waives any objection which it may have at any time to the laying of venue of any Proceeding brought in any such Forum, waives any claim that such Proceeding have been brought in an inconvenient forum; (iv) agrees that any Proceeding shall be commenced within one (1) year after the cause of any such Proceeding shall have arisen; and (v) further waives the right to object, with respect to such Proceeding, that such Forum does not have jurisdiction over such party. Lender irrevocably waives, to the fullest extent permitted by applicable law, with respect to Lender and Lender's revenues and assets (irrespective of their use or intended use), all immunity on the grounds of sovereignty or other similar grounds from (i) suit, (ii) jurisdiction from any Forum, (iii) relief by way of injunction, order for specific performance or for recovery of property, (iv) attachment of Lender assets (whether before or after judgment), and (v) execution or enforcement of any judgment to which Lender or its revenues or assets



might otherwise be entitled in any proceedings in the courts of any jurisdiction, and irrevocably agrees, to the extent permitted by applicable law, that it will not claim any such immunity in any such proceedings. If any clause of this Agreement is determined void or invalid by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect.

23. **Acceptance.** This Agreement shall not be deemed to be accepted by Oasis or become a binding contract between Lender and Oasis until the signed Lender Application has been received and approved by Oasis and the Promissory Note and Loan Agreement is signed by Oasis. In the event that there are any unauthorized alterations or deletions to this Agreement or related documents such alteration and deletions shall not be binding on Oasis and said original forms shall govern the Loan Account.

24. **I.D. Certification.** Lender hereby certifies, under penalty of perjury, that the identification information provided on the Lender Application is Lender's correct information.

OASIS INTERNATIONAL GROUP, LTD.

THIS IS A LEGALLY BINDING CONTRACT.

DO NOT SIGN UNTIL YOU HAVE CAREFULLY READ ALL OF THE FOREGOING COMPLETELY AND COMPLETED THE LENDER ACCOUNT APPLICATION.

**SWORN AFFIDAVIT OF JASON MCKEE
Pursuant to 28 U.S.C. § 1746(1)**

I, JASON MCKEE, declare that the following statements are true and correct to the best of my knowledge, information, and belief:

1. I am over 21 years of age and legally competent to testify as to the following facts;
2. I currently reside in Elkhart, Illinois. After graduation from High School, I enlisted in the Army as a combat medic and after my Army service I became an electrician working in construction.
3. In approximately 2015 I became involved in a company known as "Ambit Energy" which was a direct sales company who sold electricity to customers.
4. While working for Ambit Energy, I became familiar with various friends who had invested in a new company known as "Oasis International Group (hereinafter "OIG"). I understood that OIG was a "diversified company" that you could, as an investor, loan money to the company and receive a good rate of return. I understood that the diversified company would invest in forex trading, real estate investments, purchasing and selling gold and silver and buying into different businesses and companies.
5. In around the end of 2017, I investigated the background of Michael DaCorta and did not find anything negative in his background.
6. As a result, I personally spoke to Michael DaCorta and Ray Montie (who was also involved with Ambit Energy) regarding the investment opportunities and the background of OIG.
7. I understood that the OIG investment was through a loan program to OIG through a Promissory Note which would provide an annual rate of return of 12% or 25% of the transaction fees that the company generated.
8. I understood that OIG was putting a portion of the loaned money into a trading account. They were buying real estate. They were buying precious metals. They were investing in other companies. In my opinion and as revealed, OIG was diversified.
9. During my involvement with OIG, I personally met Attorney Anile who was represented as the attorney for OIG. I had previously known Ray Monte but also met office employee Deborah Cheslow and Joseph Paniagua.



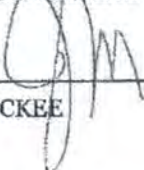
9. During my involvement with OIG, I personally met Attorney Anile who was represented as the attorney for OIG. I had previously known Ray Monte but also met office employee Deborah Cheslow and Joseph Paniagua.
10. I personally loaned \$323,000 to OIG from my personal IRA after I signed a Promissory Note with the same terms as previously referenced herein.
11. After my initial loan I was able to log into a website and access what the daily generations were on a daily basis. I was not able to view any trading information but did not care as my loan to them was to make money and do whatever was done to make money on the loaned amount.
12. I personally withdrew from OIG \$33,000.00 in interest with no problems and/or issues at all.
13. I personally did not care how my money was used, invested, etc. as long as there was a return on my money loaned.
14. I was not made aware that Michael DaCorta had reached a settlement agreement with National Futures Association, (hereinafter "NFA"), while not admitting or denying any findings of the NFA Audit of a company known as International Currency Traders, Ltd. (hereinafter "ICT").
15. Even if Michael DaCorta had informed me personally of this settlement agreement it would not have affected my decision to loan money to his company.
16. I loaned OIG my money. I did not care what they did with it, and I did not care about what license they/he had or needed to have. I was under a loan agreement. I did not care about profits and losses. I loaned the money and was getting paid back interest that was owed under the loan agreement so no issues with the program. I knew hundreds of people who had loaned money to this company and nobody had ever had a problem getting their money back or nobody I knew filed a complaint against the company.
17. I personally ended up referring other investors to this lending opportunity including family and friends of which I would receive additional interest that was added to my account.
18. I personally believe that the reason that neither I nor my friends and family have not received our investment back is because of the government intervention.

19. I did not require Michael DaCorta to inform me of trading losses as it was his business and if he met his obligation to me, I was ok with that.

20. I understand that this Declaration may be submitted as evidence in court, and I am willing to testify under oath as to the truthfulness of the facts stated herein;

I declare under penalty of perjury and the laws of the United States of America that the foregoing is true and correct according to my knowledge, information, and belief;

Declarant further saith not.



JASON MCKEE


Executed on this 14th day of July 2023

STATE OF ILLINOIS
COUNTY OF JACKSON

The foregoing instrument was acknowledged before me this ____ day of July, 2023, by JASON MCKEE, who is personally known to me or provide Driver's License Identification.



NOTARY PUBLIC – State of Illinois



Typed or Printed Name of Notary



My Commission Expires:

**SWORN DECLARATION OF JOHN CHARLES PANIAGUA
Pursuant to 28 U.S.C. § 1746(1)**

I, JOHN CHARLES PANIAGUA, declare that the following statements are true and correct to the best of my knowledge, information, and belief:

1. I am over 21 years of age and legally competent to testify as to the following facts;
2. I live in Rego Park, Queens and hold a Bachelor's degree from New York Institute of Technology; a Masters in Science degree from Columbia University and a Ph.D. in Mechanical Engineering from the State University of New York at Stony Brook;
3. I am certified in professional risk management in finance.
4. I am currently employed at KKR and possess 25 years of professional experience in financial services, including 17 years in the New York Stock Exchange Regulation Technology Group. KKR is a private equity firm in New York City that raises capital using risk management techniques and they do investments across major lines of business including insurance, real estate companies and buy and restructure companies then take them public.
5. I have worked at the New York Stock Exchange as a consultant in the year 2004 and I became a full-time employee in 2007 when I was working in regulation technology.
6. I ran the Market Surveillance Technology team that developed over 100+ market surveillances to monitor the trading markets at the New York Stock Exchange ("NYSE");
7. While working with Member Firm Regulation (MFR) at NYSE, bank examiners were deployed to audit and monitor the member firm's books that were listed at the NYSE. Their roles were to assess a firm's condition and identify potential problems. If MFR did not make corrections that the bank examiners required, penalties and more were imposed;
8. I also have passed Series 65 certification for the Registered Investment Advisor ("RIA") Uniform Law Examination in New York State, which certification covers investment vehicles, regulation, ethical practices, and economics for wealth-management services, including analysis of balance sheets, income statements, and cash-flow statements;



9. I am prepared to present my analysis and, if required, to testify in court regarding these facts;
10. I was subpoenaed and did testify at the Trial of *USA v. Michael DaCorta* in United States District Court for the Middle District of Florida, Tampa Division in Case No. 8:19-cr-605 on May 3, 2023. I testified on behalf of Mr. DaCorta although the United States had also requested my testimony and prepared me for testimony but did not call me as a witness. I met with the U.S. Attorney's office on numerous occasions about the reporting data base I created for OIG.
11. I became aware of OIG through my brother, Joseph Paniagua back in 2014 and ended up investing in OIG. My initial investment was \$100,000.00 and it grew to \$212,000.00 by 2018. I never had any conversations with anyone associated with OIG prior to my investment.
12. By 2018 the investment was transferred to a loan program from me to OIG when I was provided an option to either take my money out of OIG or switch over to a loan to OIG which allowed a certain percentage which was a minimum of 1 percent or 25 percent of the spread the investment was capturing.
13. As part of my due diligence prior to investing/loaning money to OIG, I performed a risk management analysis on the company. First off, the rule of thumb in any investment is to diversify. A certain percentage of investment went into trading and the rest in other assets. My belief was OIG was invested in properties, real estate, commodities like silver and gold and into small companies. I believe this was a sound strategy.
14. During my time investing, I did not withdraw any of my principal or interest. I was allowed to withdraw my loan at any time but chose not to do so.
15. During my participation in OIG, I was asked to build a reporting system for the company which allowed a user to be able to go in and see their respective accounts in OIG.
16. I built a program using Amazon Web Services which was a cloud-based account that pulled data from the trading system which were the spreads. This information was then added to the balance of an investor on a daily basis and then presented to the user to log in and it was presented as a report. Clients could log in to see how they were doing on a daily basis. The data was generated by ATC/Spotex Trading System which was referred to as the "Back Office". There were risk disclosures in the application process for each lender to read and acknowledge and agree by signature.

17. My main and only concern in loaning money to OIG was I was receiving interest on the loan. There was not a time where I did not receive interest on my loan.
18. I was also shown at the trial of Mr. DaCorta a settlement agreement between Mr. DaCorta and NFA (Exhibit "308"). I was not familiar with this agreement prior to investing in OIG.
19. If I had been advised of this settlement agreement with NFA I would have still loaned money to OIG because the fact Mr. DaCorta had agreed back in 2009 to not be a member of NFA wouldn't have affected my decision to loan money because the investments were diversified.
20. I was not concerned with how OIG ran their business or how they marketed additional investments. They run their business as they see fit and my only concern was I get the return and I could get my money back if I ever pulled it out, that was my only concern. Some companies are not profitable in the beginning. And based on time and the management and leadership, you can grow the company and become profitable.
21. I have been asked to provide unbiased, objective analysis based on industry standards, sound scientific principles, and methodologies in my analysis of OIG;
22. In providing this analysis, I have relied upon my education, training, and experience in the field of financial services and financial regulation, in addition to the relevant information made available to me;
23. I have not been compensated, promised compensation, or agreed to any contingency payment for providing this analysis and affidavit;
24. I have reviewed and analyzed the following documents, including but not limited to, the following attached Exhibits:

1) Oasis ATC & Investment Overall Fund Flows

This diagram incorporates inflows and outflows of OIG's Mainstream (Bank of America and Citibank) and Oasis Management LLC (Wells Fargo) bank accounts. (Exh. JP-A)

2) Oasis Management LLC (OMLLC) Balance Sheet

This is the balance sheet generated from the bank statements and real estate appraisals for OMLLC as of April 2019. (Exh. JP-B)

3) Oasis International Group Ltd (OIG) Balance Sheet

This is the balance sheet generated from the bank statements and real estate appraisals for OIG as of April 2019. (Exh. JP-C)

4) Omnibus Analysis

OIG's Omnibus sole trading account. (Exh. JP-D)

5) Spreads vs Lenders Withdrawal-Acct Closure

Shows that average monthly Spread earnings were 167% of average monthly liabilities for Account Closures and Withdrawals combined. (Exh. JP-E)

25. The Commodities Futures Trading Commission ("CFTC") neither audited nor examined Oasis International Group's ("OIG") financial books and records;
26. The CFTC never provided any balance sheet of OIG's finances and never entered one into evidence;
27. Without a balance sheet, solvency is unascertainable;
28. My analysis of the cash flows, and income flows from the fund flows analysis verify that OIG and OM were solvent at all times before, and at the time of the CFTC's seizure of OIG and OM on 18 April 2019; (See Exhs. JP-B and JP-C).
29. I understand that this Declaration may be submitted as evidence in court, and I am willing to testify under oath as to the truthfulness of the facts stated herein;

I declare under penalty of perjury and the laws of the United States of America that the foregoing is true and correct according to my knowledge, information, and belief;

Declarant further saith not.

John Paniagua
JOHN CHARLES PANIAGUA

Executed on this 14th day of July 2023

STATE OF NEW YORK
COUNTY OF New York

The foregoing instrument was acknowledged before me this 14th day of July, 2023, by John Charles Paniagua, who is personally known to me or provide Driver's License Identification.

Katie M Thayer
NOTARY PUBLIC – State of New York

Katie M Thayer
Typed or Printed Name of Notary

My Commission Expires: 09-06-2026



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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA,)
) 8:19-cr-605-WFJ-CPT-1
 PLAINTIFF,) Tampa
) April 29, 2022
 v.) 8:17 a.m.
)
 MICHAEL J. DACORTA,)
)
 DEFENDANT.)

DAY 10
TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE WILLIAM F. JUNG
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiff:
MS. RACHELLE DESVAUX BEDKE
MR. FRANCIS D. MURRAY
MR. DAVID W.A. CHEE
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For the Defendant:
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MS. SYLVIA A. IRVIN
United States Attorney's Office
Suite 3200
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Tampa, FL 33602-4798

Court Reporter: Tracey Aurelio, CRR, RMR, RDR
Federal Official Court Reporter
801 N. Florida Avenue, 15th Floor
Tampa, Florida 33602
(813) 301-5448

Proceedings recorded by mechanical stenography,
transcript produced by computer.

1 APPEARANCES: (Continued)

2 For the Defendant:

3 MR. RUSSELL K. ROSENTHAL
4 Federal Public Defender's Office
2075 West First Street, Suite 300
Ft. Myers, FL 33901

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ADMITTED

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8	350	39
9	508	43
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15	510	48
16	340	48
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18	511	50
19	309	50
20	309A	50
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25 GOVERNMENT EXHIBITS (Continued) ADMITTED

1	310B	53
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9	308	58
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11	515	59
12	507A	59
13	507B	61
14	345	61
15	346	61
16	347	61
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25 GOVERNMENT EXHIBITS (Continued) ADMITTED

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DEFENDANT EXHIBITS

ADMITTED

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11	57	140
12	58	140
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(Proceedings commenced at 8:17 a.m.)

THE COURT: Mr. Chee, did we reach any potential agreement on this point?

MR. CHEE: No, Your Honor. We just walked in this morning, but I'm sure during the morning break, now that our team has talked really extensively about it, I think it will go much faster when I talk to Ms. Irvin.

THE COURT: I'll let you do that. Just FYI, if it's authenticated, then it's my intention -- I don't believe -- I will just talk in street terms here. I don't believe it's counterfeit. In other words, I don't believe that, you know, three weeks before the search warrant that this was cooked up. Could it have been? Maybe. It doesn't -- my sniffer says that people write little, whatever you want to call it, self -- my mom used to do that, I will succeed, and then she would list the things why in this little journal. That's what this appears to be.

Under 803(3) it appears to be portions of a statement of an intent or plan or motive of a future conduct of the declarant. So plan on some of this coming in, and maybe y'all can agree. Sometimes when you don't agree, neither side likes the results. So we will take it up after the morning break then. Will that work?

MS. BEDKE: Yes, Your Honor.

1 THE COURT: You know, I need to probably break a
2 little bit early this afternoon, like quarter to five,
3 something like that.

4 MR. ALLEN: I really wanted to stay late on Friday,
5 Judge.

6 THE COURT: We can do it. That could be
7 accomplished. I kid you not, we had used to try stuff on
8 Saturdays. You couldn't do that now to save your life. The
9 judge would say you're coming in on Saturday. Of course, that
10 judge died of a heart attack.

11 MS. BEDKE: Your Honor, if you want to break at 1:30,
12 that works for me. My son is a senior in high school and
13 there's a big award ceremony this afternoon.

14 THE COURT: You are free to go.

15 MS. BEDKE: We'll see where we are.

16 THE COURT: It's actually the last day for the
17 Academy, too. I guess they all run out and leap into the
18 swimming pool which is very interesting.

19 So at the morning break we will take that up. And I
20 will have -- I haven't looked at the jury instructions yet,
21 but I have them laid out on my desk. So this weekend I will
22 do that, and we can talk about that Monday.

23 MR. ALLEN: Yes, Your Honor. We will be prepared to
24 do that on Monday.

25 (Jury escorted into the courtroom.)

DIRECT EXAMINATION OF SHAWN BATSCCH

1 (Witness sworn.)

2 THE COURT: Thank you, ladies and gentlemen.

3 This is our new officer, Fred Bohlig. He is very
4 experienced and we are glad to have him.

5 We will break a little bit early. My impression is
6 there are some things going on downtown tonight. So trying to
7 get a little jump -- about 4:45 we will break today to try to
8 avoid getting tied up in some event traffic.

9 We are making good progress. I'll have a better feel
10 for that this afternoon and I think so will you.

11 Counsel, let's call your next witness.

12 MS. BEDKE: The United States calls Special Agent
13 Shawn Batsch.

14 THE COURT: All right.

15 **SHAWN BATSCCH, CALLED BY THE GOVERNMENT, SWORN**

16 **DIRECT EXAMINATION**

17 BY MS. BEDKE:

18 Q Good morning.

19 A Good morning.

20 Q Would you please introduce yourself to the jury.

21 A I'm Shawn Batsch. I'm a special agent with the IRS
22 criminal investigation.

23 Q How long have been an IRS CI special agent?

24 A Twenty-one years.

25 Q Prior to becoming a special agent, tell us about your

DIRECT EXAMINATION OF SHAWN BATSCH

1 educational background.

2 A I have a Bachelor of Science degree in accounting and a
3 Bachelor of Science degree in finance from Florida State
4 University. I'm also a certified public accountant in
5 Florida. My license is on inactive status.

6 Q And when did you achieve your CPA?

7 A 1998.

8 Q Are you familiar with an individual named Michael
9 DaCorta?

10 A Yes.

11 Q How?

12 A He's the subject of the investigation that we are here in
13 court for.

14 Q And please describe in general terms your role in the
15 investigation.

16 A I was one of the case agents involved. And my role was
17 to do a financial analysis as well as interview witnesses and
18 recover evidence for potential prosecution.

19 Q Was your primary focus the analysis of financial records?

20 A Yes.

21 Q Agent Batsch, I have handed you what you has been
22 admitted into evidence as Government Exhibits 2, 3, 6, 7, 8,
23 9A, 16, 21, 26, 27, 31, 32, 46, 47, 49, 50, 51, 56, 61, 66,
24 67, 74, 75, 76, 77, 78. Do you have those?

25 A Yes.

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1 Q Do you recognize them?

2 A Yes.

3 Q What are they?

4 A They are bank records that were used in the financial
5 analysis that we are going to be discussing here today, very
6 voluminous bank records related to Oasis Management,
7 Mainstream Fund Services or Fund Administration accounts as
8 well as all the LLCs that were opened for the property
9 purchases at Wells Fargo bank and Mr. Anile's Bowling Green
10 account, 4Oaks account, as well as Mr. DaCorta's personal
11 accounts, personal credit cards and such.

12 Q And are there others too?

13 A Yes.

14 Q For example, account records for Full Spectrum Wellness?

15 A Yes, and Roar of the Lion.

16 Q I have handed you what's been marked for identification
17 as Government Exhibit 4. Do you recognize that?

18 A Yes.

19 Q How?

20 A These are checks that went along with Exhibit Number 4
21 for the Oasis Management 9302 bank account that were missing
22 from the original introduction of evidence.

23 MS. BEDKE: Your Honor, at this time pursuant to
24 803.6 and 902.11, the government would move for admission of
25 Exhibit 4.

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1 MR. ALLEN: No objection, Your Honor.

2 THE COURT: Admitted.

3 (Government Exhibit 4 admitted.)

4 BY MS. BEDKE:

5 Q Agent Batsch, did you also analyze these checks along
6 with the other records?

7 A Yes.

8 Q And did you prepare any summary exhibits to show the
9 results of your financial analysis?

10 A Yes, I did.

11 Q How did you do that?

12 A We took the bank accounts for Oasis Management and all
13 these entities that I just discussed, and we made electronic
14 versions of them. So they have been converted to Excel
15 spreadsheets. From there, we were able to manipulate and sort
16 the data to actually use so you don't have thousands and
17 thousands and thousands of transactions, bank records and wire
18 records and checks to deal with at one time.

19 Q I have handed you what have been marked for
20 identification as Government Exhibits 500, 521, 501, 502,
21 504A, 504B, 505A, 505B. And I think that's it for now. Do
22 you have those?

23 A Yes.

24 Q Do you recognize these exhibits?

25 A Yes, I do.

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1 Q How?

2 A These are summary charts that I used to prepare the
3 financial summary of the Oasis operation. They were used
4 because of the voluminous records that the bank records are in
5 fact.

6 MS. BEDKE: Your Honor, the government would move for
7 the admission of Exhibits 500, 521, 501, 502, 504A, 504B, and
8 505A at this time. And, pardon me, 505A and 505B.

9 MR. ALLEN: No objection, Your Honor.

10 THE COURT: Admitted.

11 (Government Exhibits 500, 521, 501, 502, 504A, 504B,
12 505A, 505B admitted.)

13 BY MS. BEDKE:

14 Q Let's start with Exhibit 500.

15 A Okay.

16 Q What is Exhibit 500?

17 A It's a financial summary of the investor fund
18 distribution. It's a main chart. So all the numbers on the
19 spreadsheet, I made numbers that would correspond to those
20 numbers. So there's a backup spreadsheet for nearly every
21 line on the spreadsheet.

22 Q So is this a kind of a master spreadsheet?

23 A That's correct.

24 Q Let's start at the top. What is the title of this
25 spreadsheet?

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1 A "Financial Summary of Investor Funds Distribution, Main
2 Chart." The date range for these records are January 1, 2015,
3 to April 18, 2019.

4 Q Now, does this cover the same information that Joseph
5 Paniagua's spreadsheet, Exhibit 90C, covers?

6 A No. Mr. Paniagua's spreadsheet was extracted from the
7 Spotex platform which was not associated with the bank account
8 or bank records in any form.

9 Q Was your master spreadsheet made exclusively based upon
10 the banking records?

11 A That's correct.

12 Q And does your spreadsheet or analysis cover the same time
13 period as the receiver, Burton Wiand?

14 A No. Mr. Wiand's analysis went back to the beginning of
15 the opening of the Oasis Management account which was in
16 October, November of 2011.

17 Q Does your master spreadsheet nonetheless cover the lion's
18 share of the financial activity that's the subject of the
19 records?

20 A Yes.

21 Q Let's look at the top section of the chart before we see
22 the first total. What's reflected here?

23 A This is mainly showing the investor funds, the deposits
24 from investors to the Oasis Management or the Fund
25 Administration or Mainstream Fund Services account, but

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1 because I started on January 1, 2015, I have included the
2 opening account balances in those accounts at January 1, 2015.

3 Q Let's take a look at the lines quickly. The first line
4 in this section says Fund Administration opening balance. And
5 which accounts or entities does that line refer to?

6 A I don't know exactly the number of the accounts, but
7 these are the Fund Administration accounts that were opened
8 for the benefit of Oasis International Group and Oasis Global
9 FX.

10 Q What about the next line? It says Oasis Management, LLC,
11 beginning balance?

12 A That was the Oasis Management 9302 account that was
13 mainly used during this operation.

14 Q And the next line says Fund Administration London account
15 opening balance. What is that?

16 A There was an account that Mainstream Fund Services, or I
17 should say Fund Administration at that time maintained for
18 Oasis International Group. And it was actually based in
19 London. It was closed down. It was only open for maybe a
20 year, but there were funds going in and out of that account.
21 So I had to account for it here.

22 Q So do the first three lines of your master spreadsheet
23 account for the opening balances for all of those accounts you
24 have mentioned at the time that your analysis begins?

25 A That's correct.

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1 Q What about the next line in this top section? It says
2 "Investor Funds"?

3 A These are the deposits from investors for this time
4 period, January 1 to April 18 of 2019.

5 Q And below that it says "Total." And what does that
6 reflect?

7 A That's a total of the opening balances in the investor
8 funds. It equals \$77,540,821.52.

9 Q Let's look at the next section of this chart, master
10 spreadsheet. In general terms, what's reflected here?

11 A These are the outflows from the Oasis Management and the
12 Mainstream Fund Services or Fund Administration accounts.
13 This is the uses of those funds that came in.

14 Q And there is a figure opposite each line item in this
15 section, correct?

16 A Yes.

17 Q And how did you arrive at those figures?

18 A Again, these are extrapolated from the bank records, the
19 electronic spreadsheets that were made from the bank account
20 information. So a separate spreadsheet was made for most of
21 these line items that total up these totals.

22 Q All right. Let's look at the bottom section of the
23 master spreadsheet. What's reflected in that section?

24 A This is the amounts that were frozen and liquidated by
25 the receiver's office. So at the time the receiver stepped in

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1 and took over the business on April 18, there was
2 \$2,149,654.18 in the Wells Fargo management account. And the
3 Citibank Mainstream Fund Services account he received
4 \$6,012,397.78 totaling \$8,162,051.96.

5 Q All right. Let's go back up to -- well, I want to
6 reference the top section of your spreadsheet again and ask
7 you to turn to Exhibit 521.

8 A Okay.

9 Q What is Exhibit 521?

10 A These are the investment deposits and payback to
11 investors in one spreadsheet.

12 Q Is every single investor deposit identified in the bank
13 records you analyzed included in this spreadsheet?

14 A There were some transactions that we were unaware of what
15 they were, but this is the best that we could do with the
16 number of transactions and number of investors. We believe
17 this is the majority of the funds that went in and out
18 regarding the investors.

19 Q If you weren't sure about a particular transaction,
20 whether it was an investor deposit, did you include it?

21 A If there was money coming in and out, it was included.
22 If there was money just being disbursed and we didn't know who
23 that individual was with the money coming in, it was put on
24 the spreadsheet.

25 Q So does this spreadsheet, Exhibit 521, correspond with

DIRECT EXAMINATION OF SHAWN BATSCH

1 the investor funds line item on your master spreadsheet?

2 A Yes.

3 Q Let's take a look at the section of this spreadsheet,
4 Exhibit 521, on December 1, 2017.

5 A So December 1, 2017, shows a wire in from Anthony Charles
6 and Sandra N. Feeney for \$100,000 on December 1, 2017. It was
7 wired into the Fund Administration account Citibank ending in
8 0764.

9 Q And that's not the only deposit on this date, correct?

10 A That's correct.

11 Q Let's turn to the section of this spreadsheet that covers
12 January 16, 2018. Do you see an entry there that corresponds
13 with Ian Howard's deposit?

14 A Yes. On January 16, 2018, there was a \$200,000 wire
15 transfer from I.W. Land Partners, which was Mr. Howard, to the
16 Fund Administration account at Citibank ending in 0764.

17 Q Let's turn a little further ahead to the section of
18 Exhibit 521 that shows what happened on February 2, 2018. Do
19 you see a line item there that corresponds to Deb Cheslow's
20 investment?

21 A Yes. On February 2, 2018, there was a wire in to the
22 Fund Administration Citibank account ending in 0764 in the
23 amount of \$185,000 from Deborah Cheslow.

24 Q And let's turn to the section of this exhibit that shows
25 what happened on February 20 of 2018. Do you see a line item

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1 there that corresponds to Patti Katter's investment?

2 A Yes. On February 20 of 2018 a deposit was made, a wire
3 in to the Citibank 0764 account with Fund Administration for
4 \$100,000 by Patti Katter.

5 Q And is it accurate to say that this exhibit includes a
6 great number of additional deposits?

7 A Yes.

8 Q And does it also reflect any withdrawals from the
9 accounts?

10 A From the investors, yes.

11 Q Would that include both withdrawal of principal if
12 someone chose to do that?

13 A Yes.

14 Q And does it include any so-called interest payments?

15 A Yes.

16 Q Let's turn to the very last page of this Exhibit 521 at
17 the very bottom. All right. We will zoom in on the very
18 bottom. Did you use -- the program you used, I don't know
19 what that was, what did you use here?

20 A It's just an Excel spreadsheet.

21 Q Did you total up the deposits as well as the
22 distributions back to investors?

23 A Yes.

24 Q And what was the amount of distributions back to
25 investors?

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1 A \$27,409,583.27.

2 Q And is it accurate that the total deposit number matches
3 that on your master spreadsheet?

4 A Well, the deposit is different. You asked me for the
5 money paid back.

6 Q I'm sorry.

7 A But, yes, the money paid back is reflected on the master
8 spreadsheet as well as the deposits.

9 Q And does the deposit amount -- let's start with this.
10 What is the deposit amount again just to be clear?

11 A \$77,204,194.57.

12 Q Is that the figure that you reflected on your master
13 spreadsheet?

14 A Yes.

15 Q How were these accounts funded?

16 A These are accounts funded by individual investors.

17 Q Let's turn now to Exhibit 501. What is Exhibit 501?

18 A This reflects the transfers that were made from the Oasis
19 account with Fund Administration, the Citibank, the Wells
20 Fargo, and the Wells Fargo London accounts, and the Bank of
21 America account. These are the transfers that were made to
22 ATC Brokers. And there's one deposit there in early 2015 to
23 CFH Clearing. This was for the purpose of forex trading.

24 Q And did you total up the amounts of the deposits, or
25 pardon me, the transfers to ATC for forex trading?

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1 A Yes.

2 Q Let's look at the last page of this exhibit. What was
3 the total amount transferred to ATC Brokers?

4 A Well, there is one deposit in there for CFH, but it's
5 \$22,375,000.

6 Q And how were these transfers, the one to CFH Clearing and
7 the remainder to ATC Brokers funded?

8 A Investor funds.

9 Q Is that amount of funds transferred to CFH and ATC
10 Brokers reflected on your master spreadsheet?

11 A Yes, it is.

12 Q Let's take a look at Exhibit 502. What is this
13 spreadsheet?

14 A This is an accumulation of payments made to individuals
15 associated with Oasis. So they're ones that worked there or
16 were passive members of Oasis at one time. So this is the
17 payments that were made to these individuals from 2015 to
18 April 18, 2019.

19 Q All right. And when you refer to staff, to whom are you
20 referring?

21 A For example, Lloyd Lyle, Joe Paniagua, John Paniagua,
22 Steven Dribusch, Vinny Raia. These individuals worked for or
23 were associated with Oasis.

24 Q And what do you mean by passive Oasis members?

25 A There were some individuals that didn't put any money

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1 into this operation but received money back. And those
2 individuals, many of those individuals were listed on the
3 Oasis International Group articles of incorporation in the
4 Cayman Islands. There's a list of members of that corporation
5 listed there.

6 Q What is the amount that you calculated was paid to staff
7 and passive Oasis members? Let's turn to the last page of the
8 exhibit.

9 A \$4,665,848.87.

10 Q And how were these payments funded?

11 A From investor funds.

12 Q Is this -- does this spreadsheet, 502, does this
13 correspond to an entry on your master spreadsheet?

14 A Yes.

15 Q Let's go back to your master spreadsheet, Exhibit 500 for
16 just a moment. In the distribution of funds section, have we
17 covered now the first three lines?

18 A Yes.

19 Q Payments back to investors, transfers to ATC and forex
20 trading, and payments to staff and passive members of Oasis?

21 A Yes.

22 Q Let's look at the next line item, DaCorta's residences.
23 Did you prepare a separate spreadsheet to show your analysis
24 of those transactions?

25 A Yes.

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1 Q Let's look at Exhibit 504A. What did you include in
2 Exhibit 504A?

3 A I included the payments that were made to close on the
4 properties, as well as there is a payment to pay off Lost Key
5 Place, which was his primary residence at the time of the
6 search warrant, as well as bank transfers to the LLCs in those
7 property names. For instance, 13318 Lost Key Place, LLC, had
8 a bank account at Wells Fargo. So did 6922 Lacantera had a
9 bank account at Wells Fargo. So I included payments that
10 were -- or monies that was paid to those other accounts or
11 transferred to those other accounts in the spreadsheet. Those
12 other accounts, those LLC accounts were eventually used to
13 make loan payments on seller carryback, mortgages, home
14 improvements, home maintenance and such.

15 Q What is the total amount that you calculated were paid to
16 either purchase these residences or toward the purchase and to
17 maintain them, improve them, renovate them and so forth?

18 A \$2,322,320.48.

19 Q And did you reflect this value on your master
20 spreadsheet?

21 A Yes.

22 Q Let's turn to 504B. What is Exhibit 504B?

23 A This is essentially the same spreadsheet but just for
24 2017. So these were transfers made to the Lost Key Place,
25 LLC, bank account from the Oasis Wells Fargo 9302 account or

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1 the Fund Administration account for the benefit of Oasis
2 International Group.

3 Q And how were all the transactions reflected on these two
4 spreadsheets, 504A and 504B, funded?

5 A By investor funds.

6 Q Let's turn to Exhibit 505A. What is Exhibit 505A?

7 A This is a spreadsheet that I made that incorporated
8 several different categories here. These were transfers.
9 These were payments made or transfers to Michael DaCorta or
10 his bank account, his personal bank accounts, payments for
11 school items, personal credit cards, home equity, line of
12 credit for a relative, and these were payments mostly made out
13 of the Oasis Management 9302 bank account.

14 Q What was the total amount that you calculated that were
15 transferred for the purposes you just identified? Let's look
16 at the last page of the exhibit.

17 A \$678,668.49.

18 Q Let's look at 506B. Before we do that -- and I misstated
19 the number, in any event. Before we do that, I would like to
20 ask you about a couple of other items.

21 Agent Batsch, I have handed you what have been marked
22 for identification as Government Exhibits 302R, 316, 320, 321,
23 329, 360A, 360B, 360C, 361A, 361B. Do you have those?

24 A I think some of those are previously admitted, but I
25 don't have 320 and 321 maybe.

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1 Q Was 320 previously admitted?

2 THE COURTROOM DEPUTY: Yes. April 22.

3 MS. BEDKE: Thank you so much.

4 BY MS. BEDKE:

5 Q So you don't have 320. Was there another one that you
6 were missing?

7 A I think 321 maybe.

8 Q Well, let's start with the others. That is 302R, 316,
9 329, 360A, B, and C, and 361A and B.

10 A Yes.

11 Q Thank you. Do you recognize those exhibits?

12 A Yes.

13 Q How do you recognize them?

14 A During the course of this investigation, some of these
15 are documents recovered at Mr. DaCorta's house or his computer
16 and/or credit card records, excerpts from credit card records
17 of his personal credit card accounts, Mr. DaCorta's.

18 MS. BEDKE: Your Honor, the government would move for
19 admission of Government Exhibits 302R, 316, 329, 360A, B, and
20 C, and 361A and B.

21 MR. ALLEN: Just one moment, Your Honor.

22 THE COURT: All right.

23 MR. ALLEN: No objection, Your Honor.

24 THE COURT: All right. Admitted.

25 (Government Exhibits 302R, 316, 329, 360A, 360B, 360C,

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1 361A and 361B admitted.)

2 BY MS. BEDKE:

3 Q Let's start with Exhibit 302R. What does this exhibit
4 relate to?

5 A This is some documents that were recovered from
6 Mr. DaCorta's residence during the search warrant that related
7 to a couple vehicle purchases.

8 Q All right. Let's look for example at page 2 of this
9 exhibit. It bears Bates stamp 1B003-CARS-000015.

10 A Right. Yes.

11 Q And what's reflected here?

12 A This is a car sale document from Cox Mazda, Cox Chevrolet
13 for a Mazda CX-3 for Steven DaCorta on July 29, 2017.

14 Q And do the other documents in the package or many of them
15 relate to this particular car purchase?

16 A Yes.

17 Q And are there also some documents that relate to the
18 purchase of a 2017 Maserati?

19 A That's correct.

20 Q Are these the kinds of transactions or uses of funds that
21 you included on your spreadsheet 505A?

22 A Yes. For the Mazda, there was a transfer from the Oasis
23 Management 9302 account to Mr. DaCorta's personal account, and
24 then a down payment was made for this vehicle.

25 Q Let's take a look at Exhibit 316. What is Exhibit 316?

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1 A This appears to be a residential lease for Mr. DaCorta's
2 daughter, Crystal DaCorta.

3 Q Let's look at the middle section of page 1, please. It's
4 Bates stamp Comp33-00064. Where did this document come from?

5 A This came from Mr. DaCorta's computer.

6 Q And where is the property rented located?

7 A Winter Park, 221 Holt Avenue, Number 5, Winter Park,
8 Florida.

9 Q And the tenant?

10 A Crystal DaCorta.

11 Q And what's the term of the lease?

12 A It's for three months, September 8, 2018, to December 8,
13 2018.

14 Q And in Section Number 4 on that page, what is the rent
15 payment, taxes, and charges?

16 A \$12,000.

17 Q Did you include information regarding this apartment
18 rental for Crystal DaCorta in your spreadsheet?

19 A Yes.

20 Q Why is that?

21 A Because there was a payment that was made from Oasis
22 Management 9302 account for this lease.

23 Q 320, which was previously admitted, so we will publish it
24 on the monitor. Let's start with page 1 of this exhibit.

25 What's pictured here?

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1 A That's Mr. DaCorta's driver's license. The car
2 dealership usually takes a copy of the driver's license when
3 you purchase a vehicle. So that's a copy of it.

4 Q Let's look at page 2 of Exhibit 320. It bears Bates
5 stamp Invest-40819. What is that document?

6 A This is a sales invoice for a 2015 Range Rover. The sale
7 date was June 3, 2016.

8 Q Let's just enlarge the top half of this page. So does
9 the sale date appear in the upper left-hand corner?

10 A Yes.

11 Q And who is the buyer?

12 A Michael DaCorta.

13 Q All right. Let's go just a little bit lower on the page
14 and zoom in on the lower half. Actually, that just begins to
15 show some of the fees and costs; is that right?

16 A Right.

17 Q Does that continue on page 3?

18 A Yes.

19 Q That page is Bates Stamp Invest-40820. Let's zoom in on
20 the top half. What was the total balance due on delivery?

21 A After any down payment, there's \$43,776.25 due.

22 Q Does it also appear there may have been a trade-in
23 vehicle?

24 A Yes.

25 Q Now, was there a credit application submitted in

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1 connection with the purchase of this vehicle?

2 A Yes. Part of the purchase price is financed through
3 Wells Fargo. So there is a credit application.

4 Q Let's turn to page 10 of Exhibit 320. It's Bates stamp
5 Invest-40827. And we will start by zooming in on the top half
6 of the page. Is this the credit application?

7 A Yes.

8 Q And who is the applicant?

9 A Michael DaCorta.

10 Q And let's zoom in on the bottom half of the page. Does
11 Mr. DaCorta report his gross income --

12 A Yes.

13 Q -- on this application?

14 A Yes.

15 Q How much does he report?

16 A He reports \$200,000 of gross income yearly as well as a
17 monthly rent and mortgage payment of \$2,600.

18 Q And when was this vehicle purchase made?

19 A 2016.

20 Q Did you include monies applied towards the purchase of
21 this vehicle in your spreadsheet?

22 A I believe -- well, yes, it's included because I believe
23 the payments that were made to this loan were from

24 Mr. DaCorta's personal account. So the monies that were
25 transferred to Mr. DaCorta's personal account are included in

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1 the spreadsheet.

2 Q During the period that you analyzed these records, did
3 you identify any income to the defendant other than from Oasis
4 investors?

5 A No. Just money he took from Oasis investors.

6 Q Let's take a look at Exhibit 321, page 1. Does that
7 appear to be Mr. DaCorta's driver's license again?

8 A Yes.

9 Q And what is this package, Exhibit 321?

10 A I believe this is the purchase of the Maserati.

11 Q Let's turn to page 2. This is one that you don't have
12 the physical exhibit in front of you; is that right?

13 A No.

14 Q What does page 2 reflect?

15 A This reflects the purchase of a 2017 Maserati by Michael
16 DaCorta on March 20, 2017.

17 Q Let's turn to page 2, pardon me, 3 of the exhibit. It
18 bears Bates stamp Invest-40855. What's the balance due on
19 delivery here?

20 A Well, there was a down payment of \$20,000 that's included
21 in my spreadsheet, but the balance due is \$69,398.04 which was
22 financed at Wells Fargo.

23 Q Was there a credit application then submitted by
24 Mr. DaCorta in order to finance the purchase of this vehicle?

25 A Yes.

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1 Q Let's turn to page 13 of Exhibit 321. Is this a credit
2 application?

3 A Yes.

4 Q Or part of it?

5 A Yes.

6 Q Who is the applicant?

7 A Michael DaCorta.

8 Q Does Mr. DaCorta again report his gross income for
9 purposes of applying for credit?

10 A Yes. He's listed as the CEO. And the employer is Oasis
11 International Group and listed his gross income at \$250,000
12 yearly with a second employer of \$16,666 monthly, as well as a
13 monthly rent and mortgage payment of \$2,200.

14 Q When was this vehicle purchased?

15 A 2017.

16 Q Was this income that Mr. DaCorta reported on his credit
17 application reflected on his 2017 income tax return?

18 A No.

19 Q Let's take a look at Exhibit 329. What does this exhibit
20 relate to?

21 A This is for the lease of a Land Rover by Mr. Frank Duran.

22 Q And was this lease -- were the funds used to initiate the
23 lease?

24 MR. ALLEN: Objection. Relevance as to Mr. Duran.

25 THE COURT: I didn't get the whole question.

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1 BY MS. BEDKE:

2 Q Were the funds applied to this vehicle -- I understand it
3 was leased -- did they come from Mr. Duran's compensation from
4 Oasis?

5 A Yes.

6 THE COURT: Overruled.

7 BY MS. BEDKE:

8 Q I'd like to turn to Exhibit 360A. What is Exhibit 360A?

9 A This is a statement, a credit card statement of Michael
10 DaCorta's credit card at Wells Fargo. It's a Visa card. It's
11 a credit card statement that spans the time period June 10,
12 2017, to July 10, 2017.

13 Q Let's drop down to the very bottom section of page 1 of
14 this exhibit. It's Bates stamped WF-3678-00027. The very
15 bottom section, please. And who is the credit cardholder
16 reflected on the statement?

17 A Michael DaCorta.

18 Q Let's turn to page 3 of exhibit, WF-3678-00029. What is
19 this section of the statement?

20 A These are some charges, some of the charges for that time
21 period in June and some of July.

22 Q Let's start by calling out just the top half of this
23 section so it's easier to see.

24 Agent Batsch, are you able to make out some of the
25 charges reflected in the purchases, balance transfers, and

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1 other charges of the statement?

2 A Yes.

3 Q Can you please read those?

4 A These appear to be charges in Italy. And there is
5 obviously a euro currency exchange calculation as well, but
6 these appear to be restaurants in Italy, restaurants and other
7 establishments. I have never been over there so I don't know
8 what they are, but the hotel, restaurants in Italy.

9 Q Let's take a look at entry Number 2. Does it say
10 "Astoria Garden Hotel, 648 Roma IT"?

11 A Yes.

12 Q And underneath that does it say "Euro Currency"?

13 A Yes.

14 Q And a third entry, does it say "Cafe Dell'Oro for Firenze
15 IT"?

16 A Yes.

17 Q Do you know if that's Florence?

18 A I don't know.

19 Q And underneath that it says "Euro Currency," correct?

20 A Yes.

21 Q Two entries down does it say "Bar La Gritta, Portofino
22 IT"?

23 A Yes.

24 Q And underneath that does it say "Euro Currency"?

25 A Yes.

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1 Q And are there additional entries related to
2 establishments in Rome?

3 A Yes.

4 Q Let's look at the "Fees Charged" section below. What's
5 reflected here?

6 A These appear to be the foreign currency conversion fees
7 that the credit card company charged to Mr. DaCorta for using
8 his credit card in Italy.

9 Q Let's turn to Exhibit 360B. And we will start at the
10 bottom of page 1. Is this another statement of Mr. DaCorta's
11 credit card?

12 A Yes.

13 Q Looking at the top of the page, what period of time is
14 covered by this statement?

15 A August 11, 2017, to September 8, 2017.

16 Q Turning to page 3 of this exhibit, Bates stamped
17 WF-3678-00037. I'd like you to focus on the "Purchases,
18 Balance Transfers, and Other Charges" section. What's
19 reflected here?

20 A These are the charges that occurred during that time
21 period. There's several charges here, to point out Michael's
22 on East, \$500.96, and Ann & Tony's Restaurant \$200, the Westin
23 in Sarasota, \$349, Loews Hotels, \$348, Baers Furniture,
24 \$2,519.05, and other transactions.

25 Q Let's turn to Exhibit 360C. Starting at the bottom of

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1 page 1, is this another of Mr. DaCorta's credit card
2 statements?

3 A Yes, it is.

4 Q And turning to the top portion of that same document,
5 what period of time does this statement cover?

6 A December 11, 2017, to January 10, 2018.

7 Q Directing your attention first to the "Purchase, Balance
8 Transfers and Other Charges" section of page 1 of the exhibit,
9 is there an example of a charge you would like to highlight?

10 A There is an Amazon charge for \$518. There's Village
11 Bikes in Lakewood Ranch for \$1,551.50, Bonefish Grill, \$122.

12 Q If we turn to page 3 of this exhibit, it's Bates stamp
13 WF-3678-00059. Are there additional purchases, balance
14 transfers and other charges there?

15 A Yes. There's more restaurant purchases. Total Wine and
16 More, \$251.38. Van Wezel Performing Arts Center, \$283.
17 Mediterraneo, \$476.45. Amazon, IL Conte, \$230.95. Apollonia
18 Restaurant, \$172.15.

19 Q Let's turn to Exhibit 361A. Starting at the bottom of
20 page 1, is this another credit card statement for Michael
21 DaCorta?

22 A Yes, it is.

23 Q And turning to the top of that page, what period is this
24 statement covering?

25 A June 9, 2018, to July 10, 2018.

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1 Q And focusing your attention on the "Purchases, Balance
2 Transfers and Other Charges" section of page 1, does it
3 reflect there additional charges of the kind you have been
4 describing including two at the Ritz-Carlton in Sarasota?

5 A Yes. There is one for \$303 and another for \$782. There
6 is SAATVA, if I'm saying that right, \$1,496. There is Brio
7 Restaurant for \$258.49.

8 Q And are there more charges still for restaurants and the
9 Ritz-Carlton on page 3 of this statement, which is Bates
10 stamped WF-9642-00043?

11 A There is another Ritz-Carlton here for \$369.60. Capital
12 Grille for \$484.13. Bonefish Grill, \$153.73. Four Pillars,
13 \$300. Seasons 52, \$226.

14 Q Let's look at Exhibit 361B. Is this the last in the
15 series of credit card statements for Mr. DaCorta?

16 A Yes.

17 Q There were others, correct?

18 A Yes. This is just a sample of the credit card
19 statements.

20 Q What period of time does this statement cover?

21 A August 11, 2018, to September 9, 2018.

22 Q Agent Batsch, you have been present as the case agent at
23 counsel table throughout the course of the trial, correct?

24 A Yes.

25 Q Were you present for Mr. Anile's testimony?

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1 A Yes.

2 Q Do you recall that this roughly aligns with the time
3 period during which Mr. Anile related that the defendant told
4 him there was a \$7.5 to \$15 million trading loss?

5 A Yes.

6 Q All right. Let's look at the center of page 1 of the
7 statement where it says "Purchases, Balance Transfers and
8 Other Charges." What's reflected here?

9 A There is a rental car company in White Plains, New York,
10 of \$618.51. Ritz-Carlton in Sarasota, \$869.63. Brio
11 Restaurant, \$370. JetBlue, \$368.19. Don Cesar Resort in
12 St. Pete, \$106.

13 Q Let's turn to page 3 of this statement. Does this page,
14 WF-9642-00055, reflect still more charges of this nature?

15 A Yes, it does, including Tommy Bahama Restaurant at \$583.
16 Oak & Stone \$205. Four Pillars \$315. Capital Grille, \$550.
17 Hillstone, \$258. Alford Inn at Rollins Winter Park, \$448, as
18 well as a couple APMEX, Inc., charges.

19 Q Is that APMEX, Inc.?

20 A Yes.

21 Q Do you know what those charges relate to?

22 A They relate to the silver bars or coins that Mr. DaCorta
23 was purchasing.

24 Q Based upon your financial analysis, were all of these
25 credit card payments or payments made on these credit card

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1 charges funded by Oasis investor money?

2 A So some of the charges were funded directly from Oasis
3 Management, and some of them were funded from transfers to
4 Mr. DaCorta's account and then paid to those personal credit
5 cards.

6 Q Did the funds always at least originate with the Oasis
7 Management account?

8 A Or the Oasis International Group. It's either one or the
9 other. All the funds that were used were investor funds.

10 Q Now I would like to have you turn your attention to
11 Exhibit 505B. What is 505B?

12 A This is the same spreadsheet basically we were talking
13 about previously but just for 2017.

14 Q And what is the total calculated expenditures for Michael
15 DaCorta, cars, personal credit cards, home equity, school for
16 2017?

17 A \$227,448.08.

18 Q Let's go back for a moment to your master spreadsheet,
19 Exhibit 500. And we will look at the distribution section,
20 the top part, the top part of the distribution section
21 starting with payments back to investors. Have we now covered
22 the first five line items here?

23 A Yes.

24 Q And do the numbers from your more detailed spreadsheets,
25 were they transferred to this master spreadsheet?

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1 A Yes.

2 Q I have handed you what have been marked for
3 identification as Government Exhibits 506A, 506B, and 350. Do
4 you recognize these exhibits?

5 A Yes.

6 Q How do you recognize 506A and 506B?

7 A These are spreadsheets that I made related to the
8 transfers and payments made for Full Spectrum Wellness and
9 Roar of the Lion entities.

10 Q And how do you recognize Exhibit 350?

11 A These are documents recovered from Mr. DaCorta's
12 computer.

13 MS. BEDKE: Your Honor, the government moves for the
14 admission of Exhibits 506A and B and 350.

15 MR. ALLEN: Just a moment, Your Honor.

16 No objection, Your Honor.

17 THE COURT: All right. Admitted.

18 (Government Exhibits 506A, 506B, and 350 admitted.)

19 BY MS. BEDKE:

20 Q Agent Batsch, let's start by looking at 506A. What is
21 this exhibit?

22 A This is a spreadsheet of transfers made to the Full
23 Spectrum Wellness, LLC, bank accounts or payments made on
24 behalf of Full Spectrum Wellness, and transfers made to Roar
25 of the Lion Fitness bank account, as well as payments made on

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1 behalf of Roar of the Lion Fitness.

2 Q How were these payments funded?

3 A They were all funded by either the Oasis Management
4 account or the Fund Administration account, which both were
5 investor funds.

6 Q What was the total amount of transfers made to Full
7 Spectrum Wellness or Roar of the Lion or on their behalf?

8 A \$841,406.42.

9 Q What is 506B?

10 A This is the similar spreadsheet but just for the year
11 2017.

12 Q And what was the total amount of the transfers for the
13 benefit of these entries, Full Spectrum Wellness, Roar of the
14 Lion just in 2017?

15 A \$211,651.93.

16 Q What kinds of payments did you or transfers did you
17 include in these spreadsheets?

18 A They are transfers from again the Oasis Management
19 account or the Fund Administration account to these entities.

20 Q Let's take a look at Exhibit 350. What is 350?

21 A These are a couple invoices that were recovered from
22 Mr. DaCorta's computers. There's a Sound Concepts invoice.
23 And at the top it says bill to Roar of the Lion Fitness.

24 Q And what was purchased as reflected in this invoice?

25 A Looks like a consultant kit and a compensation plan

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1 document and a retainer.

2 Q What was the total amount it looks like to be charged?

3 A \$1,715.

4 Q That's the total amount paid on this date, correct?

5 A Right.

6 Q And turning to page 2, it's Bates stamp Comp33-00090. Is
7 this the first page of what appears to be a brochure?

8 A Yes.

9 Q Jumping ahead to page 5 of this exhibit, Comp33-00093, is
10 this another page of what appears to be a brochure?

11 A Yes.

12 Q It goes on for several pages, correct?

13 A Right.

14 Q Let's jump to the last page of the exhibit, Number 11.
15 It's Bates stamp Comp33-00099. What's reflected here?

16 A This is an invoice again from Sound Concepts billed to
17 Roar of the Lion Fitness, LLC, for a 50 percent deposit on 250
18 kit boxes.

19 Q Is that 2,500?

20 A I'm sorry, 2,500, in the amount of \$4,200, and 50 percent
21 of a one-time die fee of \$320.

22 Q And what's the total invoice amount?

23 A \$4,520.

24 Q Is Exhibit 350 an example of the kind of payments that
25 were made using investor funds to or on behalf of Full

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1 Spectrum Wellness or Roar of the Lion?

2 A Yes.

3 Q I have handed you what have been marked for
4 identification as Exhibits 508, 307A, 307A1, 307B, 307B1, and
5 509. Do you recognize those exhibits?

6 A Yes.

7 Q Let's start with Exhibits 508 and 509. How do you
8 recognize those?

9 A These are spreadsheets that I made that relates to -- I
10 don't know that I have 509. They are spreadsheets that I made
11 in relation to Joseph Anile's residence, the purchase of his
12 residence and lot. And I believe 509 is supposed to be the
13 payments that were made to Bowling Green Capital and 40Oaks on
14 behalf of Joseph Anile.

15 Q Do you have that spreadsheet?

16 A No.

17 MS. BEDKE: May I approach, Your Honor?

18 THE COURT: Yes.

19 A There it is. Sorry.

20 BY MS. BEDKE:

21 Q Do you have 509?

22 A Yes.

23 Q And was your testimony accurate as to what that exhibit
24 refers to?

25 A Yes.

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1 Q And let me have you look then at Exhibits 307A, 307A1,
2 307B, and 307B1. Do you also recognize those?

3 A Yes.

4 Q How?

5 A These are purchase documents that were obtained during
6 the course of the investigation for Mr. Anile's residence and
7 a vacant lot that was near his residence that he also
8 purchased.

9 MS. BEDKE: Your Honor, the government moves for the
10 admission of Exhibits 508, 509, 307A, 307A1, 307B, 307B1.

11 MR. ALLEN: No objection, Your Honor.

12 THE COURT: All right. Admitted.

13 (Government Exhibits 508, 509, 307A, 307A1, 307B, 307B1
14 admitted.)

15 BY MS. BEDKE:

16 Q Let's start with Exhibit 508. What is 508?

17 A This is payments made from one of the Oasis accounts.
18 Most of these appear to be from the Fund Administration
19 account at Citibank to purchase Mr. Anile's residence, as well
20 as transfers that were made to 4064 Founders Club Drive, LLC,
21 bank account for the purpose of maintaining, making seller
22 carry back mortgage payments, home improvements and such, and
23 it also includes a purchase of a residential lot that was near
24 his house.

25 Q And looking at the title of this heading, I take it this

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1 relates to Joseph Anile. And we just misspelled Joseph. Had
2 a typo there.

3 A Yes, we did.

4 Q So let's take a look at Exhibit 307A. Well, before we do
5 that -- I'm sorry. A typo distracted me. Look at page 3 of
6 Exhibit 508. What is the total amount that you calculated
7 that was applied to purchase Mr. Anile's residence as well as
8 fund the LLC account in the name of the residence 4064
9 Founders Club Drive, LLC?

10 A The total?

11 Q Yes.

12 A \$1,555,669.87.

13 Q Let's look at 307A. What is 307A?

14 A That is a settlement statement for the purchase of
15 4064 Founders Club Drive.

16 Q Let's zoom in on the top half of the page. What is the
17 subject property of the settlement statement?

18 A 4064 Founders Club Drive in Sarasota, Florida.

19 Q And how is the purchaser or buyer identified?

20 A As 4046 Founders Club Drive, LLC. I think that was
21 supposed to be 4064 Founders Club Drive. There might be a
22 typo on the document.

23 Q Do you recall from the corporation records already
24 admitted into evidence there was a correction to the name of
25 the entity?

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1 A That's right. That is correct.

2 Q What is the contract sales price reflected on the
3 settlement statement?

4 A \$1,775,000.

5 Q Turning to page 6 of Exhibit 307A. Is the amount of the
6 initial payment for this property reflected?

7 A Yes.

8 Q What was that amount?

9 A \$703,753.

10 Q Was this purchase financed through a bank?

11 A It was seller financing. So that means that the seller
12 that sold the property required them to make payments to them
13 like a mortgage payment like you would a bank but to the
14 seller.

15 Q Let's look at 307A1. Is this an excerpt of a -- a
16 statement that is an excerpt of the Fund Administration
17 account records?

18 A Yes.

19 Q I'd like you to look at page 1. It's Bates stamp Invest
20 097435, and focus on the bottom section of this page.

21 A This reflects a wire to the Citibank Mainstream -- or
22 Fund Administration account from Bowling -- or I'm sorry.
23 This reflects a wire to Berlin Patten Ebling trust, which is
24 the closing agent or settlement agent for this transaction,
25 for \$703,753.

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1 Q Okay. And this wire to the settlement agent for the
2 purchase of the Founders Club house is coming directly out of
3 which account?

4 A The Citibank Fund Administration account.

5 Q Is that for OIG?

6 A Yes.

7 Q Let's look next at 307B. What is that exhibit?

8 A This is for the purchase -- this is a settlement
9 statement for the purchase of the lot that I had mentioned
10 earlier that was near his residence in the Founders Club. The
11 address property location of this purchase is 4058 Founders
12 Club Drive, Sarasota, Florida.

13 Q What was the contract price reflected on the settlement
14 statement?

15 A 190,000.

16 Q Turning to page 7 of Exhibit 307B. It's Bates stamp
17 Berlin-00022. Is there a payment for this purchase reflected?

18 A Yes.

19 Q Looking at line 1, what does it reflect?

20 A A wire of \$191,916.87.

21 Q Let's turn to 307B1. Is this a statement, excerpt of the
22 Mainstream Fund Services bank records?

23 A Yes.

24 Q Turning to page 3, which is Bates stamp Invest-097460,
25 the center of the page. Do you see that payment toward the

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1 purchase of the Founders Club lot reflected?

2 A Yes. There was a wire to Berlin Patten Ebling, PLLC,
3 trust on March 15 for \$191,916.87.

4 Q Is that of 2018?

5 A Yes.

6 Q And is this straight out of the OIG account?

7 A Yes.

8 Q Are those wire transfers, those payments reflected on
9 your summary spreadsheet 508?

10 A Yes.

11 Q Among others; is that right?

12 A Yes.

13 Q Let's turn to Exhibit 509. What is this exhibit?

14 A These are the transfers or wires to Bowling Green Capital
15 or 40aks related to payments for Mr. Joseph Anile.

16 Q Turning to the last page of this exhibit, what was the
17 total amount of those transfers as calculated by you and
18 reflected on the spreadsheet?

19 A \$1,897,030.91.

20 Q Agent Batsch, I have handed you what have been marked for
21 identification as Government Exhibits 510, 340, and 340B. Do
22 you recognize those?

23 A Yes.

24 Q How?

25 A 510 is a spreadsheet I made of payments made for the

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1 Christmas party. 340 is the Ritz-Carlton records obtained
2 during the investigation. And 340B is some documents
3 recovered from Mr. DaCorta's computer.

4 Q What year party do 340 and 340B correspond to?

5 A 2017.

6 MS. BEDKE: Your Honor, the government would move for
7 the admission of 510, 340, and 340B.

8 MR. ALLEN: No objection.

9 THE COURT: Admitted.

10 (Government Exhibits 510, 340, and 340B admitted.)

11 BY MS. BEDKE:

12 Q What's reflected in Exhibit 510?

13 A These are payments made from the Oasis accounts to the
14 Ritz-Carlton in Sarasota or to the band Envision Music for the
15 2017 and 2018 Christmas parties.

16 Q And what's the total amount reflected on page 2 of your
17 spreadsheet?

18 A \$319,723.99.

19 Q Looking at 340, are there quite a few documents related
20 to the 2017 party --

21 A Yes.

22 Q -- involving the Ritz-Carlton?

23 A Yes.

24 Q All right. Just briefly if you turn to page 32 of the
25 exhibit, it's Bates stamp Marriott-00034. Looking at the very

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1 top of the page, what does it reflect is the event and the
2 date of the event that is the subject of this documentation?

3 A OIG Christmas party holiday event. The date of this
4 invoice is December 9, 2017.

5 Q And is this document titled "Summary of Charges"?

6 A Yes.

7 Q Turn to the next page, Number 33 in the exhibit. It's
8 Bates stamp Marriott-00035. What is the total balance due as
9 reflected in the document?

10 A \$118,360.72.

11 Q Turning to 340B, what is this document?

12 A This is a contract, an email and a contract for the band
13 for the 2017 Oasis Christmas party.

14 Q So in addition to the banking records you analyzed, did
15 you consider some of the documentation like the Ritz-Carlton
16 documentation and the band contract in preparing your summary?

17 A Yes.

18 Q I have handed you what have been marked for
19 identification as Government Exhibits 511, 309, 309A, and
20 309B. Do you recognize those?

21 A Yes. These are -- 511 is the summary of payments made on
22 behalf or for the 444 Gulf of Mexico office building that
23 Oasis purchased. And the other documents relate to the actual
24 purchase of that building.

25 MS. BEDKE: The government would move for the

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1 admission of Exhibits 511, 309, 309A, and 309B.

2 MR. ALLEN: No objection, Your Honor.

3 THE COURT: Admitted.

4 (Government Exhibits 511, 309, 309A, and 309B admitted.)

5 BY MS. BEDKE:

6 Q Please describe Exhibit 511.

7 A These are payments for the purchase of the 444 Gulf of
8 Mexico office building that was on the bay in Sarasota that we
9 saw with Mr. Stone on the undercover video. This includes the
10 payments to close on the property as well as payments made to
11 the 444 Gulf of Mexico Drive, LLC, bank account, as well as
12 the payoff of that loan.

13 Q What is the total amount of funds that you traced to the
14 Gulf of Mexico property?

15 A \$2,552,463.05.

16 Q Let's turn to Exhibit 309 and zoom in on the top half of
17 page 1. What is this document?

18 A This is a settlement statement for the property, the
19 office building that I just mentioned at 444 Gulf of Mexico
20 Drive, Number 3 in Longboat Key, Florida.

21 Q What is the settlement date?

22 A Where is that? December 21, 2017.

23 Q What's the contract sales price?

24 A \$1,750,000.

25 Q Turning to page 6 this exhibit Bates stamped

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1 Berlin-00035. Is there a payment reflected in connection with
2 the acquisition of this office property?

3 A Yes. On November 13, 2017, there was a wire to the
4 settlement agent in the amount of \$1,250,000.

5 Q Turning to 309A. Is this another excerpt from the bank
6 statements of the Mainstream Fund Services account held for
7 the benefit of Oasis International Group?

8 A Yes.

9 Q Turning to page 1, Bates stamp Invest-097438, the bottom
10 third of the document, do you see a wire out of the OIG
11 account in connection with the acquisition of the Gulf of
12 Mexico property?

13 A Yes.

14 Q Where is that?

15 A On November 7, 2017, there was a wire to Berlin Patten
16 Ebling, PLLC, of \$1,250,000.

17 Q Was Berlin Patten Ebling the settlement agent?

18 A Yes.

19 Q And does that date, November 7 of 2017, correspond with
20 the clearing date of the wire reflected in the settlement
21 statement documents?

22 A Yes, it does.

23 Q Turning to 309B, is this another excerpt from the
24 Mainstream Fund Services account of OIG, another statement?

25 A Yes.

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1 Q I'd like you to turn to page 3 of Exhibit 309B. It's
2 Bates stamped Invest-086524, and we will zoom in on the bottom
3 half of the page. I'd like to direct your attention to
4 November 6 of 2018. And do you see a wire transaction that
5 relates to acquisition of the Gulf of Mexico property?

6 A Yes.

7 Q And what is that?

8 A There is a wire to Williams Parker Harrison Dietz for
9 \$501,655.60 on November 6, 2018.

10 Q What does this wire out of the OIG account represent?

11 A It used investor funds to pay off the loan for the
12 building.

13 Q For the Gulf of Mexico building?

14 A Yes.

15 Q And were these transactions, among others, included in
16 your spreadsheet, 511?

17 A Yes.

18 Q I have handed you what have been marked for
19 identification as Exhibits 512, 310, 310A, 310B, 311, 311A,
20 312, 312A, 313, and 313A. Do you recognize them?

21 A Yes.

22 Q How?

23 A The first one is a summary document of the payments for
24 the condominium purchases made by Oasis. And the others are
25 settlement statements related to the purchase of those.

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1 Q Are those the condominiums at Vardon Terrace?

2 A Yes.

3 MS. BEDKE: The government would move for the
4 admission of Exhibits 512, 310, 310A, 310B, 311, 311A, 312,
5 312A, 313, and 313A.

6 MR. ALLEN: One moment, Your Honor.

7 No objection.

8 THE COURT: Admitted.

9 (Government Exhibits 512, 310, 310A, 310B, 311, 311A,
10 312, 312A, 313, and 313A admitted.)

11 BY MS. BEDKE:

12 Q Agent Batsch, let's look at your summary chart which is
13 Exhibit 512. What did you include in this spreadsheet?

14 A I included payments that were made to close on the
15 condos. There were four that were purchased, as well as other
16 costs associated with the purchase or maintenance or
17 maintaining those condos.

18 Q And what was the total amount of money that you traced,
19 that was used for these purposes?

20 A \$813,665.69.

21 Q Let's look at Exhibit 310. What is this document?

22 A This is a settlement statement for the purchase of
23 16804 Vardon Terrace, Number 307, in Lakewood Ranch.

24 Q What's the settlement date?

25 A January 5, 2018.

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1 Q What's the sale price of the property as reflected on the
2 bottom half of page 1 of Exhibit 310?

3 A 187,000.

4 Q Let's turn to page 4 of this exhibit. It's Bates stamped
5 NAT-01395. And directing your attention to the bottom section
6 of this page, is there a section that reflects the amount
7 disbursed to acquire the property, including any fees?

8 A Yes.

9 Q What is that amount?

10 A \$194,772.36.

11 Q Turn to 310A. What is this document?

12 A It's an Oasis Management bank account statement.

13 Q Is that at Wells Fargo, the account ending in 9302?

14 A Yes.

15 Q Let me ask you to turn to page 2 of this exhibit. It
16 bears Bates stamp WF-9302-02159. Near the bottom of that page
17 that is titled "Transaction History," do you see a wire that
18 corresponds to the purchase of the Vardon Terrace property, in
19 particular Unit 307?

20 A Yes. There is a wire to Berlin Patten Ebling, PLLC, for
21 \$194,772.36 on January 5 of 2018.

22 Q Turn to 310B. What's 310B?

23 A It's a promissory note to Mr. Vincent Raia who also
24 worked at Oasis. Oasis sold this property to Mr. Raia for
25 a -- it's a short-term note of \$215,000, and he was to make

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1 payments of \$537.50.

2 Q So Mr. Vincent Raia bought the condo from Oasis?

3 A Yes.

4 Q And agreed to make payments pursuant to the promissory
5 note?

6 A Right.

7 Q Let's turn to Exhibit 311. What is this document?

8 A This is a settlement statement for another condominium at
9 Vardon Terrace at 16804 Vardon Terrace, Number 108.

10 Q Is this a separate unit?

11 A Yes.

12 Q What's the settlement date?

13 A February 12, 2018.

14 Q What's the sale price of the property?

15 A 190,000.

16 Q Let's turn to 311A. Is this another statement from the
17 Oasis Management account at Wells Fargo ending in 9302?

18 A Yes.

19 Q Looking at page 3, which is Bates stamp WF-9302-02168, do
20 you see a wire that corresponds to the acquisition of the
21 Vardon Terrace, Unit Number 108?

22 A Yes. There is a wire for \$202,777.02 to Berlin Patten
23 Ebling, PLLC.

24 Q Let's look at Exhibit 312. What is this exhibit?

25 A This is a settlement statement for another condominium in

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1 the same neighborhood.

2 Q What's the unit?

3 A 16904 Vardon Terrace, Number 106.

4 Q What's the settlement date for this purchase?

5 A July 13, 2018.

6 Q And the sale price?

7 A 187,000.

8 Q Let's turn to Exhibit 310 -- pardon me -- 312A. Is this
9 another Oasis Management account statement, Wells Fargo ending
10 in 9302?

11 A Yes.

12 Q On page 3 of this exhibit Bates stamped WF-9302-02213, is
13 there a wire on this statement that corresponds with the
14 acquisition of Vardon Terrace, Unit Number 106?

15 A Yes. There is a wire to North American Title in the
16 amount of \$195,922.20 on July 13, 2018.

17 Q And was there a fourth condominium purchased in the
18 Vardon Terrace development?

19 A Yes.

20 Q Let's look at 313. What is this?

21 A This is a settlement statement for a condominium located
22 at 17006 Vardon Terrace, Number 105, that was sold on
23 August 28, 2018.

24 Q What was the sale price for this unit?

25 A \$182,499.

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1 Q Let's look at Exhibit 313A. Is this another Oasis
2 Management bank account statement, the Wells Fargo account
3 ending in 9302?

4 A Yes.

5 Q Turning to page 5, Bates stamp WF-9302-02224. Do you see
6 a wire transaction that corresponds with the Vardon Terrace
7 Unit 105?

8 A Yes.

9 Q Where is that?

10 A There is a wire to North American Title in the amount of
11 \$192,169.27 on August 27, 2018.

12 Q Does this time period, August 2018, also correspond with
13 the time about which Mr. Anile testified Mr. DaCorta reported
14 a \$7.5 to \$15 million trading loss?

15 A Yes. That's correct.

16 Q Agent Batsch, did you consider the settlement statements
17 and related documents in addition to the banking records in
18 assembling your Exhibit 512?

19 A Yes.

20 Q I have handed you what have been marked for
21 identification as Government Exhibits 513 and 308. Do you
22 recognize them?

23 A Yes.

24 Q How?

25 A These are documents related to the purchase of a

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1 residence that Mr. Frank Duran was living in at 7312 Desert
2 Ridge Glen. The first one is just a one-line spreadsheet.
3 And the second one is a settlement statement.

4 MS. BEDKE: The government would move for admission
5 of Exhibits 513 and 308.

6 MR. ALLEN: No objection, Your Honor.

7 THE COURT: Admitted.

8 (Government Exhibits 513 and 308 admitted.)

9 BY MS. BEDKE:

10 Q What's reflected on your single line spreadsheet, 513?

11 A It's taken from the Fund Administration bank account.
12 There was a wire for \$600,000 to Berlin Patten Ebling for the
13 purchase of this property.

14 Q Let's look at Exhibits 308. What is this?

15 A This is a settlement statement of Berlin Patten for the
16 property at 7312 Desert Ridge Glen in Bradenton, Florida, on
17 November 7, 2017. The sales price is \$575,000.

18 THE COURT: Why don't we take our morning break. I
19 got a high sign from one of the jurors. So we will take our
20 morning break now and try to be back about 10:35. Thank you.
21 See you then.

22 (Jury escorted out of the courtroom.)

23 THE COURT: Mr. Chee, if you need until lunch to
24 complete that task, I think that's okay.

25 MR. CHEE: Thank you, Your Honor. Much appreciated.

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1 (Recess taken.)

2 THE COURT: All right, counsel. Thank you.

3 BY MS. BEDKE:

4 Q Agent Batsch, I have handed you what has been marked for
5 identification as Government Exhibits 514, 515, and 507A; is
6 that right?

7 A Yes.

8 BY MS. BEDKE:

9 Q Do you recognize them?

10 A Yes.

11 Q How?

12 A They are spreadsheets I made to support the master
13 summary chart we discussed.

14 MS. BEDKE: The government moves for the admission of
15 514, 515, and 507A.

16 MR. ALLEN: No objection, Your Honor.

17 THE COURT: Admitted.

18 (Government Exhibits 514, 515 and 507A admitted.)

19 BY MS. BEDKE:

20 Q Agent Batsch, what is Exhibit 514?

21 A This is a list of transactions from the Oasis Management
22 account or the Fund Administration account at Citibank for the
23 purchase of gold and silver bars or coins. Mostly, or all of
24 them actually, are from the Sarasota Rare Coin Gallery.

25 Q And what was the total amount that you traced into those

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1 purchases?

2 A \$615,116.

3 Q What is Exhibit 515?

4 A This is a list of sort of miscellaneous items categorized
5 under charity, gas, entertainment, grocery stores,
6 restaurants, retail shopping, home supplies and health. They
7 are kind of all lumped together in a spreadsheet.

8 Q And to whom are these attributable?

9 A These are payments made mostly from the Oasis Management
10 bank account.

11 Q And so are most of them attributable to Mr. DaCorta?

12 A Some of them are. I mean, it's its own separate
13 category.

14 Q And looking at the last page of this exhibit, how much
15 did you calculate was expended on these categories?

16 A \$205,380.34.

17 Q Let's look at Exhibit 507A. What is 507A?

18 A These are transactions for travel for Mr. DaCorta.

19 Q And what's the total amount that you determined was
20 expended for travel for Mr. DaCorta and related parties?

21 A \$121,374.81.

22 Q And how were these expenditures funded?

23 A By investor funds.

24 Q I have handed you what's been marked for identification
25 as Exhibit 507B, 345, 346, 347, and 348. Do you recognize

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1 those.

2 A Yes.

3 Q How?

4 A The first one is another summary chart of travel and
5 plane charter for 2017. And the others are some charter plane
6 invoices and itineraries and some pictures as well as a Disney
7 itinerary.

8 Q And how were these pictures and itineraries, et cetera,
9 acquired?

10 A They are from Mr. DaCorta's computer.

11 MS. BEDKE: The government moves for the admission of
12 Exhibits 507B, 345, 346, 347, and 348.

13 MR. ALLEN: No objection.

14 THE COURT: Admitted.

15 (Government Exhibits 507B, 345, 346, 347, and 348
16 admitted.)

17 BY MS. BEDKE:

18 Q Agent Batsch, what is Exhibit 507B?

19 A It's a similar spreadsheet that we were just talking
20 about but for 2017.

21 Q And how much was expended on travel and plane charter in
22 2017 alone?

23 A \$37,536.30.

24 Q Let me have you take a look at Exhibit 345, please. Is
25 this a collection of documents?

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1 A Yes.

2 Q And in general terms, how would you describe the
3 collection?

4 A They are emails and itineraries and invoices for private
5 plane charter.

6 Q Let me have you turn to page 6 of this exhibit. It's
7 Bates stamped Comp33-00006. What's reflected here? Let's
8 zoom in on the top half of the page. Page 6. What's
9 reflected here?

10 A It's an invoice for a trip from Sarasota, Florida, to
11 White Plains, New York on July 14, 2017, and returning
12 July 16, 2017, for 6 passengers. The total cost of this was
13 \$27,412.50.

14 Q What is the vendor that's providing this document?

15 A Unity Jets.

16 Q Would you turn to page 7 of the exhibit, please. It's
17 Bates stamp Comp33-00007. What does this page reflect? And
18 we will zoom in on the top half to begin.

19 A This is the itinerary for the trip we had just mentioned.

20 Q And just below that is there a passenger list?

21 A Yes.

22 Q Who does it identify as the passengers on this plane
23 flight with Unity Jets?

24 A Andrew DaCorta, Carolyn DaCorta, Crystal DaCorta, Michael
25 DaCorta, Steven DaCorta, and Frank Duran.

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1 Q Were there any other plane charters in 2018?

2 A Yes.

3 Q Let me have you turn to page 11 of this exhibit. It's
4 Bates stamped Comp33-00135. We will zoom in on the top half
5 of the page. What does this reflect?

6 A This is another invoice for a trip from Sarasota to
7 Georgetown, Kentucky, on April 5, 2018, and returning on
8 April 10, 2018, for a total of \$24,800.

9 Q Who is the vendor on this occasion?

10 A Unity Jets.

11 Q And let me have you turn to page 4 of the exhibit which
12 is Bates stamped Comp33-00004. We will zoom in on the top
13 half of the page. What's reflected here?

14 A This is a trip itinerary for the trip we had just
15 discussed.

16 Q Well, is this trip in August of 2018?

17 A I'm sorry. August 5 of 2018, to White Plains, New York,
18 and back to Sarasota on August 10, 2018.

19 Q Am I correct that the document we just looked at related
20 to a trip to Kentucky in April of this year?

21 A That's correct. Yes, that's correct.

22 Q And who are identified as the passengers?

23 A Michael DaCorta and Carolyn DaCorta.

24 Q Turn to document 346, Exhibit 346, please. What is
25 page 1 which is Comp33-00197?

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1 A Appears to be a photograph taken inside a private jet
2 with Carolyn DaCorta and Crystal DaCorta.

3 Q And what about page 2 of this exhibit? It's Bates stamp
4 Comp33-00198.

5 A This is a picture of Mr. Michael DaCorta. I'm not quite
6 sure who the other one is.

7 Q And do you know when these photographs were taken?

8 A I have no idea.

9 Q Let's look at Exhibit 347. It's Bates stamped
10 Comp33-00063. What's reflected here?

11 A This appears to be a photograph of Mr. DaCorta and his
12 wife in Italy.

13 Q Are you sure it's Italy?

14 A I'm not positive. I've never been.

15 Q Pardon me?

16 A I have never been there. I don't know.

17 Q Is it accurate to say that the writing, if you will, on
18 the building is in a foreign language, not English?

19 A That's correct.

20 Q And were you -- do you know when this was taken?

21 A I do not.

22 Q But you are recalling the testimony of the credit card
23 charges for the locations in Italy?

24 A Yes, correct.

25 Q Let's take a look at Exhibit 348. What's 348?

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1 A This is a Disney World folio for a stay at the Disney
2 Yacht Club Resort with Mr. Joseph Anile and Mr. Michael
3 DaCorta.

4 Q What are the dates of the stay according to the document?

5 A September 9, 2017, to September 12, 2017.

6 Q And what's the total expenditure on page 2 of the
7 exhibit?

8 A \$1,029.21.

9 Q Agent Batsch, are these among the kinds of documents in
10 addition to the bank records that you reviewed in assembling
11 your financial analysis?

12 A Yes.

13 Q I have handed you what have been marked for
14 identification as Government Exhibits 516, 517, 518, 520, and
15 519. Do you recognize those?

16 A Yes.

17 Q How?

18 A These are additional spreadsheets supporting figures that
19 were on that master summary.

20 Q Are you referring to Exhibit 500?

21 A Yes.

22 MS. BEDKE: The government would move for the
23 admission of Exhibits 516, 517, 518, 519, and 520.

24 MR. ALLEN: No objection.

25 THE COURT: All right. Admitted.

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1 (Government Exhibit 516, 517, 518, 519, and 520
2 admitted.)

3 BY MS. BEDKE:

4 Q Let's start with 516. What does this summary spreadsheet
5 relate to?

6 A This one is titled "Attorneys & Accountants." These are
7 payments that were made from the Oasis account for accountants
8 and attorneys during this time period, 2015 to April 2019.

9 Q All right. Looking at the top half of the first page of
10 this exhibit, where are those first several payments made, or
11 to whom are they made?

12 A D'Arcangelo & Company, LLP. That was the CPA prior to
13 Mr. Burling.

14 Q And below the entries for D'Arcangelo & Company, are
15 there some additional CPA expenditures?

16 A Yes. To Burling Consultants, CPA.

17 Q And lower than that on the bottom of this first page, are
18 there some expenditures for lawyers or law firms?

19 A Yes. There's Law offices of David Nick, Maples and
20 Calder in the Cayman Islands.

21 Q Let's turn to page 2. Are there more entries for
22 expenditures for lawyers or law firms?

23 A Yes.

24 Q Which are reflected here on page 2?

25 A I think the exhibit -- the trial director is off a little

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1 bit.

2 Q I believe you are right.

3 A There is also J. Bentley Caliendo, Ford Sumner.

4 Q All right. May I switch to the Elmo for just a minute?

5 Agent Batsch, I have placed page 2 of Exhibit 516 on
6 the overhead projector. Did you include some additional
7 entries for expenditures for lawyers and law firms?

8 A Yes.

9 Q And the lion's share of those entries refer to what law
10 firm?

11 A The ones on the screen, Maples and Calder in the Cayman
12 Islands.

13 Q And below that are there some additional expenditures?

14 A Yes. J. Bentley Caliendo, CPA, and Ford Sumner.

15 Q And where is Ford Sumner?

16 A New Zealand.

17 Q Does the last page of this exhibit reflect some
18 additional payments to Ford Sumner, New Zealand lawyer?

19 A Yes.

20 Q What's the total amount of expenditures for accountants
21 and lawyers you are able to identify from the banking records?

22 A \$291,721.08.

23 Q Let's turn our attention to Exhibit 517. What does this
24 exhibit relate to?

25 And could we switch back to the trial director?

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1 Thank you.

2 A These are payments made to Lakewood Ranch Main Street,
3 LLC, for the purposes of rent for an office space that Oasis
4 rented for a period of time in 2015 to '17 on Lakewood Ranch
5 Main Street.

6 Q And was that prior to the acquisition of the Gulf of
7 Mexico office building?

8 A Yes.

9 Q And looking at the last page of this exhibit, how much
10 were you able to trace as being expended on office rent?

11 A \$131,921.19.

12 Q Let's look at Exhibit 518. What is 518?

13 A This is the miscellaneous category.

14 Q What does that mean?

15 A There's just various insurance payments, general
16 corporation services payments, Fund Administration fees. Just
17 various items that were kind of lumped into one category so we
18 didn't have a very long front summary spreadsheet.

19 Q On page 1, does it also include some ATM withdrawals?

20 A Yes. This spreadsheet also includes the payment to the
21 Longboat Key Club of \$32,000 for membership.

22 Q Does that correspond to the check that the receiver,
23 Mr. Wiand, showed us the other day?

24 A Yes.

25 Q On page 2, for example, are there also some purchases, or

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1 payments rather, to GoDaddy.com?

2 A Correct.

3 Q And are there some registered agent fees included here?

4 A Yes.

5 Q So all of these miscellaneous expenses totaled up to how
6 much as reflected on the last page of Exhibit 518?

7 A \$686,455.40.

8 Q Turning to 520, what's reflected in 520?

9 A This is just an unknown category, just items that we
10 weren't sure what they really were. So we just kind of put
11 them in an unknown category.

12 Q What's the total of the transactions you weren't able to
13 categorize, if you will?

14 A \$664,962.57.

15 Q Like all the other transactions you have testified to
16 today, did these come up in the bank account records --

17 A Yes.

18 Q -- identified at the top of your testimony?

19 A Yes.

20 Q And let's turn to Exhibit 519. What is 519?

21 A It's just most of the spreadsheet is bank fees. So the
22 bank would charge an analysis and research fee and a wire fee
23 every time funds were wired out of the account. And there was
24 money constantly being wired out of this account. So it's a
25 voluminous amount of transactions and fees.

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1 Q Going to the end of the spreadsheet, how much did you
2 identify in bank fees and utilities?

3 A \$51,160.71.

4 Q And I think you talked to us about the fees, but you also
5 titled the spreadsheet "Utilities." What does that refer to?

6 A There could have been -- I would have to go back and look
7 at this. There could have been some phone charges, yeah,
8 AT&T.

9 Q I'm looking to the last page, for example. Are there
10 transactions, payments there for AT&T, Bright House, City of
11 Winter Park, Manatee County, UPS?

12 A Yes.

13 Q Were all the calculations made by virtue of your assembly
14 of these spreadsheets transferred to and reflected on your
15 master spreadsheet, Exhibit 500?

16 A Yes.

17 Q Let's take a look at 500. And let's zoom in on the
18 disbursement section. Have we covered the spreadsheets that
19 you assembled that correspond to each of the line items in
20 this section?

21 A Yes. There was only one spreadsheet because it was one
22 transaction that I didn't do, and it was the amount that was
23 sent to a Belize account. It was \$502,500.

24 Q Let's zoom in on that for a second. What does that
25 correspond to?

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1 A Well, there was a wire transaction, meaning a transfer to
2 a Belize account.

3 Q Is that the Belize account about which Mr. Wiand, the
4 receiver, said he is working to repatriate the funds?

5 A That's correct.

6 Q After assembling all these spreadsheets to break out the
7 different categories of expenses and transactions, did you
8 create some summaries of your summaries to more easily depict
9 the flow of funds?

10 A Yes, I did.

11 Q I have handed you what have been marked for
12 identification as Government Exhibits 500A, 500B, 500C, and
13 503. Do you recognize those?

14 A Yes. These are documents that I created to illustrate
15 the summaries that we were just talking about.

16 MS. BEDKE: The government would move for the
17 admission of Exhibits 500A, B, C, and 503.

18 MR. ALLEN: As demonstratives or substantive
19 evidence?

20 MS. BEDKE: They are summaries, Your Honor, of this
21 big collection of spreadsheets.

22 THE COURT: All right. You seek to admit them
23 substantively?

24 MS. BEDKE: I am seeking to do that, Your Honor.

25 THE COURT: I will admit them substantively as

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1 summaries. You will have the spreadsheets in evidence, and
2 you can go back and consider them. And these summaries are
3 for whatever worth, 100 percent or 0 percent that you deem
4 them appropriate. Thank you.

5 BY MS. BEDKE:

6 Q Let's start with 500A. Agent Batsch, is it accurate to
7 say that this exhibit summarizes virtually all of the
8 subsreadsheets that you testified to?

9 A Almost all of them, yes.

10 Q All right. Would you describe what this graphic summary
11 depicts?

12 A This shows that the total amount of investor funds --
13 again, this is for the time period January 1, 2015, to
14 April 18, 2019. Total investor funds that come in and then a
15 disbursement to five different categories here of uses of
16 those funds. This is not the entire amount of the
17 \$77 million, but this is a portion of it as shown on the
18 financial summary spreadsheet.

19 Q And the box at the bottom of the summary on the far left
20 refers to payments back to investors?

21 A Yes.

22 Q Does that correspond with your spreadsheet, Exhibit 521?

23 A Yes.

24 Q And what about the box on the bottom next to the right?

25 Does that reflect transfers from the Oasis accounts to ATC or

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1 on one occasion CFH or forex trading?

2 A Yes.

3 Q What about the middle box on the bottom?

4 A That's payments to staff and passive Oasis members.

5 Q And does that correspond with your spreadsheet, I believe
6 502?

7 A Yes.

8 Q And then the next box on the bottom to the right, it says
9 "DaCorta, Anile, Residential Properties & Related Entities."
10 What does that encompass?

11 A It includes the spreadsheet for Mr. DaCorta, the school
12 expenses, the vehicles expenses, the home equity line of
13 credit expenses, as well as travel and plane charters, the
14 condominium purchases, the purchases and payments for
15 DaCorta's residences, Mr. Joseph Anile and related company
16 transfers, the purchase of Frank Duran's residence, Anile's
17 residents and vacant lot, the gold and silver bars and coins,
18 the payments or transfers to Full Spectrum Wellness and Roar
19 of the Lion. And then that spreadsheet that was titled
20 "Charity, Gas Stations, Retail, Home Supplies, Entertainment,
21 and Restaurants."

22 Q So all of those multiple spreadsheets are depicted here
23 as one category --

24 A Yes.

25 Q -- for simplification?

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1 A That's correct.

2 Q And what about the box on the bottom far right that says
3 "Office Building"?

4 A That's the payments for the sale of the office building
5 or the payments to the 444 Gulf of Mexico, LLC.

6 Q All right. Let's turn to 500B. What is 500B?

7 A This is the second to the last box on the previous chart.
8 This breaks it down even further. These numbers were already
9 provided on the summary chart. They are just broken down on
10 this chart as a visual.

11 Q And so each one of the circles at the end of an arrow
12 corresponds with a different spreadsheet that you prepared
13 that we have discussed?

14 A Correct.

15 Q But here you can see it all in one place?

16 A Correct.

17 Q Let's turn next to Exhibit 500C. What is 500C?

18 A This depicts the amounts of deposits that were made by
19 investors by month for each year. So, for example, as you can
20 see in 2015, there were some deposits that weren't quite as
21 much. And then you go into '16 and they get a little bigger.
22 And '17 they go up, in 2018 even further. And then 2019 was a
23 little lower, but we also -- the business was closed down in
24 the middle of April.

25 Q Now, there are some dollar figures in little boxes kind

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1 of pointing down to certain points on the graph, correct?

2 A Yes.

3 Q What do those refer to?

4 A That's just to show the person reading this graph where
5 exactly that spot is on the chart.

6 Q So those numbers in the white boxes do not represent a
7 cumulative total of investment, correct?

8 A No. These are by month. So it's not -- it's not adding
9 the months up. It's each month the amount of deposits that
10 were made by investors.

11 Q And the total investor funds of just over 77 million
12 corresponds with your summary spreadsheet 521; is that
13 correct?

14 A That's correct.

15 Q Let's turn next to Exhibit 503. What is 503?

16 A 503 is a financial summary of the funds to Michael
17 DaCorta. So what I did here is I included his residences,
18 that spreadsheet with the transfers to him, personal credit
19 cards, cars, home equity lines of credit, school payments,
20 payments to Full Spectrum Wellness and Roar of the Lion and
21 the travel and plane charters. The top part is for January 1,
22 2015, to 2019, and the bottom part is just for 2017.

23 Q And why did you break out just 2017?

24 A Because that was the tax year that was charged in the
25 indictment.

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1 Q Agent Batsch, I have handed you what has been marked for
2 identification as -- hold on one minute here.

3 MS. BEDKE: Your Honor, may I approach?

4 THE COURT: Yes.

5 MS. BEDKE: I'm sorry. I just need to approach the
6 witness. I need to make sure I handed him the right document.
7 I'm sorry. I apologize. I have to make sure I got my numbers
8 straight.

9 BY MS. BEDKE:

10 Q All right. Agent Batsch, I have handed you what have
11 been mark for identification as Government Exhibits 554, 557B,
12 557C, 558B, and 558C; is that correct?

13 A Yes.

14 Q Do you recognize those?

15 A Yes.

16 Q How?

17 A These are certified copies of tax records that were
18 obtained in this investigation.

19 MS. BEDKE: The government moves for the admission of
20 Exhibits 554, 557B, 557C, 558B, and 558C.

21 MR. ALLEN: No objection, Your Honor.

22 THE COURT: All right. Admitted.

23 (Government Exhibits 554, 557B, 557C, 558B, and 558C
24 admitted.)

25

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1 BY MS. BEDKE:

2 Q And now you should also have Government Exhibit 551. Do
3 you recognize this one as well?

4 A Yes, I do.

5 Q What is this one?

6 A This one again is a certified copy of a tax return for
7 Oasis Management, LLC.

8 Q For what tax year?

9 A 2016.

10 MS. BEDKE: The government would move for the
11 admission of Exhibit 551.

12 MR. ALLEN: No objection.

13 THE COURT: Admitted.

14 (Government Exhibit 551 admitted.)

15 BY MS. BEDKE:

16 Q Now, Agent Batsch, did you have the opportunity to review
17 the 2016 partnership return for Oasis Management, LLC?

18 A I did.

19 Q And did you also review the 2017 Oasis Management
20 partnership return?

21 A I did.

22 Q And what did you observe when looking at the two returns
23 side by side, so to speak?

24 A They were very similar in nature, meaning the numbers
25 that made up the tax return.

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1 MR. ALLEN: I'm sorry. Your Honor, can I have a
2 conversation with Ms. Bedke?

3 THE COURT: Sure.

4 MR. ALLEN: Your Honor, can we come sidebar?

5 THE COURT: Yes.

6 (Bench conference on the record with all counsel
7 present.)

8 MR. ALLEN: Your Honor, the concern that I was
9 raising with Ms. Bedke is that this agent not express an
10 opinion to the lawfulness of any tax return other than 2017
11 because it would be 404(b) prior bad acts in evidence we have
12 not been given notice of. So if she wants to talk about the
13 numbers, I'm okay with that because they do relate to 2017,
14 but I don't want any evidence about other tax fraud alleged in
15 other accounts or any evidence related to that.

16 THE COURT: Sounds reasonable.

17 MS. BEDKE: And I was responding, Your Honor, that
18 I -- as Mr. Burling testified yesterday, some of the numbers
19 in the '17 return, which are the subject of Count 3, are
20 carryovers from '16. They all came from the same source.
21 It's the supposed interest payments, for example, that we
22 believe the evidence shows were just lender money. And so I'm
23 not asking him to say that the 2016 return was fraudulent, but
24 I think the implication is there. I don't believe that's
25 404(b) because the 2016 numbers, some of them flowed through

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1 to the 2017. That's how Mr. Burling testified the return was
2 prepared.

3 THE COURT: All right. Just don't have an expert
4 opinion rendered as to the legality of any year other than
5 2017. You can publish what the numbers were or where they
6 came from, all that stuff. And it may be argument in closing
7 that, hey, 2017 is bad, but let's don't obtain any expert --
8 this witness should not opine as to other years.

9 MS. BEDKE: All right. Your Honor, may I speak to
10 the witness for one minute to make sure we don't get a
11 misstatement?

12 THE COURT: Sure, sure, sure.

13 (End of bench conference.)

14 BY MS. BEDKE:

15 Q Agent Batsch, we were talking about the 2016 partnership
16 return and the 2017 partnership return for Oasis Management,
17 LLC, correct?

18 A That's correct.

19 Q And are the two linked or related in any way?

20 A No. They are separate tax years.

21 Q Do they include sort of the same categories of
22 information, income and expenses?

23 A Yes.

24 Q All right. And was there any data drawn from the 2016
25 return that made its way into the 2017 return?

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1 A Yes.

2 Q And what was that?

3 A There was a net operating loss that was carried forward
4 to 2017 as Mr. Burling testified yesterday about.

5 Q And the net operating loss was based upon what?

6 A Some expenses that were made and put on the tax return in
7 2016.

8 Q And --

9 A Also a loss that was included on Mr. DaCorta's 2016
10 return from Full Spectrum Wellness.

11 Q And were -- can you categorize those expenses and losses?
12 Let's start with expenses. What were they contributed to?

13 A Those expenses were attributed to interest expense that
14 was paid to partners in the partnership that was placed on the
15 tax return.

16 Q And some of those were carried over to the 2017 return?

17 A Yes. It created a loss amount that was carried over to
18 the 2017 return.

19 Q Okay. And with respect to the 2017 return, based upon
20 your investigation and analysis of the financial records, what
21 was your determination as to the proprietary of the interest
22 expense claimed on the 2017 return?

23 MR. ALLEN: Objection. Things we discussed at
24 sidebar.

25 THE COURT: We are talking about the 2017 return.

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1 MS. BEDKE: That's correct, Your Honor.

2 THE COURT: Go ahead.

3 A Because this business had no revenue stream, it was
4 simply money that was used from one investor to pay another in
5 the form of what they believed to be interest payments. There
6 was no interest expense. There was no profit that was
7 reported on Mr. Lyle's spreadsheet because there was no profit
8 on the trading. There was no spread pay. That was
9 fictitious. There was --

10 MR. ALLEN: Objection.

11 A -- only losses.

12 THE COURT: Hold on. Legal grounds?

13 MR. ALLEN: Foundation for this witness.

14 THE COURT: Ladies and gentlemen, this is an opinion
15 of this witness and subject to cross-examination. So I will
16 overrule the objection. Go ahead.

17 A So the numbers that were provided by Mr. DaCorta to
18 Mr. Burling included that spreadsheet that said 2017 profit
19 and distributed to all the partners, but there was no profit.
20 There was no money coming back into the accounts to pay any of
21 these individuals. These individuals believed they were
22 making money when there was no money that was to be made, not
23 one dime. So the interest expense that was used to pay these
24 individuals was just a diversion from other investors'
25 accounts, other investor funds. So there is no interest

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1 expense.

2 BY MS. BEDKE:

3 Q Let me pause there for a moment. So when you said there
4 was no money coming back, to what are you referring?

5 A There is no money coming back in any form or fashion for
6 any revenue stream for Oasis Management.

7 Q Did you see any money coming back from the ATC -- let me
8 back up and rephrase that.

9 You testified that in your analysis you saw payments
10 from OIG or Oasis to the ATC account, on one occasion the CFH
11 for forex trading, correct?

12 A Well, I think the payments actually came from the Fund
13 Administration account. So there were some funds that went
14 into Oasis Management, transferred to the Fund Administration
15 account and then transferred over to the ATC account, but
16 there were no funds that came back to the Fund Administration
17 account or Oasis Management.

18 Q So there were no profits from trading that made their way
19 back into --

20 A That's correct, yes.

21 Q And you didn't see any other money from any other account
22 associated with the trading that resulted in deposits into the
23 OIG account, correct?

24 A No. That's correct.

25 Q And how was the OIG account at Fund Administration later

DIRECT EXAMINATION OF SHAWN BATSCH

1 called Mainstream funded?

2 A With investor funds.

3 Q So is that the basis of your opinion that there was no
4 profit to make interest distributions or return of principal
5 other than from lender money or investor money?

6 A That's correct.

7 Q And is that further the basis for your statement that
8 this interest expense was inappropriate?

9 A That's correct.

10 Q You also mentioned that there was reported profit to the
11 limited partners of Oasis Management, LLC. Did I understand
12 you correctly?

13 A That's correct.

14 Q And what is the significance of that based upon your
15 analysis?

16 A Based on the spreadsheet that was provided to
17 Mr. Burling, it looked like it was the interest that they
18 assumed they were making on their investment, and it was
19 totaled down at the bottom. And that amount was put on the
20 tax return. It was like 443,000 as Mr. Burling spoke about it
21 before, but there were no profits. That number, it was
22 inappropriate as well. There should have been no revenues
23 reported to any of those partners in this venture.

24 Q Let me ask you if you also examined that portion of the
25 2017 return that related to Schedule C.

DIRECT EXAMINATION OF SHAWN BATSCH

1 A Yes. That was the Full Spectrum Wellness business.

2 Q And what did you observe with respect to Full Spectrum
3 Wellness and the figures entered on Schedule C?

4 A The figures on Schedule C are made up of mainly expenses
5 for Full Spectrum Wellness. And I have no dispute or argument
6 about the expenses, but the business was funded with a
7 diversion of funds from other investors to pay for his
8 personal business venture, Full Spectrum Wellness.

9 So the diversion of the funds from these investors
10 that put money into Oasis Management for the purpose of forex
11 trading, that should have been included as income because it
12 funded the Full Spectrum Wellness account, and therefore it
13 would have washed any sort of losses out of that. So the
14 losses that were generated from Full Spectrum Wellness were
15 also inappropriate because the amounts that were included to
16 fund Full Spectrum Wellness were not included as income.

17 Q Do I understand you to say that if any expenses
18 associated with Full Spectrum Wellness were properly to be
19 recorded on Mr. DaCorta's 2017 tax return, then it should have
20 been accompanied by the income to Mr. DaCorta by virtue of
21 taking funds from OIG to put into Full Spectrum Wellness?

22 A From Oasis Management to put into Full Spectrum Wellness,
23 yes.

24 Q So did the defendant claim the expenses but not the
25 income?

DIRECT EXAMINATION OF SHAWN BATSCH

1 A That's correct.

2 Q So in your opinion, how would you characterize the
3 reported income on Mr. DaCorta's 2017 U.S. individual income
4 tax return?

5 A Well, he didn't report any of the income, any of the
6 disbursements, the diversion of investor funds from the Oasis
7 Management account to his personal account to buy cars, the
8 Maserati, the Land Rover, the private jets, the trips to
9 Italy. Any of the transfers to his personal account, they
10 were also used for personal expenses, as well as payments made
11 for his residence that went into 13318 Lost Key Place to pay
12 for his personal residence, as well as the money that was
13 diverted to Full Spectrum Wellness and Roar of the Lion
14 Fitness.

15 Q Would that include payments and expenditures made in
16 connection to the Lacantera residence?

17 A No. That was in -- well, in 2018 he bought Lacantera.
18 So if we are talking about 2017. It does not include that.

19 Q All right. So you are excluding the Lacantera residence
20 because it was bought after the 2017 year?

21 A Right.

22 Q And so in sum, in your opinion was Mr. DaCorta's income
23 overstated, understated, accurate, not accurate? How would
24 you describe it?

25 A It was understated. And if you go back to the

DIRECT EXAMINATION OF SHAWN BATSCH

1 spreadsheet that I made on 503, I totaled up these amounts I
2 just mentioned of \$562,884.80 which should have been reported
3 as income because these were a diversion of funds, investor
4 funds for his use.

5 Q And because these funds were not reported on the 2017
6 individual income tax return, is it your belief that the
7 income was understated?

8 A That's correct.

9 Q Let's take a look at 557B. What is 557B?

10 A This is what we call an IRPT document. It is an
11 Information Returns Processing Transcript. It basically shows
12 what --

13 Q Let me have you pause for just a second. We are looking
14 at page 1 on the monitor, and I want to make sure we are with
15 you. This is the certification of this document you are
16 describing; is that right?

17 A Yes, it is.

18 Q Let's turn to page 2. It's Bates stamped IRS-03905. Is
19 that the document to which you are referring?

20 A Yes. I can't see it. Can you zoom in on it? There you
21 go.

22 So this is a document that reports any sort of W2s,
23 1099s, mortgage interest, things that are reported to the IRS.
24 This is what these documents report for a specific individual.
25 So if you worked somewhere and you got a W2, it would be

DIRECT EXAMINATION OF SHAWN BATSCH

1 reported on this document. If you received a 1099, it would
2 be reported on this document. All of these items are issued
3 for each tax year. So for this one, this is for 2017 for
4 Mr. Andrew DaCorta, Mr. DaCorta's son.

5 Q And what does it reflect?

6 A In the lower bottom part of this document on the bottom
7 left --

8 Q Let's zoom in on the bottom section there.

9 A You have got to go a little higher. There you go.

10 So it says that Andrew DaCorta received a W2 in the
11 amount of \$84,000 from Full Spectrum Wellness for 2017.

12 Q And what about 557C?

13 A This is the same document for Andrew DaCorta for 2018.
14 And in the lower bottom part of that document it shows he
15 received a W2 from Full Spectrum Wellness in the amount of
16 \$63,000 for 2018.

17 Q All right. Is this, if you know, after the time --
18 actually, let me strike that.

19 Let me turn next to 558B. What is 558B?

20 A This is the same document we just discussed but for his
21 other son, Steven DaCorta, for 2017.

22 Q Let's zoom in on the bottom half of page 2. It's
23 IRS-03914. What's reflected here?

24 A He received a W2 in the amount of \$17,000 from Full
25 Spectrum Wellness in 2017.

DIRECT EXAMINATION OF SHAWN BATSCH

1 Q Reflecting wages in what amount?

2 A 17,000.

3 Q And what is 558C?

4 A This is the same document for Steven DaCorta for 2018.

5 Q And on page 2, IRS-03917, what is reflected here?

6 A He received a W2 from Full Spectrum Wellness in the
7 amount of \$18,000.

8 Q Was Full Spectrum Wellness still operating in 2018?

9 A I don't believe so.

10 Q Turning back to 2017 and Mr. DaCorta's 2017 return, are
11 these payments to Mr. DaCorta's sons part of the expenses that
12 were claimed on the return?

13 A So they are part of the transfers that were made to the
14 Full Spectrum Wellness, LLC, bank account. So they took
15 investor funds, moved it to Full Spectrum Wellness, used it
16 for some expenses, also paid his two sons out of that account.
17 So the source is the investor funds.

18 Q So again on the return, the income is not reported, that
19 coming from the investors, but the expenses are claimed?

20 A That's correct.

21 MS. BEDKE: May I have a moment, Your Honor?

22 THE COURT: Yes.

23 MS. BEDKE: Thank you very much. Nothing further at
24 this time, Your Honor.

25 THE COURT: Cross-examination, please.

CROSS-EXAMINATION OF SHAWN BATSCH

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CROSS-EXAMINATION

BY MR. ALLEN:

Q Good morning, sir.

A Good morning.

Q How long have you worked for the IRS?

A Twenty-one years.

Q How many cases in those 21 years have you done with Ms. Bedke?

A Three or four.

Q You have other active cases with her now, right?

A Yes.

Q And you indicated that you were the case agent, co-case agent, correct?

A Right.

Q And a case agent works hand in hand with the prosecution, correct?

A That's correct.

Q In fact, you have been working day and night with Ms. Bedke and co-counsel in preparation of this case, correct?

A That's correct.

Q Every break you are meeting with them?

A I'm sorry?

Q Every break during this trial you are meeting with them?

A Sure.

Q You are talking to all of the government's witnesses?

CROSS-EXAMINATION OF SHAWN BATSCH

1 A Sure.

2 Q You're organizing the government's witnesses?

3 A Sure.

4 Q You are strategizing with the government on how to
5 respond to Mr. DaCorta's defense?

6 A Yes.

7 Q You as the case agent -- well, let me ask you this. You
8 are familiar with the rule of sequestration, right?

9 A Yes.

10 Q And that's the rule that's invoked at the beginning of a
11 trial that causes every witness that's going to be testifying
12 to sit outside of the courtroom until they are called for the
13 sole purpose that they won't hear the testimony of other
14 witnesses, correct?

15 A Yes.

16 Q Because if they hear the testimony of other witnesses,
17 then their testimony could be tainted by what they hear in the
18 courtroom, correct?

19 A Yes.

20 Q And you have sat in this courtroom and listened to the
21 testimony of every single witness almost, like you were out
22 for a little bit, correct?

23 A Sure.

24 Q And you have read the testimony of every government
25 witness so far, correct?

CROSS-EXAMINATION OF SHAWN BATSCH

1 A Yes.

2 Q And you are in essence part of the prosecution team,
3 correct?

4 A Yes.

5 Q And yet you are giving your opinion from that witness
6 stand as to what you believe Mr. DaCorta did wrong, correct?

7 A I don't know that -- what opinion am I giving?

8 Q Did you not just express your opinion as to what
9 Mr. DaCorta did incorrectly in his tax returns?

10 A Well, the IRS code specifically suggests that any income,
11 whether legal or illegal, should be reported on one's tax
12 return.

13 Q Says the IRS?

14 A Says the IRS.

15 Q And if somebody disagrees with the IRS, the IRS doesn't
16 just get to decide it. There is an adjudication process that
17 takes place. The IRS doesn't make the decision, right?

18 A The IRS didn't actually write the law. Congress did. So
19 not the IRS, but it's the law.

20 Q Okay. You are expressing your opinion as a member of the
21 prosecution team, correct?

22 A Yes.

23 Q Would that not be similar if I called Ms. Irvin to the
24 stand, who is on my defense team, to express her opinion as to
25 Mr. DaCorta's conduct?

CROSS-EXAMINATION OF SHAWN BATSCH

1 A No.

2 Q Okay. In addition to focusing on the finances and being
3 the case agent, as part of the prosecution team you were also
4 present at the execution of the search warrant at
5 Mr. DaCorta's residence on April 18, 2019, correct?

6 A Correct.

7 Q And that was a court-authorized search warrant, correct?

8 A Yes.

9 Q And the search warrant doesn't allow you to just take
10 anything. It specifically directs the type of things that you
11 can seize from the residence that Mr. DaCorta was residing at,
12 correct?

13 A Yes.

14 Q And specifically it's saying only seize things that could
15 be relevant to your investigation of the criminal offenses,
16 correct?

17 A That's correct.

18 MR. MURRAY: Your Honor, may we approach?

19 THE COURT: Yes.

20 (Bench conference on the record with all counsel
21 present.)

22 MR. MURRAY: Your Honor. This is the windup.

23 THE COURT: He is not going to do the windup. And I
24 think his question so far was appropriate. So do you have a
25 legal objection?

CROSS-EXAMINATION OF SHAWN BATSCH

1 MS. BEDKE: Your Honor, Agent Batsch is going to say
2 he doesn't know. Because there were a lot of agents there, he
3 doesn't know where the diary came from.

4 THE COURT: I might just judicially notice it came
5 from the house unless you are telling me that it wasn't.

6 MS. BEDKE: No. That's correct, Your Honor, it was.
7 He just doesn't personally know about that one.

8 THE COURT: I might instruct the jury that it came
9 from the house. You can ask the question. If you wish to ask
10 the question, you may, but don't do the lawyer dance with, you
11 know, talk about the exhibit.

12 (End of bench conference.)

13 MR. ALLEN: Approaching the defendant with Defense
14 Exhibit 81.

15 THE COURT: Yes.

16 BY MR. ALLEN:

17 Q Sir, can you look at Defense Exhibit 81?

18 A Okay.

19 Q Do you recognize what Defense Exhibit 81 is?

20 A Yes.

21 Q I'm sorry. Was that a yes?

22 A Yes.

23 Q Was that an item that was seized from Mr. DaCorta's
24 residence on April 18 of 2019, pursuant to the judicially
25 issued search warrant?

CROSS-EXAMINATION OF SHAWN BATSCH

1 A All I know is that this is in FBI evidence with the other
2 documents and stuff that was seized at the residence. I
3 cannot testify that this was seized at the residence. I know
4 that it was FBI evidence.

5 MR. ALLEN: Your Honor, I would ask the Court to --

6 THE COURT: And ladies and gentlemen, I looked at the
7 inventory list, and this was seized at the residence.

8 All right. Go ahead.

9 MR. ALLEN: Thank you, Your Honor.

10 Exhibit 87 if I misstated.

11 THE COURT: There you go.

12 BY MR. ALLEN:

13 Q You have had the opportunity, as we just clarified, to
14 listen to the testimony and the evidence that's come in in
15 this case, correct?

16 A Yes.

17 Q And that included Mr. Paniagua's testimony?

18 A Yes.

19 Q And that also included Agent Stone's testimony, correct?

20 A Yes.

21 Q And both Agent Stone and Mr. Joe Paniagua testified that
22 there was a risk disclosure loan agreement document, correct?

23 A That's correct.

24 Q And Agent Stone testified that he had gotten it both in
25 an email from Mr. Duran as well as clicking on the portal and

CROSS-EXAMINATION OF SHAWN BATSCH

1 being able to obtain it that way?

2 A Right.

3 Q And Mr. Paniagua testified that when a prospective lender
4 was applying to be a lender, they had to go through different
5 parts of the portal, sign up, and they had to click and
6 indicate that they had read and understood the note and risk
7 disclosure?

8 A That's what he said, yeah.

9 Q If we could pull up what's already been put into evidence
10 as Defense Exhibit 2.

11 THE COURTROOM DEPUTY: I'm sorry. Did you want the
12 presentation card?

13 MR. ALLEN: The trial director.

14 THE COURTROOM DEPUTY: I've got it.

15 MR. ALLEN: Thank you.

16 BY MR. ALLEN:

17 Q If we could turn to page 4 of that document, AWS-000765.
18 Pull out the "Use of Funds" section. That section says, "At
19 any time, in Oasis's sole discretion and without prior demand
20 or notice, Oasis may use any and all money loaned by lender,
21 including any interest therein, for any purpose whatsoever,
22 including without limitation any investment; the purchase or
23 sale of foreign exchange products, securities or commodities,
24 exchange or off-exchange products; the purchase or sale of any
25 business assets or liabilities, the purchase or sale of any

CROSS-EXAMINATION OF SHAWN BATSCH

1 real estate; or for any other purpose, including any general
2 company use or payment, any company payment or loans to any
3 company affiliate, officer, employee, or third party, any
4 company indebtedness or other company obligations." Did I
5 read that accurately, sir?

6 A Yes.

7 Q If we could pull up Government Exhibit 500A. We need to
8 switch over to the government's.

9 So the first thing on your column is you have
10 payments back to investors, \$27,409,583.27?

11 A Yes.

12 Q And you would agree with me that since it's a loan
13 pursuant to the loan agreement, it would be appropriate for
14 OIG to pay back investors with money, correct?

15 A With whose money?

16 Q With money, their money?

17 A Pay them back from their own money?

18 Q Well, when they loan the money to OIG, it's OIG's money,
19 correct?

20 A No.

21 Q Okay. So you disagree that if I said loan me \$10 and you
22 gave me \$10, that I couldn't use that \$10?

23 A If you said loan me money for the use of forex trading
24 and you then used it to buy a Florida mansion for yourself or
25 a Maserati for yourself, that's not what I intended my funds

CROSS-EXAMINATION OF SHAWN BATSCH

1 to be used for.

2 Q Well, I thought the question was, if I said, Mr. Batsch,
3 loan me \$10, do you agree or disagree that I could use that
4 \$10? That's the question. Yes or no, sir?

5 A I would ask you what it was for. What do you need \$10
6 for?

7 Q Okay. So you wouldn't loan me \$10? I thought we knew
8 each other.

9 A I probably would. But if somebody is going to ask me for
10 more money than that, I would ask what the purpose is.

11 Q I understand that. But my hypothetical is I'm asking you
12 for \$10.

13 A So in this situation for \$10, yes.

14 Q And if I came back to you and said here is your \$10 and
15 it happened to be the same \$10 you gave me, you would be upset
16 with that?

17 A No. For \$10, no.

18 Q If you gave me a hundred thousand dollars and I came back
19 to you and gave you back a hundred thousand dollars and it
20 happened to be your money, you would be upset with that?

21 A I wouldn't have given you a hundred thousand dollars
22 unless I knew what you were going to use it for.

23 Q Okay. Let's look at the second one. ATC Brokers and
24 forex trading, correct?

25 A Yes.

CROSS-EXAMINATION OF SHAWN BATSCH

1 Q That agreement specifically says we can use the money for
2 anything we want, but specifically we are going to use it for
3 forex trading, correct?

4 A It does.

5 Q Next you say "Payment to Staff and Passive Oasis
6 Members." The notice and loan agreement specifically says we
7 can use your money to pay staff and other expenses, correct?

8 A It does, but that's not what was represented in
9 conference calls and oral conversations with individuals about
10 what the use of their money is going to be used for.

11 Q I understand your desire as a member of the prosecution
12 team to get out the prosecution theory, but I would ask that
13 you please just answer my questions.

14 A Okay.

15 Q If you want to explain, you can. Okay?

16 A Well, then let me explain when you ask me a question.

17 Q Just ask, sir.

18 A Okay.

19 Q Next it says "DaCorta, Anile, Residential Properties and
20 Related Entities"?

21 A Right, yes.

22 Q And you keep referring to these as Mr. DaCorta's house,
23 Mr. Anile's house, Mr. Duran's house. All of these properties
24 were, LLCs, correct?

25 A They were in the title to an LLC that the bank account

CROSS-EXAMINATION OF SHAWN BATSCH

1 was controlled by Mr. Anile and Mr. DaCorta. Any and all
2 decisions made regarding the house were made by them. Their
3 families lived in those houses, but they were titled to
4 an LLC, yes.

5 Q Okay. Do you still need to explain?

6 A No.

7 Q Okay. So they are all in LLCs, correct?

8 A Yes.

9 Q And the loan agreement specifically said the money you
10 are loaning can be used to purchase real estate, correct?

11 A That loan agreement said that, yes.

12 Q And you would agree that all of these homes are real
13 estate, correct?

14 A They are real estate.

15 Q And the office building was real estate?

16 A That's real estate.

17 Q And in fact, not only is it in the loan agreement,
18 Mr. DaCorta specifically told Undercover Agent Stone, who was
19 pretending to be a lender, that the money would be used --
20 that money would be used for real estate, correct?

21 A No.

22 Q Okay.

23 A He said that his money was going to be used for forex
24 trading and they were using their own money for real estate
25 and other items.

CROSS-EXAMINATION OF SHAWN BATSCH

1 Q Uh-huh. And when OIG borrows money, anybody borrows
2 money, it becomes their money to use, correct?

3 A No. Can I use an example here? The government issues
4 PPP loans.

5 Q Do you need to explain your answer of no?

6 A Yes.

7 Q Go ahead.

8 A The government issues PPP loans to businesses. This is
9 just an example. The government is going to loan a business
10 money, let's say a hundred thousand dollars, for the purpose
11 of them to use it on payroll. If the owner of that business
12 then goes and buys a Lamborghini with it, that is theft.

13 Q Right. So the loan has to be used for the agreed-upon
14 purpose?

15 A The agreed-upon purpose.

16 Q Okay. And Government -- I'm sorry -- Defense Exhibit 2
17 is the agreed-upon purpose, correct?

18 A That's not what's told to people. And I don't even know
19 who got those. I don't know that anybody received those or
20 signed those or read them. I don't know.

21 Q I understand your lack of knowledge. My question is,
22 this is the agreement as to what the money could be used for,
23 correct?

24 A That document you have in your hand says that they could
25 use it for whatever they want.

CROSS-EXAMINATION OF SHAWN BATSCH

1 Q And it specifically lays out what they mean by that,
2 correct?

3 A It does.

4 Q It doesn't just say we can use the money for whatever we
5 want. There's a definition of what they mean by that in the
6 agreement, correct?

7 A Well, it says "Whatsoever."

8 Q Okay. So you disagree that Government -- I'm sorry --
9 Defense Exhibit 2 lays out six, seven, eight, nine things that
10 they could use the money for?

11 A No. It says whatsoever, including, and all those things.

12 Q Okay. Let's pull up back on the screen then Defense
13 Exhibit 2. Okay. You would agree with me that there is more
14 words as to the use of funds than simply "Whatsoever,"
15 correct?

16 A Correct.

17 Q Do you need to explain?

18 A No.

19 Q Okay.

20 A Including, without limitation, any investment, purchase,
21 the sale --

22 Q So I guess you did need to explain.

23 Let's pull up Government Exhibit 500. And if we
24 could pull out the "Use of Funds" section of where the funds
25 went. We have discussed payment back to investors. We have

CROSS-EXAMINATION OF SHAWN BATSCH

1 already discussed that, correct?

2 A Correct.

3 Q We have discussed transfer of funds for forex trading,
4 right?

5 A Right.

6 Q We have discussed payment to staff and passive members of
7 Oasis, correct?

8 A Right.

9 Q Are we have discussed the resident that Mr. DaCorta was
10 residing at, correct?

11 A Yes.

12 Q We have discussed -- we have not discussed Mr. DaCorta's
13 cars, personal credit cards, home equity, LLCs, and school,
14 right?

15 A Right.

16 Q We haven't talked about that.

17 The promissory note and loan agreement says that it
18 can be used to pay officers, employees, and third parties,
19 correct?

20 A That loan agreement and promissory note, it went in
21 effect in what? 2018? Is that what we heard? A lot of these
22 things go back to 2015. Again, they were told their money was
23 going to be used in forex trading.

24 Q Will you answer my question now?

25 A What is your question?

CROSS-EXAMINATION OF SHAWN BATSCH

1 Q My question was, did the loan agreement not specifically
2 say that the money being loaned could be used to pay its
3 officers, employees, third parties?

4 A Your document there says that, yes.

5 Q Well, this is a document that came in through Mr. Joe
6 Paniagua who was a government witness, correct?

7 A Correct.

8 Q This is a document that came in through Agent Stone who
9 not only was a government witness but a former FBI agent,
10 correct?

11 A Correct.

12 Q It says Full Spectrum Wellness and Roar of the Lion. We
13 haven't talked about that yet, have we?

14 A No.

15 Q Okay. Mr. DaCorta specifically told Agent Stone that his
16 company was involved in equity financing, correct?

17 A Yes.

18 Q And equity financing is providing money to a company,
19 correct, for an ownership interest, correct?

20 A Correct.

21 Q And I believe you testified on direct examination that
22 Full Spectrum Wellness, Roar of the Lion were separate
23 companies from Oasis International Group, correct?

24 A Right, yes.

25 Q Next we have Mr. Anile's residence, and that's an LLC

CROSS-EXAMINATION OF SHAWN BATSCCH

1 purchased with company money, correct?

2 A Yes.

3 Q We then have Anile Bowling Green Capital 4Oaks, and that
4 was Mr. Anile's company, correct?

5 A Yes.

6 Q And a lot of money went into that account, correct?

7 A Yes.

8 Q And his wife was a signatory on that account, correct?

9 A I think so.

10 Q Do you not recall him testifying to that?

11 A I don't recall. I know he was.

12 Q Do you recall him testifying about needing lawyers for
13 his family members?

14 A Yes.

15 Q Did you do an analysis of the Bowling Green account?

16 A We did.

17 Q Did it appear to you from your analysis that Mr. Anile's
18 wife was taking money separate and apart from any company
19 function or purpose?

20 A Repeat your question.

21 Q Sure. In your analysis of Mr. Anile's account for his
22 company, did it appear to you that his wife was withdrawing
23 money from that account that was unrelated to anything that
24 would have had any purpose for Oasis International Group?

25 A Well, any money going into Bowling Green Capital, 4Oaks

CROSS-EXAMINATION OF SHAWN BATSCH

1 was unrelated to anything having to do with Oasis
2 International. So that was all money that was -- the answer
3 to the question is yes, but it's all of the money that went
4 into Bowling Green and 40aks.

5 Q Was Ms. Anile subject of your investigation?

6 A No.

7 Q Did the issue of her having potential criminal liability
8 come up in your interactions with Mr. Anile?

9 A No.

10 Q We have next the Christmas parties, correct?

11 A Yes.

12 Q And you would agree, would you not, that the note is and
13 risk disclosure says that the money loaned could be used for
14 company expenses, correct?

15 A Yes, it says that.

16 Q And the Christmas parties were specifically for
17 participants in OIG, correct?

18 A Or other people that they invited, not just the
19 participants.

20 Q You think that was a personal function or do you think it
21 was a business function, the Christmas parties?

22 A You are asking me my opinion?

23 Q Sure.

24 A It was a function to persuade investors that Oasis was
25 successful and a prospering company that had a lot of money to

CROSS-EXAMINATION OF SHAWN BATSCH

1 keep them invested and not take a run on the bank and take
2 their money out.

3 Q That wasn't the opinion I was seeking, but my question
4 was do you think -- this is the opinion I'm asking you, okay?
5 And if you need to explain, feel free to. Just ask.

6 Do you think the Christmas parties was a private
7 party for Mr. DaCorta, Mr. Anile, or do you think it was
8 something for the purpose and benefit of Oasis International
9 Group?

10 A I think it was for the benefit of Mr. DaCorta and Anile,
11 because if these investors were happy, they would put more
12 money into Oasis.

13 Q Okay. So I guess by your logic it would benefit OIG?

14 A Sure.

15 Q We have discussed the office building, correct?

16 A Yes.

17 Q There are condo purchases, correct?

18 A Yes.

19 Q Condos are real estate, right?

20 A Yes.

21 Q We have Mr. Duran's residence, but that's an LLC,
22 correct?

23 A Yes.

24 Q Purchased with money that OIG got from lenders, right?

25 A From investors, yes.

CROSS-EXAMINATION OF SHAWN BATSCH

1 Q Well, people can loan money as an investment, right?

2 A I don't think even this loan program was in effect during
3 this time period. So it was investor money.

4 Q Okay. Let's talk about that. You were only able to look
5 at trading records from 2015 to April of 2017, correct?

6 A April 2019.

7 Q You are right. I got my dates confused. April of 2019,
8 correct?

9 A Yes.

10 Q And Mr. DaCorta was involved -- I mean, the allegations
11 stem from 2011 to 2019, April of 2019, correct?

12 A Yes.

13 Q And you mentioned on direct examination seeing in your
14 accounting, I guess, of one of your summaries about money from
15 CFH. Is that what it was?

16 A Yes.

17 Q And what was CFH?

18 A It's like ATC Brokers. They are a broker to facilitate
19 forex trading.

20 Q And what do these trading records show?

21 A I didn't review them.

22 Q I'm sorry?

23 A I didn't review them.

24 Q So you have no idea what the trading successes or
25 failures might have been prior to ATC Brokers?

CROSS-EXAMINATION OF SHAWN BATSCH

1 A I know the receiver's office did, and no money came back
2 from CFH Clearing just like ATC Brokers.

3 Q Sarasota Rare Coin you have on here?

4 A That's correct.

5 Q That's the gold and silver that was purchased with money
6 that OIG had taken in in loans, correct?

7 A Investor funds, yes.

8 Q That they were loaning, correct?

9 A Investor funds.

10 Q Well, you listened to the testimony of all the people
11 that you called as investors, and they all agreed they were
12 loans, right?

13 A They were told that they were lenders, yes.

14 Q Well, they all testified -- you were here. They all
15 said, yeah, they were loans, right?

16 A They invested money in a forex platform. They were told
17 their money was loans, but they invested in a forex platform.

18 Q Do you not believe the testimony of Mr. Howard when he
19 said, I invested in a loan?

20 A He was told it was a loan, yes, correct. If you ask him
21 if he invested in Oasis, he'll say yes.

22 Q That he loaned money to OIG, correct?

23 A He would also say he invested in Oasis.

24 Q Correct. As a loan investment, right?

25 A Okay.

CROSS-EXAMINATION OF SHAWN BATSCH

1 Q All right. I mean, that's what Mr. Kihnke said too,
2 right?

3 A That they were told their money was loans, yes.

4 Q And that they perceived it as a loan, correct?

5 A They were told their money was a loan, and they received
6 a promissory note in exchange.

7 Q Okay. With the promise of interest, correct?

8 A Or the transaction fees from the forex trading.

9 Q Well, no. I believe their testimony was they got the
10 greater of 1 percent per month or 12 percent per year in
11 interest or 25 percent of the spread, correct?

12 A That's what their testimony is, yes.

13 Q Consistently across all of them, right?

14 A That's what their testimony is.

15 Q And you believe their testimony, right?

16 A There was no spread to pay them. I don't -- I believe
17 that they believed that, but that is not what happened behind
18 the scenes.

19 Q Okay. Belize account, correct?

20 A Yes.

21 Q And the testimony during this trial was that a
22 broker-dealer was incorporated in Belize, correct?

23 A There was a shell company in Belize that owned a
24 broker-dealer license.

25 Q So there was a broker-dealer license purchased in Belize,

CROSS-EXAMINATION OF SHAWN BATSCH

1 correct?

2 A Correct.

3 Q And that would be a company expense, correct?

4 A The Belize account, I think it's still sitting in the
5 bank account.

6 Q No. The license for broker-dealer in Belize.

7 A Yes.

8 Q Charity, how much did Mr. DaCorta give to charity?

9 A I would have to look through the spreadsheet, but there
10 is some in there. It's not -- it's not significant to the
11 \$205,000, but there is some money to charity.

12 Q Well, it was significant enough for you to include it,
13 right?

14 A Yeah. I didn't want to disregard it.

15 Q Okay. But you don't know the number?

16 A No.

17 Q Gas stations, entertainment, grocery, restaurants,
18 retail, home supplies, and health, correct?

19 A Yes.

20 Q Things that an officer of a company or any individual
21 would use the money they are earning from their income line,
22 correct?

23 A You have to look at that spreadsheet to get more
24 specific. I think there are charges from Home Depot and
25 various retail purchases, stuff like that that I wouldn't

CROSS-EXAMINATION OF SHAWN BATSCH

1 expect someone to use investor -- someone's money to purchase.

2 Q Well, you have been to Home Depot, right?

3 A I have.

4 Q Yeah. Have you?

5 A I have.

6 Q You purchase things at Home Depot, right?

7 A I have for my personal use, yes.

8 Q Correct. And you used the income you get from the
9 federal government to do that?

10 A Right.

11 Q Okay. And so my question was, these are all things that
12 every person who has income would buy on a daily basis?

13 A Correct.

14 Q Travel expenses and plane charter, correct?

15 A Yes.

16 Q Those could be personal expenses or they could be
17 business expenses, right?

18 A Could be.

19 Q You don't know?

20 A Some of them, no.

21 Q Attorneys and CPAs, and I think Ms. Bedke went through
22 your sheet and was pointing out attorneys in New Zealand,
23 correct?

24 A Right.

25 Q And at one point they had a license for a broker-dealer

CROSS-EXAMINATION OF SHAWN BATSCH

1 in New Zealand, right?

2 A Right.

3 Q The CPAs, some of that is Mr. DaCorta's accountants that
4 he hired, Mr. D'Arcangelo and Mr. Burling?

5 A Correct.

6 Q Can you look at 516 for me, sir?

7 A Can you pull it up on the screen?

8 Q Can you guys pull up 516?

9 You are good at numbers I'm assuming being a CPA.

10 Can you give me a ballpark of how much money Mr. DaCorta paid
11 Mr. Burling to assist with his personal and business taxes?

12 A 2,500 maybe.

13 Q That's more than somebody would pay to use the online
14 Turbo Tax, right?

15 A I would hope so.

16 Q Do you do your own taxes?

17 A Yes.

18 Q You got a lot of experience being a CPA and working for
19 the IRS for 21 years and living and breathing the tax code as
20 part of your job?

21 A Sure.

22 Q But you would agree that when people have complex tax
23 issues, it's not uncommon for them to hire a CPA like
24 yourself?

25 A That's correct.

CROSS-EXAMINATION OF SHAWN BATSCH

1 Q Somebody who lives and breathes the tax code, correct?

2 A Yes.

3 Q And Mr. DaCorta spent over \$2,500 for a person just like
4 that?

5 A Correct.

6 Q If we could go back to 500. Pull out the expenses there.

7 Office rent. You would agree with me that the
8 agreement and risk disclosures would cover general operating
9 expenses?

10 A That agreement would, yes.

11 Q And I noticed that the rent stopped, didn't go all the
12 way through 2019, correct?

13 A Right. Yes.

14 Q And the reason the rent stopped is because OIG purchased
15 the office building, correct?

16 A That's correct.

17 Q For their -- they didn't need to rent a place to work.
18 They had purchased an office building, correct?

19 A That's correct.

20 Q We have the miscellaneous that you talked about, the
21 unknown you talked about. And then we have bank fees and
22 utilities. I'm assuming utilities is the power and lights at
23 the office building in the eleven, ten other properties, real
24 estate that was purchased?

25 A No. That was -- those, what you were just talking about

CROSS-EXAMINATION OF SHAWN BATSCH

1 there were normally paid out of those LLC accounts in the
2 property names. The utilities there was like phone, Bright
3 House, stuff like that that was probably unrelated. So these
4 are mostly like wire fee transactions and so forth.

5 Q Okay. Transactions regarding -- I hate to use the word
6 lender funds because you are going to argue with me -- but
7 transactions of the funds that were coming in, correct?

8 A Yes.

9 Q Would you agree -- withdraw that.

10 Were you at Mr. Anile's sentencing hearing?

11 A I was on the Zoom call, yes.

12 Q You were virtually present like everybody else that day?

13 A Right.

14 Q Including myself.

15 A Right.

16 Q Do you recall him explaining to Judge Scriven about how
17 he nearly almost died four times prior to his sentencing
18 because of being in the hospital with a heart condition?

19 A I do.

20 Q Do you recall him asking the Court for a lesser sentence
21 because of his health conditions?

22 A He might have. I don't know if it was verbal or in the
23 report that they issued. I don't remember, but he might have.

24 Q You would agree with me that he is in poor health?

25 A Yes.

CROSS-EXAMINATION OF SHAWN BATSCH

1 Q You would agree with me that it's harder to do prison
2 when you are in poor health than when you are in good health?

3 A Yes.

4 Q You would agree with me Mr. DaCorta -- I'm sorry --
5 Mr. Anile isn't eager to go to prison?

6 A That is correct.

7 Q You would agree with me that the reason he hasn't gone to
8 prison since he pled -- since he was sentenced in November of
9 2020 is so that he could be available to cooperate with the
10 government against Mr. DaCorta?

11 A I don't really know. I don't -- I wasn't involved in
12 those discussions about moving his court date back. So I
13 can't answer that.

14 Q Okay. Do you recall that issue coming up at the
15 sentencing hearing?

16 A I do. He had a report date. I believe they issued one
17 there. I don't remember what it was.

18 Q My question is, do you recall at his sentencing hearing a
19 request being made by the government that Mr. Anile be allowed
20 to stay out because he was still cooperating and would
21 potentially be testifying against Mr. DaCorta?

22 A Yeah. There was something along those lines like that,
23 yeah.

24 Q Do you want to refresh your memory or do you feel
25 comfortable that happened?

CROSS-EXAMINATION OF SHAWN BATSCH

1 A No. I think there is something like that in there. I
2 just don't remember specifically what that was.

3 Q And even though he testified a couple days ago, he still
4 hasn't reported for prison to your knowledge, correct?

5 A That's correct.

6 Q You indicated that we don't know that any of the lenders
7 actually saw the risk disclosure, correct?

8 A Well, I don't know about any of them. But the ones I've
9 contacted, I don't know that they have read or understood that
10 risk disclosure.

11 Q But you were here during Mr. Paniagua's testimony that
12 all of them -- by all of them, I mean Patti Katter, Deborah
13 Cheslow, Michael Chalhub, Charles Anthony and his wife, Matt
14 Kihnke had records of having opened an online portal account,
15 correct?

16 A Yes.

17 Q And you heard the testimony from Mr. Paniagua that none
18 of them could have had an account unless they clicked that
19 they had read, reviewed, and understood the risk disclosure?

20 A Okay.

21 Q And you recall, do you not -- I'm showing you Defense
22 Exhibit 225. That 225 relates to Patti Katter. Do you recall
23 that?

24 A Yes.

25 Q And that Ms. Katter testified that that was her

CROSS-EXAMINATION OF SHAWN BATSCH

1 signature. Do you recall that?

2 A Yes.

3 Q I'm showing you what's Defense Exhibit 224 for Deborah
4 Cheslow indicating that she had an online portal and her
5 testifying under oath that that was her signature. Do you
6 recall that?

7 A That is correct.

8 Q I'm showing you what's been already introduced into
9 evidence as Defense 209, which is the business record for
10 Mr. Chalhub, Michael Chalhub's online portal account. And he
11 testified under oath that that was his signature and that was
12 his wife's signature. Do you recall that?

13 A Yes.

14 Q I'm showing you what's been admitted into evidence as
15 Defense Exhibit 306, the account for Mr. Charles Anthony or
16 Anthony Charles and his wife Sonja. You recall him testifying
17 under oath, do you not, that that was his wife's signature and
18 his signature?

19 A Yes.

20 Q I'm showing you what's already been admitted into
21 evidence Defense Exhibit 215 for Mr. Matt Kihnke. Page 6 of
22 that document, do you recall testifying under oath that that
23 was his signature?

24 A Yes.

25 Q You recall Mr. Howard also identifying his signature when

CROSS-EXAMINATION OF SHAWN BATSCH

1 he testified, do you not?

2 A I wasn't in the room when he testified. So I can't --

3 Q If you can pull up Exhibit 521. This was you looking at
4 the bank records and identifying deposits from investors?

5 A Right.

6 Q From 2015 all the way through April of 2019?

7 A Yes.

8 Q Were you able to identify the names of all the investors
9 from this, from your review of the banks records?

10 A No. No. Because some people invested with companies.
11 Like, for example, Mr. Howard, I.W. Land Partners or whatever.

12 Q The receiver took over the Oasis AWS client portal
13 account, correct?

14 A Yes.

15 Q And the receiver provided both the government and myself
16 access to that, correct?

17 A Yes.

18 Q And the AWS account lists all of the active -- you will
19 call them investors, I will call them lenders, that were in
20 active status as of April of 2019, correct?

21 A Yes.

22 Q And Mr. Paniagua used that website to identify the number
23 of lenders that had loans outstanding that needed to be paid,
24 correct? And the government has introduced an exhibit that
25 Mr. Paniagua put together that was provided to the receiver,

REDIRECT EXAMINATION OF SHAWN BATSCH

1 correct?

2 A Yes. That's correct.

3 Q Did you or anybody else in law enforcement go into the
4 portal and identify all of the lenders?

5 A Mrs. Cheslow had a spreadsheet that did that.

6 Q Okay. That was that big blue spreadsheet that came in?

7 A Yeah.

8 Q Yes?

9 A Yeah, I think so.

10 Q And she did that by going into the AWS account to
11 identify them, correct?

12 A Correct.

13 Q And as we learned from Mr. Paniagua, they couldn't have
14 an AWS account unless they clicked that they had reviewed and
15 understood the risk disclosure, correct?

16 A Okay, yes.

17 MR. ALLEN: If I could have a moment.

18 THE COURT: Yes.

19 MR. ALLEN: No further questions, Your Honor.

20 THE COURT: Redirect, please.

21 **REDIRECT EXAMINATION**

22 BY MS. BEDKE:

23 Q Agent Batsch, is it customary for at least one case agent
24 and sometimes more to be permitted to sit in court throughout
25 the course of the trial?

REDIRECT EXAMINATION OF SHAWN BATSCH

1 A Always, yes.

2 Q And was it your understanding that you were permitted to
3 stay inside the courtroom throughout the proceedings
4 consistent with that customary practice?

5 A Yes.

6 Q And did you understand that all the parties agreed?

7 A Yes.

8 MR. ALLEN: Objection.

9 THE COURT: What's the legal basis for that?

10 MR. ALLEN: Can I come -- as to all parties agreed.

11 THE COURT: Overruled. Overruled.

12 BY MS. BEDKE:

13 Q Agent Batsch, Mr. Anile has been sentenced, correct?

14 A Yes.

15 Q And do you understand that it's possible that the
16 government would file a motion on his behalf if it determines
17 in its sole discretion he has provided substantial assistance?

18 A Yes.

19 Q Has anyone ever promised Mr. Anile a specific sentence?

20 A No.

21 Q Whose decision is it at the end of the day what sentence
22 or other penalties Mr. Anile gets?

23 A The judge.

24 MS. BEDKE: Nothing further.

25 THE COURT: Thank you. You may step down.

REDIRECT EXAMINATION OF SHAWN BATSCH

1 Call your next witness, please, government.

2 MS. BEDKE: May we approach?

3 THE COURT: Sure.

4 (Bench conference on the record.)

5 MS. BEDKE: Your Honor, the government is prepared to
6 rest. We would just ask to be permitted over the lunch hour
7 to confirm that all exhibits we believe have been admitted are
8 in fact admitted.

9 THE COURT: Why don't you announce, "Rest," and then
10 we will give you leave to do that.

11 MS. BEDKE: Thank you.

12 (End of bench conference.)

13 THE COURT: We will take your next witness, please.

14 MS. BEDKE: At this time, Your Honor, the United
15 States rests its case in chief.

16 THE COURT: Well, thank you very much.

17 Ladies and gentlemen, subject to us checking out the
18 exhibits, making sure they're all in, the United States case
19 has rested the case in chief. The case, however, is not over.
20 So don't be developing any conversations among yourselves or
21 even conclusions. That all comes at the end when you're
22 conferring together.

23 So let's go to our lunch. Think we can come back at
24 quarter after one? Will that be enough time? Okay, at 1:15.

25 Please don't discuss the case or look on any outside

REDIRECT EXAMINATION OF SHAWN BATSCH

1 sources or anything like that. Thank you very much.

2 (Jury escorted out of the courtroom.)

3 THE COURT: I know y'all have to eat. Can we get
4 back at 1:00? Is that too soon to do Rule 29 and then talk
5 about this exhibit? Ms. Irvin says yes, so that's a done
6 deal.

7 On this judicial notice thing, I precluded Mr. Allen
8 with Volp from asking those questions. So rather than do some
9 sort of Touhy thing where we bring Volp back, et cetera, I
10 just did it. So to cure my -- what in hindsight now I should
11 have permitted him -- he didn't really help matters by being a
12 good lawyer and I wasn't perceiving it like I should have. So
13 I would ask if you refer to that exhibit, just don't mention
14 me. It's on the -- it's established that it's from the house,
15 which I understand is beyond peradventure, and this came from
16 the dwelling, from the residence. No one is going to argue
17 that it didn't. So don't say, "The judge said," because it's
18 very unusual that I did that, but to correct my Volp mistake
19 and avoid some Touhy thing, bring Volp back -- of course, now
20 he's probably in the Keys fishing or someplace -- that's why I
21 did it.

22 MR. ALLEN: One issue as to the journal. I have
23 noticed --

24 MR. MURRAY: Your Honor, I'm sorry to interrupt
25 Mr. Allen, but we have some serious contemporaneous objections

REDIRECT EXAMINATION OF SHAWN BATSCH

1 under 803(3), and we ask that anyone in the courtroom who is
2 going to potentially testify regarding that issue be
3 sequestered.

4 THE COURT: All right.

5 MR. MURRAY: Just for that issue.

6 THE COURT: You got it.

7 Go ahead.

8 MR. ALLEN: Yes. I just noticed that since -- I
9 think since the journal has been here, the pages have started
10 coming out, which is not the condition it was in --

11 THE COURT: Yes, I saw that.

12 MR. ALLEN: -- when it was seized. So I don't want
13 some inference by the government that these pages could have
14 been stuck in that order.

15 THE COURT: They're not going to do that unless there
16 is some good faith basis for that. And I don't see that.
17 Plus, it's dated, and plus the pages generally follow. They
18 may say -- not logically but they do follow sequentially. So
19 I don't think that's going to be a problem.

20 MR. ALLEN: Yes, sir.

21 THE COURT: Now, you might get some clean copies
22 because I'm not sure --

23 MR. ALLEN: We have.

24 MS. IRVIN: I have them already.

25 THE COURT: So we'll see you at 1:00.

REDIRECT EXAMINATION OF SHAWN BATSCH

1 MR. ALLEN: Can I ask another question?

2 THE COURT: Yes, sir.

3 MR. ALLEN: I know we're redacting. If Mr. DaCorta
4 chooses to testify, so now the declarant who wrote it is
5 present in the courtroom, does it need to be redacted?

6 THE COURT: Well, we'll address that at the time. I
7 don't know. A real clever lawyer might say on redirect that
8 it's a prior consistent statement offered to rebut an
9 inference of recent fabrication. I don't know, and I'm not
10 going to guess. The rule still applies, you know.

11 MR. ALLEN: Yeah.

12 THE COURT: It still applies even if you take the
13 stand. So sorry I can't help you. We'll cross that bridge
14 when we come to it.

15 MR. ALLEN: Yes, sir.

16 THE COURT: Thank you. See you at 1:00.

17 (Lunch recess taken.)

18 THE COURT: Does the defense want to make a Rule 29
19 motion and get that record covered?

20 MR. ALLEN: Yes, Your Honor.

21 First, just because it's the very first federal case
22 I ever had got reversed all the way at the Supreme Court
23 because I didn't preserve something properly.

24 THE COURT: You do it.

25 MR. ALLEN: I'm renewing the motion for mistrial that

REDIRECT EXAMINATION OF SHAWN BATSCH

1 I raised at sidebar in reference to Mr. Ian Howard's reference
2 to Mr. DaCorta having defrauded people before.

3 Second --

4 THE COURT: And let me make just a note of that.

5 MR. ALLEN: Yes, sir.

6 THE COURT: That came from a rather unartful question
7 of an angry victim by the defense, which was he's innocent as
8 he sits here. That was not elicited by the government.

9 Secondly, there's some basis in the record for that.
10 There is an agreement not to, whatever the word is, represent
11 people within the United States for forex trading. And that
12 witness both in direct and cross testified that he had been
13 informed about a bankruptcy where rather than let the
14 customers take the hit, Mr. DaCorta took the hit. And that
15 came out in both direct and cross of this witness. So there
16 is some basis for his statement. And I'm not sure what a
17 limiting instruction, how we would have accurately crafted
18 that. And anyway, that's my point on that.

19 Go ahead.

20 MR. ALLEN: Your Honor, pursuant to Rule 29 taking
21 the evidence in the light most favorable to the government, we
22 submit to the Court that the government has not established by
23 prima facie evidence each and every element of all three
24 counts.

25 Thank you.

REDIRECT EXAMINATION OF SHAWN BATSCH

1 THE COURT: Thank you. You are fully preserved, and
2 I deny the motion.

3 Let's talk about this. I did receive a redacted copy
4 of this material. I'm referring specifically to Exhibit 87.
5 Is that agreed upon? I know the government doesn't agree that
6 any of it's admissible.

7 Mr. Chee?

8 MR. CHEE: Yes, your Honor. Thank you.

9 The redactions that I believe Ms. Irvin forwarded to
10 the Court are what we both agree should be redacted. However,
11 the government does have additional argument on additional
12 pages that we believe should be redacted. So it's not
13 complete.

14 THE COURT: I have this agreement -- I'm not saying I
15 agree to this, but tell me what else you want out.

16 MR. CHEE: Just as a premise before that, Your Honor,
17 we would like just to renew our objection with respect to
18 foundation for this being authenticated. I don't know if the
19 Court wants it now or at a later time.

20 THE COURT: I assume that they are going to either
21 have the defendant authenticate it or someone who will say
22 this is his handwriting, I know his handwriting for reasons
23 predating this litigation. What would be the problem with
24 that authentication?

25 MR. CHEE: Well, Your Honor, under Eleventh Circuit

REDIRECT EXAMINATION OF SHAWN BATSCHE

1 case law there is a requirement for contemporaneity of the
2 entries into the journal. So there are only specific
3 individuals who can do that to say that the entries in the
4 journal were made contemporaneously with the defendant's state
5 of mind. There are individuals who cannot do that, and it is
6 our -- I mean, this is one of the elements, so to speak, for
7 the Court to find that --

8 THE COURT: Under 803(3).

9 MR. CHEE: Yes, under 803(3).

10 THE COURT: It doesn't smell counterfeit to me. What
11 you are saying is these dates, because the pages are dated,
12 these dates, the government has to prove these dates. All
13 right. Tell me what else you have.

14 MR. CHEE: Well, there is also the issue of the time
15 for reflection, Your Honor. Under the case law as well, the
16 Court needs to find that there was not an adequate period of
17 time for reflection.

18 THE COURT: What case is that? I haven't read that.

19 MR. CHEE: That would be the -- I'm pronouncing it
20 wrong probably, the Samsodien case out of the Southern
21 District of Florida, 2006 WL 84467.

22 THE COURT: I don't think you cited me that before,
23 did you?

24 MR. CHEE: I did not, Your Honor. We found that case
25 recently.

REDIRECT EXAMINATION OF SHAWN BATSCH

1 THE COURT: Go ahead.

2 MR. CHEE: The argument I would make under that case,
3 Your Honor, is that the Court also needs to ensure that this
4 statement or the statements in the journal were not made with
5 an appropriate time of reflection, you know, when the
6 statements were written down. Our indictment charges a
7 conspiracy from around 2011 to 2019. Statements in the
8 journal comprise years as to 2017, 2018, and even earlier. So
9 I think --

10 THE COURT: What else do you have?

11 MR. CHEE: I'm sorry, Your Honor?

12 THE COURT: Authentication. I'm not saying you can't
13 object in realtime, but what else do you have on
14 authentication?

15 MR. CHEE: Those are the two indicia that we believe
16 the Court should be aware of.

17 THE COURT: Talk to me about the text. Assuming I
18 deny that, what other text in this redacted copy do you object
19 to?

20 MR. CHEE: Do we want to take it up page by page,
21 Your Honor?

22 THE COURT: I'm asking you. So you can start -- so
23 this is not a consented stipulated copy.

24 MS. IRVIN: The copy that you received, Your Honor,
25 has our agreed-to redactions, but there are additional

REDIRECT EXAMINATION OF SHAWN BATSCH

1 redactions.

2 THE COURT: Tell me the additional ones, Mr. Chee.
3 I'm on page 1.

4 MR. CHEE: At least on the first page, right there,
5 Your Honor, we actually believe that the first block of
6 redaction should be removed. The defendant cites to a book.

7 THE COURT: Okay. I got that. Go ahead. Give me
8 your next page.

9 MR. CHEE: I'm looking through it, Your Honor. I'm
10 leafing through what I have here. Again on page 3, Your
11 Honor, from the -- I would say that the sentence that says, "I
12 realize," down to, "anything is possible." That's the third
13 page.

14 THE COURT: At the bottom it?

15 MR. CHEE: Yes, Your Honor.

16 THE COURT: Okay.

17 MR. CHEE: That's what we feel we should have
18 redacted.

19 THE COURT: What else?

20 MR. CHEE: Top of page 4. It is like a title it
21 seems, the first three lines, Your Honor.

22 THE COURT: I thought the rule expressly mentioned
23 plan. Isn't plan in 803(3)?

24 MR. CHEE: It is, Your Honor, but that is in
25 isolation.

REDIRECT EXAMINATION OF SHAWN BATSCH

1 THE COURT: This says, "This is my definite plan to
2 achieve."

3 Give me your next redaction.

4 MR. CHEE: On the page marked 006, dated January 6,
5 2014, the last block of text -- well, actually everything else
6 on that page we feel should be redacted, Your Honor.

7 THE COURT: All right. What else?

8 MR. CHEE: We have agreed to remove the ledger
9 amounts. I think there's three pages. Those aren't in there.

10 THE COURT: I have that.

11 MR. CHEE: So turning to page 12.

12 THE COURT: Yes.

13 MR. CHEE: The last paragraph there, Your Honor.
14 "Anything you conceive in your mind," that sentence should be
15 removed.

16 THE COURT: All right.

17 MR. CHEE: Again, the first sort of block of text,
18 Your Honor, the first paragraph, page 13.

19 THE COURT: Okay.

20 MR. CHEE: And that's all we have, Your Honor.

21 THE COURT: Anything, Ms. Irvin? So you have agreed
22 to these portions, and then I decide on Mr. Chee?

23 MS. IRVIN: That's correct, Your Honor.

24 THE COURT: Here's my ruling subject to
25 authentication. I have looked at this hard and long, and this

REDIRECT EXAMINATION OF SHAWN BATSCH

1 does not smell to me like it's some counterfeit trick that
2 somebody painted the tape or whatever the word is. Okay?
3 I've been doing this a long time. I've been wrong before but
4 it doesn't smell like that. It's very close to being utterly
5 inadmissible under 403 because it is extraordinarily unusual,
6 but I think the statement of present intent offered to prove
7 that in the future that conformity was acted therewith is
8 permitted under Hillman. I'm not going to redact all these
9 paragraphs and all this. The first five pages are admissible.
10 Assuming it's authenticated, the first five pages. And I rule
11 under Rule 403 that the rest is not admissible.

12 For example, on page 6, that starts off,
13 "Retrospective," the rule does not permit that. And then he
14 kind of goes into stuff that's not really pertinent. And of
15 course the ledgers are not a business record. They don't come
16 in. And then page 12 is now present tense rather than
17 statement of future intent. And I don't find that -- the same
18 thing. Thirteen starts off reciting pretty much contrary to
19 the evidence so far about 2017. First five pages unredacted.
20 All right. Everybody got that? Assuming it's authenticated.

21 So I think the way you do it is if you can get it
22 authenticated, then you say and, Your Honor, I offer an
23 excerpt of Exhibit 87, and then we'll have the objections.
24 Okay?

25 See if they're ready.

DIRECT EXAMINATION OF KEVIN GOODALE

1 THE COURTROOM DEPUTY: Please raise your right hand.

2 (Witness sworn.)

3 THE COURTROOM DEPUTY: Could you please state and
4 spell your name for the record.

5 THE WITNESS: Kevin Goodale, G-O-O-D-A-L-E.

6 THE COURT: We will wait for that jury.

7 To the extent you can, Mr. Goodale, project your
8 voice. The PA system is pretty lousy here.

9 THE WITNESS: I can do that.

10 THE COURT: Fabulous. Thank you.

11 (Jury escorted into the courtroom.)

12 THE COURT: Thank you, ladies and gentlemen.

13 Mr. Allen, would you call the defense first witness, please?

14 MR. ALLEN: Yes, Your Honor. The defense calls Kevin
15 Goodale.

16 THE COURT: Thank you.

17 **KEVIN GOODALE, CALLED BY THE DEFENSE, SWORN**

18 **DIRECT EXAMINATION**

19 BY MR. ALLEN:

20 Q Could you please state your full name, introduce yourself
21 to the jury.

22 A Hi. My name is Mr. Goodale.

23 Q Mr. Goodale, where do you reside?

24 A Bradenton, Manatee County.

25 Q And where do you work?

DIRECT EXAMINATION OF KEVIN GOODALE

1 A I'm the owner of Atlas Appraisals.

2 Q What is Atlas Appraisals?

3 A Atlas is a residential real estate appraisal company.

4 Q And how long have you owned Atlas?

5 A I started Atlas Appraisals in 2005.

6 Q And how long have you been doing residential appraisals?

7 A I left banking and financing in 2002 to start the
8 appraisal endeavor. So it's going on my twenty-first year
9 now.

10 Q And what type of training is -- well, what's your
11 educational background?

12 A Education? Undergraduate degree from Heidelberg
13 University in '89 and then 12 years of banking and financing
14 experience, my last being branch manager and vice president of
15 SouthTrust which I left in 2002 to start the appraisal
16 endeavors. After three years of training and apprenticeship,
17 I started my own business, Atlas Appraisals, in 2005.

18 To further my designation, in the last couple years I
19 achieved the certified luxury home designation and am fully
20 accredited through the annual renewal process with the state.

21 Q And were you retained by my office to conduct some
22 residential appraisals?

23 A Yes.

24 Q Do you know on approximately how many properties?

25 A Eleven properties.

DIRECT EXAMINATION OF KEVIN GOODALE

1 Q And where were those properties located?

2 A In Manatee and Sarasota Counties.

3 Q And did you generate reports regarding your findings on
4 the appraised properties?

5 A Yes.

6 Q And what date periods were you looking at?

7 A I provided two reports on each property, one a
8 retrospective assessment as of April 19, 2019, and a current
9 valuation which essentially was February 1 of this year.

10 Q What is a retrospective appraisal?

11 A Retrospective and it's a -- all appraisal reports are
12 required to have an effective date, the date on which the
13 valuation of the property is deemed. A retrospective
14 appraisal report is a report based on a prior period in time.

15 Q And explain to the jury how a property -- the process of
16 appraising a property?

17 A Okay. A residential appraisal property, there actually
18 is a book called Uniformed Standards of Professional Appraisal
19 Practice or USPAP for short. It states all properties can be
20 valuated through three different valuation methods. You have
21 the cost approach, the sales comparison approach, and the
22 income approach.

23 Residential properties primarily deal with the sales
24 comparison and the cost approach. Most people recognize the
25 appraisal process through the sales comparison where they get

DIRECT EXAMINATION OF KEVIN GOODALE

1 comparable sales or comps. And that's where they compare and
2 contrast properties based upon similar laws of substitution.
3 Whatever your subject looks like, you would try to use very,
4 very similar properties and assess what those properties had
5 sold for and try to identify any discernible differences why a
6 market participant would pay more or less for the subject.

7 Q And what process did you employ on these 11 properties
8 you looked at?

9 A So on these 11 properties here, typically under a lending
10 situation, not in -- also to get a full idea of the property
11 that you are appraising, you would need to visit the property,
12 identify the exterior and interior components of the property.

13 My typical procedure is any time I approach a
14 subject, I measure all the exterior walls to identify the size
15 of the property and also walk the entire property to identify
16 any site additions or any aspects of the property that
17 contribute to value.

18 After I perform an exterior aspect review of the
19 property, then I turn my sights to the inside and identify
20 such things as the room count, the amenities, the type of
21 kitchen, the number of bathrooms, the number of bedrooms and
22 identify the quality and condition and assess the effective
23 age of the property for my full comparison in the sales
24 comparison approach.

25 This assignment was somewhat unique and different in

DIRECT EXAMINATION OF KEVIN GOODALE

1 that all 11 of these properties access could not be obtained
2 because occupants have changed, occupancy has changed. So I
3 couldn't walk up to a door, knock, and say, hey, do you mind
4 if I walk in your place and take a look at your property?
5 These people not involved with this case. So that access just
6 is not attainable. So I have to identify as best I can from
7 the exterior aspects of the house what the interior most
8 likely will reveal as far as the quality and condition of the
9 home when I complete my sales comparison assessment.

10 This particular assignment I was fortunate in that
11 all of the properties were in, if you will, homogeneous
12 neighborhoods, Founders Club, Lakewood Ranch Country Club,
13 Lakewood National where I was able to use comparable sales in
14 the same complex. I inspected all the properties from the
15 outside to identify if there's any glaring examples of
16 inferior or superior aspects and utilized those exterior
17 inspections when I obtained my comparable sales.

18 Now, as far as the note on my comparable sales, I
19 realize that there's in some aspects appraisers -- in any
20 appraisal assignment you have, there are those that want the
21 number to be higher or lower. To try to offset that argument,
22 I always try to bracket, if you will, comparable sales. If my
23 subject is at \$10, I'll look to obtain an \$11 comparable and a
24 \$9 comparable to bracket. That way I always have a ceiling
25 and floor of legitimate valuation, credible valuations and

DIRECT EXAMINATION OF KEVIN GOODALE

1 then identify applicable adjustments to refine the range of
2 values in my comparables.

3 And that's probably more than you wanted to know, but
4 that is the process I went through of identifying all these
5 properties, traveling to the properties, identifying the
6 exterior aspects, driving the comparable sales, looking at
7 comparable sales, utilizing inferior and superior ones to find
8 a range of value and then putting my conclusions together.

9 Q And if you had gone in -- if you were to get into the
10 interior and there were a lot amenities, upgrades, new
11 staircases, new flooring, could have that adjusted your
12 findings?

13 A To a degree, yes. To that note, the properties I was
14 tasked with reviewing, most of those are from -- 10 of the 11
15 are from high-end neighborhoods where that's rarely an issue
16 of homes being in detriment, in deteriorated conditions. So I
17 feel very confident. One of them was not in, if you will, a
18 high-end gated community, but it was in a very homogenous
19 neighborhood where there was a lot of properties that are very
20 similar to that subject.

21 MR. ALLEN: I'm approaching the witness, Your Honor,
22 with Defense Exhibit 54, 55, 56, 57, 58, 59, 60, 61, 62, 63,
23 64, and 65.

24 BY MR. ALLEN:

25 Q Sir, if you would look at these defense exhibits for me

DIRECT EXAMINATION OF KEVIN GOODALE

1 and review them.

2 A Yes.

3 Q And what are they?

4 A Appears to be my work product for the 11 properties and
5 exhibit item 54 being a cover, summary.

6 Q And these represent your professional opinion as to the
7 appraised value of these 11 properties on 4/19/2019 and then
8 the date you mentioned in February?

9 A Yes.

10 MR. ALLEN: Your Honor, at this time I would move
11 into evidence Defense Exhibits 54, 55, 56, 57, 58, 59, 60, 61,
12 62, 63, 64, and 65.

13 MS. BEDKE: May I have a moment, Your Honor?

14 Objection, Your Honor, to relevance of the more
15 recent appraisals.

16 THE COURT: All right. Come sidebar for a minute.

17 (Bench conference on the record.)

18 THE COURT: So I understand the point. So in Count 2
19 is a real estate transaction, but your conspiracy says that
20 they purchased these homes for a lavish lifestyle and personal
21 enrichment. So give me the relevance of the recent appraisal,
22 current day, basically February or whatever.

23 MR. ALLEN: Yes, Your Honor. One, the government
24 testified, their expert testified that he would not have any
25 capital to keep that account going as to the silver, the value

DIRECT EXAMINATION OF KEVIN GOODALE

1 of his capital that he could have taken a home loan on or he
2 could have sold.

3 Additionally, the government is saying that he
4 purchased these houses, as you know, to live a lavish
5 lifestyle. The fact that they have increased in value, it is
6 his position, as he said to Agent Stone, I'm buying the real
7 estate to strengthen our company, to hedge my investments.
8 And the fact that they went up in value is evidence of him
9 striving to succeed.

10 THE COURT: All right. Ms. Bedke, what do you have?
11 Anything else?

12 MS. BEDKE: Your Honor, frankly I think they are
13 certainly not the current appraisals are relevant. Perhaps
14 the appraisals at the relevant time because that's the period
15 that we're talking about. And I would just add with respect
16 to Count 2 that that really doesn't have anything to do with
17 the value of the house.

18 THE COURT: You're right.

19 MS. BEDKE: I just didn't want to confuse the issue.
20 I understand, I guess, that there is some dispute about the
21 value of the homes at the time. And I suppose how much money
22 they could have gotten out of them either to capitalize the
23 company, or I frankly assumed that part of the argument was
24 that Mr. Wiand sold them for less than he should have, but I
25 don't see the relevance of them now.

DIRECT EXAMINATION OF KEVIN GOODALE

1 THE COURT: All right. Overruled.

2 (End of bench conference.)

3 MR. ALLEN: Your Honor, at this time I would like to
4 publish -- sir, do you have --

5 THE COURT: I will admit those exhibits you listed
6 here.

7 MR. ALLEN: Thank you, Your Honor.

8 (Defendant Exhibits 54, 55, 56, 57, 58, 59, 60, 61, 62,
9 63, 64, 65 admitted.)

10 BY MR. ALLEN:

11 Q If you could publish Defense Exhibit 55, please.

12 And what is Defense Exhibit 55? What property is
13 that for? Could we pull up the name, please? Which property
14 is this, sir?

15 A I'm sorry. Are you speaking to me?

16 Q Yes, sir.

17 A That would happen to be the one out of ten that's not in
18 the --

19 Q I didn't give you 55. I apologize.

20 A I have this here. That's the same one, I believe.

21 Q Can you just tell us Defense Exhibit 55 is appraising?
22 What property, sir?

23 A The address, 1605 55th Avenue West in Bradenton.

24 Q If we could pull that out. Pull out the picture, please.

25 Is this the property you appraised?

DIRECT EXAMINATION OF KEVIN GOODALE

1 A Yes, sir.

2 Q And what was your finding as to that property
3 retrospectively on April 19, 2019?

4 A The valuation, the retrospective value of 170.

5 Q 170,000?

6 A Yes. I'm sorry. 170,000.

7 Q And what was the value in February of this year?

8 A 210,000.

9 Q If we could now publish 56. And what's the address on
10 this property?

11 A That property 4058 Founders Club Drive.

12 Q And if we could see the picture.

13 Is this the actual picture of the property?

14 A That is the property. It subsequently changed hands, but
15 this is a vacant land assignment as of the original
16 retrospective day.

17 Q So you're not appraising the actual building; just the
18 property?

19 A Correct. It is misleading to a degree because there is a
20 new home being constructed on a property that was a vacant
21 land assignment.

22 Q So what was the retrospective appraised value for that
23 vacant piece of land in April of 2019? Feel free to refer to
24 Defense Exhibit 54 if that's of assistance to you, your
25 summary.

DIRECT EXAMINATION OF KEVIN GOODALE

1 A You're right. That way I don't have to thumb through all
2 of these. That would be 275,000.

3 Q And if we could publish 57, Defense 57. And what is this
4 address that you appraised?

5 A 4064 Founders Club Drive.

6 Q And if we could pull out the photograph.

7 And that's the photograph that you took --

8 A Yes.

9 Q -- of the property?

10 A Yes.

11 Q And what was the retrospective appraised value in April
12 of 2019?

13 A 1,400,000.

14 Q And what was the appraised value in February of this
15 year?

16 A 2,450,000.

17 Q If we could publish 58. And what is 58, the property
18 that was being appraised?

19 A 6300 Midnight Pass on Siesta Key, Unit 1002.

20 Q So this is a condominium?

21 A Yes.

22 Q It's not that whole building that you appraised?

23 A Correct. Unit 1002, yes.

24 Q What was the retrospective value for this condominium in
25 April of 2019?

DIRECT EXAMINATION OF KEVIN GOODALE

1 A 1,100,000.

2 Q And what was the appraised value in February of this
3 year?

4 A 1,300,000.

5 Q If we could publish 59.

6 And what is the residential address for the property
7 here that you appraised in Defense Exhibit 59?

8 A 6922 Lacantera Circle.

9 Q And is this the photograph of the property you appraised?

10 A Yes.

11 Q What was the retrospective appraised value in April of
12 2019 for that property?

13 A \$2,125,000.

14 Q And what was the appraised value in February of this
15 year?

16 A \$3 million.

17 Q If we could publish 60.

18 What is the address on the property in your appraisal
19 for Defense Exhibit 60?

20 A 7312 Desert Ridge Glen.

21 Q Is this the property at Desert Ridge Glen that you
22 appraised?

23 A Yes, in Lakewood Ranch Country Club.

24 Q What was the retrospective appraised value in April of
25 2019?

DIRECT EXAMINATION OF KEVIN GOODALE

1 A \$925,000.

2 Q What was the appraised value in February of this year?

3 A 1,225,000.

4 Q And if we could publish Defense Exhibit 61.

5 And the address that you appraised in 61?

6 A 13318 Lost Key Place.

7 Q Is that the residence that you appraised?

8 A Yes.

9 Q And what was the retrospective appraisal for April of
10 2019?

11 A \$1,200,000.

12 Q And what was the appraised value in February of this
13 year?

14 A 1,900,000.

15 Q If we could publish Defense Exhibit 62.

16 What is the address for Defense 62?

17 A I believe 62, 63, and 64 all have the same address as
18 they are all condos in the same building. This particular 62
19 is 16804 Vardon Terrace, Unit 108.

20 Q If we could look at the picture for that.

21 It's one of the units in this condominium?

22 A Yes.

23 Q And what was the retrospective value of this unit
24 April 2019?

25 A Unit 108 was 220,000.

DIRECT EXAMINATION OF KEVIN GOODALE

1 Q And what is the value in February of this year?

2 A Actually 425,000.

3 Q And I know the pictures are going to be the same, but
4 let's blow up 63.

5 A Actually, the next three are the same identical floor
6 plans in the same complex built at the same time.

7 Q Is the value the same on all of them?

8 A Yes.

9 Q If we could just show the jury 64 on the overhead.

10 If you could read the retrospective and the February
11 of this year value for 64 again in the record.

12 A Sixty-four, which is Unit 515 -- I'm sorry -- Unit 105 --
13 I'm sorry. Unit 105.

14 Q That's okay.

15 A The retrospective value is 195, and the current value
16 399.

17 Q And those would be the same numbers for Defense 65 which
18 is Unit 307?

19 A Yes. 195 and 399.

20 Q If we could publish 54 for the jury, please.

21 And 54 is your summary reflecting what you just
22 testified to as to each of those properties. The first column
23 is the current value, and the second column is the
24 retrospective value as of 4/19/2019?

25 A Yes.

CROSS-EXAMINATION OF KEVIN GOODALE

1 MR. ALLEN: No further questions, Your Honor.

2 THE COURT: Have we cross?

3 **CROSS-EXAMINATION**

4 BY MS. BEDKE:

5 Q Good afternoon.

6 A Hello.

7 Q Would you agree with me that the values of these
8 properties have increased dramatically as a result of the
9 COVID-19 pandemic?

10 A Market conditions have definitely escalated over the past
11 three years, yes.

12 Q Is that anything anyone could have ever predicted?

13 A No.

14 Q Are you familiar with the receivership in the case
15 related to this one brought by the Commodity Futures Trading
16 Commission?

17 A I'm sorry. I am not.

18 Q Are you familiar with the concept of a receivership in
19 general?

20 A It's my understanding it's when assets are taken by
21 government entities.

22 Q Have you ever been employed, that is Atlas Appraisals, by
23 a receiver to appraise any properties for the use of the
24 receiver?

25 A No.

CROSS-EXAMINATION OF KEVIN GOODALE

1 Q Do you know an individual named Burton Wiand?

2 A No.

3 Q So you have never worked with him?

4 A No.

5 Q You never provided any appraisals to Mr. Wiand?

6 A No.

7 Q Would you agree with me that -- and correct me if I'm
8 wrong here -- that the sales comparison approach is somewhat
9 hampered when you can't get into the inside of a residential
10 property?

11 A It's not as credible. It's not as accurate because you
12 cannot identify with certainty the quality and condition of
13 the interior improvements.

14 Q So you have to include a little guesswork in your
15 appraisal based upon the comparable properties in the same
16 neighborhood; is that right?

17 A It's called an appraisal circle's extraordinary
18 conditions or hypothetical conditions based upon the
19 hypothetical condition or extraordinary condition that the
20 interior improvements are consistent with the exterior and the
21 homes within the immediate neighborhood.

22 Q And I believe you told Mr. Allen that if there were
23 improvements inside a property, perhaps a custom staircase or
24 some other improvement, that that could very well result in a
25 higher appraisal, but you wouldn't know that if you can't get

CROSS-EXAMINATION OF KEVIN GOODALE

1 inside?

2 A Correct. Either positive or negative aspects very well
3 could be possible.

4 Q Okay. So then if the property suffers from maybe water
5 intrusion and has mold problems, that would be an example of
6 something that would result in a decrease in the value of the
7 property?

8 A Exactly why this report has extraordinary assumptions
9 that I could not identify those aspects, but yes.

10 MS. BEDKE: May I have one moment?

11 THE COURT: Yes.

12 MS. BEDKE: Nothing further.

13 THE COURT: Redirect?

14 MR. ALLEN: None, Your Honor. Thank you.

15 THE COURT: Thank you, sir. You may be excused.

16 Good day.

17 Call your next witness, counsel.

18 MR. ALLEN: Your Honor, we would call Stanley
19 Foodman. We are getting him.

20 THE COURT: Thank you.

21 THE COURTROOM DEPUTY: Sir, raise your right hand.

22 (Witness sworn.)

23 THE COURTROOM DEPUTY: Could you please state and
24 spell your name for the record.

25 THE WITNESS: Stanley Ira Foodman, S-T-A-N-L-E-Y,

DIRECT EXAMINATION OF STANLEY FOODMAN

1 I-R-A, F-O-O-D-M-A-N.

2 THE COURTROOM DEPUTY: Thank you. Please take a seat
3 in the witness box.

4 THE WITNESS: Thank you.

5 **STANLEY FOODMAN, CALLED BY THE DEFENSE, SWORN**

6 **DIRECT EXAMINATION**

7 BY MR. ROSENTHAL:

8 Q Good afternoon, Mr. Foodman.

9 A Good afternoon.

10 Q Could you tell us what you do for a living, sir?

11 A I own a CPA firm.

12 Q I'm sorry?

13 A I am the founder and sole owner of a CPA firm.

14 Q What's the name of your CPA firm?

15 A Stanley I. Foodman, PA, Certified Public Accountants
16 d/b/a Foodman CPAs and Advisors.

17 Q Where is your accounting firm located?

18 A The current address is 777 Brickell Avenue, Suite 500,
19 Miami, Florida 33131.

20 Q And how long have you been a CPA?

21 A 1972.

22 Q And could you tell us briefly your educational
23 background?

24 A I first went to Miami-Dade College when it was called
25 Miami-Dade Community College. I then went on to the

DIRECT EXAMINATION OF STANLEY FOODMAN

1 University of Miami, graduated with my bachelor's degree in
2 1971 and kept on going and finished my master's degree in
3 1972.

4 Q What was your master's degree in?

5 A It's an MS in accounting.

6 Q So could you give us the history of where your career has
7 taken you since the time you became a CPA?

8 A Okay. So I started at KPMG.

9 Q What's KPMG?

10 A It's a large, one of the big four accounting firms. At
11 that time it was called Peat Marwick Mitchell & Company. From
12 there, I stayed there for a couple of years, and then I went
13 on to some other accounting firms locally. I spent about a
14 year or so at Florida Power & Light doing construction
15 accounting consulting for them. From there I went back into
16 public accounting where I have been ever since.

17 I was also brought into a program with the Florida
18 Department of Law Enforcement where I served as a reserve
19 special agent or auxiliary special agent, sworn, where I
20 worked on economic crime cases with them.

21 Q So your career included a stint with law enforcement?

22 A Yes.

23 Q And since then?

24 A Since then I have been actively involved in public
25 accounting. I am a certified fraud examiner. I'm certified

DIRECT EXAMINATION OF STANLEY FOODMAN

1 in financial forensics by the American Institute of CPAs. I'm
2 certified in anti-money laundering by ACAMS, which is the
3 Association of Certified Anti-Money Laundering Specialists.

4 Since 2010, I have been focused very strongly in the
5 area of banking regulatory consulting for foreign financial
6 institutions. About one-third or more of my practice is in
7 the area of complex tax and international tax compliance for
8 U.S. taxpayers. Another part is forensic accounting. And the
9 third part is corporate governance.

10 Q You mentioned the term "forensic accounting." Could you
11 define that for us?

12 A Well, it's accounting for use in the court system.

13 Q And you mentioned your experience with tax. Can you tell
14 us a little more than that?

15 A Since I came out of college and got my master's degree
16 and began working, I have been involved in preparing tax
17 returns, the compliance side. I do some of the planning side
18 with attorneys. I feel that they're better at it than CPAs
19 are, so I work with them regularly, but my tax side of my
20 practice is currently we are doing about 400 tax returns a
21 year. A large part of it is complex tax dealing with
22 international partnerships, controlled foreign corporations,
23 U.S. domestic partnerships, U.S. corporations, S corporations,
24 and so on.

25 Q Have you ever had occasion to qualify as an expert

DIRECT EXAMINATION OF STANLEY FOODMAN

1 witness in the tax field?

2 A Yes.

3 Q In what courts?

4 A The federal -- the U.S. District Court in the Southern
5 District of Florida and in the Tax Court in Florida, in Miami.

6 Q Federal Tax Court?

7 A Yes.

8 Q Have you ever testified in the Middle District of
9 Florida?

10 A No, I don't think so. I don't remember doing so. I also
11 was qualified also in the Southern District in Palm Beach on
12 the tax side of a case involving a bankruptcy.

13 Q And what other types of matters have you testified as an
14 expert witness?

15 A Frauds of different kinds, anti-money laundering cases,
16 securities cases, very specific, very specific areas. I don't
17 consider myself a securities expert by any means. I would
18 always be on the tax side or following the money.

19 Q And have you had occasion to give presentations on
20 tax-related matters?

21 A Yes. I regularly do presentations for foreign financial
22 institutions. I also -- for foreign banks that have events in
23 Miami or attend events. These are regulators and bankers.
24 Also I presented for FACTA to the -- what is now the Florida
25 National Business Association, which was the Florida

DIRECT EXAMINATION OF STANLEY FOODMAN

1 International Bankers Association. I've done presentations in
2 front of the Florida Association of Criminal Defense Lawyers
3 on tax defense and so on.

4 Q Have you published in the area of tax?

5 A Yes.

6 Q And approximately how many times?

7 A Oh, I don't know. I can't even begin to tell you. It's
8 in my CV. There's a large number of publications.

9 Q And how frequently do you publish?

10 A In the area of tax, probably at least several, once or
11 twice a month.

12 Q Now, were you retained by our office in order to conduct
13 a review of the tax aspect of this case?

14 A Yes. Specifically I was asked to look at tax returns.

15 Q And are you being paid to do so?

16 A Oh, yes.

17 Q And do you have an hourly rate that you are charging?

18 A Yes. I'm being paid at the rate of \$250 an hour which is
19 the rate that I -- it's sort of giving back. It's not my
20 normal hourly rate, but I charge the government when I work --
21 regardless of whether I'm working for the Federal Public
22 Defenders in the past, when I worked for the U.S. Attorney in
23 Miami, I also did the same thing. I provided a rate that was
24 about half of our normal hourly rate. It's a blended rate.

25 Q So we are getting you at a discount?

DIRECT EXAMINATION OF STANLEY FOODMAN

1 A Yes, 250 an hour. So a significant discount.

2 Q And you're also being compensated for your travel time
3 and expenses to come from Miami to testify?

4 A Yes.

5 Q Now, what documents did you review with respect to your
6 investigation in this case?

7 A I reviewed the 2017 OM, LLC, tax return 2016. I reviewed
8 Mr. DaCorta's personal income tax return for 2016 and '17 and
9 other documentation that was provided through your office
10 related to those tax returns.

11 Q And are you, Mr. Foodman, are you familiar with the
12 professional standards that govern certified public
13 accountants in the preparation of tax returns?

14 A All of us are required to follow Circular 230, which is a
15 Treasury Department IRS publication which determines our due
16 diligence and other things that we are required to follow.
17 The American Institute of CPAs has a set of standards which
18 are by reference incorporated into the Florida statutes
19 governing CPA practice.

20 Q What are the reasons for these standards?

21 A Well, it's to make sure as much as possible that
22 taxpayers when we are preparing returns, in my case as a
23 preparer, are going to prepare returns as accurate as possible
24 from information that we are able to receive from them to try
25 to prevent them from getting into trouble if it's possible.

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1 So, yes, the idea is to try to make sure that things are as
2 accurate as possible.

3 Q And you mentioned the term "diligence" a moment ago.
4 What is the CPA's requirement for diligence in the preparation
5 of tax returns?

6 A Under Circular 230 as it's written, and I understand it's
7 under review right now --

8 Q If I can back up for a second. Can you explain what
9 Circular 230 is?

10 A A publication put out by the Internal Revenue Service
11 which governs practice before the Internal Revenue Service by
12 accountants, attorneys, and I believe actuaries. In any
13 event, I don't know if they're still part of it, but I know
14 that attorneys and accountants are.

15 So with respect to diligence, okay, under Circular
16 230 we can -- it pretty much says that we can accept whatever
17 our clients tell us unless we have a reason to think that we
18 shouldn't accept it, in which case we should dig deeper and
19 make sure what we are getting is the most accurate information
20 possible from those clients and from the records that they
21 have.

22 Q Now, do you have a duty as a tax preparer to give
23 reasonable advice to your clients?

24 A I think we do, and the AICPA says we do. I interview
25 every one of my clients every year. They are provided with a

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1 tax organizer which asks them a number of requests. It's
2 probably four or five pages long just on questions. We also
3 for certain types of parts of tax returns dealing with
4 refundable credits, there are due diligence schedules that
5 must be filled out and questions that have to be answered.

6 Q And the flip side of that is do your clients have the
7 right to rely upon your reasonable advice?

8 A To my understanding, it's always been that way as far as
9 I know.

10 Q Did you have occasion to sit in yesterday on
11 Mr. Burling's testimony?

12 A Yes.

13 Q And did you sit in today on Agent Batsch's testimony?

14 A I'm sorry. My hearing aid is shot. So I need you to
15 speak up a little bit for me.

16 Q Did you have occasion -- you said you had occasion
17 yesterday to sit in on Mr. Burling's testimony?

18 A Yes.

19 Q Did you have an occasion today to listen to Agent
20 Batsch's testimony?

21 A No.

22 Q Now, going back to the standard that you described for
23 tax preparers, based upon your review of Mr. Burling's
24 testimony yesterday -- your opportunity to listen to

25 Mr. Burling's testimony yesterday, I'm sorry, do you -- is it

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1 your opinion that Mr. Burling's conduct was consistent with
2 the professional standards that one would expect of a tax
3 preparer?

4 A I disagreed with some of what Mr. Burling said regarding
5 the work that he performed. The people that I generally
6 practice alongside of, and these are other CPAs in other firms
7 and myself, we're a little more diligent or thorough in our
8 questioning especially for complicated returns. And a
9 complicated return in my mind is anything other than a return
10 which has a W-2 and nothing else.

11 Q So would Mr. DaCorta's joint 2017 return and the
12 partnership return be considered in your mind to be
13 complicated?

14 A In my mind, it's a complicated structure.

15 Q Now, you said that you thought that Mr. Burling had
16 not -- or that you had disagreed with a lot of what
17 Mr. Burling or some of what Mr. Burling said. In what way, if
18 at all, do you believe that Mr. Burling failed to meet the
19 minimum professional standards for a CPA preparing a
20 taxpayer's return?

21 A Well, when Mr. Burling testified -- I believe Mr. Burling
22 testified -- you will correct me if I'm wrong, please -- that
23 he had looked at schedules, for example, of interest expense
24 that was deducted or that where 1099s were going to be sent to
25 investors. And he noticed that there were -- some of the

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1 payments that were on the schedule were returns of capital and
2 not interest. And so he asked it to be changed, and that's
3 fine. But in my mind what I would have done is I would have
4 started to dig deeper.

5 I was made privileged to a schedule which is labeled
6 a balance sheet. It appears to be a QuickBooks printout. And
7 that has a listing on it of payments from the bank accounts of
8 Oasis Management. And I did not see that any of those
9 payments showed up on the return of Mr. DaCorta, and I think
10 that that should have been looked at more deeply.

11 Q Let's assume that Mr. Burling did have a spreadsheet that
12 listed expenses by Oasis Management including expenses or
13 monies that were paid to Mr. DaCorta. What would
14 Mr. Burling's obligation have been under those circumstances?

15 A Depending on the nature of the payments and what they
16 were for, some of those expenses could very well have ended up
17 or should have very well ended up on the tax return of
18 Mr. DaCorta.

19 Q And even without such a spreadsheet, what obligations
20 would Mr. Burling have had to assure that all taxable income
21 was properly reported?

22 A When we do partnership work, this is where this is
23 originating, this is a limited liability company with
24 multi-members and one managing member apparently. When we do
25 that kind of work, we don't just necessarily accept the

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1 financial statements -- well, first of all, we ask for
2 financial statements. If I can't get them for the
3 partnership, then we will make sure that the books are written
4 up in such a way that a general ledger can be produced because
5 we don't know what's there, and partnerships are complicated
6 and it's easy to make mistakes. But if we get financial
7 statements, we will ask for other things that go along with it
8 because they are complicated. Partnership returns by their
9 very nature are not simple returns. And they can encompass
10 many different types of income and many different types of
11 presentations.

12 Q And were there any factors in this case that in your view
13 would have triggered, should have triggered Mr. Burling to
14 conduct a further inquiry?

15 A Well, my understanding was that he was not able to get
16 financial statements or complete financial statements for
17 Oasis Management, but he was getting -- he was getting a
18 schedule of items which are allocated, income items, loss
19 items which some that are allocated to members of the LLC.
20 And then he said that he -- if I understood it correctly, that
21 he took everything for all the other partners and gave the
22 balances or assigned balances to Mr. DaCorta, but I never
23 heard anything said about the reading of the operating
24 agreement to make sure that what was being done was in
25 conformity with the operating agreement for the LLC, which we

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1 do and all of my colleagues do.

2 Q Did you hear Mr. Burling's testimony that he had been to
3 Mr. DaCorta's home?

4 A Yes.

5 Q And was there anything about that in your mind that
6 should have triggered a further inquiry?

7 A With the amount of income being reported, there was a
8 disconnect between the apparent style of living of Mr. DaCorta
9 and the income that was being reported.

10 Q The income that was being reported by Mr. Burling?

11 A That was being reported on Mr. DaCorta's tax return by
12 Mr. Burling.

13 Q And so what under those circumstances should Mr. Burling
14 have done?

15 A Well, I would have wanted to know and -- I would have
16 wanted to know how he was living. Nobody lives simply by
17 breathing air. They have expenses. They have to have income
18 coming in absent an inheritance or something else, which I
19 would have inquired about, by the way, had he received money
20 by gift or by inheritance or something else. If his style of
21 living could not be balanced with the reported income, I would
22 have been very reluctant to sign a return.

23 Q And would that -- what is the concern there with the
24 failure to conduct that kind of an inquiry?

25 A It could be the return that's inaccurate will be filed.

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1 And if it's filed and it's inaccurate and I'm a CPA who did
2 the electronic filing, then I'm also responsible for things
3 that are on that return. I'm subject to certain penalties and
4 other things for inaccurate filings, not just the taxpayer.

5 Q Is it your experience that the tax code is complicated?

6 A Oh, yes.

7 Q And is it your experience that taxpayers are generally
8 themselves familiar with the tax code?

9 A Oh, no.

10 Q Is that why they hire CPAs?

11 A In general. There are a few that do read things and try
12 to become more familiar, but my experience is most of them
13 want to know if they are going to pay tax or not going to pay
14 tax. And if they are paying a lot of tax, they want to know
15 why they are paying a lot of tax. And if they are not paying
16 a lot of tax, they usually don't ask too many questions.

17 Q And is that why people hire CPAs?

18 A I think that's why they hire tax preparers in general.
19 And CPAs are supposed to be, along with enrolled agents that
20 are trained by the IRS, they are supposed to be sort at the
21 top of the heap, if you will, of people that prepare returns.

22 Q Now, you heard the testimony as to how Mr. Burling went
23 about preparing Mr. DaCorta's tax return?

24 A Yes.

25 Q And based upon your review of the tax return and the

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1 explanations provided by Mr. Burling, do you believe that
2 Mr. DaCorta had the right to rely on the return as prepared?

3 A Well, there were -- the information that I was provided
4 with, there were questions -- from the information provided to
5 me, there were questions by Mr. DaCorta concerning his return.
6 And Mr. Burling seemed to indicate that there was no taxable
7 income to be reported, and Mr. DaCorta relied on that.

8 Q And based upon the explanations provided by Mr. Burling,
9 did Mr. DaCorta have the right to rely on Mr. Burling's
10 explanation as to the results of the -- as to the 1040 tax
11 return?

12 A Yeah, I think so. I think the taxpayer should be able to
13 rely and do rely on their CPAs with regularity, or their tax
14 preparer.

15 Q You said you looked at the 2016 return as well, the 1040
16 return?

17 A Yes.

18 Q And was that basically consistent in structure with the
19 tax return that was prepared by Mr. Burling?

20 A Yes.

21 Q And did Mr. Burling prepare the prior tax return?

22 A I'm sorry?

23 Q Did Mr. Burling prepare the prior tax return?

24 A Prior to 2017?

25 Q Yes.

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1 A No.

2 Q And who prepared the -- from your review, who prepared
3 the 2016 tax return?

4 A That was the D'Arcangelo firm.

5 Q In New York?

6 A Yes.

7 Q And did both accountants thousands of miles away come to
8 the same conclusions as to how the tax return should be
9 prepared?

10 A No. They seemed very similar. There didn't seem to be a
11 lot of differences between them. I think there was consulting
12 income on one return and not consulting income on another
13 perhaps.

14 Q I'm sorry. I'm just having trouble hearing you.

15 A I'm saying the returns were essentially the same.

16 Q Did both accountants come to the conclusion that the
17 expenses from Full Spectrum Wellness should have been on
18 Mr. DaCorta's 1040 return from 2017?

19 A I assume they did because they prepared the returns and
20 entered it that way.

21 Q And that was on Schedule C?

22 A Yes.

23 Q And did Mr. Burling rely on the carried losses that the
24 prior preparer had placed on the 2016 return?

25 A Yes.

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1 Q And could you explain briefly how carried losses work?

2 A We're talking about what's called a net operating loss.

3 And those net operating losses are losses that result from
4 business transactions. The taxpayer is at, quote, at risk.

5 In other words, they are responsible for all the expenses and
6 personally responsible for them. And they make a statement
7 that they are personally responsible for them if they are at
8 risk. That's part of preparing the form.

9 The same thing would apply to other types of returns.

10 And in any event, they are allowed, they are permitted to
11 carry back losses a certain number of years and then carry
12 them forward. They can elect to carry them forward
13 completely, but generally they would carry them back and carry
14 them forward depending on what the election is. And these are
15 business losses which are carried forward in this case.

16 Q And is that a common practice?

17 A Yeah.

18 Q And is that permitted by the federal tax code?

19 A Yes.

20 Q Now, is it common or uncommon for business owners to pay
21 personal expenses from, say, their business bank account?

22 A What a lot of small businessmen do is they don't
23 necessarily separate their business life on their books the
24 same way. In other words, they use one bank account to pay
25 for many things. Especially where you have what's called a

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1 pass-through entity, which would be an S corporation or a
2 single member LLC, they will often just pay their expenses out
3 of there, their personal expenses. And there is an
4 expectation that what's personal would be treated as personal
5 and what's business would be treated as business.

6 Q And is that one of the functions of the CPA is to sort
7 out what's personal and what's business?

8 A Well, what we do in our office, and like I said, a lot of
9 my colleagues do the same thing, is we review those things and
10 we ask them questions, our clients, to determine if they are
11 truly business or they're not. And if they're not, in my
12 office we don't sign returns that we knowingly have personal
13 expenses on a business return. We won't sign those returns.

14 Q And is that an inquiry you conduct without being
15 specifically asked by the taxpayer to do that or by your
16 client to do that?

17 A That's how we practice. We look at things a little more
18 deeply.

19 Q And does it sound like Mr. Burling practiced that way?

20 A I didn't see the evidence of it in what I saw or what I
21 heard.

22 Q Let me ask you some specific questions about some issues.
23 In terms of where a residence is purchased by a company, the
24 purchase itself, is that taxable to the owner of the company?

25 A Depends on whether the owner is living in it.

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1 Q And if the owner is living in it, what should he do?

2 A Well, then it's an imputed income to the owner. It's
3 based upon the cost of operating the home, including the fair
4 rental value of the home and so on and so forth. So if it's a
5 U.S. corporation that's doing it, then that would go on -- as
6 I heard Mr. Burling say, on his form W-2. But if it's not
7 owned by a U.S. corporation, then it wouldn't necessarily go
8 on that form. And if it was owned by a partnership, for
9 example, it would pass through on Schedule K and Schedule K1
10 and pass through to that particular member or partner.

11 Q Is that one of the inquiries that you would typically
12 make?

13 A Yes.

14 Q Now, Mr. Burling had indicated that he had advised
15 Mr. DaCorta that there should be -- that he should put that on
16 a W-2 even though you say that he could not have done so.
17 Assuming such conversation had occurred, do you agree with
18 Mr. Burling that he should not have put that or he could not
19 have put that on the return because he didn't think it would
20 make any difference?

21 A No. It's income. It's reportable.

22 Q Is that one of the inquiries that you would ordinarily
23 make?

24 A Yes.

25 Q And would you have -- when Mr. Burling said he didn't

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1 think it would make any difference, was he acting in
2 compliance with accepted standards, professional standards?

3 A Not from my point of view because he signed a return that
4 he knew to be inaccurate. And that's part of the standards.
5 We are prohibited from signing returns if we believe them to
6 be inaccurate.

7 Q And assuming that Mr. Burling had signed the return, is
8 that an indication that perhaps that conversation never took
9 place?

10 A I'm sorry?

11 Q The fact that Mr. Burling signed the return, is that an
12 indication that perhaps that conversation never took place?

13 MS. BEDKE: Calls for speculation.

14 THE COURT: Sustained.

15 A I have no idea. To answer your question, I just don't
16 know.

17 BY MR. ROSENTHAL:

18 Q Okay. Now, there was testimony yesterday from
19 Mr. Burling that taxpayers generally look very closely at
20 their tax returns. Has that been your experience over the
21 years?

22 A It all depends. Some of my clients look very closely,
23 and others don't look at all. They're just happy to see what
24 the result is or unhappy to see what the result is depending
25 on whether they owe a lot of money or don't owe a lot of

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1 money. They don't necessarily dig into their tax returns, and
2 particularly in some of the really complicated returns that we
3 do because they can't read the return to begin with and they
4 are busy making a living. They don't want to be bothered, and
5 they'll tell me that.

6 Q Now, I want to talk to you about family businesses. Is
7 it uncommon or uncommon to have family members employed in a
8 business that's owned by another family member?

9 A It's not uncommon. It's relatively common. If they are
10 working there and they are performing a service, then there is
11 no problem with that.

12 Q And would there be a requirement then to issue a W-2 to
13 the employee even though it happens to be a family member?

14 A If they are working there, they are supposed to get a
15 W-2.

16 Q Is that W-2 an appropriate business expense
17 notwithstanding that the employee is a family member?

18 A No. A lot of businesses -- a lot of people start
19 businesses, and when their children get to a certain age, they
20 bring them in. Their wives work in those businesses and help
21 them. It's common.

22 Q Now, what are the potential consequences to a complaint
23 if the tax preparer fails in their professional obligations in
24 preparation of a return?

25 A Penalties, financial penalties and interest that's

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1 charged on the tax and the penalties. There is the potential
2 fraud penalty depending on how the return is viewed by the
3 Internal Revenue Service, which is 75 percent of any underpaid
4 tax as one example. And then there's other penalties that can
5 go up to 25 percent of the amount of the underpaid tax. The
6 penalties by themselves and interest can be more than the
7 actual tax involved. And then there is the potential for
8 being charged with a crime, either a misdemeanor or a felony.

9 Q So it's very important that the tax preparer does what he
10 or she is supposed to do?

11 A Yeah.

12 MR. ROSENTHAL: Thank you, sir.

13 THE COURT: All right. Cross-examination.

14 **CROSS-EXAMINATION**

15 BY MS. BEDKE:

16 Q Good afternoon, Mr. Foodman.

17 A Good afternoon, ma'am.

18 Q You would agree with me, would you not, that advice is
19 only as good as the information upon which it is based?

20 A Yes.

21 Q Stated another way, garbage in, garbage out, right?

22 A No, I don't know if I want to say garbage in, garbage
23 out, but it's certainly the advice -- the advice that person
24 gives to a client is a function of the information that they
25 are able to glean from the client.

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1 Q So if a client doesn't provide a tax return preparer or a
2 CPA with all the relevant information, then they can't really
3 rely on the tax preparer's advice in good faith, correct?

4 A Well, that presumes that the taxpayer knows what's
5 relevant and what isn't.

6 Q That's exactly right. If the tax preparer does not
7 provide the CPA with all of the relevant information, then the
8 tax preparer cannot rely on the tax preparer's advice in good
9 faith, correct?

10 A The taxpayer would first have to know what's relevant.

11 Q I understand, sir. Assuming the taxpayer knows what is
12 relevant.

13 A Oh, okay.

14 Q If the taxpayer provides or fails to provide -- pardon
15 me. Let me start over.

16 Let's assume the taxpayer knows what money he is
17 taking out of his business, what his expenses are, he fails to
18 share that information with the tax return preparer. Are you
19 with me?

20 A I'm with you.

21 Q Then that taxpayer cannot rely in good faith on the tax
22 preparer's advice, correct?

23 A If the taxpayer had relevant information that the
24 taxpayer knew to be relevant and didn't share it with the
25 preparer, then the preparer would not prepare an accurate

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1 return, and that's what we're talking about.

2 Q And if the preparer doesn't prepare an accurate return
3 because he didn't get all the right information from the
4 client, that's not the preparer's fault, is it?

5 A If the preparer accepted all the information as given to
6 the preparer and asked no further questions and accepted
7 everything, then he accepted everything and he failed to -- he
8 prepared the return based on the information provided, what
9 was testified to.

10 Q Have you ever had a client fail to provide you with all
11 the relevant information you needed to prepare an accurate
12 return?

13 A You know, I don't know if I have or not, but I can tell
14 you I have had clients prior to my friendly inquisitions to
15 not provide me with things, and then I dig because something
16 just -- more information. We dig. That's what we do. And
17 that's what the people that I work with do, my other
18 colleagues.

19 Q Mr. Foodman, if you have an inkling that you don't have
20 all the information, I believe you testified you won't sign
21 that return, correct?

22 A If I believe that I have not received accurate and
23 complete information, than I don't sign returns, and I go and
24 I get -- and if I can't get the information for whatever
25 reason, it may just be because the person doesn't have it at

CROSS-EXAMINATION OF STANLEY FOODMAN

1 hand, it may be because they need to go on extension, whatever
2 the reason is I won't sign that return at that time.

3 Q Some people are more trusting than others, correct?

4 A I'm going to ask you the same thing that I asked counsel.
5 My hearing aid which I normally wear is gone. I can't wear
6 it. It's dead. So I'm trying to turn my right ear to you so
7 I can hear you.

8 Q Let me ask it again. I will try and speak up.

9 A Thank you very much.

10 Q Some people are more trusting than others, correct?

11 A Sure. I imagine so.

12 Q Now, you were not the CPA to whom Mr. DaCorta went for
13 preparation of his 2017 return, correct?

14 A No.

15 Q And you were not the person to whom Mr. DaCorta provided
16 or didn't provide whatever information was turned over for
17 preparation of the 2017 return?

18 A That is correct.

19 Q And you were not present for any of the meetings that
20 Mr. DaCorta had with Mr. Burling, correct?

21 A No, I was not present for any of those.

22 Q You were not party to any of the phone conversations that
23 Mr. DaCorta and Mr. Burling had, correct?

24 A I have never seen Mr. Burling or Mr. DaCorta until this
25 trial and being here in the courtroom. I have never seen

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1 them, spoken to them or had anything to do with either one of
2 them in my life and still have nothing to do with either one
3 of them in my life other than what I'm doing right now.

4 Q I understand. And so you have no idea whether you have
5 all of the information that passed between Mr. DaCorta and
6 Mr. Burling. That would be impossible, correct?

7 A I have no idea what passed between them. I have no idea
8 what the totality of that information is.

9 Q You do know that based upon what you have seen and heard
10 that you would have sensed a disconnect between Mr. DaCorta's
11 lifestyle and his reported income?

12 A That's correct.

13 Q All right. And you would have felt the need to ask more
14 questions, correct?

15 A Yes.

16 Q But it's possible, is it not, that Mr. Burling may have
17 been a more trusting soul?

18 A Anything is possible.

19 Q You also testified that if a company purchased a
20 residence and Mr. DaCorta was living in it, that the, I guess,
21 and correct me if I'm wrong here, the cost of living in the
22 residence would be imputed income to him; is that correct?

23 A The rental value. The rental value. Remember, it
24 doesn't belong to him; it belongs to the company. So the
25 imputed rental value of that, because he is an employee of the

CROSS-EXAMINATION OF STANLEY FOODMAN

1 company, would go to his -- should go to his tax return.

2 Q So is that kind of equivalent to the cost of living in
3 the residence for that year?

4 A No.

5 Q Okay.

6 A No, it's not, because if I owned -- if I, for example,
7 owned a house and I rented it out, I get the rental income.
8 Now, if my corporation owned a house and paid the expenses for
9 it and I lived in it, I would still have to pick up the rental
10 income. Those expenses are the expenses of the corporation
11 that owns the house. It's not the expenses of the person
12 living in there. That would be like saying in this case that
13 where I live in a condominium that the maintenance fees are
14 somehow income to me, and they're not.

15 Q So in this case do I understand your testimony to be that
16 the rental income for the house at Lost Key Place would be
17 imputed income to Mr. DaCorta?

18 A The fair market rental value of that home would be,
19 should be imputed as income to Mr. DaCorta if he doesn't own
20 the home and he's living in it and he is an employee.

21 Q And that doesn't appear anywhere on Mr. DaCorta's 2017
22 return, correct?

23 A That's correct.

24 Q And you were present when Mr. Burling said he raised this
25 issue with Mr. DaCorta and he never really got much of an

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1 answer?

2 A I know that he said he raised the issue with Mr. DaCorta,
3 that's correct. And I don't think -- and he said that, if I'm
4 not mistaken, that he didn't think it was going to matter
5 because it wasn't going to eliminate his net operating loss
6 carried forward. And therefore he went ahead and filed the
7 return knowing that he didn't have that information.

8 Q And prior to saying that -- I agree with you. Prior to
9 saying that, he said Mr. DaCorta never really gave me a
10 response.

11 A I don't know how -- well, that's correct. He didn't give
12 him a response is what he said.

13 Q Now, you said you would have looked at it more deeply,
14 correct?

15 A Yeah. That's the way I practice, and that's the way the
16 colleagues that I work with practice.

17 Q But not everyone necessarily practices the way you do?

18 A Well, there's 200 million tax returns filed every year in
19 the United States approximately. And there are people who
20 practice and they charge \$125 to do a tax return, and those
21 tax returns are very simple. And those are sort of like
22 department stores, I guess, where they run through them. And
23 those are the people that have storefront practices who are
24 not necessarily licensed or regulated. Some of them are, by
25 the way, but not necessarily. And those fees can range

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1 anywhere from, I don't know, \$125 up to let's say \$500 or
2 \$600. And the reason those people go to them is because they
3 can't afford to pay any more to get any more -- any more of a
4 more professional look at what they've got. And a lot of them
5 own small businesses. They drive trucks. They do all kinds
6 of things. And that's common, and we all do that. We all
7 know people who do that. My practice isn't like that.

8 THE COURT: All right. Well, let's get another
9 question and then you can do the answer.

10 THE WITNESS: I'm sorry?

11 THE COURT: We are going to do Q and A here.

12 MS. BEDKE: Thank you.

13 BY MS. BEDKE:

14 Q Mr. Foodman, I believe you testified that IRS Curricular
15 330 basically says that the CPA or tax return preparer can
16 accept whatever the client tells us unless we have reason to
17 dig deeper?

18 A Yeah. It's not Circular 330. I'm sorry. I'm not trying
19 to be difficult. It's Circular 230.

20 Q 230, thank you. I misheard you. So Circular 230 says in
21 general we can rely upon what the taxpayer tells us?

22 A That's right.

23 Q And you testified about the potential penalties to which
24 a tax return preparer could be exposed by signing on an
25 inaccurate return, correct?

REDIRECT EXAMINATION OF STANLEY FOODMAN

1 A Yes, I did.

2 Q But there are also penalties to which the taxpayer is
3 exposed, correct?

4 A Yes. I also testified to that.

5 Q Because ultimately it is the taxpayer's return, is it
6 not?

7 A Absolutely.

8 Q And the taxpayer in filing or causing that return to be
9 filed signs off on it under penalties of perjury, correct?

10 A Yes. There is a statement to that effect on the
11 second -- well, I don't know now. It's on the first page
12 these days, but yes.

13 Q And so when a taxpayer receives a draft return from his
14 preparer and then certifies by signing that form that he has
15 reviewed it, he is saying this is accurate. I'm attesting
16 that it's accurate under penalties of perjury, right?

17 A He's signing, because that's what he's signing.

18 MS. BEDKE: Nothing further.

19 THE COURT: Redirect, please.

20 **REDIRECT EXAMINATION**

21 BY MR. ROSENTHAL:

22 Q Mr. Foodman, in your experience, do taxpayers always
23 understand exactly what is on each schedule of their return?

24 A No, they do not.

25 Q Is it your understanding that they -- or is it your

REDIRECT EXAMINATION OF STANLEY FOODMAN

1 experience that they don't understand how the numbers that are
2 on their tax return got there?

3 A In many cases that's correct.

4 Q So if a taxpayer sees a draft of their return, will they
5 in every instance understand how that was arrived at?

6 A No.

7 Q Ms. Bedke asked you questions about garbage in, garbage
8 out and the information that's communicated from the taxpayer
9 to the tax preparer. In that regard, do you distinguish
10 information that was not provided to the taxpayer out of
11 negligence from information that's not reported, not given to
12 the tax preparer as a result of active concealment?

13 A Sure.

14 Q And would you distinguish information that's not provided
15 to the tax preparer because the taxpayer doesn't know it's
16 important as opposed to information that was actively
17 concealed?

18 A That's right.

19 MR. ROSENTHAL: That's all I have, Your Honor.

20 THE COURT: Thank you, Mr. Foodman. You are free to
21 go. Good day, sir.

22 Call your next witness, counsel.

23 MR. ALLEN: Your Honor, we would call Michael
24 DaCorta.

25 THE COURT: All right. Mr. DaCorta.

DIRECT EXAMINATION OF MICHAEL J. DACORTA

1 THE COURTROOM DEPUTY: Please raise your right hand.

2 (Witness sworn.)

3 THE COURTROOM DEPUTY: Sir, could you please state
4 and spell your name for the record.

5 THE WITNESS: Michael DaCorta, M-I-C-H-A-E-L,
6 D-A-C-O-R-T-A.

7 THE COURTROOM DEPUTY: Thank you, sir. Please take a
8 seat in the witness box.

9 MR. ROSENTHAL: Your Honor, if I may, Mr. Foodman has
10 been excused. Can he remain in the courtroom?

11 THE COURT: Sure. Unless anyone objects to that,
12 sure.

13 Counsel.

14 MS. IRVIN: Thank you, Your Honor.

15 **MICHAEL J. DACORTA, CALLED BY THE DEFENSE, SWORN**

16 **DIRECT EXAMINATION**

17 BY MS. IRVIN:

18 Q Good afternoon, Mr. DaCorta.

19 A Good afternoon.

20 Q Mr. DaCorta, please tell the jury why you decided to
21 testify today.

22 A I have been waiting for this day for three years. It was
23 three years ago. The third anniversary was the day this trial
24 started when agents raided my home, three years ago since an
25 FBI agent threatened to use a sledgehammer to break down the

DIRECT EXAMINATION OF MICHAEL J. DACORTA

1 walls of my house to see if I was hiding gold and silver in
2 the walls. And it's been three years since they threatened to
3 handcuff my wife on the couch as she sat there with my
4 daughter because she dared to ask a question.

5 Q You mentioned that it was a little more than three years
6 ago. And that was on April 18 of 2019; is that right?

7 A Correct.

8 MS. IRVIN: Your Honor, may I approach the witness?

9 BY MS. IRVIN:

10 Q Mr. DaCorta, I am providing you what has already been
11 admitted into evidence as Defendant's Exhibit 87 and also a
12 copy of that same exhibit. Now, I don't want you to open it
13 yet. I do want you to just look at it. Do you recognize --
14 excuse me one second, Your Honor. I think I gave him the
15 wrong copy.

16 Mr. DaCorta, I just placed in front of you
17 Defendant's Exhibit 87. Do you recognize it?

18 A Yes, I do.

19 Q What is it?

20 A It is a journal that I sporadically kept from I believe
21 2012 until roughly 2017 or 2018.

22 Q And for the record, what does that journal look like?

23 A It's just a reddish-brown leather-bound book.

24 Q Now, it is currently in a bag.

25 A Yes, it is.

DIRECT EXAMINATION OF MICHAEL J. DACORTA

1 Q Do you know -- well, you've heard that it was already an
2 exhibit in evidence. Can you please open up -- take it out of
3 that bag and open it up to the first page.

4 A Okay.

5 Q Keeping it open on the first page, whose writing is that?

6 A That is my handwriting.

7 Q And in looking at that page, do you recall when you wrote
8 what's written on that page?

9 A Oh, yes, I remember it very specifically. It was the
10 date that I put down there on the page, November 27, 2012.

11 MS. IRVIN: All right. May we please publish
12 Exhibit 87, page 1, Your Honor?

13 THE COURT: Well, all right. I haven't formally
14 admitted that yet, that exhibit. So why don't you
15 authenticate the excerpt that we discussed or attempt to do
16 so.

17 BY MS. IRVIN:

18 Q Can you also -- in looking at page 1, do you recall in
19 making this writing on page 1?

20 A Yes, I do.

21 Q When you -- although it has a date on the top of it, do
22 you recall when you would write in this journal?

23 A Yes. I would write sporadically. When I started it was
24 for a specific reason because I read a specific book. I kept
25 it a few days in a row every so often, and then I dropped it

DIRECT EXAMINATION OF MICHAEL J. DACORTA

1 and kind of picked it up here and there.

2 Q Although you said you wrote in it sporadically, would you
3 say that you would write in it on the same day that you
4 were --

5 A No. Whenever I just decided to pick it up and write.
6 There was no specific pattern.

7 Q Does the journal as you look at it -- and I would like
8 you to specifically look at pages 1, 2, 3, 4, and 5. Does it
9 accurately represent the journal that you kept?

10 A Yes, absolutely.

11 MS. IRVIN: Your Honor, we would ask to admit Defense
12 Exhibit 87.

13 THE COURT: All right. Any objections to one through
14 five?

15 MR. MURRAY: Yes, Your Honor. Can we approach,
16 please?

17 THE COURT: Well, just state your legal objection to
18 one through five.

19 MR. MURRAY: Foundation, contemporaneousness.

20 THE COURT: And we have discussed those points
21 before, haven't we?

22 MR. MURRAY: We have.

23 THE COURT: I will admit one through five, ladies and
24 gentlemen. One through 5 is admitted.

25 (Defendant Exhibit 87 pages 1-5 admitted.)

DIRECT EXAMINATION OF MICHAEL J. DACORTA

1 MS. IRVIN: May I use the Elmo to publish, Your
2 Honor?

3 BY MS. IRVIN:

4 Q Now, Mr. DaCorta, you have in front of you a Xerox copy
5 of those same pages because it's on larger font for you to
6 read it. Can you please read page 1?

7 A Sure. Yesterday is Tuesday, November 27 -- oh, sorry.
8 Today is Tuesday, November 27, 2012. Yesterday I read a book,
9 "Outwitting the Devil." I thought it was the greatest and
10 most useful book I have ever read. I will use this journal to
11 keep track as to whether its ideas work. I believe they will
12 without any hesitation or doubt. The author recommended that
13 I put my major desire in life, something I would consider a
14 major success on page 1, and on page 2 what I am willing to
15 give in order to receive. Let's get started.

16 Q Mr. DaCorta, do you remember reading the book "Outwitting
17 the Devil"?

18 A Yes, I do.

19 Q And what did you take from reading that book?

20 A It was a book that really made you think about
21 subconsciously how you do things and just -- it's hard to
22 remember exactly at this moment. I do have some nerves, but
23 it is more or less a self-help book. It was written by
24 Napoleon Hill in the 1930s. It wasn't published then because
25 this was considered somewhat controversial at the time, but

DIRECT EXAMINATION OF MICHAEL J. DACORTA

1 then it was published later on.

2 Q Can you please turn to page 2. And can you please read
3 page 2.

4 A My desire. My greatest desire is a result of my greatest
5 failure. In 2008, I suffered the loss of my business, ICT,
6 which caused great hardship to my family and all involved as
7 well as myself. My desire is to rebuild a new business in the
8 same manner as I built ICT, only this time use the lesson of
9 failure to catapult me to enormous success, so great that most
10 would believe to be impossible to achieve. I desire that
11 money for any purpose be of no issue. I desire to help as
12 many participants in ICT as possible and share the great
13 riches of success with all I come in contact with.

14 I can't even read my own handwriting.

15 And then use capital and all other resources to
16 spread positive messages that free people's minds and uplifts
17 all. I have no limits on my level of success. I can achieve
18 all I can imagine.

19 Q Mr. DaCorta, can you please turn to page 3. Read page 3,
20 please.

21 A Sure.

22 What I will give. I will begin by giving as many of
23 the author's books away as gifts and then engage the
24 recipients in positive conversation. As I achieve levels of
25 success in my new venture, I will invest time and money into

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1 creating an organization that will continually teach the
2 principles learned in this book and reach out to as many
3 people in as many places as possible to uplift and liberate
4 all. I realize my potential is only limited to my thoughts.
5 Therefore, my potential is unlimited because -- you moved it
6 on me there.

7 Q Sorry about that.

8 A That's okay.

9 Therefore, my potential is unlimited because I can
10 achieve anything I can imagine. Anything is possible.

11 Q Mr. DaCorta, can you please turn to page 4 starting from
12 the top.

13 A November 28, 2012. The definite plan to achieve definite
14 success is in realizing my desire. Oasis Capital Management,
15 S.A., a Belize company will acquire a forex license. A U.S.
16 corporation will be set up to own the Belize company and
17 complete a stock offering to raise capital to get started.
18 The Belize forex company will acquire foreign accounts from
19 around the world and become a major money manager that will
20 enjoy enormous and unlimited success. The success will be
21 shared generously with shareholders and all local community to
22 bring a new positive atmosphere to all in our sphere of
23 influence.

24 Q Now, if you can please turn to page 5. And also starting
25 from the top if you could please read.

DIRECT EXAMINATION OF MICHAEL J. DACORTA

1 A November 29. Heading to Long Island to meet Joe and Ray.
2 Ambit first, and then we will finalize my definite plan for
3 the Belize operation. It will be great day. We will do Ambit
4 meeting at Andy's tonight. Rolando is coming and adding a
5 check to Oasis.

6 Q Thank you, Mr. DaCorta. We will come back to this
7 journal later on in your testimony, but I'd like to begin with
8 who you are. How old are you?

9 A I'm 57 years old.

10 Q Where did you grow up?

11 A I group up in the Bronx, New York.

12 Q Who raised you?

13 A My mom and dad.

14 Q What did you learn from your parents?

15 A Learned a lot. They were -- my dad was a waiter in an
16 Italian restaurant. My mother was a paraprofessional at the
17 Board of Education of New York City. They were hard workers,
18 very hard workers, and they were very competitive. So when
19 you went to school, you made sure you brought home the right
20 report card or you had problems.

21 Q What was your neighborhood in the Bronx like?

22 A It was a very nice neighborhood, mainly private brick
23 homes, a lot of Italian, Irish, Jewish, some Spanish. It was
24 really a mixed neighborhood but a very nice, pleasant
25 neighborhood.

DIRECT EXAMINATION OF MICHAEL J. DACORTA

1 Q In your neighborhood, can you tell the jury who

2 Mr. Joseph Besserman was?

3 A Mr. Besserman was our landlord where my parents -- before
4 they bought their own home and when I was growing up.

5 Q What did you learn from Mr. Besserman?

6 A Mr. Besserman was a very unique individual. He was a
7 very hard worker. He was a holocaust survivor. He owned a
8 grocery store. He was a real estate agent, and he owned the
9 home we lived in. So he taught me a lot of tangible things
10 and he taught me a lot of intangible things. Tangible things
11 is he taught me how to take care of the land, plant
12 vegetables, take care of rose bushes, a lot of things outside.
13 He always offered to allow me to shovel the snow and mow the
14 lawn to get paid. And he would make me a contract the
15 beginning of each winter. It was \$10 to shovel. Regardless
16 of whether it snowed an inch or two feet, you still got your
17 \$10, but it he was a very good man.

18 Q Where did you go to elementary and high school?

19 A I went to St. Lucy's School in the Bronx which was just a
20 couple of blocks from my home. And then I went to Blessed
21 Sacrament High School in New Rochelle which was a long ride.

22 Q What were your interests in high school?

23 A Every young boy -- I mean, I had great interest in
24 sports, but I loved American history, and I always loved math.

25 Q Did you have any jobs while you were in high school?

DIRECT EXAMINATION OF MICHAEL J. DACORTA

1 A Yes, I did.

2 Q And tell me about one of those jobs.

3 A Well, my first job, I was 15 years old. I was hired for
4 Royal Card Store. It was a Hallmark stationery store.

5 Q Who owned the store?

6 A Stanley and Eva Freed.

7 Q What did you learn from the Freeds?

8 A Hard work. I mean, they were great people. They were
9 actually also holocaust survivors. And they actually made a
10 pact with each other to meet, for both of them to meet at the
11 Eiffel Tower on a certain day in the future if they survived,
12 and they did.

13 Q Did anything about the jobs that you had in high school
14 teach you about the value of money?

15 A Oh, sure. Stanley was a great teacher. He would always,
16 regardless of what we were doing, pricing things or just
17 general business ideas, he would always -- he took a liking to
18 me, so he always taught me things. He taught about lost
19 leaders, which he gave away loose leafs at the cost he
20 purchases at in order to draw people in to buy others things.
21 So he was a very good businessman.

22 Q Did you have any interest in finance or investing when
23 you were in high school?

24 A Oh, yes, I did.

25 Q Tell me about that.

DIRECT EXAMINATION OF MICHAEL J. DACORTA

1 A I guess I was about 15 or 16, and I saw the stock tables
2 on the daily news, and I asked my dad what it meant, and so he
3 explained. So I asked him so if I buy a stock, a hundred
4 shares and it goes up a dollar, I can make a hundred dollars?

5 And he said, yes.

6 And I looked at my dollar savings, passbook savings
7 book and I looked and I saw that the money I had in there was
8 earning a few cents every quarter. So I asked him if I could
9 take the funds out of my bank account and put it into the
10 stock market.

11 Q What happened with that first investment?

12 A The first thing I did was I bought 50 shares of US Air
13 and 50 shares of American Airlines. I loved the airlines and
14 I loved to fly back then also, and I also was very patriotic.
15 So when I saw US Air and American Airlines, I decided to buy
16 those two. American Airlines I purchased at nine and
17 seven-eighths. And US Air at 12 and a half. I remember it to
18 this day.

19 Q Have you always had a knack for remembering dates and
20 numbers?

21 A Pretty much.

22 Q Where do you think that comes from?

23 A I don't know.

24 Q In addition to investing in stocks, is there anything
25 else that you invested in?

DIRECT EXAMINATION OF MICHAEL J. DACORTA

1 A Yes. It was right around the time where silver had
2 crashed from \$50 to \$4 because the Hunt brothers failed in
3 cornering the silver market. So I purchased a thousand ounces
4 of silver at \$4.17.

5 Q Now, what year are we talking about?

6 A That was probably -- Ronald Reagan was probably
7 president. So it was probably around 1980, 1981.

8 Q About how old were you at this time?

9 A Sixteen-ish, 17. Probably 17 by the time I purchased the
10 silver.

11 Q And when you purchased the silver, where did you keep it?

12 A I bought one -- I bought ten, 100-ounce Engelhard bars.
13 And when they were delivered to my home, I put them at
14 Manufacturers Hanover Trust on Allison Avenue in a safety
15 deposit box.

16 Q Why did you put it in a safety deposit box?

17 A At that time we lived in the Bronx. We had a small,
18 little house. And obviously I wanted to feel safe. So I went
19 to the bank to put it in a safety deposit box.

20 Q What year did you graduate from high school?

21 A 1982.

22 Q And after high school, what did you decide to do?

23 A I went to Lehman College in the Bronx.

24 Q What did you major in?

25 A Economics.

DIRECT EXAMINATION OF MICHAEL J. DACORTA

1 Q How did you pay for college?

2 A Well, I had a New York State Regents scholarship for part
3 of it, and I paid for the rest of it myself.

4 Q Did you work while you were in college?

5 A Yes, I did.

6 Q Where did you work?

7 A A couple of different Italian restaurants. I believe Ann
8 and Tony's was one, and Gino's Cafe was the other.

9 Q Did you have any internships?

10 A Yes, I did. I had an internship at Lehman Brothers on
11 55 Water Street in New York City.

12 Q And that internship you had while you were in college?

13 A Yes. I went to classes on Monday, Wednesday, and Friday.
14 And I went to Manhattan for the internship on Tuesdays and
15 Thursdays.

16 Q Did you graduate from Lehman College?

17 A No, I did not. I left after three and a half years.

18 Q Why didn't you graduate?

19 A I was actually offered the opportunity to get my broker's
20 license by Stuart-James, and I was paying for my own college.
21 And the courses I was taking at that point were just courses
22 that I had to to finish up. And they were -- I looked at it
23 as just an economic situation. I could either pay to finish
24 these classes right now or I can go get my license and start
25 working and always come back and finish at night.

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1 Q Let's talk about your broker's license. How old were you
2 when you were first pursuing your broker's license?

3 A I believe I might have taken it before my 21st birthday,
4 but it was right around 21 years of age.

5 Q What did you have to do to get that broker's license?

6 A You had to pass a Series 7 exam.

7 Q What's a Series 7 exam?

8 A Well, the FINRA expert explained it to some degree. It's
9 a 250-question test that encompasses pretty much all types of
10 securities and bonds and every type of investment.

11 Q So what's the purpose of that particular exam?

12 A To demonstrate at least a somewhat level knowledge of the
13 industries that you are about to enter.

14 Q Was there any other exam that you needed to pass?

15 A Yes. To be a broker, you had to pass a Series 63, which
16 was a New York state license for regulations and for sales
17 practices.

18 Q Now, I think you mentioned it, but where was this
19 starting position once you became a broker?

20 A I was with Stuart-James & Company in White Plains,
21 New York.

22 Q I guess I skipped an important question. Did you pass
23 the Series 7 and 63 exams?

24 A Excuse me? I missed that.

25 Q Did you pass the Series 7 and Series 63 exams?

DIRECT EXAMINATION OF MICHAEL J. DACORTA

1 A Yes, I did.

2 Q Now, you started at Stuart-James. Were you earning a
3 good income?

4 A The first month I made over \$9,000 and my father was
5 amazed. He couldn't believe you could actually earn that much
6 in a month. So it was a good first month. The second month I
7 think I only earned \$3,300, but it was a sales job.

8 Q What did this income allow you to do?

9 A Well, my parents were looking to buy a home. And I was
10 able to loan them \$5,000 to add to their down payment.

11 Q What can you tell me about that home that you assisted
12 your parents with?

13 A Well, my mom just turned 94 last week, and she still
14 lives there. My dad passed about a year and a half ago. And
15 my sister is there with my mom taking care of her.

16 Q Other than the financial benefits of being a broker, what
17 did you enjoy about working on Wall Street?

18 A I enjoyed the challenge every day. Regardless of the
19 fact you are going to the same desk and doing the same thing,
20 every day was just a great opportunity, a new opportunity, and
21 there was always something new going on in the world. So it
22 was a very exciting type of job, I felt.

23 Q What does a stockbroker do?

24 A Well, a broker is pretty much -- especially back then it
25 was all transactional business. So a broker had to go out,

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1 get their own book of business and then recommend to each
2 individual client what they felt suitable for that client.
3 Obviously the industry has changed since then, but that's the
4 way it was back in that time.

5 Q For the next couple of years, where did you work as a
6 stockbroker?

7 A From Stuart-James I believe I went to Austin Davenport on
8 the next one.

9 Q Did you stay as a stockbroker?

10 A I did at that point.

11 Q At what point did you change your position?

12 A Well, when I was at Stuart-James, I realized that the
13 brokers on the desk were really interested in just making
14 commission. They weren't interested in actually recommending
15 companies that may actually go up in value. The company was
16 trying to sell a company called Venus cruise lines. It was a
17 cruise ship -- I'm sorry. It was a cruise line with no cruise
18 ship. So it was a penny stock, and they were pushing us
19 because there were lots of commissions involved. And I just
20 didn't like that whole thing. So I went to Austin Davenport.
21 The brokers were somewhat older, somewhat more sophisticated,
22 but they also had bigger mortgages. So they were kind of cut
23 from the same grain where they were trying to sell to meet
24 their monthly expenses. So at that point in time I decided
25 that the retail part of it wasn't for me.

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1 Q And when you did that, what position did you then
2 transition to?

3 A I applied and I accepted a job at Waterhouse Securities.
4 I believe it was at 14 Wall Street at the time.

5 Q What was your position at Waterhouse?

6 A That was as an equities trader.

7 Q How is an equities trader different than a stockbroker?

8 A Well, a trader is executing trades, orders that are
9 coming in from Waterhouse's desks. And you are there just to
10 execute those trades. You are not making any recommendations
11 to anybody.

12 Q For how long were you working at the trading desk at
13 Waterhouse?

14 A Well, shortly after taking a big pay cut to take the job
15 because I thought it was something that I would rather do and
16 I would rather learn at a lower salary at a young age and then
17 begin to move on, OWest Securities offered me a significant
18 amount higher salary to the same exact job. And it was on
19 90 Broad Street. So it was only two blocks from where I
20 worked on Wall Street.

21 Q During your time working on Wall Street and for Wall
22 Street firms, how many firms do you think you worked for?

23 A You know, it's probably eight to ten mainly because as I
24 got into the trading routine and you -- it was -- from OWest
25 it went to sort of a different type of trading. And at that

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1 point in time you were kind of offered certain deals. And you
2 went where you were going to be paid the most for what you
3 were doing because it was more or less you were generating
4 your own income.

5 So when that -- when I got into that style of
6 trading, it was moving around a little bit, because if you
7 were getting paid 80 percent of your profits in one place and
8 someone else offers you 85 percent, you would go because I'm
9 doing the same exact amount of work making the same decisions
10 but could bring 5 percent more home for my family, why not.

11 Q In your experience, was it common in the financial sector
12 for people to change firms?

13 A Oh, sure. You would get -- brokers and traders, they get
14 lured from other firms all the time.

15 Q Was it also common in your experience for people in the
16 financial sector to change positions?

17 A Yeah. I mean, they change positions depending on -- you
18 know, some people start, they don't like the situation they're
19 in, so they move to a different department, yes.

20 Q In working at Stuart-James, at Waterhouse, at OWest, what
21 did you learn by working at these different firms?

22 A Well, OWest was interesting because they had a clientele
23 that I believe you had to have a million dollars to open an
24 account with them. And this was 1986, '87. So that was quite
25 a large investment for anyone. It's a lot of money now, but

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1 back then it was a tremendous amount of money to just entry
2 level into a company. And most of them managed their own
3 money. So we were there just to execute the trades. And it
4 was a great place to work. They offered me the head options
5 trader position. So I had to go take a Series 4 exam to do
6 that, pass that exam. I became the head options trader. And
7 then shortly after that the 1987 crash came. So that was a
8 very interesting day.

9 Q So let's talk about what made that day interesting, as
10 you said. What happened?

11 A Well, from 1987, the market sold off about 25 percent in
12 one day. Things were not as they are today where you have
13 instant communications and you have everything done
14 electronically. We used to handwrite the tickets. We had a
15 doctor by the name of Dr. Lin who had \$8 million in equity in
16 his account that morning, but he was short puts across the
17 board. He used to short what they call put options, collect
18 the revenue from them and they would always expire worthless
19 because you only got hurt if the stock went down. And the
20 stocks were continuously going up, and so they expired
21 worthless and he would keep the sale price and that would be
22 his profit.

23 Unfortunately, that day the stocks didn't go up and
24 he ended up losing \$10 million in one day, and he only had
25 8 million in the account.

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1 Q I want you to slow town a little bit because you are
2 giving us a lot of information. What did you learn from that
3 story that you just told about Dr. Lin?

4 A Well, I realized there is a tremendous amount of
5 opportunity and potential in that industry, but I also
6 realized if you don't manage the risk you could have a major
7 problem very quickly.

8 Q What did you do as far as work after the 1987 market
9 collapse that you described?

10 A So after the crash, things got kind of slow. Very few of
11 the clients had money to trade anymore, so our phones weren't
12 ringing quite as much. It was getting a little boring. I was
13 spending my mornings doing crossword puzzles instead of
14 trading. So at that point in time my brother purchased a
15 beverage center with his brother-in-law from his wife's side
16 of the family.

17 Q I'm going stop you right there if I may. Let's take this
18 sort of in small parts because there's a lot that we're going
19 to cover, and we will come back to the business with your
20 brother. In the meantime that you are starting your career on
21 Wall Street and you're working for financial firms, what's
22 happening in your personal life?

23 A So I met Carolyn, my wife, when we were 21. We dated for
24 a year. We got engaged for a year, and we got married. So we
25 were married at 23 years old.

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1 Q Did you go on a honeymoon?

2 A Yes, we did. We went to Hawaii.

3 Q Did you take a lot of trips together?

4 A Back then, you know, we were always together, but I don't
5 know if we did a lot of trips. After Hawaii we probably
6 didn't go too far because we had our first son, Andrew, within
7 18 months or 20 months.

8 Q Did you take any anniversary trips?

9 A We went to the Sands Hotel in Atlantic City, I think, for
10 our second or third anniversary.

11 Q What about for your 30th anniversary?

12 A We went to the Cayman Islands. That was the first time
13 we vacationed without the kids since our honeymoon.

14 Q Now, I think you mentioned one of your sons. How many
15 children do you have?

16 A Three.

17 Q And tell me about them.

18 A Andrew is my oldest. Steven is my second son. And
19 Crystal is my daughter.

20 Q How old are they?

21 A Believe 32, 30, and 25. It's going so fast I can't keep
22 track anymore.

23 Q Where did you and Carolyn raise the kids especially when
24 they were younger?

25 A When Andrew was six months old, we decided to move out of

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1 the Bronx. And we moved north about 70 miles to Dutchess
2 County to the Poughkeepsie area.

3 Q Would you consider that a suburb?

4 A It's a suburb, but it's quite far. So it's not a suburb
5 that most people would commute to the city because it was a
6 long ride.

7 Q About how far was it from New York City?

8 A It's about 80 miles as the crow flies, but by train or
9 car it can be two hours.

10 Q What activities were your kids involved in growing up?

11 A Well, my sons played Little League Baseball obviously.
12 They played hockey, youth hockey. My daughter -- they were in
13 the Boy Scouts. My daughter was in the Girl Scouts. My
14 daughter was in cheerleading. She did a couple of other
15 things. There was always something going on.

16 Q Were you involved with your kids in their activities?

17 A Yes. I was a Little League coach and a hockey coach.

18 Q What other community activities were you involved in?

19 A We did lots of things. My wife was on the PTA, and there
20 was always something to do within the community. So there was
21 always something going on.

22 Q While you are living in Poughkeepsie, were you still
23 working at OWest in New York City?

24 A Let's see. No. I think I had moved to -- I had gone to
25 Beverage World. We purchased Beverage World before we moved

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1 to Poughkeepsie.

2 Q Let's talk about Beverage World. Tell me about that.

3 A Like I said, my brother's partner, he did not want to be
4 in the business anymore. He didn't like the hours or the --
5 it was quite heavy work. He was a barber by trade. So he
6 wanted to go back and cut hair. I purchased his part of the
7 business, and me and my brother were in business together.

8 Q Now, was this your brother's regular profession?

9 A No.

10 Q What was his regular profession?

11 A My brother was actually a communications engineer for
12 Citigroup.

13 Q Can you describe the Beverage World business?

14 A It was a beer and soda distributor in New York State.
15 It's called a C license where you could retail and wholesale.
16 So you have retail customers that walk in, and you also can go
17 out and get wholesale accounts. We had trucks and we used to
18 run the trucks for deliveries.

19 Q Are you still trading for yourself during this time?

20 A Yes. After I left OWest, I used to trade from Beverage
21 World on and off.

22 Q What would be a typical day for you at Beverage World
23 while you're running the business?

24 A It was a 12-hour day. And it was unloading trucks,
25 loading trucks, warehouse work, taking care of people at the

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1 register. It was a very long day, and it was a day where you
2 had a lot of activity. You were always on your feet.

3 Q How long did you and your brother operate Beverage World?

4 A I think about three or four years.

5 Q And then what happened?

6 A We decided to sell it. We had brought the sales from
7 about 600,000 a year to about 2 million a year. And we just
8 decided -- he wanted to go back to what he did, and I wanted
9 to go back to what I did, and we had our fill of retail and
10 working 12 hours a day, six days a week. So we sold it and we
11 moved on.

12 Q What did you learn from your time working at Beverage
13 World?

14 A I learned I didn't want to be in a retail business, but
15 it was a very hard job, and you give a lot of respect to the
16 people who are out there working those type of businesses
17 because they're not easy.

18 Q After selling Beverage World, what did you decide to do?

19 A I went back and retook my test to regain my licenses
20 because when you are out for more than two years, they expire.
21 I had to retake them to once again demonstrate I had the
22 knowledge to go back into the industries.

23 Q In going back into the industry, what did you do?

24 A I formed my own Nasdaq broker-dealer. Market -- I'm
25 sorry.

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1 Q What was that called?

2 A Market Trend Securities.

3 Q You had gone from being a broker and an equities trader
4 to running Beverage World. What led you to Market Trend
5 Securities?

6 A Well, when I was with OWest, I used to kind of go from
7 department to department and learn what each department did.
8 And by the time I was done with Beverage World, because I
9 owned it, I felt like I liked owning the business even though
10 it wasn't the business I wanted to own. So I decided I would
11 start my own broker-dealer, start very small and try and build
12 it up.

13 Q Were you the only person running Market Trend Securities?

14 A No. I had two partners.

15 Q And what did the three of you -- how long did the three
16 of you run this company?

17 A Well, I had two partners. They were both -- I was I
18 think 27 or 28 at the time, and they were in their late
19 fifties. One was a CPA, and one was a retired executive at
20 AT&T. So the AT&T partner was just a silent partner, and the
21 CPA actually took his FinOps license. So every broker-dealer
22 needs a financial operations principal. So instead of me
23 having to hire one, he took the exam and he became our
24 financial operations principal.

25 Q So where are we timeline wise? Around what year is this

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1 that Market Trend Securities begins?

2 A Let's see. 1991, right around there.

3 Q How long did Market Trend Securities, your involvement in
4 Market Trend Securities last?

5 A I believe I stayed with them two or three years. I
6 wanted to expand the business, grow it and do some different
7 things. They were kind of happy with the structure of the
8 firm the way it was. We were making enough money, and they
9 were kind of gearing up to get to retirement. And they didn't
10 want to add on any risk or take on any more responsibility.
11 So I asked them if they would have one of their -- someone --
12 the FinOp had a friend in New York City who was around his age
13 who was also a trader. So we arranged where I would sell my
14 portion of the company to him and he would take over my
15 position and I moved on.

16 Q What did you learn from creating and working at Market
17 Trend Securities?

18 A Well, I learned a lot about running a broker-dealer
19 obviously. I had to deal with our clearing, which at the time
20 was Ernst & Company. And at that point in time you learn
21 something from every single venture you go into, but I learned
22 that again being in that retail environment, it just wasn't
23 something I wanted to do even within the financial industry.
24 So once again, I gravitated back to just trading.

25 Q What happened, if you know, to Market Trend Securities

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1 after you left?

2 A Market Trend Securities stayed in business until I think
3 2005.

4 Q You mentioned you went back to trading. Where did you
5 work next?

6 A It's a long time ago, but I believe it was -- I believe
7 it was Onsite Trading.

8 Q What kind of work did you do at Onsite Trading?

9 A You were just a proprietary equities trader.

10 Q What does that mean to be a proprietary equities trader?

11 A So Onsite Trading had a setup where we did all our
12 business through Spear, Leeds & Kellogg. They provided us all
13 the technology, all the trading capital. What we would do --
14 or the leverage I should say. What we would do is Onsite
15 Trading was a fund or an LLC. You would buy into it. And
16 then they would allocate a certain amount of the total
17 leverage they got from Spear, Leeds to each trader depending
18 on your deposit, your experience, and your performance over
19 time.

20 Q And that describes how one would earn money on Onsite
21 Trading; is that correct?

22 A Yes. So you had to be profitable to take home a
23 paycheck, but you were paid at a certain percentage of the
24 profits you generated, but every trade you put through, you're
25 paying commissions to Spear, Leeds. So it was a symbiotic

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1 relationship, but it was a good opportunity.

2 Q Did you have another employment opportunity while you
3 were trading at Onsite Trading?

4 A Yes. I believe at that time I was called by a headhunter
5 and asked if I wanted to take a job or wanted to at least go
6 for an interview with what they told me was a very
7 up-and-coming firm on Long Island called Sterling Foster.

8 Q And what was Sterling Foster? What was the company
9 about?

10 A They were a brokerage firm who did initial public
11 offerings.

12 Q Okay. What's an initial public offering?

13 A It's when a company is actually going public for the
14 first time.

15 Q And what's the purpose of the initial public offering or
16 the IPO?

17 A When companies want to raise capital to run their
18 businesses or need an influx of capital to expand their
19 business, they will often raise money in the markets.

20 Q What were your -- what was the position that you were
21 being sought after at Sterling Foster?

22 A So that job was a compliance issue because I had a
23 Series 24 which allowed me to own my own firm, a Series 4
24 which was an options principal. So I had the licenses to
25 supervise, and they needed compliance people there. So I was

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1 hired as a compliance officer.

2 Q What happened while you were working at Sterling Foster
3 as a compliance officer?

4 A I began just knowing what a trading desk should be doing
5 and knowing the rules about IPOs. I began to realize there
6 was something that was not right going on there, and I began
7 to inquire about different things.

8 Q What concerned you about what you were observing about
9 the IPO?

10 A The activity of the stock when it came public. It was
11 just, it set off alarm bells right away, within the first day
12 or two.

13 Q As a result of your concerns, what did you do?

14 A I went to the president of the company and I asked to
15 speak with him. And I asked him -- I told him what I thought
16 was going on, and he fired me on the spot.

17 Q How did you react to that?

18 A Well, Carolyn was pregnant with Crystal at the time. So
19 it was a little nerve-racking, but I realized if I bring this
20 up and he fires me, it's probably better that I'm not working
21 here.

22 Q Do you regret telling the president of Sterling Foster
23 about your compliance concerns considering the fact that you
24 were let go?

25 A No.

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1 Q Why is that?

2 A Because they were shut down, and they had committed
3 serious fraud with their IPOs.

4 Q After unexpectedly leaving Sterling Foster, what did you
5 do next?

6 A I think I went back to Onsite Trading at that point.

7 Q Do you recall if you may have worked at a place called
8 Lexington Capital Partners?

9 A Yes. That would have been after because I believe I went
10 back to Onsite Trading. The same thing happened. I was
11 called by a headhunter and offered a position into a company
12 that was not a registered broker-dealer yet but they were
13 actually going for their broker-dealer license.

14 Q And what kind of work did Lexington Capital Partners do?

15 A Excuse me?

16 Q What kind of firm was Lexington Capital Partners?

17 A Well, they were seeking registration as a broker-dealer
18 by Nasdaq.

19 Q Did you assist them in getting their broker-dealer
20 license?

21 A Yes. I signed a contract with them, and I assisted them
22 through the process, which may have taken a year. And then
23 once they got the broker-dealer license, I left.

24 Q After you left, then what kind of work were you doing?

25 A I believe at that point I had started Empire State

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1 Brewing while I was at Lexington Capital Partners, which was
2 brewing my own -- it was my own beer company. I didn't brew
3 the beer myself. I had it contracted out by a brewery, Lions
4 Brewery in Wilkes Barre, Pennsylvania.

5 Q What was the name -- was there a name or particular
6 product of the beer that you were brewing?

7 A Yeah. So the name of the company was Empire State
8 Brewing because New York state is the empire state. And the
9 name of the beer was Wall Street Lager.

10 Q And the Wall Street Lager product that you started, did
11 you start that after you left Lexington, or was this something
12 that you had been working on before?

13 A Oh, no. I worked on it as I commuted on the train for
14 quite a few months before we launched it.

15 THE COURT: Hold on one second, counsel. I'll take a
16 poll.

17 Afternoon break or keep going? All right. Afternoon
18 break. Let's come back at 3:30. We'll run until 4:45.

19 Please don't discuss the case. Thank you.

20 (Recess taken.)

21 THE COURT: We lost Officer Fred. We have Officer
22 Mike Anderson here. So he is welcome.

23 All right. Counsel, have at it.

24 BY MS. IRVIN:

25 Q When we left off, we were talking about Empire State

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1 Brewing. What kind of company was Empire State Brewing?

2 A A beer company that marketed and branded beer.

3 Q What did you do to get the company started?

4 A Well, to get it started, I came up with the marketing

5 plan, designed a logo. I had to work with the printing

6 companies to put the boxes, six-pack holders, all the things

7 that would go into making a beer product, and then obviously

8 you contract a brewer and then begin marketing the product.

9 Q In addition to the marketing of the product, was there
10 anything that you needed to do to raise funds for the company?

11 A Yes. We used a private offering.

12 Q What was that private offering memorandum called?

13 A It was called Empire State Brewing Company. It was just
14 a preferred 506, Reg D Rule 506 offering.

15 Q Did you seek any legal advice in preparing this private
16 offering memo?

17 A Yes.

18 Q Who did you call to seek legal advice?

19 A That would be Joseph Anile.

20 Q How did you come to learn about Joseph Anile?

21 A I was with an investment firm who was interested in
22 taking a look at the beer brand. And they had recommended
23 that I call him because I told them, you know, what I was
24 planning on doing, and they told me that he would be the type
25 of attorney I would need.

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1 Q Did you learn anything else about Mr. Anile and what kind
2 of an attorney he was at that time?

3 A Yes.

4 Q What did you learn about Mr. Anile?

5 A Well, I was told by the people who --

6 MS. BEDKE: Objection, hearsay.

7 BY MS. IRVIN:

8 Q Without saying that someone told you something, what did
9 you learn about who Mr. Anile was? What type of law did he
10 practice, if you know?

11 A Mr. Anile was a corporate attorney heavily involved in
12 securities and financial, regulatory-type issues.

13 Q Did you decide to call Mr. Anile to assist you?

14 A Yes, I did.

15 Q And when you sought out his legal advice, did you end up
16 hiring Mr. Anile?

17 A I do not believe I hired him for that project. I spoke
18 to him, but I never actually hired him. He did give me
19 advice, but I never hired him.

20 Q About what year was this when you first had this contact
21 with him?

22 A 1998, I believe it was.

23 Q Did you say 1998?

24 A Yes, 1998.

25 Q Now, when it got started how was Empire State Brewing

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1 doing?

2 A Well, we produced 10,000 cases of beer on our first run,
3 and we went out and we sold them into a few different states
4 and to different distributors, but I realized that we were
5 having a problem getting distribution into the main part of
6 New York that we needed. We had a distributor in Lower
7 Manhattan called Grill Beverages, and they hit the Wall
8 Street -- they covered the Wall Street area. But in
9 Westchester County where you wanted to really have the beer
10 sell, we were having problems because the larger distributors
11 like Bud and Coors, they refused to take -- the distributors
12 that had those products were restricted from taking our beer
13 on their trucks.

14 Q To deal with the distribution challenge that you had,
15 what did you do?

16 A Well, I decided to bring on someone from Budweiser to
17 assist me because it wasn't my industry and I didn't really
18 know about it. So I went to someone who was more expert in
19 the industry, and he recommended that we begin to create our
20 own distribution network within the areas that we were having
21 trouble.

22 Q Did that seem to help the initial distribution problems
23 or challenges you were having?

24 A Yes and no. We had to actually go out and purchase a
25 license again to distribute beer. And we ran into a gentleman

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1 who owned five of the beer and soda C licenses that I had
2 originally had with my brother which was the same type of
3 operation, but he had five locations and he was looking to
4 sell them.

5 Q Did your business stay solely distributing beer?

6 A No.

7 Q What else did Empire State Brewing end up distributing?

8 A So what happened was we made a deal to purchase those
9 five beverage centers. And in the process of buying them,
10 what you needed to do is in order to get the distribution in
11 that area, to have a truck run with just one brand on it, just
12 wasn't going to be profitable. So we had to go out and sign
13 up other brands to be willing to allow us to market them.

14 Q Was having these additional brands enough to keep Empire
15 State growing successfully?

16 A We were growing. The five beverage centers brought in
17 the 3 or \$4 million worth of retail sales. So we were
18 beginning to grow, but unfortunately that's a low margin
19 business that needs a tremendous amount of capital. So the
20 amount that I raised in the offering wasn't enough, and I had
21 to look to go out to a Merchant Bank see if we could raise
22 some additional capital.

23 Q What happened when you went to Merchant Bank to get more
24 funding?

25 A We ended up finding a Merchant Bank I believe it was out

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1 of Boston, and they offered to work with us to raise around
2 \$7 million, I believe.

3 Q What kind of financing was Merchant Bank giving you?

4 A They were looking for ownership in the company. So it
5 was going to be an equity deal.

6 Q What happened with that funding, with that \$7 million I
7 think you said?

8 A Well, we went through the process for quite a long period
9 of time. They were doing their due diligence. We were at the
10 time funding the operation from both the revenue from the
11 beverage centers and from my trading at Onsite Trading,
12 because what I did was I opened the account there for the
13 company and I had all my revenue go into the account to keep
14 it afloat until the time Merchant Bank was able to close the
15 deal.

16 Q Just so that I'm clear, at the same time that you were
17 growing Empire State Brewing, what else were you doing to
18 assist the financial growth of Empire State Brewing?

19 A I was actually trading at Onsite to keep the funds
20 flowing in, to keep Empire State Brewing funded while we were
21 waiting for the deal to close.

22 Q What happened with Merchant Bank and the funding that
23 they were going to provide?

24 A It was right around the Asian financial crisis, and they
25 ended up not being able to do the deal.

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1 Q As a result of -- and not being able to do the deal meant
2 what?

3 A It means that we had lots of commitments with different
4 brands, and we had -- we were in the process of closing the
5 deal on the five beverage centers because we are operating
6 them under contract, but we didn't close on them because we
7 needed the funds to close on them. So it made that entire
8 part of the operation just unable to continue because the
9 funding just wasn't there.

10 Q As a result, what happened to Empire State Brewing?

11 A I had to just piecemeal sell off what we had, and it
12 ended up having to close down completely.

13 Q How did this affect you personally?

14 A It was a big impact. I ended up having to file for
15 personal bankruptcy.

16 Q What year was this?

17 A I believe it was right around 1999, 2000. I can't
18 remember exactly.

19 Q How did you feel about filing for bankruptcy?

20 A Oh, it was devastating. I mean, I worked really hard to
21 build that business, to try and grow it. And to have
22 something like that happen where you were promised funding and
23 all of a sudden it just disappeared and I had put everything I
24 had into the company to keep it going in the interim. So it
25 was a devastating blow. Plus, it was a really fun business to

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1 do. It was enjoyable to try to grow it. So it was a big
2 disappointment.

3 Q What did you learn from your experience trying to build
4 Empire State Brewing that you would take going forward?

5 A Well, I mean, you learn I think more from failure
6 sometimes than you do from success, but I learned that you
7 can't go into something undercapitalized. And there were
8 quite a few lessons you learn, but one of them is I guess -- I
9 mean, it's a long time ago. So I'm just trying to think, and
10 I'm a little nervous obviously, but I can't think off the top
11 of my head just something specific. But it was obviously
12 something that was a very difficult time for us when that
13 happened.

14 Q You mentioned that at the same time you were building
15 Empire State Brewing, you were also still trading at Onsite
16 Trading, correct?

17 A Yes. That was roughly around the time of the Asian
18 financial crisis. And I believe oil had dropped to about \$11,
19 \$11.50 a barrel, and that was one of the opportunities I used
20 while I was there.

21 Q What kind of trading were you doing that might have been
22 different from what you were doing before?

23 A Well, it was similar to what I did at Onsite before. You
24 were putting up your own capital. Spear, Leeds is giving you
25 a large bank roll for the day. And depending on your

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1 positions and your performance, sometimes they increased it,
2 sometimes they don't, but you are able to invest in pretty
3 much anything you want because they had access to every
4 market.

5 Q You mentioned oil commodity trading, I think. How did
6 that impact you at this time working with that kind of
7 trading?

8 A Well, I started getting into the oil part of the business
9 because, like I said, oil had dropped to about \$11.50 a
10 barrel. And I think at that time the estimates were from
11 analysts that it took about \$14 to get it out of the ground.
12 So you knew no one was going to pump any oil until the
13 stockpiles start to be depleted. So at that point in time I
14 started buying oil and oil stocks, stocks that were very
15 depressed at the time.

16 Q What else did you start learning about with respect to
17 trading at about this time?

18 A So oil is dollar denominated. So usually when the dollar
19 is weak, oil is increasing in price. And when the dollar is
20 strong, oil is decreasing in price. So if you had a large oil
21 position and you wanted to hedge it, you'd use the U.S. dollar
22 to hedge it.

23 Q What does that mean to hedge something?

24 A It means to take an opposite, something that has an
25 opposite, an inverse point of view. If the dollar is going

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1 up, oil is going down. If oil is going up, the dollar is
2 usually going down. So if you are long oil, which means you
3 own the oil, you want to protect it with a dollar position to
4 offset it just in case.

5 Q In learning about this, is there anything else that you
6 started getting involved in with respect to trading? Since
7 you were talking about the importance of the dollar, was there
8 anything else that you got involved with at this time?

9 A Well, after Empire State Brewing went down, that was
10 about the time where I started looking into the currency
11 trading more as a full-time thing, because up until that point
12 in time I more or less just traded equities, equity options.
13 Started with the oil at Onsite. And then once I started using
14 the dollar to hedge that position, I decided to look into it a
15 little more. So at that point in time I went down to 44 Wall
16 Street. A firm was putting together a rigorous training
17 program on foreign exchange. And I believe it was about a
18 three- or four-week endeavor.

19 Q We have heard a lot about foreign currency trading. Can
20 an individual person, based on your experience, trade forex?

21 A Anyone can trade it if they like.

22 Q Where could an individual person trade forex?

23 A Usually there are companies within the United States that
24 offer retail services. FXCM is one of them.

25 Q In your experience, is forex trading risky?

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1 A Oh, yes, absolutely.

2 Q Why is that?

3 A Well, it's not so much that the currencies move a lot.
4 It's just that the leverage makes it risky. Currency moves in
5 very small increments. So if you are buying it for face
6 value, you have very little risk. But if you are using
7 leverage, then you obviously have risk. If you are trading at
8 50 times leverage and the currency declines 2 percent, you
9 have lost a hundred percent of your money.

10 Q So let's take one of those points and make sure that we
11 understand. Can you explain what you mean by leverage?

12 A Sure. Leverage means you put up a dollar. And you
13 could, let's say, buy \$10 worth of whatever you are buying.
14 So you can multiply your buying power.

15 Q What about that leverage description affects or makes
16 forex trading risky?

17 A Yes. Exactly.

18 Q Can you explain what makes it risky was my question.

19 A Okay. Well, the leverage makes it risky for the simple
20 fact that if you have a hundred thousand dollars and you are
21 trading \$10 million worth of currency at the time, it takes a
22 very small decline in the currency to wipe out the \$100,000
23 deposit.

24 Q About what year are we talking about when you start
25 getting involved in forex trading?

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1 A I remember it very clearly because it was after 911
2 because I had to go down to 44 Wall Street for the training
3 and everything was still there. So it was 2002.

4 Q By this point in 2002, roughly how many years had you
5 been working as a financial broker or trader for Wall Street
6 firms?

7 A Roughly from 1986 to 2002. So that's 16 years.

8 Q By this point in 2002, roughly how many years had you
9 been investing your own money in the stock market?

10 A Well, since I was 15 or 16, so.

11 Q Around 20 years?

12 A I guess, yeah.

13 Q By this point in 2002, were you still investing your own
14 money in the stock market?

15 A No. After -- pretty much I believe after I left Onsite,
16 that's when I went into the currency market. And I just
17 never -- I don't think I ever went back to the equity market.

18 Q Why was that?

19 A I just focused on the foreign exchange market. No reason
20 in particular.

21 Q Were you still investing in silver?

22 A Always.

23 Q And why is that?

24 A Silver is real money. 1792 Coinage Act of the United
25 States defines what a U.S. dollar is, and a U.S. dollar is

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1 371.25 grains of silver. So the reason why you want to own
2 silver is because it's real money. It will always be there.
3 Fiat currencies come and go. They always seek the -- they
4 will always end up at a value of zero at some point in time
5 because fiat currency means that it's by decree, it's fiat.
6 There's nothing to back it up.

7 Q It sounds like -- well, based on that description, where
8 do you put silver investing in your portfolio of investments
9 that you have?

10 A Well, silver would be a big part of it because, like I
11 said, it's real money.

12 Q Do you recall at this time if forex was regulated by any
13 government entity in 2002?

14 A In 2002, it was only regulated at the FCM level. That's
15 futures commission merchant. So the companies that actually
16 took in the money and facilitated the trading, the clearing
17 firms, they had a small amount of regulation. But anyone who
18 wanted to gather clients and trade, there were no regulations
19 in 2002 as of that moment.

20 Q What else happened in 2002 related to any business
21 opportunities that you might have had?

22 A So that was the year I formed International Currency
23 Traders.

24 Q What kind of business was International Currency Traders?

25 A It was a commodity trading advisor. So what we did is we

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1 managed individual accounts in the foreign exchange market.

2 Q What was your role in the business?

3 A I was the president of the company and the head trader.

4 Q For how many years did ICT operate?

5 A 2002 until we officially closed in 2009, but we ceased
6 trading after the Lehman Brothers collapse in the fall of
7 2008.

8 Q Now, getting back to ICT, is that the same ICT that you
9 were reading about in your journal when we started?

10 A Yes, it is.

11 Q I think I asked you earlier if forex was regulated in
12 2002. What year did that change, if you know?

13 A If I remember correctly, I think it was around 2005.

14 Q As a result of those 2005 regulation changes, what action
15 did you have to take?

16 A I became a member of the NFA, and I registered with the
17 CFTC.

18 Q Is there anything else that you had to do in starting
19 ICT?

20 A Sure. In order to be registered, you had to pass the
21 Series 3 which is a commodities exam.

22 Q Did you pass that exam?

23 A Yes, I did.

24 Q What was the purpose of passing the Series 3 exam?

25 A Just to show your ability and knowledge of the commodity

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1 futures market.

2 Q You mentioned something about Lehman Brothers. What was
3 happening in financial markets around 2007 and 2008?

4 A Well, 2007 -- really the mortgage crisis really began in
5 2006. There were liquidity issues throughout the system in
6 2006 and 2007, but it all came to a head in 2008 when Lehman
7 Brothers went down.

8 Q When you say "liquidity issues," what does that mean?

9 A Well, the markets, fixed income markets have overnight
10 lending between banks. So banks lend each other money to make
11 up the differences. If one bank has more cash and the other
12 bank has more assets, they have to switch sometimes. They
13 have to trade that. So what will happen is the liquidity
14 lines got tied up because banks didn't have liquidity and
15 banks were entrusting other banks at that point in time.

16 Q As a result of those mortgage-backed securities problems,
17 if you know, what happened?

18 A Well, the mortgage-backed securities caused the largest
19 financial crisis in American history.

20 Q How did that affect banks?

21 A Well, Lehman Brothers went down completely. Wachovia
22 Bank had to be taken over by Wells Fargo to survive. Merrill
23 Lynch had to be taken over by Bank of America to survive. AIG
24 was on the ropes. And because of that, their counterparty at
25 Goldman Sachs was in trouble. And therefore everybody went to

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1 the U.S. government to try and get a bailout to keep these
2 banks afloat.

3 Q Was Lehman Brothers one of those companies who were
4 bailed out by the government?

5 A No. They needed \$6 billion to survive. They were
6 allowed to go down, and it cost us a few trillion dollars to
7 do that.

8 Q How did this financial crisis affect ICT?

9 A Well, we got caught in the turmoil. So one evening our
10 clearing firm just shut their feeds off, and we ended up
11 getting hit on a position probably for about 80 percent of the
12 capital we had. So we had to shut down.

13 Q On what date or what time frame did ICT stop conducting
14 business?

15 A I think it was somewhere in October of 2008.

16 Q Did the U.S. government bail you out like it bailed out
17 other banks?

18 A No. I wasn't big enough for that.

19 Q How did closing ICT affect you financially?

20 A Oh, again it was devastating because our clients were
21 doing well and then overnight you have an 80 percent loss.
22 Everybody had individual accounts. They could log in. I was
23 a CTA. So we didn't touch any of the money. The money had to
24 go directly to our clearing firm. Our clearing firms set up
25 the accounts. The only thing I had was a limited power of

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1 attorney which allowed me to trade on their accounts. But we
2 lost probably 80 percent overnight.

3 So what I did at that point was I took everything we
4 had left in the firm, anything in our commission accounts,
5 anything anywhere in the firm and I credited back as much as I
6 could to each individual client on a percentage allocation.
7 And at that point in time, I told everybody I don't think we
8 are going to be able to do this anymore for a while because
9 the markets were in a tremendous amount of turmoil and we just
10 didn't have enough capital to be able to continue.

11 Q How did closing ICT affect you personally and
12 financially?

13 A Well, I was left with nothing because I had everything I
14 had in that company also. And at that point in time, you
15 know, when something like that happens and it was pretty
16 devastating, I just used what we had left to credit who was in
17 the accounts, and I walked away overnight. I had went from
18 having a successful company that had income to having nothing.
19 So that ended up causing me to declare bankruptcy once again.

20 Q Did you hire an attorney to assist you in that
21 bankruptcy?

22 A I did.

23 Q And who did you hire?

24 A Well, at first I called Mr. Anile again and I asked him
25 his advice.

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1 Q Let me stop you right there. You mentioned that you
2 called Mr. Anile. There had been some time since you had
3 spoken to him, had it not?

4 A No. He actually sets up -- yeah. He sets up -- he set
5 up ICT and the DaCorta Group in 2002 for me.

6 Q Did Mr. Anile represent you in the bankruptcy?

7 A No. I called him. He said he really doesn't do that
8 type of law, but he recommended someone for me to call.

9 Q After you closed ICT in late 2008, did someone contact
10 you about ICT?

11 A Yes.

12 Q And who or what agency contacted you?

13 A We were shut down for several months already. And I got
14 a call from the NFA saying they needed to do a closing audit.

15 Q How did they contact you? I think you said --

16 A My cell phone.

17 Q As a part of the NFA's audit, what did you decide to do?

18 A Well, what I decided to do was to sign an informal
19 agreement with them.

20 MS. IRVIN: Your Honor, may I approach the witness?

21 Thank you.

22 BY MS. IRVIN:

23 Q Mr. DaCorta, I'm showing you what's been previously
24 marked as Government Exhibit 111. Do you recognize it?

25 A Yes, I do.

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1 MS. IRVIN: Your Honor, may I publish?

2 THE COURT: Yes.

3 MS. IRVIN: Can I publish to the Elmo?

4 THE COURT: It was already admitted, right?

5 MS. IRVIN: It was, Your Honor.

6 THE COURT: Yes.

7 BY MS. IRVIN:

8 Q Mr. DaCorta, can you see this on the screen in front of
9 you?

10 A Yes, I can.

11 Q What's the date at the top of this agreement?

12 A It's August 9 of 2010.

13 Q And if you I'm going to turn to -- let me ask you this:

14 On page 2, do you recognize your signature?

15 A Yes, I do.

16 Q And what date did you sign this?

17 A August 9, 2010.

18 Q What were the reasons that you decided to sign this
19 agreement?

20 A Well, at the time I had no funds to hire an attorney. I
21 wasn't really thinking of staying in the business anymore. So
22 I just wanted to move on with my life.

23 Q And what did you understand the terms of the agreement
24 were?

25 A It was pretty simple. I was agreeing not to become a

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1 member of the NFA, to seek membership or to reregister with a
2 CFTC member firm or become a principal in one.

3 Q How did it affect your current NFA membership?

4 A Oh, well, I had applied to withdraw from membership even
5 before this happened. I applied before they even came for the
6 audit.

7 Q How did it affect any admission or denial as to the
8 audit's findings?

9 A Oh, I made sure I told their attorney that I wouldn't
10 admit to anything that they were alleging. So he agreed to
11 put into the agreement that I would neither admit nor deny.

12 Q What did it mean with respect to your agreement about
13 forex?

14 A It simply meant that I would not seek registration with
15 the CFTC or become a member of the NFA.

16 Q After you closed ICT in 2008, what did you do?

17 A Okay. So after I closed in 2008, I was -- I think
18 unemployed for about a year or two. It was a reasonable
19 amount of time. My wife had went and got a job at a medical
20 facility to kind of stem the tide while I was looking for
21 something. I was looking to change industries altogether. So
22 it was a little bit more difficult to find something because
23 you're looking to change from an industry that you were in
24 most of your life.

25 Q What was the reason that you wanted to change industries

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1 at that time?

2 A After what happened in 2008, I was just a little tired
3 and burnt out. It was a super busy time from 2002 and 2008.
4 I was working around the clock. And to have everything happen
5 in like one day, it was just so devastating that I just
6 decided to move on.

7 Q Around this time -- I think we are in about 2010; is that
8 correct?

9 A Correct.

10 Q Did you meet someone in 2010 as you were taking a break
11 from working in the financial industry?

12 A Well, the next thing I did was Ambit Energy with Ray
13 Montie. I believe that was June of 2011, if I'm not mistaken.

14 Q Who is Ray Montie?

15 A Ray Montie at the time was a national consultant with
16 Ambit Energy.

17 Q What is Ambit Energy?

18 A Ambit Energy is a company out of Dallas, Texas, that was
19 basically an electricity reseller.

20 Q How did you come to meet Ray Montie?

21 A At one point during the day, I believe it was a Friday
22 afternoon, I just received an email into my spam. And I never
23 look at spam emails, but for this one time in particular, I
24 clicked on it and it said an opportunity in the energy
25 industry. And being that I had traded oil and I had some sort

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1 of interest in that, I decided to call them.

2 Q What happened when you called the number?

3 A I called Ray. I got his voicemail. I left him a
4 message. He called me back probably an hour later.

5 Q What did you learn from your conversation with
6 Mr. Montie?

7 A Sure. I think we spoke for at least an hour, hour and a
8 half. He told me about his business. And I told him I think
9 it's something that I could be successful at. So we decided
10 to meet at a later date.

11 Q In addition to it being sort of a business that dealt
12 with electricity, what was it about the opportunity that drew
13 you to the business?

14 A Well, again, it's an opportunity to work for yourself and
15 control your own destiny. So I just thought because it was a
16 multilevel marketing company, I was never really into that.
17 However, when I heard what the product was, most multilevel
18 companies sell products. So you have to constantly call
19 people to see if they want to reorder. And on top of that,
20 the products are usually overpriced so that way the money
21 could make money and make everybody selling them make money,
22 but Ambit Energy was selling electricity. So if someone
23 decided to switch electricity bills and they were going to get
24 a discount, then every time they paid for their electricity,
25 you got paid a commission. So you really only had to sell

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1 them on it one time. And as long as their bill was discounted
2 and they were happy, every time they paid their electric bill
3 you made money.

4 Q The Ambit company that you were referring to, is that the
5 same Ambit that is -- that you read about, you read to us in
6 your journal earlier this afternoon?

7 A Yes, it was.

8 Q And is the Ray that is also mentioned in your journal,
9 that the same Ray Montie that you read to us from your journal
10 earlier today?

11 A Yes, it is.

12 Q For about how long did you participate in Ambit Energy?

13 A 2010 -- I mean, 2011 I started. I think I did it really
14 hard for a little while and then kind of slowly got less and
15 less, but I pretty much retained -- was within it probably
16 until I moved to Florida, because once I moved to Florida,
17 it's not in this state. The state is not deregulated with
18 electric. So they don't have any business here.

19 Q Did you work directly with Ray Montie, or was this just a
20 one-time phone conversation that you had with him?

21 A Oh, no. Ray went out of his way to drive from Long
22 Island to Poughkeepsie on a regular basis to help me build the
23 business.

24 Q And working together did you work just once a month?
25 Were you working together on a regular basis?

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1 A No. When you work with Ray, you work every day. So he
2 was up here. He was up in Poughkeepsie pretty much three or
3 four times a week helping me build my business. Every time
4 that I had appointments, he would come and help me until I
5 really learned how to do it on my own.

6 Q How did Ray Montie learn about your experience in the
7 financial world?

8 A We just were always together driving to different
9 meetings. So we would just talk as friends, whether it was
10 sports, politics, business. We just had conversations about
11 everything.

12 Q When he learned about your financial background, what did
13 he want you to do?

14 A Well, at some point Ray asked me if he would just put a
15 few dollars in an account for himself would I trade it for
16 him.

17 Q When you say would you trade for him, what was it that
18 you were going to be trading for Mr. Montie?

19 A Foreign exchange.

20 Q What was your response?

21 A At first I was a little reluctant because I was still
22 kind of feeling the effects of what happened with ICT, but Ray
23 has a way of convincing you. So I told him -- after a couple
24 of times, I said, sure, that's fine.

25 Q Did anything else affect your decision to start to trade

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1 for him in forex?

2 A Yeah. So I believe that I wasn't seeing the Ambit
3 business grow big enough, quick enough for me to support my
4 family. So I told Ray I loved the business, I enjoyed doing
5 it, but I think I'm going to have to go and pursue a full-time
6 job and do it part-time. So at that point in time he said
7 would it help if I gave you some money to trade for me and I
8 will split the profits with you.

9 Q Logistically, how is it that you traded for him?

10 A It was just simple. It was just a handshake. So he
11 opened an account for himself in his own name, and he just
12 gave me the login credentials.

13 Q With those login credentials, what did you end up trading
14 for him?

15 A What did I --

16 Q How much did you trade for him?

17 A I think he started with \$25,000.

18 Q And what happened with those trades?

19 A I think in about seven or eight weeks it was up to
20 33,000.

21 Q Did he pay you for the trades?

22 A Oh, yeah. He promised he would pay me. Whatever he
23 promised, he keeps his promise.

24 Q And what was the agreement between the two of you with
25 respect to the trades?

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1 A I think it was 50/50, but I think he probably even gave
2 me more because he knew I needed it more than he did. He is a
3 very generous individual.

4 Q After you traded that first I think you said \$25,000 for
5 him and made a profit, what did Ray Montie want you to do?

6 A Ray asked me if he could ask a few people to join us.
7 And I again was a little reluctant, and I said we can't do it
8 as individuals, individual accounts. I'm not going to log
9 into three or four different accounts at the same time. I
10 said if we did that, we have to kind of form a little
11 investment club.

12 Q Why would it be difficult or why couldn't you trade for
13 multiple people as individuals?

14 A Well, if they were individuals, you would literally have
15 to log in to every individual account. So if I buy something
16 for Ray and someone else -- by the time you get to someone
17 else, the price may have changed and then they are going to
18 have different results. And everyone's just all friends. So
19 it would be easier to trade from one account.

20 Q In making the decision to now trade for Mr. Montie and a
21 few other people, what was your plan or your thought about how
22 you would do this?

23 A We figured we would make a little club out of it. So I
24 actually purchased a company by the name of Oasis Management,
25 LLC, that was through Corp 95, I believe. They used to form

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1 companies. They were a service. They would form the company
2 in advance. Instead of you having to go through the process,
3 you would go on and buy it. The minute you bought it, you got
4 all the financial -- all the corporate documents.

5 Q So let's unpack that because there was a lot of
6 information in there. You decided that you were -- I think
7 you mentioned in deciding that you were going to do this small
8 group of trading, that you wanted to start a company. Is that
9 what you were --

10 A Right. The only way to do it is to form some sort of
11 entity.

12 Q And about how many people were going to be involved in
13 this club?

14 A It was a handful. I mean Ray said five or six people at
15 the beginning.

16 Q In deciding that you were going to invest for this small
17 group of people, take us step by step through how you came
18 about forming this company. What was the first thing that you
19 did?

20 A Well, the first thing I did was at that point in time I
21 just went online and found Oasis Management through the
22 service. And I was able to -- I was able to take it, get it
23 as a company in my possession, own it. And then at that point
24 in time I needed some advice about how to set it up.

25 Q So you said that you contacted a company called Corp 95?

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1 A Yes. I believe it was called Corp 95.

2 Q What is Corp 95?

3 A It's just a company that forms corporations in different
4 states. And you can kind of pick and choose whichever one you
5 like. It just happened that Oasis Management sounded like a
6 good name. So that's the one I chose. There were other ones
7 on the site at the time.

8 Q So it may not be something that a lot of people are
9 familiar with. So that's the reason I'm taking you through
10 this step by step. You contact Corp 95. Where is the company
11 located?

12 A Oasis was a Wyoming corporation.

13 Q And when you talk about the companies that already had
14 names, is there a particular name that is given to these kinds
15 of companies?

16 A They are called shelf companies because they are already
17 formed. They have never been used. No one has ever owned
18 them before. They are formed by the agent whoever formed
19 them, an attorney. And they are just on a shelf waiting to be
20 purchased. They are already done. So you don't have to go
21 through the process of getting an EIN number, a taxpayer
22 number for the corporation. All of that is already done.

23 Q In addition to those benefits that you have talked about
24 with respect to a shelf company, is there anything else that
25 is a benefit of having a shelf company that is already made?

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1 A It was just much quicker. And on top of that, it's just
2 more cost effective. It was all set up already and it saves
3 you time. So the cost of setting it up is probably similar to
4 going and getting it set up from scratch, but you just save a
5 few days.

6 Q Who were the principals of this new company, Oasis
7 Management?

8 A It was just myself. And then the limited partners
9 started to come in. So Ray was obviously the first limited
10 partner, Ray Montie.

11 Q So in your role in Oasis Management, were you a general
12 partner? Were you a limited partner?

13 A I was a general partner.

14 Q With respect to Ray Montie, I think you said this
15 already, was he a general or limited partner?

16 A He was a limited partner.

17 Q And about how many other limited partners do you recall
18 there being when you first started Oasis Management, LLC?

19 A I think it was a handful, maybe six or eight.

20 Q Approximately if you recall, how much money were the
21 limited partners providing for trading?

22 A I think the total including Ray's money at that time was
23 about 90 or \$95,000.

24 Q What kind of trading were you going to do for this Oasis
25 Management company that included these limited partners?

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1 A Yes. We did foreign exchange again, and we did it
2 through CitiFX, which is owned by Citigroup.

3 Q When you say that you did the trades through CitiFX, what
4 is CitiFX?

5 A CitiFX was a foreign exchange dealer, but it was owned by
6 Citigroup. So it was within the Citibank corporation.

7 Q Was there any decision that you made about how you were
8 going to trade the funds that had been provided to Oasis
9 Management from the limited partners?

10 A It was just -- we were just trying to get in and make
11 some money, but it was something that was very limited. So
12 what we would do is go in, trade here and there a day. It
13 wasn't like trading around the clock. It was just a trade
14 here, trade there and try to generate profit. And if I
15 generated enough profit within a few days or a month or a
16 week, I would just stop trading for the month.

17 Q Were there any decisions that you made about the way that
18 you were trading to affect the risk?

19 A Yes. So what happened was after what happened with ICT,
20 I never again wanted to put up 100 percent of the capital we
21 had to trade. So what I did is I would put a small percentage
22 of it. I would keep the rest back, and I would use the
23 leverage to be able to reflect the return on the total amount.

24 Q And so to be clear, in order to do that, what was the
25 decision that you made about the funds that you were going to

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1 be trading on CitiFX?

2 A It was going to be traded in one corporate account.

3 Q And anything, any decision that you made regarding what
4 percentage might be traded on that account?

5 A It depended, but I think, you know, we never put more
6 than 40 or 50 percent of the money into the account.

7 Q Did this small Oasis Management investment club do well?

8 A It did. The first few months we did extremely well. I
9 think the only statement I know of that exists, CitiFX, I
10 think we were up \$281,000 in May of 2012. So we only had to
11 put up 200,000. And then we added another 200,000 I think
12 somewhere late in April. So by May we had a significant
13 return on our money in a few months' time.

14 Q As a result of this short-term success, what, if
15 anything, did Ray Montie want to do?

16 A Me and Ray, we'd constantly talk. And we talked about is
17 there any way to turn this into a real business. It's just a
18 club. And again I was reluctant because I knew what happened
19 with ICT. I obviously knew of the NFA letter. So at that
20 point in time, I said if we want to do something, we need to
21 call and ask an attorney.

22 Q In making that decision to call an attorney, who did you
23 call?

24 A I called Joe Anile.

25 Q Before we get to the agreement, why Joe Anile?

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1 A Joe Anile had set up ICT. And Joe Anile was probably at
2 that time someone that I knew of that was one of the best
3 corporate and financial attorneys that I knew.

4 Q What was the purpose for calling Mr. Anile?

5 A I called him to ask him if he would want to meet with us
6 because we were thinking about doing something a little bit
7 more with our idea. And I asked him if he would sit down with
8 us and kind of just, you know, talk and bat around ideas.

9 Q Where is it that -- well, before I get there, was it only
10 you that was going to meet with Mr. Anile?

11 A Oh, no. Me and Ray were going to meet him together.

12 Q Do you know whether Mr. Anile and Ray Montie knew each
13 other at that time?

14 A No, they did not.

15 Q Where is it that you decided to meet?

16 A We met initially at a diner on Long Island. And it was a
17 combination of a little Ambit talk and then afterwards talk
18 about how to proceed with the ideas we were thinking of.

19 MS. IRVIN: Can I just have one moment, Your Honor?

20 BY MS. IRVIN:

21 Q When you went to meet with Mr. Anile and Mr. Montie, what
22 was the purpose of the discussion?

23 A Well, the purpose of the discussion was to seek his
24 counsel on how to maybe turn a small investment club into a
25 business again.

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1 Q Would you say it was a brainstorm or do you think it
2 was -- would you say that this was just to float the idea to
3 Mr. Anile?

4 A Yes. This was just an initial meeting. During that
5 meeting, you know, Joe agreed that he would help us in some
6 way. And he said give me a couple of days to think it over
7 and I'll call you back. And he did a couple days later.

8 Q Do you remember if you and Mr. Anile met again following
9 that meeting and at the diner with Mr. Montie?

10 A Yes.

11 Q Let's just take it step by step. Do you remember when
12 you met Mr. Anile again?

13 A Yes. So first he called me and he said he had some ideas
14 and he would like to meet again. So he said he was willing to
15 drive to my home in Poughkeepsie and he did that.

16 Q When you say he had to drive up, where was Mr. Anile
17 living at the time?

18 A Joe lived on Long Island.

19 Q What was the purpose of this meeting?

20 A This was a brainstorming meeting. I wanted to give him
21 more information, and I wanted him to give me some feedback on
22 what he thought would be a proper way to proceed.

23 Q Where did this meeting take place?

24 A At my home in Poughkeepsie, 5 Pat Drive.

25 Q Was anyone else home at the time that you met with

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1 Mr. Anile?

2 A I think Carolyn was home.

3 Q Do you remember about what time of day it was?

4 A He came around 10:00, 10:30 because he wanted to leave
5 after the traffic subsided. So he got to my house probably
6 between 10:30 and 11:00.

7 Q As part of your discussion that you said was
8 brainstorming, were you talking about how this company that
9 you were trying to form would be formed?

10 A Yes.

11 Q And did Mr. Anile give any suggestions for the structure
12 of the company?

13 A Yes, he did. The first thing we did was we just talked
14 about broad ideas. And the first thing I did was I showed
15 Mr. Anile the letter from the NFA before we proceeded and did
16 anything.

17 Q Where was the letter from the NFA located in your house,
18 if you remember?

19 A Yeah. Actually it was just in a file I had. I think --
20 I'm not sure where. It was probably in my office though, but
21 I had the letter available.

22 Q Why did you show the letter to Mr. Anile?

23 A Because I wanted to make sure whatever we did we'd be in
24 compliance with that letter.

25 Q Explain what you mean about being in compliance with that

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1 letter.

2 A Well, the letter clearly stated that I agreed not to
3 reregister with the CFTC or become a member with the NFA. So
4 I wanted to make sure whatever he decided to structure, we
5 would not need to seek membership. And if we did, I would ask
6 him to go and contact them to renegotiate it if it needed to
7 be done.

8 Q Do you recall if Mr. Anile read the letter?

9 A He did, absolutely.

10 Q Actually, let me correct that. Do you recall if
11 Mr. Anile read the NFA informal agreement?

12 A Yes, he did.

13 Q And was that agreement that you showed to him, if you
14 remember, the same signed agreement that we reviewed earlier
15 this afternoon?

16 A Absolutely. That's the one it was.

17 Q What was Mr. Montie's reaction to reading the NFA
18 informal agreement that you signed?

19 A Mr. Montie didn't read it.

20 Q Pardon me. Mr. Anile. What was Mr. Anile's response to
21 you showing him the NFA informal agreement?

22 A He looked at it. He read it. And he said this won't be
23 a problem with anything. We are going to structure.

24 Q At that time, Mr. Anile was working in what kind of
25 capacity as an attorney, if you know?

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1 A He was just -- he was an attorney. I mean, he was a
2 financial attorney, a corporate attorney. And he knew
3 regulations both from the SEC side and the CFTC side.

4 Q At that time when you are having this conversation with
5 Mr. Anile in 2012, for about how long had you known Mr. Anile?

6 A Since 1998.

7 Q What did you know about his reputation?

8 A His reputation as far as I know was stellar. I mean,
9 everyone I ever met that knew him told me what a great guy he
10 was and told me how smart he was. Everybody would comment on
11 how smart he was and how successful he was. So obviously I
12 never envisioned him wanting to be a partner because I didn't
13 think he would want to be a partner with me and Ray doing a
14 small deal, but he was someone that I had a great amount of
15 respect for.

16 Q Was he someone that you trusted?

17 A Oh, absolutely.

18 Q Did you rely on his counsel, his advice that he was
19 giving you regarding the NFA informal agreement?

20 A Absolutely, 100 percent.

21 Q In brainstorming the company that you wanted to form, how
22 did you envision your role in this new company?

23 A Well, I envisioned that I would take care of the
24 investment end of it, Joe would take care of the legal end of
25 it, and Ray would take care of the marketing end of it.

DIRECT EXAMINATION OF MICHAEL J. DACORTA

1 Q Why is that?

2 A Because Ray was a marketing guy, I traded, and Joe was
3 the attorney. So it made sense.

4 Q When you say that Joe was the attorney, did you envision
5 or discuss that he would only be in charge of legal?

6 A Well, at that point in time we were talking about a hedge
7 fund. And I didn't expect Joe to ask to be a partner. But he
8 said, you know, what I would love to do, he says I would love
9 to be a partner on this if you guys are willing to take me as
10 a partner.

11 Q So you said that you did not think that he would -- you
12 had not thought about him being a partner. You had thought
13 about him being in charge of legal. Was there anything else
14 that you thought you would want him to be in charge of if he
15 was going to be a part of this company?

16 A Well, if he was going to be a part of the company, the
17 only realistic reason why I would give him a partnership is
18 for his legal and compliance experience.

19 Q I think you mentioned that he suggested a hedge fund as a
20 possible structure for this company?

21 A Yes.

22 Q What's a hedge fund?

23 A A hedge fund is just a fund that takes in money from
24 different investors. And it's usually much longer term. It's
25 not very liquid. So usually you have to tie your money up for

DIRECT EXAMINATION OF MICHAEL J. DACORTA

1 three to five years at a minimum. And you make investments in
2 whatever you tell people you are going to make investments in.
3 So you have an offering, and the offering specifies what the
4 fund is going to do. And then you pursue those investments.

5 Q What were the goals that you and Mr. Montie and Mr. Anile
6 had for this company that you were working to form?

7 A Well, after the 2008 crisis, the one thing I wanted was
8 liquidity. So it was absolutely essential to me that whatever
9 we formed, we didn't tie the people up for three to five years
10 like a normal hedge fund did.

11 Q Any other goals that you had?

12 A Well, you are always going to have goals of growing your
13 business and being successful. But for the most part we
14 wanted it to be liquid, and we wanted it to be something that
15 we would pursue different investments so we could diversify.

16 Q Was a hedge fund created?

17 A Yes.

18 Q What was the name of the hedge fund?

19 A Sierra Partners.

20 Q Was there a similar offering for funds for Sierra
21 Partners?

22 A Yes. We did a confidential private offering memorandum,
23 but this time we did a Reg D 504, not a 506.

24 Q Who did the legal work for that offering?

25 A Joe did it all.

DIRECT EXAMINATION OF MICHAEL J. DACORTA

1 Q When we talk about the legal work that he did for setting
2 up a hedge fund, if you know what does that entail?

3 A Well, I mean, it's a little bit more involved than just
4 setting up a company. So I don't know the details, but
5 Mr. Anile had a lot of experience doing it. And he said, you
6 know, he'll handle all of that. And within a few weeks he had
7 it all set up.

8 Q Is there anything generally that you understand about --
9 even though you may not understand the details, were there
10 general things that he was doing to create the Sierra fund
11 hedge fund?

12 A Sure. Once you form the company and the partnership, you
13 have to go out and get prime brokers, banking relationships.
14 You have to sign agreements with those prime brokers and
15 banking relationships. So he did all of that behind the
16 scenes while we were working on figuring out how to set up the
17 investment end of it.

18 Q Once Mr. Anile completed that hedge fund setup for Sierra
19 Partners, what was your reaction to the final product as a
20 hedge fund?

21 A Well, initially when I looked at it, I realized that the
22 prime broker setup he had set up for us, I believe it was
23 through Cowen & Company, the minimums were extremely high.
24 And I thought to myself we are never going to be able to grow
25 a business big enough, fast enough to offset the minimums. So

DIRECT EXAMINATION OF MICHAEL J. DACORTA

1 that and then the fact that it did not turn out to be as
2 liquid as I had requested, I decided it's not something we
3 should continue to pursue.

4 Q As a result of that, what did you and Mr. Montie and
5 Mr. Anile decide with respect to Sierra Partners hedge fund?

6 A We decided to just put it on the shelf.

7 Q And when you say "put it on the shelf," what do you mean?

8 A It's formed. It was a formed hedge fund and it had some
9 value, but I believe we had one investor who sent in a hundred
10 thousand dollars. It was in escrow. We just sent him his
11 money back and we just put the company on hold.

12 Q After you put the company on hold, then what did you and
13 Mr. Anile and Mr. Montie decide to do?

14 A We began to think about ways of moving forward. And at
15 that point in time I knew sort of the structure I wanted to
16 do, but Mr. Anile and I decided that -- I believe he spoke
17 with outside counsel. I think it was Jack Drohan. And I
18 think at that point in time we decided to set up a registered
19 investment advisor in the Cayman Islands.

20 Q Before we talk about that investment advisory company, at
21 this point what is your role in -- again, you are still
22 forming this company. Is your role staying the same as the
23 person that -- the roles that you were going to have in Sierra
24 Partners?

25 A Yes. Pretty much. I was going to be the investment

DIRECT EXAMINATION OF MICHAEL J. DACORTA

1 maker, the investment decision maker. Joe was going to be the
2 attorney. Ray was going to help with marketing.

3 Q Now that you are moving to a new idea, what was going to
4 be the name of this company?

5 A Well, since I had Oasis Management already set up, I just
6 told Mr. Anile that why don't we keep the name similar. So he
7 formed it at Oasis International Group.

8 Q If you recall, how do you remember Mr. Anile setting up
9 the structure between Oasis International Group and Oasis
10 Management, LLC?

11 A So at the beginning they were and they remained two
12 separate companies. Over time we began to -- I began to make
13 Oasis Management mirror what Oasis International Group was
14 because my goal was to merge the two and bring them together.
15 So I believe we would have achieved that in 2019. So Oasis
16 International Group would have owned a hundred percent of
17 Oasis Management.

18 Q So that moved us way forward into the future. But back
19 when it was just beginning, was there a certain relationship
20 that was created or that there was a thought to creating
21 between Oasis International Group and the already existing
22 Oasis Management, LLC?

23 A Well, eventually when Oasis International Group got off
24 the ground and we would use -- Oasis Management, instead of
25 using CitiFX, we would end up using Oasis International Group.

DIRECT EXAMINATION OF MICHAEL J. DACORTA

1 Q Were one of those two companies going to be considered a
2 retail company or a parent company?

3 A Yes. Oasis International Group would have been the
4 parent company of everything we did from here on in.

5 Q In creating the funding for this company, was there a
6 fund offering made?

7 A Yes. There was another offering.

8 Q Who wrote that offering?

9 A Mr. Anile did.

10 Q When we talk about this offering, is there an official
11 name for what this offering memorandum is called?

12 A Yes. It's called CPOM, confidential private offering
13 memorandum.

14 Q Even though it's called a memorandum, is it short or is
15 it lengthy?

16 A It's lengthy.

17 Q Is this something that you would have created, or is this
18 something that Mr. Anile drafted?

19 A No. Mr. Anile took care of that.

20 Q As part of the confidential -- excuse me. As part of
21 this offering memorandum, what kind of information is included
22 in this memorandum, if you know?

23 A Nature of the business, who the officers are, the stock,
24 how the stock is distributed, how many shares you are selling,
25 what type of shares you're selling, how the new shareholders

DIRECT EXAMINATION OF MICHAEL J. DACORTA

1 will be treated as far as what their stock, whether it's a
2 voting stock, nonvoting stock. So there is a lot of
3 information within it. There are risk factors obviously in
4 it, but there is a tremendous amount of information.

5 Q With respect to this offering for funds, really that
6 means you are raising funds for Oasis International Group,
7 right?

8 A Correct.

9 Q And what were the kinds of stock offerings that were
10 offered?

11 A We offered preferred shares, so --

12 Q What does that mean?

13 A Preferred shares are ahead of the common shares. So we
14 as owners owned the common shares, and we gave the
15 shareholders a position above us which is the preferred
16 shares. So their shares have to be worth more than they put
17 in before our shares could be worth anything.

18 Q In addition to this preferred stock offering, what other
19 steps did you and Mr. Anile and Mr. Montie have to take to get
20 OIG off the ground?

21 A Well, I mean, obviously we had to begin to operate the
22 business. So once we raised some funding, and we broke
23 escrow, at that point in time we had to set up a clearing
24 firm.

25 Q And what clearing firm did you use?

DIRECT EXAMINATION OF MICHAEL J. DACORTA

1 A We used CFH in London the first time.

2 Q For how long did you use CFH?

3 A From the beginning, which I believe is 2013-ish, to
4 somewhere around the early part of 2015.

5 Q What's the purpose of CFH with respect to your business
6 that you are running in OIG? What are they doing for you?

7 A So they were essentially the clearing end. They provided
8 the back office system. They provided the trading platforms,
9 and they provided the clearing services.

10 Q We were heard a lot about the back office. Just to give
11 some context to that because it's been a little while, when
12 you were working on Wall Street back in the '80s and '90s,
13 what did a physical back office look like?

14 A Well, back then it was fairly large room with lots of
15 desk and lots of papers, but technology kind of changed that a
16 little bit.

17 Q What was the purpose of the back office whether then in
18 the late '80s and '90s or now when we are in about 2010 in our
19 timeline here?

20 A The back office is to simply keep track of everything
21 going on on the front end, everything that's going on in the
22 trading desk, everything that's going on within your
23 operations. So whatever happens during the day, it has to go
24 through your back office. All the trades have to be cleared.
25 If there's any errors or trades that don't match up, you have

DIRECT EXAMINATION OF MICHAEL J. DACORTA

1 to make sure they are matched up. So it's a really
2 administrative part of the business.

3 Q Is it also an accounting part of the business?

4 A Absolutely.

5 Q Is that the purpose that CFH was going to accomplish for
6 OIG? That's why you had them?

7 A Right. When you're trading and you need to have those
8 trades distributed among different subaccounts, you need some
9 sort of accounting system to do that.

10 Q In addition to CFH, was there anything else that OIG
11 needed to have to start operating?

12 A Well, I mean obviously besides the capital, besides a
13 clearing firm, well, we wanted -- you don't need a
14 broker-dealer, but I wanted the broker-dealer after my
15 experience in 2008.

16 Q Why did you want a broker-dealer?

17 A Well, the broker-dealer is something that -- you place
18 your money with the broker-dealer. So if you are trading
19 without it, you are putting pretty much all your money out to
20 trade. With the broker-dealer you could put a percentage of
21 it up. So after learning what happened in 2008 and not having
22 any control over that and then having at that time our
23 broker-dealer, which was Icon Global Markets, have a very bad
24 evening where they shut our feed off and we couldn't trade for
25 two or three hours, I never wanted to see that happen again.

DIRECT EXAMINATION OF MICHAEL J. DACORTA

1 Q So let's talk about where the broker-dealer is located.
2 Where is the broker-dealer that you all decide to purchase?

3 A So the first one at the advice of Mr. Drohan in New York
4 City, who is a very high-level CFTC attorney, he goes around
5 the country speaking on CFTC issues, he recommended a company
6 in New Zealand.

7 Q Was OIG successful in purchasing the New Zealand
8 broker-dealer?

9 A Yes, we were.

10 Q Is that the same broker-dealer that you referred to when
11 you were reading from the journal earlier that afternoon?

12 A No. That was a different one.

13 Q Okay. Let me go back to when you started. I think you
14 mentioned the Caymans. Why was the decision made to domicile
15 OIG in the Caymans?

16 A Both Mr. Anile and Mr. Drohan thought that would be a
17 good place to be. At the beginning of our operations, we were
18 thinking of offering services outside of the United States,
19 regular customers. And inside the United States we would only
20 accept ECPs. And at that point in time everyone would have
21 their own subcontract, and everyone would see everything
22 that's going on in the back office as far as each trade.

23 Q So this is again early on in the formation of OIG. And I
24 heard you say that you were only accepting ECPs; is that
25 correct?

DIRECT EXAMINATION OF MICHAEL J. DACORTA

1 A That's correct.

2 Q What's an ECP?

3 A Eligible contract participant.

4 Q What is an eligible contract participant?

5 A It's a person that has a level of expertise and wealth
6 that the regulatory agencies feel that they don't need advice
7 from the regulatory industry to make their own decisions.

8 Q What was your understanding of the amount of wealth that
9 an ECP must have, if you know?

10 A Mr. Anile used to handle this, but I think it's either
11 five or \$10 million in net worth.

12 Q With respect to any ECP that would be providing funds to
13 Oasis International Group, would that person go through
14 Mr. Anile?

15 A Yes. They would have had to fill out a questionnaire,
16 provide ID, provide an electric bill, certain amount of
17 information, and then Mr. Anile would have to either approve
18 it or not approve it.

19 Q Again, this time it's early on, what is your role in
20 Oasis International Group at this time while you are just
21 purchasing the broker-dealer and just starting the company?

22 A So I was the CEO. And at that point in time I was
23 looking to reach out to bring a few people into the company
24 that may help us grow.

25 Q At that time were you taking a salary?

DIRECT EXAMINATION OF MICHAEL J. DACORTA

1 A No.

2 Q How were you being compensated for your work?

3 A I always was compensated through Oasis Management.

4 Q What was Mr. Montie's role or position in OIG at that
5 time?

6 A He was the president.

7 Q And did Mr. Montie take a salary from OIG?

8 A I'm sorry. I thought you said Mr. Anile.

9 Q No. Mr. Montie.

10 A Mr. Montie was an equal partner.

11 Q Did Mr. Montie take a salary, if you know?

12 A No.

13 Q How often would you speak with Mr. Montie about the
14 day-to-day business of, first, Oasis Management, LLC?

15 A We spoke more about Ambit at that point in time and OM,
16 LLC, early on. That would be like an after conversation just
17 because we were together a lot.

18 Q How often would you speak or meet with Mr. Montie about
19 Oasis International Group?

20 A Again, it would be sporadically. Maybe a couple days a
21 week we would talk about it just in general.

22 Q Now, let's talk about Mr. Anile's role. What was
23 Mr. Anile's role in Oasis International Group?

24 A Well, as an equal partner he was -- when I spoke to Ray,
25 I said, Ray, Joe would like to be a partner in this.

DIRECT EXAMINATION OF MICHAEL J. DACORTA

1 And he said, what do you think?

2 And I said, well, Joe is one of the top attorneys I
3 know. If we could have him in-house, I think it's a smart
4 thing to do to have an attorney as one of your partners. So
5 that was the only reason why we would have Joe as a partner,
6 because that was what he did. That was his function, to be
7 our attorney and be our compliance officer.

8 Q You heard Mr. Anile testify that he was not the attorney
9 for OIG. What is your reaction to that?

10 A That's a false statement.

11 Q Why is that?

12 A He was always the attorney. Pretty much everyone who
13 testified here only knew him as the attorney for OIG. And
14 there would have been no reason to offer him a partnership
15 because he didn't bring anything else to the table.

16 Q How was Mr. Anile compensated for his work at that time?

17 A My initial agreement with Mr. Anile was to pay him
18 \$10,000 a month.

19 THE COURT: All right. Well, let's stop right there.
20 Let's call it a week, shall we?

21 Ladies and gentlemen, we are making very good
22 progress. I will have a report for you Monday once I figure
23 out kind of where we are. We are making very good progress.

24 Please leave this case right here. Don't even think
25 about it. It's not over yet. And I will see you Monday. Can

DIRECT EXAMINATION OF MICHAEL J. DACORTA

1 we come in Monday at 8:30? Is that a hardship or can we do
2 it? Let's get after it.

3 Thank you very much. Please have a very good
4 weekend.

5 (Jury escorted out of the courtroom.)

6 THE COURT: Have a good weekend, everybody.

7 (Proceedings concluded at 4:43 p.m.)

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DIRECT EXAMINATION OF MICHAEL J. DACORTA

1 UNITED STATES DISTRICT COURT)
2 MIDDLE DISTRICT OF FLORIDA)

REPORTER TRANSCRIPT CERTIFICATE

I, Tracey Aurelio, Official Court Reporter for the United States District Court, Middle District of Florida, certify, pursuant to Section 753, Title 28, United States Code, that the foregoing is a true and correct transcription of the stenographic notes taken by the undersigned in the above-entitled matter (Pages 1 through 259 inclusive) and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States of America.

/s Tracey Aurelio

Tracey Aurelio, RMR, RDR, CRR
Official Court Reporter
United States District Court
Middle District of Florida
Tampa Division
Date: September 4, 2022

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA,)
) 8:19-cr-605-WFJ-CPT-1
 PLAINTIFF,) Tampa
) May 2, 2022
 v.) 8:25 a.m.
)
 MICHAEL J. DACORTA,)
)
 DEFENDANT.)

DAY 11
TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE WILLIAM F. JUNG
UNITED STATES DISTRICT JUDGE

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Proceedings recorded by mechanical stenography,
transcript produced by computer.

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(Proceedings commenced at 8:25 a.m.)

MR. ALLEN: So two issues, Your Honor. One has to do with the NFA agreement that's been brought into evidence that was redacted.

THE COURT: Right.

MR. ALLEN: So the Court is aware, the reason that had been redacted is we had entered an agreement with the government in lieu of me filing a 403 motion or 404(b) motion that we would redact that and we wouldn't go too far abreast. During Mr. DaCorta's direct examination on Friday, he went too far abreast. And so in light of that, the government is going to go further into the NFA agreement because we opened the door to it to some degree. So it is our intent on direct examination to introduce through Mr. DaCorta the unredacted version of the NFA agreement. So I wanted the Court to be aware of why that is why that's happening.

THE COURT: Sure.

MR. ALLEN: Also, over the weekend in light of the evidence that's come in, we have made some strategy decisions regarding our defense cause. And I'm in a position to tell the Court what we anticipate what's going to happen in the defense case for timing purposes. So Mr. DaCorta will finish his direct and cross-examination and redirect we anticipate today. We will then recall Mr. Burling regarding the records

1 he didn't recall. That should be pretty short. We also have
2 available the appraiser who did the appraisal for the
3 commercial property. It should be pretty short. And then we
4 have our expert witness, Mr. McFarland. He's a CPA witness.
5 We are prepared to put all of them on today if we get to it
6 today.

7 Tomorrow I'm concerned that we are going to have some
8 gaps, and it's for the following reasons. So tomorrow it will
9 be the finishing of Mr. McFarland or the starting of
10 Mr. McFarland. We have two lenders that are going to come
11 testify. We have a third lender, John Paniagua, who the Court
12 has heard about who also did the IT work on the back office
13 for Oasis. He has a lawyer. He is booked to fly in Tuesday
14 night to testify Wednesday. I'm trying to see if we can get
15 him on a plane today, but we very well may run out of
16 witnesses tomorrow with one witness left go, which is John
17 Paniagua. Assuming we can't get him here today so that he
18 could testify tomorrow, what I would propose is that if we
19 take up the jury instructions after our last witness on
20 Tuesday, come in Wednesday, do John Paniagua and go straight
21 into closings on Wednesday.

22 THE COURT: All right. Well, that assumes the
23 government doesn't have any rebuttal.

24 MR. ALLEN: Correct.

25 THE COURT: Do you anticipate any?

1 MS. BEDKE: Not at this time, Your Honor.

2 THE COURT: Let's just -- because I need to leave
3 Wednesday evening. So let's see if we can just move heaven
4 and earth to get Mr. Paniagua here sooner.

5 MR. ALLEN: I'm trying, Your Honor.

6 THE COURT: I know you are. Everybody is working
7 real hard. I know. A million moving parts in one of these
8 trials.

9 MR. ALLEN: Your Honor, would it be your intent to
10 have the jury deliberating Thursday and Friday?

11 THE COURT: I don't know that there are any judges in
12 this building.

13 MR. ALLEN: I think you're right.

14 THE COURT: Maybe Judge Merryday. I doubt it. So
15 that would be another reason to try to get Mr. Paniagua here.

16 MR. ALLEN: We are working on it now. I can only
17 tell the Court that we talked to his lawyer this morning, and
18 he said unlikely but he would check with his client. So we
19 are trying.

20 THE COURT: I don't think the jury instructions -- I
21 have gone through them this weekend. I don't think there is
22 much to talk about it, but we will talk about it.

23 MR. ALLEN: And we have some additional we will be
24 filing tonight, some defense-related stuff.

25 THE COURT: Okay.

1 MR. ROSENTHAL: Your Honor, there was also a motion
2 to allow Mr. McFarland to get his electronic equipment in.

3 THE COURT: The easiest way to do that is to draft an
4 order, or if you want me do it by hand, write down his name,
5 all that. And Paniagua too. I mean, I don't care. To me the
6 whole thing is just the silliest rule, but whatever. I'm not
7 in charge.

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DIRECT EXAMINATION OF MICHAEL DACORTA

1 (Jury escorted into the courtroom.)

2 THE COURT: Thank you, ladies and gentlemen. I hope
3 everybody had a good weekend.

4 Counsel you may continue your direct.

5 MS. IRVIN: Thank you, Judge.

6 **MICHAEL DACORTA, CALLED BY THE DEFENSE, PREVIOUSLY SWORN**

7 **DIRECT EXAMINATION**

8 BY MS. IRVIN:

9 Q Mr. DaCorta, when we finished Friday afternoon, we were
10 discussing the development of Oasis International Group. But
11 before we continue that conversation, there are a few items I
12 want to revisit from Friday's testimony. Okay?

13 A Sure.

14 Q Relatively earlier in your testimony on Friday, do you
15 recall testifying about an agreement that you had between the
16 National Futures Association and you personally?

17 A I do.

18 Q And that agreement, I think you testified, also included
19 a company that you owned at the time. And what was the name
20 of that company?

21 A International Currency Traders.

22 Q And do you recall that you testified International
23 Currency Traders operated from about 2002 to about October of
24 2008?

25 A Correct.

DIRECT EXAMINATION OF MICHAEL DACORTA

1 Q It what was ICT?

2 A ICT was a CTA, which is a commodity trading advisor.

3 Q What did ICT trade?

4 A ICT traded foreign exchange.

5 Q Was ICT registered with the NFA?

6 A Yes, it was.

7 Q Do you recall that you testified on Friday that in
8 October of 2008 ICT ceased options and it closed, correct?

9 A Correct.

10 Q You also testified that at some point ICT closed. The
11 NFA did a closing audit of ICT. Is that what you recollect?

12 A Yes.

13 Q When you learned about the ICT audit, were you given an
14 opportunity to respond to that audit's findings?

15 A Yes, I was.

16 Q After you had the opportunity to respond to those
17 findings, what decision did you make about the audit and the
18 findings?

19 A After I wrote the letter, I made a decision to make the
20 agreement with the NFA that I would no longer seek
21 registration and membership.

22 MS. IRVIN: Your Honor, may I approach the witness?

23 THE COURT: Yes. Of course.

24 BY MS. IRVIN:

25 Q Mr. DaCorta, do you recall on Friday when we discussed

DIRECT EXAMINATION OF MICHAEL DACORTA

1 this agreement, that there was a redacted version of the
2 agreement that we reviewed?

3 A (Witness nods head.)

4 Q And that agreement --

5 MS. IRVIN: May I publish on the Elmo?

6 THE COURT: Of course.

7 BY MS. IRVIN:

8 Q That agreement was already entered into evidence as
9 Government's Exhibit 111. And do you recall that when we
10 reviewed this, there were certain sections of the agreement
11 that were redacted or blacked out?

12 A Yes, I do.

13 Q Can you see those redactions on page 1 of Government
14 Exhibit 111?

15 A Yes, I can.

16 Q What's the date on this exhibit?

17 A It's August 9 of 2010.

18 Q And also, I think those were the extent of the exhibits,
19 but do you see on the second page -- are you able to see any
20 other redactions?

21 A Yes. There seems to be one on the very bottom.

22 Q Do you recognize your signature on this?

23 A Yes, I do.

24 Q Now, I handed you what has been previously marked as
25 Defendant's Exhibit 308. Do you see that in front of you?

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1 A I do.

2 Q What is that?

3 A It's the same agreement unredacted.

4 Q Does it fairly and accurately represent the entire
5 unredacted agreement?

6 A Yes, it does.

7 MS. IRVIN: Your Honor, may we admit Exhibit 308?

8 THE COURT: 308 will be admitted.

9 MR. MURRAY: No objection.

10 (Defendant Exhibit 308 admitted.)

11 BY MS. IRVIN:

12 Q Mr. DaCorta, we are going to go through this agreement.

13 And first at the very top of the page, just as a comparison to
14 what we just saw, what's the date on the agreement?

15 A August 9 of 2010.

16 Q In the second paragraph, does it state the date that the
17 NFA conducted the audit?

18 A It says 2009.

19 Q In conducting the audit, who were the parties that were
20 being audited in Paragraph 2?

21 A ICT itself, the company, and myself as the principal.

22 Q It appears that there are certain findings that were made
23 by the NFA about you and ICT. And those are listed in
24 Paragraph 2; is that correct?

25 A Yes, it is.

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1 Q Of those findings, I'm going to go through them with you.
2 If you could please look at Paragraph 2, line three. What is
3 the first finding that the NFA discovered as a result of its
4 audit?

5 A It says, deficiencies in connection with their
6 solicitations of investors to make loans to ICT and/or DaCorta
7 and purchase stock in a company owned and operated by DaCorta.

8 Q So those are two of the findings that the NFA made with
9 respect to ICT and to you personally; is that correct?

10 A That's correct.

11 Q And the next line, what does it say are the findings of
12 the audit by the NFA as to you and ICT?

13 A The audit cited ICT with failing to register certain
14 individuals as associated persons, list certain branch
15 offices, supervise AP, which are associated persons, working
16 at the branch offices, adopt and implement promotional
17 material, procedures, or development, and implement a business
18 continuity and disaster recovery program or adequate ethics
19 training program.

20 Q On the next line, please read what yours and ICT's
21 response was to those findings?

22 A ICT and DaCorta denied many of the findings in NFA's
23 audit report, especially those relating to their solicitations
24 of loans and stock purchases from investors.

25 Q In the third paragraph, please read what it states that

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1 NFA was recommending, considering to recommend as a result of
2 the findings of the 2009 audit of ICT?

3 A NFA is considering recommending formal discipline action
4 against ICT and DaCorta based on the deficiencies found in the
5 2009 audit of ICT.

6 Q The fourth paragraph describes conditions under which the
7 NFA would decide not to seek those formal disciplinary
8 actions. And starting on line 2 with, "If ICT," would you
9 please read what those conditions are?

10 A If ICT could agree to withdraw from NFA membership and
11 not reapply for registration as an NFA member, or act as a
12 principal of an NFA member at any time in the future, and
13 DaCorta would agree to withdraw from NFA associate membership
14 and as a principal of ICT and not reapply for registration as
15 an NFA member or associate, or act as a principal or NFA
16 member at any time in the future.

17 Q In reviewing that particular paragraph, what was your
18 understanding of what you needed to do or you would agree to
19 do to ensure that the NFA would not seek formal disciplinary
20 action against you or ICT?

21 A Not seek to be a member of the NFA and not seek
22 registration of the CFTC.

23 Q What was your understanding of your rights that you would
24 have if you went forward with a formal disciplinary proceeding
25 before the NFA?

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1 A I'm sorry. Can you repeat the question?

2 Q If you decided not to enter this agreement and instead
3 decided to go forward and have formal disciplinary
4 proceedings, what was your understanding of what your rights
5 would be in those proceedings?

6 A Well, it would have been something where I would have had
7 to hire an attorney that was in that field of practice to act
8 to defend me against the allegations.

9 Q At that time did you have funds to be able to hire an
10 attorney to represent you?

11 A No, absolutely not.

12 Q If we can now look at the last paragraph on page 1 of
13 Defense Exhibit 308. What did the NFA decide?

14 A Now, therefore, NFA does hereby agree to forego
15 recommending formal disciplinary action against ICT and
16 DaCorta based on NFA's 2009 audit, and settle all issues
17 arising therefrom.

18 Q If you could please turn to page 2. This paragraph
19 explains what you are agreeing to do and what the NFA is
20 agreeing to do with respect to this agreement, right?

21 A Correct.

22 Q So in the first two lines beginning with, "In
23 consideration," and ending with, "Audit," can you just read
24 that first section all the way up to, "Audit"?

25 A In consideration of NFA's agreement, ICT, without

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1 admitting or denying the findings in NFA's audit, hereby
2 agrees --

3 Q Hold on one second. Just in reading that section right
4 there, what was your understanding that ICT was stating as a
5 part of this agreement based on what that line says?

6 A That ICT is not admitting or denying any of their
7 findings.

8 Q Okay. And because of that, it then continues with what
9 ICT agrees to do under this agreement, correct?

10 A Correct.

11 Q If you could just read up until the semicolon.

12 A Hereby agrees to withdraw from NFA membership and not
13 reapply for registration as an NFA member or act as a
14 principal of an NFA member at any time in the future.

15 Q What was your understanding that ICT had to do under this
16 agreement?

17 A Withdraw its membership and not reapply.

18 Q And not reapply for what?

19 A NFA membership.

20 Q Moving on to the next section that is specific to you,
21 Mr. DaCorta, please read what the next three lines state.

22 A DaCorta, without admitting or denying the findings in
23 NFA's audit, hereby agrees to withdraw from NFA associate
24 membership and as a principal of ICT and not reapply for
25 registration as an NFA member or associate or act as a

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1 principal of an NFA member at any time in the future.

2 Q What is your understanding of what you were agreeing to
3 do under this agreement?

4 A I was agreeing to withdraw as a member of the NFA, my own
5 associate membership, and not reapply for membership in the
6 NFA.

7 Q And what does it also say about working for any member
8 company that was registered with the NFA?

9 A Right. I agreed also not to work for any as a principal.

10 Q Please continue to read the rest of that sentence
11 beginning with, "ICT and DaCorta," and I'm going to have you
12 stop where I have my pen.

13 A ICT and DaCorta further agree that in the event they were
14 to breach this agreement by applying for registration as an
15 NFA member or associate or acting as a principal of an NFA
16 member, then -- I'm sorry. Is that where you want me to stop?

17 Q Yes. So you understand there's a part of this that you
18 are agreeing to, but there is also a consequence if there is a
19 breach.

20 What is your understanding of the word "breach"?
21 What does this mean to you?

22 A Breach is if you violate the terms of the agreement.

23 Q So if you break the terms of the agreement, it then says
24 what happens? If you can read starting with where you left
25 off at, and let's just do one at a time what each of those

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1 possible consequences of a breach could be.

2 A Then their breach of this agreement shall constitute sole
3 good cause for, one, denying their applications for
4 registration as an NFA member or associate.

5 Q So if you decided to breach this agreement, what would be
6 the consequence to you or ICT under this Number 1 explanation?

7 A If I reapplied, they would deny me. That would be
8 grounds for denial.

9 Q And the "they" is the NFA?

10 A Yes, sorry.

11 Q Let's look at Number 2. Please read Number 2.

12 A Denying the application for registration as an NFA member
13 of any firm of which either of them is a principal.

14 Q What is your understanding of what that says?

15 A Any firm that registers, tries to register with the NFA
16 as a member that I am a principal of, that firm will be
17 denied.

18 Q It would be denied what?

19 A Membership in the NFA.

20 Q And then lastly Number 3.

21 A And/or revoking the registration of any NFA member of
22 which either of them is a principal.

23 Q When you agreed to this, did you understand those two
24 pages that we just reviewed?

25 A Yes, I did.

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1 Q As a result of that, did you sign the agreement?

2 A I did.

3 Q And when is it dated?

4 A August 9, 2010.

5 Q Is this the full agreement?

6 A Yes, it is.

7 Q How did this agreement, you signing this agreement affect

8 ICT?

9 A ICT closed business for good.

10 Q How did this agreement affect ICT?

11 A ICT was closed. It was out of business and no longer a
12 member of the NFA.

13 Q Totally understand. But how did this agreement that you
14 signed with the NFA affect ICT?

15 A ICT could no longer apply for membership with the NFA.

16 Q It wasn't operating anymore, right?

17 MR. MURRAY: Objection. Leading.

18 A No, it was not operating.

19 THE COURT: Overruled.

20 BY MS. IRVIN:

21 Q Was ICT operating?

22 A No, it was not.

23 Q What if any effect then did the NFA agreement have on
24 ICT?

25 A ICT ceased operations.

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1 Q Okay. Is it fair to say that there was no effect on ICT
2 because it was already closed?

3 A Well, that's correct because we ceased any trading
4 operations in October of 2008.

5 Q How did you signing this agreement affect your ability to
6 trade forex?

7 A It prohibited me from trading forex as an NFA member or
8 registration with the CFTC.

9 Q What else?

10 A As far as? I'm sorry.

11 Q What else did this agreement require from you?

12 A It required me to no longer have any ability to
13 reregister or apply for membership with the NFA.

14 Q Was it your understanding that you could continue to
15 trade forex as a non-NFA member?

16 A Yes. As long as I was a non-NFA member and I didn't fall
17 under the jurisdiction for any reason, there would be no
18 reason for me not to be able to.

19 Q And what was your understanding based on?

20 A The initial conversation with the compliance department
21 at CitiFX.

22 Q Was that -- let's get to that because I think that that's
23 the next step of what we are going to talk about. We are
24 going to fast forward to your meeting with Ray Montie.

25 A Okay.

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1 Q You testified on Friday about meeting Ray Montie and the
2 time that you started working at Ambit. Do you recall that?

3 A Yes, I do.

4 Q And in your testimony you said that you told Mr. Montie
5 about your financial background and what happened at ICT.

6 A Correct.

7 Q What did you tell him about the August 9, 2010, NFA
8 agreement that we just reviewed?

9 A At that point in time, I never mentioned it.

10 Q Why is that?

11 A There was really no reason to because if I -- we were
12 just talking in general terms at that point in time.

13 Q You have also testified about Mr. Montie asking you to
14 trade for him individually. Do you remember that?

15 A Yes, I do.

16 Q And I think you testified that you had some hesitation at
17 first, but then you decided that you were going to trade for
18 him?

19 A Correct.

20 Q What was your understanding at that time about how the
21 NFA agreement that you signed affected your ability to trade
22 forex for Ray Montie?

23 A It had no effect whatsoever.

24 Q Why is that?

25 A Because an individual can make an agreement with a single

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1 individual, especially if they're friends, to trade or to do
2 anything at that point in time. There was no jurisdiction
3 over one individual trading for a single individual.

4 Q At the time that you decided that you were going to trade
5 foreign currency for Mr. Montie, did you show him the NFA
6 agreement?

7 A No, I did not.

8 Q Why not?

9 A At that point in time, again there would be no reason to.
10 It didn't -- I wasn't violating it in any way, and it was
11 not -- it was an offline agreement. So it was done just
12 simply to move my life on. So it was -- I didn't feel any
13 reason to show it. I had told him what happened with ICT. So
14 that was the main subject matter that I spoke about.

15 Q When you state that it's an offline agreement, what do
16 you mean by that?

17 A It was an informal agreement. It was just between me and
18 them and it wasn't publicized in any way whatsoever or put
19 into the record.

20 Q You also testified that after you started trading or at
21 least your initial trade for Mr. Montie, that that first trade
22 went well?

23 A Yes. The first few weeks went extremely well.

24 Q And as a result of that, Mr. Montie encouraged you to
25 trade for other people?

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1 A That's correct.

2 Q And the discussion about that, I think you testified that
3 that was called the friends and family program?

4 A Correct.

5 Q And about how many people do you recall were in that
6 group?

7 A The initial were six to eight including Montie.

8 Q Of those six to eight people, what were they considered?
9 Were they just considered individual investors, or did you
10 consider them to have a particular status?

11 A No. They were considered limited partners of the company
12 that we used to create the club.

13 Q And what was that company called?

14 A Oasis Management.

15 Q What was your understanding about your ability to trade
16 forex for these six to eight limited partners keeping in mind
17 the NFA agreement that you signed?

18 A Correct. Well, I wanted to make sure I was in
19 compliance. So first thing I did was contact CitiFX. I had
20 someone there that I knew and explain to him what I was
21 looking to do, which was to have a very small handful of
22 people in one company where I would only be trading one
23 account, the company account. I would not be trading for each
24 person individually. And then he went to his compliance
25 department to ask --

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1 MR. MURRAY: Objection. Hearsay.

2 THE COURT: Sustained.

3 BY MS. IRVIN:

4 Q Let's back up to CitiFX. What was the role of CitiFX
5 with Oasis Management, LLC, during the time frame that you are
6 talking about?

7 A CitiFX was where Oasis Management applied to have an
8 account to be able to trade foreign exchange through their
9 dealing desk.

10 Q And time frame, are we talking about 2011?

11 A I believe it was January of '12, 2012.

12 Q So in January of 2012, explain the reasons why you would
13 have contacted CitiFX in order to ask questions about being
14 able to do forex trading for these six to eight people?

15 A Sure. Because I very simply wanted to make sure I would
16 be in compliance.

17 Q Do you recall the name of the person that you spoke to at
18 CitiFX?

19 A I believe his name was Michael Merachi.

20 Q What that someone that you already had an established
21 relationship with?

22 A I knew Mike back and forth through a couple of other
23 people that I dealt with. So I knew of him, and I knew he
24 worked at CitiFX on the desk. So he was the first call I
25 made.

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1 Q In speaking to Mr. Merachi, did you tell him about the
2 NFA agreement that you signed?

3 A No. I just told him that -- I'm trying to remember next.
4 It's a long time ago. I may have. I may not have. I just
5 remember telling him that I wanted to do it to make sure that
6 we would not need to be members of the NFA.

7 Q Based on the conversation that you had with Mr. Merachi
8 at CitiFX, then what was your understanding about your ability
9 to conduct foreign exchange trading for those six to eight
10 limited partners at Oasis Management, LLC?

11 MR. MURRAY: Objection, Your Honor. It's backdoor
12 hearsay.

13 THE COURT: Sustained.

14 BY MS. IRVIN:

15 Q In your decision making to trade forex for these six to
16 eight people, what was your concern?

17 A My concern was that I would violate the NFA agreement.
18 So I wanted to make sure that I would not. And I needed to do
19 it in a way that would be consistent with keeping in
20 compliance with the agreement.

21 Q Now, at the time we are talking about -- at this time we
22 are talking about Oasis Management, LLC. Just a reminder, we
23 are going back to kind of catching up to where we were on
24 Friday. Who were the principal as the Oasis Management, LLC?

25 A I was the general partner, and then everyone else was

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1 limited partners. Ray was obviously the first limited
2 partner.

3 Q What kind of trading were you doing?

4 A Foreign exchange.

5 Q A related question to what we talked about with those
6 limited partners. What was your understanding about your
7 ability to conduct forex trading for Oasis Management, LLC, in
8 light of the NFA agreement that you signed?

9 A At that point in time, I was aware and informed that I
10 would not be in violation of the agreement.

11 Q Let's move forward now. Almost caught up here to the
12 formation of Oasis International Group. About what year, what
13 time frame are we talking about?

14 A I believe it was somewhere late 2012, early 2013.

15 Q You have testified already about the formation of the
16 company. And where was the company OIG domiciled?

17 A Cayman Islands.

18 Q Who drafted the incorporation documents?

19 A Mr. Anile.

20 Q Are you aware of any outside counsel that were hired to
21 assist Mr. Anile in completing the incorporation documents?

22 A I do not believe he had any outside counsel for that
23 specific purpose.

24 Q Who were the investors at the very beginning with OIG?

25 A Well, the first thing we did in order to raise working

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1 capital was to sell the preferred shares. So that was filed
2 as a Reg D 504.

3 Q Let me stop you there. When you said you are selling
4 preferred shares, what does that mean?

5 A Well, we own the common shares. And we -- when Mr. Anile
6 put the offering together, we created a preferred status. So
7 that way those people would earn a dividend. They wouldn't
8 have voting rights, but they'd earn a dividend. And their
9 shares were senior to ours. So their shares had to be valued
10 ahead of ours and have some value before our shares had any
11 value.

12 Q Does that mean that they owned part of Oasis
13 International Group?

14 A Yes, they did. They were equity stakeholders.

15 Q And the purpose of these stakeholders was to provide what
16 kind of financing for OIG?

17 A It was equity working capital.

18 Q In addition to these preferred status stockholders, who
19 were other investors, if any, in OIG?

20 A Once we were set up and we established -- we purchased
21 our broker-dealer at that point in time, our business model
22 was to take on in non-U.S. foreign exchange customers and/or
23 ECPs, which are exempt from regulatory issues.

24 Q Why was that the business plan?

25 A That was the business plan initially for the simple fact

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1 that we wanted to be in that business as part of our business
2 and we wanted to make sure again I was in compliance with my
3 NFA agreement. So therefore we had only non-U.S. customers or
4 ECPs which are exempt from the rules and regulations.

5 Q How did the process work if someone wanted to participate
6 as an investor as an ECP? What are the steps they would have
7 to take?

8 A They had to fill out a fairly extensive questionnaire.
9 And they had to provide us with some sort of ID and different
10 personal pieces of information. All of that would go directly
11 to Mr. Anile. And then he would make a decision whether he
12 approved them as an ECP or not.

13 Q What role, if any, did you have in reviewing these ECP
14 applications?

15 A Oh, I had absolutely none.

16 Q What kind of trading was happening at this time at OIG?

17 A That was foreign exchange trading for individual
18 customers.

19 Q And those individual customers, were those ECPs that you
20 just described?

21 A Yes, them and non-U.S. individuals or companies.

22 Q Was the trading for the individual ECPs or for OIG?

23 A It was specifically for the individuals.

24 Q Over what timeframe was this trading for these individual
25 ECP accounts?

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1 A From 2014 to December of 2016.

2 Q And about how many ECP participants were investing at the
3 time?

4 A At the beginning it was a handful, I mean, 10, 12 maybe
5 total.

6 Q What was your understanding about your ability to trade
7 forex for these ECPs in light of the NFA agreement that you
8 signed?

9 A The first thing I did before we formed the company was to
10 show Mr. Anile the letter to make sure we were in compliance.
11 And he assured me --

12 MR. MURRAY: Objection. Hearsay.

13 THE COURT: Well, I'll overrule that.

14 BY MS. IRVIN:

15 Q You can finish your answer.

16 A So Mr. Anile approved the type of operation we were
17 conducting was within the agreement.

18 Q When you are referring to the agreement -- may I publish
19 to the Elmo?

20 When you are referring to the agreement, are you
21 referring to a redacted agreement?

22 A I'm referring to the agreement itself.

23 Q So I have on the Elmo Government's Exhibit 111 which is
24 redacted.

25 A Yes.

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1 Q Is this the agreement that you testified that you showed
2 to Mr. Anile?

3 A Yes. I showed him an unredacted version.

4 Q You showed him an unredacted?

5 A Yes.

6 Q So that would be the one we just finished reviewing, and
7 that's Defendant's Exhibit 308?

8 A That's correct.

9 Q Do you recall when you showed him the agreement, was it
10 the same signed agreement that we reviewed this morning?

11 A It was the exact same agreement.

12 Q Based on your conversation with Mr. Anile and your review
13 with him of the NFA signed agreement, what was your
14 understanding of your ability to trade forex for these ECPs
15 that fell under Oasis International Group?

16 A I was given the green light. It was okay.

17 Q Did you seek any other advice or counsel outside of
18 Mr. Anile with respect to this decision?

19 A No.

20 Q Why not?

21 A Mr. Anile, this was his part of the law that he
22 specialized in. So when he looked at it, he reviewed it, I
23 knew his resume, I knew he had worked for the CFTC in the
24 past, and I knew his entire career was both in securities
25 regulations and that type of law. So when he told me we are

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1 fine, I completely 100 percent trusted him.

2 Q Now, you mentioned that you referred to this agreement as
3 an offline agreement. Why was it important to you to stay in
4 compliance with an agreement that was offline, not published?

5 A I always play by the rules. Whether it's sports,
6 business or life, I play within the rules. I signed an
7 agreement, and I wanted to stick to it.

8 Q You mentioned that you signed the agreement and you
9 wanted to stick to it. What does signing the agreement with
10 the NFA mean to you?

11 A Well, what does it mean to me? I mean, any agreement
12 that I sign means that I'm going to stick to it, I'm going to
13 abide by it. I don't breach agreements. If I make an
14 agreement with someone, whether I speak with them, shake their
15 hand or sign something, I do my best to always keep that
16 agreement.

17 Q Now, OIG is just getting off the ground. And who are the
18 principals that are involved in OIG at the beginning?

19 A It's Mr. Anile, myself, and Mr. Montie.

20 Q And just a quick review. What was Mr. Montie's role in
21 OIG at this time?

22 A Mr. Montie was extremely busy with his own business. He
23 was at that point a silent partner. He was helping marketing
24 at the beginning. He was there to be the person that helped
25 with the marketing of the business.

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1 Q What was Mr. Anile's role in OIG in particular at the
2 beginning?

3 A Well, Mr. Anile was the president and he was the attorney
4 and compliance officer. Everything we did, corporate law,
5 regulatory law, it all went through Joe and got approved by
6 Joe. Otherwise, we didn't do it.

7 Q When you say "regulatory law," are you speaking about
8 compliance?

9 A Absolutely.

10 Q What was your role at OIG?

11 A My role was to trade and to also look for other business
12 investment opportunities because we were looking to diversify
13 the company immediately. When we took in our initial share --
14 when we sold our shares, those monies were designated for both
15 making other business decisions as well as trading.

16 MS. IRVIN: Your Honor, may I have a moment?

17 BY MS. IRVIN:

18 Q Outside of you, Mr. Montie, and Mr. Anile, were any
19 personnel hired to assist in the developing of Oasis
20 International Group?

21 A Yes. We initially hired three people prior to closing
22 the preferred deal, and we told them that their positions
23 would start once we broke escrow and started actually
24 operating.

25 Q Now, at this time when you are getting ready to hire

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1 these initial personnel, where are you living?

2 A I'm in New York, Poughkeepsie, New York.

3 Q Where is Mr. Montie living?

4 A I believe at that time he was on Long Island in New York.

5 Q Where is Mr. Anile living?

6 A Long Island, New York.

7 Q Was that helpful to what you were trying to create, to
8 have the three of you relatively close to each other
9 geographically?

10 A Oh, sure.

11 Q Of the people you hired, were those also people who were
12 living in the New York, Long Island area?

13 A No.

14 Q Tell me about who you hired initially to get OIG up and
15 running from the administrative side.

16 A Sure. So we hired Brian McMahon who lived in California
17 to operate the back office. He had a lot of experience with
18 that with a previous foreign exchange company. And I knew him
19 through that relationship. When I had my company, he came to
20 try to persuade me to use their system. So I knew him from
21 that.

22 I hired Matt Cozzolino. Matt Cozzolino actually
23 worked for some of the clearing firms that I dealt with in the
24 past. He was a really good worker and he was very well
25 educated within the foreign exchange arena. So I hired him.

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1 Q Let me stop you right there. What did you hire Matt
2 Cozzolino to do?

3 A Matt was specifically supposed to bring on other money
4 managers just to trade through our system and use our
5 platform. We weren't -- not to bring money for us to manage
6 but simply to bring in other people who managed their clients'
7 money and use our platform to facilitate their trading.

8 Q At this time while you are hiring people, is there
9 trading that is going on, forex trading that is going on?

10 A Well, when we originally hired them, no, we hadn't
11 started yet.

12 Q In addition to Brian McMahon and Matt Cozzolino, was
13 anybody else hired?

14 A Yes. Butch Lyle.

15 Q What was his role?

16 A He had various roles, but mainly he was keeping different
17 spreadsheets and just helping out on various different
18 miscellaneous type items.

19 Q Would you say that he was an administrative person?

20 A Sure.

21 Q Would you say he was an accounting person?

22 A To some degree, yes.

23 Q How did things go with Brian McMahon starting to create
24 the back office for OIG?

25 A Everything went fine at that point in time. He knew what

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1 he was doing.

2 Q At some point did you make a decision that you were going
3 to move from New York to Florida?

4 A Yes.

5 Q Why was that?

6 A I always wanted to move to Florida since I was 21. My
7 wife didn't want to leave New York. So once our daughter
8 graduated high school, we made a decision that once she was
9 out of school and going to college that we would make the move
10 to Florida.

11 Q In the decision to move to Florida, how did that affect
12 any of these three initial hires and the jobs that they were
13 doing for Oasis International Group?

14 A Well, I made a decision after speaking with Mr. Anile --
15 and I believe I spoke with Mr. Montie about this also -- I
16 wanted to have everybody under one roof if possible. So I
17 made them the offer to come down. They could continue to do
18 their jobs, but I told them that if they were going to
19 continue with us, once we moved the company to Florida, I
20 wanted them to move and be under one roof.

21 Q Who of those three initial hires decided to stay on at
22 OIG with the move to Florida?

23 A So the way it worked out was Matt Cozzolino was divorced
24 and had young children and he couldn't move from Pennsylvania.
25 So he did not move. Brian McMahon was in California. He

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1 thought about it for a few days but then made a decision he
2 was not willing to make the move either. And Butch Lyle did
3 not -- he had lived in Tampa his entire life, moved to North
4 Carolina. He was kind of enjoying retirement in the
5 mountains. So he decided not to move, but Butch I found a
6 spot for in Oasis Management. So he continued with me.

7 Q Because Mr. McMahon decided that he was not going to stay
8 with the office, what did you decide or who did you hire to
9 now run the back office?

10 A Well, I spoke with Mr. Anile and I told him obviously the
11 first thing we need to hire is someone in the back office. We
12 didn't really need to replace Matt Cozzolino immediately, or
13 ever technically, but we needed someone for the back office.
14 And that's when Mr. Anile recommended that we hire his
15 brother.

16 Q And his brother is Frank Anile?

17 A That's correct.

18 Q What was your understanding about Frank Anile's
19 background with respect to his ability to run a back office?

20 A Mr. Anile, Joe Anile, told me that Frank had worked on
21 some big projects and put together some very large back
22 offices for other banks. And he said he was extremely
23 experienced in the industry. So obviously I trusted Joe. I
24 had no reason not to when he told me Frank was a great worker
25 and knew the business. So I hired him.

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1 Q Was there anybody else that you interviewed or you
2 explored to hire for that position?

3 A No. Once Joe recommended him and told me his extensive
4 background specifically in that area, I said let's hire him.

5 Q Once Mr. Frank Anile gets started, where is he living at
6 the time while you are continuing to build OIG?

7 A He lived very close to his brother, Joe. So he was also
8 on Long Island.

9 Q And the job that he had in building the back office, what
10 is it exactly that Mr. Frank Anile was doing to create the
11 back office?

12 A Well, he is really not creating it. It is already
13 created in ATC. So you white label it, but we had certain
14 parameters that we needed to make sure was functional. So he
15 would regularly do testing just to make sure that things get
16 up correctly and that all the calculations that needed to be
17 done were correct.

18 Q And ensuring that those calculations were correct, do you
19 know who he would have contact with to be able to fix or
20 adjust any of those issues?

21 A Oh, sure. So he would contact Dave Manoukian directly,
22 which was the president of ATC.

23 Q Was this a task that Mr. Frank Anile was assigned and
24 doing on his own basically in a corner office?

25 A Oh, yeah. I mean, Frank knew what he was doing. We told

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1 him make sure everything works, test everything, let us know
2 when everything is operational and functional.

3 Q Can you describe what your communication was with
4 Mr. Frank Anile about the back office and anything that he was
5 working on?

6 A He would normally call me just tell me if anything was
7 not hitting up correctly. He would put in test accounts just
8 to see how they hit up, how the responses came back. So he
9 would see what the potential customer would see just to make
10 sure all the responses were correct.

11 At one point he was -- there was some balances back
12 there and he was noticing that they were off by pennies on
13 rollovers, and he brought it to my attention. And I told him
14 talk with Dave and see what the difference is. I said it's
15 only pennies, but he made a very big deal about it.

16 Q When you said he spoke to Dave, what Dave are you
17 speaking about?

18 A Dave Manoukian at ATC.

19 MS. IRVIN: Your Honor, may I have a moment?

20 May we publish using the laptop? Thank you.

21 BY MS. IRVIN:

22 Q Mr. DaCorta, can you see on your screen what has already
23 been admitted as Exhibit 170?

24 A Yes, I do.

25 Q Do you recognize this?

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1 A Yes, I do.

2 Q What kind of document is this?

3 A Excuse me?

4 Q What kind of document is this?

5 A I believe it's an email.

6 Q At the top who is it from?

7 A You will have to make it a little bigger. So it's from
8 Ritesh at Spotex. And it's going to I guess the support desk.
9 The reason Oasis -- I'm trying to see who it's to. To support
10 desk. So Ritesh is asking his support desk to check on some
11 of the discrepancies that Frank found.

12 Q Do you know who Ritesh Agrawal is?

13 A One of the programmers at Spotex.

14 Q What's the date on this email message?

15 A It's July 1 of 2015.

16 Q On July 1, 2015, who was the person who was working the
17 back office at OIG?

18 A Frank Anile.

19 Q Can we go to the subject of the email? In reviewing
20 this, what do you recognize this to be?

21 A I recognize that to be -- the discrepancies that Frank
22 had found in the back office that he asked Dave Manoukian at
23 ATC to check with Spotex to make sure we correct the rolls.

24 Q For example, if we can go to the June 5 opening balance
25 date and difference, what does that indicate with respect to

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1 what's right or wrong about that balance?

2 A The balance was off by 2 cents.

3 Q How about for the one that's listed underneath where it
4 says "See IB Compensations" for that day?

5 A It's \$149,992 account, and it was off by 3 cents.

6 Q In going to the other two examples for June 26, what is
7 the difference that was found?

8 A Seven cents.

9 Q And what about the last noted balance?

10 A It looks like 7 cents again.

11 Q Why is Frank Anile noting 2-cent, 7-cent differences to
12 Spotex?

13 A Frank was very particular, and he told me that if
14 something is off by 2 or 3 cents a day, over weeks, months,
15 cents turn into dollars and dollars turn into hundreds of
16 dollars and you have lots of discrepancies and it is harder to
17 find out where they occurred. So he tried to nip them in the
18 bud.

19 Q This is one example. Are you aware of other times when
20 Mr. Anile noted that there was a difference between OIG back
21 office numbers and Spotex numbers?

22 A He may have a few other times. There was -- like I said,
23 every time he did it, he would calculate it to the penny each
24 day. He wouldn't wait a month. So he knew each day what the
25 balances should be. So if there was any discrepancies, at

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1 that point he immediately took it up with ATC.

2 Q Are you aware of how these would be fixed? If there were
3 errors, how would those be fixed and by whom?

4 A Right. Well, those errors were on ATC's side and Spotex
5 side. So they would go in and adjust the balance.

6 Q As far as you understand, was that a pretty easy fix?

7 A Oh, sure. Once they found the reason, the cause and they
8 also knew the amount, it's a simple fix.

9 Q Now, we are going to take a pause from talking about OIG.
10 And I want to talk to you about some statements and stories
11 that Mr. Joseph Anile testified about during his testimony.
12 Okay?

13 A Sure.

14 Q One of the things that he said was that when his brother,
15 Frank Anile, was working for OIG's back office, Mr. Joseph
16 Anile testified that his brother, Frank Anile, told him that
17 you falsified a customer's statement. What do you say to
18 that?

19 A Never happened.

20 Q How do we know that it never happened?

21 A Well, Number 1, I know I never asked him to do it.
22 Number 2, I had absolutely no ability to go into the back
23 office. The administrative passwords are different. Only
24 Frank had them. And Frank would have actually had to make the
25 change. So he wouldn't have called Joe. He would have called

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1 me and said, you know, why are we doing this? So it never
2 happened.

3 Q And to be clear, did you ever ask Frank Anile to change a
4 customer's statement?

5 A Never.

6 Q Mr. Joseph Anile also testified to a conversation that he
7 says took place in February of 2017. Mr. Anile testified that
8 he met with you to go for a walk. According to Mr. Joseph
9 Anile's testimony, you told him about suffering a trading loss
10 of \$4 million. He also said that during this conversation you
11 both agreed that this gap, what he called it, would not be
12 reported to the investors and that you both agreed during this
13 conversation to not tell the investors. Let's start first, do
14 you recall this conversation taking place?

15 A No, I do not.

16 Q What is your response to Mr. Anile saying that you were
17 discussing a \$4 million gap with him in February of 2017?

18 A Several things. Number 1, I never discussed a gap of
19 \$4 million with Mr. Anile in February --

20 Q Why is that?

21 A -- of 2017. Number 1, we didn't have a \$4 million gap in
22 2017.

23 Q Let's get to the next part. He stated that as a part of
24 this discussion that he says took place, that you both agreed
25 you were not going to tell the investors about this \$4 million

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1 gap, is what he called it. What do you say to that?

2 A I never agreed to something that didn't exist. And I
3 would never agree to something like that in the first place
4 anyway.

5 Q Would you agree to keep loss information from investors
6 with Mr. Anile?

7 A Never.

8 Q Why not?

9 A It's just not the right thing to do. I mean, I would
10 never do that. We had a program that the way -- I just
11 wouldn't do it. I mean, there is no reason for me to ever do
12 that. The people that we are talking about here are people
13 that I knew personally. Mr. Anile didn't. But every single
14 one of those people were personal people I knew, shook their
15 hands.

16 Q Let's get to the third story that Mr. Anile testified to.
17 Timing wise, Mr. Anile testified as to a 2018 discussion that
18 he said he had with you. His testimony was that you went to
19 his house and that you told him about a seven and a half to
20 \$15 million total loss. So first, do you recall this
21 discussion?

22 A No, I do not.

23 Q Do you recall ever discussing with Mr. Anile any point in
24 time a seven and a half to a \$15 million loss to OIG?

25 A Absolutely not.

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1 Q In his testimony, Mr. Joseph Anile stated that he said to
2 you, this is clearly a Ponzi scheme and you agreed. What do
3 you say to that?

4 A It's outrageous. It never happened.

5 Q Would you ever say that your business at Oasis
6 International Group or at Oasis Management, LLC, was a Ponzi?

7 A No.

8 Q Why not?

9 A Because it was not.

10 Q During that same discussion, Mr. Joseph Anile testified
11 that you both agreed that you were not going to disclose the
12 supposed seven and a half to \$15 million loss to the
13 investors. What do you say to that?

14 A It never happened. And in addition to that, I would just
15 like to say there would not be this 7 to \$15 million gap.
16 Mr. Anile saw the numbers from Mr. Paniagua every single
17 evening. He knew to the penny exactly where we were. He was
18 the only one to know all the funds coming into Mainstream and
19 all the money going out of Mainstream. So there would be no
20 news for me to bring him because he had all the knowledge of
21 everything that was going on each and every night.

22 Q Now, we are going to break down in a few minutes or over
23 the course of the rest of the morning what was going on at OIG
24 in 2017 and 2018. But generally speaking, there were times
25 that OIG suffered losses, correct?

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1 A Absolutely.

2 Q When OIG suffered loss, was there a plan in place to be
3 able to address those losses?

4 A Sure. In 2017, we were net positive at the end of the
5 year for the difference between the spreads and the P&L. In
6 2018, once I had some losses and we were moving forward, the
7 markets was very difficult in 2018. I immediately began to
8 take corrective action towards the mid to end of the year.

9 Q We will get into the details of that corrective action.
10 But generally speaking, what were the kinds of actions that
11 you were taking when you saw that there were losses?

12 A I slowed down the trading and I began to accumulate the
13 silver position.

14 Q When you say you slowed down the trading, explain what
15 you mean by that.

16 A I just reduced the volume to reduce the risk in the
17 actual day-to-day trading which created a lower spread revenue
18 for the lenders. As you heard a couple of lenders say it sort
19 of slowed down towards the end of 2018. The reason why, it
20 was a conscious decision on my part to slow down the trading,
21 to accumulate the silver and give the silver a chance to
22 recoup some of the losses that we had incurred earlier in the
23 year.

24 Q What do you mean by accumulate silver? What was the
25 point of taking what you call a particular silver position?

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1 A Well, again, silver is a commodity. Silver is real
2 money. Silver will always have a value. It's never going to
3 zero. So I observed it. I traded it all the time. But in a
4 few months during '18, it was in a very, very narrow range and
5 I observed that range. And at a certain point I began buying
6 it and accumulating it where I was building a position for the
7 single purpose of holding it to certain levels in order to
8 recoup the losses that we had incurred.

9 Q Is it fair to say that was a way to be able to protect
10 what was going on with losses at OIG?

11 A Yes. If you slow down the trading, you are going to
12 reduce any potential losses on that and you accumulate the
13 silver at that price. Silver goes to \$19, your losses are
14 completely eliminated.

15 Q Let's get back to OIG and the time frame of 2017. You
16 talked a little bit about that. What changes, if any, were
17 going on with OIG at the beginning of 2017?

18 A At the end of 2016 is when we decided to go completely to
19 a loan program where we would take -- first thing we did was
20 we told everyone that was a customer they could either close
21 their account and take their money or they can convert it to a
22 loan. And we also offered to buy all the preferred
23 shareholders' shares back to clean up, to make sure we had no
24 other shareholders in the company.

25 So the first thing we did, which took a couple of

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1 months, was to repurchase or convert the preferred
2 shareholders and then also close all the existing customer
3 accounts. Once that was achieved, I think it was sometime in
4 March we began to take in new loans.

5 Q When you say "take in new loans," how is the business
6 model for OIG different from 2016 to 2017?

7 A So in 2016, you were just a regular brokerage customer.
8 You logged into your account like you would at any brokerage.
9 You saw the profit and loss for the day. You saw everything
10 going on in the account every day. You could take your money
11 out any time you want because it's there, it's your money.

12 At the end of 2016 when we converted everybody, what
13 we did was we created the loan program. The loan program was
14 designed so that the people would be loaning the money
15 directly to Oasis International Group. Oasis International
16 Group would then be managing all the money for Oasis
17 International Group to make sure it's in compliance with the
18 agreement that we provided to everybody. So our agreement to
19 them was simply a promissory note. We promised to pay them
20 back their principal on 90 days' notice.

21 Q Hold on a second because we are getting a little bit
22 ahead of ourselves. So we got a loan program that OIG is
23 starting, correct?

24 A Correct.

25 Q Why is there this change in business model from 2016 to

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1 the 2017 loan program? Let's take it one step at a time.

2 What's the reason why OIG is making this change?

3 A So one of our ECPs came to me in I guess in the middle of
4 the year 2016. And I think he had half a million dollars. I
5 don't remember the amount. He asked me is it possible instead
6 of me being in the trading account, because he is going to
7 need money quickly, he says is it possible I could loan it to
8 you so that way I'm not subject to the ups and downs of the
9 market? I will loan you guys the money and just pay me an
10 interest rate, and that way my principal, whenever I need it I
11 can just request it. So that is the first thing that
12 happened.

13 At that point, I went to Mr. Anile and I asked him is
14 it possible that he could be a lender. Mr. Anile informed me
15 that any person could lend any company money as long as they
16 agree on the terms and -- they are in agreement on the terms,
17 but it doesn't matter at that point what the jurisdiction is
18 because if it's a short-term loan, anyone can loan money to
19 any company anywhere.

20 Q Before this particular ECP came to talk to you about
21 loaning money, had that been something that you and Mr. Anile
22 and Mr. Montie had been talking about with respect to changing
23 the business model?

24 A No.

25 Q Is it fair to say that this gentleman coming to you and

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1 talking to you about it sparked an idea for a change in the
2 business model?

3 A Yes, it did.

4 Q What was the reason, what was the benefit, if any, of
5 having this loan program for OIG?

6 A Well, if you have a loan program and if I -- when I spoke
7 to Joe about it and I asked him several questions, he said
8 there would be absolutely no restriction of a U.S. citizen
9 making a loan directly to a company as long as everybody
10 agrees on the terms of the loan agreement.

11 Q How would this be helpful to a potential investor who
12 might be loaning money to OIG? What's the benefit to them?
13 And I don't want to get to the promissory note part of it.
14 We'll get to that, but was there any benefit to a particular
15 lender?

16 A At that point in time we decided we would absorb any
17 profit and loss and we would pay them a specific amount of
18 interest or a specific amount of additional interest based
19 upon our trading volume but that the profit and loss would be
20 OIG's.

21 Q You started to talk about this a little bit, but I do
22 want to -- this is important for us to discuss. What were the
23 options that investors had if they were investing in the 2016
24 program, and you are now letting them know there's this
25 opportunity to go into the 2017 loan program, what are the

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1 options for those investors? Take them one at a time.

2 A Well, in 2016 when we shut down that program, we made it
3 clear to every account holder and anyone else who had money
4 with us in any way that either they convert to the loan
5 program or they take their money back. They have the option
6 to either be refunded or look at the loan agreement, the term,
7 and if they wish to agree and proceed, then they would convert
8 to a loan.

9 Q Let's use an example of the person who decided they did
10 not want to go forward with the loan program. How would they
11 let OIG know that that's what they wanted to do?

12 A They would simply send in a withdrawal form.

13 Q What would be the next step?

14 A It would get processed and a wire would be sent to them.

15 Q Would that refund their investment in full?

16 A Correct, whatever they had in their account because they
17 were a customer at that point. So whatever they had in their
18 account, they could request a full amount of the money that
19 was in their account.

20 Q If a person decided that they wanted to convert to the
21 2017 loan program, how would they notify OIG?

22 A Joe Anile created documents for that. I don't really
23 know exactly how he did it, but there was some sort of
24 agreement to do it. I'm not sure if he sent them the money
25 back, had them resend it under the loan agreement or if he had

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1 some conversion documents that he created.

2 Q Either way, were there documents that those investors had
3 to agree to to move forward with the 2017 loan program?

4 A Yes, absolutely.

5 Q What were the funds that would be loaned to OIG be used
6 for?

7 A A percentage would be used for collateral deposit for
8 foreign exchange trading, and the balance of it could be used
9 for pretty much any investment decision we decided we would
10 like to make.

11 Q What would be some examples of those investment decisions
12 that you could make as OIG?

13 A Well, we could pretty much make many different decisions,
14 but we stuck to real estate, physical silver and gold, and
15 other businesses, so equity financing.

16 Q Could the loans be used for the operating expenses of
17 OIG?

18 A Yes, they could.

19 Q Under the terms of the loan agreement, could the loan
20 money be used for private equity that OIG was seeking?

21 A Yes, it could.

22 Q Under the terms of the loan agreement, was it possible
23 for that money to be used for the purchase of hard gold and
24 silver?

25 A Yes, it was.

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1 Q Under the terms of the loan agreement, was it possible
2 for those funds to be used to maintain what you have referred
3 to as a silver position for OIG?

4 A Yes, it was.

5 Q You started to talk about this. This is now a good time
6 to talk about it. What were the terms of the loan?

7 A The terms of the loans are very simple. Someone is going
8 to loan us money. That capital is ours to run the company
9 with. We promise them 12 percent per year or 25 percent of
10 the transaction fees, whichever is greater.

11 Q One of the things that you testified to was the
12 importance of liquidity. Why is that important?

13 A Well, after 2008, the main cause of the 2008 crisis was a
14 lack of liquidity in the banking system. And a lot of people
15 got very nervous about that, and they should have. And when
16 we put this program together, what I wanted to do was make
17 sure that if someone needed their money, they could have it
18 within a reasonably short period of time.

19 Q How is your concern for liquidity built into this loan
20 program?

21 A It's built into the loan program by making it a 90-day
22 callable note. So any time someone needed their money, they
23 knew they were only 90 days away from receiving it at maximum.

24 Q And what process would they have to take in order to
25 withdraw any principal or any interest from that loan?

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1 A They would just simply send in a withdrawal form.

2 Q And how would the money be sent to them?

3 A The withdrawal form would go to the back office, Joe
4 Paniagua at that point in time. He would then process it, let
5 Mr. Anile know of the withdrawals. Mr. Anile would then wire
6 the money from the Mainstream account.

7 Q How did this new business model of moving from the 2016
8 investments to now the 2017 loan program affect your forex
9 trading strategy?

10 A So we developed -- when we started it, the model was
11 built on the fact that we were going to create a four-pip
12 spread. We were going to use that spread as our revenue.
13 Anything above that spread would be our profit. The spread
14 itself was broken down to where we were going to be giving one
15 pip to the lender. Three pips would be retained by the
16 company as revenue. The three pips would be used for, let's
17 say, LSA fees, which are the people who brought us loans, and
18 we were paying an extra quarter pip on.

19 Q And hold on one second because I think we are getting a
20 lot of information there. You mentioned LSAs. So let's break
21 that down. You talked about a four-pip spread. Three pips to
22 the company, and then one pip to the lender?

23 A Correct.

24 Q Now, take me to the next part of what you said. Let's
25 make sure we are breaking this down into steps so that it's

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1 clear how this plan was intended to work.

2 A Right. So the three pips were used by the company for
3 all of its expenses including paying the lender service
4 agents.

5 Q Say that last part again.

6 A Including paying the lender service agents.

7 Q Who are the lender service agents?

8 A So those are people who introduced us to people who made
9 a loan. So, for instance, I know Mr. Duran has been mentioned
10 in this courtroom. Mr. Duran brought Mr. Kihnke who testified
11 here as his loan -- the person he bought a loan from. So
12 Mr. Duran -- Mr. Kihnke would get one basis point. Mr. Duran
13 would get a quarter of one of the three basis points we earned
14 for compensation for bringing in that loan.

15 Q Let's do a comparison of a person who just comes to you
16 directly. Explain how a lender coming to you directly, not
17 being referred by anyone, how would the spread -- how was the
18 spread intended to help that person or to help OIG in earning
19 revenue?

20 A Well, if a person came directly, they would just get the
21 one pip. There would be no one getting a referral fee. So
22 OIG would earn all three pips on the other side.

23 Q Now, you gave an example of someone who may have an LSA
24 who may have referred another person to OIG?

25 A Correct.

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1 Q If you can just go through that example again of how
2 would the spread work in that example where it's OIG, a person
3 referring, and a lender.

4 A Sure. So the lender always gets the one pip. Now added
5 to the three pips that OIG earns, we are going to give a
6 quarter of that pip to the lender service agent.

7 Q And that was the plan that was in place with respect to
8 spread at the beginning of 2017 or throughout 2017?

9 A It was before the loan program was initiated. That was
10 the business model that I created.

11 Q With respect to the forex trading that you were doing at
12 the time, we're talking about 2017, was there any particular
13 strategy that you were taking with the percentage of funds
14 that you were trading?

15 A Yes. So it was always a rather small percentage of the
16 total funds that we would use as a collateral deposit at ATC,
17 but what we would do is we would represent a hundred percent
18 of the funds on ATC's Spotex website. So that way the spread
19 allocations can be made accurately and correctly to each
20 person for their full balance of their loan.

21 Q What was the reason for only using a small percentage of
22 those funds?

23 A Well, it's a lot of lessons over a lot of years,
24 especially from 2008, but what I wanted to do was use a small
25 percentage of it, collateralize the account at ATC with the

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1 full amount, trade as if I had the full amount with only a
2 small deposit, hold the rest of the funds back either in banks
3 or hard assets like real estate, gold and silver. Because
4 cash in the bank, you need a certain amount to operate your
5 business on a monthly basis, but cash in the bank is sitting
6 there earning nothing while inflation depreciates the value of
7 it. So instead of holding it in cash, I would rather hold it
8 in real estate or gold and silver or other assets that
9 actually will increase in value as inflation goes higher.

10 Q How did this plan strategy that you had in place work in
11 2017?

12 A It worked well. It was the first year. We only went
13 from March to December. We were -- I believe we were net
14 positive \$1.6 million at the end of December of 2017. Then
15 you had to take back out the -- you had to back out the
16 brokerage fees and the rollovers. But all in all for the
17 first year of business for a new model, I thought it was
18 fairly successful.

19 Q Who was doing the forex trading in 2017?

20 A 2017 I believe it was me solely. I may have hired one of
21 the traders towards the end of the year, but it was certainly
22 me the majority of the year.

23 Q And that would have been from March to December of 2017?

24 A Correct.

25 Q What was your day like, an average day in 2017, if you

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1 were the only person who was trading?

2 A Well, from Sunday at 5:00 p.m. until Friday at 5:00 p.m.,
3 you are pretty much on all the time. So it's 18 hours a day,
4 sometimes waking up in the middle of the night because I would
5 set alarms on my phone so if prices got to certain levels it
6 would wake me up, but it was around-the-clock business. And
7 at that point in time it was just me, but you are trying to
8 make it work and didn't want to bring on another trader until
9 I was sure the process was going to work.

10 Q What is it about forex trading that makes it an
11 around-the-clock business? And break that down into pieces
12 for me.

13 A Sure. So the day starts in Wellington, New Zealand,
14 rolls to Australia, Japan, Europe, you know, Frankfurt,
15 Germany. So it keeps coming as the sun comes. So it goes
16 around the world and never shuts down. If we're in the middle
17 of the night here, Europe and Asia are very active. So you
18 always have opportunities, and there is always trading going
19 on 24 hours a day.

20 Q Is it fair to say that there are markets that are open
21 throughout an American business day?

22 A Absolutely. It's opened not only 24 hours, but there are
23 very few holidays that are holidays in all countries. So
24 other than Christmas and New Year's, there are no holidays.

25 Q When we are talking about markets, we are talking about a

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1 U.S. market, correct?

2 A Correct.

3 Q What other markets would be involved in your average
4 daily trading that you were doing for forex?

5 A Well, the European market, London and the ECB. You have
6 Asia obviously, the bank of Japan. It goes around the world.
7 So every country, every area of the world is included. And
8 different parts are active at different times because of
9 obviously the time. So when Australia is very active, we're
10 sleeping. And when we are very active, they're sleeping, but
11 there is always trading.

12 Q Is there any break, when there is no trading?

13 A No.

14 Q What about Sunday?

15 A Well, yeah. From Friday at 5:00 p.m. -- I'm sorry. From
16 Sunday at 5:00 p.m. until Friday at 5:00 p.m. So you have a
17 break from 5:01 Friday night until 5:00 Sunday night.

18 Q As these loan documents and accompanying paperwork are
19 coming in, who is the person who is reviewing these loan
20 documents that are coming in?

21 A Well, they would go through the back office.

22 Mr. Paniagua would look at them first. However, the wires
23 would come in directly to Mainstream. So Joe Anile would see
24 the wires as they came in and notify Mr. Paniagua that a loan
25 was consummated.

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1 Q And I did not address this, but it was brought up in
2 Mr. Joseph Anile's testimony. At some point why was there a
3 change in the back office from Mr. Frank Anile to Mr. Joe
4 Paniagua?

5 A Frank had passed away.

6 Q And do you remember when that happened?

7 A It was sometime in 2016 prior to us converting to the
8 loan agreement.

9 Q How soon after Mr. Frank Anile passed away, did Mr. Joe
10 Paniagua take over the back office?

11 A Pretty much immediately. He just needed a few days to
12 get up to speed, but he was back there immediately.

13 Q How was it that Mr. Paniagua was hired?

14 A Mr. Paniagua again was a very close friend of Frank Anile
15 and also the Anile family. So Joe -- when Frank passed away,
16 Joe recommended that we hire Joe Paniagua.

17 Q And how did the transition from Frank Anile running the
18 back office to Joe Paniagua running the back office, how did
19 that go? How was it?

20 A It was pretty seamless. I mean, Joe Paniagua called Dave
21 Manoukian at ATC. He got up to speed with how the software
22 works. Joe is a numbers guy. He was probably better than
23 Frank just specifically with numbers and spreadsheets and
24 things like that. So Joe got up to speed within days, and it
25 was seamless at that point.

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1 Q At the end of 2017, there's a Christmas party?

2 A That's correct.

3 Q What was the reason for OIG hosting a Christmas party?

4 A Well, it was a new program. We had what I thought was a
5 fairly successful year just from the point of view that we put
6 the model together, we began to build the business based
7 around that model. Everybody involved was all people that
8 pretty much I knew or met through Ambit, the majority of them.
9 So it was really like, okay, let's bring everybody down. We
10 had just purchased a building in Longboat Key, but we hadn't
11 closed yet, but we wanted people to come down, see the
12 building, get to meet us if they hadn't and also get to meet
13 each other.

14 So it was kind of like a little bit of a marketing
15 event that we all get together, but also a little bit of a
16 thank you for being part of the group. So it was just a
17 really nice time.

18 Q Of the people who were at the party, who were invited to
19 the party, were they all lenders?

20 A 95 percent of them were. There were a few friends that I
21 had made in Sarasota. Since they were local, I just said why
22 don't you come. And also Mr. Anile invited a few of his
23 friends I believe from outside of the state.

24 Q There was a sizable money that was spent for this
25 Christmas party.

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1 A That's correct.

2 Q Any regrets about spending that amount of money for the
3 Christmas party in 2017?

4 A In 2017, looking at it -- I looked at it as an event that
5 we did absolutely zero marketing. We spent no money on
6 marketing. So I looked at it as something that was marketing,
7 advertising. Like Mr. Kihnke says, he spends hundreds of
8 thousands of dollars marketing his business. So at that point
9 in time we had a fairly break-even, slightly positive year. I
10 thought it was a good idea to bring it down.

11 Now, the cost was a little bit more than I had
12 anticipated because Joe handled what everything was as far as
13 after we made the agreement with them to use their facility.
14 Joe made a decision about open bars and certain food and
15 things like that. So it was a little bit more than I had
16 anticipated, but if you take an advertising budget and divide
17 it by 12, it was roughly about \$10,000 a month for the company
18 to use as an advertising budget.

19 Q Rolling out of 2017 and into 2018, what was your daily
20 work day like at the end of 2017?

21 A It was getting extremely busy because at that point in
22 time we were trading but we were pursuing many different types
23 of potential deals. We were purchasing real estate. So there
24 was a lot more going on than just trade every day.

25 Q If you know, what was Joe Paniagua's daily life like in

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1 particular towards the end of 2017?

2 A Joe was just incredibly busy. He was working around the
3 clock. I would speak to him sometimes at 2:00, 3:00 in the
4 morning. He was still up doing things. So he was a
5 workaholic, but we needed him to be like that because there
6 was an enormous amount of work that needed to be done.

7 Q At the end of 2017 things are going pretty well for your
8 first year. Are there any decisions that you, Mr. Anile make
9 about hiring more people?

10 A Yes. Well, in 2017 as the business started to grow, I
11 went to Joe and I said I think we need a professional CFO.

12 Q Let me hold you right there. What is a CFO?

13 A A chief financial officer.

14 Q And now go ahead and explain why you thought you needed
15 one.

16 A Well, we were growing a little bit faster than I thought
17 at the initial stages, and I realized how complicated the
18 business was going to get with all the other outside
19 investments we were doing. So I went to Joe and I said -- you
20 know, he's the legal guy, he's the compliance guy. I said we
21 need a finance guy, someone who can crunch the numbers.

22 Q After having -- was this a one-time -- I don't want you
23 to get into the subject matter, but was this a one-time
24 conversation that you had with Mr. Anile?

25 A No. It was ongoing from mid 2017 through the entire time

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1 frame.

2 Q Was this a conversation that you were having with anyone
3 else who worked at OIG?

4 A I may have mentioned it to Joe Paniagua. I know Joe
5 Paniagua mentioned to me that he had mentioned to Mr. Anile
6 also that we needed a CFO. Joe was extremely busy back there,
7 and he just felt like, you know, we need a CFO here.

8 Q When you say Joe was really busy, are you saying Joe
9 Paniagua was really busy?

10 A Yes.

11 Q Who was performing the chief financial officer's duties
12 during 2017?

13 A It was Joe Anile.

14 Q How was that working out?

15 A Well, I didn't really know because he said -- every time
16 I asked him, he said I've got it, I'm handling it, I've got
17 Peachtree software, I've got everything on the computer. At
18 some point when we are ready, we will hire a chief financial
19 officer and I will just turn everything over to them.

20 Q At any point did you suggest a particular person who you
21 thought could fill that role of CFO?

22 A Yes, I did.

23 Q And what was -- without saying what he said, what was
24 Mr. Anile's response to who you suggested?

25 A He said no.

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1 Q Was he open to having a conversation about it?

2 A No.

3 Q At any point did Mr. Paniagua suggest that it be
4 important for OIG to hire a CFO?

5 A Yes, many times.

6 Q Do you know whether or not Mr. Joe Paniagua spoke to
7 Mr. Joe Anile about that?

8 A I know he spoke to him, but I don't know how many times,
9 but he specifically told me at some point in time during '18
10 that --

11 MR. MURRAY: Objection, Your Honor. It's hearsay.

12 THE COURT: Sustained.

13 BY MS. IRVIN:

14 Q At any point did Mr. Anile agree that OIG needed a CFO?

15 A Yes. Towards the middle to the end of 2018.

16 Q Was a person hired to be the CFO?

17 A Yes. It wasn't the person I wanted, I suggested.

18 Q Who was the person that was hired to be the CFO?

19 A It was Mr. Anile's personal CPA from many years back.

20 Q What's his name?

21 A John Caliendo.

22 Q When did he start in the position of being a CFO for OIG?

23 A I believe officially right at the end of 2018, the very
24 end.

25 Q Let's talk about Mr. Anile's salary. When OIG first

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1 started, was there an agreement as to how much Mr. Anile was
2 going to be paid for his services to OIG?

3 A Yes, there was.

4 Q What was that agreement?

5 A \$10,000 a month.

6 Q Over what period of time?

7 A It never changed.

8 Q Was that agreement in writing?

9 A No, it wasn't.

10 Q How did the \$10,000 amount come about?

11 A When we first got started, Joe told me for him to be a
12 full-time active partner, that's roughly what he would need.
13 So at that point in time I agreed. And I believe I paid him
14 for the first 18 or 20 months. So I had -- at that point I
15 had control and I paid him \$10,000 a month.

16 Q When you said that you paid him \$10,000 a month, what was
17 your understanding that Mr. Anile would be paid for?

18 A Legal and compliance work as a partner in the firm.

19 Q And also president of OIG?

20 A Correct.

21 Q You said that you paid him over the course of about 18
22 months?

23 A Eighteen to 20 months, I believe.

24 Q And \$10,000 every month?

25 A Yes. I think there were a couple months that it might

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1 have been a little bit more and the next month I made it a
2 little less because he needed more for one month. So it came
3 out -- at the end of the total time I paid him, it averaged
4 out to 10,000 a month. It might have averaged slightly lower
5 than that.

6 Q Would that be from the beginning of OIG all the way
7 until -- what point are we talking about okay?

8 A So it was actually before the formation of OIG when we
9 were just gathering everything and trying to decide which way
10 to go. And I paid him every single month until OIG was funded
11 and the Fund Administration account was open.

12 Q Once the Fund Administration was open, did anything about
13 the way Mr. Anile was paid change?

14 A Yes. He had control of the checkbook at that point in
15 time. So he was paying himself.

16 Q And what was your understanding, despite the fact that he
17 now had control of the checkbook, how much he would be paid?

18 A \$10,000 a month.

19 Q Did you ever check to see if he was paid, paying himself
20 \$10,000 a month?

21 A No.

22 Q At any point did you come to learn that he was paying
23 himself more than \$10,000 a month out of that account?

24 A Yes.

25 Q How much did you learn that he was paying himself above

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1 the \$10,000, if you know?

2 A Well, I didn't learn until after this event happened when
3 we were shut down, but it was considerably more than \$10,000 a
4 month.

5 Q Why wouldn't you have a written agreement with Mr. Anile
6 to contract not just for the amount that you were paying him,
7 a written contract, but also to set out what his job duties
8 were? Why not have just a written contract to make it easier?

9 A Well, in retrospect I wish I did. However, Joe was an
10 attorney. I trusted him. I trusted him implicitly. I
11 trusted him as a brother. I mean, he was the type of guy who
12 came from a different pedigree than I did. I was a small
13 business owner. Joe came from the upper echelons of different
14 types of companies. He introduced me to people on a regular
15 basis that were at the upper echelon of investing and
16 business. And I trusted him.

17 Ray and I felt we were honored to have this guy as
18 our partner because, you know, two guys like us have a guy
19 like Joe Anile who has all these credentials as their partner,
20 we thought this is great. You know, we have nothing to worry
21 about. Joe takes care of all the legal and the compliance.
22 As long as he guides us and tells us what to do, we're good to
23 go.

24 Q As a part of Mr. Joe Anile's position as the attorney for
25 OIG, he testified that there were times that he hired outside

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1 counsel. Do you recall that testimony?

2 A Yes, I do.

3 Q And did you know that there were times that he hired
4 outside counsel?

5 A Absolutely. He always told me that any time we had to do
6 business in a different jurisdiction like the Cayman Islands,
7 like New Zealand, like Belize, that he had to hire local
8 counsel and that he would interact with them and make sure
9 everything was done according to what we needed.

10 Q Was there any other time that you can recall that he
11 would hire outside counsel for work that you all were doing
12 for OIG?

13 A Sure. So when we purchased the initial broker-dealer, he
14 hired Drohan Lee in New York City to do that transaction.

15 Q As a part of that transaction, where is it that you
16 were -- OIG was looking to purchase the broker-dealer?

17 A That broker-dealer at the suggestion of Jack Drohan was
18 in New Zealand.

19 Q What happened in OIG's attempt to purchase a
20 broker-dealer under your name?

21 A We could not.

22 Q And what was the reason for that?

23 A So when -- well, when I applied in Belize initially --
24 this is before OIG was even formed -- I learned that the
25 bankruptcy I had was a statutory disqualification. So the

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1 people who were giving me all the paperwork and providing the
2 service to make the application should have informed me ahead
3 of time because I disclosed the bankruptcy on the forms. They
4 should have informed me that that's a statutory
5 disqualification. They didn't. We spent the money to have it
6 done. We put it through, and it was rejected simply because
7 of that statutory disqualification.

8 Q Had you known that your bankruptcy which you disclosed
9 was a statutory disqualification, would you have even applied
10 for the broker-dealer in Belize?

11 A No. It would have made no sense.

12 Q What would you have done instead?

13 A Well, I would have obviously sought the advice of an
14 attorney to figure out which direction to go. I made that
15 decision prior to OIG being formed.

16 Q Did Mr. Anile ever hire outside counsel for the purchase
17 of real estate that OIG was seeking to acquire?

18 A Not outside counsel for advice, but we hired a law firm
19 to complete the transactions.

20 Q Would Mr. Anile in had your experience be the primary
21 attorney who would be handling those various real estate
22 transactions?

23 A Yes.

24 Q Let's start talking about some of those transactions.
25 You talked about Longboat Key. What's the Longboat Key

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1 building?

2 A The Longboat Key building was our company headquarters.
3 It was a beautiful building on Sarasota Bay. And it came up
4 for sale, and we thought it would be not only a great property
5 to run the business out of but a great investment to, you
6 know, secure some capital and to have that capital
7 appreciating while we were operating out of there.

8 Q Explain what you mean about how that particular office
9 building would have been financially or was financially
10 beneficial to OIG.

11 A I believe we purchased it for 1.7 or 1.75. We did some
12 renovations. And I don't know what the current appraisal is,
13 but it's worth considerably more than we paid for it.

14 Q Timing wise, what year did you -- or what part of the
15 year in 2017 did you purchase the office building?

16 A We purchased it in the fall. I think we closed sometime
17 either December or January of '18.

18 Q Was this the first purchase that you made real estate
19 wise with respect to -- that OIG made real estate wise?

20 A I do not believe so. I think 13318 Lost Key Place was
21 purchased prior to the building.

22 Q And what was that property?

23 A So that was a private residence. I was renting a home at
24 13315 Lost Key Place. 13318 was empty. The owners were
25 looking to sell it and do owner financing. I looked at the

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1 property. They were selling it for what I thought was a good
2 price as far as for the potential appreciation. So we decided
3 to purchase that property through OIG. So OIG owned that
4 property. And then we had the private mortgage, which was a
5 three-year balloon. So we paid interest only for three years.
6 And at the end of the three years we completed the obligation
7 and paid off the mortgage.

8 Q Who was living at that residence?

9 A I was living at that residence.

10 Q Who owned that residence?

11 A Oasis International Group.

12 Q Was that residence listed as an LLC or a limited
13 liability corporation?

14 A Yes, it was.

15 Q Do you know the reason for that?

16 A Yes. So Mr. Anile told me that every single property we
17 buy, even though it's going to be owned by the parent company,
18 should be put in what you call a single-purpose entity. So he
19 created an LLC to purchase each property. And the LLC that
20 purchased that property was owned either by Oasis
21 International Group or Oasis Management depending on which
22 company was buying it.

23 Q For the Longboat Key office, under what entity -- who
24 owned that? OIG?

25 A Oasis International Group.

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1 Q Okay. And what about Lost Key?

2 A Lost Key was owned by Oasis International Group.

3 Q Are those the only two properties that OIG acquired
4 during 2017?

5 A I believe so. I mean, I don't know a hundred percent.
6 6300 Midnight Pass, I'm not sure if that was '16 or '17.

7 Q Among the properties that OIG was seeking to acquire, to
8 buy, what was the point of purchasing this property?

9 A That was very simple. Instead of having all this cash in
10 the bank, you take some of that cash, you put it into real
11 estate, protect the cash from just sitting in a bank doing
12 nothing. And the real estate, you are going to achieve
13 capital gains eventually as you hold the property. All the
14 properties we purchased were properties that we made sure we
15 were purchasing at a price that would be advantageous to the
16 company for capital gains in the future.

17 Q Were improvements made to those properties that were
18 purchased by Oasis International Group?

19 A Sure. Some were for sure.

20 Q In total, do you know how many properties OIG owned by
21 the time they were closed in 2019?

22 A Well, we owned a total of 11 properties between Oasis
23 International Group and Oasis Management.

24 Q What kinds of properties were those?

25 A Some of them were very expensive homes. Some of them

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1 were condos, inexpensive condos that were just built that we
2 bought prior to the development completion so we got it at a
3 very good price. And we paid for it in full so there was no
4 mortgage on it. We have had a beach condo that we were
5 planning on renting on a regular basis because that's what
6 people did in that building. However, that facility was hit
7 by a tornado a couple of years before we purchased it on
8 Siesta Key and there was damage to the area. So what happened
9 was the condo complex had just gotten a settlement from the
10 insurance. There was a tremendous amount of work being done.
11 So we didn't want to have people coming and renting that
12 facility until the work was completed because Joe thought it
13 would be a liability. If somebody got hurt with all the
14 construction going on, they would sue us. So he said let's
15 not do any renting until everything is done. At that point in
16 time those condos sometimes rented for \$3,000 or \$4,000 a week
17 during the season.

18 Q Outside of that unexpected event that caused that
19 property not to be a rentable property right away, were the
20 other residences, whether condo or home, was someone living in
21 those residences?

22 A Most of them, yeah, I believe so.

23 Q So let's talk about the house that you were living in.
24 What's the address of that house?

25 A 13318 Lost Key Place.

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1 Q And that was an LLC?

2 A Correct.

3 Q What was the reason for you living in that particular
4 house if it was an LLC owned by Oasis?

5 A Oh, so initially we figured you purchase a house, you
6 live in it for a couple years. You are going to take good
7 care. You are going to make sure it's well maintained. And
8 then you're going to turn it over and sell it in a couple
9 years, two or three years later hopefully for a profit.

10 Q Did you make improvements to the home you were living in
11 at the time?

12 A 13318, limited improvements, but we made some.

13 Q Was there a second house that was purchased that you
14 intended to move into as your primary residence?

15 A Yeah. So in 2018 Oasis Management purchased Lacantera
16 Circle.

17 Q What was the reason for that purchase?

18 A It was the same owners that owned the 13318. They had
19 called me and asked if I would be interested in purchasing it.
20 And I asked them would you make the same deal where you did
21 owner financing. And they said, yes, they would provided the
22 down payment was enough that they could do whatever they had
23 to do. So we made that deal with them again.

24 Q What was your intention about moving into that residence?

25 A So when we purchased Lacantera, we purchased it at what

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1 we thought was an excellent price because it was a very
2 beautiful property, oversized, waterfront view in the back.
3 It was on a lake. There was a waterfront view in the front
4 also because there was a big pond in the circle. So it was
5 really a prestigious piece of property. So we felt like we
6 would do some renovation on it, sell the 13318 property, which
7 was now worth probably 30 percent more than we paid for it,
8 move into that property for a short period of time because it
9 was just me and my wife and it was a huge property, but we
10 thought we would move in, give it a couple of years to
11 appreciate, and then put that one back on the market also.

12 Q Did you make improvements to the Lacantera house?

13 A Substantial ones, yes.

14 Q And the reason for the improvements was for what purpose?

15 A Well, it was a very, very high-end house on a beautiful
16 piece of property. And the interior was kind of -- the house
17 was built and never finished. Then the people we purchased it
18 from, they bought the house. The husband was sort of a
19 handyman so he did a lot of the work himself. And it really
20 wasn't done up to standards of that type of house and that
21 type of neighborhood.

22 So what we did was we said -- we went in, I brought
23 in a contractor, I told him what the goals were. He explained
24 what he would do. We did a tremendous amount of work. And
25 then we were shut down prior -- probably two to three weeks

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1 prior to it being completed.

2 Q And again, what's the end goal for Lacantera Place for
3 that residence? What's the end goal for that?

4 A I believed that within two or three years we could flip
5 it for a million-dollar profit.

6 Q Do you know if Mr. Anile was living in a home that was --
7 in a residence that was owned by either OIG or Oasis
8 Management, LLC?

9 A Yes, he was.

10 Q What was his address?

11 A 4064 Founders Club Drive.

12 Q Do you know when he moved into that residence?

13 A It was I believe sometime in late 2017 or early 2018. I
14 don't remember.

15 Q Was the plan for Mr. Anile's residence to also fall under
16 the umbrella, if you will, of Oasis?

17 A Yes. It was owned by Oasis International Group and it
18 was also financed by the owner.

19 Q Was there a similar end goal to live in the house for a
20 certain period of time and then basically sell it for a
21 profit?

22 A Yes. Joe hated gated communities. He wanted to move --
23 Joe Anile did not like gated communities. So he was there
24 temporarily.

25 Q There were a number of other smaller residences, some

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1 condominiums or smaller homes. Tell me about what was the
2 reason for OIG or Oasis Management, LLC, acquiring those
3 properties, and what was that goal.

4 A Well, the goal is always to make money. It was a process
5 of diversifying our portfolio, buying assets that would
6 appreciate as the dollar would depreciate, which is always my
7 reason for going into this business in the first place. After
8 2008, I felt that the problem was never solved, it was papered
9 over. And I thought the next crisis was going to be a dollar
10 crisis. So my goal was to then try and create assets that
11 would appreciate as the dollar depreciated, meaning as the
12 dollar depreciates, you have inflation, so you want your value
13 of your assets to go up at least as fast or faster than the
14 rate of inflation.

15 Q You said that the goal was to make money. To make money
16 for whom?

17 A For OIG.

18 Q And in turn, making money for OIG meant what?

19 A It means you can keep your promises to your lenders.

20 Q Of these other smaller residences and condominiums, if
21 you recall, who lived in them?

22 A So I purchased four condos at Lakewood National for Oasis
23 Management prior to Lakewood National being completed. So I
24 got preconstruction prices. So I purchased the first one for
25 Vinny Raia because he was coming down.

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1 Q And who is Vinny Raia?

2 A He worked for our company.

3 Q What was his job at your company?

4 A He was specifically for property management.

5 Q So one of those condos was for him?

6 A Yes. And he paid the company rent.

7 Q Who else?

8 A The second condo I believe was -- well, there were two
9 right away. Jordan Buckingham and his wife who worked on the
10 Roar of the Lion project, he lived in one and he also paid us
11 rent.

12 Q Any other OIG employee live in any of these residences
13 that were owned by OIG?

14 A The third one, Deb Cheslow. So she worked for us
15 full-time. She was moving from Daytona where she had her life
16 over there, and she was moving on very short notice. So I
17 told her she could live there. She signed a lease with us,
18 but I said I would waive the rent for the first few months
19 until she got settled. She had to incur some expenses to buy
20 new furniture and different things. And then my son, Steven,
21 who was working for Roar of the Lion, had the fourth condo.

22 Q What was the reason for having OIG or OM, LLC, employees
23 living in condos that were also owned by the company?

24 A Well, first of all, condo purchases were just great
25 investments. We purchased them at the perfect time. And then

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1 we're bringing people in from out of state to work for us. So
2 it was close by as far as the proximity to where I lived and
3 where Joe lived and also to where the office was. So if you
4 had to go into the office, you weren't right there but you
5 were 10 miles away.

6 Q Were there any plans to build a new office?

7 A Build a new office?

8 Q Or move into a new office?

9 A No.

10 Q So you were staying at the office location?

11 A Oh, 444 Gulf of Mexico Drive was going to be our -- we
12 were renovating the upstairs. And we were going to move our
13 offices upstairs and either rent the downstairs floor or use
14 the downstairs floor for other businesses as we needed it.

15 Q If you had been able to move into the Gulf of Mexico
16 office, what would have happened to the original office for
17 OIG? What would you have done with that?

18 A The original office was on Lakewood Ranch Main Street.
19 We just rented it. So once we were able to move into the
20 building, we obviously let that lease expire.

21 Q Is there anything that was particularly unique about the
22 Gulf of Mexico location?

23 A Oh, it was incredibly unique. It was waterfront
24 property, a boat dock in the back. It was just a tremendous
25 piece of property.

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1 I remember when Matt Kihnke came for the first time,
2 and he is a real estate expert and a builder, and he looks at
3 it and says, you guys hit the jackpot with this one.

4 Q What was the reason that that was a particularly unique
5 property?

6 A It was unique because, Number 1, it was on the water.
7 Number 2, it was part of a condo complex. There were three
8 buildings on one large piece of property. The front property
9 was Michael Saunders real estate on Longboat Key. The second
10 building was the administrative facility for the Longboat Key
11 Club which was across the street, and then there was our
12 building which was on the water.

13 Q Was there a plan or discussions with you and Mr. Kihnke
14 about purchasing that property?

15 A Yes.

16 Q Tell me about that.

17 A Well, Michael Saunders had owned --

18 MR. MURRAY: Objection. Hearsay.

19 BY MS. IRVIN:

20 Q Without saying what anyone said --

21 A Sure.

22 Q -- what were your plans?

23 A Right. We purchased our building from Michael Saunders.
24 She owned that piece of property. She also owned the front
25 piece of property on the street. So she owned it, the real

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1 estate agent. The middle piece was owned by a large hotel
2 complex that took over the Longboat Key Club. So when we saw
3 it, the front building we were thinking was coming up for sale
4 because it looked like she was retiring and she was
5 liquidating a lot of properties. So our objective was to buy
6 her property. We would have two out of three votes in the
7 condo complex so our votes would be a majority. And at that
8 point in time we thought about using the entire property for
9 construction of a condo complex. That was Matt's business. I
10 was going to leave that to him, but that was the plan.

11 Q How would the acquisition, the purchase of that land help
12 OIG financially?

13 A It would have been an enormous -- if it was built and
14 successfully marketed the way Matt had marketed his other
15 properties, it would have been an enormous success.

16 Q How would that have affected any of the lenders at OIG?

17 A We would have a tremendous amount of profit built into
18 the company and therefore more protection for their loans.

19 Q Did that property fit into your plan for purchasing real
20 estate as a part of the diversification you were seeking for
21 OIG?

22 A Yes, it did.

23 Q In addition to real property, were there other
24 opportunities that you were seeking to diversify OIG?

25 A Yes.

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1 Q Tell me about those.

2 A There were multiple companies that we were looking at.
3 However, the one that we actually had physical control over,
4 Mirror Innovations, we had purchased 51 percent of the company
5 without putting up any money. We made a deal with the owners
6 that were unable to market and manufacture the product that
7 they had. So we were able to -- we felt we were able to
8 successfully do what they needed. They gave us 51 percent of
9 their company provided that we achieved a certain amount of
10 success in two years. Otherwise, the patent would revert back
11 to them.

12 So we made a deal that we would take over the patent,
13 own 51 percent of the company. At that point in time we would
14 have two years to achieve a certain level of sales. And if we
15 didn't, we would revert the patent back to them. If we did,
16 we would be fully vested and own 51 percent of the company and
17 control the patent 100 percent.

18 Q So let's break that down into smaller pieces.

19 A Sure.

20 Q What was the product?

21 A The product was a very unique patented film that was able
22 to be produced and put onto mirrors anywhere, in any arena or
23 any venue, restaurant, anywhere in the country or the world.
24 The company had gotten a bid for \$5 million for Citi Field
25 where the New York Mets play. However, they didn't have the

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1 ability to produce it. They didn't have the money to produce
2 it. So that's when they looked to us to maybe help them and
3 do something.

4 Q How does a person like you who is running OIG, doing
5 forex trading, acquiring real estate properties, how are you
6 finding out about this opportunity?

7 A So this opportunity came from a very good friend of mine
8 who is in New York. He was actually an investment advisor in
9 New York. They were his personal friends. The gentleman who
10 invented the film actually passed away. And the two other
11 guys were just investors. They had no expertise. They had no
12 knowledge of how to run the business or what the business even
13 entailed. So at that point in time my friend put them in
14 touch with us. I think I flew up to New York to meet them.
15 We discussed it. I came back and gave Joe Anile my reports
16 from what they were doing, what they said, and I asked Joe to
17 then contact my contact in New York and see if we could make a
18 deal.

19 Q So let's try to keep this in smaller pieces.

20 A Okay.

21 Q Why does it matter to OIG? It sounds very interesting,
22 but what impact, if anything, is acquiring this product, how
23 is that going to impact your business?

24 A We thought it could be an enormous opportunity as far as
25 the business opportunity. However, we also realized that it

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1 was going to be an enormous amount of capital to make it work.
2 So therefore we had a specific plan. And that plan was
3 supposed to be implemented the week after we were shut down.

4 Q Taking it in parts again because it's a lot to take in,
5 what were the terms, as you understood them, that OIG would be
6 responsible for, that you would be responsible for doing if
7 you decided to go through with this agreement?

8 A Sure. Well, we closed on the business. We actually own
9 51 percent and we had control of the patent. So that was
10 done. Those documents, Joe Anile, he did them all. All the
11 agreements were done. He had me come and sign all the
12 agreements. So all of those companies were set up. We owned
13 51 percent of the company. That was done.

14 At that point in time, Joe Anile said this is going
15 to be way over our heads but I have the right people who could
16 handle this. So he called a good friend of his in New York
17 who owns -- who is a CEO of a multibillion-dollar publicly
18 traded company and asked his assistance. We were then put in
19 touch with a company that was the parent company of the
20 Gannett newspapers. And Joe had a meeting with them the
21 following week after we were shut down. My contact in
22 New York had professional films made, professional samples
23 made for Joe to be able to present it to them.

24 Q What is it that you, Joe Anile, OIG intended to do had
25 you been able to go forward with this agreement now that you

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1 owned 51 percent of the patent?

2 A So our discussions were we don't want to get involved
3 with this as far as the risk of producing this and marketing
4 this. We need to turn this over to a company that has those
5 type of contacts and has that type of capital. So Joe made a
6 preliminary -- had a preliminary discussion with this company.
7 He had a meeting with them the following week. And the terms
8 of the deal were going to be that that company take over the
9 entire project for us. They handle the production, the
10 marketing, the distribution, and we get paid a royalty only.
11 So we would have been totally passive. Every piece of
12 material that they sold or distributed, we would have gotten
13 paid a few cents on the dollar, but it was totally passive
14 where we would have had absolutely no risk.

15 Q Again, what benefit to OIG would this agreement have
16 been?

17 A It would have been pure profit. We had absolutely no
18 expenses whatsoever in the deal. We bought the company
19 without paying a penny for it. We acquired 51 percent of the
20 company. And Joe Anile had some contacts within different
21 arenas because his uncle worked for the NFL and was a very
22 predominant person in the NFL at one point. He passed away,
23 but Joe had a lot of contacts. And between this company and
24 the contacts Joe had with certain venues, Joe thought it was
25 going to be the biggest thing we ever did.

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1 Q To what benefit then would that have been to the lenders
2 of OIG?

3 A It would have been beyond beneficial. We would have had
4 profits that would once again be able to anchor the company
5 and secure and collateralize any loan or any interest.

6 MS. IRVIN: Your Honor, may I have a moment?

7 THE COURT: Yes. And while she's -- well, go ahead.

8 MS. IRVIN: I just need to check a document. I
9 didn't know if this is a good time for a break.

10 THE COURT: I think it is. So let's just come right
11 back at 11:00, ladies and gentlemen. Please don't discuss the
12 case or look at outside stuff. We will see you at 11:00.

13 Thanks so much.

14 (Recess taken.)

15 THE COURT: Thank you, ladies and gentlemen. There
16 is nothing worse than judges that complain. So I shouldn't be
17 complaining. It is like a bad look, but they get the chiller,
18 the AC chiller at the same place they bought the PA system.
19 So they say they are running it. It shouldn't have gone off,
20 and thanks for putting up with it.

21 All right, ma'am. Have at it.

22 MS. IRVIN: Thank you, Judge. May I approach the
23 witness with an exhibit?

24 THE COURT: Of course.

25 MS. IRVIN: Your Honor, may I have a moment?

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1 THE COURT: Yes.

2 BY MS. IRVIN:

3 Q Mr. DaCorta, I handed you what's been marked as
4 Exhibit 151. Do you recognize it?

5 A Yes, I do.

6 Q What is it?

7 A It's is the asset purchase agreement between 7Mile
8 Partners, Versatile Media Group, Mirror Innovations, LLC, Ross
9 David Jurman and Mark Vitaliani.

10 Q Does it have a date on it?

11 A Effective as of February 4, 2019.

12 Q Does this document that I handed you fairly and
13 accurately represent the agreement to which you were
14 previously testifying about before we took a break?

15 A Yes.

16 MS. IRVIN: Your Honor, move to admit Defendant's
17 Exhibit 151.

18 MR. MURRAY: No objection, Your Honor.

19 THE COURT: Admitted.

20 (Defendant Exhibit 151 admitted.)

21 BY MS. IRVIN:

22 Q On the front page, Mr. DaCorta, it says 7Mile Partners.
23 Who is 7Mile Partners?

24 A There were several people involved in the deal. I'm not
25 a hundred percent sure who each one. Joe Anile dealt with

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1 these people specifically.

2 Q If you could please turn to Bates No. JSA-C-002164.

3 Mr. DaCorta, are you familiar -- while we are getting to that
4 page number, there are no page numbers at the bottom of that
5 document, are there? In the document that you are looking at,
6 are there any page numbers other than the Bates number?

7 A No.

8 Q So while we are getting to that Bates number,
9 JSA-C-002164, do you recognize the name Versatile Media Group?

10 A Yes.

11 Q And what do you recognize that as?

12 A That was one of the companies that was part of the deal.

13 Q That was part of what?

14 A That was part of the deal. I believe that might have
15 been our company. Joe did all of this. It was just done in
16 February of 2019. So I wasn't a hundred percent up to speed
17 on how he structured the deal.

18 Q Do you see the section that says, "Article II, Offices"?

19 A Yes.

20 Q Under "Article II, Offices," do you recognize an address
21 that's listed in Section 1?

22 A Yes, I do.

23 Q What address is that?

24 A 444 Gulf of Mexico Drive, Longboat Key, Florida 34228.

25 Q What is significant about that address?

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1 A That's the company property.

2 Q Whose name is listed in that same paragraph?

3 A Joseph S. Anile, II.

4 Q Turn to the page that has the Bates No. JSA-C-002479.

5 And do you see at the top of the page where it says
6 "Shareholder"?

7 A Yes.

8 Q Can you explain what that section that shows,
9 shareholder, common stock, and percentage interest means?

10 A Sure. So 7Mile Partners was our company that Joe set up.
11 We purchased -- we acquired 51 percent of the company. The
12 next two gentlemen, Mr. Jurman and Mr. Vitaliani, they were
13 the two partners that had invested in the company when the
14 other gentleman had passed away. So they were retained in
15 this deal. And LNS Consulting was the gentleman who brought
16 the deal to us.

17 Q Is this the same agreement that you testified meant that
18 7Mile Partners and OIG would own 51 percent of the Mirror
19 Innovations patent?

20 A That's correct.

21 Q Would you agree that not all of your private equity
22 dealings were successful?

23 A Absolutely.

24 Q What about a program called Full Spectrum Wellness? Do
25 you recognize that?

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1 A Yes, I do.

2 Q And what was Full Spectrum Wellness?

3 A So Full Spectrum Wellness was formed because of a contact
4 I had in South Florida, a gentleman by the name of Larry
5 Waldman who was in the business of medical devices.

6 Q And how did you come to meet Larry Waldman?

7 A I don't remember exactly. I think he actually met my
8 son, Andrew. And through my son, Andrew, I eventually met
9 Larry.

10 Q And what kind of work did Larry do?

11 A Larry was in the health care industry. So he dealt with
12 different things, marketing things to doctors.

13 Q Year frame wise or time wise, when did you have a
14 conversation with Mr. Waldman about this medical device?

15 A I think it was 2016.

16 Q What was the medical device?

17 A It was called Renua. It was a medical device that was
18 able to monitor and diagnose certain things within the body
19 that wasn't intrusive. So I was always into health and
20 wellness, and I didn't like things when you go for tests and
21 they are intrusive. So I thought that this might be something
22 that we would market.

23 Q What about your experience in forex, in the financial
24 markets, with real estate, made you think that you wanted to
25 be involved in a medical device?

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1 A Well, I know the medical industry, if you can have a
2 device that's useful for testing and it's reimbursed by
3 insurance, there is a significant amount of profit that can be
4 made. So when I'm looking at companies, I'm not looking at a
5 specific company in any industry because I wasn't going to run
6 it. I would bring in people that have that talent and that
7 expertise. It was just a matter of finding the type of
8 company that could return a profit.

9 Q Who would they be returning a profit for?

10 A That company would have been returning a profit for Oasis
11 Management.

12 Q Full Spectrum Wellness was incorporated in what year?

13 A I don't recall.

14 Q You think that it was around 2016 or 2017?

15 A No. It was before that. It was incorporated probably
16 2014 or 2015.

17 Q And did it fall under Oasis Management, LLC?

18 A Yes, it did.

19 Q What was the purpose of Full Spectrum Wellness once you
20 had the opportunity to meet and talk to Larry Waldman?

21 A So Larry introduced me to the company president that
22 produced the machine in Nashville, Tennessee, I believe in
23 December of 2016. At that point in time we went into contract
24 with both Larry and Renua where we would help market the
25 device.

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1 Q Renua was the company that created the medical device?

2 A Yes.

3 Q Were there any expenses that you incurred as a result of
4 trying to develop this medical device?

5 A Yes. So initially Larry Waldman was doing all the work.
6 Larry had met my son. At some point in time we got to a point
7 where we needed someone to come on and help Larry with the
8 marketing. He asked my son if he would be willing to be that
9 person, to take part in that, my eldest son, Andrew. I told
10 them you talk amongst yourselves. If you guys agree, that's
11 fine. Andrew had a job at Starwood Hotels in the Walt Disney
12 with the Swan, Dolphin. So I told him it is a big step. If
13 you want to leave your job and take a chance, that's up to
14 you, but you talk to Larry and you guys make the decision.

15 Q What did Andrew decide to do with respect to leaving his
16 job and starting to do work with Larry Waldman and marketing
17 Renua?

18 A So Larry convinced him that it would be a tremendous
19 opportunity. Larry showed him projections, different things.
20 And Andrew thought, okay, I'm still young, I'll take the
21 chance.

22 Q How old was he when he joined this venture?

23 A He was in his mid twenties.

24 Q What was your understanding of what Andrew's role was
25 going to be in assisting Larry Waldman in marketing Renua?

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1 A So Larry told me that he would take Andrew on all the
2 appointments until Andrew had it down how to present it to a
3 doctor's office or a medical facility. And then once Andrew
4 had proper training, he would send him out on his own and we
5 would be able to cover more doctors' facilities at the same
6 time.

7 Q Was there ever any training that Andrew or Larry Waldman
8 attended with respect to Renua and better understanding the
9 medical device?

10 A Yes. So what happened was Larry was talking with the
11 doctors that we were thinking about placing the medical device
12 with. They needed someone to come in and teach them how to
13 use the device. At that point in time Larry asked my son,
14 Steven, because my son, Steven, was more on the technical end
15 of things that he liked. So Larry asked my son, Steven, if he
16 would be willing to take on that part of the job.

17 Q And what was Steven's decision, if you know?

18 A Steven agreed. And at that point in time I had to fly
19 Andrew and Steven out to Carson City, Nevada, to meet with the
20 company directly and go through a process of training on the
21 specific machine.

22 Q What happened with -- let me ask you this. Larry
23 Waldman, how was he paid with respect to the work that he was
24 doing for Full Spectrum Wellness?

25 A So our deal with him was every machine we placed,

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1 depending on the revenue coming back from each machine based
2 upon the doctor's use of it and insurance reimbursements, he
3 was going to get a percentage of that.

4 Q Was he at any time, for example in 2016, was he receiving
5 a consulting income?

6 A Yes, he was. At the beginning he was receiving
7 consulting income until we had it up and running.

8 Q You talked about some of the expenses, the training and
9 the travel that was needed in order to get Andrew, Steven and
10 also Mr. Waldman up to speed on how best to market the device.
11 Do you know roughly the expenses that Full Spectrum Wellness
12 incurred in 2016 for that?

13 A Well, you mean dollar wise?

14 Q Yes.

15 A Offhand, I don't know. Probably a couple hundred
16 thousand dollars.

17 Q What about in 2017?

18 A I would say again two to \$300,000.

19 Q Okay. What happened to Full Spectrum Wellness's efforts
20 to market Renua?

21 A So what happened was we placed the machine with several
22 doctors' offices. We got very good feedback as to what they
23 liked about the machine. The problem was that the company who
24 manufactured the machine in Nevada told us there would be no
25 problem with insurance codes getting doctors reimbursed, but

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1 that didn't turn out to be true. So every time a doctor used
2 the machine and submitted it for insurance, the insurance
3 would turn them down. Larry told me that was a temporary
4 issue, he'll figure it out. They tried for a while, but
5 eventually they never got reimbursed.

6 We had purchased the machines because our deal was we
7 would purchase the machines, place them with the doctor. The
8 doctor would use them and have to pay us a certain amount of
9 the insurance reimbursement for each test. So at that point
10 in time the machine was a paperweight because no one was
11 getting paid on it.

12 Q What did that mean for your sons, Andrew and Steven?

13 A It meant that their job was no longer in existence, and
14 it meant that we had to take the loss on Full Spectrum
15 Wellness. So at that point in time once we were that far into
16 it and I realized we weren't getting reimbursed, we just had
17 to cut bait and take the loss.

18 Q Keep that in mind, Full Spectrum Wellness, because we are
19 going to transition here and talk about your taxes,
20 specifically your 2017 taxes.

21 In your experience as a working adult, have you ever
22 prepared your own taxes?

23 A Not since I was about 16 or 17 years old.

24 Q Who has been preparing your taxes for the most part,
25 let's say in the last 10 to 15 years?

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1 A Well, I had D'Arcangelo & Company do it for a long period
2 of time.

3 Q And who is D'Arcangelo & Company?

4 A They are a CPA firm in Poughkeepsie, New York.

5 Q Is there a particular accountant or CPA that you worked
6 with at D'Arcangelo?

7 A Yes. Michael Betros.

8 Q For about how long did Mr. Betros prepare your taxes?

9 A I'm thinking -- I had Tarlow & Company in New York City
10 in 2002, 2003. I'm thinking he took over around 2004. So he
11 went from 2004 to 2016.

12 Q Would you recall if he, Mr. Betros at D'Arcangelo
13 prepared your 2015 tax return?

14 A Yes, he did.

15 Q Do you recall if Mr. Betros at D'Arcangelo prepared your
16 2016 return?

17 A Yes, he did.

18 Q What specific returns did he prepare for you?

19 A He prepared my personal returns, Oasis Management
20 returns, and if there was any other businesses involved in
21 Oasis Management.

22 Q Was there a certain way that the two of you would prepare
23 for the filing of taxes every year?

24 A Yes.

25 Q What was that process?

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1 A The first thing I would do is provide him with every
2 single statement for my personal bank accounts and for any
3 companies that he was doing the returns for.

4 Q What would be the next step in the process after you
5 provided those documents to Mr. Betros?

6 A So Mr. Betros had a larger firm. So he had staff
7 accountants so he would then task a staff accountant to go
8 through my bank statements line by line. And then they would
9 call me to ask me if they were unsure if something was
10 business or personal because Oasis Management flowed through
11 to my personal taxes. They would ask is this personal or is
12 this a business expense.

13 Q Was there ever an occasion where you had questions about
14 a tax return that Mr. Betros prepared for you?

15 A You know, I'm the type of guy that the CPA is the expert.
16 I provide him everything. Whatever he asks for, I give him.
17 When he sends it back to me, I look at the bottom line. And
18 I'm not one that understands tax laws. They are very
19 complicated and they change on a regular basis. So I
20 essentially answer any questions he has. He produces the
21 return. He tells me about the return, what went into it, and
22 that's about it.

23 Q If, for example, Mr. Betros contacted you, or someone on
24 his staff, and said that they need additional documentation,
25 what would you do?

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1 A Provide it immediately.

2 Q Did your working relationship with Mr. Betros change at
3 any point and for what reason?

4 A Yes. Well, when I moved to Florida, it's just I like to
5 provide -- wherever I live, I like to give the business to the
6 local area. So when I was down here, there is no reason for
7 me to have a CPA 1,200 miles away. There are plenty of great
8 CPAs right here where I lived in Sarasota. So I just thought
9 it would be better to have a personal relationship with
10 someone that was local in the area.

11 Q How did you go about finding a new accountant or CPA to
12 handle your taxes?

13 A I think I asked a few people in my neighborhood just for
14 recommendations. And once I got those recommendations, I
15 called two or three different offices and made a decision to
16 go visit one of them. And I hired that individual.

17 Q And who was that?

18 A That was Mr. Mark Burling.

19 Q When did you first meet Mr. Burling, or how did you come
20 in contact with him?

21 A So I spoke to him over the phone and he invited me to his
22 office right in Lakewood Ranch. I believe it was Town Center.

23 Q When you met with him, what returns did you ask him to
24 prepare for you?

25 A Well, I sat down with him and I told him this is

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1 complicated because we have a lot of moving parts and there
2 are things that are just getting started so I'm going to have
3 to give you a long explanation. And at that point in time I
4 explained to him what Oasis Management did. I explained to
5 him my role. I explained to him we had another company called
6 Oasis International Group. I explained to him that Oasis
7 International Group owned the home I was living in but I was
8 paying the mortgage with Oasis Management.

9 Q Did you discuss at any point the recent transition that
10 Oasis Management, LLC, had been making from limited partners?

11 A Yes. I told him that we were going to be changing, that
12 this would be the last return as limited partners and we were
13 going to be switching to a loan system, the same as OIG,
14 because my goal was to make it parallel and then eventually
15 have OIG and Oasis Management completely merged.

16 Q Why would it be important for you to tell Mr. Burling
17 about the change that was going on at OM, LLC, regarding those
18 limited partners?

19 A Well, he would have had to provide the return, do the
20 return, and it had to be an end return, I understand, because
21 we were changing the whole structure of the company. So he
22 had to file it differently than if we were continuing.

23 Q As a part of this meeting that you had with Mr. Burling,
24 did you tell him about the process that you generally used
25 with your previous accountant, Mr. Betros?

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1 A Yes, I did. I told him the exact process, and I gave him
2 D'Arcangelo's phone number, gave him Mike Betros's contact
3 number, and I said please call him and consult with him. Tell
4 him to transfer my records, and he will be very helpful with
5 you. I already let him know that I will be making the change,
6 and just ask him any questions you need to ask.

7 Q I may have asked you this already, but do you recall
8 where you first met Mr. Burling?

9 A Yes, at his office. It was Town Center Parkway or
10 something in Lakewood Ranch. It was just --

11 Q Do you recall about what time of year this was?

12 A No.

13 Q Did you ever meet with Mr. Burling anywhere other than at
14 his office?

15 A Yes. At my home.

16 Q And what was -- which home? What address?

17 A 13318 Lost Key Place.

18 Q About how many times did you and Mr. Burling meet at your
19 home address?

20 A I would say two times maybe.

21 Q If you remember, where would you meet with him?

22 A Yes. I met him in my personal office.

23 Q Was there a particular order -- since this was a
24 complicated set of tax returns, was there a particular order
25 in which documents had to be prepared in order to assist

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1 Mr. Burling in being able to complete both the Oasis

2 Management taxes and your individual taxes?

3 A Yes. As I remember, the limited partner part of it had
4 to be done first. And then after all the limited partner K-1s
5 were done, everything remaining flowed to my personal taxes.

6 Q As far as you understand it, you just mentioned a form
7 called a K-1. What do you understand a K-1 form is?

8 A It's a partnership tax form. It just means that you
9 weren't paid on a W-2 or 1099. You're part of a partnership.

10 Q Do you know if there is anyone at Oasis International
11 Group or Oasis Management, LLC, that helped provide
12 documentation to Mr. Burling to assist in preparing the K-1
13 forms for the partners?

14 A Yes. Butch Lyle.

15 Q Why Butch Lyle?

16 A Butch handled the tracking of all the limited partners,
17 their balances and any interest or any -- at that point it was
18 profit for them but it was interest for Oasis Management
19 because I was receiving -- if you want me to explain that, but
20 it's a little bit more complicated.

21 Q Sure. Go ahead.

22 A So Oasis Management put their funds with Oasis
23 International Group. Oasis Management is earning spreads from
24 Oasis International Group, not necessarily trading profits.
25 Those funds, because they're still limited partners, have to

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1 report it to the partners as profits. So therefore that's
2 the -- in 2016 that's the way it worked because they were
3 limited partners for the last year, not lenders.

4 Q And the person who kept track of those amounts, it sounds
5 like it was Butch Lyle; is that correct?

6 A That's correct, yes.

7 Q You also mentioned that there was a certain way that
8 these taxes had to be filed. So did one return have to be
9 filed before the other, as far as you know?

10 A I really don't. I just know that the corporate --
11 usually the limited partnership return has to be filed first,
12 and then my personal taxes would be filed after.

13 Q Do you recall whether your personal return was filed on
14 time in 2017 or if there was an extension?

15 A I believe he filed an extension for both the company and
16 the personal.

17 Q Do you recall how long that extension was?

18 A I believe you get six months, but I believe the corporate
19 return is due a month before the personal return, if I
20 remember correctly.

21 Q And so it's your understanding that Mr. Burling sought an
22 extension for both your personal return and for the
23 partnership returns?

24 A That's correct.

25 Q In the process of preparing to meet with Mr. Burling to

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1 prepare your taxes, what documents did you provide

2 Mr. Burling?

3 A When Mr. Burling came to my home, I knew the process
4 because I knew it was going to be the same exact process as
5 D'Arcangelo. So I would have to give him my personal tax
6 returns, my Oasis Management tax returns. I'm sorry. My
7 personal bank statements, the Oasis Management bank
8 statements, and Full Spectrum bank statements because Oasis
9 Management owned Full Spectrum.

10 Q Did you have any communications with Mr. Burling about
11 why he was filing the extensions for the returns?

12 A No. He just said it's a tremendous amount of work and he
13 asked if I would mind if he went on extension.

14 Q At any point during the process of gathering documents,
15 did Mr. Burling go back to you and ask for additional
16 documents?

17 A I don't recall.

18 Q What happened when you received the tax returns to review
19 and sign?

20 A When he sent me the return, I looked at the bottom line
21 and there was a \$400,000 loss.

22 Q And what did you think when you saw that?

23 A I thought \$400,000 is a big number on any tax return,
24 positive or negative. So I thought something is not right.

25 Q As a result of seeing that bottom line number, what did

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1 you do?

2 A I made a phone call to Mr. Burling.

3 Q As a result of that phone call, what did you understand
4 was going to happen with your tax return?

5 A So I called Mr. Burling and --

6 MR. MURRAY: Objection. Hearsay, your Honor.

7 THE COURT: Well, why don't you approach.

8 (Bench conference on the record with all counsel
9 present.)

10 THE COURT: So you're going to have him say what
11 Burling said and what Burling said to him, what he said to
12 Burling and what Burling said to him.

13 MS. IRVIN: I don't want him to say what each person
14 said. I would rather have what was his understanding after he
15 had the phone call so that we can understand why he then took
16 the steps to go forward with the return and sign it and have
17 it filed.

18 THE COURT: All right. And why isn't this part of
19 his good faith defense reliance upon the CPA?

20 MR. MURRAY: It's not a relevancy objection, Your
21 Honor. Just the only basis for that testimony is going to be
22 what Burling said. So it's just a rephrasing hearsay.

23 THE COURT: All right. But why isn't that relevant
24 to his state of mind and as to reliance defense?

25 MR. MURRAY: It is relevant. We are not contesting

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1 relevance.

2 THE COURT: So what are you saying?

3 MR. MURRAY: It sounded like they were making a phone
4 call. He was about to say what Burling said.

5 THE COURT: I know. Suppose he did. Isn't that
6 hearsay admissible as relevant on his state of mind?

7 MR. MURRAY: I suppose so, Your Honor.

8 THE COURT: Well, let's just see if you can do the
9 understanding so we're not so rank on a hearsay.

10 MS. IRVIN: Thank you.

11 (End of bench conference.)

12 BY MS. IRVIN:

13 Q Mr. DaCorta, without saying what Mr. Burling said, you
14 mentioned that you had a phone call with him. As a result of
15 that phone call with Mr. Burling, who is preparing your taxes,
16 what was your understanding?

17 A My understanding was that the number on the return was
18 correct, and then I signed it.

19 Q During that phone call, again without saying what
20 Mr. Burling said, did you ask questions of him?

21 A Yes, I did.

22 Q Do you recall any of the questions that you asked him?

23 A Yes, I do.

24 Q What were some of those questions?

25 A The Number 1 question was I see a large loss. I know I

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1 lived all -- you know, I lived the entire year. I spent
2 money. I live in the house, and I thought the house -- even
3 though Oasis Management was paying it, I thought there is
4 potentially income liability there. So I told him, are you
5 sure it's correct?

6 Q Any other questions that you recall asking him?

7 A No, other than was it correct and my concerns that the
8 loss seemed too large to me.

9 Q Despite your thought that the loss was too large, did you
10 sign that tax return?

11 A Once he assured me that it was correct, I signed it.

12 Q And at the time that you signed it, was that after the
13 conversation that you had with Mr. Burling?

14 A Yes, it was.

15 Q Did whatever explanation that Mr. Burling made make sense
16 to you?

17 A Yes. I mean, I'm not an accountant, and unfortunately I
18 don't look -- I just look at the bottom line, and that was
19 probably a mistake on my part, but I took his advice and I
20 signed it.

21 Q As a result of taking his advice, were you relying on his
22 knowledge and experience as a CPA and accountant?

23 A Yes. I mean, I always rely on not only a CPA but an
24 attorney. Anything that has to do with business that's
25 outside of my expertise, I always rely on someone that's

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1 licensed or is an expert in that field.

2 Q At the time that you signed and submitted the return, did
3 you believe it to be accurate based on the explanation that
4 Mr. Burling gave to you?

5 A I did.

6 Q Now, in talking about the private equity deals that you
7 have looked at as a part of OIG, we have talked about one that
8 was set to be successful, Mirror Innovations, and one that
9 didn't end up quite as successful as you wanted it to be, Full
10 Spectrum Wellness?

11 A Correct.

12 Q Was there another company that OIG or Oasis Management,
13 LLC, was involved in that was one where there was success?

14 A There was one that had just recently been launched. So
15 we anticipated success with it.

16 Q And what was that company?

17 A Roar of the Lion Fitness.

18 Q What was Roar of the Lion Fitness?

19 A Roar of the Lion was a health and fitness company.
20 Essentially what it did was it produced both supplements from
21 an herbal side and also a sports nutrition line.

22 Q I think I have asked this question in a different way,
23 but you are a person who is involved in forex, you have a
24 financial background, you certainly have experience in
25 acquiring real estate. Why are you getting involved in a

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1 nutritional supplement company?

2 A I was a nutrition buff since I took sports medicine in
3 college, and it's something that always interested me.

4 Q How did the idea of Roar of the Lion products come about?

5 A Well, both my sons besides their regular schooling also
6 took a course in integrated nutrition in Manhattan. It was a
7 special nutritional program. So they both had some experience
8 and some knowledge and some interest. My oldest son, Andrew,
9 had a lot more interest in that specific part than my middle
10 son, but at that point in time I had already met with HP
11 Ingredients a year or two before. They are a company in
12 Sarasota, Florida, that actually produces the raw materials.
13 They take in the raw materials for supplements, and they had a
14 scientist on staff that helped develop the products.

15 Q What's the reason for taking a protein supplement? Why
16 would you take it?

17 A The protein side was different. That was the herbal
18 side, but the protein side is simply -- anyone who works out
19 or goes to the gym usually is looking for a protein
20 supplement.

21 Q So this was more than just one product?

22 A It was multiple products.

23 Q In addition to the protein supplements, what were the
24 other supplements that Roar of the Lion developed?

25 A So there were seven herbal products, one for each chakra

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1 that my son developed with the scientist at HP Ingredients.
2 Then we produced a protein powder, both vanilla and chocolate
3 that was all natural, no sugars or no artificial anything in
4 them. We produced a creatine product, preworkout product. I
5 think that's about it.

6 Q Time frame wise, you said you mentioned that you met with
7 somebody in Sarasota. What was the time frame that it took?
8 How much time did it take for you to develop the products that
9 Roar of the Lion had?

10 A From the very beginning until launching, probably a year
11 and a half.

12 Q Over what period of time? 2017 into 2018?

13 A We launched it on an online store and began selling
14 product I believe early 2019.

15 MS. IRVIN: Your Honor, may I approach the witness?

16 THE COURT: Yes.

17 BY MS. IRVIN:

18 Q Mr. DaCorta, do you recognize the -- and just watch the
19 paper on the microphone. The document that I just showed to
20 you, do you recognize it?

21 A Yes, I do.

22 Q What is it?

23 A Those are some of the products that Roar of the Lion
24 Fitness produced and marked.

25 Q Did you have the opportunity to look through all six

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1 pages, seven pages?

2 A Yes. The protein is not here.

3 Q Do these documents in front of you fairly and accurately
4 represent some of the products that Roar of the Lion produced
5 to sell?

6 A Yes.

7 MS. IRVIN: Your Honor, move to admit Defendant's
8 Exhibit 152.

9 MR. MURRAY: No objection.

10 THE COURT: Admitted.

11 (Defendant Exhibit 152 admitted.)

12 MS. IRVIN: May I publish?

13 THE COURT: Yes.

14 BY MS. IRVIN:

15 Q So Mr. DaCorta, looking on the first page, what were
16 these supplements for?

17 A So we had all seven chakras, one product for each. We
18 produced and launched the first three. We were going to step
19 out and do a couple, like the next four, like every couple of
20 months introduce a new one. And the preworkout, obviously
21 it's a prework out. You would take that before going to the
22 gym. And the creatine powder, most people usually mix it with
23 the protein powder after a workout.

24 Q So if we look at the very bottom one, the largest
25 container, it says "Preworkout"?

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1 A That's correct.

2 Q Next to it, it says "Creatine Tri-Power"?

3 A That's correct.

4 Q So these would be supplements one might take before
5 working out?

6 A Yes. Those would be sports nutritional products.

7 Q And what about the "Empower" bottle that's listed at the
8 left? It believe it says "Detox." What is that for?

9 A That's a detox. So that one was for -- I don't remember
10 specifically exactly what each -- I know "Impassion." I know
11 "Awaken" and "Power," it was something to do with detoxing,
12 but I'm not a hundred percent sure. My son developed these.
13 So I was just there to help market it and put the business
14 together.

15 Q And the second page, I think shows those same containers
16 but the back side that shows the ingredients; is that correct?

17 A Yes.

18 Q This was quite an endeavor creating these products it
19 seems. Can you explain how -- after meeting with the person
20 that you met with in Sarasota, take us through the road of
21 developing the products that end up in these bottles for sale.

22 A Oh, it was an enormous amount of work, not just the
23 products but containers, labels. You had to bring on also a
24 company to handle producing the website, make it an online
25 site. You had to then integrate a sales tax company, because

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1 when you're online you can sell in any state. Therefore, you
2 have to pay sales tax in that state. There was enormous
3 amount of work with just the development and the specific
4 formulations for each of the seven herbal products. It took
5 an extensive amount of time. It was mixing and matching
6 different ingredients, different percentages of different
7 ingredients. And my son worked with the scientist at HP to
8 get that done.

9 Q At what point were these products then ready to sell?

10 A They were ready to sell and being sold early 2019.

11 Q How were they being sold?

12 A They were being sold in an online store. So we had a
13 website. We had -- Jordan Buckingham created a marketing plan
14 where we would do all sorts of ads on Google, Facebook. He
15 had the whole social media thing going on. We produced videos
16 at the gym to then put on the website or put in ads, short
17 ads. So there was a tremendous amount of effort put into this
18 company.

19 Q What kind of financial effort was put in for the things
20 that you are talking about, marketing, product development,
21 the actual packaging?

22 A Sure. I mean, it had to be at least five to \$600,000
23 when you consider all the inventory because we had all our
24 inventory produced. It was all shipped to a company on the
25 east coast of Florida. We had software that when someone

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1 ordered online, the order would go to the shipping company.
2 The shipping company would send and bill for it, but we would
3 know every product sold and how we were going to get paid for
4 it. So there was a lot involved, but we were at the point
5 where we launched. And at the time we launched, with the
6 inventory included, it had to be somewhere between five and
7 \$600,000.

8 Q Five hundred to \$600,000 that you had spent to get this
9 company off the ground with products ready to launch?

10 A Correct.

11 Q What time frame was the company Roar of the Lion online
12 and ready to launch inventory?

13 A It was already launched and selling product in 2019.

14 Q And do you know when it started? Did it start in 2018 or
15 did it start in 2019?

16 A We may have made a few sales in 2018, but I think that
17 the big launch was in early 2019.

18 Q Do you know what the inventory was that was being held at
19 the beginning of 2019 when you launched online?

20 A I don't know specifically off the top of my head, but I
21 know it was in probably a thousand containers of creatine, a
22 thousand of each protein flavor. It was somewhere between 500
23 to a thousand per. The smaller bottles might have been more
24 than a hundred thousand. I'm not 100 percent sure.

25 Q In addition to having an online presence to sell this

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1 inventory, were there any steps that Roar of the Lion took to
2 try to sell these products?

3 A Yes, there was.

4 Q What were those steps?

5 A At some point in time I met someone at the gym who owned
6 a -- it was more or less like a smoothie nutritional type
7 storefront next to the Crunch Gym in Sarasota. So he invited
8 me to the store to look it over, and I went there and looked
9 it over and looked at his books and everything.

10 Q What was the purpose of going and looking at his books
11 and talking to him?

12 A Well, we were thinking about purchasing the business. It
13 had about a half million dollars in existing sales, but it was
14 also where you're marketing these type of products. So what
15 we can do is the proteins that he used to make the shakes
16 with, instead of buying the proteins he bought and pay
17 wholesale price, we were producing them. So we had a producer
18 price. So every protein shake we make, we'd have a higher
19 profit margin. And in addition to that, he had one location
20 that was a storefront. He had another location inside an LA
21 Fitness gym, and he had a contract to open up five more within
22 five other LA Fitness gyms over a specific period of time.

23 Q What was Roar of the Lion's plan with respect to the
24 LA Fitness where he currently had a lease?

25 A We were going to -- we actually went to contract. So we

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1 actually met with his -- him, his wife and his broker at
2 444 Gulf of Mexico Drive in our conference room. I made a
3 deal to purchase the company for \$193,000. And we were
4 planning on closing on May 15, 2019.

5 MS. IRVIN: Your Honor, may I approach with an
6 exhibit?

7 BY MS. IRVIN:

8 Q Mr. DaCorta, I just handed you Defendant Exhibit 147.
9 What is it?

10 A It seems like the agreement we made with the company and
11 some of their financials, and also their lease agreement with
12 LA Fitness.

13 Q Does this fairly and accurately represent the contract
14 that you entered into with Mad Nutrition Smoothies?

15 A Yes, it does.

16 MS. IRVIN: Your Honor, we move to admit
17 Defendant's 147.

18 MR. MURRAY: No objection, Your Honor.

19 THE COURT: Admitted.

20 (Defendant Exhibit 147 admitted.)

21 BY MS. IRVIN:

22 Q Mr. DaCorta, on the front page of this exhibit there is
23 some writing. Do you recognize the writing?

24 A No, I don't recognize the writing. I think it may have
25 been their broker.

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1 Q Pardon?

2 A I think it may have been the seller's broker who put that
3 together.

4 Q If you could please turn to page 2. At the top of
5 page 2, who is Mad Nutrition Smoothies?

6 A That was the company we were looking to acquire.

7 Q And the point of this contract was to do what exactly?

8 A We were purchasing their entire business operation.

9 Q And at the top of this page, what does it say?

10 A "Facility License Agreement."

11 Q Do you see where it says "Recitals"?

12 A Yes.

13 Q What does it say is the name of the company that is
14 listed there?

15 A LA Fitness.

16 Q And again, what's the point of LA Fitness in relationship
17 to the agreement that you have with Mad Nutrition?

18 A So Mad Nutrition had one storefront that was a standalone
19 storefront that was next to a Crunch Fitness. However, they
20 also had another location within an LA Fitness gym in a
21 different part of Sarasota, and they used to sell their
22 smoothies inside the gym.

23 Q How does this agreement benefit OIG?

24 A Well, this would have benefited Oasis Management.

25 Q Pardon me. I knew that. How does this agreement benefit

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1 Oasis Management, LLC?

2 A Well, Oasis Management owned Roar of the Lion, and Roar
3 of the Lion was selling product online. But when you also
4 would have had a physical presence in two locations and adding
5 four or five locations within gyms, the sales should have
6 increased. The amount of exposure, the brand would also
7 increase. So the bottom line is you are in business to make
8 money, and that's what we were looking to do.

9 Q What were your intentions in entering into this agreement
10 with Mad Fitness and in leasing the space in LA Fitness? What
11 did you anticipate was going to happen if you were able to see
12 that through?

13 A We'd increase the business substantially because they had
14 about five to \$600,000 of existing sales. And in addition to
15 that, when you put it all together under the Roar of the Lion
16 umbrella and put all the products together, we envisioned we
17 would have a company that would be very profitable in a very
18 short period of time.

19 Q Was this also an opportunity to be able to sell the Roar
20 of the Lion products in an actual storefront?

21 A Absolutely.

22 Q What happened to Roar of the Lion Fitness?

23 A It was taken over by the receiver when we were shut down,
24 and it was just abandoned.

25 Q Do you know what happened to the inventory?

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1 A I think it was destroyed.

2 Q We talked about how there was a change in business model
3 from 2016 to 2017. Is there any change in business model from
4 2017 into 2018 for OIG?

5 A Yes.

6 Q What is that?

7 A It's the same model, but what we needed to do was we
8 needed to enhance the customer service part of the business.
9 And we needed to automate some of the operations in the back
10 office.

11 Q What were the changes or modifications that you were
12 making to make that happen?

13 A So at that point in time, Mr. Anile wanted to make
14 everything electronic. So what he did was he put a plan
15 together, and then we created -- we tasked Joe Paniagua as the
16 project manager, and then he hired his brother who was a
17 programmer, computer specialist to write the program.

18 Q What's Joe Paniagua's brother's name?

19 A John Paniagua.

20 Q At what point during 2018 did John Paniagua start working
21 for OIG with respect to that program that you are discussing?

22 A Right. I mean, he was working as a contractor, not
23 actually as an employee. So it had to be early mid 2018 where
24 they started testing the concept.

25 Q Any other changes to the business model or plan going on

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1 with OIG in 2018?

2 A Well, once that was completed, then the way it worked was
3 everyone had to re-register their loans through that portal.
4 They had an opportunity to review all the documents. If they
5 no longer wanted to proceed, they would then tell us and we
6 would send them their money back. If they wanted to proceed,
7 they would sign the document, agree to the terms, and we would
8 move forward.

9 Q Is that similar to what OIG did in the transition from
10 2016 to 2017?

11 A Pretty much the same process exactly.

12 Q Are you aware of lenders who decided to not go forward in
13 2018 with OIG?

14 A Yes. There was more than one.

15 Q Are you aware of those lenders getting their money sent
16 back to them?

17 A Yes, they did.

18 Q Was there any change in the forex trading plan, or did
19 that same forex trading plan stay the same as it had been in
20 2017?

21 A Well, the plan changed because of the fact that we did
22 incur losses in 2018. So at that point in time I wanted to
23 slow the trading down and reverse those, give us an
24 opportunity to make up those losses. So it changed a little
25 bit because we were slowing down the day-to-day, in-and-out,

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1 every-moment-of-the-day trading, and we did a little of that,
2 but we built a silver position at that point in time.

3 Q So let's talk about the losses in 2018. How was 2018
4 profit and loss wise different than 2017 profit and loss wise
5 for OIG?

6 A Well, in 2017, we were fairly slightly positive to break
7 even. In 2018, we definitely suffered losses on the P&L side.

8 Q As a result of the losses that you saw on the P&L side,
9 what action, if any, did you take? And let's do it step by
10 step anything that you did.

11 A Well, the first thing was to slow down the trading. You
12 wanted to take a corrective process. Your shift is moving in
13 a certain direction and the waves are too big. You kind of
14 turn your sales and go in a different direction.

15 So at that point in time you realize that the system
16 due to the market conditions that year wasn't working the way
17 it was designed to work. So you had to make an alternative
18 move. So what we did was we slowed down the trading. I
19 informed our traders that we would slow down the trading. We
20 would build a silver position, and we would trade the silver
21 position in and out based upon the fluctuations in silver,
22 which are a little bit more slow. They are not like a
23 currency. So you have more time to kind of read charts and
24 see things going in certain directions.

25 Q Okay. Is it fair to say that 2018 was a tough year when

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1 it comes to losses for OIG?

2 A Oh, yes. It was not a good year.

3 Q In light of the fact that there were losses in 2018, a
4 lot of the evidence that we have heard, some of the evidence
5 that we have heard, has been about cars that you purchased,
6 plane rides that you took, private plane rides that you took.
7 Let's talk about that. Okay?

8 Let's first talk about salary or compensation. How
9 did you compensate yourself or how did OIG or Oasis
10 Management, LLC, compensate you for the work that you were
11 doing every day since Oasis Management, LLC, started or Oasis
12 International Group started? How were you compensated for
13 your work?

14 A So I did not get paid from Oasis International Group. I
15 got paid from Oasis Management.

16 Q And how did that work?

17 A So Oasis Management would put capital with Oasis
18 International Group. And just like an LSA would get paid on
19 the percentage of the basis points, that's how I got paid for
20 Oasis Management. So as our volume increased, our IB account
21 would build up in the amount of dollars that were in that
22 account for me to recognize as Oasis Management revenue. And
23 from that revenue, I would make a decision what I can spend,
24 what I can't spend.

25 Q Was there an agreement in place that said Mr. DaCorta

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1 gets paid X amount of money for the work that he does for
2 Oasis Management, LLC?

3 A No, because at that point Oasis Management had loans
4 only. My obligation was to pay those loans and pay interest.
5 And anything that flowed through Oasis Management was
6 eventually going to float to my personal taxes.

7 Q Was there any agreement that was in place that said this
8 is how much Mr. DaCorta is going to be compensated by OIG for
9 the work that he is doing in forex trading?

10 A No.

11 Q So how did you decide how much money to withdraw from an
12 account to pay yourself or to pay your bills?

13 A So again, I am being paid by Oasis Management, not Oasis
14 International Group. Oasis Management has a certain amount of
15 funds at Oasis International Group. And Oasis Management is
16 earning those funds into their IB account. At that point in
17 time, I only have a small percentage of the funds at Oasis
18 International Group. So I could use -- I could leave it there
19 and continue to earn more spreads on it or I could take it
20 back. But the way I did it was we always had enough capital
21 in our operating account so I didn't have to bring the
22 money -- I mean, I did make some withdrawals from Oasis
23 International Group. There are certain withdrawals, but I
24 didn't withdraw it on a regular basis.

25 Q Let me ask it a different way. How did you decide how

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1 much to take out to pay your own bills?

2 A It was basically a day-to-day thing depending on how we
3 were doing.

4 Q So if you had to pay an electric bill, where was that
5 money coming from?

6 A Right. I took the money as my bills came up. I didn't
7 have a set salary.

8 Q So if you had an electric bill, where did you pay that
9 from?

10 A I would most likely move it from Oasis Management to my
11 personal account and pay it. There are times I would pay it
12 directly from Oasis Management simply because it would flow
13 back to me anyway.

14 Q If you had to make a payment on a car note, where, what
15 bank account would that payment come from?

16 A So Oasis Management would transfer the funds to my
17 personal account, and I would write the check from my personal
18 account.

19 Q Knowing what you know now, would you still do it the same
20 way?

21 A No.

22 Q How would you do it differently?

23 A Well, I would have insisted that we had a CFO in 2017.

24 And I would have put the -- instead of having an outside
25 accountant, I would have had a CFO that had the full picture

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1 of the whole business and someone professional that could
2 handle that type of job. And they would have advised us in
3 the correct way to do things. It was --

4 Q Go ahead.

5 A It was a very sloppy setup because we were doing so many
6 different things at the same time, and we were kind of feeling
7 our way as to what we were going to do and how we were going
8 to do it. We changed a couple of times. So we were really in
9 desperate need of a CFO much earlier. And I blame myself for
10 not insisting upon it because I asked Mr. Anile to hire one
11 and he kept turning me down.

12 Q Would it have been easier what you know now to just sort
13 of designate a salary for yourself?

14 A Oh, yes.

15 Q Knowing what you know now, would it just have been
16 smarter to designate a salary for Mr. Anile?

17 A Yes.

18 Q There is some testimony about cars that you owned. What
19 can you tell me about those cars and their purchases?

20 A Sure. So I had a Range Rover Evoque, which is the lowest
21 level Range Rover. It was on the lot as a leftover from the
22 year before. I think I purchased it in 2015 or 2016. I
23 purchased that car with a seven-year loan attached to it.

24 Q Where did the funds for that car note come from to pay
25 each month?

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1 A That would have been transferred from Oasis Management to
2 my personal account. And I would have paid the loan with my
3 personal account.

4 Q What other vehicle did you own at that time? And we are
5 talking about 2018 now.

6 A I think at that time I had a Mustang. I'm not a hundred
7 percent sure. I might have had a Dodge Caravan.

8 Q At one point you owned another Land Rover; is that
9 correct?

10 A Yes. That was later on.

11 Q When you owned that Land Rover, was that on a loan or did
12 you pay it outright?

13 A There were three cars. Two had notes. The other Range
14 Rover, the white one I paid in full.

15 Q What about the Maserati?

16 A The Maserati had a seven-year loan.

17 Q Knowing that OIG had losses in 2018, why was it okay for
18 you to have what are considered to be luxury vehicles?

19 A Well, I believe they were purchased in 2017. And in 2017
20 we were having a fairly good year. In 2017, I had substantial
21 spreads that were being accumulated at Oasis Management.
22 Although I didn't pull them all back, I took some back. I
23 don't remember exactly the amount. But when I looked at the
24 overall picture -- I believe one of them was purchased in the
25 spring of 2017. At that point in time I was projecting out

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1 that the company was going to be growing and successful. And
2 I really didn't think there was any problem with owning a
3 vehicle. I worked 18 hours a day, six, seven days a week
4 between all the different projects we were doing. So I just
5 thought it's a car. I mean, I know it's an expensive car, but
6 I felt like I put in the effort and I was putting in the work
7 that was equivalent to the expenditure.

8 Q Some of the testimony also talks about trips that you
9 took. So let's first talk about vacations. How many
10 vacations do you think you went on with your wife over the
11 course of your 34-year marriage?

12 A Thirty-four years, I mean, not a tremendous amount, but I
13 know specifically from 2009 to the 2019, we went on four
14 vacations totaling a total of 25 days. So that's
15 approximately 2.5 days of vacation a year.

16 Q There was some testimony about a trip that you took to
17 the Caymans. Do you recall what that trip was for?

18 A That was our thirtieth wedding anniversary. That was the
19 first time we went away without the kids since our honeymoon.

20 Q There was also testimony about a trip that you and your
21 wife took to Italy?

22 A Yes.

23 Q Tell us about that.

24 A So our daughter had to take -- well, she took a course in
25 Florence through Rollins College. It was part of the

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1 curriculum and the program they offered her. So she went for
2 that course in Florence. I believe it was a two- or
3 three-week course. And we had never been to Europe, never
4 been to Italy. I always wanted to go. So at that point in
5 time we said wouldn't it be nice to meet her there when her
6 course is over and we will just stay ten days and fly home.
7 So we drove down to Miami to get a flight directly to Rome on
8 Alitalia Airlines, and we flew coach to Rome.

9 Q In addition to vacation, the handful of vacations that
10 you mentioned, there is also testimony about three trips that
11 you took on private planes.

12 A That's correct.

13 Q What were the reasons for taking those trips, generally
14 speaking, those three trips on private planes?

15 A Well, the first one was a very tight schedule. I think I
16 went on a Friday and came home on a Sunday. I had to meet the
17 person who -- I believe that was the same person that brought
18 us Mirror Innovations on -- I don't know if it was
19 specifically about Mirror Innovations at that time or if it
20 was another deal he was bringing us, but I went up there to
21 meet him. My parents lives up there. Carolyn's mom lives up
22 there. They are in their -- at the time I guess they were in
23 their late eighties. So while I was up there for the day, I
24 thought I would get to see them also.

25 Q Do you recall when that trip that you are talking about

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1 occurred? Would that be around 2017 or 2018?

2 A It was 2017.

3 Q And do you recall about what month it was?

4 A I believe July.

5 Q What was the reason why you chose to take a private plane
6 for that trip that weekend?

7 A Well, I was the only trader at the time. So the way the
8 schedule was on the regular flights, I would lose Friday and
9 Monday as two trading days. So when I calculated roughly what
10 we would do in revenue and the cost of the plane, I thought I
11 would come out ahead.

12 MS. IRVIN: Your Honor, may I approach the witness
13 with exhibits?

14 BY MS. IRVIN:

15 Q Mr. DaCorta, I have just handed you Defendant's 309 and
16 310.

17 A Yes.

18 Q Take a look at those and tell me if you recognize them.

19 A I do.

20 Q First as to 309, what is it?

21 A That is a statement for the trading I believe for the
22 Friday before. Yes, Friday before I left.

23 Q And it is a statement from where?

24 A It is a statement from the back office from Spotex.

25 Q For what company?

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1 A It's an Oasis statement.

2 Q Does it fairly and accurately represent the Oasis account
3 summary from July 13, 2017, to July 14, 2017?

4 A Yes, it does.

5 Q And what about Defendant's 310? Do you recognize that?

6 A I do.

7 Q What is it?

8 A That is the same statement for the same account only it's
9 the 17th, the Monday. So one is for the Friday, and the next
10 one is for the Monday.

11 Q Does this Exhibit 310 fairly and accurately represent the
12 Oasis account summary that you have in front of you?

13 A It does.

14 MS. IRVIN: Your Honor, move to admit Defendant
15 Exhibits 309 and 310.

16 MR. MURRAY: No objection, Your Honor.

17 THE COURT: Admitted.

18 (Defendant Exhibits 309 and 310 admitted.)

19 BY MS. IRVIN:

20 Q I'll publish on the Elmo.

21 Mr. DaCorta, when I see this account listed right
22 here, what does that account mean?

23 A Well, it says "Read Only" because this is the -- after we
24 were shut down, we were provided access, read only, so nothing
25 could be changed.

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1 Q That's not generally what it would say, correct?

2 A No.

3 Q What can you tell me about what's listed on the front
4 page of this account summary? What is this showing me?

5 A Those are the closed positions for that day. So
6 positions we had and we closed.

7 Q Let's now turn to -- let's use the top example, "Symbol."
8 Or actually, we'll use the second one. What is this one?

9 A That's the euro against the U.S. dollar.

10 Q What is this next column?

11 A That's the volume we did that day in that currency.

12 Q Next to that?

13 A That is the average price that we bought or sold it at.

14 Q What about the next column?

15 A Gross P&L.

16 Q What's that mean?

17 A That means the P&L including any charges.

18 Q Meaning profit and loss?

19 A Right, yes.

20 Q Rollover?

21 A Rollover is if we had to pay interest if we held any of
22 the positions overnight.

23 Q What about dividend?

24 A Dividend is just there. But in our case there would
25 never be anything in dividends.

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1 Q What's the difference between gross P&L and net PL?

2 A Net PL is just the bottom line P&L.

3 Q Let's move to the third page of Exhibit 309. This looks
4 like these are the totals. What's important for me to note
5 about this page?

6 A So this was specifically just for the results for the
7 Friday before I left. And the profit and loss for Friday was
8 \$43,968.07. The spread take was \$70,533.99. We paid \$8,000
9 in brokerage fees and \$2,400 in rollovers. So we had a fairly
10 substantial day to the upside.

11 Q So let's go through this again. The profit and loss for
12 that Friday, July 14.

13 A Correct.

14 Q Before you took that trip is this information, correct?

15 A That's correct.

16 Q So the profit and loss at the end of the business day
17 that day was \$43,968.07?

18 A Correct.

19 Q And the spread was \$70,533.99 at the end of that day?

20 A Yes, it was.

21 Q And that's the Friday before you went on this quick trip
22 up to either do business and/or see family?

23 A Right.

24 Q If you could then turn to Defendant's Exhibit 310. What
25 dates are listed on this account summary?

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1 A That's just taking from the close of business on Friday
2 to the close of business on Monday.

3 Q And so when we are looking at the end results when we
4 turn to page 3, those are the end of day results on Monday,
5 July 17?

6 A Yes, that's for one trading day.

7 Q In looking at these totals, what is it that's important
8 for me to look at?

9 A Well, the profit/loss is \$121,533.62.

10 Q What was the spread?

11 A The spreads are \$10,537.73.

12 Q So it was slightly lower than Friday but it was still
13 positive, correct?

14 A On that day we had less volume but just more movement in
15 our direction. So we took a much bigger profit and we made
16 less on the spreads because we weren't trading as much.

17 Q What was your ending balance for that day?

18 A \$1,128,448.14.

19 Q What had allowed you to be able to earn that spread and
20 profit and loss on that Monday -- on that Friday and Monday in
21 mid July 2017?

22 A I was the only trader. So if I wasn't there to trade,
23 there would be no trading.

24 Q If you had decided to take a commercial flight, for
25 example, how might that have changed your plans?

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1 A Well, I remember the schedules were different. So I
2 would have lost Friday and Monday.

3 Q I want to take you to April 18 of 2019. How would you
4 describe that morning?

5 A You saw it on the video. It's hard to describe when you
6 are not used to that type of situation. It was overwhelming,
7 frightening. I can't even think of the words right now.

8 Q Thinking about the moment when you hear the pounding on
9 the door and you open the door, describe how you felt.

10 A Well, I hear pounding on the door and somebody screaming.
11 It's Lakewood Ranch Country Club. It's 7:00 in the morning.
12 So I know something is wrong. I just don't know what's going
13 on. I'm just out of bed. So it's not a pleasant way to wake
14 up. As soon as I open the door, Agent Batsch and Volp had
15 their nine millimeter pistols pointed at me.

16 Q Where was your wife when that happened?

17 A She was kind of coming to the front door hiding behind
18 the wall trying to figure out what was going on.

19 Q Did you understand what was going on at that moment when
20 you had guns pointed towards you?

21 A No. It's a little bit difficult to kind of come to your
22 understandings that quickly when you're confronted with
23 something like that.

24 Q About how much time passed before you were able to fully
25 understand why agents were at your front door?

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1 A Well, I heard someone in the driveway screaming, this is
2 an IRS -- FBI enforcing an IRS search warrant.

3 Q What did that mean to you?

4 A I'm not a hundred percent sure because I've never had a
5 problem with the IRS in my life. So I figured if I had a
6 problem, they would either contact my accountant or send a
7 letter. I didn't expect to be greeted with armed individuals.

8 Q We have heard testimony about you being interviewed in
9 your house. Do you recall about how much time passed between
10 them first entering your house and then you being sat down to
11 be interviewed?

12 A I would say eight to ten minutes.

13 Q Once you were interviewed and in the room, did you know
14 where your wife was?

15 A Not exactly, no.

16 Q Were you concerned about her?

17 A Yes, I was concerned about a lot of things. My wife and
18 my daughter were the Number 1 things.

19 Q While you were being interviewed, did you know where your
20 daughter was?

21 A Not exactly. I mean, I knew they made them come out, and
22 I figured they kind of corralled them and had them under guard
23 somewhere.

24 Q The testimony that at least one of the agents gave
25 reflected that two agents interviewed you in a room in your

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1 house that has a pool table. Do you remember that?

2 A Yes.

3 Q And we know from the testimony that your interview was
4 not recorded, right?

5 A That's correct.

6 Q Would you have wanted your interview to be recorded?

7 A Now I would. But, I mean, at that point I just wasn't
8 really thinking very clearly. I mean, I just wanted to
9 hopefully clear up whatever the issue was. I mean, I felt
10 there had to be some misunderstanding. So I figured let me
11 just speak with them and try to clear this up.

12 Q In the agent's testimony and notes, they related that
13 they told you that OIG and Oasis Management, LLC, was a Ponzi
14 scheme. Do you recall them telling you that?

15 A I believe Agent Batsch said it.

16 Q How did you react to that?

17 A I didn't. I just kind of shrugged my shoulders. At that
18 point I kind of understood now what was going on because the
19 conversation that they had early on made me understand that no
20 one was looking to truly understand the company. They were
21 just looking to validate their preconceived notions.

22 Q At any point during this interview, did you agree that
23 OIG and Oasis Management, LLC, was a Ponzi scheme?

24 A No, I did not.

25 Q At any point during this interview, did you agree or

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1 state that OIG or Oasis Management, LLC, was a fraud?

2 A Absolutely not.

3 Q Why not?

4 A Because it wasn't.

5 Q During the time that you were being interviewed, did you
6 try to explain how your business really worked?

7 A I tried at the beginning, but it was clear that minds
8 were made up. I was told that they had all the documents. I
9 think it took two and a half years to get all the documents,
10 but I was told they had all the documents. I was told our
11 legal agreements are worthless, and I was told -- I believe
12 the word was my silver position or my thought of a silver
13 position going higher was a pipe dream.

14 Q They were in your house taking your documents. You
15 didn't know where your wife or your daughter was. Hours later
16 after they left, how did you feel?

17 A It was just devastating. I mean, I don't think I spoke
18 for three days except trying to call Joe Anile trying to
19 understand what was going on.

20 Q Why Joe Anile?

21 A He was the company attorney. He was the person I relied
22 on for these types of matters. This is exactly why he was a
23 partner. If there was any problem or discrepancy or if any
24 regulator had a question, I mean, I thought they'd send a
25 letter. I thought they would give us an opportunity to sit

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1 down with them and explain. I didn't expect an armed group of
2 individuals with battering rams, a sledgehammer and guns
3 drawn. You know, they said they surveilled me. If they
4 surveilled me, they knew me and my family were very peaceful
5 people. They should have knocked on the door like human
6 beings.

7 Q In calling Joe Anile, what were your reasons for calling
8 him in particular?

9 A I wanted to know if he would be able to get attorneys
10 working on this ASAP. I mean, I said, Joe, what's going on
11 here? Who can you call? He was the guy that always told me
12 he had all these big-time attorney friends in New York. He
13 was all about regulations and all about SEC and CFTC. I said,
14 Joe, this is your time. You go do what you have got to do.

15 Q What did you expect Joe Anile as the OIG president and
16 attorney would be doing?

17 A Well, I expected him to go get us counsel. I knew they
18 took all our money, they took all our assets. There was no
19 way to hire anyone. None of us had any money. So I needed
20 Joe to call in some of the favors he always told me he had out
21 there with all of his attorney friends in New York and try to
22 get us some sort of representation before they just run us
23 over with a bulldozer.

24 Q At any point did Mr. Anile help obtain counsel for you on
25 the CFTC matter?

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1 A Never. He promised phone call after phone call that he
2 was talking with attorneys and he was lining up attorneys for
3 everybody who was a defendant. He delivered nothing.

4 Q At any point did Mr. Anile assist in getting counsel for
5 you on this matter?

6 A No.

7 Q One of the things that you have talked about consistently
8 in your testimony and in a lot of discussions that you've had
9 with other people at OIG and Oasis Management, LLC, is how
10 strongly you feel about the importance of silver.

11 A Yes.

12 Q Why?

13 A Well, as I explained the other day, silver is real money.
14 It's -- like I said, the 1792 Coinage Act explains what a U.S.
15 dollar actually is. It's 371.25 grains of silver. The
16 dollars in your pocket say "Federal Reserve Note" just like a
17 promissory note. It's not money; it's debt. And silver
18 protects you against the depreciation of that wasting asset.

19 And so silver was extremely important to me because I
20 told everyone that I came in contact with since 2008 that the
21 crisis that occurred was never fixed and the next crisis will
22 be a dollar crisis. The dollar is going down in value, not
23 because of a pandemic, not because of an invasion of the
24 Ukraine. It's going down because the federal reserve prints
25 dollars without any regulation or without any constraints

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1 whatsoever. And every time those dollars are printed, the
2 value of your cash in your pocket, in your bank account goes
3 down in value.

4 Q As a result of this pretty strong conviction that you
5 have about the importance of silver, what kind of actions were
6 you taking with respect to what you call a silver position and
7 OIG?

8 A I mean, the physical silver or the --

9 Q First we're just going to talk about the silver position
10 itself.

11 A So the silver position, we were increasing our position
12 as we were getting an increasing amount of loans. So I wanted
13 to properly reflect it. My first goal was to slow down the
14 trading and recover the loss that had incurred in 2018. I
15 purchased it based upon its activity over the last few months.
16 I started buying it in November, I believe. And I fluctuated
17 in the amount we held depending on the price action for that
18 month.

19 Q When you decided to make any changes about the silver
20 position, either buying more or selling, how would you go
21 about doing that? Who would you contact to make that happen?

22 A Who would I contact to sell it?

23 Q To sell it or buy it.

24 A It was all my decisions but I would sell it on the ATC
25 platform.

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1 Q How would you get the money wired or received?

2 A No. So in other words, that position is just like a
3 currency position. It's on the platform. So the money would
4 be in the ATC account. I would use whatever was available in
5 the ATC account to hold the amount of silver that I wanted to
6 hold. If I needed to put more in, I would just send more
7 money over. If silver went up in value, every time it went up
8 in value, it would bring up the equity. So when the equity
9 would go up, I would then have to make a decision if I want to
10 take some off and trade it back and forth a little bit, but
11 it's just a process of back and forth depending on the price
12 action.

13 Q So when you said you would just put in a -- wire in a
14 little bit more money, where was that coming from?

15 A That would come from OIG's Mainstream account.

16 Q Who had access to the OIG Mainstream account?

17 A Mr. Anile.

18 Q So if you decided that you needed money wired in to be
19 able to purchase more silver to increase your silver position,
20 who would you contact to wire that money?

21 A Joe, Joe Anile.

22 MS. IRVIN: Your Honor, may I approach with Defendant
23 Exhibits?

24 BY MS. IRVIN:

25 Q Mr. DaCorta, please take a look at what has been marked

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1 as Defendant Exhibit 311, 312, and 313.

2 A I'm looking at them.

3 Q Do you recognize -- we'll go one at a time. Do you
4 recognize Exhibit 311?

5 A I do.

6 Q What is it?

7 A It's an email from me to Mr. Anile telling him that
8 the --

9 Q Hold on one second. This is an email. We will get to
10 what it says, but do you recognize it?

11 A Yes, I do.

12 Q Does it fairly and accurately represent the email that
13 you would have sent on that date?

14 A Yes, it does.

15 Q Now let's look at Defendant's Exhibit 312. Do you
16 recognize it?

17 A I do.

18 Q What is it?

19 A It's another email.

20 Q And does it fairly and accurately represent the email
21 that you sent on that day?

22 A Yes.

23 Q Looking at Exhibit Number 313, do you recognize it?

24 A I do.

25 Q What is it?

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1 A Another email.

2 Q And does it fairly and accurately represent the email you
3 sent that day?

4 A Yes, it does.

5 MS. IRVIN: Your Honor, we move to admit Defendant's
6 Exhibits 311, 312 and 313.

7 MR. MURRAY: May we have a moment, Your Honor?

8 No objection, Your Honor.

9 THE COURT: They are admitted.

10 (Defendant Exhibits 311, 312, 313 admitted.)

11 MS. IRVIN: Permission to publish Defendant's
12 Exhibit 311 on the Elmo.

13 BY MS. IRVIN:

14 Q So Mr. DaCorta, this is an email that was sent to you to
15 whom?

16 A It was from me to Mr. Anile.

17 Q What does the subject say?

18 A "ATC Wire."

19 Q Can you please read what the email says?

20 A It says, "Joe, silver has not moved at all overnight.
21 Let's send a wire to be safe. I do not know what you have at
22 Mainstream. Send as much as we can and still be comfortable
23 with the balance on hand. We will have more coming within a
24 week. Let me know how much you send so I can alert Dave it's
25 incoming. Mike."

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1 Q What does that mean? What are you telling Joe in this
2 email?

3 A I'm telling him I want to increase the capital in the
4 account at ATC in order to make sure that if silver has an
5 adverse move against us, we can hold the position at the size
6 it's at without selling any.

7 Q Why is it important that silver has not moved at all
8 overnight to your decision?

9 A It hasn't moved up or down. So it's still status quo.
10 So I just wanted to be safe that if the next move might be
11 down a little bit, I would have ample capital to hold it or
12 maybe even purchase more on a downdraft.

13 Q Is this email then just saying have that money available
14 but I may not use it?

15 A I'm saying send some, but I mean when you send money to
16 an omnibus account, it's being held as collateral. At the end
17 of the day whatever your transactions are, if they're positive
18 or negative, it just gets debited or credited from the
19 collateral account. So the money is never actually in the
20 trading account. It's just acting as collateral behind the
21 trading account. You produce the results, and then the
22 account is either debited or credited at the end of the day.

23 Q From this email, how would Mr. Anile know how much to
24 send over?

25 A I didn't know how much balance he had because he was the

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1 only one that had access to that account. So I didn't want --
2 I wanted him to send enough that I'm comfortable -- I wanted
3 him to hold back enough that we were comfortable because we
4 had certain models as to how much goes in and out on a monthly
5 basis, but I also wanted to make sure I had enough to hold
6 that position at that moment in time.

7 Q Lastly in the email, it says, let me know how much you
8 can send so I can alert Dave it's coming. What's that about?

9 A At that point in time I wasn't sure how much he was going
10 to decide to send. So once he decided to the amount, let me
11 know and I would call Dave Manoukian at ATC to provide him the
12 information to know how much is incoming.

13 Q Why would you have to contact Dave Manoukian directly
14 about that?

15 A I always did just to alert them that we are sending a
16 wire. Dave was basically -- he was the president of the
17 company, but he more or less took care of our account for us.
18 So anything we had in or out, anything we needed at ATC, Dave
19 was the point man.

20 Q Dave was the president of the company. Were there not
21 other people that worked below him that might have been able
22 to do the same thing for you?

23 A Yes, but because he was basically my counterpart, we
24 always spoke together.

25 Q Let's turn to Exhibit 312. What's the subject line in

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1 this email?

2 A "ATC Wire."

3 Q And what's the date?

4 A September 4, 2018.

5 Q Can you please read the email?

6 A "Joe, send the wire to ATC for a hundred thousand this
7 morning just for me to hold the silver for now. Thanks,
8 Mike."

9 Q Is there anything significant about this email or this
10 date where you can give us some context as to why you are
11 asking for a hundred-thousand dollar wire?

12 A I probably wanted to increase the amount of money I had
13 in that account just to possess silver. This was before we
14 started building the position in November of 2018. So this
15 would have been just in and out type of stuff.

16 Q Move now to Defense Exhibit 313. What's the subject
17 line?

18 A "FYI."

19 Q What's the date?

20 A March 5, 2019.

21 Q This was approximately one and a half months before
22 April 18, 2019 --

23 A Correct.

24 Q -- when Oasis is shut down, right?

25 What do you say in this email? Please read it.

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1 A I say, "Joe, markets are eerily quiet last few days. No
2 movement at all. Let's send an additional 500K down to ATC
3 today just so we have some dry powder. We are sitting
4 perfectly with silver, but just in case of a small dip on low
5 volume, I want to have ability to sit tight or add a few.
6 Thanks, Mike."

7 BY MS. IRVIN:

8 Q I want to take this in parts. The first sentence,
9 markets are eerily quiet the last few days, do you recall what
10 was going on at that time?

11 A You know, I don't think there was anything specifically
12 going on. It was just a very -- there are times in the market
13 where things just are not very active. And this was just one
14 of those times.

15 Q Two sentences later you say, let's send an additional
16 500K down to ATC today so we can have some dry powder. What
17 does that mean?

18 A I wanted to have additional capital available to purchase
19 more silver in the event it dipped a little bit.

20 Q The next sentence, what are you explaining is your
21 current position and what you think you are going to do if
22 there's a change?

23 A Right. So I said, we are sitting perfectly with silver
24 but just in case of a small dip on low volume, I want to have
25 the ability to sit tight or add a few. So at that point in

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1 time, we have a silver position. I feel like we bought it at
2 a good price over an extended period of time averaging in.
3 And if it dipped a little bit, I wanted to have the
4 opportunity to increase my position, because I had told my
5 traders that we were going to stay between 3 and 5 million
6 ounces if possible. I gave them some parameters as to where
7 we would lighten up and then what the next leg would be after
8 the first leg. So we had a strategy going forward for the
9 next six to nine months.

10 MS. IRVIN: Your Honor, may I approach the witness
11 with Defendant's Exhibit 17?

12 THE COURT: Yes.

13 BY MS. IRVIN:

14 Q Mr. DaCorta, what is this chart?

15 A That is a chart of the price of silver. It's a weekly
16 chart, I believe. And I can't see the time frames. I think
17 it goes from about March 2017 to about March of 2021 or so.

18 Q Are you looking at the date that's up here in the top
19 left-hand corner?

20 A That was -- yeah. January 1, 2017. The problem is that
21 the chart is wider. So you don't have January 1, 2017, on
22 this chart. It starts in March.

23 Q At the very, very small on the bottom, I'm going to zoom
24 in as much as I can. Are you able to see the dates on the
25 bottom of the chart?

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1 A Yes. It's March.

2 Q So it looks like it's starting in about --

3 A Starting sometime in February.

4 Q So starting sometime in February of 2017?

5 A Correct.

6 Q And I'm going to slide it over. Gives us this marker
7 right here of December 29, 2017.

8 A Correct.

9 Q And then we can see as we slide over, what do you see in
10 about the middle?

11 A Right.

12 Q 2018 to 2019; is that right?

13 A Correct.

14 Q And then so we can see how far it goes, how far does this
15 chart extend?

16 A Goes to June of 2021.

17 Q Let me zoom back out so we can see the entire chart.
18 What is this to a layperson who doesn't have experience in
19 trading silver, what is this chart showing me about silver in
20 your experience from March 2017 going forward to June 2021?

21 A Well, it is showing the entire amount of trading, the
22 price action on a weekly basis. Each bar is a week. They are
23 called candlesticks.

24 Q And we know it's called a candle chart. That's what it's
25 called up here?

DIRECT EXAMINATION OF MICHAEL DACORTA

1 A Right.

2 Q So when you are referring to candles, these are the small
3 white and blue marks?

4 A Right. The candle, we call them wicks, the lines
5 protrude out of the body of the candle.

6 Q How would you describe the movement of silver from
7 February 2017 through -- let's go all the way to December of
8 2018?

9 A It's in a very, very tight range.

10 Q What does that mean?

11 A Extremely tight range. So there is very little
12 volatility. So it's trading within a very narrow price
13 action.

14 Q There are places along the graph where there is blue and
15 white?

16 A Right.

17 Q What does that signify when I see blue or when I see
18 white?

19 A Well, that depends on who made the chart because you
20 could fill in any colors you want with the computer, but it
21 seems to me that the blues are down days and the other color
22 is our up days.

23 Q Do you have a particular strategy that you would have on
24 days when silver was down?

25 A Well, there are strategies based upon different time

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1 frames. Obviously we were looking at a more long-term time
2 frame. We weren't looking at this as a day-to-day thing. So
3 that long, protruded straight line is showing me that the
4 price action is very, very tight. And the next -- at some
5 point in time you are going to have a breakout one way or the
6 other. Because it was silver and because my outlook on the
7 dollar thought it would lose value, my outlook on silver was
8 that it would increase value against the U.S. dollar.

9 Q If we go forward to about April of 2019, what's going on
10 with silver?

11 A It's holding. It's holding the pattern at that point.
12 It's between -- it's trading probably between 14 and 15 and
13 25, you know, from the extreme low to the extreme high, but
14 it's very contained within basically a dollar.

15 Q What can you -- how can you describe how silver changes
16 from about April, mid April of 2019 through a little bit
17 before let's say end of August 2019?

18 A Well, at that point silver had a rally of about almost
19 \$5.

20 Q What does that mean?

21 A It means our entire loss would have been wiped out. We
22 would have earned about 18 to \$20 million.

23 Q Explain what you mean with respect to the 3.8 million
24 ounces of silver that you were holding at the time that OIG
25 was closed. Explain using that amount how would that have

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1 affected that silver position if we move ahead just slightly
2 less than six months to August of 2019.

3 A So if you take silver topping out at \$20, you take
4 3.8 million ounces -- if you just round it up to four million
5 ounces, 4 times 5 is 20. The \$2 million in the account would
6 have increased to 22 million which would have wiped out our
7 entire trading loss.

8 Q Is that helpful?

9 A It would have been very helpful.

10 Q Let's move a little bit forward, and let's go to December
11 of 2019. Based on your understanding of where silver was in
12 December of 2019 and understanding we're also just talking
13 about static, right, we're assuming you're keeping the
14 3.8 million-ounce position, right?

15 A Right, which would not have happened in reality.

16 Q We'll get to that. Assuming we are in December, how
17 might that have assisted you holding that same position by the
18 time we reached December of 2019?

19 A We wouldn't have had much of an impact because it was
20 kind of straight across. So at that point in time we would
21 have earned all of our losses back. So the prudent thing to
22 do would have been to reduce the position, wait for a sell-off
23 and repurchase it at a lower price.

24 Q When you say reduce a position, to a layperson what are
25 you saying?

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1 A Reduce the position means if you earn \$20 million and you
2 wiped out your loss, why not take some of that position off.
3 You have now accomplished your goal. But I was still very,
4 very bullish on silver. I had told both Fred and Steve that
5 we were looking for \$28 to \$30 in the first leg. So we would
6 have probably -- not probably. We would have definitely
7 reduced that position from 3 million maybe down to a million.
8 There's no way to predict obviously, but if you look back at
9 our November through April inventories, they go from two and a
10 half million to 500,000 to one and a half million to two
11 million. So they are all over the place depending on price
12 action.

13 So here because my first goal was to recoup the
14 losses, I would have probably sold the position, recouped the
15 losses and then made a fresh decision afterwards.

16 Q I want to draw your attention specifically to this area
17 which looks like it's about March or right before March --

18 A Yes.

19 Q -- of 2020.

20 A Right.

21 Q What's going on with the silver position?

22 A So silver here sells off from about the area it was down
23 to probably about \$12. And I think it stayed there for a day.

24 Q If we consider that you were holding a 3.8 million-ounce
25 silver position April 18, 2019, what can we know or anticipate

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1 could have happened between then and this significant drop in
2 March of 2020?

3 A Well, as it came across the top there and kept the highs
4 for several months, you are going to take the position off
5 because, Number 1, it's not doing anything for you at that
6 moment. So you don't want to hold it. On top of that, you
7 have the fact that you have earned \$20 million and negated
8 your losses. So at that point in time you are going to take
9 most of it off, if not all. You are going to trade it small
10 until you see something happen. The sell-off would have been
11 the opportunity to go to a much higher level in the number of
12 ounces.

13 Q So am I correct in understanding your answer to mean you
14 would not have maintained a consistent 3.8 million-dollar
15 ounce position from basically April of 2019 consistently
16 through about March of 2020?

17 A No, because that's why you call it trading. When you
18 have that much of a profit and you wipe out your loss, which
19 was our initial and our main focus, you are going to take the
20 position off and then regroup.

21 Q Following this drop in March of 2020, how can you
22 describe what happens to silver between March of 2020 and
23 about July, August of 2020?

24 A That's just a complete rally that is amazing. I mean,
25 it's just a complete breakout and a run to the upside,

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1 sustained run to the upside that took it from \$12 to \$30.

2 Q Assuming just for this -- well, I will ask the question
3 differently.

4 If you had, as you testified, reduced the amount of
5 your silver position here because you had already made up
6 losses somewhere around here, based on your experience in
7 trading in silver, what would you have done during this
8 increase in the silver condition?

9 A Obviously when it dipped down like that, if you had
10 already sold your position and you are sitting there with all
11 the cash, you are going to -- I'm not saying you are going to
12 buy it at the bottom, but you are probably going to watch it
13 bottom out. As it starts to rally, if it got to a low of 12,
14 you might start buying at 12 and a half, \$13 on the way back
15 up. You might have bought a little bit on the way down.
16 There's so many variables it's impossible to predict, but the
17 bottom line is our strategy was to hold silver long term and
18 our target was \$28 to \$30. And we would have -- if we had the
19 opportunity, we would have purchased more than the
20 3.8 million ounces of silver when that dip occurred.

21 Q Finally, in looking at the rest of this graph, so roughly
22 from where we were in August of 2009 going forward to about
23 where this graph ends in June of 2021, how do you describe the
24 movement of silver across that time frame?

25 A So you had the big spike higher, and then once it spiked

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1 higher, it fell into a range. So the range was basically 22
2 to 28 since that time.

3 Q How does the silver position, how you intended the
4 silvers to work, how was it to support or assist OIG in its
5 overall business plan?

6 A Well, obviously the main thing was we recognized we had
7 loss in 2018. I wanted to change the process of the way we
8 were doing it and get back to it when the market changed, but
9 in the process I wanted to take some sort of corrective
10 action. To me the silver was the best action to take, and it
11 proved to be 100 percent correct.

12 Q With respect to the silver position, I know that we have
13 seen -- we have reviewed a couple of emails, do you recall
14 ever having a discussion with Dave Manoukian about any trading
15 losses and what your plan was for corrective action?

16 A Oh, yes. I mean, I spoke with Dave often. He loved to
17 trade also. So I told him what I was going to do is pretty
18 much slow down trading and sit tight with silver.

19 Q What did you mean by saying you would sit tight with
20 silver?

21 A Maintain a position. Maintain a position. I mean,
22 obviously you're not going to sit tight with an exact number
23 based on market conditions, but you're going to maintain a
24 position in silver until you at least reach a certain price
25 level that you are expecting.

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1 Q And how did you expect that silver position to assist
2 with the losses?

3 A I expected it to not only wipe it away but create a large
4 profit.

5 MS. IRVIN: Can I have a moment, Your Honor?

6 THE COURT: Yes.

7 BY MS. IRVIN:

8 Q Separate and apart from the silver position that you
9 hold, you held in OIG, you also had hard silver and gold that
10 we've heard testimony about. Can you please explain the
11 reasons why you purchased, OIG purchased, OM, LLC, purchased
12 hard silver and gold?

13 A Yes. Something happened on October 4, 2018, that alerted
14 me that I needed to -- I should, it would be a very prudent
15 thing to not only own silver on a platform but also own
16 physical gold and silver.

17 Q And what was that reason?

18 A A bureaucratic agency within the United States government
19 created what's called the Financial Accounting Standards
20 Authority Bureau. They passed -- it's called FASB. They
21 passed paper Number 56. That paper essentially gave the
22 United States government the right to withhold all financial
23 information from the public under national security reasons.
24 Between 1998 and 2015, there was \$21 trillion missing from the
25 federal budget. At the time people didn't believe it. A

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1 professor of economics from Michigan State University did a
2 study. He found that it was absolutely correct.

3 MR. MURRAY: Object, Your Honor. Hearsay.

4 THE COURT: Well, the question was why did you hold
5 the -- getting into the study is probably hearsay, but let's
6 see if we can just answer that question why the hard ore was
7 being held.

8 BY MS. IRVIN:

9 Q Maybe if you can just direct the -- what you understood
10 what was going on, sort of the conclusion that led you to take
11 the --

12 A Yes.

13 Q -- position that you took on hard gold and silver.

14 A So I came to understand, that was validated, that there
15 was \$21 trillion missing from the budget, 20 trillion from the
16 Department of Defense and one trillion from Housing and Urban
17 Development. In December of 2017, the Pentagon said they
18 would do an audit. And October 4 of 2018, FASB passed and
19 said everything is under national security. So at that point
20 in time, I thought that the U.S. dollar as a world reserve
21 currency would definitely be under threat.

22 Q And as a result of that understanding, what did you start
23 doing?

24 A I started buying large amounts of gold and silver.

25 Q When you purchased the large amounts of gold and silver,

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1 who was the purchaser? Where did the money come from to
2 purchase those assets?

3 A Those assets were the same assets that we purchased real
4 estate. It was OIG. It was either Oasis International Group
5 capital or Oasis Management capital. You're turning cash,
6 which is a money substitute, into real money. And so there is
7 really no difference because actually gold and Silver Eagles
8 are legal tender. So you are just cashing one type of money
9 substitute for another type of money.

10 Q Now, you mentioned both OIG and Oasis Management, LLC.
11 If OIG was the purchaser of the gold and silver, where was
12 that gold and silver kept?

13 A Anything purchased with an Oasis Management check, which
14 we saw many of, that was held in my house. Any wires that
15 were sent from OIG were held at Mr. Anile's house. So that
16 way we knew exactly the inventory of both companies.

17 Q I think on Friday you testified that you had purchased
18 silver as a teenager or a young person?

19 A Yes, I did.

20 Q And I think you testified that you kept that silver at a
21 safety deposit box in a bank; is that right?

22 A Correct.

23 Q Why did you make the decision to not put the gold and
24 silver for Oasis Management, LLC, in a bank safety deposit
25 box?

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1 A Because during the Obama administration, the banking
2 regulations would change. Anything in the safety deposit box
3 is owned by the bank. So if something happens to the bank,
4 you have no access and it's not yours. So that would become
5 part of the bank's.

6 Q Was the safest place for you to keep the gold and silver
7 in the closet in your house?

8 A No. But at the moment for a temporary solution it was
9 the best.

10 Q What was the longer term solution for where the gold and
11 silver was going to be kept?

12 A Well, there were two. Number 1, I had already purchased
13 a safe and had it installed at the Lacantera property that I
14 would be moving to in a few weeks, but also we were renovating
15 the entire upstairs of 444 Gulf of Mexico Drive, and that was
16 going to be our offices upstairs, and we planned on having a
17 vault installed or some sort of safe installed within the
18 building.

19 Q How far off were you from completing the construction on
20 the office building?

21 A Well, we completed the outside of the office building.
22 That was done and now we went inside. So we just had it torn
23 apart. So I'm sure when they raided it, the upstairs was a
24 complete mess, but we had just had everything torn out
25 upstairs. So it was just in the beginning stages.

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1 Q So plan wise about six months until there was a completed
2 office for you to be able to move the silver?

3 A At least, yeah.

4 Q Okay. One other piece of testimony that I wanted to
5 address is when Joe Paniagua was testifying, he of course was
6 talking about his experience in working on the back office.
7 And there were a number of questions having to do with
8 adjustments that he was making in the back office.

9 A Yes.

10 Q Can you explain what your understanding of those
11 adjustments were?

12 A Oh, I know exactly what they were. The back office,
13 Spotex, is essentially an electronic ledger. So if people --
14 let's say before electronics if people owe you money or lend
15 you money, you actually keep a ledger in a book, and you keep
16 track of every single person who loans you money, how much you
17 owe them if you are paying them interest. We had a set amount
18 of interest which was 12 percent, but then we also had the
19 25 percent of the transaction fees. So that's a very --
20 that's something you can't calculate by hand because we did
21 250 billion dollars worth of trades over the course of those
22 years. So that's something that has to be done
23 electronically. And the ATC website would take every trade
24 done and allocate the spreads as we designed them to whoever
25 was getting whatever their take was.

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1 So the back office was all Oasis International Group
2 accounts. The subaccounts were all Oasis's accounts, but what
3 we had to do if 100 people loan you money and it's all
4 different amounts and every single person is being allocated
5 spreads on a daily basis, the only way to keep that accurate
6 is to have that ledger in the back office that accounts for
7 each and every transaction every single day. At the end of
8 the month, your loan to me was a hundred thousand dollars. I
9 still owe you a hundred thousand dollars plus whatever that
10 spread was. So if you withdrew your interest, you now have
11 principal only back there. If we had a profit one month, it
12 had to be reduced. If we had a loss, it had to be put back.

13 So in other words, the only way to keep the integrity
14 of how much everybody's loan represented and how much interest
15 they were being allocated on a daily and monthly basis was the
16 end of the month that number had to be brought back to the
17 principal amount of their loan. The P&L shifted to our side,
18 whether it was profitable or whether it was a loss. That was
19 the company responsibility as we stated many times. But for
20 each person, in order for us to keep track of that loan, we
21 needed the actual amount we owed them, the principal amount,
22 plus any accrued interest, if they left it there, added
23 together to come up with the amount that we now had to put
24 into the PAMM account which then received all the spreads
25 based on the transaction fees. It was the only way to keep

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1 the integrity of the whole thing working.

2 Q The Spotex software that you were using, was that
3 software designed for a program like OIG?

4 A No, it wasn't. We had to adapt to it. That's why there
5 was a lot of confusion.

6 Q Are the adjustments that you just explained part of the
7 adapting that you were doing with respect to the Spotex
8 software?

9 A Absolutely.

10 Q Is it your understanding that the adjustments that
11 Mr. Paniagua was making was to ensure that the accounts were
12 precise?

13 A Exactly. That was the only purpose.

14 Q Was there any other reason for him to make those
15 adjustments?

16 A No.

17 Q Was he committing a fraud by making those adjustments?

18 A Absolutely not. We told everyone we are going to pay you
19 based upon your principal. If I can't keep track of your
20 principal, how can I pay you properly or how can I allocate
21 the amount of spreads we are earning in order to be able to
22 tell everyone this is how much interest you've earned every
23 single day. It's not possible to do if you don't have an
24 accounting process that's working accurately.

25 MS. IRVIN: Your Honor, may I have a moment?

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1 THE COURT: Yes.

2 BY MS. IRVIN:

3 Q Mr. DaCorta, you have been charged with some serious
4 felonies.

5 A Yes.

6 Q Conspiracy to commit mail and wire fraud with respect to
7 the way the government believes that you ran your businesses,
8 Oasis Management, LLC, and Oasis International Group. You
9 have been charged with improperly using funds from OIG to
10 purchase the home that you lived in. You have also been
11 charged with making a false statement on your 2017 taxes.

12 Please tell the jury whether you ever intended to
13 defraud the lenders who gave their money to Oasis and OIG.

14 A Never. I would never do that.

15 Q Why should the jury believe you?

16 A Because everything I've said here is the truth. All
17 those people I knew. The people who testified here, I knew
18 them personally, went out to dinner with them. We were
19 working around the clock to make this company successful, and
20 we were a few months away from turning it into a large
21 success. We were misunderstood, and we never had a chance to
22 speak. We never had a chance to hire an attorney to speak for
23 us. We were completely ambushed, divided, and conquered. And
24 it's really just an awful, awful situation.

25 MS. IRVIN: Thank you.

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1 No further questions, Your Honor.

2 THE COURT: Very well. Let's take our lunch break.

3 Can we come back at 1:45? Can we do that? I don't want to
4 squeeze you down too hard that you can't get a lunch. Is that
5 okay? I don't see anybody giving me a thumbs down. You are
6 allowed to thumbs down the judge if you want. Okay. 1:45.
7 Don't discuss the case. It's not over. We will be back right
8 after lunch.

9 (Lunch recess taken.)

10 THE COURT: All right, counsel, you may cross.

11 MR. MURRAY: Thank you, Your Honor.

12 **CROSS-EXAMINATION**

13 BY MR. MURRAY:

14 Q Good afternoon, Mr. DaCorta.

15 A Good afternoon.

16 Q Mr. DaCorta, you're from New York, and I'm from New
17 Jersey. And so what these fine Southern folks might not
18 understand is that we tend to speak quickly up North.

19 A We do.

20 Q So I'm going to do my best and I hope you'll do the same
21 so the court reporter doesn't kill us both.

22 A Sounds good.

23 Q Mr. DaCorta, would you agree with me that you present
24 well?

25 A I do.

CROSS-EXAMINATION OF MICHAEL DACORTA

1 Q Charming even?

2 A That's in the eye of the beholder, I guess.

3 Q Fair. Well spoken?

4 A Again, in the eye of the beholder, but I would say yes.

5 Q Educated?

6 A Yes. To some degree. More than some, less than others.

7 Q I know we talked a little about your formal education
8 stopping early but certainly a ton of real-world education and
9 professional licenses, right?

10 A Yes, without a doubt.

11 Q And we talked on Friday and a little bit more today about
12 your experience in the financial markets, right?

13 A Correct.

14 Q And would you agree with me on Friday that the story you
15 told about your background is quite similar to the story that
16 we heard on a lot of the recordings that we have listened to
17 the last couple weeks?

18 A I would assume so, yes.

19 Q And although I know there are some parts that differ,
20 would you agree with me that the story that you tell about
21 Oasis's beginning is fairly consistent with what Joseph Anile
22 tells?

23 A I don't know exactly what Joseph Anile tells. I never
24 heard him kind of tell the story.

25 Q Didn't you hear him tell in Court?

CROSS-EXAMINATION OF MICHAEL DACORTA

1 A You mean what he testified?

2 Q Yes, what he testified.

3 A Yes. I'm sorry.

4 Q Let's start with your background because that's where we
5 started last Friday. Now, we walked through several Wall
6 Street law firms that you worked at -- or I'm sorry, Wall
7 Street trading firms that you worked at, correct?

8 A Yes.

9 Q We talked a little bit about your sort time at Sterling
10 Foster, right?

11 A Yes.

12 Q And I think you were only there for about a year or so?

13 A Less than a year.

14 Q Less than a year. There's a movie that's made that's
15 inspired by the events of that fraud, right?

16 A I think there was.

17 Q And it's called "Boiler Room," I think?

18 A I think that was actually Stratton Oakmont, not Sterling
19 Foster.

20 Q And we talked about your professional licenses, right?

21 A Yes, we did.

22 Q And we talked a little bit about a beer company that you
23 started that didn't quite work out?

24 A Yes, we did.

25 Q And we talked about, did we not, you leaving that beer

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1 company and getting involved in oil trading commodities,
2 right?

3 A Time wise a little off. I was actually trading at Onsite
4 while I was operating the beer company.

5 Q Okay. And that's where -- correct me if I'm wrong, but
6 that's where you first sort of started hedging with currency
7 and you developed an interest in trading currency. Do I have
8 that right?

9 A Yes. It was very different at that time. It wasn't
10 forex. You had to actually use contracts. It was much more
11 difficult to put on a currency trade back in the 1998 time.

12 Q And then after that we started talking about ICT?

13 A Right.

14 Q And we talked about how you were the president and head
15 trader of that from 2002 until roughly 2009, right?

16 A 2008 we ceased trading operations and then finally
17 decided to no longer go with the firm by probably March of
18 2009.

19 Q And am I right in my recall that you ceased trading
20 operations as you described because there was a financial
21 crisis in 2008 and there were glitches of some kind in that it
22 created issues, and that's where we got into the whole NFA
23 audit thing, correct?

24 A When Lehman Brothers went down in 2008, that crisis
25 caused us to stop trading operations.

CROSS-EXAMINATION OF MICHAEL DACORTA

1 Q And we moved on after that point. We talked a little bit
2 about your subsequent endeavors after ICT, right?

3 A Yes.

4 Q We talked about how you were unemployed for a year or two
5 after that, right?

6 A Yes.

7 Q And then we moved forward to talk about how you met Ray
8 Montie at Ambit Energy, right?

9 A Correct.

10 Q And then from meeting Montie it turns into an investment
11 club?

12 A That's correct.

13 Q And then from that investment club, you know, we started
14 talking about the early formation of Oasis International Group
15 with Joe Anile, right?

16 A Right. It was Sierra Partners first and then eventually
17 Oasis International Group.

18 Q So by the end of Friday would you agree with me that we
19 had gone through all of that, and we started talking about
20 Sierra Partners and the attempt at creating that hedge fund,
21 right?

22 A Yes.

23 Q And that's kind of where we left off Friday before the
24 weekend; is that fair?

25 A I will go with your memory better than mine at this

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1 point.

2 Q You would agree it's important to tell the truth under
3 oath, correct?

4 A Absolutely.

5 Q And it's also, as part of that oath that you take,
6 important to tell the whole truth; isn't that right?

7 A That is correct.

8 Q And would you agree with me that in order to tell the
9 whole truth, that it's important not to omit any material
10 information; is that right?

11 A When a question is asked it's full disclosure. I'm under
12 oath.

13 Q And you didn't do that on Friday, did you, Mr. DaCorta?

14 A I believe I did.

15 Q Because Friday we were way past ICT. I mean, we were
16 into Sierra Partners. We were into the formation of OIG, but
17 this morning we heard a lot more about ICT, didn't we?

18 A Yes, we did.

19 Q And we skipped back in time, and we started talking about
20 ICT again, right?

21 A Yes.

22 Q In other words, your story on Friday about ICT was not
23 complete; is that fair?

24 A I believe that it was complete to the point that I said
25 something that obviously allowed more questioning.

CROSS-EXAMINATION OF MICHAEL DACORTA

1 Q Because on Friday you said that ICT failed because of the
2 2008 crisis and there was a glitch, correct?

3 A I didn't say there was a glitch. I said Icon Trading
4 Systems were shut off for a short period of time.

5 Q But today we learned a lot more about ICT; is that fair?

6 A Yes, we did.

7 Q We learned that there were indeed findings made by the
8 NFA in their audit; isn't that right?

9 A Absolutely, there were.

10 Q In fact, I'm publishing Exhibit 308 on the Elmo. We
11 learned that the NFA audit cited you with certain deficiencies
12 in connection with soliciting investors, right?

13 A Right.

14 Q And we also learned that ICT was cited with failing to
15 register certain people as associated persons, list branch
16 offices?

17 A Correct.

18 Q Have supervising APs working at those branch offices,
19 right?

20 A Correct.

21 Q Adopting and implementing promotional material
22 procedures, right?

23 A Correct.

24 Q And there were also deficiencies in developing and
25 implementing a business continuity and disaster recovery

CROSS-EXAMINATION OF MICHAEL DACORTA

1 program for ethics training; isn't that right?

2 A That's what it says.

3 Q And so as we sit here today at 1:50, is it your testimony
4 now that the jury has heard the entire story about ICT?

5 A The ICT story is right there for everybody to see. The
6 agreement says that I denied these things. And I would be
7 more than happy to talk about anything that you want to ask me
8 about.

9 Q Let's do that then. Because isn't it also true,
10 Mr. DaCorta, that the premise of the ICT opportunity involved
11 floating a 12 percent return rate to investors?

12 A No. That's completely incorrect.

13 Q That's completely incorrect?

14 A Yes, it is.

15 Q But isn't it also true that there were roughly 500
16 accounts at ICT?

17 A I don't recall the number, but it's probably close.

18 Q And isn't it also true, Mr. DaCorta, that that
19 investigation by the NFA found that the glitch in some of
20 those investors' accounts had affected what they can see in
21 terms of their statements and their money's performance. Is
22 that also false?

23 A That came at the very end. So it would have been the
24 total -- pretty much almost a total loss of the account,
25 because when the system got shut off and we couldn't access

CROSS-EXAMINATION OF MICHAEL DACORTA

1 the system, by the time it came back on, we were sold out by
2 Icon Global Markets.

3 Q So your testimony to this jury is that as part of ICT you
4 did not offer a 12 percent return on forex trading?

5 A Not on forex trading. We -- if I can explain? Okay. So
6 there were two companies. There was the DaCorta Group, and
7 there was ICT. The DaCorta Group had bonds or loans that came
8 in that we paid 12 percent on. ICT, I was not allowed to take
9 any money. All the money from any customer at ICT went
10 directly to the clearing firm, because as a CTA you are not
11 allowed to accept funds into -- from your customers. The only
12 people who had any money with us were either family and
13 friends, very small amount, that were either loans or
14 preferred stockholders. And the DaCorta Group was a
15 completely separate company from International Currency
16 Traders.

17 Q We saw a part of your journal earlier in this trial;
18 isn't that right?

19 A We did.

20 Q And is it not true in that journal you wrote that you
21 wanted to build Oasis in the same image as you did ICT?

22 A I don't know if I used the word "image."

23 Q But am I generally right?

24 A Kind of, yes.

25 Q And you wanted money to be no issue. You put that in

CROSS-EXAMINATION OF MICHAEL DACORTA

1 your journal as well, right?

2 A Moving forward, create a successful company that money
3 becomes no issue.

4 Q Tremendously successful company, correct?

5 A Yes.

6 Q Mr. DaCorta, as important as it is to tell the truth and
7 the whole truth in here today, so too it is in business as
8 well. Wouldn't you agree with that?

9 A Yes.

10 Q You're a businessman, right?

11 A Yes, I am.

12 Q And as a businessman, if a businessman is selling
13 someone, let's say a car, and representing that that car runs,
14 it's important that that car truly runs, isn't it?

15 A I would think so, yes.

16 Q And if a businessman sells someone a car and says it's a
17 Ferrari, it's important that that car is not a Toyota with the
18 words Ferrari written over it in magic marker. Would you
19 agree with that?

20 A Yes.

21 Q And if a businessman sells someone a car and says it
22 runs, it's important that that car have an engine in it.
23 Would you agree with that?

24 A I would definitely agree with that.

25 Q And the same is true in finance, right?

CROSS-EXAMINATION OF MICHAEL DACORTA

1 A True in anything.

2 Q If you are selling derivatives, right, it's important
3 that you're telling the counterparty the truth about the risk
4 level of those derivatives, right, the paper that's inside
5 them; isn't that right?

6 A Sure.

7 Q And the same is true, is it not, when you are running a
8 business?

9 A Yes.

10 Q Whether they're investors or lenders, it doesn't really
11 matter. If you're doing business with another person, is it
12 not true that it's important to tell the whole truth about
13 that business opportunity?

14 A Yes, it is.

15 Q And whether they're investors or lenders whose notes rely
16 on the full faith and credit of your company, is it not
17 important that you fully inform them of the activities of that
18 company so that they can make an informed decision about what
19 they're actually doing?

20 A Yes.

21 Q So Mr. DaCorta, if you tell someone that you're a market
22 maker, it's very important that you actually be a market
23 maker, correct?

24 A Yes.

25 Q And if you tell an investor/lender that their money is

CROSS-EXAMINATION OF MICHAEL DACORTA

1 going to be put in banks overseas and held as collateral, it's
2 important that their money actually be in banks and held as
3 collateral and not be at risk directly in the market. Would
4 you agree with that?

5 A Well, anything as collateral is going to have some risk,
6 but yes.

7 Q And it's important that if you tell someone you're doing
8 business with that you are a market maker, that you are truly
9 a market maker and that you are not just trading on a retail
10 app on your phone. Would you agree with that statement?

11 A Yes, but I would like to explain that if I can.

12 Q I only asked you if you agreed with it.

13 THE COURT: Well, he is allowed to explain.

14 A Market making is a term, very misunderstood term because
15 of the changes that have happened over the last 20 or 30
16 years. I had a market making license, which is a Series 55.
17 I was a market maker in equities for many years.

18 When we made market in equities, it's very simple.
19 There's three levels of a machine; level one, level two, and
20 level three Nasdaq machine. Level one was a retail broker.
21 You just saw the highest bid and the lowest offer. Level two
22 you saw every bid and every offer. So that way if you had
23 50,000 shares to sell and the bid only had 10,000, you can
24 then go and see how many bids you had a hit to get your whole
25 50,000 executed, and you'd know an average price essentially

CROSS-EXAMINATION OF MICHAEL DACORTA

1 of what you'd get. Level three machine was an actual market
2 making machine. That's where I could enter my own bids and
3 offers and let the whole country, anyone on that machine, any
4 brokerage firm checking the prices, they could see that my
5 company is bidding for this many shares, offering that many
6 shares.

7 As time went on, we went to ECNs. Trading got much
8 more sophisticated. Volume flows got much heavier, and you
9 didn't have that manual type market making that we had back in
10 the '80s and '90s. So when I referred to market making when I
11 speak to our lenders, I'm -- first of all, I'm giving them an
12 opportunity to understand the concept from kind of 30,000 feet
13 up. It's a concept of what we are doing. We are bidding and
14 we are offering for currency pretty much at the same time
15 through an ECN.

16 I created a four-basis point spread. When I created
17 that four-basis point spread, what we did is we would go into
18 the market and we would bid where the four-basis points was on
19 the bottom and offer where it was at the top. At that point
20 in time, our offers and our bids are in the market. We are
21 not trading with ourselves. They are in the market. It's a
22 risk, and we now have those orders published. They're out
23 there for everyone to see. They can hit our bid. They can
24 take our offer.

25 When an execution takes place, that execution --

CROSS-EXAMINATION OF MICHAEL DACORTA

1 let's say someone takes my offer. If they take the offer, I
2 traded it with a third party. I now sold them something that
3 I had, whether it was euros, Japanese yen, whatever it was. I
4 sold them something. No guarantee I'm going to buy it at the
5 same price. So as we are trying to buy it lower and therefore
6 create the middle, but there are times when markets move and
7 you have to adjust your orders. So there are times you are
8 going to make money, capture the whole spread. There are
9 times you are going to lose money, but the concept of market
10 making where you are entering bids, entering offers and being
11 visible in the market place is really just a concept. There
12 is no really market maker -- anyone with a proprietary account
13 with their own capital that enters bids and offers into a
14 market and provides liquidity is in the concept of market
15 making. I wasn't trying to be --

16 MR. MURRAY: I'm going to object.

17 THE COURT: We are just going to do Q and A. So
18 let's have the Q and then we'll get the A.

19 BY MR. MURRAY:

20 Q Mr. DaCorta, we are going to get back into this in a
21 second, but you were here last week, correct?

22 A I was.

23 Q And you heard Matt Childers testify for the better part
24 of the morning, and you heard him testify based on four, five
25 different reasons as to why in no way, shape, or form was

CROSS-EXAMINATION OF MICHAEL DACORTA

1 Oasis ever making markets. You heard that testimony, correct?

2 A I did.

3 Q Let me get back to what I was asking. Would you agree
4 that as a businessman if you are writing notes and those notes
5 are supposed to be underwritten by profits generated from
6 spread pay, then it's important that the company actually be
7 generating money from spread pay?

8 A Yes.

9 Q Just as a general business.

10 A Yes.

11 Q It's important, is it not, that the spread pay isn't just
12 the company overpaying for their trades and putting the money
13 back in their own pocket. That's important, right, if that's
14 the representation that's made?

15 A Yes.

16 Q And if you tell them that there's no fees, it's important
17 for a businessman to not be misrepresenting that there are no
18 fees, correct?

19 A That's correct.

20 Q And if a person, a businessman tells a potential investor
21 that the company is well secured, it's hedged, it's well
22 financed and it's diversified, that that actually be true,
23 right?

24 A Sure.

25 Q And it's important, is it not, that if the company then

CROSS-EXAMINATION OF MICHAEL DACORTA

1 goes and decides to take a risk with investor money on a
2 product that turns out to be a total dud, that it not do so
3 under the false banner of using company profits rather than
4 investor money. Would you agree with that?

5 A Whether it's profits or company money, it's company money
6 but, yes, I will agree.

7 Q So your testimony is once it goes into the company, it's
8 company money no matter what?

9 A That's what a loan is.

10 Q And would you agree, Mr. DaCorta, that it's important
11 that if a company says it's diversified, that that
12 diversification isn't a depreciating automobile that the
13 company's founder's daughter is driving to college purchased
14 by investor money?

15 A Yes, except can I explain something there?

16 THE COURT: You can explain. We just want to do the

17 Q and A. So, yes.

18 A There is some inaccuracies within it.

19 BY MR. MURRAY:

20 Q I'm simply asking you, Mr. DaCorta, is it important if a
21 businessman represents that a company is using its assets to
22 diversify itself, that those assets not be rapidly
23 depreciating assets that the company bought for the benefit of
24 its children?

25 A The company didn't buy those assets. Those assets -- the

CROSS-EXAMINATION OF MICHAEL DACORTA

1 cars were purchased by me personally.

2 Q Out of the Oasis Management account?

3 A Out of -- correct. When you work 18 hours a day, you are
4 entitled to some sort of pay.

5 Q With lender money, correct?

6 A Lender money is the company money for us to manage,
7 correct.

8 Q Would you also agree with me, Mr. DaCorta, that if a
9 company is taking catastrophic losses, massive losses in the
10 market, that it owes its investors information so that they
11 can make informed decisions about pulling out of that
12 investment?

13 A Yes. Well, I noticed you co-opted the "catastrophic"
14 from the CFTC complaint which says \$60 million. However, when
15 you only deposit \$20 million, I ask you and the CFTC how
16 exactly you lose 60 million if you're not actually earning
17 money to lose.

18 Q I didn't ask you about the CFTC, did I, Mr. DaCorta?
19 These things are important, right, because doing them gives
20 the counterparty the full information. Would you agree with
21 that?

22 A Can you repeat that?

23 Q All the things that I've asked you here today are
24 important because doing them in business gives the
25 counterparty the full information that they need to understand

CROSS-EXAMINATION OF MICHAEL DACORTA

1 the business opportunity; is that fair?

2 A Yes.

3 Q And regardless of whether they are investors or lenders
4 they deserve that; isn't that right?

5 A Sure.

6 Q Just like this jury deserved the whole answer about ICT
7 last Friday. Fair?

8 A Anything you ask me again I will answer with regards to
9 ICT. I have no problem with that.

10 Q Mr. DaCorta, I think you testified on Friday that you
11 found Mr. Anile again when you were looking into turning Oasis
12 into something larger than an investment club, right?

13 A Yes. That's when I reached out to him.

14 Q And he was out of work at the time, right?

15 A He told me he was working for Harris Beach.

16 Q I'm sorry?

17 A He told me he was working for a law firm called Harris
18 Beach, if I remember correctly.

19 Q And you testified that you asked him about the NFA
20 settlement agreement, right?

21 A I didn't ask him about it. When he came to my home, I
22 showed him the letter.

23 Q And you would agree that that letter makes it crystal
24 clear that you are never to register with the NFA again. We
25 can agree on that much, right?

CROSS-EXAMINATION OF MICHAEL DACORTA

1 A Absolutely.

2 Q And your testimony is that you found this attorney in Joe
3 Anile, and you showed him the letter, right?

4 A Yes, I did.

5 Q And he says, no, no, no, don't worry about this, it won't
6 be an issue. That's your testimony, right?

7 A Yes, it was.

8 Q And at that point you said, okay. Then we're good to go;
9 is that fair?

10 A Yes. Pretty much as long as he was going to structure
11 something that did not require me to become a member of the
12 NFA, I said that's fine.

13 Q And Mr. DaCorta, you were here for Mr. Anile's testimony,
14 correct?

15 A I was.

16 Q You heard him say that he was struggling at that time,
17 did you not?

18 A That's what he said here.

19 Q Correct?

20 A Correct.

21 Q I think he lost a house to Sandy?

22 A That was after he already came with us. So he already
23 had left Harris Beach. He came with us, and he did lose that
24 because I remember when that was happening.

25 Q But he was having some financial difficulties, wasn't he?

CROSS-EXAMINATION OF MICHAEL DACORTA

1 A That I didn't know personally, no, at the time.

2 Q And you were also here when he testified that that NFA
3 and futures stuff is not his particular area of expertise. He
4 said that, right?

5 A He said it here, yes.

6 Q He said it here. And you were aware that he was also not
7 a criminal attorney, correct?

8 A Oh, yes, absolutely.

9 Q But you claim that you nevertheless showed him this
10 document right here in Exhibit 308?

11 A That's correct. I showed him that.

12 Q And he said, don't worry about it. And you ran with that
13 advice. Is that a fair characterization?

14 A Yes. He said whatever we put together, it will not
15 violate this agreement.

16 Q And you testified that your understanding of that
17 agreement is that you just simply can't register anymore,
18 right?

19 A As a member of the NFA, yes.

20 Q Correct. Mr. DaCorta, the NFA is not a book club, is it?

21 A Excuse me?

22 Q It's not a book club or a social club of any kind, is it?

23 A No.

24 Q No. It's not like the Knights of Columbus?

25 A No.

CROSS-EXAMINATION OF MICHAEL DACORTA

1 Q It's the National Futures Association, right?

2 A Yes, a private organization.

3 Q I want to talk a little bit about your background more.

4 You started trading when you were 15, correct?

5 A Or 16. I wouldn't call it trading. I would call it
6 investing at that point.

7 Q College scholarship even though you didn't finish?

8 A Correct.

9 Q Economic major?

10 A Yes.

11 Q Broker around the age of 21?

12 A Correct.

13 Q Passed the Series 7?

14 A Yes.

15 Q Not an easy test.

16 A No, it's not.

17 Q Let's talk about that. Let's go through some of it,
18 right? FINRA rules, they test that?

19 A They test -- well, at the time I took it, it wasn't
20 FINRA. It was Nasdaq.

21 Q It was a predecessor, but the same thing, right? SEC
22 rules, they test that?

23 A Yes, they do.

24 Q They test FINRA rules on networking arrangements between
25 members and financial institutions, right?

CROSS-EXAMINATION OF MICHAEL DACORTA

1 A Yes. Basically they touch a little bit of every
2 category, how to trade stocks, bonds, U.S. bonds, corporate
3 bonds, municipal bonds, options, regulations. There's a whole
4 bunch of different things on there.

5 Q It's a big test.

6 A 250 questions.

7 Q Internal Revenue Code, they test some topics in that?

8 A There were a couple of them.

9 Q Not a lot but a few; is that fair?

10 A There might have been a few. It was a long time ago.

11 Q See what else is in here. Do they test options trading
12 in there generally?

13 A Very rudimentary. And options principles, a more
14 in-depth test on options but they do put out some options on
15 there.

16 Q You had that license too?

17 A I had, yes.

18 Q All right. They tested. But just sticking on the topic
19 of Series 7, they test death securities, right?

20 A Yes.

21 Q Corporate bonds?

22 A Yes, they do.

23 Q Municipal bonds?

24 A Yes, they do.

25 Q How to register hedge funds and funded funds?

CROSS-EXAMINATION OF MICHAEL DACORTA

1 A That was not on the test when I took it because they
2 didn't exist then.

3 Q How about U.S. securities?

4 A Yes.

5 Q Treasury securities. You also have a Series 63 license,
6 right?

7 A Yes, I do. Well, again, I had all these licenses.

8 Q You passed it, right. And that test, also pretty
9 extensive; is that fair?

10 A I'm sorry. I missed one word.

11 Q That test is also pretty extensive; is that fair?

12 A No. That's a 50 question in and out. It was fairly
13 simple.

14 Q But it does test consumer funds and securities, right?

15 A Yes. It basically tests state rules and regulations and
16 sales practices.

17 Q Conflicts of interest?

18 A Yes.

19 Q Criminal activities?

20 A Yes.

21 Q Ethical issues?

22 A Yes.

23 Q Excessive trading loans to and from investors?

24 A I don't remember exactly, but I'll agree with you.

25 Q Can we publish Exhibit 100A at 12.

CROSS-EXAMINATION OF MICHAEL DACORTA

1 You also mentioned again that you worked at Sterling
2 Foster, right?

3 A Yes.

4 Q You bounced around the street. You passed those exams
5 and then retook them after Beverage World, right, or some of
6 them. You renewed some licenses you said, right?

7 A Well, I had the 7, 63 and 4 prior to Beverage World. So
8 those three I had to retake after Beverage World, and I also
9 had to take the Series 24 to own my own firm.

10 Q By my count, correct me if I'm wrong, you had ten or so
11 different Wall Street firms that you went to over --

12 A It could be, sure.

13 Q You traded equities?

14 A Yes.

15 Q You traded commodities?

16 A Yes.

17 Q You traded securities?

18 A Yes.

19 Q You traded forex?

20 A Yes.

21 Q You started some companies. We talked about that, right?
22 You had a rigorous training program, did you not, at 44 Wall
23 Street on currency trading?

24 A Yes. That was before I decided to start my own firm.

25 Q You had 16 years of Wall Street experience, by my count,

CROSS-EXAMINATION OF MICHAEL DACORTA

1 and 20 years of experience before you started ICT. Does that
2 sound roughly accurate?

3 A ICT was 2002. So 20 would be 1982, so 16 years.

4 Q And up on the screen here I just published 100A. More of
5 the same, right? Series 4, you passed that?

6 A Yes.

7 Q You passed the Series 7?

8 A I did.

9 Q You passed the Series 8?

10 A No. I never took it. I would have passed it.

11 Q You passed the Series 24?

12 A Yes, I did.

13 Q And the Series 24, that's the principal securities
14 qualification exam that we talked about, right? You passed
15 the Series 55?

16 A Yes, that's correct.

17 Q And that's for equity trading?

18 A That's proprietary equity trading and market making.

19 Q And then through ICT you spent eight or nine years as a
20 registered CFTC, NFA member, correct?

21 A Series 3, correct.

22 Q And you passed the Series 3?

23 A Yes, I did.

24 Q And as part of the Series 3, that centers on futures
25 trading, right?

CROSS-EXAMINATION OF MICHAEL DACORTA

1 A Yes.

2 Q What did that test?

3 A What did it test?

4 Q Yeah.

5 A Your knowledge about commodity and futures contracts. At
6 that point in time, the CFTC had just taken over foreign
7 exchange regulatory, I guess, powers. So really there wasn't
8 much on the test about foreign exchange. It was really more
9 about commodities futures.

10 Q Commodities futures, margins, right? Margin trading?

11 A Well, anything to do with trading.

12 Q Anything to do with trading. It also tests regulations,
13 right?

14 A Yes. I'm sure there's some on there.

15 Q CFTC regulations?

16 A Sure.

17 Q NFA membership?

18 A Probably. Most likely, yes.

19 Q Equitable principles of trade, right? Does that sound
20 familiar?

21 A No, but I will agree with you.

22 Q Position trading requirements?

23 A Sure.

24 Q NFA disciplinary procedures?

25 A I'm sure. I mean, I don't remember.

CROSS-EXAMINATION OF MICHAEL DACORTA

1 Q And you passed that, right?

2 A I did.

3 Q And nevertheless, Mr. DaCorta, despite all of this
4 extensive training and experience, your testimony to this jury
5 is that you thought that the NFA agreement simply meant that
6 you didn't have to register; is that correct?

7 A No, that's not correct.

8 Q Isn't that what you just said?

9 A I said I cannot register. I precluded myself from
10 registering by agreeing with them without admitting or denying
11 anything because I didn't think I was going to go back into
12 the business. However, I made sure that I was in compliance
13 with that agreement at all times through legal assistance.

14 Q And so you didn't think, am I right, that it had any
15 other effect outside of the fact that you were precluded from
16 registering?

17 A You have to explain that question a little better.

18 Q In other words, was your sole understanding of that
19 agreement that it precluded you from signing up as an NFA
20 member?

21 A From signing up as an NFA member and for trading for U.S.
22 citizens as customers in the context of CFTC statutes and
23 regulations.

24 Q Which is exactly what you ended up doing, is it not,
25 Mr. DaCorta?

CROSS-EXAMINATION OF MICHAEL DACORTA

1 A No, it is not.

2 Q You were here for Jennifer Sunu's testimony the other day
3 or two weeks ago at this point, were you not?

4 A The lady who worked 26 years for the NFA?

5 Q Correct.

6 A Yes, I was.

7 Q And you heard her testify that your agreement effectively
8 barred you from soliciting U.S. investors to trade their money
9 in forex. Did she not say that?

10 A She did.

11 Q And despite all this experience, Mr. DaCorta, your
12 testimony to this jury is that you asked Joe Anile about this
13 agreement, took his word for it and ran with it; is that
14 correct?

15 A Considering the experience Mr. Anile had at the time, I
16 absolutely took his advice.

17 Q Because the way you tell, Mr. DaCorta, the story of what
18 you were and were not allowed to do sort of makes this sound
19 like a Southwest Rewards program. Am I wrong? You just
20 didn't have to sign up for it?

21 A No, that's not correct. I don't agree with that.

22 Q You would agree, wouldn't you, Mr. DaCorta, that a
23 professional's advice is only as good as the information it's
24 relied upon; is that right? Is that fair?

25 A Sure.

CROSS-EXAMINATION OF MICHAEL DACORTA

1 Q So if you gave a professional poor advice, you are going
2 to get a poor outcome?

3 A If I gave a professional poor advice?

4 Q Poor information, I'm sorry, you are going to get poor
5 advice in return. Garbage in, garbage out; is that fair?

6 A I guess in some instances.

7 Q So while we are on that topic, let's talk about your tax
8 return. Would you agree, Mr. DaCorta, that taxes are
9 important?

10 A Absolutely.

11 Q It's how the lights stay on here, right?

12 A No. They borrow the money for that.

13 Q Pays our boys and girls overseas, our troops, right?
14 Pays for Social Security, right?

15 A Again, that's unfunded liabilities of the U.S.
16 government. So they just print money to pay people for those
17 things. We don't collect enough taxes for that.

18 Q But if we don't collect taxes, those liabilities corrupt,
19 do they not?

20 A They do.

21 Q And so it purportedly pays for Medicare as well, correct?

22 A I'm sorry?

23 Q Taxes help fund Medicare programs as well, correct?

24 A Absolutely.

25 Q Medicaid programs as well?

CROSS-EXAMINATION OF MICHAEL DACORTA

1 A Well, that's another unfunded liability.

2 Q The highway we drove on to get here today, that's tax
3 dollars too, correct?

4 A Yeah. That's tax dollars of our grandchildren to pay
5 back the debt.

6 Q Leaving political views aside, it's fair to say,
7 Mr. DaCorta, would you not agree with me that as much as
8 everyone hates the IRS, tax dollars are what make American
9 federal government run?

10 A Yes.

11 Q And would you agree with the general proposition that
12 everyone is supposed to pay taxes on their income?

13 A I hundred percent absolutely agree with you.

14 Q Would you also agree, Mr. DaCorta, that if everyone in
15 this room just formed an LLC and lived out of that LLC and
16 didn't report any income because all of the expenses were
17 through the LLC, that government couldn't run, could it?

18 A That's kind of a very generalized question that doesn't
19 make sense. So if you can refine it a little bit, I will be
20 happy to answer it.

21 Q Let me rephrase. Isn't it true that if everyone in this
22 room formed a company --

23 A Correct.

24 Q -- and passed off all of their expenses through that
25 company and never reported any income, any personal income and

CROSS-EXAMINATION OF MICHAEL DACORTA

1 they were able to do that, wouldn't the government fail?

2 A Well, if they are legitimate expenses, then they pay the
3 taxes that are due. It shouldn't have any effect in an LLC
4 because everything flows back to personal liability.

5 Q Right. And there's a name for that, right? It's called
6 a disregarded entity?

7 A Correct.

8 Q And that's essentially what you did, is it not,
9 Mr. DaCorta?

10 A I think that's what it turned out to be, yes, after the
11 limited partnership was changed.

12 Q You created a company, several, right?

13 A Right.

14 Q And you lived through them, right?

15 A Lived through them? Oasis Management is the one I lived
16 through.

17 Q You were paying your daily personal expenses through
18 Oasis Management, were you not?

19 A Well, some of it was transferred to my personal bank.
20 And some of it was going from Oasis Management depending on
21 just timing issues, convenience, whatever it might be.

22 Q And that "it" was investor money which you say was loan
23 money that became Oasis's money the minute it went into the
24 Oasis account, right?

25 A Yes. I will agree with you.

CROSS-EXAMINATION OF MICHAEL DACORTA

1 Q So let's take a look at your financial -- your 2017
2 taxes. And if we could publish Exhibit 555 at page 3. If we
3 go to line 22. And this is the total income you reported for
4 2017, is it not, Mr. DaCorta?

5 A I assume so, yes.

6 Q Can we go up a little bit to line 13. And that is a
7 total gain you reported before you offset all the costs you
8 brought up, isn't that right? Do you see the screen in front
9 of you, the 66,000 figure, that's the gain before you offset
10 it with the costs?

11 A That was the gain before the Full Spectrum writeoff,
12 correct.

13 Q Can we pull up Exhibit 583 at page 9, please. And just
14 to confirm that is your signature, correct?

15 A Yes, it is.

16 Q And if you go up to line item one there, that's a
17 negative number, correct?

18 A It is.

19 Q Negative 439,026?

20 A Yes, it is.

21 Q In fact, you got a thousand dollars back from the federal
22 government that year, right?

23 A I did. I think I paid a thousand dollars to get the
24 extension and they were giving it to me back. I'm not a
25 hundred percent sure where that thousand came from.

CROSS-EXAMINATION OF MICHAEL DACORTA

1 Q Mr. DaCorta, you lived a pretty great lifestyle in 2017,
2 did you not?

3 A Yes, fairly nice. I definitely would agree.

4 Q You bought a Maserati?

5 A I did in the spring.

6 Q Could we publish Exhibit 321, please. That's the
7 Maserati purchase, right?

8 A Correct.

9 Q You don't contest that in any way, right?

10 A No, not at all.

11 Q In 2017 you paid for a lot of personal expenditures
12 through Oasis's accounts, did you not?

13 A I may have, sure.

14 Q Can we pull up Exhibit 2 at 2116. You spent \$4,488.61 at
15 Petland of Sarasota using Oasis's money; is that correct?

16 A That is correct.

17 Q Can we pull up Exhibit 302A, please. You were living in
18 this beautiful home, were you not?

19 A Yes, which was owned by Oasis International Group.

20 Q And you liked restaurants. You ate out a lot. We saw
21 some of those transactions last week?

22 A Sure.

23 Q Can we pull up Exhibit 2 at 2053. Flemings, \$685?

24 A That was actually a CMAP meeting. We had people from --
25 that we were trying to -- we had the CEO of CMAP and Larry

CROSS-EXAMINATION OF MICHAEL DACORTA

1 Waldman that was introducing me to them. So that was a
2 business meeting.

3 Q How about Exhibit 22 at 2231. \$949 at Libby's Cafe bar?

4 A Yes. That had to be something to do with the business
5 also, because I know Libby's and I know why I went there. And
6 I don't spend \$949 when I go out with my wife.

7 Q Daiquiri Deck for \$108, was that also part of the
8 business?

9 A No. That was just a day at the beach.

10 Q That was just a day at the beach using Oasis funds,
11 correct?

12 A Using the funds that were earned -- that came into Oasis,
13 yes.

14 Q And those funds came from lenders, correct?

15 A Somehow some way they came --

16 Q Okay. How about Exhibit 348 at 2. You went to a nice
17 little trip to Disney World, right?

18 A No. I'm glad you asked me about this. This was actually
19 the hurricane that was coming into Sarasota. And we had a
20 place to go. So my family and I went to my son's house in
21 Lake Nona, but Mr. Anile had just moved down here and he had
22 no place to go, and it was supposed to be a direct hit, a
23 category four or five. So what happened was a friend of mine
24 by the name of Doug Clark had a contact at Disney. And the
25 only hotel room available at the time was this. And I told

CROSS-EXAMINATION OF MICHAEL DACORTA

1 Joe, look, just take it and get out of here because it's
2 supposed to hit directly right over our -- basically right
3 over our house. So instead we went to Orlando, and the
4 hurricane diverted and hit Orlando. So it wasn't the greatest
5 idea.

6 Q So your testimony is that you took refuge from a
7 hurricane at Magic Kingdom?

8 A No. I took refuge at my son Andrew's house in Lake Nona.
9 Mr. Anile had no place to go because he had just moved here
10 and had no family here. So the only thing for us to do is to
11 find him a hotel room. There were no hotel rooms available
12 anywhere in the state pretty much. The only one we could find
13 was within Walt Disney World.

14 Q Were you similarly forced to go to Italy?

15 A No, I was not. That was a voluntary choice.

16 Q Can you pull up Exhibit 347, please. Church of Holy
17 Trinity, right? Spanish Steps?

18 A Yes.

19 Q Beautiful.

20 A Yes, it is.

21 Q You paid for it with Oasis money, correct?

22 A Paid for it with the money that I earned by working 18
23 hours a day at Oasis.

24 Q How about Exhibit 345. That's page 6, please.

25 Private jet?

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1 A Yes.

2 Q \$27,412 from Sarasota to New York, right?

3 A Yes. We've seen this, yes.

4 Q Yes. And was that a business expense?

5 A What date was it?

6 Q It was July 2017.

7 A Yes, that was. We showed the before Friday and Monday
8 results. I went up there to meet one of the gentlemen that I
9 was in business with as far as Mirror Innovations.

10 Q Is that why you took your children?

11 A Well, we were going up for two days. The plane had five
12 or six seats in it. It cost the same amount whether it was me
13 going alone with and two pilots or if someone comes along. So
14 I told my family to come. Frank Duran did not come on that
15 trip. So it was just my family. They stayed one day with our
16 family. I did my business. We came home.

17 Q Quite a nice year, though. Is it not, Mr. DaCorta?

18 A Excuse me?

19 Q Quite a nice year you had in 2017, is it not?

20 A Wonderful.

21 Q Private jets, right? Trips to Europe, right? How much
22 did you report to the IRS again that year?

23 A On the return it shows \$66,000.

24 Q Does that seem like a \$66,000 a year lifestyle to you,
25 Mr. DaCorta?

CROSS-EXAMINATION OF MICHAEL DACORTA

1 A No, it does not.

2 Q You have to be an accountant to know that that is not a
3 \$66,000 a year lifestyle?

4 A So -- no, you don't.

5 Q But you always play by the rules. Isn't that what you
6 said earlier?

7 A I do. Always have.

8 Q I want to talk a little bit about Mr. Burling. I think
9 you testified that at a certain point you retained Mr. Burling
10 sometime around the holidays in 2017 into 2018; is that right?

11 A Yes. I said I don't remember the time. I don't know if
12 it was the holidays or not, but it was -- Mike Betros did my
13 '16 taxes. So it had to be sometime in the year 2017
14 obviously.

15 Q Prior to him you had D'Arcangelo & Company doing your
16 taxes, right?

17 A Yes. Mike Betros was a partner.

18 Q I think you testified, did you not, that you wanted to
19 give a local guy a shot at your taxes. You like to do that.

20 A I prefer doing business in the local area wherever I
21 live. And now that I was going to be here permanently, I
22 thought that was the smart thing to do.

23 Q But isn't it true, Mr. DaCorta, that when you moved down
24 here in 2015, 2016, and 2017, you stayed with the New York
25 firm, did you not?

CROSS-EXAMINATION OF MICHAEL DACORTA

1 A I don't think I moved down permanently until 2016. We
2 were renting a house in 2015, but I was going back and forth.
3 I'm not a hundred percent sure of the dates, but I was
4 definitely down here in 2016 because I know Mike did my last
5 tax return when I lived in Florida. And at that point in
6 time, I didn't have time to change or find a way to find
7 another CPA quickly. So I left it in Mike's hands. And then
8 once I was down here, got my feet on the ground and settled,
9 then I decided to hire a guy down here.

10 Q And that's when you found the local guy, Mr. Burling,
11 right?

12 A Correct.

13 Q But what you omitted from that story, Mr. DaCorta, is
14 that your former firm dropped you as a client because you
15 didn't provide them with the information that they wanted, did
16 you not?

17 A No. That's actually incorrect. They sent me a letter
18 stating that. However, what happened was they had asked me
19 for some information and I knew I was switching, so I told
20 them I'm not going to send you anything because I'm already
21 switching over because they were looking for information
22 from -- I forgot what it was, but now that I'm no longer going
23 to use them, there is no sense of going through all that
24 aggravation to send it.

25 Q But it's true that they withdrew from offering you

CROSS-EXAMINATION OF MICHAEL DACORTA

1 services; is that correct?

2 A They withdrew, but --

3 Q They withdrew because you didn't give them information
4 that they were requesting. Isn't that also true?

5 A Had nothing to do with income information. It had to do
6 with other information that -- I believe it was the bonds and
7 things, the notes and things like that. They needed
8 information that had nothing to do with my personal financial
9 issues or income. It had to do with company structure issues.
10 And at that point in time I knew I wasn't going to use them
11 anymore so I didn't bother doing it.

12 Q And the company structure issues are important, are they
13 not, because they could affect your personal tax liability,
14 correct?

15 A Yeah, but I was already switching accountants. So it was
16 just a waste of time.

17 Q And were you not switching accountants, Mr. DaCorta,
18 because you wanted to find someone who would ask less
19 questions about your taxes?

20 A No. You are 100 percent incorrect.

21 Q I want to talk a little bit about lenders. We call them
22 investors. You're calling them lenders, but we could agree
23 that we are talking about the same class of people, right,
24 Mr. DaCorta?

25 A Yes.

CROSS-EXAMINATION OF MICHAEL DACORTA

1 Q And we've heard testimony from a few of them. We've
2 heard from Katter, right?

3 A Yes, you did.

4 Q Kihnke?

5 A Yes, you did.

6 Q Cheslow?

7 A Yes, you did.

8 Q Charles?

9 A Yes.

10 Q Mr. Chalhub?

11 A Yes.

12 Q And Mr. Howard?

13 A Yes.

14 Q And there were many, many more investor/lenders in Oasis,
15 correct?

16 A You will hear from a few of them in the coming days.

17 Q And there were hundreds more. Is that not right?

18 A Sure.

19 Q And could we at least agree, Mr. DaCorta, that those
20 hundreds of investors, that their understanding of Oasis was
21 that it was generally and primarily generating money from
22 forex trading; is that fair?

23 A No. The way they were earning -- the way we were
24 calculating their interest was through foreign exchange
25 trading but that the company was doing various other things

CROSS-EXAMINATION OF MICHAEL DACORTA

1 that had to do with their assets. So the income was being
2 calculated by our volume, but it wasn't the only thing we were
3 doing. That was just a way to calculate and figure out how to
4 pay people.

5 Q But you would agree with me, would you not, that you were
6 offering 12 percent returns on those notes, right?

7 A Not returns. We were offering interest.

8 Q You were offering 12 percent interest, right. And up to
9 25 and in some cases 31 percent, correct?

10 A No. 25 percent of the fees. In Mike Chalhub's case it
11 was 31.25 percent of the fees because no one brought him in so
12 I didn't have to pay a lending service agent because he was my
13 friend. So I gave him the extra quarter of a pip.

14 Q But you would agree with me, Mr. DaCorta, would you not,
15 that the economic driver that would allow you to honor those
16 terms was what you were doing as a trader; is that fair?

17 A The economic driver to calculate them, yes.

18 Q Because you testified I believe previously or perhaps it
19 was one of the recordings that the purpose of the real estate
20 wasn't to generate profits, right?

21 A The purpose of the real estate was to eventually generate
22 profits, but you are not going to trade real estate like you
23 trade foreign exchange. So it was to hold an asset other than
24 in cash and allow it to appreciate over time, therefore
25 burgeoning the company balance sheet.

CROSS-EXAMINATION OF MICHAEL DACORTA

1 Q And so isn't it fair to say then that a 12 percent return
2 on a note is a good return year over year; is that fair?

3 A Yes, it is.

4 Q And 25 percent is pretty extraordinary, right?

5 A Yes, but we weren't promising 25 percent. We were
6 promising 25 percent of the transaction fees.

7 Q But it could get -- it could get that high, correct?

8 A It could.

9 Q And the reason for that had to do with what you were
10 doing in the forex market. Can we at least agree on that?

11 A Yes. It had to do with the number of transactions.

12 Q And so this was a forex opportunity run through a note
13 structure; is that fair?

14 A Yes.

15 Q And I mean your email signature for your emails had an
16 upward graph suggesting markets, did it not?

17 A Yes. On the Oasis Management side it did.

18 Q And these hundreds of investors who had that
19 understanding, that understanding came from you, right?

20 A It did, yes.

21 Q And they were told that Oasis could honor the terms of
22 those notes ultimately, right, because you were making money
23 off the spread, correct?

24 A That's the way we were calculating how much we were going
25 to pay them, correct.

CROSS-EXAMINATION OF MICHAEL DACORTA

1 Q That's how you were making money, correct, spread pay?

2 A Yes. That's the revenue we were going to use to service
3 the note.

4 Q And you convinced people to engage in this opportunity,
5 right?

6 A I didn't try to convince anyone. I just gave the
7 information. When we did many of the calls, Ray always said
8 this is for information purposes. Listen to what we got. I
9 gave everybody a 30,000-foot overview of just that one part of
10 the business. And then I said ask more questions and read our
11 documents before you make any investment.

12 Q Mr. DaCorta, you didn't try to convince anyone. You
13 heard Anthony Charles testify that he went to seminars you
14 were running in New York about this opportunity, did you not?

15 A Yeah. I was requested to by Kevin Carrigan to do the
16 presentation.

17 Q So it's fair then to say that as you were running
18 seminars in hotels about this opportunity, that you were at
19 least in some way trying to convince people to invest in this
20 opportunity. Is that not right?

21 A The meeting was actually an Ambit meeting, that meeting
22 in the hotel. I never did a hotel meeting for Oasis.

23 Q And then is it not true that you did another meeting in a
24 restaurant that Mr. Charles testified about?

25 A A small meeting with Kevin and a few of his friends who

CROSS-EXAMINATION OF MICHAEL DACORTA

1 just wanted to understand the concept.

2 Q And then is it not true that you went to Mr. Charles'
3 house and sat in his living room and talked to his family
4 about the opportunity?

5 A Yes. Kevin asked me to go with him. He drove me there.
6 I met with Mr. Charles and his wife and explained what we were
7 doing.

8 Q And you did this over and over and over again, did you
9 not, with different people that contacted you such as Special
10 Agent Joe Stone who unbeknownst to you was working undercover?

11 A Yes. I answered his questions when he asked them.

12 Q Is it not true that you were holding conference calls?

13 A Yes, we were.

14 Q So you were selling the opportunity, were you not?

15 A I was presenting the opportunity, absolutely.

16 Q Mr. DaCorta, are you familiar with an individual named
17 Scamardella?

18 A Yes, I am.

19 Q He invested in Oasis too, right?

20 A Yes, he did.

21 Q And what you told him was fairly consistent with what you
22 told everybody else, right?

23 A I did.

24 Q But instead of investing cash, he deeded you his condo,
25 did he not?

CROSS-EXAMINATION OF MICHAEL DACORTA

1 A He did both actually.

2 Q And for that condo you credited him a million dollars I
3 think, correct, in the Oasis account?

4 A That is correct. I offered him to do it in a cash
5 transaction. He declined because he said it would be easier.
6 I then put him in touch with Joe Anile, and I said I'm not
7 sure if we can do it that way, but if we can you have to speak
8 to Joe. And they handled all the paperwork and completed the
9 transaction.

10 Q And Mr. DaCorta, I believe that condo, correct me if I'm
11 wrong, was the one you were testifying about on direct, was it
12 not, the one on Siesta Key beach?

13 A Right. 6300 Midnight Pass Road.

14 Q Publishing Defense Exhibit 68 on the Elmo, please.

15 And that's it, correct, Mr. DaCorta?

16 A It's a unit in that building, correct.

17 Q I know we can't see the inside from this appraisal, but
18 it's a beautiful condo, is it not?

19 A It's a two-bedroom condo. The view is beautiful. The
20 condo is kind of normal, but I mean the view is on the tenth
21 floor looking at the Gulf of Mexico so it's spectacular.

22 Q And after receiving that condo, you put it into an LLC;
23 is that right?

24 A It was purchased into an LLC. The LLC was owned by Oasis
25 International Group.

CROSS-EXAMINATION OF MICHAEL DACORTA

1 Q Can we publish Exhibit 37, please.

2 And is this -- this is the article of incorporation
3 for that LLC that you put it in, correct?

4 A It seems that way, yes.

5 Q And it's your testimony, Mr. DaCorta, that that condo
6 then went into Oasis's real estate portfolio, right?

7 A Yes, it did. It was owned by Oasis International Group.

8 Q And in return Mr. Scamardella got a credit into his
9 account, correct?

10 A Yes. Instead of taking the cash, he just asked for the
11 credit, and he earned his spreads on that extra million
12 dollars.

13 Q Mr. DaCorta, you essentially stole this condo from
14 Mr. Scamardella, didn't you?

15 A No, I did not.

16 Q Let's explore that. You were here when Mr. Childers, a
17 forex expert, testified Thursday of last week, were you not?

18 A I was.

19 Q And you were here when he said that Oasis is not a market
20 maker, right?

21 A I was.

22 Q And you were here when he said Oasis was using a retail
23 trading app to conduct all of its trades in the data that he
24 reviewed?

25 A He did say that.

CROSS-EXAMINATION OF MICHAEL DACORTA

1 Q And he said that you were not a market maker because of
2 positional biases that you were taking. You heard that,
3 right?

4 A Yes, I did.

5 Q And you heard that some of those positions had no
6 economic purpose whatsoever. That was his testimony, right?

7 A That was his testimony without knowing the details, yes.

8 Q And he also said that the spread pay that Oasis was
9 making was actually just Oasis marking up its own prices and
10 then taking that money and crediting themselves back. You
11 heard that testimony too, correct?

12 A Yes, I did.

13 Q And you heard him say that Oasis was not truly profiting
14 from that spread pay, correct?

15 A I heard that, yes.

16 Q And you heard him say that not one dollar of what, was it
17 \$22 million, ever went back out of ATC's trading account,
18 correct?

19 A Yes, that's correct.

20 Q He called your sales pitch untrue; is that fair?

21 A I don't remember that specifically, but I will take your
22 word for it.

23 Q He said it was deceptive, did he not?

24 A Yes.

25 Q He called your last-ditch silver trading position

CROSS-EXAMINATION OF MICHAEL DACORTA

1 reckless, did he not?

2 A That was his opinion, yes.

3 Q He said you were massively undercapitalized for that
4 position, did he not?

5 A Again his opinion, yes.

6 Q Is it still your testimony, Mr. DaCorta, that the credits
7 you gave Mr. Scamardella for that condo does not represent you
8 stealing that condo from him?

9 A Yes.

10 Q You testified Friday that you've been looking forward to
11 this day since the FBI came to your house; is that right?

12 A Yes, I was. I am.

13 Q And I think you said that they threatened to use a
14 sledgehammer?

15 A They did, directly to me.

16 Q Those were your exact words, correct, that they
17 threatened to use a sledgehammer?

18 A They said do you have any more silver or I will break
19 your F'ing walls down with the sledgehammer.

20 Q No one kicked in your door that day, correct,
21 Mr. DaCorta?

22 A You saw the video.

23 Q I think it speaks for itself. They knocked on the door,
24 correct?

25 A Oh, yes. They knocked on my door.

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1 Q They announced police with a search warrant. They
2 knocked loudly. That's fair, right?

3 A I guess.

4 Q Police with a search warrant, right?

5 A I heard that, yes.

6 Q During that encounter, is it fair to say that you were
7 pretty calm?

8 A I was shocked and just absolutely, you know -- I mean,
9 have you ever been faced with that? I mean, that's not
10 something that you stay calm in. I'm a person who stays
11 reserved and thinks things through, but I wouldn't say I was
12 calm, no.

13 Q It's emotional to have police in your house, is it not?

14 A I would think that's an obvious yes.

15 Q You weren't restrained though, right?

16 A Restrained?

17 Q Correct. You weren't handcuffed at any point, were you?

18 A I was not handcuffed. I was taken most of the time by
19 the shoulder or the arm and pointed in the direction I needed
20 to walk.

21 Q And you agreed to speak with agents, right?

22 A I did because I felt like there was a massive
23 misunderstanding and I thought they were there to understand
24 the truth, but that wasn't the truth. That actually wasn't
25 true.

CROSS-EXAMINATION OF MICHAEL DACORTA

1 Q But you did speak with them, right?

2 A Yes, I did willingly.

3 Q And you willingly -- it was in the billiards room, right?

4 A Yes.

5 Q And after you spoke with them, you spoke with the
6 receiver in that same room, correct?

7 A I did.

8 Q And the receiver went through paperwork, right?

9 A I don't remember him going through much paperwork. In
10 between his phone calls that he was taking, the CFTC attorney
11 was asking questions, but there was questions going back and
12 forth. Either the CFTC attorney was asking questions or the
13 receiver.

14 Q And when you were talking to the agents -- so let's skip
15 back a second. When you were talking to the agents, you
16 talked about Oasis, right?

17 A Yes.

18 Q And isn't it true that you said that you were the trader
19 for the vast majority of Oasis's trading?

20 A Yes.

21 Q In fact, I think you said that today as well, correct?

22 A 100 percent true.

23 Q Isn't it also true that in that interview you said that
24 Gil Wilson is just an innocent kid that didn't do anything
25 wrong?

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1 A That's absolutely correct.

2 Q And I believe you said the same thing about Mr. Montie as
3 well, correct?

4 A No. I just said Ray didn't know about all the details.

5 Q Isn't it also true, Mr. DaCorta, that in that interview
6 you said to agents that things got out of hand a little too
7 quickly?

8 A It was out of context with the way it was written.

9 Q Isn't it also true, though, that you said that Oasis did
10 not have a revenue stream?

11 A I don't remember exactly, but I know for a fact they
12 asked me where's the revenue stream into the checking account.
13 And I knew that we weren't taking the funds out of ATC. Our
14 revenue stream was the spreads, but we recycled it into the
15 trading account. There's nothing in any company business that
16 says you have to take money from one account and bring it to
17 the other account. Especially when you only put a small
18 portion of your money in the other account, you can operate
19 out of your operating account without ever taking money back
20 if you don't need to.

21 Q I appreciate that very long response, but I simply asked
22 you the question, they asked you about where the revenue was
23 and you said, I don't know; isn't that right?

24 A I don't know if that's actually the way it was -- I don't
25 think that was a hundred percent accurate because I knew we

CROSS-EXAMINATION OF MICHAEL DACORTA

1 had a revenue stream. So I wouldn't say that. But on the
2 other hand, it was very nerve-racking at the time. I may have
3 shrugged my shoulders and they wrote it down as "I don't
4 know."

5 Q And you also said, did you not, that you were sorry?

6 A The question asked was, are you sorry you had losses. So
7 I said, I'm a very competitive person. I was definitely sorry
8 about that. That's like asking a relief pitcher if he's sorry
9 he gave up a home run to lose the World Series in the bottom
10 of the ninth.

11 Q And as much as I appreciate the baseball analogy, isn't
12 it true, Mr. DaCorta, that we didn't hear all this a few hours
13 ago on your direct examination, correct? I don't believe you
14 ever said that, did you?

15 A Say what?

16 Q That you admitted that Oasis had no revenue?

17 A I didn't admit Oasis had no revenue.

18 Q You told agents that day in that interview that Oasis had
19 no revenue, did you not?

20 A No. They said, where's the revenue stream. I may have
21 shrugged because at that point they already told me they know
22 everything about Oasis. They knew about the ATC account.
23 They knew about the way we ran our business. So that was
24 obvious that they didn't understand it. And at that point in
25 time I wasn't about to explain something to people that didn't

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1 want to understand the truth.

2 Q Because it's extremely complex to understand, right,
3 Mr. DaCorta?

4 A Not that it's complex. It's just if you don't want to
5 understand something, you have a preconceived notion, you're
6 not going to listen.

7 Q The same way that Mr. Childers doesn't understand, right?

8 A Mr. Childers understands. He has an opinion. He's an
9 expert with an opinion. I've been doing this 37 years. I
10 also have an opinion.

11 Q Mr. DaCorta, after building this \$100 million company,
12 your testimony earlier was that they accused you of running a
13 Ponzi scheme and you, quote, just shrugged your shoulders,
14 unquote. Isn't that what you said earlier today?

15 A I didn't say that. They accused me of running a Ponzi
16 scheme, and I just didn't answer at all.

17 Q You testified on direct that you shrugged your shoulders?

18 A Maybe I did.

19 Q But ultimately, Mr. DaCorta, your testimony is that
20 Special Agent Volp is lying, right?

21 A I don't think he's lying. I think a lot of things are
22 out of context. The way he wrote his notes are not accurate
23 or memorialized in a way that was in the spirit of the
24 conversation.

25 Q What about his testimony? Did he not say that you

CROSS-EXAMINATION OF MICHAEL DACORTA

1 admitted to running a Ponzi scheme at Oasis?

2 A No, he didn't say that. He said I did not admit to
3 running a Ponzi scheme.

4 Q Did he not say that you admitted that there was no
5 revenue coming out of Oasis?

6 A He said that I said, I don't know. He didn't say I
7 admitted that either.

8 Q Did he not say that you said things got out of hand too
9 quickly and you weren't sure how it got to this point?

10 A That was completely taken out of context.

11 Q You would agree, Mr. DaCorta, that people lie sometimes,
12 correct?

13 A Yes. Agent Stone testified to that fact.

14 Q But the nice thing about numbers is that they usually
15 don't lie; isn't that right?

16 A Sure.

17 Q Unless, of course, someone is manipulating those numbers,
18 right?

19 A Sure.

20 Q For example, Mr. DaCorta, if you had Joe Paniagua
21 manipulating the numbers behind the screens that investors are
22 seeing, then those numbers might not be accurate, correct?

23 A Yes, except he was not. You can beat that horse all day
24 long. He wasn't manipulating any numbers.

25 Q But you admitted on direct, did you not, that he was

CROSS-EXAMINATION OF MICHAEL DACORTA

1 changing the numbers, correct?

2 A He was doing exactly what the program required him to do.

3 Q At your direction, correct?

4 A At the overall business plan's direction, yes.

5 Q And he was changing those numbers to honor what the terms
6 of those promissory notes were ultimately. That's your
7 testimony, correct?

8 A Not to honor the terms. The fact of the matter is
9 those -- all those subaccounts were Oasis accounts. They
10 weren't client accounts. We needed to track each loan
11 separately in order to accurately calculate its interest. So
12 therefore at the end of each month, each loan, whether we had
13 a profit that month or a loss that month, we had to bring
14 those balances back to the correct principal balance in order
15 to then have everyone earn the correct interest the next
16 month.

17 Q And he was doing that at your direction, was he not?

18 A Absolutely. That's the right thing to do.

19 Q And Mr. DaCorta, in this trial you sat here and heard
20 multiple people testify that once money went into your trading
21 accounts, it never came back out, correct?

22 A Yes, that's correct.

23 Q Burt Wiand testified that money never came out of CHF --
24 CHF, correct?

25 A Yes, CHF.

CROSS-EXAMINATION OF MICHAEL DACORTA

1 Q And that goes all the way back to 2011, 2012?

2 A No, 2013, '14, but that was a totally different program.
3 It had nothing to do with loans.

4 Q But the truth remains money never came back out, correct?

5 A I don't know exactly every transaction. We don't have
6 the records for that.

7 Q And you were here when Mr. Wiand also testified that
8 money never came back out of the CFT account, correct?

9 A Yes. That's been well established.

10 Q So you agree that money never came out of the account?

11 A Never had to.

12 Q And Special Agent Batsch also confirmed that, right?

13 A Yes.

14 Q And Mr. Childers, he wasn't wrong about that, right?

15 A No. He wasn't wrong about that. That's not an opinion.
16 That's a fact.

17 Q Is it fair then to say that once money went into your
18 trading accounts, Mr. DaCorta, that is essentially where money
19 went to die?

20 A That's not correct.

21 Q I want to walk through the cumulative balance in the ATC
22 account with you.

23 Can we publish Exhibit 425F?

24 Are you aware, Mr. DaCorta, that in December 2016 for
25 the ATC account, by the time you hit that month of December of

CROSS-EXAMINATION OF MICHAEL DACORTA

1 2016, you had a negative figure, a negative balance, a
2 negative account balance in your performance of \$1.65 million?

3 A Yes, but we had 2.2 million or something in spreads. So
4 we just -- those were customer accounts. We had the spreads.
5 I'm not sure how it all panned out, but we basically ended up
6 relatively even.

7 Q Spreads are counted on the sheet, is it not? This is the
8 exhibit Mr. Childers testified to the other day, isn't it?

9 A Let's see. The deposit was \$349,000. That's all there
10 is there.

11 Q That's the spread column, is it not?

12 A Say that again.

13 Q That's the spread column, is it not? Row nine? So let's
14 go back to December of 2016. Negative 1.651. You would agree
15 with that, right?

16 A Where are you seeing negative?

17 Q If you look at the bottom, the sum column in brackets,
18 you have to look at this bottom.

19 A Right.

20 Q Right? January 2017?

21 A January of 2017.

22 Q The next month, negative 1.5 million, right?

23 A Do we have the same screen up?

24 Q Do you see the sum column on the bottom right? It's very
25 small where the cursor is.

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1 A The cursor is off the balance sheet. I can't see
2 anything.

3 Q Can you see my cursor on the screen, Mr. DaCorta?

4 A Yes, I can.

5 Q Can you see the number down here?

6 A Yes, I do.

7 Q Negative 1.5 million, right?

8 A It looks that way. It's very difficult to see right
9 here.

10 Q And then if we go over to March 2017, that number grows
11 to negative 1.8 million, correct?

12 A March 2017? Well, first of all, January 2017 was a new
13 program, so --

14 Q I'm just asking you, Mr. DaCorta, about the net profit
15 and loss in your accounts that includes the spread pay. In
16 March 2017, what is the number in that sum column?

17 A It's so small I just can't -- I really can't read it. It
18 looks like 1.6 or something.

19 Q Negative, correct?

20 A Right.

21 Q So let's move forward. Would you agree with me that that
22 number grew?

23 A That number -- excuse me?

24 Q In April of 2017, was that loss not \$2,131,000?

25 A I don't know. We phased out one account and started a

CROSS-EXAMINATION OF MICHAEL DACORTA

1 new account in 2017. So I don't think -- I don't know how he
2 did this, but I have never seen this before and I can't verify
3 the numbers to be accurate. We had an account by the
4 Number 50 or 52. That was specifically for customers. And
5 then we created a new account, 55, for lenders. The new
6 account started January of 2017. There was not a \$2 million
7 loss in January of 2017.

8 Q Mr. DaCorta, were you not here on Thursday when
9 Mr. Childers testified that this Exhibit, 425F, includes the
10 profit and loss for both of those accounts, the OB650 account
11 and the OB655 account?

12 A Okay. They are unrelated, though. So it's a little bit
13 confusing. You are comparing apples and oranges.

14 Q Well, apples or oranges regardless, by April of 2017 you
15 lost \$2.1 million. Do you have any reason to doubt that?

16 A Well, I would like to look over the numbers, but, I mean,
17 that could be.

18 Q Do you have any reason to doubt that by May you lost
19 \$1.8 million?

20 A Yes, because I know our 2017 numbers. And this doesn't
21 seem a hundred percent accurate to me.

22 Q And that by June 2017, you lost \$2.1 million. Is that
23 also not accurate?

24 A I don't know how he figured this. So I would have to
25 look at the numbers separately.

CROSS-EXAMINATION OF MICHAEL DACORTA

1 Q Is it also not accurate then that by July of 2017 you
2 lost \$3.3 million?

3 A Again, you are comparing two different things. I know
4 our results for 2017. We lost \$10 million. We made
5 12 million in spreads. We netted 1.6 million. With the
6 rollovers and the brokerage fees to ATC, we were a little bit
7 positive, but it has nothing to do with the previous account.

8 Q You said you lost a lot of money in 2018, did you not?

9 A Yes.

10 Q You are more familiar with those numbers?

11 A Yes. 2017 was a clean break. Anyone who wanted to take
12 their money out, they took their money out, they were gone. A
13 lot of the trading money we used in 2015 and 2016 was our own
14 equity from our confidential private offering memorandum. So
15 from 2017 is when you start the new system.

16 Q So your testimony is that you were doing great --

17 A Not great.

18 Q -- in 2017, correct?

19 A 2017 we were holding our own. It was a brand new
20 program, and I thought overall at the end of the year we were
21 successful.

22 Q So the end of the year that year you were down
23 \$1.6 million. So that's a successful year?

24 A Positive \$1.6 million.

25 Q You're negative \$1.6 million.

CROSS-EXAMINATION OF MICHAEL DACORTA

1 A You're reading the wrong numbers. It's up to you.

2 Q What's the number in the bottom there in brackets?

3 A It doesn't matter. If you look at 2017 from January 2017
4 until December 2017, numbers would show 10 million in losses,
5 12 million in spreads, 1.6 million in profits.

6 Q Mr. DaCorta, you are more familiar with the 2018 numbers;
7 is that right?

8 A I'm familiar with the '17 and the '18 numbers.

9 Q Let's turn to '18. Is it not true that in January of
10 2018 this trading account was down \$6 million?

11 A No. It was down -- we lost \$4 million, I think.

12 Q You lost \$4 million that month, right?

13 A In January I think --

14 THE COURT: Now, hold on. We've got to take a pause
15 between the Q and A. We don't want to talk over each other.

16 All right.

17 BY MR. MURRAY:

18 Q You lost \$4 million in one month that month, correct?

19 A I think we had a loss of \$4 million.

20 Q In the next month you lost another \$4 million, right?

21 A I believe so.

22 Q And so cumulatively across this account you were down
23 \$10 million, were you not, end of February of 2018?

24 A No. You are confused again.

25 Q Fast forward to April of 2018. Were you not down

CROSS-EXAMINATION OF MICHAEL DACORTA

1 \$16 million by that time?

2 A When?

3 Q April of 2018.

4 A No. Our total loss at the end of 2018 was a little over
5 9 million in trading, 9 million in brokerage fees and
6 rollovers, for a total of \$18 million, which would have been
7 negated by the silver going up to \$20 a few months later.

8 Q So without getting into the silver because I didn't ask
9 you about that, your testimony to this jury is that that
10 number that sums up all the columns for the ATC trading
11 account data, which goes all the way back to 2015, that that
12 number of 17 -- well, now he's on July. Can you go back to
13 March? That that number of \$13 million is wrong, negative
14 13 million?

15 A It's adding a different account that was closed that's
16 already with the new account. So again, you are adding
17 everything together that's from two different programs when we
18 completely stopped one program. So if it's accurate, it's
19 accurate. All I know is that we were down \$18 million at the
20 time we were shut down, total, and that's why we took
21 corrective action and put the silver position on.

22 Q Let's start there. You said you were down \$18 million.
23 It was actually \$20 million, was it not?

24 A No. That's where you are making a mistake. The
25 20 million comes from the other account. The loan program was

CROSS-EXAMINATION OF MICHAEL DACORTA

1 down a little over 9 million with a little -- not over
2 9 million in fees and rollovers for a total of \$18 million.

3 Q All right, Mr. DaCorta. How much would you say you were
4 down in December of 2018?

5 A In December of 2018 we were down roughly \$18 million
6 total. 9 million in trading losses and 9 million in the
7 rollovers and the spreads.

8 Q That's what I have too. So I think we are finally on the
9 same page, okay? December of 2018 you're down \$18 million,
10 and that's the month you had the Christmas party you talked
11 about that we are all very familiar with, right?

12 A Yes, we are.

13 Q And is it not true that at that Christmas party I think
14 you said 95 percent of the people there were Oasis investors,
15 right?

16 A I would think so, yes.

17 Q So you have everyone in one room at that Christmas party
18 at the Ritz-Carlton in Sarasota, right?

19 A Correct.

20 Q And at no time, Mr. DaCorta, at no time did you tell
21 anyone that anything was wrong with Oasis; is that true?

22 A That is true, yes.

23 Q Ian Howard testified here at this trial last week, did he
24 not?

25 A Yes, he did.

CROSS-EXAMINATION OF MICHAEL DACORTA

1 Q And he testified he saw you at a birthday party several
2 days before the search warrants in April of 2019?

3 A Yes, definitely.

4 Q And you saw him at that party?

5 A Yeah. I believe it was Aaron Ruskey's party.

6 Q He said that you said nothing was wrong with Oasis. You
7 never mentioned it; is that true?

8 A Yes, it is.

9 Q And Mr. DaCorta, isn't that also the case because you and
10 Mr. Anile agreed not to tell anybody about these massive,
11 massive losses in your trading account?

12 A Absolutely not.

13 Q In fact, Mr. DaCorta, weren't you still soliciting people
14 to invest in Oasis when you were down \$20 million in April of
15 2019?

16 A In April of 2019, we were down 18 million. And what we
17 were doing was we were continuing business operations. We had
18 our silver position. We had our real estate. We had our gold
19 and silver. We were continuing business operations the same
20 way Amazon does when they lost money 14 consecutive years
21 before turning a profit. Sometimes things don't work out in a
22 single year, but you pursue. You go through them and make
23 adjustments.

24 Q So that's a very long yes, right?

25 A What was the question?

CROSS-EXAMINATION OF MICHAEL DACORTA

1 Q The question was, you were still taking Oasis investor
2 money when you were down \$18 to \$20 million in April of 2019,
3 correct?

4 A Yes, that's correct.

5 Q Can we publish Exhibit 2, please, at 2364.

6 This is one example of that, is it not?

7 A Yes, yes. 4/10/19.

8 Q The investment in Oasis of \$10,000?

9 A Yes, it is.

10 Q Mr. DaCorta, you just admitted on the stand that you
11 didn't tell anybody about these losses, correct?

12 A Yes.

13 Q But isn't it also true that over the years you were
14 saying the opposite?

15 A No. I was saying that we were earning and paying through
16 the spreads, and the P&L was the responsibility of the
17 company.

18 Q The spreads at Oasis was overpaying on each trade and
19 cycling the money back into their own account, correct?

20 A That's not an accurate depiction, but yes.

21 Q Let's go to Exhibit 202X on the split screen. And I want
22 to focus your attention first to the left, Mr. DaCorta. Is it
23 not true that in July of 2017, you lost \$1.1 million trading?

24 A Yes.

25 Q And is it also true that that month you sent an email

CROSS-EXAMINATION OF MICHAEL DACORTA

1 saying you didn't do a lot of trading in Italy, but everyone,
2 guess what? We're up .63 percent?

3 A That's for Oasis Management, that's correct.

4 Q And you sent this email, correct?

5 A I did.

6 Q And you heard testimony that Deb Cheslow was getting
7 these emails, right?

8 A Yes.

9 Q And there were other emails that the Katters were
10 getting?

11 A The Katters were in Oasis International Group.

12 Q Can we go to Exhibit 202X at 86, please?

13 A Would you like me explain the difference between the two
14 right there?

15 Q Sure.

16 A So Oasis Management is earning spreads from OIG the same
17 way any other person would earn spreads. So the Oasis
18 Management people were getting spreads. I had to take the
19 spreads as income into Oasis Management and then report them
20 as a gain for Oasis Management people because at that point
21 they may have still been limited partners at that time or
22 lenders, but that was their interest. That wasn't a profit
23 and loss situation.

24 Q In that same month you sent an email out. Did you not
25 send this email?

CROSS-EXAMINATION OF MICHAEL DACORTA

1 A Yeah, to Oasis Management.

2 Q Oasis Management telling them that you were up 1.3
3 percent, correct?

4 A Yes.

5 Q And you lost \$1.1 million that month, did you not?

6 A That's correct. You are correct that OIG lost in P&L and
7 you are correct that the Oasis Management people were up 1.83
8 in interest.

9 Q And the P&L includes the spreads because we saw that in
10 the chart that Mr. Childers walked us through, did we not?

11 A I'm not sure how he calculated it.

12 Q How about Exhibit 202X at 210. This is January 2018. In
13 January 2018, you lost \$4.7 million, did you not?

14 A Yes. That's what it shows.

15 Q Did you not also send an email out that month saying that
16 you wrapped up trading that month with a gain of 1.83 percent?

17 A For Oasis Management. Again, it's comparing apples and
18 oranges.

19 Q But didn't you testify yesterday that you were trying to
20 merge those apples and oranges actively, were you not?

21 A 2017 we were still far off because in 2019 we still
22 hadn't done it.

23 Q Then let's look at 2018. Can you pull up 202X at 13?
24 Same thing here, is it not? Month end result at
25 3.67 percent?

CROSS-EXAMINATION OF MICHAEL DACORTA

1 A January 2018, that's correct. Because you see the loss
2 was that much. That means our volume was so high because we
3 ended up doing a lot of trading. So therefore, the spreads
4 were paying those people, not the loss.

5 Q And those were the same spreads that Mr. Childers
6 testified about?

7 A Yes, they are.

8 Q And in February of 2018 -- could we pull up 202X at 20A?
9 Again, does it not say that you wrapped up the month with
10 2.36 percent for that month?

11 A That's the interest they earned, yes. The same way
12 everyone, the lenders, would have earned that much also.

13 Q And you lost \$4.3 million that month, did you not,
14 Mr. DaCorta?

15 A Right. That was Oasis International Group's problem.
16 And that's why we put the silver on to make that money back.

17 Q So your testimony to this jury is that what you were
18 referencing in that email is what was promised to them through
19 the loan agreement. Is that what you're saying?

20 A No. What I'm representing is the amount of spreads that
21 were generated are then calculated how much the money I loaned
22 to Oasis International Group through Oasis Management brought
23 back to -- that was owed back to Oasis Management and then
24 distributed among every lender.

25 Q Can we publish Exhibit 200H, please.

CROSS-EXAMINATION OF MICHAEL DACORTA

1 This is from June 2018. Did you send this email,
2 Mr. DaCorta?

3 A Yes, I did. Oh, no. That says, to Mike DaCorta.

4 Q And it says from Mike DaCorta too.

5 A I'm sorry. Yes.

6 Q And this is announcing July bonus month for -- on
7 June 14, 2018, it's announcing July bonus month, right?

8 A Yes.

9 Q How did you perform in June 2018?

10 A June? I think we were down \$200,000.

11 Q And how about the month before that?

12 A 2018 I told you from right up front we had a terrible
13 year. I think we made \$2 million in December. Pretty much we
14 were down most of the year. I told the agents that also when
15 they came to my home.

16 Q Mr. DaCorta, did you not represent to potential investors
17 that you never had a losing month, that it always went up and
18 it never went down? Was that not part of the Oasis sales
19 pitch?

20 A That's part of the interest. I made it clear we don't
21 deal with P&L. We simply pay you interest based on the
22 transactions. It was my responsibility to make up the
23 difference.

24 Q I'm going to read you an excerpt from Exhibit 210ET.
25 Frank Duran and it -- I will publish it to the jury as well.

CROSS-EXAMINATION OF MICHAEL DACORTA

1 And it, yeah. This makes it very unique because if
2 you think about it and, and, and, and the lender environment
3 you are in you never go negative. You always going plus. Not
4 a typical Wall Street investment. So you are never having
5 negative. You are always going plus. You're always -- every
6 month you're going to be plus, you know, never negative. And
7 so -- and you responded, right, did you not?

8 A Yes.

9 Q So you adopted that statement, did you not?

10 A Yes, I did, because it's true.

11 Q Can you pull up 425F1 again?

12 Mr. DaCorta, how could you possibly say that that
13 statement is true?

14 A The program was very specific. We made it very clear.
15 We would absorb the profit and loss. We would pay you on the
16 transactions. That's what we had to do. That's what we did.
17 Every withdrawal ever brought to us we made. We had 90
18 days -- if anything came in that we had to make any
19 adjustments, we had 90 days to fill that promise. We
20 fulfilled every single obligation.

21 Q Mr. DaCorta, you would agree, would you not, that you
22 lost money almost every single month in 2018 in that trading
23 account?

24 A Yes. I never disputed that.

25 Q You took catastrophic losses in that trading account

CROSS-EXAMINATION OF MICHAEL DACORTA

1 relative to how capitalized it was, did you not?

2 A Yes. I would agree to that.

3 Q And you were going around telling investors that you
4 never lose money, are you not?

5 A No. I'm telling them we do not -- what we do is we
6 simply pay you on the spreads. The P&L is our problem. If we
7 have a losing, if we have a profitable month, the losses are
8 ours, the profits are ours.

9 Q Mr. DaCorta, the spreads are included in the numbers on
10 that graph in front of you, are they not?

11 A You want me to explain how the spreads work?

12 Q I think we've heard a lot about how the spreads work,
13 Mr. DaCorta.

14 A Okay.

15 Q You would at least agree with me, would you not, that all
16 the trading money in the ATC account was lender money,
17 correct?

18 A It all came through the loan program, yes.

19 Q And you were here when Mr. Anile testified that he didn't
20 invest in Oasis because he thought it was a scam. That's what
21 he said, right?

22 A That's what he said, yes.

23 Q And you didn't have any of your own money in that
24 account, correct?

25 A I had -- whatever money I had earlier on I put into Oasis

CROSS-EXAMINATION OF MICHAEL DACORTA

1 Management. And then from that point on, whatever I earned I
2 used or left behind because I didn't take the money out. So
3 as I was earning money, I left it behind.

4 Q You didn't have a lot of money to put your own skin in
5 the game early in 2010, did you?

6 A No.

7 Q And that's because you had declared bankruptcy, right?

8 A That's correct.

9 Q So you didn't really have a substantial amount of money
10 in that account, correct?

11 A In 2011, 2012, no. When we first got started, the reason
12 why we started in the first place was Ray was trying to help
13 me get back on my feet.

14 Q And so is it fair then to say, Mr. DaCorta, that you were
15 completely dependent on the lender investors to fund those
16 trading accounts?

17 A At that point, I mean, we could have ran with the assets
18 we had. We didn't need any more, but that was the business
19 plan. That was the program.

20 Q And isn't it true that you never sold any of the real
21 estate assets that Oasis held to recapitalize those accounts,
22 right?

23 A No. The only one we sold was to Vinny Raia.

24 Q In fact, you were living in one of those properties,
25 right?

CROSS-EXAMINATION OF MICHAEL DACORTA

1 A Which was going to be sold in the next few months.

2 Q And Mr. Anile and his parents were living in another one
3 of the properties, right?

4 A Yes, he was.

5 Q And there were other Oasis members living in those other
6 properties, right?

7 A Yes. Most of the properties were occupied by people who
8 worked for the firm in some capacity.

9 Q And your son was living in one of them, right?

10 A Yes, he was.

11 Q And no money ever left ATC. We have established that,
12 correct?

13 A Yes, we have established that.

14 Q And so, Mr. DaCorta, do I understand this correctly that
15 instead of -- when things were going poorly, instead of
16 recapitalizing that position when you were down \$18 million,
17 you basically just took a super risky silver position. Is
18 that not right?

19 A Well, it's not -- your characterization is not perfect.
20 It's a silver position being managed.

21 Q What if I called it a Hail Mary? Would that characterize
22 it correctly?

23 A No. Someone who doesn't understand the markets or the
24 silver.

25 Q Does Mr. Childers understand the markets?

CROSS-EXAMINATION OF MICHAEL DACORTA

1 A I'm sure he does.

2 Q He seemed pretty smart, did he not?

3 A Yes, he did.

4 Q In fact, he was doing some calculations on the stand just
5 in his head, wasn't he?

6 A Sure.

7 Q Multiplying, dividing, multiplying again pretty large
8 numbers?

9 A I think he did a fairly good job of that.

10 Q Mr. DaCorta, you couldn't predict the pandemic, correct?

11 A I don't think anybody could.

12 Q Would you agree with me then that by April of 2019, you
13 had lost \$18 to \$20 million in trading?

14 A 18 million, yes.

15 Q You had spent about \$8 to \$9 million on other ventures
16 outside of the trading account?

17 A You're including the real estate in that?

18 Q Yes.

19 A Yeah. I would say at least that much.

20 Q And personal expenses, correct?

21 A Sure.

22 Q And then at that point you assumed a silver position that
23 was so overleveraged you wouldn't have lasted even outside of
24 May 2019; isn't that right?

25 A No.

CROSS-EXAMINATION OF MICHAEL DACORTA

1 Q Well, you were here when Mr. Childers testified that your
2 position would have been liquidated within May of 2019, were
3 you not?

4 A Mr. Childers is making a lot of assumptions without any
5 information.

6 Q Aren't you making assumptions by guessing that silver
7 would go up 12 months later and that would save the day for
8 Oasis?

9 A I'm making an educated guess based upon my experience.

10 Q And wasn't Mr. Childers making an educated guess when he
11 testified based on his experience?

12 A Sure.

13 Q And Mr. DaCorta, you would agree that had you held that
14 position and had it been liquidated, then the final \$2 million
15 in that ATC account, if they had called that margin, that
16 would disappear, would it not?

17 A If it was liquidated. However, it went to \$20 before it
18 went down, so.

19 Q And again at this time the other assets that Oasis had to
20 recapitalize that account was the houses that you were living
21 in, correct?

22 A All the real estate.

23 Q The real estate your child was living in, correct?

24 A All the real estate, all 11 properties.

25 Q The precious metals that you put in the closet, correct?

CROSS-EXAMINATION OF MICHAEL DACORTA

1 A Yes. I wouldn't be looking to liquidate them. That was
2 something I was holding for a very long time.

3 Q And you were present on Thursday when Mr. Childers called
4 that reckless, were you not?

5 A That's his opinion, yes.

6 Q And you heard him describe that as a poor hedge because
7 it's illiquid, correct?

8 A It wasn't being used as a hedge against the trading
9 account. It was being used against a hedge against the U.S.
10 dollar.

11 Q In fact, he did testify that using silver as a hedge
12 against the U.S. dollar or against any classic currency is
13 poor because of the correlation. Did you not hear him testify
14 to that?

15 A I did, but he's incorrect.

16 Q You also heard him testify that your entire platform,
17 your trading strategy was a combination of irrational and
18 reckless. You heard that?

19 A Yes, I did.

20 Q You heard him testify that the entire premise of this
21 opportunity was deceitful because spread pay that you
22 advertised is really just money going from investors back into
23 your own accounts?

24 A That was his opinion, yes.

25 Q And of course you've admitted here today that at no point

CROSS-EXAMINATION OF MICHAEL DACORTA

1 did you tell anyone about these trading losses on the screen,
2 correct?

3 A That's correct.

4 Q Let's take a look at what you did do instead.

5 Can we leave 425F1 up?

6 Mr. DaCorta, isn't it true that in March of 2017,
7 which is the same month that you lost another half a million
8 dollars and you were carrying a cumulative net loss of
9 \$1.8 million, you bought that Maserati we saw earlier?

10 A I guess, yeah, 2017.

11 Q I'm sorry?

12 A Yes.

13 Q And isn't it also true that in June of 2017 when you lost
14 \$374,000 and you were running a cumulative net loss of over
15 \$2 million, that you took a trip to Italy that month?

16 A If that was the month, maybe. I don't remember, but it
17 probably was, yes. I mean, I don't remember the month by
18 showing me a picture.

19 Q And isn't it also true that in July of 2017 when you lost
20 \$1.1 million, you take a private jet to fly to New York?

21 A July, that's correct.

22 Q And that's the one we saw earlier, right?

23 A Yes.

24 Q And then after losing a combined \$8.9 million in January
25 of 2018 and February of 2018, you purchased a condo at Vardon

CROSS-EXAMINATION OF MICHAEL DACORTA

1 Terrace where your son lived; isn't it true?

2 A No. I purchased a condo for the company. And my son and
3 other people -- I purchased four, and different people from
4 the company lived there.

5 Q Including your son?

6 A Yes.

7 Q And would that be the same son you were paying an \$80,000
8 salary for one of the subcompanies?

9 A No.

10 Q That's a different son?

11 A That's the son that made \$17,000.

12 Q Isn't it also true, Mr. DaCorta, that that same month
13 after losing \$18.5 million in January of 2018 and February of
14 2018, you continued paying off your father's home equity line
15 with money that came from Oasis investors?

16 A I made several payments on my father's home equity line.

17 Q Using Oasis money?

18 A Yes.

19 Q Can we pull up Exhibit 2 at 1012?

20 Is that just one of many examples of you paying off
21 your father's home equity line payments using Oasis
22 invest/lender money?

23 A Yes.

24 Q And Mr. DaCorta, isn't it true that the next month after
25 losing \$9 million in March of 2018, you took yet another

CROSS-EXAMINATION OF MICHAEL DACORTA

1 private jet from Sarasota up to New York?

2 A It's possible, yes.

3 Q Will you publish Exhibit 345 at 11, please?

4 And that's an example of that, right, Mr. DaCorta?

5 A Yes.

6 Q And isn't it also true that the next month after that, in
7 April of 2018, you took your wife to the Grand Caymans, and
8 you spent \$14,000 at the Ritz-Carlton for your anniversary?

9 A I believe that's true.

10 Q And you paid with that from Oasis money that came from
11 Oasis accounts?

12 A Yes.

13 Q And then isn't it also true, Mr. DaCorta, that after a
14 few more months of mounting losses, you lost another half a
15 million dollars in 2018, you paid for your daughter's college
16 tuition to Rollins out of Oasis accounts?

17 A Yes. Basically it was room and board. She had a
18 scholarship, and she took out loans for the balance, and that
19 was the room and board.

20 Q And you paid for that with Oasis investor money, correct?
21 And the month after that in August 2018, isn't it true that
22 you took another private jet from Sarasota to New York and
23 back which cost \$16,000 each way?

24 A I don't know, but if it's there, yes.

25 Q Does that remind you?

CROSS-EXAMINATION OF MICHAEL DACORTA

1 A What was the date?

2 Q So this is --

3 A Yes.

4 Q -- exhibit 345, and that is August 2019.

5 A Yes.

6 Q And then in October of 2018, after losing another
7 \$684,000 in the market, you purchased Lacantera, did you not?

8 A Yes.

9 Q And is that the settlement document for that purchase?

10 A Yes. It's a company owned by Oasis Management.

11 Q And isn't it also true, Mr. DaCorta, that in November
12 2018, down cumulatively \$19 million at that point, you got a
13 quote for a \$50,000 aquarium for your home, your future home,
14 Lacantera?

15 A We got a quote, yes. We got one quote for the office and
16 one quote for the house.

17 Q And how much was the quote for the house, Mr. DaCorta?

18 A That was the lower one. The office was the larger one.

19 Q So the house was a \$50,000 aquarium, and the office was
20 the \$80,000 aquarium?

21 A Correct, except that I did research and found they
22 carried no value for resale. So we turned down both of the
23 projects.

24 Q Oh, that's why you turned it down? Not because you lost
25 \$20 million by then?

CROSS-EXAMINATION OF MICHAEL DACORTA

1 A The property was owned by the company, and we were
2 looking to improve it to a degree to be able to sell it later
3 at a future date for a much higher amount. These were very
4 high-end homes.

5 Q And Mr. DaCorta, isn't it true that around this time in
6 January of 2019, you started to buy precious metals?

7 A Yes.

8 Q Will you publish 301 at 1, please?

9 And sometimes you even bought them in your own name,
10 did you not?

11 A That was a mistake by the gentleman there. We always
12 bought it for Oasis Management or OIG.

13 Q What does that slip say?

14 A It says my name. That was one of the first ones we
15 purchased, I guess.

16 Q And isn't it true, Mr. DaCorta, that in February of 2019
17 after having lost yet another \$700,000, you paid off the home
18 that you were living in at Lost Key Place?

19 A Lost Key Place, the mortgage came due. We paid it off.
20 It was an asset wholly owned by Oasis International Group. So
21 it's basically just turning cash into a property. It's the
22 same owner. The company owns the cash. The company owns the
23 property.

24 Q And the company owns the cash because the company is
25 given the cash by investor/lenders, right?

CROSS-EXAMINATION OF MICHAEL DACORTA

1 A Correct.

2 Q And isn't it also true, Mr. DaCorta, that in March of
3 2019 after losing another one and a half million dollars, you
4 were invoiced \$50,000 for dining room columns, a new bar area,
5 and a renovated office inside your house?

6 A Yes.

7 Q And I'm publishing 302Q at 1.

8 Oasis money, correct?

9 A Oasis Management money to an Oasis Management property,
10 correct.

11 Q That came from investors like the Katters, correct?

12 A No, because they were in Oasis International Group.

13 Q And you moved money between the two. You already
14 admitted that on direct, did you not?

15 A Yes. I mean, when we earned money, we took it back, but
16 she invested in Oasis Management. This is Oasis Management
17 funds.

18 Q When you earned money on the spread, you took it back.

19 Is that what you mean by that?

20 A No. I did loan money to Oasis International Group. So
21 sometimes I took principal back.

22 Q Let's stick with that month, that same month that you
23 lost another \$1.5 million in March of 2018 -- 2019. I'm
24 sorry. You also spent \$150,000 in gold and silver precious
25 metals, correct?

CROSS-EXAMINATION OF MICHAEL DACORTA

1 A Yes.

2 Q And that is Exhibit 305 at 19. That's just one example,
3 right?

4 A Yes.

5 Q And Mr. DaCorta, that same month you continued to pay for
6 your LA Fitness membership out of the Oasis account. Isn't
7 that true?

8 A Oh, I think I had it linked to that account, yes.

9 Q Every month, right?

10 A Yes.

11 Q Because that's a business expense?

12 A No. That's up to the accountants to go line item and
13 tell me what's personal and what's business at the end of the
14 year.

15 Q Finally, Mr. DaCorta, I want to turn your attention to
16 April of 2019. I think you admitted by then we're on the same
17 page. You are down \$18 to \$20 million in the account,
18 correct?

19 A \$18 million, that's correct.

20 Q And that month you lost another \$540,000?

21 A In April?

22 Q Yes.

23 A April '19, that was the result of them liquidating our
24 silver position.

25 Q And part of those losses were also the positions that

CROSS-EXAMINATION OF MICHAEL DACORTA

1 Mr. Childers testified about on Thursday, was it not?

2 A I don't think we had -- we had very small positions. We
3 only had the silver. So that's mainly from the silver.

4 Q But you were at certain points in 2018 and 2019 taking
5 positions that he testified made no economic sense, were you
6 not?

7 A Oh, yes. He testified to that. And we had positions
8 called straddles for a specific, but yes.

9 Q And he testified, did he not, that those straddles were
10 you betting on the same horse and against the same horse for
11 the same amount and basically generating nothing except
12 \$60,000 in overnight fees, correct?

13 A That happened during that time period, yes.

14 Q And I want to turn your attention to Exhibit 125. Isn't
15 it true, Mr. DaCorta, that that month in April 2019 when
16 you're down \$19 million, you spent Oasis money on a country
17 club membership at Longboat Key Country Club in the amount of
18 \$32,000?

19 A That's correct.

20 Q Because that also is company money. Is that your
21 testimony?

22 A Well, would you allow me to explain why we did it?

23 Q Sure.

24 A So they had no corporate account there. So what we did
25 was we ended up purchasing it this way. It had to be

CROSS-EXAMINATION OF MICHAEL DACORTA

1 purchased as an individual. They allowed us to have
2 discounted rooms for anyone coming to Oasis. They were
3 directly across the street from our office building. So
4 Longboat Key was literally right across the street. And at
5 the end of the year, we had the use of their facilities, which
6 if we wanted to have another holiday event, it would have cut
7 the event in half because we wouldn't have had to pay for the
8 room or anything like that. So there was economic benefits
9 for doing it. And there was also just from the standpoint of
10 having people come in, use the rooms right across the street
11 if they were visiting us if we were having any kind of
12 seminars at the office building.

13 Q Were those economic benefits the same economic benefits
14 that stem from you paying for your daughter's college tuition
15 using Oasis investor money?

16 A I used the money that I earned from working 18 hours a
17 day, yes.

18 Q And were they the same economic benefits that stem from
19 you buying your daughter a Range Rover with Oasis investor
20 money?

21 A I didn't buy her a Range Rover. That car was for us. I
22 eventually let her use it when she went to college in her
23 final year.

24 Q And your wife had one too, correct?

25 A We had one in the home also, yes.

CROSS-EXAMINATION OF MICHAEL DACORTA

1 Q Mr. DaCorta, these promissory notes, they weren't worth
2 the paper they were written on, were they?

3 A We never failed one time to make any -- to meet -- any
4 request for money was made ahead of schedule.

5 Q Mr. DaCorta, you lied to the investors about being a
6 market maker, did you not?

7 A No. I explained it in a way that was conceptually
8 correct.

9 Q Mr. DaCorta --

10 THE COURT: Hold on. Q, pause, A.

11 A I explained it in a way that was conceptually correct.
12 I'm giving people who don't have the true understanding of the
13 differences between a proprietary account, trading for your
14 own account, and a market making account. They are very
15 similar. I'm just trying to give them an overview of what we
16 did. And the way I explained it is exactly what we did. So
17 whether I was wrong on the term, what I told them it was,
18 that's exactly what we were doing.

19 BY MR. MURRAY:

20 Q Mr. DaCorta, there was no hope that Oasis could have ever
21 honored the terms in these notes because Oasis had no
22 legitimate revenue stream; isn't that right?

23 A You're absolutely incorrect.

24 Q Investor money eventually paid the spread; isn't that
25 right?

CROSS-EXAMINATION OF MICHAEL DACORTA

1 A No, it is not. And if you will allow me to actually
2 explain how the spread works, I will be more than happy to do
3 it.

4 Q Sure.

5 A Okay. So when you are bidding and you are offering, you
6 are actually in the market. There's a third party executing
7 on either side. So to try and simplify it and not complicate
8 what we were doing, I will give you a very simple example.
9 You own a furniture store and someone loans you money to buy
10 inventory. And you owned a \$3,000 couch that was your cost.
11 You put it on the floor of your showroom. You offered it for
12 \$4,000. No one came in to bid for it. There were no buyers.
13 So you had to lower the price. You lower the price to \$3,000.
14 Nobody purchased it that day so you lowered it to 2,000. When
15 it was sold at 2,000, someone went to the register and they
16 rang the register. It counted as a sale. It's a sale and
17 it's revenue for the furniture store of \$2,000. You had an
18 obligation to pay the person on the loan the interest or any
19 other special arrangement you had with them. So if you told
20 them I'm going to pay you a flat rate of interest but every
21 time I sell a piece of furniture I'm going to give you a
22 hundred dollars. You sold it for \$2,000. You counted the
23 \$2,000 as revenue. You then paid a hundred dollars to that
24 person. You have \$1,900 left. What do you do with it? You
25 go back. You repurchase more furniture hoping to sell that

CROSS-EXAMINATION OF MICHAEL DACORTA

1 next piece of furniture for a profit. Regardless of whether
2 it's a profit or a loss, the sale is the revenue.

3 We segregated the four basis points way before we
4 started telling anyone when we signed the system. Those four
5 basis points, those four pips were specifically designed to be
6 revenue. Anything above it, anything below it is our problem.
7 So if we made more money than four pips, we were profitable.
8 If we lost more money, that was ours. But the four pips
9 itself was revenue. There's a difference between revenue and
10 profit and loss. When we were profitable, all profitable
11 months, where did the money come from? It came from the
12 market. It came from third parties. It didn't come from us.
13 So there's a very confusing issue here. I know it's difficult
14 to understand when you look at it because it's complicated,
15 but the simple fact is what I was telling people we were
16 doing, we were doing. We were counting that as revenue, and
17 that is revenue regardless if there's an expert that says it's
18 not revenue.

19 Q Mr. DaCorta, you were here when Chris Mitchell who helped
20 design the Spotex system testified?

21 A Yes.

22 Q And he showed the Spotex system where you put in the pips
23 to trade, right?

24 A That's correct.

25 Q And you were here when Joe Paniagua testified that he was

CROSS-EXAMINATION OF MICHAEL DACORTA

1 instructed by you to put pips into that system and apply it
2 over the trades, correct?

3 A Well, yes. So the way it's designed is you put the two
4 pips in. When I see it on my screen as the trader, I already
5 have the four basis point spread. Then I go into the market
6 and enter orders at that bid and at that offer. Those orders
7 are out into the market. Those are third parties executing
8 with me. I'm not trading with myself. If I make a profit,
9 the money is there. So if I lose the money, it's still
10 revenue. We still owe our obligations to our lenders. So we
11 still have to count it as revenue.

12 Q Mr. DaCorta, you were here with Mr. Childers explained to
13 the jury that every single trade you executed had a spread on
14 it, and that spread was Oasis intentionally overpaying for
15 each trade. Were you not here for that testimony?

16 A I heard his testimony, yes.

17 Q And you were here for that testimony when he also said
18 that every single time you executed a trade with that spread,
19 it was then put into a different accounting column, correct?

20 A That's correct.

21 Q And he also explained it in much simpler terms, did he
22 not?

23 A I'm not sure.

24 Q He explained that what you were doing at Oasis was the
25 same as going into a grocery store, asking for \$20 cash back,

CROSS-EXAMINATION OF MICHAEL DACORTA

1 taking that money, putting it in your bank account and saying
2 that you made that \$20. Was that not his testimony?

3 A That was his testimony, yes.

4 Q Mr. DaCorta, you and Mr. Anile had Oasis investors sign
5 risk disclosure agreements, did you not?

6 A Yes. Mr. Anile created that new system going into the
7 end of 2018.

8 Q And those agreements basically gave you, Oasis, the
9 ability to do whatever you wanted with the money. Is that a
10 fair characterization?

11 A Yes. I mean, we already had it for the previous
12 promissory note, but that one just specified the risk more
13 distinctively so that way people could read it. They had to
14 make a decision. They could either accept it or take their
15 money back.

16 Q So is it your testimony to this jury that these investors
17 of Oasis were knowingly agreeing to give you money so that you
18 could do whatever you wanted with it?

19 A We could manage the business in any way, shape, or form
20 that we wanted, yes.

21 Q Including paying for your kid's college tuition, correct?

22 A They loaned me money. They loaned our company money.
23 Our commitment to them was to keep that commitment to pay them
24 back when they asked for the funds to come back and to pay
25 them their interest every month.

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1 Q But Mr. DaCorta, isn't that commitment only as good as
2 the full faith and credit of your company?

3 A Yes.

4 Q You are the victim here, correct, Mr. DaCorta?

5 A No. There's hundreds of victims here.

6 Q So you admit they're victims?

7 A Excuse me?

8 Q You admit that they're victims then?

9 A Yes, victims of government abuse.

10 Q But you also suggested that you were victimized by the
11 FBI when they searched your house, did you not?

12 A I believe you can call that being victimized. More for
13 my family than for myself. I could handle it.

14 MR. MURRAY: Your Honor, may I have a moment?

15 THE COURT: Yes.

16 BY MR. MURRAY:

17 Q Mr. DaCorta, you are aware that Joe Anile was convicted
18 and sentenced to ten years in prison in this case, correct?

19 A I am.

20 Q You are 57 years old, right?

21 A I am.

22 Q You would say just about anything to avoid being
23 convicted in this case, would you not?

24 A I'm telling the truth, and that's all that matters. I
25 know it's the truth. I know what's in my heart. God knows

CROSS-EXAMINATION OF MICHAEL DACORTA

1 what I'm saying is the truth. And if you don't believe me,
2 that's really not something I have to --

3 Q Mr. DaCorta, you are used to just saying just about
4 anything to get the outcome you want; isn't that right?

5 A No.

6 MR. MURRAY: I have no further questions, Your Honor.

7 THE COURT: Why don't we take our afternoon break,
8 and we are going to try to start here before 4:00 p.m. And if
9 you are okay, we will run until 5:30. If that's a hardship,
10 we will quit at 5:00. Just before 4:00 p.m. we will start
11 again. Thank you.

12 (Jury escorted out of the courtroom.)

13 MR. ALLEN: Just to update the Court, my Wednesday
14 witness is attempting to make a 5:35 flight tonight.

15 THE COURT: He's a good man, that witness.

16 MR. ALLEN: If he gets on it, we should be able to
17 finish our presentation tomorrow with our witnesses.

18 THE COURT: Good. Good. Why don't we plan on
19 talking about the jury instructions, I don't know, at noon? I
20 mean, we are not going to all rest by noon, are we?

21 MR. ALLEN: No, I don't think so.

22 THE COURT: So we'll do jury instructions at noon.
23 Now, if all the evidence is resolved and in by 2:00, we're
24 going to close. So good. Superb.

25 And I will say this much. I won't keep -- maybe I

REDIRECT EXAMINATION OF MICHAEL DACORTA

1 haven't said it before. There's a lot of spectators here.
2 This level of lawyering in this case is very high level. So
3 just for whatever it's worth. I don't always see that. I
4 promise. Thank you.

5 (Recess taken.)

6 THE COURT: Thank you, ladies and gentlemen.

7 So there is an outside chance, don't hold me to it,
8 outside chance you may have this case tomorrow for your
9 consideration, and if not I think certainly Wednesday.

10 Now, since we all baked this morning, it's probably
11 no solace but I found a couple nickels and dimes between the
12 couches in the judges' lounge. So I'm going to buy lunch
13 tomorrow. It ain't going to be great, but it will be edible,
14 like a Domino's or Jimmy Johns. And we will put out a little
15 menu and then we will make one of my lawyers over here go
16 fetch it for us because they are good. They do a lot of
17 things for me including getting jurors lunch. So I really
18 appreciate your patience. I know it's not easy.

19 Counsel, you have redirect.

20 **REDIRECT EXAMINATION**

21 BY MS. IRVIN:

22 Q We started Friday afternoon and then we started off again
23 this morning I think with the NFA agreement that you agreed
24 to?

25 A Yes.

REDIRECT EXAMINATION OF MICHAEL DACORTA

1 Q Why do you think it was important for the jury to see the
2 full agreement?

3 A Because if something is redacted, people wonder what's
4 there. So you are better off showing it to them up front.

5 Q In determining how best to stay in compliance with the
6 NFA agreement, you testified that you sought the legal advice
7 of Joe Anile and you also sought the advice of someone that
8 you knew at CitiFX. Why them? Why did you ask them about how
9 best to make sure that you could stay in compliance with the
10 NFA agreement?

11 A Well, CitiFX has one of the top --

12 MR. MURRAY: Your Honor, I'm sorry. Can we approach?

13 THE COURT: All right.

14 (Bench conference on the record with all counsel
15 present.)

16 THE COURT: So it's the hearsay objection?

17 MR. MURRAY: No, Your Honor. We object to the
18 question before that. And we'd ask for some kind of limiting
19 instruction. We had an agreement to redact that agreement,
20 pretrial agreement for that redaction. And she elicited a
21 question that make it sound like we were hiding the ball
22 intentionally.

23 THE COURT: Let me look at that. I'll clear that up.

24 MR. MURRAY: Thank you, Your Honor.

25 (End of bench conference.)

REDIRECT EXAMINATION OF MICHAEL DACORTA

1 THE COURT: Ladies and gentlemen, just as a matter of
2 clarification, on that, I will call it the letter, the NFA
3 letter, okay, sometimes we redact things, and the Court does
4 that -- it was actually Mr. Houston -- based on the rules of
5 evidence, and then it got unredacted. So you saw both
6 versions. It was me and Mr. Houston trying to figure it out.
7 It had nothing to do with what one side either way was dealing
8 with exhibits. So that one is on me anyway. So we now have
9 the unredacted version.

10 All right. Go ahead.

11 BY MS. IRVIN:

12 Q I don't know that I got an answer to my question. So I'm
13 just going to reask it. In your efforts to stay in compliance
14 with the NFA agreement, you testified on direct that you --
15 and also on cross that you sought Mr. Anile's legal advice.
16 On direct you said that you sought the advice of someone that
17 you knew and worked with at CitiFX. Why did you seek their
18 advice?

19 A Well, I sought CitiFX first. That was the first place we
20 were going to do business. And being in the industry my
21 entire career, the first place you go is the compliance
22 department of the firm you are going to do business through or
23 you work with. So it was just a knee-jerk reaction. The
24 first thing I would do is see who I was going to do the
25 business through and then speak with their compliance

REDIRECT EXAMINATION OF MICHAEL DACORTA

1 department.

2 Q In answering a number of your questions on cross, there
3 were some questions about Oasis generally. Can you explain
4 what the difference is, if any, between Oasis Management, LLC,
5 and Oasis International Group?

6 A Right. So the way it began was Oasis Management was sort
7 of the friend's and family club. Then we created Oasis
8 International Group. Once Oasis International Group was in
9 business, it first was taking customer accounts that were
10 non-U.S. to stay in compliance or ECPs to stay in compliance.
11 At that point in time, we were operating both. Oasis
12 Management was either through CitiFX or eventually using Oasis
13 International Group because now we own their own
14 broker-dealer. There was no reason to go through another
15 broker-dealer. Then we changed to the loan program, and I
16 started shifting the limited partnerships. I spoke to Joe
17 Anile, and I told him I wanted to mirror exactly what we are
18 doing at Oasis International Group so there's no discrepancy
19 between what everybody earns.

20 The difference is that Oasis International Group had
21 to take the deposits from Oasis Management. That account had
22 to be set up, and the spreads had to be allocated to that
23 account. Whatever was earned is interest for Oasis
24 Management, but to the members of Oasis Management it's profit
25 because anything I earned for Oasis Management is now profit

REDIRECT EXAMINATION OF MICHAEL DACORTA

1 to the people who are limited partners. So the reason why
2 there is a discrepancy between the email that says we're up
3 this much and what actually took place in the Oasis
4 International Group account is because the people being paid
5 the interest and the interest to Oasis Management is now
6 profit to the limited partner until we shifted it to -- every
7 year I made one step closer to making them exactly the same.
8 And then in 2019, they were going to be merged together. So
9 Oasis International Group would have owned Oasis Management.
10 It would have owned all the properties Oasis Management owned.
11 It would have owned Roar of the Lion. Everything would have
12 come under Oasis International Group. That was the plan. It
13 took a few years to get there, but that was the plan.

14 Q As part of your explanation, it sounds like you were
15 referring to when Mr. Murray had on the screen on the left
16 side a profit and loss graph for 2017 and 2018 on the left?

17 A Correct.

18 Q And then on the right he presented three or four emails
19 and then had them side by side; is that correct?

20 A That's correct.

21 Q And there seemed to be some maybe miscommunication. Can
22 you explain the profits and losses that were on that graph?
23 Am I correct in understanding that those profits and losses
24 were OIG's profits and losses?

25 MR. MURRAY: Objection. Leading.

REDIRECT EXAMINATION OF MICHAEL DACORTA

1 MS. IRVIN: I can correct it, Your Honor.

2 THE COURT: All right.

3 BY MS. IRVIN:

4 Q In the graphs that showed the profit and losses, which
5 entity's profits and losses were being demonstrated on that
6 graph?

7 A Those were representing the OIG corporate account.

8 Q In the various emails, I believe that there were maybe
9 three or four emails, those emails, do you recall what entity
10 you sent those emails from?

11 A Those were to Oasis Management participants, whether they
12 were limited partners or lenders depending on what year it
13 was.

14 Q That was not from an OIG -- not from an OIG email
15 account, correct?

16 A Correct.

17 Q You may have talked about this a little bit, but I want
18 to make sure it's clear because we're explaining the
19 difference between Oasis Management, LLC, and Oasis
20 International Group. Is there a difference between investors
21 and lenders in the programs that Oasis Management, LLC, ran at
22 one time and the programs that Oasis International Group ran
23 as loan programs in 2017 and 2018?

24 A Well, a loan program, you're typically called a lender
25 and you can invest as a lender. You can invest your money by

REDIRECT EXAMINATION OF MICHAEL DACORTA

1 making a loan. If you buy treasury bonds, you are making an
2 investment but you're loaning the government money. So we
3 call them lenders because we had a loan agreement and we
4 designated them as lenders. Oasis Management had limited
5 partners. So those were equity participants in the company.
6 They weren't customers. They weren't clients. They were
7 equity participants. They had a piece of the business.
8 Eventually we converted them over to loans. As Ms. Cheslow
9 explained, she had the option to take her money back or
10 convert over to a loan. The reason why I converted those over
11 to the loan was just to make it easier that every single
12 person had exactly the same program at that point, and then
13 eventually it would all be merged together and come under one
14 roof.

15 Q Mr. Murray asked you some questions about Mr. Charles
16 Anthony who was a lender in the program and talked about you
17 going to his house to discuss the OIG program. Did you make
18 yourself available to lenders to be able to discuss the
19 program?

20 A As many as I could. Whenever someone asked, whether it
21 be on the phone or in person, if I was available, I would
22 definitely make the effort to go see them.

23 Q You were also asked on cross about whether or not there
24 was any money coming out of the ATC trading account. Can you
25 explain what was going on with the ATC trading account and any

REDIRECT EXAMINATION OF MICHAEL DACORTA

1 money --

2 A Sure.

3 Q -- that would be coming in or out and why?

4 A So the money going in was basically collateral to trade.

5 20 million I think \$625,000 went in for the loan program.

6 However, all the spreads were recycled into the account. So

7 the reason why you see this \$60 million, well, it didn't come

8 out of the blue sky. It had to be created somewhere. So the

9 reason why you have all these losses and the losses exceed the

10 actual amount deposited is because the spreads are real. They

11 are going back into the account.

12 Q Mr. Murray also asked you questions about from where you

13 were getting funds to be able to pay for personal expenses.

14 And when he asked you that question, he said, was this from

15 Oasis money? Can you explain where the funds came from for

16 paying your personal bills and your family bills?

17 A So that would have -- all my expenses were paid out of

18 Oasis Management.

19 Q Why were they paid out of Oasis Management?

20 A Oasis Management was my company. We didn't merge them

21 yet. I was loaning money or doing business with Oasis

22 International Group, and I was earning the spreads on that

23 money the same way another lender would earn spreads.

24 Therefore, I was counting that as my revenue. And that's what

25 I was taking back into or at least utilizing as Oasis

REDIRECT EXAMINATION OF MICHAEL DACORTA

1 Management's funds.

2 Q When you were interviewed at your home after the agents
3 came to your house on April 18, 2019, that interview, do you
4 recall if that interview was recorded?

5 A It was not.

6 Q Mr. Murray asked you about a statement that he said was
7 in your interview that was not recorded where you said
8 something to the effect of, I'm sorry.

9 A That's correct.

10 Q Do you recall anything about the context in which you
11 made that statement?

12 A Yes, I do.

13 Q Can you explain?

14 A Sure. I was asked specifically, are you sorry you had
15 losses? I said, I am. No one wants to lose money in
16 anything, so.

17 Q There were also a number of questions about the
18 government's expert, Mr. Childers. One issue had to do with
19 Mr. Childers' definition or explanation of spread and how he
20 understood OIG relied on spread. Why do you disagree with
21 Mr. Childers' explanation of spread and how OIG used it?

22 A Well, again, I explained it with the furniture store. I
23 think that was a fairly simple outside of the industry type of
24 question -- type of answer. But the spread revenue is real,
25 because if it wasn't, you can't lose more than you put into

REDIRECT EXAMINATION OF MICHAEL DACORTA

1 the account. We only put in \$20,650,000. We had 2 million
2 remaining. We had 9 million in rollovers and the brokerage
3 fees. So when you do the math, the money had to come from
4 somewhere. It just didn't grow on trees.

5 Q It also sounded like you -- well, it didn't sound like.

6 You testified that you disagreed with Mr. Childers'
7 understanding of your silver position. Can you explain why
8 you disagree with his explanation about your silver position?

9 A Well, he is looking at it without any information. He is
10 looking at a screen that has a chart. He knows how much we
11 have at that moment, and he knows the prices to a certain
12 point. He has no information about how much capital we have
13 in reserve that we could utilize to hold the position. He has
14 no information as to what we would do when the silver position
15 went up \$20 million prior to it dropping.

16 The logical thing would be you're down 18 million.
17 You make 20 million. Maybe you take the position off,
18 regroup, watch it for a while, and then repurchase it on any
19 dip. So without good information, it's garbage in, garbage
20 out.

21 Q Mr. DaCorta, were you intending to deceive or cheat
22 investors and lenders out of their money?

23 A Excuse me?

24 Q Did you intend to deceive or cheat investors and lenders
25 out of their money?

REDIRECT EXAMINATION OF MICHAEL DACORTA

1 A Absolutely not. Oasis was built to be something that
2 people could rely on. We had lenders utilizing it for income
3 that they really needed, people with LSA agents. We delivered
4 on every withdrawal ever asked for. Oasis tried its best to
5 develop a company that was not only good to its lenders, good
6 to its employees, we tried to create an environment that
7 people loved to come to work, loved to be a part of everything
8 we were doing. We tried to lift people up.

9 Q Mr. Murray also asked and referred to your journal entry
10 in which you wrote about ICT. Do you remember that?

11 A Yes.

12 Q This has already admitted into evidences as Exhibit 87A.

13 May I have the Elmo?

14 Mr. DaCorta, do you recall when we reviewed this when
15 you testified on Friday?

16 A Yes.

17 Q Can you please read this page?

18 A My desire. My greatest desire is a result of my greatest
19 failure. In 2008, I suffered the loss of my business, ICT,
20 which caused great hardship to my family and all involved, as
21 well as myself. My desire is to rebuild a new business in the
22 same manner as I built ICT only this time use the lesson of
23 failure to catapult me to enormous success, so great that most
24 would believe to be impossible to achieve, a desire that money
25 for any purpose be of no issue. I desire to help as many

DIRECT EXAMINATION OF MARK BURLING

1 participants in ICT as possible and share the great riches of
2 success with all I come in contact with, then use capital and
3 all other resources to spread positive messages that free
4 people's minds and lifts all. I have no limits on my level of
5 success. I can achieve all I can image.

6 MS. IRVIN: Can I have a moment, Your Honor?

7 THE COURT: Yes.

8 MS. IRVIN: No further questions.

9 THE COURT: Thank you. You may step down. Let's
10 call your next witness, please.

11 MR. ALLEN: Your Honor, the defense would re-call
12 Mark Burling.

13 THE COURT: All right.

14 We will swear you in again, Mr. Burling.

15 THE COURTROOM DEPUTY: Please raise your right hand.

16 (Witness sworn.)

17 THE COURTROOM DEPUTY: Please state your name.

18 THE WITNESS: Mark Edward Burling.

19 THE COURTROOM DEPUTY: Thank you, sir. You may be
20 seated.

21 **MARK BURLING, CALLED BY THE DEFENSE, SWORN**

22 **DIRECT EXAMINATION**

23 BY MR. ROSENTHAL:

24 Q Good afternoon again, Mr. Burling.

25 A Good afternoon.

DIRECT EXAMINATION OF MARK BURLING

1 Q Sir, when you testified last week, if you recall, I
2 showed you a couple of documents that you were not able to
3 identify; is that correct?

4 A Yes, I remember.

5 Q Subsequent to that, have you had a chance to review the
6 documents that you did in fact provide pursuant to subpoena?

7 A Yes, I did.

8 Q You now having done so, do you now recall that those were
9 documents that you provided pursuant to subpoena?

10 A Yes, I do.

11 MR. ROSENTHAL: Your Honor, may I approach?

12 THE COURT: Yes, of course.

13 BY MR. ROSENTHAL:

14 Q Mr. Burling, I have handed you what was previously
15 identified as Defense Exhibit 166. And so after your review
16 of the documents that you provided pursuant to subpoena, do
17 you now recognize that document?

18 A I recognize it as having had that file in my possession,
19 yes.

20 Q Was that kept in your possession as part of your ordinary
21 business records?

22 A Yes.

23 Q And does this -- was this a document that was provided to
24 you in preparation for Mr. DaCorta's 2017 joint tax return?

25 A The primary document that I used was the worksheet that

DIRECT EXAMINATION OF MARK BURLING

1 we discussed earlier with the list of each individual partner,
2 their demographic information, their capital account balances
3 and allocations to them.

4 Q I understand, but was that document also in your
5 possession as you prepared Mr. DaCorta's 2017 tax return?

6 A Not initially, no.

7 Q At some point did it come into your possession?

8 A I don't recall exactly when I received it. I did not
9 look at the -- I could not find an email when I received the
10 documents.

11 Q Okay. But was it provided to you as you were involved in
12 the preparation of Mr. DaCorta's 2017 tax return?

13 A During that period of time, yes.

14 MR. ROSENTHAL: Your Honor, at this time I move
15 Defense Exhibit 166 into evidence.

16 MS. BEDKE: No objection.

17 THE COURT: It's admitted. Thank you.

18 (Defendant Exhibit 166 admitted.)

19 BY MR. ROSENTHAL:

20 Q And at this point if we could publish Government
21 Exhibit 504. Let's start with 505B.

22 Mr. Burling, what is on the screen is Government
23 Exhibit 505B that's been previously introduced. Referring
24 your attention first to the first entry, which is January 3,
25 2017, check paid to Michael DaCorta. If you could look at

DIRECT EXAMINATION OF MARK BURLING

1 Defense Exhibit 166, which was provided to you in preparation
2 for Mr. DaCorta's 2017 federal income tax return, is that
3 check on the spreadsheet, on your spreadsheet, your
4 Exhibit 166?

5 A The dates are the same and the amount is the same.

6 Q There is also a check on January 9 of 2017 for \$3,000.
7 Is that on Defense Exhibit 166, the spreadsheet that was in
8 your possession?

9 A Yes, it is.

10 Q If you could look at the third entry, January 26 of 2017,
11 a check paid to Michael DaCorta for \$2,000. Is that also on
12 Defense Exhibit 166?

13 A Yes, it is.

14 Q The next entry, February 13 of 2017, a check for \$5,000
15 to Mr. DaCorta, is that also on Defense Exhibit 166?

16 A Yes, it is.

17 Q The next entry on March 7 of 2017, a check for \$4,000 to
18 Mr. DaCorta, is that also on Defense Exhibit 177?

19 A Yes, it is.

20 Q As to the March 15, 2017, check to Mr. DaCorta for
21 \$3,000, is that also on Defense Exhibit 166?

22 A Yes, it is.

23 Q Check number -- or the next entry, March 20 of 2017, a
24 check for \$4,000, is that also on Defense Exhibit 166?

25 A Yes, it is.

DIRECT EXAMINATION OF MARK BURLING

1 Q The next entry, check number -- it doesn't have a check
2 number, but is there a March 22 or thereabout check for
3 \$20,000 on Defense Exhibit 166?

4 A No, there is not.

5 Q How about March 28 of 2017, check for \$2,500, is that on
6 your spreadsheet, Defense Exhibit 166?

7 A Yes, it is.

8 Q Go down to the check on May 8 of 2017 for \$3,000. Is
9 that on your spreadsheet that's Exhibit 166?

10 A Yes, it is.

11 Q But May 18 of 2017, the next check down for \$3,000 paid
12 to Mr. DaCorta, is that on Defense Exhibit 166?

13 A Yes, it is.

14 Q Bottom of the page, June 6 of 2017, a check for \$4,000 to
15 Mr. DaCorta, is that on Defense Exhibit 166?

16 A Yes, it is.

17 Q Go to the next page, please.

18 July 12 of 2017, a check for \$5,000 to Mr. DaCorta,
19 is that on Defense Exhibit 166?

20 A Yes, it is.

21 Q The account we were looking at that we have been talking
22 about, that's an Oasis Management account, correct?

23 A I cannot tell that from this.

24 Q What does it say after WF9302?

25 A It says, "Oasis Management."

DIRECT EXAMINATION OF MARK BURLING

1 Q The next check -- I'm sorry. The check for July 31 for
2 \$5,000 made to Mr. DaCorta, is that reflected on Defense
3 Exhibit 166?

4 A Yes, it is.

5 Q And August 1, a check to Mr. DaCorta for \$10,000, is that
6 on Defense Exhibit 166?

7 A Yes, it is.

8 Q And again we are talking about the spreadsheet that was
9 in your possession as you prepared the returns, correct?

10 A As I told you before, I could not verify when I received
11 this.

12 Q Next check, August 15 of 2017 for \$2,500 made to
13 Mr. DaCorta, is that on Defense Exhibit 166?

14 A Yes, it is.

15 Q August 28 of 2017, for \$3,000, was that on Defense
16 Exhibit 166?

17 A Yes, it is.

18 Q September 13 of 2007, a check for \$5,000 made out to
19 Mr. DaCorta or paid to Mr. DaCorta, is that on Defense
20 Exhibit 166?

21 A Yes, it is.

22 Q Check October 3 of 2017 for \$5,000 paid to Mr. DaCorta,
23 is that on your Defense Exhibit 166?

24 A Yes, it is.

25 Q Check October 16 of 2017 for \$3,500 to Mr. DaCorta, is

DIRECT EXAMINATION OF MARK BURLING

1 that on Defense Exhibit 166?

2 A Yes, it is.

3 Q A check paid October 31 of 2017 to Wilde Land Rover, is
4 that on Defense Exhibit 166?

5 A Yes, it is.

6 Q So that was information that had been provided to you at
7 some point in the past, correct?

8 A Yes.

9 Q None of this was concealed from you in any way?

10 A It was provided to me, but I already had the information
11 that I needed to prepare the partnership return.

12 Q I see. Well, you also prepared the personal return,
13 correct?

14 A Yes, I did.

15 Q The November 2, 2017, a check to Mr. DaCorta for \$3,500,
16 is that on Defense Exhibit 166?

17 A Please repeat which one you want.

18 Q I think it was on November 2 of 2017.

19 A No, it is not.

20 Q If we can see the last page. If we can bring up
21 Government Exhibit 505B previously admitted.

22 Mr. Burling, can you look at Government's
23 Exhibit 505B. And you see the first entry from January 17 of
24 2017 for \$4,200 made out to Lost Key Place?

25 A Yes, I do.

DIRECT EXAMINATION OF MARK BURLING

1 Q Are you familiar with Lost Key Place?

2 A Please repeat that. I did not hear your question.

3 Q I'm sorry. Were you familiar with 13318 Lost Key Place?

4 A That is where I met Mr. DaCorta.

5 Q And there is a check made out for \$4,200 to Lost Key
6 Place. Is that reflected on Defense Exhibit 166?

7 A Yes, it is.

8 Q Next below that, February 10 of 2017, a check for \$6,000
9 to Lost Key Place, is that on Defense Exhibit 166?

10 A Yes, it is.

11 Q Next entry, a check to Lost Key Place for \$4,000 on
12 March 20 of 2017, is that on Defense Exhibit 166?

13 A Yes, it is.

14 Q The entry below, that does not reflect it came out of the
15 Oasis account; is that correct?

16 A No, it doesn't. It looks like it's, from that
17 designation, Bank of America.

18 Q Below that, March 28 of 2017, a check for \$3,000 to Lost
19 Key Place, is that on Defense Exhibit 166?

20 A That was March 28?

21 Q To save time, there is -- appears there are five
22 succeeding checks for \$3,000 on various dates between March 28
23 and August 15. Are all five of those reflected on Defense
24 Exhibit 166?

25 A Yes, all five are listed.

CROSS-EXAMINATION OF MARK BURLING

1 Q The next entry, a check for \$1,250 to Lost Key Place on
2 September 18 of 2017, is that reflected on defense
3 Exhibit 166?

4 A Yes, it is there.

5 Q And the next two checks for 3,000 -- I'm sorry -- next
6 two checks for \$3,000 made out to or payable to Lost Key
7 Place, LLC, are those both on Defense Exhibit 166?

8 A Yes, they are.

9 Q And if we could publish Defense Exhibit 166, please.

10 Mr. Burling, this is a 26-page document, but would it
11 be fair to say that it is the checking account statements, the
12 checking account balance from the Oasis Management, LLC,
13 account for all of the year 2017?

14 A I would say that it represents it, but I can't confirm
15 that.

16 Q But nonetheless, this had been what had been supplied to
17 you, correct?

18 A At some point, yes.

19 MR. ROSENTHAL: Thank you, sir.

20 THE COURT: All right. Is there cross?

21 **CROSS-EXAMINATION**

22 BY MS. BEDKE:

23 Q Good afternoon, Mr. Burling.

24 A Good afternoon.

25 Q Why did you not need this Document 166?

CROSS-EXAMINATION OF MARK BURLING

1 A I had already prepared the partnership return, and it was
2 complete as far as I knew based on the information that was
3 provided to me by Mr. DaCorta.

4 Q Mr. Burling, are you familiar with something called IRS
5 Circular 230? I think I have that right.

6 A Yes.

7 Q What does that provide?

8 A That provides a set of rules for accountants and their
9 dealings with their clients.

10 Q And does it include a provision that says that the CPA or
11 accountant can rely on what the taxpayer tells him or her?

12 A Yes, it does.

13 Q Is that consistent with the terms of the engagement
14 letter that you used in your dealings with Mr. DaCorta?

15 A Yes, it does.

16 Q And did you tell him expressly that in preparing his
17 income tax returns you were going to rely on the information
18 he provided to you?

19 A That would have been in the initial meeting that I had
20 with him in November of 2017.

21 Q Speaking of that, did you know, Mr. Burling, that
22 Mr. DaCorta's prior CPA in New York, D'Arcangelo -- I think
23 I'm saying that correctly -- had actually withdrawn from the
24 engagement earlier that same month?

25 MR. ROSENTHAL: Objection, Your Honor. Assumes a

CROSS-EXAMINATION OF MARK BURLING

1 fact not in evidence.

2 THE COURT: Well, it's cross. So overruled.

3 A No, I did not.

4 BY MS. BEDKE:

5 Q Now, getting back to your engagement letter, because you
6 met with the defendant at the very end of November 2017; is
7 that correct?

8 A That's correct.

9 Q Wasn't it the week after Thanksgiving of that year?

10 A Yes, it was.

11 Q And you sent your engagement letter on or about January 3
12 of 2018, correct?

13 A That's correct.

14 Q And did the defendant sign that engagement letter and
15 return it to you?

16 A Yes, he did.

17 Q And after you prepared his 2017 U.S. individual tax
18 return, the Form 1040, did you send it to him in draft and ask
19 him to review it?

20 A Yes, I did send it to him in draft form.

21 Q And did you invite him to contact you if he had any
22 questions or concerns whatsoever about the preparation of the
23 return?

24 A Yes, I did.

25 Q And did the defendant ever take you up on that offer?

CROSS-EXAMINATION OF MARK BURLING

1 A No, he did not.

2 Q So you never met with the defendant to discuss the draft
3 2017 Form 1040 before it was filed?

4 A No, I did not.

5 Q Did you ever receive a phone call from the defendant
6 about the 2017 draft return before it was filed?

7 A Not that I recall.

8 Q So if the defendant said that he had in fact called you
9 and expressed sincere concern that the income numbers were not
10 right, would that be a false statement?

11 A Yes.

12 Q Instead didn't the defendant sign the draft on the E-file
13 authorization form?

14 A Yes, he did.

15 Q And isn't that the same form that says, "Penalties of
16 perjury"?

17 A Yes, it contains that language.

18 Q And after "penalties of perjury," it says in effect --
19 correct me if I'm wrong -- that the taxpayer signing the
20 document is attesting that all the information in the return
21 is true and correct; isn't that right?

22 A Yes, it does say that.

23 Q Did the defendant sign that form?

24 A Yes, he did.

25 Q Did he return it to you, Mr. Burling?

REDIRECT EXAMINATION OF MARK BURLING

1 A Yes, he did.

2 Q Is that why you filed the 2017 individual income tax
3 return the way you had prepared it?

4 A Yes, that's why.

5 MS. BEDKE: Nothing further.

6 THE COURT: Redirect, please.

7 **REDIRECT EXAMINATION**

8 BY MR. ROSENTHAL:

9 Q Mr. Burling, you indicated that you already had the
10 information that you needed to prepare the partnership return,
11 correct?

12 A That's correct.

13 Q In looking at what I showed you, Defense Exhibit 166,
14 does it reflect payments made to Mr. DaCorta during tax year
15 2017 from his company Oasis Management?

16 A That's what it appears to be, yes.

17 Q And was any of that -- did you include any of that in
18 your preparation for his 2017 tax return?

19 A For which tax return?

20 Q Personal tax return. I'm sorry.

21 A No, I did not.

22 Q You did not.

23 MR. ROSENTHAL: Thank you, sir.

24 THE COURT: All right. Well, thank you, sir. You
25 may step down. Good day.

DIRECT EXAMINATION OF WESLEY SANDERS

1 Let's call your next witness, please.

2 MR. ALLEN: Your Honor, the defense calls Wesley
3 Sanders.

4 THE COURT: Okay. Wesley Sanders, please.

5 THE COURTROOM DEPUTY: Please raise your right hand.
6 (Witness sworn.)

7 THE COURTROOM DEPUTY: Please state your name for the
8 record and spell your name.

9 THE WITNESS: Wesley Sanders, W-E-S-L-E-Y,
10 S-A-N-D-E-R-S.

11 **WESLEY SANDERS, CALLED BY THE DEFENSE, SWORN**

12 **DIRECT EXAMINATION**

13 BY MR. ALLEN:

14 Q Good afternoon, sir. So there is a microphone in front
15 of you. And these jurors are way over here. So it's
16 important that we speak up so they can hear you and the court
17 reporter can hear you. Okay?

18 A Got it.

19 Q And, sir, where do you reside?

20 A St. Petersburg, Florida.

21 Q What do you do for a living?

22 A I'm a real estate appraiser.

23 Q And do you -- where do you work?

24 A At Ancre Group Valuation in St. Pete.

25 Q Okay. How long have you been a real estate appraiser?

DIRECT EXAMINATION OF WESLEY SANDERS

1 A About 18 years.

2 Q And what is your educational background?

3 A I have a degree in economics, and then I started doing
4 brokerage and appraisal. I have taken over 50 appraisal and
5 real estate courses. I also did the advanced courses for the
6 MAI designation through the Appraisal Institute.

7 Q And, sir, do you do commercial appraisals?

8 A I do.

9 Q Do you do residential appraisals?

10 A I do not.

11 Q What's the difference between a commercial appraisal and
12 a residential appraisal?

13 A As far as the federal guidelines are concerned, they are
14 very similar, but the reporting is completely different;
15 whereas, a residential appraisal is more of a form report
16 using MLS, and we're using more of a narrative report because
17 each property is so unique.

18 Q And were you retained by my office to conduct a
19 commercial appraisal for a property located at 444 Gulf of
20 Mexico Drive in Longboat Key, Sarasota County, Florida?

21 A I was.

22 Q And did you conduct such an appraisal?

23 A I did.

24 Q And did you generate a report of your findings?

25 A Yes.

DIRECT EXAMINATION OF WESLEY SANDERS

1 Q I'm approaching the witness, for the record, with Defense
2 Exhibit 53.

3 Sir, could you look at Defense Exhibit 53, review it,
4 and tell me generally what it is?

5 A This is a copy of the appraisal report that I completed.

6 Q And is that a 76-page report?

7 A With the cover, yes.

8 Q And does that -- is Defense Exhibit 53 a fair and
9 accurate representation of the appraisal report you completed
10 for the commercial property at 444 Gulf of Mexico Drive,
11 Longboat Key, Sarasota County, Florida?

12 A It is.

13 MR. ALLEN: Your Honor, at this time we would move
14 into evidence Defense Exhibit 53.

15 MS. BEDKE: No objection.

16 THE COURT: Admitted.

17 (Defendant Exhibit 53 admitted.)

18 BY MR. ALLEN:

19 Q If we could publish Defense Exhibit 53 on the
20 TrialDirector, defense side, first page, please.

21 Is this the first page of your 76-page appraisal,
22 sir?

23 A This is.

24 Q And in the upper left-hand corner, is that the physical
25 address that you conducted the commercial appraisal on?

DIRECT EXAMINATION OF WESLEY SANDERS

1 A It is.

2 Q And is this a picture of the building that you appraised?

3 A It is.

4 Q Turning to the second page, pull out the second
5 paragraph, please.

6 Sir, could you read that into the record, please?

7 A "The subject property is located on the northeast side of
8 Gulf of Mexico Drive east of Channel Lane. Subject property
9 is an office condominium unit. The subject property is
10 identified by the Sarasota property appraiser's parcel
11 Number 0012043003. The subject property has 9,307 square feet
12 of usable land area, the footprint of the condo unit. The
13 subject property is more fully described in the body of this
14 report."

15 Q If we could turn to page 10 of Defense Exhibit 53.

16 Sir, what is the site analysis summary?

17 A That shows where the property is located within the
18 condominium development.

19 Q Is that a body of water that the property is sitting on?

20 A Yes. It fronts the Gulf of Mexico -- well, the
21 intracoastal.

22 Q If we could then turn to page 58 of the appraisal.
23 What's depicted on page 58?

24 A Those are exterior photos of the property.

25 Q If we could turn to the next page of this exhibit. What

DIRECT EXAMINATION OF WESLEY SANDERS

1 are we seeing here?

2 A Those are also exterior photos, and the building includes
3 two boat docks.

4 Q And if we could go to the next page.

5 A That's the parking lot surrounding the building and the
6 entryway from Gulf Drive.

7 Q If we could then turn back to the table of contents,
8 which is the fourth page of the exhibit. The next page,
9 please. Could you highlight that out?

10 Let's just go through these one at a time, sort of
11 your subheadings. What is the "Summary of Salient Facts and
12 Conclusions"? What's that part of your report?

13 A That's just stating some of the high-level information
14 with land area, some building area, just different facts about
15 the property as well as the dates of value.

16 Q And the "Scope of Work"?

17 A The scope of work talks about what we did and didn't do,
18 the intended use of the report, and within the federal
19 guidelines some of the information and sources that we used.

20 Q We already talked about the "Site Analysis," correct?

21 A Yes.

22 Q You have here "Improvements Analysis Summary." What does
23 that reference?

24 A That's referencing the square footage of the subject.

25 And then I also included some photographs from previous

DIRECT EXAMINATION OF WESLEY SANDERS

1 listings that we pulled online that we kind of used to make
2 the assumptions of the interior finish-out.

3 Q And then what is the "Sales Comparison Approach"? What
4 does that reference?

5 A That's where we used comparable sales from other office
6 buildings that have sold compared to this property, made
7 adjustments to come up with a value for an owner-user type
8 user that would pay a certain price for this property.

9 Q And the "Income Approach"?

10 A The income approach is to look at the building in the
11 eyes of an investor and what an investor would pay. So it
12 includes determining the market rent as well as finish-out
13 allowance to get a tenant in there and then what an investor
14 would pay if there were a tenant in the building.

15 Q Okay. And what about the "Final Reconciliation"? What
16 does that refer to?

17 A So that's when we take the values from the sales approach
18 and the income approach and we put weight on one or the other
19 or both depending on the property characteristics and who the
20 most likely buyer would be.

21 Q And the "Certification Statement," what does that
22 reference?

23 A That's a federal requirement for an appraisal. And it
24 basically says we don't have any interest in it, any bias in
25 the property, and it goes through a list of certifications

DIRECT EXAMINATION OF WESLEY SANDERS

1 that are required for federal mandates.

2 Q Because if you had an interest in the property, you may
3 be overappraising it and therefore it wouldn't be reliable?

4 A Correct, yeah. You have to state whether you have
5 performed any brokerage services on the property in the last
6 few years, any other appraisals or any other -- if you have
7 rented the property. Anything to do with the property you
8 have to say in the certification.

9 Q Next you have "Basic Assumptions and Limiting
10 Conditions." What did that reference?

11 A So that talks about different assumptions that we have to
12 make. For instance, one is we have to assume that it's ADA
13 compliant. There's a whole two pages of different assumptions
14 that we have to make on properties just because we don't have
15 building plans and we don't have particular information on the
16 property.

17 Q And the "Addenda"?

18 A So the addenda makes up the remaining items of the
19 report, the regional neighborhood.

20 Q What about the "Regional Analysis"? What is that looking
21 at?

22 A That's when we look at the Sarasota-Bradenton area and we
23 look at employment statistics, population statistics, and it
24 weighs in on whether the area is growing or shrinking or if
25 there is a demand for the property in the future.

DIRECT EXAMINATION OF WESLEY SANDERS

1 Q And the "Neighborhood Analysis"?

2 A Similar to the regional. We narrow down to the
3 neighborhood and do the same supply and demand analysis.

4 Q And the "Office Market Analysis"?

5 A In the office market office analysis, we look at rental
6 rates in the area as well as sales prices and cap rates which
7 are multipliers investors use to buy property. And we're
8 looking also at supply and demand specifically within the
9 office market.

10 Q And we've already discussed the "Subject Photographs."
11 That's what I just showed, correct?

12 A Yes.

13 Q And what are the "Sale Comparables"?

14 A So those are just write-ups of the sales we used.

15 Q Of the different properties you were looking at?

16 A Correct.

17 Q And then "Qualifications" are your qualifications?

18 A Correct.

19 Q If we could turn to what is page 19 of the report. Sir,
20 if we could pull out the graph chart there.

21 What are you showing us here?

22 A So this is part of the office market analysis. And what
23 we are looking at here, the green line and the blue line, the
24 green line is the average office price point over time, and
25 then a forecast. And you can see it's trending upward. The

DIRECT EXAMINATION OF WESLEY SANDERS

1 blue line is the Sarasota market specifically. So it's a
2 little flatter in 2016, 2017, and 2018. And then in 2019 it
3 starts to trend up also.

4 Q And both nationally and in the Sarasota market, you're
5 forecasting an upcrease in market value although nationally
6 greater than in Sarasota?

7 A Correct.

8 Q If we could then turn to the value conclusions on what
9 would be page 3 of the exhibit. If you could pull out the
10 value comparisons.

11 Are these your findings, sir?

12 A They are.

13 Q Is this showing us the value on 1/9/2022 and then also on
14 4/15/2019?

15 A It is.

16 Q What was your value for 4/15/2019 for this over 9,000
17 square foot commercial property?

18 A The value in 2019 was 2.1 million.

19 Q What was the value 1/9 of this year?

20 A 2.6 million.

21 Q I think my math is correct. That's about a half million
22 increase, 500,000?

23 A That's correct.

24 MR. ALLEN: No further questions.

25 THE COURT: Have we cross?

DIRECT EXAMINATION OF HAROLD MCFARLAND

1 MS. BEDKE: No questions, Your Honor.

2 THE COURT: Thank you, sir. You may step down. Have
3 a good day.

4 Let's call that next witness, please.

5 MR. ALLEN: Yes, Your Honor. The defense would call
6 Mr. Harold McFarland.

7 THE COURT: All right. We will have Mr. McFarland.

8 THE COURTROOM DEPUTY: Sir, please raise your right
9 hand.

10 (Witness sworn.)

11 THE COURTROOM DEPUTY: Please state your name for the
12 record and spell your name.

13 THE WITNESS: Harold McFarland, H-A-R-O-L-D
14 M-C-F-A-R-L-A-N-D.

15 **HAROLD MCFARLAND, CALLED BY THE DEFENSE, SWORN**

16 **DIRECT EXAMINATION**

17 BY MR. ROSENTHAL:

18 Q Good afternoon, Mr. McFarland.

19 What do you do for a living, sir?

20 A I'm a certified public accountant.

21 Q Do you have any designations in addition to being a
22 certified public accountant?

23 A Yes. I'm a certified public accountant, a certified
24 management accountant, a certified fraud examiner. Probably
25 got a couple more I can't think of right now.

DIRECT EXAMINATION OF HAROLD MCFARLAND

1 Q Okay. And, sir, what's your educational background?

2 A I have a bachelor's degree in accounting and a master's
3 degree in accounting and have had several independent courses
4 from other universities including MIT and Stanford and the
5 like.

6 Q Where was your bachelor's degree in accounting from?

7 A The degree in accounting was from University of South
8 Florida.

9 Q And what year was that?

10 A 1990.

11 Q And your master's in accounting, what year was that?

12 A I believe that was 1991.

13 Q And how long have you been a certified public accountant?

14 A I became a certified public accountant in 1992.

15 Q And you have mentioned the term "certified management
16 accountant." How long have you been a certified management
17 accountant?

18 A I got that the following year in 1993.

19 Q What is a certified management accountant?

20 A A certified management accountant has additional training
21 and education in the areas of business management, analysis of
22 financial statements, determining what the economic factors
23 are that affect the business and that sort of thing. It's all
24 about managing at a high level, managing the company. It's
25 typically CEO-type training.

DIRECT EXAMINATION OF HAROLD MCFARLAND

1 Q And can you describe your career path since becoming a
2 certified public accountant?

3 A Well, I spent I believe two years on my own. And then I
4 joined with a partner, Rodney Schrock, and had a partnership
5 for a few years and then joined with the firm that I am with
6 now. I practiced tax and accounting for several years, but
7 now my work has evolved strictly into forensic accounting and
8 analysis.

9 Q And how long have you been with your present firm?

10 A I believe 27 years.

11 Q And you said that the nature of your current practice
12 involves forensic accounting. Can you tell us what forensic
13 accounting is?

14 A Forensic accounting basically goes in after the fact and
15 looks at all the accounting transactions and tries to
16 determine what really happened, what could have happened
17 better, the direction of the company and that sort of thing.
18 If there is anything that doesn't look right in the
19 financials, the forensic accountants are typically called in
20 to say we don't understand why this happened. Tell us why
21 this happened.

22 Q Now, you mentioned also earlier the term "certified fraud
23 examiner." Could you tell us what's required to become a
24 certified fraud examiner?

25 A A certified fraud examiner also needs additional

DIRECT EXAMINATION OF HAROLD MCFARLAND

1 education. They get education in the area of -- a
2 considerable amount of the exam is based on law and law
3 definitions and how to read the law and that sort of thing.
4 And you get a lot more focus on understanding financial
5 transactions as they relate to fraud and embezzlement and
6 other things to understand what's happened in a company.

7 Q Now, are you involved in litigation support?

8 A I am.

9 Q Can you explain that?

10 A Litigation support is a little different from forensic
11 accounting in that the primary purpose is to provide attorneys
12 or judges with an understanding of complex subjects. So we
13 are there not to testify as an expert but to help them
14 understand what happened.

15 Q And what is -- are you also involved in accounting
16 database forensics? And if so, can you explain to us what
17 that is?

18 A Yeah. I do a lot -- because I also have a computer
19 background, I do a lot of database forensics. We will go in
20 and look at the accounting records and see if somebody has
21 been deleting records or moving records or changing
22 descriptions or changing amounts or that kind of thing. So
23 instead of relying on the accounting system to give us
24 information, we go behind it to the database to see what
25 really happened.

DIRECT EXAMINATION OF HAROLD MCFARLAND

1 Q Now, you mentioned your background in computers. Do you
2 have -- have you done work in cyber security?

3 A I do quite a bit of work in cyber security, yes.

4 Q What is your involvement with that?

5 A I both deal with cyber security prevention, I track
6 people around the world sometimes. I am a member of the FBI
7 InfraGard, which we look at terrorist activities. I'm with
8 the Secret Service Cyber Crimes Task Force and just in the
9 Cyber Crimes Division. So I do quite a bit of really
10 interesting stuff in that area.

11 Q And are you also a licensed private investigator?

12 A I am a licensed private investigator.

13 Q And do you have -- how is your work as a private
14 investigator limited, if at all?

15 A Well, I have a license as a private investigator. So I
16 can do anything they do, but my practice is limited strictly
17 to forensics and cyber security. I don't chase anybody. I'm
18 too old to run from anybody. I don't do any of that stuff.
19 It is just strictly cyber related.

20 Q Now, I may not have asked you previously, but where are
21 you based?

22 A Out of Sarasota.

23 Q And have you always been -- throughout your career have
24 you always been in Sarasota, the Sarasota area?

25 A Yes.

DIRECT EXAMINATION OF HAROLD MCFARLAND

1 Q Now, you mentioned that you were -- that you have had
2 various involvements with law enforcement, assisting law
3 enforcement. What was your first experience as a law
4 enforcement -- in law enforcement?

5 A My first experience with law enforcement was I was a
6 police officer many, many years ago in Ohio.

7 Q And do you belong to any professional associations?

8 A Yes, I do.

9 Q Could you please tell us?

10 A The American Institute of Certified Public Accountants,
11 the Florida Institute of Certified Public Accountants, the
12 Association of Certified Management Accountants, the Florida
13 Association of Private Investigators, the Florida Association
14 of Licensed Investigators, the National Association of
15 Licensed Investigators, and the Association of Certified Fraud
16 Examiners.

17 Q Have you had occasion to lecture to different
18 organizations on topics relating to your expertise?

19 A I have.

20 Q Can you tell us about that?

21 A Well, I have lectured locally for sometimes very small
22 groups who just had an interest in learning how these things
23 are done and protecting their business. And I have done
24 larger groups locally and statewide. The Florida Institute of
25 Certified Public Accountants, I presented for them. The

DIRECT EXAMINATION OF HAROLD MCFARLAND

1 Community Association Institute, I presented for them locally
2 and at their national convention in Las Vegas. And I
3 presented even up to an international convention that had over
4 170 countries represented in Las Vegas for the Association of
5 Certified Fraud Examiners.

6 Q Now, you testified earlier your experience as a forensic
7 accountant. Have you had occasions to qualify as an expert
8 witness in forensic accounting?

9 A I have.

10 Q And have you qualified as an expert witness in any other
11 areas?

12 A Yes, in cyber security and in valuations.

13 Q How many times have you qualified as an expert in
14 forensic accounting let's say over the last ten years?

15 A I don't know that I can separate how many times forensic
16 versus cyber versus valuation, but probably 25 to 30 times I
17 have been qualified as an expert in the last ten years.

18 Q And have you in fact testified in court as a forensic
19 accountant?

20 A I have.

21 Q And have you testified in out-of-court proceedings as an
22 expert in forensic accounting?

23 A I have.

24 Q Now, were you retained by our office to conduct a
25 forensic review in this case?

DIRECT EXAMINATION OF HAROLD MCFARLAND

1 A I was.

2 Q And for how long a period have you worked on -- have you
3 been involved in working on this case?

4 A Gee, it's been so long I don't remember when I came in on
5 it, quite honestly. It's been well over a year.

6 Q And is this something you would typically do as part of
7 your practice?

8 A Yes, it is.

9 Q And are you being compensated for your services?

10 A Yes, I am.

11 Q And what is your hourly rate of compensation?

12 A My governmental rate, which is 170.

13 Q And did you review any materials to conduct a forensic
14 examination in this case?

15 A Yeah. I reviewed all the items that were provided to me
16 including multiple bank statements, all the asset information,
17 precious metals and residences and that sort of thing. All
18 the trading records were provided. There were so many things
19 provided.

20 Q Well, did you review the bank records for all the
21 relevant entities?

22 A Yes, I did.

23 Q And did that include the ATC omnibus online trading
24 account?

25 A Yes, it did.

DIRECT EXAMINATION OF HAROLD MCFARLAND

1 Q Did you conduct an examination -- we'll come back to
2 this -- relevant to or relating to the assets owned by Oasis
3 Management or Oasis International Group?

4 A I did.

5 Q Did you also conduct a review of information that's
6 relating to precious metals and the cost of them at various
7 times?

8 A Yes, I did.

9 Q And what other -- what other areas did you research?

10 A I researched the general market conditions and the
11 specific economic conditions of forex trading and the market,
12 stock market and currency markets in general.

13 Q Did you do research into real estate areas?

14 A Into real estate what?

15 Q Into the real estate areas?

16 A Yes, I did.

17 Q Now, did you review the Oasis entities themselves?

18 A I did.

19 Q Which ones?

20 A Oasis Management, Oasis International Group, Oasis
21 Belize, Oasis Nevis. I think I'm forgetting one.

22 Q There was some discussions earlier in the trial about the
23 terms "equity financing" and "debt financing." First of all,
24 are you familiar with both of those terms?

25 A Yes, I am.

DIRECT EXAMINATION OF HAROLD MCFARLAND

1 Q And let's start with equity financing. Can you give us a
2 professional explanation of what equity financing is?

3 A Equity financing is basically when a business basically
4 gets funds from investors, that in exchange for those funds it
5 gives them an ownership interest in the business and typically
6 the ability to have some management say within the business.
7 So as the business does well, they profit well. And as the
8 business does not do well, they all get their share of losses.

9 Q And can you give us some common examples of equity
10 financing?

11 A Probably the most common examples would be stock
12 ownership. If you buy stock in a company, then you get a
13 right to vote. And if the stock goes up, your stock goes up
14 and you get to participate in the benefits. Then of course
15 partnerships is probably the other most common one. As a
16 partner, you have a right to know your percentage share of the
17 business.

18 Q Now, using that method of financing, how is profit and
19 risk apportioned?

20 A In a corporation, profit and risk -- profit and loss are
21 assigned to the individuals based on how much their stock
22 ownership is. If you own 50 percent, you get 50 percent of
23 the profit or 50 percent of the loss. It's basically whatever
24 you own. A partnership has more flexibility. You can make
25 other arrangements. So it's determined by the partnership

DIRECT EXAMINATION OF HAROLD MCFARLAND

1 agreement, but you do participate in losses and profits to the
2 extent that the partnership agreement allows.

3 Q Now, you indicated you were familiar with the term "debt
4 financing"?

5 A Yes.

6 Q And can you give us a professional explanation for debt
7 financing?

8 A Debt financing is when the business basically gets their
9 fund sources from debts, from people providing money to them.
10 They get typically a note, promissory note of some type that
11 has a stated interest rate, although it can change. It is
12 whatever the agreement, the promissory note agreement is. And
13 they have no ownership interest and no management control or
14 anything else. As long as the note is being satisfied, they
15 are in agreement with the note contract.

16 Q How does that compare with equity financing?

17 A Basically, like I said, you have no ownership interest.
18 So if the company does really well, you are just getting back
19 your loan plus the interest of whatever was contracted. And
20 you don't have to risk anything with losses because it's still
21 the note. You also don't get any management say.

22 Q So is the -- what is the advantage to the investor in a
23 lending situation?

24 A It tends to be a much safer position. They don't have
25 the risk. Also they don't get the return if it does extremely

DIRECT EXAMINATION OF HAROLD MCFARLAND

1 well.

2 Q So in that sense, does that protect the lender against
3 loss?

4 A As long as the company is meeting the note obligation,
5 they are protected. And if the company has a hard time and
6 needs to go to a bank for more financing, it don't matter as
7 long as they are getting their payments according to the note.

8 Q Did Oasis use equity financing, Oasis Management use
9 equity financing?

10 A They did until 2017.

11 Q And after 2017 what method of financing did Oasis
12 Management use?

13 A They converted everything to debt financing.

14 Q With respect to Oasis International Group, what method of
15 financing did they use?

16 A Oasis International?

17 Q Yes.

18 A They used debt also.

19 Q Now, are you familiar with the term "fiduciary trading"?

20 A I am.

21 Q In the context of a company involved in trading, how
22 would you define fiduciary trading?

23 A In fiduciary trading, the company that's doing the
24 trading is trading the other person's money. They are a
25 fiduciary. They are responsible for what happens with that

DIRECT EXAMINATION OF HAROLD MCFARLAND

1 money. Any gains are the person whose money they're handling.
2 Any losses are also that person's losses. The equity trader
3 typically makes his money solely on commissions. He doesn't
4 get anything off the sales as far as if the prices went up.
5 He just gets his commission.

6 Q Now, was Oasis engaged in fiduciary trading?

7 A No, they were not.

8 Q And did they hold themselves out as being engaged in
9 fiduciary trading?

10 A I saw nothing that would indicate they did.

11 Q Now, did you have occasion to review the promissory notes
12 and the risk disclosures?

13 A I reviewed a sample of the promissory notes, that's
14 correct, and the risk disclosure.

15 Q Now, Mr. McFarland, what is a hard money lender?

16 A A hard money lender basically gives you cash, hard money,
17 cash.

18 Q And would you -- how would you characterize the lenders
19 in this particular case?

20 A They were hard money lenders. They provided funds.

21 Q Now, you said that you had reviewed the promissory note
22 and loan agreement; is that correct?

23 A That's correct.

24 Q We will use the Elmo, please.

25 Mr. McFarland, I'm going to show you what's been

DIRECT EXAMINATION OF HAROLD MCFARLAND

1 marked as -- or what's been introduced previously as Defense
2 Exhibit 2.

3 Can I have just a moment, Your Honor? I'm looking
4 for a clean copy if I can.

5 I'm showing you Government's Exhibit 205A.

6 Mr. McFarland, I'm calling your attention to -- if we could
7 bring up Paragraph 3, "Use of Funds."

8 A Thank you for enlarging it, whoever did that.

9 Q Mr. McFarland, are you familiar with Paragraph 3, "Use of
10 Funds"?

11 A Yeah.

12 Q Okay. And is that -- did you read that as part of your
13 forensic examination in this case?

14 A Yes, I did.

15 Q Now, with respect to Paragraph 3, and I know it's been
16 read several times during the course of this trial, but is
17 there anything in Paragraph 3 that restricts Oasis to forex
18 trading?

19 A No, there's not.

20 Q How would you characterize Paragraph 3?

21 A I would say that Oasis has considerable leeway in how
22 they want to invest the loan proceeds.

23 Q Are there any specific activities that Oasis is permitted
24 pursuant to Paragraph 3?

25 A It does specify they are able to purchase or sell foreign

DIRECT EXAMINATION OF HAROLD MCFARLAND

1 exchange products, securities, commodities, exchange or
2 off-exchange products, business assets, liabilities, purchase
3 or sale of real estate, or any other purpose including general
4 company use, company payment or loans to company affiliates,
5 et cetera.

6 Q Thank you. Now, did you -- you had said earlier that you
7 had reviewed the trading records?

8 A That's correct.

9 Q Now, is it correct that Oasis suffered trading losses
10 during the early part of 2018?

11 A Yes, they did.

12 Q And how would you characterize those losses?

13 A They were substantial.

14 Q And was there a particular period where they were the
15 most substantial?

16 A Yes. The first quarter of 2018. I believe they lost
17 12 million in those three months.

18 Q Now, can you speak of what 2018 generally was like as an
19 investment year?

20 A Can I refer to my notes for specifics?

21 Q Sure.

22 A It was not a good year looking at economic forecasters
23 and that sort of thing. And to cite sources, CNN Business
24 said 2018 was the worst year for stocks in ten years. CNBC
25 said again the S&P fell more than 6 percent, worst in the

DIRECT EXAMINATION OF HAROLD MCFARLAND

1 decade. Yahoo Finance, stock market was the worst since 2008.

2 It was not a good year for stocks and the market in general.

3 Q Was there anything you are aware of that may have had a
4 particular effect on the forex market?

5 A Well, there's a couple things. When the stocks go down,
6 fewer people, fewer foreign investors are trying to buy the
7 American dollar, buy into stocks. So the demand goes down.
8 When the demand goes down, the exchange rate goes down. And I
9 did see that the dollar index for that time period went from
10 \$1.01 in May of 2017 to 87 cents on average for the first four
11 months of 2018.

12 Q Now, after -- after Oasis incurred these losses, did you
13 notice or did your review of the records reflect any
14 corrective action that was taken?

15 A I would consider it corrective actions, yes.

16 Q Well, first of all, did their pace of trading, did it
17 increase, decrease, or remain the same?

18 A They slowed down their trading significantly.

19 Q Would you consider that to be a corrective action?

20 A I definitely would. You're trading a lot and losing.
21 Slow down.

22 Q And what else did you observe from your review that would
23 constitute corrective action?

24 A They moved a lot of the money to more stable assets. If
25 the market is really volatile, that's a common strategy is to

DIRECT EXAMINATION OF HAROLD MCFARLAND

1 move it to more stable things such as real estate and precious
2 metals and the like.

3 Q Let's break those two down. In terms of real estate, was
4 Oasis involved in real estate purchases before they incurred
5 the losses in the early part of 2018?

6 A Yes, they were.

7 Q And did that continue after they incurred the losses in
8 2018?

9 A Yes.

10 Q Were they involved in precious metals before the losses
11 that were incurred in 2018?

12 A Yes.

13 Q And did that continue after they incurred the losses in
14 the early part of 2018?

15 A Yes.

16 Q Specifically did you become familiar with the silver
17 position that Oasis had taken?

18 A Yes.

19 Q And when did they take that position?

20 A The first part of 2018 after it started falling.

21 Q Okay.

22 A It was towards the latter part of 2018.

23 Q And can you describe the position they took?

24 A Okay. They took a forward position, which basically
25 means that they don't own the actual gold -- silver in this

DIRECT EXAMINATION OF HAROLD MCFARLAND

1 case, I'm sorry. They don't own the actual silver. As silver
2 prices go up, they get the increase in the silver price based
3 on what that base was that they bought even though they don't
4 own the base. They get the increases, or if it goes down they
5 have to pay the difference, the decreases.

6 Q And did you review what had happened with that silver
7 position?

8 A Yes. It went up.

9 Q And did there -- let's say somebody had -- assuming that
10 they had sold that silver position on September 24 of 2019,
11 what would the end result have been?

12 A On September 24, the part that they were allowed to have,
13 the gain only, was just under \$20 million.

14 Q And would that have erased the trading losses from the
15 early part of 2018?

16 A Yes, it would have.

17 Q Now, did it go up even further after September 24 of
18 2019?

19 A It did for a little bit.

20 Q And had they sold September 24 of 2019, could they have
21 then repurchased at a later point?

22 A Sure.

23 Q Was there a drop after September 24 of 2019?

24 A There was a pretty huge drop, yes.

25 Q So if they had gotten out of the market at that time and

DIRECT EXAMINATION OF HAROLD MCFARLAND

1 repurchased, would they have been able to repurchase at a
2 lower price?

3 A Yes.

4 Q Publishing Defense Exhibit 17.

5 THE COURT: All right. We will break now for the
6 day. Ladies and gentlemen, don't pack your lunch tomorrow.
7 We've got it. See you at 8:30.

8 Please don't think about the case, look anything up,
9 talk about anything.

10 Mr. McFarland, we will see you back here at 8:25.

11 Thank you. Good day, everyone.

12 (Proceedings concluded at 5:30 p.m.)

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DIRECT EXAMINATION OF HAROLD MCFARLAND

1 UNITED STATES DISTRICT COURT)
2 MIDDLE DISTRICT OF FLORIDA)

3
4 REPORTER TRANSCRIPT CERTIFICATE

5 I, Tracey Aurelio, Official Court Reporter for the United
6 States District Court, Middle District of Florida, certify,
7 pursuant to Section 753, Title 28, United States Code, that
8 the foregoing is a true and correct transcription of the
9 stenographic notes taken by the undersigned in the
10 above-entitled matter (Pages 1 through 307 inclusive) and that
11 the transcript page format is in conformance with the
12 regulations of the Judicial Conference of the United States of
13 America.

14 /s Tracey Aurelio

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Tracey Aurelio, RMR, RDR, CRR
Official Court Reporter
United States District Court
Middle District of Florida
Tampa Division
Date: September 4, 2022

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA,)
) 8:19-cr-605-WFJ-CPT-1
 PLAINTIFF,) Tampa
) May 3, 2022
 v.) 8:35 a.m.
)
 MICHAEL J. DACORTA,)
)
 DEFENDANT.)

DAY 12
TRANSCRIPT OF JURY TRIAL
BEFORE THE HONORABLE WILLIAM F. JUNG
UNITED STATES DISTRICT JUDGE

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Proceedings recorded by mechanical stenography,
transcript produced by computer.

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(Proceedings commenced at 8:35 a.m.)

THE COURT: Good morning. Counsel, you were on direct, I think.

HAROLD MCFARLAND, CALLED BY THE DEFENSE, PREVIOUSLY SWORN

DIRECT EXAMINATION

BY MR. ROSENTHAL:

Q Good morning, Mr. McFarland.

A Good morning.

Q I think when we left off yesterday, we were talking about the corrective action that Oasis took following the losses, the trading losses in the early part of 2018. And I believe that when we concluded that I was in the process of reviewing Defense Exhibit 17 with you, if we can bring that up.

Mr. McFarland, you recognize the document in front of you as related to the prices of silver between 2017 and it looks like June of 2021?

A That's correct.

Q Now, when did the silver position that Oasis took that we were talking about yesterday, when was that taken? When was that initially taken?

A When they initially got into the silver position?

Q That particular silver position.

A It was in 2018, the best I recall.

Q You don't recall the specific date?

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1 A I do not.

2 Q And if they had held -- if you would look at Exhibit 17,
3 basically does it show the price of silver basically holding
4 steady until it looks like May or June of 2019, correct?

5 A I forgot your question.

6 Q What does the chart show as to what was going on with the
7 price of silver generally up until June of 2019?

8 A It was going up and down but staying predominantly
9 somewhat stable.

10 Q And what happened beginning in June of 2019?

11 A It started climbing.

12 Q And how long did that climb continue?

13 A Until about late February in 2020.

14 Q And did there come a time when there was a significant
15 drop?

16 A Yes, sir.

17 Q And when was that?

18 A March of 2020.

19 Q Now, if the silver position had been -- we talked about
20 this a bit yesterday. If the silver position had been sold in
21 say February or early March of -- or February of 2020, what
22 would the value of the silver position had been?

23 A In February of 2020?

24 Q Yes.

25 A I can't tell for sure on this chart, but I believe 13,000

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1 or so, almost 15,000.

2 Q I'm sorry. The value of the silver position?

3 A The silver position, yes, in 2020. The one I testified
4 yesterday was September of 2019, which is almost 20 million.

5 Q So if they had gotten out in September of 2019, they
6 would have realized almost \$20 million?

7 A Yes, sir.

8 Q And if they had gotten out before the significant
9 decrease in March of 2020, would that have been the same?

10 A If they had gotten out, yeah, they would still have the
11 20 million.

12 Q Now, there was some testimony yesterday or earlier in the
13 trial with respect to the cost of maintaining the silver
14 position. What would have been the cost to Oasis if they had
15 maintained the silver position up until the date you testified
16 to yesterday?

17 A If they maintained it up through the end of September,
18 and it's kind of hard to say, but it would have been somewhere
19 between 300 and 500,000.

20 Q Would that -- did Oasis have the resources to have
21 maintained the silver position for that period of time?

22 A Yes.

23 Q Now, there was some discussion earlier in the trial about
24 the account potentially being liquidated. What would have
25 been required for the account to have been liquidated?

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1 A Well, if the silver price dropped enough, to protect
2 their interests the people who hold the silver would have
3 required it to be liquidated.

4 Q Would they have -- if the silver position had been sold
5 before there was a drop in the silver, would they have been in
6 that position?

7 A They would not.

8 Q Are you familiar with the amount that the receiver sold
9 the silver position for? Are you familiar with the amount,
10 what the value is of the silver position at the time it was
11 closed?

12 A Yes. The silver position at the time, April 19, was
13 1,558,000.

14 Q If Oasis had been left undisturbed, they would have
15 realized -- they could have potentially realized the
16 \$20 million on the silver position?

17 A That's correct.

18 Q Now, you said that they would have had to have gotten out
19 before the value of silver went down. If they had gotten back
20 in after the drop, did there come a time when that silver
21 position would have been significantly more valuable?

22 A That's the dream of every investor, buy low, sell high,
23 so yes.

24 Q Right. And ultimately if they had held the silver
25 position into 2021, what would the top value have been?

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1 A The top value would have been 56,506,000.

2 Q And as of what date?

3 A As of August 6, 2020.

4 MR. ROSENTHAL: May I approach the witness, Your
5 Honor?

6 THE COURT: Yes.

7 BY MR. ROSENTHAL:

8 Q Mr. McFarland, I just handed you Defense Exhibit 84 for
9 identification. Do you recognize that as a document you have
10 seen before?

11 A I do.

12 Q And is that -- does that document fairly depict what the
13 value would have been of Oasis' silver position at various
14 points in time?

15 A Yes, but that's -- the 56,506,000, that's the value of
16 the 3.8 million ounces. When it was down low, typically most
17 investors, that would be the time when they would purchase
18 more than that. So that's basically the minimum, I would view
19 it as.

20 Q But does that, the document that I just showed you, does
21 that depict what the value of the 3.8 million ounces would
22 have been at various points in time?

23 A That's correct, the 3.8 million ounces.

24 Q Did you confirm the numbers that were on the chart?

25 A Yes, I did.

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1 MR. ROSENTHAL: Your Honor, at this time I move
2 Defense Exhibit 84 into evidence.

3 MR. MURRAY: No objection, Your Honor.

4 THE COURT: All right. It's admitted.

5 (Defendant Exhibit 84 admitted.)

6 MR. ROSENTHAL: I believe I'm going to have to use
7 the Elmo.

8 Permission to publish 84, Your Honor.

9 THE COURT: Of course.

10 BY MR. ROSENTHAL:

11 Q And Mr. McFarland, does this Exhibit 84 depict what the
12 value of the silver position would have been at various times?

13 A Yes.

14 Q And what would it have been on December 31 of 2019?

15 A 11,248,000.

16 Q What about June 30 of 2020?

17 A 12,540,000.

18 Q And if it had been able to be held until August 6 of
19 2020, what would the value have been?

20 A 56,506,000.

21 Q And if I could -- the period you talked about, September
22 of 2019 -- and Mr. McFarland, could you make a mark where the
23 September 2019 date would have been and what the value would
24 have been?

25 Retrieving Defense Exhibit 84. So the part, the spot

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1 where you marked with a pen would have been the value in
2 September of 2019?

3 A That's correct.

4 Q So if they had just been able to hold onto the position
5 for a few months past the time that they were shut down, is
6 that when the value would have been \$19 million?

7 A That's correct.

8 Q Now, more generally, Mr. McFarland, there was testimony
9 earlier in the trial with respect to whether or not precious
10 metals would be considered a good hedge.

11 A Okay.

12 Q In your experience, would -- is precious metals
13 considered to be a good hedge against certain market factors?

14 A Generally precious metals are considered a good hedge
15 against market volatility and against inflation.

16 Q And silver in particular, let's say that if somebody had
17 predicted in April of 2019 silver was going to skyrocket
18 before the end of 2019, would that have been a correct
19 prediction?

20 A In my opinion, yes.

21 Q Well, what happened to the value of silver between April
22 of 2019 and the end of 2019?

23 A It went up I'd say about 17 times.

24 Q Seventeen times?

25 A Yeah.

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1 Q Would you consider that to be skyrocketing?

2 A Any time you can more than double in a period like that,
3 I would consider skyrocketing, yes.

4 Q And if somebody were to be of that belief, would it have
5 been a prudent business decision to invest in silver?

6 A In my opinion, yes.

7 Q And in this case, would Oasis investing in a silver
8 position, would that have helped to secure the lenders?

9 A Yes, it would.

10 Q And why would that be?

11 A Because it did go up substantially.

12 Q Now, did the assets of Oasis serve to benefit the
13 lenders?

14 A Sorry. I didn't hear.

15 Q All right. I will move on.

16 Would the purchases of the -- would taking the silver
17 position be consistent with company stability?

18 A Yes, it would.

19 Q And would it show an effort to maintain a successful
20 business?

21 A In my opinion, yes.

22 Q Now, if someone had predicted in 2018 or 2019 that the
23 United States was heading for an inflationary cycle, would
24 that prediction have been correct?

25 A Yes.

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1 Q And is that what we find ourselves in today?

2 A Yes, it is.

3 Q And are there people that believe that that has been
4 coming for some time?

5 A Yes.

6 Q Now, there was a -- in terms of additional corrective
7 action, I think you mentioned yesterday that Oasis became more
8 involved in real estate after its losses in 2018; is that
9 correct?

10 A That's correct.

11 Q Had they been invested in real estate prior to the losses
12 in 2018?

13 A Yes, they had.

14 Q But did that continue after the 2018 losses?

15 A Yes, it did.

16 MR. ROSENTHAL: May I approach the witness, Your
17 Honor?

18 THE COURT: Yes.

19 BY MR. ROSENTHAL:

20 Q Mr. McFarland, I'm showing you what's been marked Defense
21 Exhibit 66, 67, 68 -- and make sure I didn't miss any -- 69 --
22 I'm perfectly capable of doing that -- 70, 71, 72, 73, 74, and
23 78.

24 A I do not have 72. You went from 74 to 78, and I have 75
25 and 76 also.

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1 Q I'm sorry. Which are the ones I mentioned that you are
2 missing?

3 A Seventy-two.

4 Q Well, let's start with what you do have. Look at Defense
5 Exhibit 66 for identification. Generally what does this chart
6 reflect?

7 A This chart reflects the values of 4064 Founders Club
8 Drive property at three points in time.

9 Q And do you recognize these numbers to be accurate?

10 A I do.

11 Q And based upon what?

12 A Based upon appraisals that were provided to me.

13 Q Professional appraisals that you reviewed?

14 A That's correct.

15 Q So with respect to Defense Exhibit 66, does it depict the
16 values of 4064 Founders Club at various periods of time?

17 A That's correct. Three points.

18 MR. ROSENTHAL: Your Honor, at this point I'd move
19 Defense Exhibit 66 into evidence.

20 MR. MURRAY: No objection, Your Honor.

21 THE COURT: Sixty-six is admitted.

22 (Defendant Exhibit 66 admitted.)

23 MR. ROSENTHAL: And if we could publish Defense
24 Exhibit 66.

25 BY MR. ROSENTHAL:

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1 Q And with respect to 4064 Founders Club Drive, what was
2 the purchase price of that property?

3 A \$1,775,000.

4 Q And what was the date of the purchase?

5 A December 21, 2017.

6 Q And what was the appraisal at the time that the receiver
7 took control of Oasis?

8 A 1,400,000.

9 Q If Oasis had been left undisturbed, what would the value
10 of that property have been on January 30 of 2022?

11 A \$2,450,000.

12 Q With respect to Defense Exhibit 67, does this provide the
13 same information with respect to 6300 Midnight Pass on Siesta
14 Key?

15 A Yes, it does.

16 Q And does it accurately depict the values of Midnight
17 Pass, the 6300 Midnight Pass property on various dates?

18 A Yes, sir. Three dates.

19 MR. ROSENTHAL: At this point I would move Defense
20 Exhibit 67 into evidence.

21 MR. MURRAY: No objection.

22 THE COURT: Admitted.

23 (Defendant Exhibit 67 admitted.)

24 MR. ROSENTHAL: If we could publish Defense
25 Exhibit 67.

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1 BY MR. ROSENTHAL:

2 Q Now, was this the property that Oasis acquired in
3 exchange for a trading position?

4 A I believe that's correct, yes.

5 Q And what was the amount of trading position that Oasis
6 received?

7 A I don't recall.

8 Q Well, what's reflected as the purchase value?

9 A \$1 million.

10 Q And what was the value at the time the appraiser took --
11 or I'm sorry -- at the time that the receiver took control of
12 Oasis?

13 A Still \$1 million.

14 Q If Oasis had been left undisturbed, what would the value
15 have been as of January 30, 2022?

16 A 1,300,000.

17 Q If you could look at Defense Exhibit 68 for
18 identification, does this provide the same information with
19 respect to 6922 Lacantera Circle in Bradenton?

20 A Yes, it does.

21 Q And does it provide the value of this property on
22 different dates?

23 A Yes, sir.

24 Q And does it fairly and accurately depict the values of
25 these properties on the different dates?

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1 A Yes, it does.

2 MR. ROSENTHAL: Your Honor, at this time I move
3 Defense Exhibit 68 into evidence.

4 MR. MURRAY: No objection.

5 THE COURT: Admitted.

6 (Defendant Exhibit 68 admitted.)

7 MR. ROSENTHAL: Permission to publish 68.

8 BY MR. ROSENTHAL:

9 Q So Mr. McFarland, what does the -- what's reflected as
10 the purchase price on the Lacantera property?

11 A 2,125,000.

12 Q What was it worth when the receiver took control over
13 Oasis?

14 A 2,125,000.

15 Q And if Oasis had been left undisturbed, what would the
16 value had been as of January of 2022?

17 A 3 million.

18 Q As a general matter, what do renovations do to the value
19 of property?

20 A As a general rule, renovations will increase the value of
21 a piece of property.

22 Q Do you have Defense Exhibit 68 in front of you? I'm
23 sorry. Do you have Defense Exhibit 69 in front of you?

24 A Yes.

25 Q And does Defense Exhibit 69 provide the same information

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1 with respect to the Desert Glen property?

2 A Desert Ridge Glen, yes.

3 Q And does that provide the value of the property as of
4 different dates?

5 A Yes, it does.

6 MR. ROSENTHAL: Your Honor, at this time I would move
7 Defense Exhibit 69 into evidence.

8 MR. MURRAY: No objection.

9 THE COURT: Admitted.

10 MR. ROSENTHAL: If we could publish Defense
11 Exhibit 69.

12 BY MR. ROSENTHAL:

13 Q So what is reflected as to the purchase value of this
14 particular piece of property?

15 A 575,000.

16 Q And that was on December 21 of 2017?

17 A Yes.

18 Q And by the time the receiver took control of Oasis, to
19 what extent had that increased?

20 A By just short of 400,000. It increased to 925,000.

21 Q And that was simply over a period of a few months?

22 A A year and a few months.

23 Q So would that suggest that Oasis had bought this property
24 at a very good purchase price?

25 A Yes, it would.

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1 Q And if Oasis had been left undisturbed, what would the
2 value of this property had been as of January 30 of 2022?

3 A 1,225,000.

4 Q So it would have doubled in value essentially?

5 A Eventually, yes.

6 Q With respect to -- do you have Exhibit 70 in front of
7 you?

8 A Yes, I do.

9 Q Does that provide the same information with respect to
10 13318 Lost Key Place?

11 A Yes, it does.

12 Q How were these numbers arrived at?

13 A I'm sorry. I have some bronchitis. I couldn't hear you
14 because I was coughing.

15 Q Does Exhibit 70 fairly and accurately depict the values
16 of the Lost Key Place property at various times?

17 A Yes, it does.

18 Q And was this the home that Mr. DaCorta was occupying?

19 A Yes, it is.

20 MR. ROSENTHAL: At this time I would like to
21 introduce Defense Exhibit 70.

22 MR. MURRAY: No objection, Your Honor.

23 THE COURT: Admitted.

24 (Defendant Exhibit 70 admitted.)

25 MR. ROSENTHAL: And if we could publish Defense

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1 Exhibit 70.

2 BY MR. ROSENTHAL:

3 Q Mr. McFarland, what was the purchase price of the Lost
4 Key Place property?

5 A \$1 million.

6 Q And what was it appraised at as of April 1 of 2019?

7 A 1,000,200.

8 Q And if Oasis had been left undisturbed, what would the
9 value had been on January 30 of 2022?

10 A 1,900,000.

11 Q So with respect to Exhibit 70, basically the property had
12 almost doubled in value between the time Oasis acquired it and
13 what the value would have been earlier this year?

14 A Almost doubled, yes.

15 Q Now, you have Defense Exhibit 71 in front of you?

16 A I do.

17 Q What property does this relate to?

18 A 17006 Vardon Terrace, Number 106.

19 Q And was this -- when was this property purchased?

20 A It doesn't have a date on there, but to the best of my
21 recollection, it was after April 2018.

22 Q And does this -- does Exhibit 71 depict the value of the
23 16804 Vardon Terrace, Number 106 at various times?

24 A It does.

25 MR. ROSENTHAL: Your Honor, at this time I would

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1 introduce Defense Exhibit 71.

2 MR. MURRAY: No objection.

3 THE COURT: Admitted.

4 (Defendant Exhibit 71 admitted.)

5 MR. ROSENTHAL: If we can publish Defense Exhibit 71.

6 BY MR. ROSENTHAL:

7 Q Mr. McFarland, what's reflected as the purchase price for
8 the Vardon Terrace, for 16804 Vardon Terrace?

9 A 187,000.

10 Q And what was its value as of January 30 of 2022?

11 A 399,000.

12 Q I think you had said earlier you did not have 72 in front
13 of you?

14 A I do not.

15 MR. ROSENTHAL: May I approach, Your Honor?

16 THE COURT: Yes.

17 BY MR. ROSENTHAL:

18 Q I'm showing you Defense Exhibit 72. What property does
19 this relate to?

20 A 17006 Vardon Terrace, Number 108.

21 Q And what does it reflect -- and does it fairly and
22 accurately depict the numbers as you obtained them off the
23 professional appraisals?

24 A Yes, it does.

25 Q And what does it reflect as to the purchase price in the

DIRECT EXAMINATION OF HAROLD MCFARLAND

1 January 30, 2022, appraised value?

2 Permission to publish, Your Honor. I'm sorry.

3 A Purchase price was 190,000. Appraisal at January 30,
4 2022, was 425.

5 Q Do you have Defense Exhibit 73 in front of you?

6 A I do.

7 Q Does that reflect the same information with respect to
8 16804 Vardon Terrace, Number 307?

9 A Yes, it does.

10 Q And do these -- are these numbers accurate based upon
11 your review of the appraisals?

12 A Yes, they are.

13 MR. ROSENTHAL: Move Defense Exhibit 73 into
14 evidence.

15 MR. MURRAY: No objection.

16 THE COURT: Admitted.

17 (Defendant Exhibit 73 admitted.)

18 MR. ROSENTHAL: Permission to publish Exhibit 73.

19 BY MR. ROSENTHAL:

20 Q Mr. McFarland, what does it reflect as the purchase value
21 of the Vardon Terrace property?

22 A Did you say the purchase value?

23 Q Yes.

24 A 187,000.

25 Q And what was the value at the time the receiver took

DIRECT EXAMINATION OF HAROLD MCFARLAND

1 control of Oasis?

2 A 195,000.

3 Q What would the value had been if Oasis had been left
4 undisturbed?

5 A 399,000.

6 Q Basically more than doubled in price?

7 A More than doubled.

8 Q And do you have Defense Exhibit 74 in front of you?

9 A I do.

10 Q And does this have the same information with respect to
11 17006 Vardon Terrace, Number 105?

12 A Yes, it does.

13 Q And what does it reflect as to the purchase value?

14 A Purchased at 182,499.

15 Q And what was the -- what's reflected -- Your Honor, at
16 this time I move 74 into evidence.

17 MR. MURRAY: No objection.

18 THE COURT: Admitted.

19 (Defendant Exhibit 74 admitted.)

20 BY MR. ROSENTHAL:

21 Q What does it reflect as to the purchase date of this
22 property?

23 A It doesn't have a purchase date there, but it was after
24 April 2018.

25 Q Publishing 74. Does it have the purchase date at the

DIRECT EXAMINATION OF HAROLD MCFARLAND

1 top?

2 A Yes, it does.

3 Q What's the purchase date?

4 A 8/28/18.

5 Q Mr. McFarland, were all of the Vardon Terrace properties
6 purchased in 2018?

7 A Yes.

8 Q And what does it reflect as the purchase price?

9 A 182,499.

10 Q What does it reflect as the appraised value at the time
11 the receiver took possession of Oasis?

12 A 195,000.

13 Q And if still in possession -- if Oasis still owned the
14 property today, as of today or as of January 30 of this year,
15 what would the appraised value had been?

16 A 399,000.

17 Q Mr. McFarland, do you have Defense Exhibit 78 in front of
18 you?

19 A Yes, I do.

20 Q And does that reflect the same information with respect
21 to 444 Gulf of Mexico Drive, Number 3, at Longboat Key,
22 Florida?

23 A Yes, it does.

24 Q And is that -- are the numbers reflected on 78 true and
25 correct based upon your review of the appraisals?

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1 A Yes.

2 MR. ROSENTHAL: Your Honor, at this time I move
3 Defense Exhibit 78 into evidence.

4 MR. MURRAY: No objection.

5 THE COURT: Admitted.

6 (Defendant Exhibit 78 admitted.)

7 MR. ROSENTHAL: Permission to publish Defense
8 Exhibit 78.

9 BY MR. ROSENTHAL:

10 Q Mr. McFarland, is this the office building that was owned
11 by Oasis?

12 A Yes.

13 Q And what does it reflect as to the purchase price?

14 A 1,750,000.

15 Q What does it reflect as to the appraised value at the
16 time the receiver took possession?

17 A 2,100,000.

18 Q What would that be worth as of January 30 of 2022 if
19 Oasis had been left undisturbed?

20 A 2,600,000.

21 Q Mr. McFarland, in addition to the properties that I just
22 showed you, was there also a lot that had been purchased by
23 Oasis?

24 A I'm sorry?

25 Q Was there also an unimproved lot that had been purchased

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1 by Oasis?

2 A Yes.

3 Q And was there also a residence that would be considered
4 more of a working class residence?

5 A Yes.

6 Q Would the residential properties that we talked about at
7 the beginning, the Founders Club, the Lost Key Place,
8 Lacantera, would those be considered more high-end residential
9 properties?

10 A I would think so, yes.

11 Q The Vardon Terrace condominiums, would those be
12 considered to be more middle class properties?

13 MR. MURRAY: Objection.

14 A I would say that, yes.

15 THE COURT: Overruled.

16 MR. ROSENTHAL: I'm sorry?

17 THE COURT: Go ahead. I overruled the objection.

18 BY MR. ROSENTHAL:

19 Q So would it be fair to say that Oasis owned properties of
20 different tiers in terms of values?

21 A Yes.

22 Q Now, did you have occasion to review a chart that
23 contained the summary, a sum total of all the residential
24 properties that had been owned by Oasis?

25 A Yes, I did.

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1 Q Do you have Defense Exhibit 76 in front of you?

2 A Seventy-six? Yes, sir.

3 Q Okay. And does Exhibit 76 reflect the information as to
4 all the properties that were owned by Oasis?

5 A Yes, it does.

6 Q And is that based upon two things: One, your review of
7 the appraisals; and, Number 2, just the addition?

8 A Yes. It's the review of the appraisals, and then I
9 basically added them all together.

10 MR. ROSENTHAL: Your Honor, at this time I move
11 Defense Exhibit 76 into evidence.

12 MR. MURRAY: No objection.

13 THE COURT: All right.

14 (Defendant Exhibit 76 admitted.)

15 BY MR. ROSENTHAL:

16 Q If we could publish Defense Exhibit 76. Mr. McFarland,
17 what is reflected as to the purchase price of the Oasis
18 properties?

19 A 9,246,499.

20 Q And does it indicate what the appraised value of the
21 properties were on April 1 of 2019?

22 A It does.

23 Q And what does that show?

24 A 10,100,000.

25 Q And what does it show the total appraised value as of

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1 January 30, 2022?

2 A 14,882,000.

3 Q So we would be talking from purchase to it still held by
4 Oasis a profit of over \$5 million?

5 A That's correct.

6 Q And do you have an opinion as to whether or not the
7 purchase of these properties promoted the stability of Oasis?

8 A Yes.

9 Q And what would that opinion be?

10 A Real estate has traditionally been a very good investment
11 because it steadily increases.

12 Q And would that -- in the context of Oasis, did this
13 promote the stability of the company, the purchase of the real
14 estate?

15 A Yes. It's a stable investment.

16 Q Now, were any of the properties that we just went through
17 ever placed in individual names?

18 A Not that I'm aware of.

19 Q Okay. They were all held by the company?

20 A Yes.

21 Q If we can go back to the -- if I can go back to gold and
22 silver. Are you aware of physical gold and silver that Oasis
23 had owned?

24 A Yes.

25 Q And what was -- based upon your review, what was the

DIRECT EXAMINATION OF HAROLD MCFARLAND

1 purchase price of all of the gold and silver in possession of
2 Oasis?

3 A I don't know that I had that number, but it's around
4 660,000.

5 Q Do you know what it was sold by the receiver for?

6 A I do not.

7 Q Do you know what it would be worth today?

8 A The same amount today. It would be worth 1,177,000.

9 Q If we can go back to the properties for just one second.

10 MR. ROSENTHAL: If I may approach the witness, Your
11 Honor.

12 THE COURT: Yes.

13 BY MR. ROSENTHAL:

14 Q I'm showing you Exhibits 53, Defense Exhibit 53, 64, 65,
15 63 -- 56, 57, 58, 59, 60, 61, 62, 63, 64, and 65. Are these
16 the appraisals that you reviewed in the charts that we just --
17 confirming the charts that we just went through?

18 A Yes, they are.

19 Q Now, Mr. McFarland, would investing, seeking to invest in
20 other companies be considered potentially a prudent investment
21 by Oasis?

22 A Potentially, yes.

23 Q If there was evidence that Oasis had sought to acquire
24 other companies or sought to invest in other companies and
25 then hired someone that was actually one of their investors to

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1 do due diligence, would that have been prudent business
2 decisions?

3 A It would have been prudent to do due diligence on them,
4 yes.

5 Q Would that be consistent with attempting to build a
6 successful business?

7 A Yes, it would.

8 Q Now, did you have occasion to calculate overall assets of
9 Oasis at different periods of time?

10 A I did.

11 Q Now, at the time the receiver took possession of Oasis,
12 what was the amount that Oasis had in bank accounts?

13 A Bank accounts? 10,500,000.

14 Q And you testified earlier that the properties were worth
15 about \$10 million, correct?

16 A 10,100,000.

17 Q And the physical gold and silver as of that time, I think
18 you said that you didn't recall what the exact amount was?

19 A I didn't recall what it was purchased for. At that time
20 it was worth 710.

21 Q And was there also physical cash that was in possession
22 of Oasis?

23 A Yes, there was.

24 Q How much was that?

25 A Approximately 175,000.

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1 Q So not to ask you to do more addition, what would the
2 overall value of the assets of Oasis have been as of that
3 time?

4 A 23,038,000.

5 Q Now, if Oasis had been left undisturbed, were you able to
6 calculate potentially what the value of their assets would
7 have been?

8 A If Oasis were left undisturbed, the total value would be
9 in my opinion about 46,729,000. By saying "left undisturbed,"
10 I'm assuming that the silver position was closed out at that
11 20 million based on interviews and the like, that his intent
12 was to recover the 20 million that he had lost.

13 Q And the figure you used doesn't account for the
14 possibility of reinvesting in an additional silver position?

15 A He could have reinvested when it was lower, and this
16 would be substantially higher.

17 Q And had that been done, that could have resulted in the
18 56 million that you spoke of earlier?

19 A Yes. It would have pushed this up another 36 million to
20 around 82 million.

21 Q But your calculation did not take that into
22 consideration?

23 A It did not.

24 Q And in terms of -- so you were looking at \$20 million as
25 the value of silver?

DIRECT EXAMINATION OF HAROLD MCFARLAND

1 A That's correct, of the silver position.

2 Q And what about physical silver?

3 A Physical silver was 1,177,277.

4 Q That would be what it would be worth today?

5 A Yes.

6 Q And what would -- your earlier testimony is the
7 properties would have pushed up against \$15 million?

8 A Yes.

9 Q And the -- obviously we don't know what the money in the
10 bank would be today, but what would the money in the bank have
11 been -- the money in the bank at the time was 10.5 million?

12 A Yes, and I assume the same amount.

13 Q That's how you arrived at the figure of 46 million?

14 A Yes.

15 Q And would that be conservative considering that you don't
16 know the amount of silver they would have had at this time?

17 A That's correct.

18 Q Now, looking at these numbers, are you able to state an
19 opinion as to whether Mr. DaCorta was attempting to build a
20 successful business?

21 A I didn't understand all of that.

22 Q Okay. Looking at these numbers as well as looking at
23 your examination of all the records that you reviewed in this
24 case, do you have an opinion as to whether or not Mr. DaCorta
25 was attempting to build a successful business?

DIRECT EXAMINATION OF HAROLD MCFARLAND

1 A In my opinion he was attempting to build a successful
2 business, yes.

3 Q Now, Mr. McFarland, was there ever a period of time where
4 Oasis would have been unable to satisfy a demand for a lender
5 within 90 days?

6 A Assuming that they closed out the silver position at
7 20 million, no.

8 Q Were there any occasions that you became aware of in your
9 examination where Oasis had not been able to satisfy a request
10 from a lender within 90 says?

11 A In all the records that I reviewed, when a request was
12 made it was fulfilled within the 90 days, yes.

13 Q What would have happened if all -- if there was a demand
14 for all of the outstanding loans at the same time, what would
15 happen then?

16 A If everybody wanted their loans paid at the same time,
17 they would not have had sufficient assets to do that.

18 Q Would a typical bank have the ability to absorb all of
19 the requests for or to satisfy all the requests for their
20 deposits on any given day?

21 A Typically they do not.

22 Q But they would -- they would get bailed out by the FDIC?

23 A Yes.

24 Q What would happen to a typical business if there was a
25 demand for -- if all of its lenders demanded their money back

DIRECT EXAMINATION OF HAROLD MCFARLAND

1 on the same day?

2 A Well, if the business is highly leveraged with a lot of
3 loans, then typically they would not be able to meet that
4 demand either.

5 Q Now, was Oasis generating sufficient income on a regular
6 basis to be able to satisfy any demands that were made at any
7 given time?

8 A They would generate sufficient revenue, yes.

9 Q Now, you stated the opinion that Mr. DaCorta was
10 attempting to build a successful business. I want to ask you
11 about your valuation, your examination as it relates to
12 Mr. Anile.

13 A Okay.

14 Q Did you -- in reviewing the records with respect to
15 Mr. Anile, did you prepare or did you confirm the numbers in a
16 chart that reflects the amount of money that Mr. Anile took
17 out of the business at different periods of time?

18 A I confirmed the numbers in the chart that he took out
19 both for himself and for the residence where he was living and
20 for his related entities.

21 Q And would the records that resulted in the compilation of
22 this chart be considered voluminous?

23 A Yes, they were.

24 MR. ROSENTHAL: Your Honor, at this point -- may I
25 approach the witness?

DIRECT EXAMINATION OF HAROLD MCFARLAND

1 THE COURT: Of course.

2 BY MR. ROSENTHAL:

3 Q Mr. McFarland, do you recognize Defense Exhibit 86?

4 A Yes, I do.

5 Q Is that the chart you were speaking about earlier that
6 dealt with the amount of money that Mr. Anile took out of
7 Oasis?

8 A Yes, sir.

9 Q Now, what was --

10 MR. ROSENTHAL: At this time, Your Honor, I would
11 introduce Defense Exhibit 86.

12 MR. MURRAY: Objection. May we approach, Your Honor?

13 THE COURT: Sure.

14 (Bench conference on the record.)

15 THE COURT: Go ahead.

16 MR. MURRAY: We object to the descriptions in these
17 columns. There is no foundation. They are argumentative.

18 THE COURT: Let me see. So the description says,
19 "DaCorta in control of Anile payments." It says, "Payments to
20 Bowling Green." So you object to the headers?

21 MR. MURRAY: Yes, Your Honor.

22 MR. ROSENTHAL: Which one?

23 MR. MURRAY: These are argumentative. This one and
24 then the second page, the header.

25 THE COURT: Let's block the headers off of it. You

DIRECT EXAMINATION OF HAROLD MCFARLAND

1 don't need that, do you?

2 MR. ROSENTHAL: I would elicit the testimony in any
3 event.

4 THE COURT: Well, don't make it argumentive, but
5 surely you can use these charts without the headers because I
6 don't believe for a minute that Anile was completely in
7 control of the checkbook. I believe your guy was. So Anile
8 was his right arm. That's what I believe. So let's just see
9 if we can utilize this chart. If it's publishable, then block
10 that out.

11 MR. MURRAY: Can you establish these without hearsay?
12 Is that what you are trying to elicit?

13 MR. ROSENTHAL: I think it would be based on Anile's
14 earlier testimony.

15 THE COURT: Well, Mr. DaCorta did testify that Anile
16 was in charge of the one checkbook. Just see if you can block
17 that header out.

18 (End of bench conference.)

19 MR. ROSENTHAL: Your Honor, at this point I would
20 move 86 into evidence.

21 THE COURT: With the notation at sidebar, okay, yes,
22 admitted.

23 (Defendant Exhibit 86 admitted.)

24 MR. ROSENTHAL: And permission to publish?

25 THE COURT: All right.

DIRECT EXAMINATION OF HAROLD MCFARLAND

1 BY MR. ROSENTHAL:

2 Q So Mr. McFarland, what were the different entities to
3 which Mr. Anile received payment?

4 A Bowling Green, 4064 Founders Club Drive, 4Oaks, and I
5 don't know how to pronounce that. It looks like Zhue Xu, or
6 something like that.

7 Q So in the early days in 2012, what payments did Mr. Anile
8 receive?

9 A He received \$60,000 to Bowling Green.

10 Q And did that -- what was the source of that?

11 A It came from Oasis Management.

12 Q And that was \$10,000 a month?

13 A Yes. \$20,000 in one month, but he skipped the one
14 before, so it's 10,000 a month.

15 Q And if we go to 2013, what were the payments made to
16 Bowling Green?

17 A It was again approximately 10,000 a month with a little
18 more on occasion.

19 Q If we can go to 2014, were there any significant changes
20 to the amount of money that was being paid to Mr. Anile or to
21 an Anile-related entity?

22 A Payments to Bowling Green went up to 243,000 from
23 basically approximately 120. So it more than doubled.

24 Q And do you know what entity made these payments to
25 Bowling Green?

DIRECT EXAMINATION OF HAROLD MCFARLAND

1 A The best I recall, my records, that would have been
2 from -- that's from Oasis International.

3 Q So as of 2014, Mr. Anile's payments are no longer coming
4 from Oasis Management?

5 A That's correct.

6 Q And the numbers significantly increased?

7 A That's correct.

8 Q 2015, what were the numbers -- what was the amount of
9 money that Mr. Anile received that went to Bowling Green?

10 A Bowling Green received \$270,395.79.

11 Q And then what happens when we get to 2016?

12 A It went up substantially, payments to Bowling Green, for
13 461,818.

14 Q And was that -- were you able to ascertain the source of
15 payments?

16 A They were all from Oasis International Group.

17 Q If we could look to June of 2016, how much money did
18 Mr. Anile take out that month from Oasis International Group?

19 A That month 75,500.

20 Q And going to 2017, how much money did Mr. Anile take out
21 in that year?

22 MR. MURRAY: Object to form of the question, Your
23 Honor.

24 THE COURT: Well, right. You asked the month, and
25 then you said the year. So let's redo that.

DIRECT EXAMINATION OF HAROLD MCFARLAND

1 BY MR. ROSENTHAL:

2 Q So 2017 total for the year, how much did Mr. Anile take
3 out?

4 MR. MURRAY: Again, Your Honor, to the name. No
5 foundation.

6 THE COURT: Well, overruled.

7 A 740,000 was paid to Bowling Green, and 20,000 was paid to
8 4064 Founders Club Drive.

9 BY MR. ROSENTHAL:

10 Q Now, do you know if that was the residence that, the
11 4064 Founders Club Drive, was where Mr. Anile was living?

12 A Yes.

13 Q And the 740,000 was in addition to that?

14 A Yes.

15 Q I will call your attention to the month of August of
16 2017. Just in that one month, how much had been paid to
17 Bowling Green?

18 A 132,500.

19 Q That was from Oasis International Group?

20 A Yes, it was.

21 Q Other than April when it appeared -- 2017 -- when it
22 appears that nothing came out, did -- what was the lowest
23 month in terms of the amount of money that Mr. Anile --

24 A The lowest month would have been February with 22,500.

25 Q And did he take the same amounts in September, October,

DIRECT EXAMINATION OF HAROLD MCFARLAND

1 and December?

2 MR. MURRAY: Objection. Assumes a fact not in
3 evidence as to the taker.

4 THE COURT: Well, all right. That's overruled. Just
5 explain from where to where.

6 BY MR. ROSENTHAL:

7 Q In terms of the payments from Oasis International Group
8 to Bowling Green Capital, was it the same amount for
9 September, October, and December of 2017?

10 A The same amount was paid for those three months, 95,000.

11 Q In addition to that, were there payments to Founders
12 Club, the Founders Club, LLC?

13 A There was.

14 Q Were there any changes to what Oasis International Group
15 was paying to Anile-associated entities in 2018?

16 A In 2018, the payments to Bowling Green were 427,500. The
17 payments to Founders Club Drive were 450,000.

18 Q Now, would that, the payments to Founders Club Drive,
19 LLC, would those appear to be greater than what would be
20 required for the upkeep on that particular residence?

21 A In my opinion, probably so.

22 Q And if we can move to 2019, at that point it appears that
23 the payments to Bowling Green stopped in January of 2019?

24 A That's correct.

25 Q And did Mr. Anile move to a different entity called the

DIRECT EXAMINATION OF HAROLD MCFARLAND

1 4Oaks?

2 A That's correct.

3 Q And how much was paid to -- if you go month by month, how
4 much was paid to 4Oaks for January, February, and March?

5 A 195,000.

6 Q Just for those three months?

7 A That's correct.

8 Q With respect to the Founders Club Drive, LLC, what
9 amounts were paid from January, February, March, and April?

10 A 190,000.

11 Q And would that be considered more than would be necessary
12 for the upkeep for that residence for a period of four months?

13 A I would expect it to be, yes.

14 Q Mr. McFarland, during -- did you look at the Mainstream
15 account, bank account as part of your valuation examination?

16 A I did.

17 Q And during the periods of time the Mainstream account was
18 in operation, who was the person that had control of the bank
19 account?

20 A The person who authorized all the movements of the money
21 was Joe Anile.

22 MR. ROSENTHAL: Can I have just a moment, Your Honor?

23 BY MR. ROSENTHAL:

24 Q One more brief question before I do that. There was
25 testimony that Oasis Management was domiciled in Wyoming?

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 A Yes.

2 Q Is that unusual?

3 A No, it's not. People often domicile corporations in
4 other states for various reasons. One of the reasons Wyoming
5 is popular is because they have no corporate income tax, and
6 they don't share shareholder and officer information.

7 Q And in that respect, is that a role that Delaware
8 traditionally played?

9 A Delaware used to be the most common places for
10 corporations to domicile themselves for privacy reasons. Now
11 they do Wyoming, Hawaii, several others.

12 MR. ROSENTHAL: Just one moment, Your Honor.

13 No further questions, Your Honor.

14 THE COURT: Cross-examination, please.

15 **CROSS-EXAMINATION**

16 BY MR. MURRAY:

17 Q Good morning, Mr. McFarland.

18 A Good morning, sir.

19 Q Mr. McFarland, you are a CPA; is that correct?

20 A That is correct.

21 Q You are not a professional stock trader?

22 A I am not.

23 Q You never traded on the New York Stock Exchange. Do I
24 have that right?

25 A That's correct.

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 Q You never traded forex professionally?

2 A I have never traded forex.

3 Q You have never traded commodities professionally?

4 A I have not.

5 Q You never traded equities professionally?

6 A I have not.

7 Q You never traded forex on a retail platform call MT4,

8 correct?

9 A I have not.

10 Q You never worked at the CFTC?

11 A I have not.

12 Q You never worked at FINRA?

13 A I have not.

14 Q You never worked at the NFA?

15 A I have not.

16 Q You never worked in any kind of regulatory capacity

17 regarding forex or securities; is that right?

18 A That would be correct.

19 Q You never worked as a market maker at a private trading

20 house?

21 A I have not.

22 Q You never used the Spotex platform to trade

23 professionally, correct?

24 A I have not.

25 Q You don't have your Series 7?

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 A I do not.

2 Q You do not have your Series 63?

3 A I do not.

4 Q You do not have your Series 3?

5 A I do not.

6 Q You are not an appraiser?

7 A I am not.

8 Q You're not a realtor?

9 A I am not.

10 Q And you're not in private equity either, correct?

11 A I am not.

12 Q You are an accountant, correct?

13 A Yes, sir.

14 Q Mr. McFarland, you're paid to render your testimony on
15 behalf of the defendant; is that right?

16 A I'm paid to render my testimony as an expert, not
17 particularly shaded to either position.

18 Q But you were called by the defense in this case, were you
19 not?

20 A I was hired by the defense, that is correct.

21 Q You were hired by the defense and they are paying you,
22 correct?

23 A That is correct.

24 Q And how much are they paying you?

25 A \$170 an hour is my governmental rate.

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 Q My understanding is that the total you were paid to come
2 here today to testify was \$27,500; is that correct?

3 A I don't believe so. I think it's about 25,000.

4 Q Plus an additional 2,500 you're owed, correct?

5 A I really don't keep track of that. I have an office
6 manager for that.

7 Q Why don't we split the baby and say roughly 26,000. Does
8 that sound right?

9 A That could be, yes.

10 Q That's a good amount of change, wouldn't you agree?

11 A I'm sorry?

12 Q That's a good amount of money, wouldn't you agree?

13 A It's reasonable but not close to what I usually get. My
14 normal rates are over twice that.

15 Q Because you've done work in this case, correct?

16 A I have done work in this case.

17 Q You've reviewed a lot of the materials in order to
18 prepare for your testimony here today, correct?

19 A Yes, I have.

20 Q Let's talk about that a little bit. Have you reviewed
21 the trading data in this case?

22 A I have.

23 Q But you're not a trader, correct?

24 A I am not.

25 Q And again, you don't have any experience with the Spotex

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 system, right?

2 A I have no experience as a trader in the Spotex system,
3 yes.

4 Q And that's what I meant. Thank you. You have reviewed
5 bank account records, right?

6 A Yes, I have.

7 Q And you have reviewed materials regarding the defendant's
8 background. Is that also correct?

9 A Yes.

10 Q Are you aware that the defendant had a Series 3 license
11 before he started Oasis?

12 MR. ROSENTHAL: Objection. Beyond the scope.

13 THE COURT: Overruled.

14 A Yes.

15 BY MR. MURRAY:

16 Q Are you aware that that test extensively tests CFTC and
17 NFA regulations?

18 A I'm sorry. I didn't hear well.

19 Q I'm sorry. Are you aware that that test, the Series 3,
20 extensively tests CFTC and NFA rules and regulations?

21 A Yes, it does.

22 Q Are you aware that that testing includes NFA rules
23 regarding associated persons?

24 A Yes, it does.

25 Q Commodity pool operators?

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 A Yes.

2 Q Commodity trading advisors?

3 A Yes.

4 Q Introducing broker rules and regulations?

5 A Yes.

6 Q Exemptions from registration to the NFA?

7 A Yes.

8 Q NFA membership rules and regulations?

9 A Yes.

10 Q Now, part the materials you reviewed include
11 representations by the defendant that he was a market maker;
12 is that correct?

13 A I believe that's correct, yes.

14 Q And there were representations in materials reviewed that
15 he was making money off the spread pay; is that right?

16 A Yes.

17 Q And there were also representations by the defendant in
18 those materials that the defendant and Oasis was investing in
19 real estate properties with the profits of Oasis and not
20 directly with investor money. Do you recall those
21 representations?

22 A I do not.

23 Q Do you recall representations that Oasis was offering a
24 12 percent return a year with no risk unless World War III or
25 the financial system collapsed. Do you recall that?

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 A I recall that they were offering 12 percent and
2 indicating minimal risk, yes.

3 Q And when you said it indicated -- you laughed. So did
4 you hear those recordings or not?

5 A World War III, I don't recall seeing that.

6 Q But something to that effect, correct?

7 A They were pretty much guaranteeing, yeah, 12 percent.

8 Q And do you recall representations being made that the
9 interest and principal on those notes were being funded by
10 trading forex; is that fair?

11 A I don't recall.

12 Q Do you recall representations made to investor/lenders
13 that the assets were sufficient to guarantee those notes that
14 they were floating? Do you recall those representations from
15 the materials?

16 A I believe I did read that, yes.

17 Q You mentioned, Mr. McFarland, that you reviewed the
18 trading performance. So I take it that you could confirm that
19 not one single dollar ever traveled from the ATC account back
20 into Oasis' bank accounts; is that right?

21 A Into which Oasis?

22 Q Either one.

23 A There were minor transfers back from OIG to Oasis
24 Management.

25 Q Because --

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 A They were small.

2 Q -- the defendant testified yesterday that not a single
3 dollar ever left.

4 A The best I recall, I recall seeing an occasional amount
5 back. In the scheme of things, it was very small.

6 THE COURT: The question was, from the ATC account
7 back, not from the Oasis account. I think we got a little
8 confused.

9 BY MR. MURRAY:

10 Q I'm sorry. The ATC trading account, no money ever left
11 that account and went back into the other accounts, correct?

12 A That would be correct, from the trading account. From
13 OIG it did but not from ATC, you are correct.

14 Q And in other words, Mr. McFarland, the spread pay
15 generated in the ATC trading account, that just circled around
16 and around and around and around in that account, correct?

17 A That's correct.

18 Q That money never actually left the ATC trading account,
19 correct?

20 A That's correct.

21 Q So it just circled around and around and around the drain
22 until it was either lost in the market, which is ultimately
23 what happened, correct?

24 A Yes.

25 Q I asked you about a series of representations that you

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 reviewed in the materials. Is it your testimony here today
2 that those representations were true?

3 A What representations?

4 Q Well, how about the one that Oasis was a market maker?

5 A I would say yes.

6 Q You would say yes based on your extensive experience in
7 the markets?

8 A Not in the market.

9 Q Have you ever worked as a market maker?

10 A I have not.

11 Q Have you ever worked as a regulator regulating market
12 makers?

13 A I have not.

14 Q What about the representation that this was a risk-free
15 investment that would never fail unless there was a world war,
16 was that true based on your review of the materials?

17 A There is no such thing as a totally risk-free investment.

18 Q And so is it your testimony that representation was
19 false, Mr. McFarland? Is it your testimony then that that
20 representation made to lenders by the defendant over and over
21 and over again in the materials you reviewed, in the phone
22 calls you reviewed, that that representation was false?

23 A There was always minimal risk. To say there was no risk,
24 there is risk in living.

25 Q But is that what the defendant told the investors?

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 A From what I saw, I believe he said there was no risk.

2 Q You believe that he said there was no risk, correct?

3 A I believe that's correct.

4 Q So that representation is false, correct?

5 A Yes, because there's always risk.

6 Q You testified late yesterday about hard money lenders,
7 correct?

8 A Yes.

9 Q And I think you said that you viewed the Oasis investors
10 as hard money lenders, right?

11 A That's correct.

12 Q Mr. McFarland, normally hard money lenders lended things
13 like real estate, right?

14 A They can lend to anything.

15 Q They are pretty sophisticated usually in terms of their
16 risk calculations, are they not?

17 A Typically they are.

18 Q They make calculated decisions based on risk and the
19 party they are lending to; is that fair?

20 A They typically do some sort of due diligence before they
21 turn loose of their money.

22 Q You have to, right, because hard money lending can be
23 risky?

24 A Sure.

25 Q Isn't it true that hard money lenders don't usually ban

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 together and dance around sculptures of currency at Christmas
2 parties at the Ritz. Does that sound like people involved in
3 the business of money lending to you, hard money lending?

4 A I wouldn't know what they do because I don't have that
5 kind of money myself.

6 Q What about a wounded veteran from Iraq who invested his
7 whole life savings of \$100,000, does that sound like someone
8 involved in the hard money lending business to you?

9 MR. ROSENTHAL: Objection. Beyond the scope of
10 cross -- or direct.

11 THE COURT: Overruled.

12 BY MR. MURRAY:

13 Q Someone you normally see in this business?

14 A Any time you lend actual money, it's typically considered
15 a hard money lender.

16 Q But is the character I just proposed to you, is that
17 someone you would typically see in the hard money lending
18 business?

19 A Not as somebody who does it as a business, but there are
20 a lot of individuals who do.

21 Q Mr. McFarland, it's fair to say, isn't it, that Oasis,
22 even though there was Oasis Management and Oasis International
23 Group, that this was running as one entity essentially. Is
24 that not fair to say?

25 A I think they kept their accounting records separate, so

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 there was some overlap.

2 Q Okay. So they kept their accounting separate, but from a
3 business perspective is it fair to say that the same guy was
4 on the top running the thing?

5 A No. OIG had three owners that were running it, and then
6 management had Mr. DaCorta.

7 Q And Mr. DaCorta was running the management, correct?

8 A Yes, he was.

9 Q And he was in charge of the trading, right?

10 A That's my understanding.

11 Q And did you review any pictures of the Christmas parties
12 as part of the materials?

13 A Yes, I did.

14 Q You did?

15 A Yes.

16 Q Did the -- was there a separate ice sculpture for Oasis
17 Management and OIG, or was there just one ice sculpture?

18 MR. ROSENTHAL: Objection. Argumentive.

19 THE COURT: Overruled.

20 A I have no idea.

21 BY MR. MURRAY:

22 Q You don't recall?

23 A Not a specific, I don't.

24 Q Mr. McFarland, you arrived here yesterday; is that right?

25 A That's correct.

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 Q So you haven't been here for the last three weeks like
2 the rest of us have, right?

3 A That's correct.

4 Q And despite all the materials you reviewed to render your
5 opinion, you haven't really viewed any of the evidence
6 presented in this case, correct?

7 A I have been -- I have received some charts and odds and
8 ends that the government has presented.

9 Q But nothing that the jury would be able to consider other
10 than what we have discussed here today, correct?

11 A Oh, absolutely, that's correct.

12 Q Because you weren't here for the testimony the last two
13 weeks, right?

14 A I was not.

15 Q And so in forming your decision and your opinions today,
16 you weren't here this week to hear from Chris Mitchell, the
17 cofounder of Spotex, correct?

18 A That's correct.

19 Q And you didn't hear him testify about how his program
20 works in terms of putting in pips that could apply to each
21 trade?

22 A No, I was not.

23 Q I'm sorry?

24 A I didn't hear that, yes.

25 Q And you weren't here to hear the testimony of Joe

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 Paniagua who testified that the defendant instructed him to
2 makes adjustments in the accounts. You didn't hear that,
3 correct?

4 A I did not.

5 Q And you didn't hear the testimony from Joe Paniagua that
6 he was to build pips into each and every trade through that
7 system so that every single trade would have pips applied to
8 it. You didn't hear that testimony, right?

9 A I did not.

10 Q And you also weren't here for the testimony of Matthew
11 Childers, correct?

12 A That's correct.

13 Q And you weren't here to hear him testify about he is also
14 a CPA. You didn't hear that, right?

15 A I did not.

16 Q And you didn't hear his testimony about his extensive
17 private sector experience, right?

18 A I did not.

19 Q And you did not hear his testimony about his extensive
20 regulatory experience particularly in the forex markets?

21 A I did not.

22 Q And you didn't hear him testify about how he actually
23 worked for a market maker in a private trading house, correct?

24 A I did not.

25 Q And you did not hear him testify and explain to this jury

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 about how in Oasis' case the spread pay was basically just
2 Oasis increasing the prices they were paying for each trade
3 and then putting the money back into a different accounting
4 column, correct?

5 A That's correct.

6 Q And you didn't hear him testify that ultimately Oasis and
7 thus the investors were paying for that spread pay, correct?

8 A That's correct.

9 Q And you didn't hear him testify because you weren't here
10 that Oasis' trading pattern was incredibly speculative and
11 that the trading patterns were reckless and undercapitalized,
12 correct?

13 A That's correct.

14 Q And I take it, Mr. McFarland, because you weren't here,
15 you also didn't hear Patti Katter testify that the defendant
16 told her to disregard the risk disclosure legalities in the
17 risk disclosure agreement, correct?

18 A That's correct.

19 Q And you didn't hear her testify that the defendant never
20 disclosed the NFA settlement to her, correct?

21 A That's correct.

22 Q And you didn't hear her testify that she was duped by
23 constant emails claiming returns that were not true?

24 A That's correct.

25 Q You didn't hear from Matthew Kihnke either, correct?

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 A That's correct.

2 Q You didn't hear Matthew Kihnke say the defendant said
3 there was no risk in the investment?

4 A That's correct.

5 Q And you didn't hear from Matthew Kihnke the defendant
6 said that the money was going to be held in accounts offshore
7 and never traded, correct?

8 A That's correct.

9 Q And you didn't hear anything from him about how the
10 defendant pressured him to sign a lengthy and confusing
11 document after he had already invested \$7 million in Oasis,
12 correct?

13 A That's correct.

14 Q And you didn't hear a thing from him either about how the
15 defendant never disclosed his NFA settlement, correct?

16 A That's correct.

17 Q And I take it, Mr. McFarland, that you also didn't hear
18 any of the testimony of Anthony Charles then, correct?

19 MR. ROSENTHAL: I'm going to object at this point.
20 He already said he hasn't heard the testimony.

21 THE COURT: Overruled.

22 A That's correct.

23 BY MR. MURRAY:

24 Q And you didn't hear Anthony Charles testify that the
25 defendant went into his home to sell Oasis?

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 A That's correct.

2 Q And you didn't hear him testify that the defendant said
3 that there was no risk to -- let me rephrase. I'm sorry.

4 You didn't hear him testify that the defendant said
5 that there was no risk to this investment unless World War III
6 occurred?

7 A That's correct.

8 Q And you also wouldn't have heard from a man named Michael
9 Chalhub, correct?

10 A That's correct.

11 Q You didn't hear Chalhub testify the defendant never
12 disclosed the NFA agreement, that the money would be held in
13 safe and collateral accounts and would not be traded, right?

14 A That's correct.

15 Q In other words, Mr. McFarland, you haven't based your
16 opinion here today on any of the evidence presented in this
17 trial because you haven't been here, right?

18 A I haven't based it on any of the testimony in this trial,
19 that's correct.

20 Q Do you think any of the evidence presented in this trial
21 that I have just summarized for you might have changed your
22 opinions at all?

23 A I don't know without examining it.

24 Q You testified on direct examination that you saw nothing
25 indicating that Oasis handled itself and held itself out as a

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 fiduciary trader, did you not?

2 A That's correct.

3 Q Could any of the testimony that I just summarized for you
4 have possibly changed your opinion in that regard?

5 A Again I don't know because I don't know the details of
6 the testimony.

7 Q And ultimately, the decision in this case is for the jury
8 and not you, correct?

9 A That's correct.

10 MR. MURRAY: Can we publish Exhibit 245L and go to
11 page 2. Or I'm sorry. 425L.

12 BY MR. MURRAY:

13 Q Mr. McFarland, are you familiar with what a straddle
14 long, straddle short position is?

15 A Yes.

16 Q That indicates one, correct?

17 A Yes.

18 Q And you are betting for and against the same currency in
19 that kind of position, correct?

20 A Yes, you are.

21 Q And you were not here earlier last week when Mr. Childers
22 testified that there is no economic reason to have a position
23 like this, correct?

24 A I was not here.

25 Q And a position like this incurs extraordinary fees and

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 costs, correct?

2 A It does incur fees and costs, yes.

3 Q Are you aware that this type of trading was banned by the
4 NFA?

5 A Actually, I'm not.

6 Q And that's because you are not in that industry, correct?

7 A That's correct.

8 Q Now, despite the fact, Mr. McFarland, that you are not in
9 that industry, you have testified here today that the silver
10 was going to go up and was going to erase all the trading
11 losses. Is that a fair characterization of your testimony?

12 A I testified that it did go up, that he believed it would.

13 Q I'm sorry. Can you say that again?

14 A I testified that it did in fact go up and that he
15 believed that it would go up.

16 Q You thought he believed it would go up because that's
17 what he told you, correct?

18 A Yes.

19 Q And that's what he told you in preparation for you to
20 come and testify on his behalf today?

21 A Yes.

22 Q Now, I think counsel asked you earlier this morning if
23 you remembered when he took the silver position to begin with,
24 right?

25 A Yes.

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 Q And you said you didn't recall that?

2 A I do not recall.

3 Q And that's somewhat an important detail, is it not,
4 Mr. McFarland, because fees are generated to hold those
5 positions, correct?

6 A Yes.

7 Q Can you predict the future?

8 A Absolutely not.

9 Q Do you think that the defendant can predict the future?

10 A I know there are a lot of people who believe they can.
11 It's a big industry.

12 Q Fair enough, Mr. McFarland.

13 Mr. McFarland, are you familiar with the Chicago
14 Mercantile Exchange capital requirements to hold a position
15 like that?

16 A I'm not familiar with that specific requirement.

17 Q So if I asked you what they were in April of 2019, you
18 would not know?

19 A I'm sorry?

20 Q If I asked you what the CME capital requirements were to
21 hold that position in April of 2019, you would not know the
22 answer to that, correct?

23 A I would not know the answer to that.

24 Q But you nevertheless testified that precious metals are a
25 good hedge against inflation and market volatility, correct?

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 A Yes, I did.

2 Q But you have never traded silver, right?

3 A I have not.

4 Q You have never traded silver professionally on the CME?

5 A Nope.

6 Q Are you aware, Mr. McFarland, that Oasis would not have
7 been able to keep that capitalization, that silver requirement
8 sufficiently capitalized, as capitalized, beyond May of 2019?

9 A Let me look.

10 Q Sure.

11 A Wrong pile.

12 Given that silver had went up and the like, I believe
13 they would have been able to maintain it past May.

14 Q Can I ask what you are looking at there?

15 A It's the chart of the ups and downs of the silver.

16 Q You are just looking at the silver, the price of silver
17 chart?

18 A Yes.

19 Q And in your head you have decided that they would have
20 been able to maintain it; is that right?

21 A Pretty much.

22 MR. MURRAY: Publishing Exhibit 425H.

23 BY MR. MURRAY:

24 Q You haven't seen this, Mr. McFarland. So I'm sorry to
25 catch you offguard with this, but is it not true that this

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 chart shows that ATC would have called that margin in May of
2 2019 because they weren't sufficiently capitalized to hold
3 that position?

4 A I have not seen that chart.

5 Q Do you have any reason to dispute that?

6 A I have -- it doesn't look quite right to me at that date
7 and time.

8 Q And you would agree with me that there are fees
9 associated with holding these positions, right?

10 A Absolutely.

11 Q And sometimes they are big fees, right?

12 A Oh, yeah.

13 Q And would you agree with me, Mr. McFarland, that May of
14 2019 in finance terms is a long way away from September of
15 2019 especially if you're paying fees to hold those positions?

16 A It's a distance away. And he would have been paying
17 fees, absolutely.

18 Q And he had about 2 million in the account in order to
19 hold that capitalization at that time, right?

20 A He did.

21 Q In other words, is it not true that he would have had to
22 recapitalize to hold that position?

23 A I believe he would have, yes.

24 Q And I think we talked a little bit about some of the
25 options we would have had today, right?

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 A Yes.

2 Q We talked about real estate, right?

3 A Yes.

4 Q But it's a little bit difficult to recapitalize quickly
5 in that type of environment when you are living in the real
6 estate that you are trying to recapitalize the account with?

7 A If it's the property that he is living in, I would say
8 probably.

9 Q Because you have got to sell it, right?

10 A Or get a loan against it.

11 Q Or get a loan against it. And either of those takes some
12 time, right?

13 A Typically.

14 Q And in trading, you would agree with me even though you
15 are not a trader yourself, but wouldn't you agree with me that
16 trading forex especially, the markets move quickly?

17 A Especially in forex they do.

18 Q Twenty-four hour sites, right?

19 A Yes.

20 Q Margin calls like that?

21 A Yes.

22 Q Liquidations like that?

23 A Yes.

24 Q It's a bit of a Hail Mary, is it not, Mr. McFarland, to
25 opine that this trading position which was capitalized with

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 the last \$2 million that Oasis had on hand was going to
2 somehow save the day and save everyone at Oasis. Would you
3 agree with that?

4 A The best I recall, I testified that there was another
5 2 million in management that they could have loaned to them,
6 and there was 6 million in Mainstream that could have been
7 loaned to ATC. So they had other sources that could be
8 immediate.

9 Q So 6 million, 2 million, and 2 million. So what does
10 that total?

11 A 10 million.

12 Q I guess you weren't here last week when Mr. Childers
13 testified that the CME would have required \$15 million to hold
14 that kind of position at that time?

15 A I was not here.

16 Q And isn't it also true, Mr. McFarland, that if the price
17 of silver dipped, which again we can't predict, correct?

18 A Cannot predict.

19 Q If the price of silver dipped, that that margin
20 capitalization might have required even more than 15 million?

21 A Absolutely.

22 Q And if that had happened, then more Oasis money would
23 have been flushed down the drain because ATC would have
24 liquidated and called the margin; isn't that true?

25 A Yes.

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 Q You didn't like my football analogy.

2 A Your what?

3 Q You didn't like my football analogy.

4 A Hail Mary?

5 Q Yeah. Let me try another one. Isn't it true that we are
6 Monday morning quarterbacking here?

7 A We do have the advantage of hindsight, yes.

8 Q Because if we knew what was going to happen, then we
9 could have avoided it, right?

10 A Absolutely.

11 Q And if we knew the winning Powerball numbers, then Oasis,
12 Mr. DaCorta could have played those, correct?

13 A In theory.

14 Q In theory he could have played the Florida Lottery,
15 right? And if he knew the numbers, he would have won, right?

16 A Sure.

17 Q Supposedly, hopefully. And if he won, then he could have
18 recapitalized and paid back all the Oasis investors, right?

19 A Sure.

20 Q I want to talk a little bit about this chart here. This
21 is Defense -- can I get the Elmo back, please?

22 This is Defense Exhibit 77.

23 MR. ROSENTHAL: Objection. That's not in evidence.

24 MR. ALLEN: We did not introduce that.

25 MR. MURRAY: Seventy-six is though, right?

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 MR. ALLEN: Let me see. Yes.

2 MR. MURRAY: Go to 76.

3 BY MR. MURRAY:

4 Q Mr. McFarland, this number here, this \$10 million number,
5 that's the appraised value, correct?

6 A Yes.

7 Q And so that doesn't include any mortgages that would have
8 been outstanding on the properties, right?

9 A That's correct.

10 Q And am I right then if I were to say that if you included
11 those liabilities that were on the properties, the total value
12 of the properties as of April 2019 was about \$6 million?

13 A I don't know. I don't know what the mortgages were. I
14 looked at the property appraiser's office and there were no
15 mortgages filed.

16 Q Don't you think that would have been important to your
17 analysis of whether they were capitalized, sufficiently
18 available for capitalization?

19 A Generally when you do a mortgage, almost no exceptions
20 you file -- to protect your interest, you file it with the
21 county property office. I did check those records. There
22 were no mortgages.

23 Q I want to talk a little bit about -- Mr. McFarland, did
24 you know that that's because all the properties were seller
25 financed?

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 A That could be.

2 Q And people usually seller finance properties because they
3 can't get traditional loans sometimes, right?

4 A It could be that. It could be a myriad of other reasons.

5 Q And people struggle sometimes to get traditional
6 financing because they struggle to show any revenue or
7 profits, correct?

8 A My experience with seller financing is that typically the
9 seller does it because they are going to get 10 percent or
10 something when the banks are only doing 2 and 3 percent. They
11 do it for their advantage.

12 Q Why does the buyer do it?

13 A Why does the buyer do it? Typically they will get a
14 little less than what they have to pay for a traditional
15 mortgage.

16 Q And sometimes they do it because they can't get approved
17 for a traditional mortgage, correct?

18 A I would assume so. That could be.

19 Q And sometimes that happens because they can't show
20 income, right?

21 A The banks all have their own reasons for why they do
22 that, insufficient income, too much debt. There's a lot of
23 reasons.

24 Q In the case of a company trying to get a mortgage, it
25 would be -- instead of using the word "income," we would be

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 using revenue and profits, right? That what they would have
2 to show the financial institution?

3 A I don't know what the financial institutions require, but
4 my experience has been that that's correct.

5 Q And I think, Mr. McFarland, you had testified that in
6 March or April of 2019, had all of the Oasis lenders called
7 their notes, Oasis would not have been able to meet that
8 obligation, right?

9 A If everybody had called, they would not have been able to
10 meet the obligation, that's correct.

11 Q And that is because, is it not, they were insanely
12 undercapitalized relative to the obligations that they had
13 outstanding on those notes?

14 A I don't know what you qualify as insanely
15 undercapitalized. They did not have enough capital to do that
16 as is traditional in most lending businesses.

17 Q Well --

18 A Bank and everything else, too.

19 Q How about this? Were they not obligated to the tune of
20 \$88 million on the outstanding notes?

21 A I don't know that I agree with that number. I did see
22 that number, but I looked at the sources for that and their
23 calculations. I don't believe that would be correct.

24 Q And you weren't here when Joe Paniagua testified to that?

25 A I was not.

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 Q And he testified that number was \$88 million.

2 A I did get the government exhibit to how he got to that
3 number, and I disagreed with it.

4 Q It's not hard to get to that number. Don't you just add
5 up all the principal amounts that were given plus compounding
6 interest on the notes?

7 A Yes, it would be, except that he did not include a lot of
8 the payments that were made. They were not listed. I can
9 give you examples from 2017 if you'd like.

10 Q I think it would be more helpful -- do you have a general
11 number in mind of the outstanding obligations?

12 A It's hard to give an exact number because some of the
13 deposits were not listed and they held that too. We don't
14 know what the source is. Some of the things were not -- at a
15 minimum, I would say it's 56.

16 Q \$56 million?

17 A To 68 or so.

18 Q So 56 to \$68 million?

19 A Yes.

20 Q And isn't it true then, Mr. McFarland, that Oasis had on
21 hand 6 million in properties after mortgages?

22 A I can't confirm that but they had property.

23 Q \$2 million in the Oasis Management account?

24 A Yes.

25 Q \$6 million in the OIG account?

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 A Yes.

2 Q And I think you testified roughly 660,000 in gold and
3 silver, right, physical gold and silver?

4 A Yeah.

5 Q And so that is roughly \$15, \$16 million, right?

6 A Plus the 2 million in ATC.

7 Q Right. It's 14 plus the 2 million in ATC. So that's
8 like 16-ish?

9 A Yeah.

10 Q Roughly on the same page?

11 A Based on your assumption of the mortgages and everything,
12 at 4/1, like I said, my total is 23 if there are mortgages.

13 Q Okay. And so 50, \$60 million in obligations. And we
14 have 16 or so million dollars in assets, right, total assets?

15 A Somewhere between 16 and 23 in assets.

16 Q And I think you testified that that's not a problem
17 because banks never have enough capital to avoid a total cap
18 run of the bank, right?

19 A Well, that's one example, yes.

20 Q Mr. McFarland, do bankers that work at Bank of America,
21 do they usually take money from Bank of America and pay for
22 their children's college tuitions with banking money?

23 A I would hope not.

24 Q That's a crime, is it not?

25 A In their case, yes.

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 Q Do they normally take that money and pay off their
2 parents' home equity lines?

3 A A bank is a fiduciary. So, no, they can't.

4 Q And banks are usually FDIC insured, right?

5 A Yes.

6 Q And so the analogy between Oasis and a bank is not really
7 a great one, is it, Mr. McFarland?

8 A Perhaps a better analysis would be like a company that
9 does research and development. They get loans. They spend it
10 on research and development and then determine that the
11 project is unfeasible and everything is gone, but everything
12 is gone.

13 Q Can we pull up Exhibit 500A?

14 I just want to walk through -- and I understand,
15 Mr. McFarland, you might disagree with some of these numbers,
16 but I want to generally walk through sort of the bottom line
17 of what was left as of April 2019, okay? So is it not true
18 that on this exhibit, there were 27 or so million dollars paid
19 back to lenders?

20 A I would say that's the minimum amount. We don't know,
21 like I say, what some of the transfers were, whether they were
22 to lenders or other expenses, et cetera. Some of them we were
23 not able to run down.

24 Q Was it difficult to ascertain that because the expenses
25 were a combination of business and personal expenses in the

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 Oasis accounts?

2 A There were some business and personal expenses, yes.

3 Q So that makes it pretty hard to audit then, does it not,
4 based on your auditing experience?

5 A It can be.

6 Q We don't know where the money is going, right?

7 A Yep.

8 Q But you testified that you didn't see anything wrong with
9 the way this business was being run and it seemed to be
10 legitimate to you, did you not?

11 A I did not testify to that.

12 Q I'm sorry. What did you say?

13 A I testified that he appeared to be trying to make a
14 successful business.

15 Q And there didn't appear to be irregularities?

16 A I didn't testify that there weren't irregularities. It
17 depends on how you define irregularities. For example,
18 payments to Mr. DaCorta could have been in exchange for
19 services. Could they have been done a different way is more
20 to your point.

21 Q Understood. So you may disagree with this number of
22 27 million, but roughly there were payments made forward to
23 investors that took their money out, right?

24 A Yes, there were. Everybody who requested money got
25 theirs, and there were interest payments.

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 Q And then \$22 million went into the ATC trading account,
2 right?

3 A I believe that was correct.

4 Q And no money came back out, correct?

5 A That's correct.

6 Q And there was \$2 million left, right?

7 A Yes.

8 Q And there were certain monies to payments and staff of
9 Oasis and passive Oasis members, right?

10 A Yes.

11 Q And then there was \$9.6 million made to properties that
12 some of the Oasis principals were living in and other real
13 estate, right?

14 A That sounds about right, yes.

15 Q And then of course there is the \$2 million for the office
16 building?

17 A Yes.

18 Q So by my math, Mr. McFarland, and correct me if I'm
19 wrong, we have anywhere from 60 to \$80 million in outstanding
20 liabilities and perhaps 14 to \$16 million left, right?

21 A That would be approximately correct.

22 Q You would agree, would you not, Mr. McFarland, that a
23 promissory note is only as good as the full faith and credit
24 of the company underwriting that note, right?

25 A Promissory note, the company's obligation is to pay it

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 when it's due.

2 Q Right. And so --

3 A Much as their ability.

4 Q And so if the company doesn't have any money to pay the
5 note, the note is worthless, right?

6 A The note defaults.

7 Q And if I came to you, Mr. McFarland, and I said, hey, my
8 company has \$88 million in outstanding obligations, we have
9 \$16 million left, but don't worry, I've got this great silver
10 position and it's going to skyrocket any day now, would you
11 give me a hundred thousand dollars?

12 A I don't have a hundred thousand.

13 Q Well, you have 27,000 now, right? Would you give me
14 \$27,000?

15 A Not without a lot of additional research, due process.

16 Q Because that matters, right?

17 A It would to me.

18 Q It matters what I'm saying about my company?

19 A Yes. I would use that as a base before researching.

20 Q It matters that I'm not lying about how my company makes
21 its money, right?

22 A That's why I would do the due process, to find out.

23 Q And so I think it's fair to say then if I was lying to
24 you about the primary purpose of how my company makes money,
25 then you wouldn't invest, right?

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 A If I determined that that was the case, I probably would
2 not personally.

3 Q And if I was lying to you about how my company generated
4 money, you wouldn't invest?

5 A If I determined that you were, that would be correct.

6 Q And would you invest, Mr. McFarland, if I came to you and
7 I said, I would like \$27,000. I'm going to float you this
8 note, and I'm going to go to Vegas and put it on a roulette
9 table and I have no other capitalization to pay the note.
10 Would you take my note?

11 A Personally I probably would not.

12 Q What if I came to you and said I'm running a business, I
13 have got \$88 million in outstanding obligations, I've got
14 60 million in assets, and I'm going to take the money you give
15 me for this note and I'm going to pay my daughter's college
16 tuition. Would you invest that?

17 A Personally probably not.

18 Q But it would be important to you, would it not, the
19 things that I'm saying to you about what my business does?

20 A Yes, it would.

21 Q And you would agree with me, would you not,
22 Mr. McFarland, that as a certified fraud examiner, if there
23 are representations made that lay on top of the terms of this
24 note, verbal representations, that that's important, is it
25 not?

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 A Yes.

2 Q When you are examining fraud, it's important that there
3 are not cross representations made on top of legal mumbo-jumbo
4 and documents, right?

5 A That's correct.

6 Q And you see that often in frauds, do you not?

7 A I see that often in frauds, and I see it unfortunately
8 often in regular business.

9 Q Mr. McFarland, do you agree with the defendant when he
10 says that once lenders give him the money and hits the Oasis
11 account, he can do whatever he wants with it because it's his
12 money? Do you agree with that proposition?

13 A I don't know that I would say whatever, but he had broad
14 authority to do a lot.

15 Q So if he went to Daiquiri Deck and spent it drinking,
16 would you agree with that?

17 A Well, part of your issue here is what they call
18 fungibility of money. Once you put dollars into a bank
19 account, you can't say -- if 15 people put money into a bank
20 account, I can't say the money from this one is what I spent
21 for this, the money from this one I spent for this. It's a
22 group.

23 Q Right. And it's fungible, but it becomes less fungible
24 when there is less money in the account, is it not?

25 A I don't think there is any recognition of that in fraud

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 examination. It's just all fungible.

2 Q Well, what about if I had no money in my account and I
3 take a hundred dollars of yours and I put it in my account and
4 then I go spend a hundred dollars a Daiquiri Deck? Is it
5 pretty clear I just spent your hundred?

6 A Since there was no commingling with anybody else's, yes.

7 Q If I had \$50 in the account, right, and I took a hundred
8 and went and spent a hundred, then it's at least clear that I
9 spent 50 at Daiquiri Deck, correct, of your money?

10 A Some of it had to be, yes.

11 MR. MURRAY: Can you publish Exhibit 210D at 7?

12 BY MR. MURRAY:

13 Q You testified about this paragraph yesterday, right,
14 Mr. McFarland?

15 A Yes. It appears to be the same paragraph.

16 Q And remind me because I don't want to mischaracterize
17 your testimony, what did you say yesterday about this?

18 A I said basically that it gave him a lot of flexibility in
19 how to use the loan proceeds.

20 Q And it does, right? It says you can do whatever you want
21 with it, right?

22 A It doesn't say "whatever you want," but it's pretty
23 much -- it's pretty open.

24 Q "For any purpose whatsoever." That sounds pretty broad
25 to this lawyer, does it not?

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 A That's pretty broad, yes.

2 Q But you would agree as a certified fraud examiner,
3 Mr. McFarland, that if someone is given that document but then
4 told verbally don't worry about this, this is just legal
5 mumbo-jumbo that our attorneys made us do, that would affect
6 your analysis as a certified fraud examiner, would it not?

7 A As a certified fraud examiner, typically we look strictly
8 at the document because contract law supersedes verbal.

9 Q But you looked at this case -- you looked at oral
10 recordings, did you not?

11 A Transcripts of them, yes.

12 Q Transcripts of them. So wouldn't it be significant if
13 you were trying to determine a fraud whether there are cross
14 representations being made between oral representations not to
15 worry about it and then the boilerplate language underneath in
16 the legal documents? Is that not significant to you as a
17 fraud examiner?

18 A That's a point that we need to take into consideration,
19 yes, absolutely.

20 Q And, Mr. McFarland, if investors weren't shown this
21 document at all or were pressured to sign it without fully
22 understanding what it was, that would be something you would
23 take into consideration as well, would it not?

24 A If they were not shown the document at all, that would be
25 absolutely significant. As far as pressured, that's hard to

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 determine because pretty much everybody knows you better read
2 what you're going to sign.

3 Q Well, let me ask you some questions about that. Are you
4 familiar with the term contract of adhesion since you talked
5 about contract law?

6 A Vaguely, yes.

7 Q And is it not correct that a contract of adhesion is
8 basically a really fancy way of saying that a contract is sort
9 of pressured on somebody that's so long and complex that they
10 don't really understand it, like a cell phone bill or cell
11 phone contract?

12 MR. ROSENTHAL: Objecting. He's asking the witness
13 to make a conclusion of law, and also outside the scope of
14 direct.

15 THE COURT: Go ahead and ask the question. Overruled
16 right now.

17 A I would agree that there are contracts that are very
18 difficult to understand for the average person.

19 BY MR. MURRAY:

20 Q Right. You to go Verizon and they're like these are the
21 terms of your cell phone contract, right?

22 A I ask questions, but not everybody does.

23 Q Do you read every word?

24 A Pretty much. They get frustrated with me.

25 Q But you would agree with me that most people don't read

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 every word, right?

2 A I would agree that most people do not.

3 Q When most people are closing on their homes, they don't
4 sit there and read every closing document, right?

5 A I can't say what most people do, but I would expect there
6 are a lot that don't.

7 Q Mr. McFarland, do you have any children or grandchildren?

8 A I do.

9 Q Would you have allowed them to invest in Oasis?

10 MR. ROSENTHAL: Objection.

11 THE COURT: Legal grounds?

12 MR. ROSENTHAL: Argumentive.

13 THE COURT: Overruled.

14 A At this point in time, yeah, I don't know. At the time
15 it was coming up and people were being paid, I would have
16 investigated it before allowing them to.

17 BY MR. MURRAY:

18 Q What about knowing what you know now? Now that you have
19 looked under the hood, would you have let them invest in
20 Oasis?

21 A I don't know that I would with my children or
22 grandchildren, but a lot of that is because of their financial
23 status. I do have clients who are investors who would
24 probably consider it.

25 Q Would you have invested?

CROSS-EXAMINATION OF HAROLD MCFARLAND

1 A Would I have? I don't have that kind of money, no.

2 Q Would you have invested \$10,000?

3 A Personally, I doubt it.

4 Q Mr. McFarland, have you ever in all your time and
5 experience as an accountant, as a certified fraud examiner,
6 have you ever heard of a legitimate investment opportunity
7 that generates 12 percent a year guaranteed all the way up to
8 31 percent and carries no risk whatsoever unless there is a
9 world war? Have you ever heard of that and seen it to be a
10 true thing?

11 A Again, reference to world war, that makes that very
12 difficult, but I have seen investments at 12 percent, an IRA
13 that were good and worked out. But when you say there is no
14 risk, my belief and my opinion is there is nothing that is
15 without risk.

16 Q And so if someone were to go to an investor/lender and
17 tell them there was no risk in this investment unless there is
18 nuclear war or the financial institution shuts down, that
19 would be a lie, would it not?

20 A There is always risk, yes.

21 Q And so that would be a lie, correct?

22 A In my opinion, yes.

23 MR. MURRAY: No further questions, Your Honor.

24 THE COURT: Well, we will have a little redirect, but
25 let's take our morning break now, please. So why don't we try

REDIRECT EXAMINATION OF HAROLD MCFARLAND

1 and get back here at five minutes 'til the hour. So that
2 would be 10:55. Please don't discuss the case or look at
3 outside materials. 10:55. Thank you.

4 (Jury escorted out of the courtroom.)

5 THE COURT: Quick question. We are having lunch
6 brought to them. So that means I'm going to shorten the lunch
7 time a little bit because it will be here when they're done at
8 12:30 with the morning.

9 Do we think we are going to get to closings today?

10 MR. ALLEN: Your Honor, I can tell you that we have
11 three witnesses left to call. They are all -- two of them are
12 lenders. One of them is a lender and the individual who did
13 the coding for the AWS back office, John Paniagua. You heard
14 some testimony of him. If the government is going to spend an
15 extraordinary amount of time relitigating the case in
16 cross-examination, it's going to take longer. I don't think
17 that my directs are going to be more than an hour and a half.

18 THE COURT: I'm just curious. So at lunch then be
19 prepared to discuss these jury instructions. There were
20 several that y'all filed. We can talk about those as well.

21 Thanks.

22 (Recess taken.)

23 THE COURT: Counsel, you have redirect?

24 **REDIRECT EXAMINATION**

25 BY MR. ROSENTHAL:

REDIRECT EXAMINATION OF HAROLD MCFARLAND

1 Q Mr. McFarland, in cases you are involved in, do you
2 typically sit in on the entire trial?

3 A Typically I do not.

4 Q The government asked you about certain testimony from
5 their perspective that they believe that you had missed by not
6 sitting in on the entire trial. Do you recall those
7 questions?

8 A Yes.

9 Q So you were not here when Joe Paniagua testified?

10 A I was not.

11 Q So you did not hear Joe Paniagua testify when asked about
12 the chart that the government keeps using that he said that he
13 would do his best but he couldn't promise that it would be
14 accurate?

15 A I was not here.

16 Q And you were also not here when -- or were you here when
17 Joe Paniagua also testified that he was never asked to alter a
18 lender's account?

19 MR. MURRAY: Objection. Leading.

20 THE COURT: All right. Let's restate it nonleading.

21 MR. MURRAY: And a mischaracterization of testimony.

22 THE COURT: Ladies and gentlemen, what I say, what
23 the lawyers say is not evidence, as you know. I already said
24 that. So you will recall the evidence, but let's rephrase
25 that as nonleading.

REDIRECT EXAMINATION OF HAROLD MCFARLAND

1 BY MR. ROSENTHAL:

2 Q Were you able to hear what Mr. Paniagua said with respect
3 to whether he was asked at any time to alter a lender's
4 account?

5 A I did not hear it, no.

6 Q Because you were not here for the entire trial, did you
7 hear the testimony of Mr. DaCorta?

8 A I did not.

9 Q So you did not hear Mr. DaCorta being questioned about
10 the events that led him to be here today?

11 A That's correct.

12 Q Because you were not here, did you hear him being cross
13 examined by the government?

14 A No, I did not.

15 Q And did you hear his responses to the cross-examination
16 questions by the government?

17 A No.

18 Q You had indicated that you were not here for any part of
19 the trial testimony. So did you hear the testimony of

20 Mr. Childers?

21 A I did not.

22 Q Did you hear the testimony -- did you hear the testimony
23 of Mr. Childers with respect to whether or not he was aware of
24 any additional Oasis assets?

25 A I did not.

REDIRECT EXAMINATION OF HAROLD MCFARLAND

1 Q So you do not know what his answer was with respect to
2 that?

3 A I do not.

4 Q Were you here for the testimony that related to what was
5 required of a lender in order to set up their client portal?

6 A I was not.

7 Q And are you aware of what is required of a lender to set
8 up a client portal?

9 A I am not.

10 Q Do you know if they were required to acknowledge that
11 they had read the risk disclosure before setting up their
12 client portal?

13 A It is my understanding they were, yes.

14 Q Now, just briefly with the hours that you put into this
15 case, you said that it's \$170 an hour; is that correct?

16 A Yes.

17 Q Can you estimate how many documents you had to review in
18 order to be familiar with the allegations in this case?

19 A Well, when I did a directory search on the number of
20 files, I have over 71,000 files, some of them a page long,
21 some of them hundreds of pages.

22 Q And did you also have to spend time trying to explain
23 things to lawyers that are not accountants?

24 A Yes, I do.

25 Q Was that time-consuming as well?

REDIRECT EXAMINATION OF HAROLD MCFARLAND

1 A Yes, it was.

2 Q Now, Mr. Murray had asked you about the businesses that
3 you have not been in over the course of your career. And I
4 think he mentioned stock trading?

5 A That's correct.

6 Q Have you been involved in investigations or examinations
7 of businesses that did involve stock trading?

8 A I have.

9 Q He asked you concerning your involvement with real
10 estate.

11 A Yes.

12 Q And you indicated you have never been in real estate?

13 A That's correct.

14 Q Have you been involved in evaluations or investigations
15 relating to cases that did involve real estate?

16 A Yes, I have.

17 Q Do you believe that you have sufficient knowledge of the
18 types of businesses that were involved in this case to be able
19 to render the opinions that you have?

20 A I do.

21 Q Mr. Murray asked you questions about what had occurred in
22 May of 2019 and suggested that the silver position in question
23 would have been liquidated at that time. Do you recall those
24 questions?

25 A Yes.

REDIRECT EXAMINATION OF HAROLD MCFARLAND

1 Q Who was in control of Oasis in May of 2019?

2 A Oasis International Group or ATC?

3 Q Let's start -- I'm talking about May of 2019. And let's
4 talk all of the Oasis entities.

5 A Well, Mike DaCorta and Joe Anile.

6 Q When did the receiver --

7 A May of 2019. I'm sorry. The receiver was in charge.

8 Q And we will use the sports analogy that this is sort of
9 like canceling the game at halftime?

10 MR. MURRAY: Objection. Leading.

11 THE COURT: Overruled.

12 A I think that would be an appropriate analogy.

13 BY MR. ROSENTHAL:

14 Q Now, there was questions asked of you with respect to the
15 effect of mortgages. Are you familiar with any mortgages that
16 Oasis or any of the Oasis entities were using?

17 A Mortgages they had created? At least one.

18 Q Well, were you familiar with the mortgage that had been
19 on the Lost Key Place property?

20 A Yes.

21 Q Was that a traditional mortgage or was that a short-term
22 mortgage?

23 A I'm sorry. I forget how long it was.

24 Q Well, was it your -- was it seller financing?

25 A My understanding it was seller financing, yes.

REDIRECT EXAMINATION OF HAROLD MCFARLAND

1 Q Was it your understanding that it was or was not in
2 existence at the time that the receiver took over Oasis?

3 A It was not in existence at that time.

4 Q Why was it not in existence at that time?

5 A There was an agreement between the person who held the
6 mortgage and Mr. DaCorta that he would basically cancel the
7 mortgage in exchange for Mr. DaCorta giving him a position in
8 the company, a loan in the same amount within Oasis.

9 Q Mr. McFarland, I'm talking about the Lost Key Place
10 property. The Lost Key Place property, do you recall who had
11 originally owned the Lost Key Place property?

12 A Actually I don't recall.

13 Q Okay. Were you aware of whether there was any existing
14 mortgages at the time that the receiver came in?

15 A I don't recall.

16 Q Do you remember if there was one on the Lacantera
17 property?

18 A Actually, I believe it had not been paid off yet.

19 Q Was that a seller financing, if you remember?

20 A I didn't see the mortgage note itself. So I don't know.

21 Q So you don't know whether that was also a -- whether that
22 was a short-term or a conventional mortgage?

23 A Having not read the note, I can't testify to that.

24 Q Mr. Murray kept using the figure over \$80 million in
25 outstanding notes. What -- do you agree with that number?

REDIRECT EXAMINATION OF HAROLD MCFARLAND

1 A No, I do not.

2 Q Do you know what the amount of the loans were that had
3 come in since the start of the loan program?

4 A I believe I might have that number. Actually, I don't
5 have that number in front of me.

6 Q And do you recall generally what the amount was?

7 A I do not. The only thing I can say is the total that
8 came in less the payments to principal that went out I
9 calculated to be about 56.

10 Q Now, is it correct that there was a clean break when the
11 loan program started with respect to earlier investors?

12 A I'm sorry. With respect to?

13 Q It was probably a badly worded question. Let me start
14 again.

15 Were you familiar with what happened with respect to
16 the investors who had come into Oasis prior to the beginning
17 of the 2017 loan program?

18 A Yes.

19 Q And what happened with them?

20 A Some of them, they were bought out. And others converted
21 their investment interest into notes.

22 Q So unless they converted their interest into notes, were
23 all of the prior investments extinguished at the time that the
24 loan program began?

25 A All the priors were converted to loan programs, yes.

REDIRECT EXAMINATION OF HAROLD MCFARLAND

1 Q So there shouldn't have been any outstanding debt with
2 respect to investors prior to the initiation of the loan
3 program?

4 A That's correct.

5 Q So any obligation thereafter with respect to investors or
6 lenders would have come through the loan program?

7 MR. MURRAY: Objection. Leading.

8 THE COURT: Sustained.

9 BY MR. ROSENTHAL:

10 Q Would there have been any remaining obligations to
11 investors after the loan program was initiated or after the
12 loan program began?

13 A You are asking to initial equity investors?

14 Q Yes.

15 A Yes. There is no obligation.

16 Q So Mr. McFarland, you had offered an opinion that
17 Mr. DaCorta was attempting to build a successful business.
18 And let me ask you about some factors that -- and I want to
19 ask you if these had any impact on -- or this would have any
20 impact on that conclusion.

21 Purchasing of real estate as an investment.

22 MR. MURRAY: Objection. Scope of cross.

23 THE COURT: Well, it may not be -- overruled on that
24 grounds, but we don't want to get cumulative and just repeat
25 our direct.

REDIRECT EXAMINATION OF HAROLD MCFARLAND

1 MR. ROSENTHAL: I understand.

2 THE COURT: Go ahead.

3 BY MR. ROSENTHAL:

4 Q You can answer.

5 A Yeah. I think that would be prudent and good standard
6 business policy.

7 Q What about hiring competent people to staff Oasis?

8 MR. MURRAY: Objection. Leading.

9 THE COURT: Overruled.

10 A Yeah, hiring competent people to do the jobs that need to
11 be done is standard business practice.

12 BY MR. ROSENTHAL:

13 Q Did you ever -- did you ever meet or speak with Deb
14 Cheslow?

15 A I did not.

16 Q And did you ever meet or speak with Joe Paniagua?

17 A No.

18 Q Did you ever meet or speak with John Paniagua?

19 A I did not.

20 Q Would diversification of Oasis' portfolio be considered a
21 factor that would support the conclusion that Mr. DaCorta was
22 attempting to build a successful business?

23 A Diversification is always an important factor when you
24 are dealing with investments and risk and stuff. The more
25 diversification you have, the less risk you have.

DIRECT EXAMINATION OF JASON MCKEE

1 MR. ROSENTHAL: That's all the questions I have, sir.

2 THE COURT: Thank you, sir. You may step down. Good
3 day.

4 Call your next witness, please.

5 MR. ALLEN: Your Honor, we would call Jason McKee.

6 THE COURTROOM DEPUTY: Please raise your right hand.

7 (Witness sworn.)

8 THE COURTROOM DEPUTY: State your full name.

9 THE WITNESS: Jason Eugene McKee.

10 THE COURTROOM DEPUTY: Thank you. Please be seated.

11 **JASON MCKEE, CALLED BY THE DEFENSE, SWORN**

12 **DIRECT EXAMINATION**

13 BY MR. ALLEN:

14 Q Good morning, sir.

15 A Good morning.

16 Q So there is a microphone there. It's important that you
17 speak up so that the jurors over here can hear you and the
18 court reporter can pick you up. If you can wait for me to
19 finish my question completely before you give your answer so
20 the court reporter is happier with me at the end of the day,
21 okay?

22 A Sounds great.

23 Q Mr. McKee, where do you live?

24 A In the big city of Elkhart, Indiana.

25 Q And where is that in relationship to actual big cities in

DIRECT EXAMINATION OF JASON MCKEE

1 Illinois?

2 A I'm two hours south of St. Louis. It's a town of a
3 thousand people.

4 Q Have you spent the majority of your life in that area?

5 A Entire life. Related to everybody there.

6 Q And what is your educational background?

7 A I had normal high school, and then out of high school I
8 went into the military. And once I come out of the military,
9 I was in a trade. I'm an electrician by trade. That's what I
10 do. I work construction.

11 Q What branch of military did you serve in?

12 A I was in the United States Army. And I spent nine years
13 in the Illinois National Guard.

14 Q And what years were you in the Army?

15 A I was actually a combat medic. When I got out, I was a
16 staff sergeant. Combat medic is what I did the whole time I
17 was in.

18 Q Did you -- during your tour, did you see combat?

19 A No, I did not. I was actually in between desert
20 conflicts. I'm 48 years old. So I was in between the Desert
21 Storm and then the war in Afghanistan.

22 Q Are you married?

23 A I am. This is my wife back there in the back, Rachel.
24 We have been married for a couple years. Yes, so happily
25 married.

DIRECT EXAMINATION OF JASON MCKEE

1 Q Well, you're under oath. So it's a good thing you said
2 that.

3 A Yeah, it is a good thing.

4 Q Do you have any children?

5 A No children.

6 Q And, sir, what type of work do you do?

7 A I'm an electrician. So once I turned into an
8 apprentice -- whenever I had gotten back out of my boot camp
9 and my training period for the military, I went to an
10 apprentice school. I joined the military actually to pay for
11 college and then ended up not going to college. School of
12 hard knocks all the way.

13 So then once I did the apprenticeship, there's always
14 on-the-job training. And then I worked in that profession up
15 to 23 years. And then recently I actually -- I have a little
16 bit of real estate, rental properties and stuff that over the
17 years I rehabbed. So I've just kind of -- I worked solely in
18 construction in that now. I just kind of maintenance all my
19 own properties.

20 Q At some point in time, were you involved with a company
21 called Ambit Energy?

22 A I was.

23 Q So hold on. So what is Ambit Energy?

24 A It was a direct selling company. We sold electricity to
25 customers. The company was actually kind of the part of my

DIRECT EXAMINATION OF JASON MCKEE

1 life where I quit being an electrician and started working for
2 me because I really learned about business and about personal
3 development and how to succeed on my own versus having to be
4 an employee.

5 Q And when were you affiliated with Ambit Energy?

6 A Actually I still am to this day, but it started back in
7 '90s or -- I think 2020. Wait a second. No. It would have
8 been 2017. I think I started then, yeah.

9 Q 2017?

10 A Yeah. I have not done anything really with the company
11 much since the past three years, but I still have customers
12 and stuff that call me, and I still take care of all my
13 customers.

14 Q And at some point did you become familiar with a company
15 by the name of Oasis International Group?

16 A I did.

17 Q And can you tell the jury how you initially became aware
18 of a company called Oasis International Group?

19 A So through Ambit, me being from Illinois you go to a lot
20 of conferences and stuff like that. And all my friends are --
21 a lot of them had already put money into Oasis. And just
22 through general conversation, you know, people talking about
23 how they're successful and what's going on here and what's
24 going on there and what different parts of business to be
25 successful in and stuff like that, and so I asked about it,

DIRECT EXAMINATION OF JASON MCKEE

1 and that's how I inquired about it.

2 Q Okay. And what was your initial understanding from the
3 initial information about Oasis International Group? What was
4 your initial understanding?

5 A First I was clueless.

6 Q Okay.

7 A But after -- what happened was after I spoke with one of
8 my good friends -- we had spoke about it. He had already had
9 money involved in it. And I knew several of my other friends
10 who had worked on Wall Street in the past, and so I just
11 started calling them up and different people that I knew that
12 we had spoke to who had money in. I started calling them and
13 just kind of asking them about what exactly it was.

14 Q Without getting into what anybody specifically told you,
15 what was your general knowledge after having those
16 conversations as to what Oasis International Group was about?

17 A It was a diversified company that you could put your
18 money into that had a good return. And you basically loaned
19 the company your money, and you would get good return from
20 that.

21 Q Based on those initial conversations -- let me back up.

22 When you say "a diversified company," what did you
23 understand that -- what did you mean by that word?

24 A That they had investments in -- they were doing forex
25 trading. They had real estate. They had gold and silver.

DIRECT EXAMINATION OF JASON MCKEE

1 And they were looking into buying into different businesses
2 and companies.

3 Q Like equity financing and companies?

4 A I'm not sure what you mean by equity financing.

5 Q Okay. But putting money -- like investing in other
6 companies?

7 A Yes, sir.

8 Q And based on the initial sort of conversations with
9 individuals who had already been in, what did you do next in
10 relationship to Oasis International Group?

11 A Well, I personally before I put my money in, I started
12 doing research on Mike, trying to find out --

13 Q Hold on. When you say Mike, Mike who?

14 A Mike DaCorta.

15 Q So go ahead.

16 A So whenever -- I called some of my friends. Like I said,
17 I had some that worked on Wall Street. I talked to them
18 about -- this industry was something that I knew nothing about
19 when it came to forex trading and different types of companies
20 like this. I didn't have a clue about it. So I was asking
21 them how they felt about it. And I figured if they worked on
22 Wall Street, they probably had a little bit of an inside on
23 the industry.

24 One of my friends told me that --

25 MR. CHEE: Objection. Hearsay.

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1 THE COURT: Sustained.

2 BY MR. ALLEN:

3 Q Without getting into what you were specifically told,
4 what was your understanding based on the global investigation
5 you had done?

6 A Well, we didn't find anything negative on Mike DaCorta.
7 And from what everybody told me, I felt real confident on
8 putting my money in.

9 Q What was the next step you took in relationship to Oasis
10 International Group? Did you talk with any of the principals?
11 Did you --

12 A Yes.

13 Q -- talk with Mr. DaCorta?

14 A I talked to Mr. DaCorta specifically, and I also talked
15 to Ray Montie.

16 Q And Ray Montie, was he affiliated with Ambit Energy?

17 A He was affiliated with Ambit and a friend.

18 Q Was Mr. DaCorta affiliated with Ambit Energy?

19 A Yes, he was at one time.

20 Q And let's talk about your conversation with Mr. DaCorta.
21 Do you recall where that took place, your initial
22 conversation?

23 A The initial conversation, I talked to him on the phone.

24 Q Let's talk about that phone conversation. I assume the
25 purpose of that conversation was to learn more about this

DIRECT EXAMINATION OF JASON MCKEE

1 investment opportunity?

2 A Most definitely.

3 Q And you had indicated earlier that you understood it
4 would be a loan, correct?

5 A Yes.

6 MR. CHEE: Leading question. Objection.

7 THE COURT: Sustained. Don't lead.

8 BY MR. ALLEN:

9 Q What did you understand the opportunity to be before you
10 talked to Mr. DaCorta?

11 A Your monies would be loaned to the company on a
12 promissory note. And from that, you would be given 12 percent
13 annual interest or 25 percent of the transaction fees that the
14 company generated.

15 Q So let's talk about the phone conversation you had with
16 Mr. DaCorta. Do you recall approximately what year that was?

17 A It was at the end of 2018.

18 Q And you had this phone conversation before you actually
19 loaned any money to Oasis International Group?

20 A Yes, I did.

21 Q And based on your conversation with Mr. DaCorta, what was
22 your understanding as to the opportunity with OIG?

23 A That they were going to -- that they were putting a
24 portion of the money into a trading account. They were buying
25 real estate. They were buying precious metals. They were

DIRECT EXAMINATION OF JASON MCKEE

1 investing in other companies. That's how I understood it.

2 And I'm not a financial guy. So whenever my Edward Jones guy
3 always told me to be diversified, Mike was diversified.

4 Mr. DaCorta was diversified. Oasis was diversified. So
5 therefore I had a little bit of comfort there.

6 Q Was your understanding of what OIG was going to be using
7 your loan money for different from the first conversation you
8 had with this group of people than what you had with
9 Mr. DaCorta, or are they the same?

10 A They were all the same.

11 Q Did you subsequently have any other conversations with
12 Mr. DaCorta prior to -- did you eventually participate as a
13 lender to OIG?

14 A At first I went to a Christmas party in 2018 before I put
15 any money in.

16 Q Okay.

17 A Where I could actually physically shake hands and get a
18 personal read of the people.

19 Q And where was this Christmas party?

20 A Sarasota, Florida.

21 Q And do you recall what establishment it took place at?

22 A I think it was at the Ritz-Carlton.

23 Q And how many people were at this holiday party; do you
24 recall roughly?

25 A Several hundred.

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1 Q And what was the purpose of the Christmas party from your
2 understanding?

3 A Well, it was just a time to -- as a thank you for being
4 part of the company.

5 Q For the lenders?

6 A Yes.

7 Q But you were not a lender at --

8 A At that time I was not a lender.

9 Q Were there other people that you met at the holiday party
10 in 2018 that were similarly situated to you, they had not
11 become lenders yet?

12 A Possibly a couple, but I think most people there were
13 lenders.

14 Q What individuals who were affiliated with Oasis
15 International Group did you interact with at this holiday
16 party, if any?

17 A Say that question again.

18 Q Sure. Did you interact with anybody from Oasis
19 International Group, not lenders but principals or employees
20 at this holiday party?

21 A Oh, yeah.

22 Q And who were they?

23 A I spoke with and talked with Mr. DaCorta. I talked with
24 Mr. Montie. I talked with several people who were office
25 staff that was there. I actually sat at the table with one of

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1 the traders. I can't remember what his name was. He sat at
2 the same table with me, so yes.

3 Q Did you ever go to any other holiday parties?

4 A I did. I went back to the 2019 one as well.

5 Q OIG was closed in April of 2019. Is it possible you have
6 your dates mistaken? You went to '17 and '18?

7 A Yeah. '18, I'm sorry. It's 2017, 2018. Yes, that is
8 correct.

9 Q So let's regroup here a little bit. So we are at the '17
10 holiday party.

11 A That's prior to me putting my money in.

12 Q And you interacted with Mr. DaCorta?

13 A Yes.

14 Q And did you say Mr. Anile?

15 A I seen Mr. Anile there, but I didn't really speak to him
16 much. He wasn't very personable.

17 Q And Mr. Montie?

18 A Yes.

19 Q Was there another name? I may have missed it.

20 A It was just some of the other office staff that was
21 there.

22 Q Do you remember somebody by the name of Deborah Cheslow?

23 A Yes, I know Deborah Cheslow.

24 Q Do you know somebody by the name of John?

25 A I know John Paniagua, but he was not at that Christmas

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1 party from what I can remember.

2 Q And what was your understanding of Mr. Anile's role at
3 Oasis International Group?

4 A He was the company attorney.

5 Q He was the attorney?

6 A Yes.

7 Q Did you ever -- did that understanding ever change at any
8 point in time that you were affiliated with -- I mean, that
9 you were involved with Oasis International?

10 A Never.

11 Q Did you ever learn from anybody whether it be a lender,
12 whether it be a principal, whether it be an employee of OIG
13 that Mr. Anile was anything other than the attorney for Oasis
14 International Group?

15 A That's all he was.

16 Q And did you speak with Mr. DaCorta about the investment
17 opportunity when you were at Oasis International Group?

18 A Yeah.

19 Q And what was your understanding following that
20 conversation with Mr. DaCorta as to what this loan opportunity
21 was?

22 A Once again, it was always the same. It was really
23 looking forward -- actually they had -- with some of the
24 companies -- I was always big into fitness, and Mr. DaCorta's
25 big into fitness as well. And they were doing the protein and

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1 stuff like that. And I actually bought some of the product,
2 and it worked very well. And so we talked about a lot of
3 stuff when it dealt with other business opportunities with the
4 company, what they were looking into.

5 Q I am showing you what's already been admitted into
6 evidence as Defense Exhibit 152. If we could use the Elmo
7 here. Is this what you are talking about?

8 A Yeah. I still got some in my cabinet.

9 Q And tell the jury a little bit more about this product
10 and what you understood about it.

11 A Okay. So the big container is the -- wait a second.
12 That's the preworkout. The biggest container you see there is
13 the preworkout stuff that kind of gets you amped up before you
14 go in to work out. And then the creatine powder, I always
15 took that, yes, that with the preworkout. And then there's
16 also a bigger jug of the actual protein. And I took that,
17 drank it after every single workout I had.

18 Q And you found it to be effective?

19 A Yeah. It was a really good product actually.

20 Q What was your understanding about this business regarding
21 the protein stuff?

22 A That that is just another part of the diversification of
23 the company to bring in revenues for the company as far as our
24 investment goes.

25 Q You had indicated that you were led to believe that a

DIRECT EXAMINATION OF JASON MCKEE

1 portion of the money would be used with forex?

2 A That's correct.

3 Q And what was the other portion to be used for as you
4 understood it?

5 A For absolutely everything else, the real estate, going
6 into other companies.

7 Q Including this company --

8 A Yeah, Roar of the Lion.

9 Q Okay.

10 A Yeah. There was another company too. I can't remember
11 what it was that they were talking about at the time that they
12 were going into another deal with. And then the precious
13 metals.

14 Q What was your understanding about the precious metals?

15 A That they were actually buying physical in-hand precious
16 metals, plus had some as far as on their trading positions.

17 Q So after your meeting with Mr. DaCorta in 2017 at the
18 holiday party, did you ultimately end up loaning money to
19 Oasis International Group?

20 A I did.

21 Q And how much did you end up loaning?

22 A \$323,000.

23 Q Wow. Where did that come from?

24 A That come from working as an electrician, saving my
25 money. As part of -- once you quit working for the electrical

DIRECT EXAMINATION OF JASON MCKEE

1 union, you can withdraw your money from their pension plan,
2 and I did that.

3 Q And did you -- were you provided any loan documents?

4 A Yes. I signed a promissory note.

5 Q And what was your recollection as to the terms of that
6 promissory note?

7 A That I was loaning them the money. And as a loan to
8 them, they were going to pay me back 12 percent yearly
9 interest or 25 percent of the transaction fees, whatever was
10 greater.

11 Q What was your understanding about this transaction fee?
12 What was your understanding that that would be? What was
13 that?

14 A My understanding is that they were on the spread fees
15 that were generated. If they were higher amounts than just
16 the 12 percent, the company actually rewarded us greater than,
17 off the spread fees.

18 Q And after you loaned this 300 and some thousand dollars
19 to Oasis International Group, were you provided the ability to
20 know how much interest you were making on the principal you
21 had loaned?

22 A Yeah.

23 Q Tell the jury about that.

24 A So actually every single night I could get on to my
25 website. I had to log in, username, log in, and I could get

DIRECT EXAMINATION OF JASON MCKEE

1 on the computer and access what the daily generations were on
2 a daily basis. They showed what the activities were for the
3 days.

4 Q Were you able to see what Oasis International Group was
5 doing in the trading or just what your interest was?

6 A No trading.

7 Q Did you expect to see what they were doing in the
8 trading?

9 A Wouldn't have made sense if they did.

10 Q I understand that. But was that your expectation that
11 you would know how they were doing in the trading, or did you
12 have some other expectation?

13 A I loaned them the money to make money. Whatever they did
14 is what they did. I loaned them the money.

15 Q Meaning your principal and interest returned? Is that a
16 yes?

17 A Yes.

18 Q At any time prior to Oasis International Group being
19 taken over by the receiver in April of 2019, did you actually
20 withdraw any money from either your principal or interest?

21 A I withdrew \$33,000.

22 Q Was that interest or principal or both?

23 A Well, it would have had to have been interest.

24 Q And did you ever have any issues getting that interest?

25 A Not at all.

DIRECT EXAMINATION OF JASON MCKEE

1 Q Did you ever have any problems with your loan or the
2 interest prior to April 18 of 2019?

3 A Never an issue.

4 Q You indicated that you were able to log on. Did the
5 logon system change between 2017 and 2019 for you?

6 A It did change.

7 Q Let's talk about the first, the early on login. Can you
8 describe for the jury how that took place, if you recall?

9 A The login was different because the formatting was
10 different, and then the formatting evolved. Like the
11 formatting got more user friendly and better. That's how it
12 went is the formatting and the user friendliness of it got
13 easier.

14 Q Your understanding as to -- well, did you have an
15 understanding about how the transaction fee was being
16 generated?

17 A The transaction fee from the spreads?

18 Q Yeah, for what spreads were. What was your
19 understanding?

20 A Before this I had no clue what a spread was, but then
21 from -- once again, I know that there's pips out there, and I
22 know that we were getting a quarter of a pip, and I don't know
23 what a pip is. Don't even know what the definition of a pip
24 is, but that's -- I guess in their trade talk, that is part of
25 a process that is throughout the market, and that's how

DIRECT EXAMINATION OF JASON MCKEE

1 brokers make their money is from pips.

2 Q And did it matter to you how the money was being made?

3 A Say that again.

4 Q Did it matter to you how that was taking place?

5 A No.

6 Q What mattered to you?

7 A Return on my money. That's what mattered to me is I
8 wanted the return on my money.

9 Q Do you ever recall Mr. DaCorta or anybody else
10 representing to you that they were market makers?

11 A Market making, yes.

12 Q What was your understanding -- was that term defined for
13 you by Mr. DaCorta or others at Oasis International Group?

14 A It was -- from my understanding it was from their
15 broker-dealer license that they had.

16 Q If you learned that market maker is actually a large bank
17 that provides liquidity to a trading platform versus a
18 broker-dealer that makes money, a retail broker-dealer that
19 makes money, would that have made any difference to you?

20 MR. CHEE: Your Honor, I object to the question.

21 THE COURT: What's the legal grounds?

22 MR. CHEE: Counsel testifying.

23 THE COURT: Overruled.

24 A Would you repeat the question, please?

25 BY MR. ALLEN:

DIRECT EXAMINATION OF JASON MCKEE

1 Q Sure. If you had learned -- you indicated that you were
2 told that a market maker was the spread that the broker-dealer
3 makes with the trading. If you learned that the technical
4 definition of market maker is a large bank that provides
5 liquidity to a marketplace, would that have made any
6 difference to you receiving one or the other definition of
7 market maker?

8 A It's meaningless.

9 Q Because what was important to you?

10 A I loaned the company my money, and I was trying to have a
11 better future for me and my wife. So I wanted -- 12 percent
12 on \$300,000 is a pretty nice return.

13 Q You indicated --

14 MR. ALLEN: If I can have a moment, Your Honor.

15 THE COURT: Yes.

16 BY MR. ALLEN:

17 Q I'm showing you what's already been introduced. You
18 indicated you had done some background check on Mr. DaCorta?

19 A Yes.

20 Q And you didn't find anything at all, correct?

21 A Nothing.

22 Q And that was similar to what other people had done?

23 A That's exactly right.

24 Q I'm showing you what's already been admitted into
25 evidence as Defense Exhibit 308, which is an agreement between

DIRECT EXAMINATION OF JASON MCKEE

1 Mr. DaCorta and the National Futures Association. Have you
2 seen this before?

3 A Yes.

4 Q Was it something that I provided to you before your
5 testimony?

6 A Yes.

7 Q Have you had a chance to fully read what's included in
8 Defense Exhibit 308, the agreement between Mr. DaCorta and the
9 National Futures Association?

10 A Yes, I have read it.

11 Q Can you read the paragraph right here? The second
12 paragraph, the big one.

13 A Read the whole thing starting with, "Whereas"?

14 Q Yes.

15 A "Whereas in 2009, NFA conducted an audit of International
16 Currency Traders, Ltd., ICT, a forex commodity trading
17 advisor, CTA, NFA member. The audit cited the firm and its
18 principal, Michael DaCorta, with certain deficiencies in
19 connection with their solicitations of investors to make loans
20 to ICT and/or DaCorta and purchase stock in a company owned
21 and operated by DaCorta. In addition, the audit also cited
22 ICT with failing to register certain individuals as associated
23 persons, list certain branch offices, supervise APs working at
24 the branch offices, adopt and implement promotional material
25 procedures, or develop and implement a business continuity and

DIRECT EXAMINATION OF JASON MCKEE

1 disaster recovery program or adequate ethics training program.
2 ICT and DaCorta denied many of the findings in NFA's audit
3 report, especially those relating to their solicitations of
4 loans and stock purchases from investors."

5 Q Can you read the very last paragraph?

6 A Starting, "In consideration"?

7 Q Please.

8 A "In consideration of NFA's agreement, ICT, without
9 admitting or denying the findings in NFA's audit, hereby
10 agrees to withdraw from NFA membership and not reapply for
11 registration as an NFA member, or act as a principal of an NFA
12 member at any time in the future; and DaCorta, without
13 admitting or denying the findings in NFA's audit, hereby
14 agrees to withdraw from NFA association membership and as a
15 principal of ICT and not reapply for registration as an NFA
16 member or associate, or act as a principal of an NFA member.
17 At any time in the future ICT and DaCorta agree that in the
18 event they were to breach this agreement by applying for
19 registration as an NFA member or associate or acting as a
20 principal of the NFA member, then their breach of this
21 agreement shall constitute sole good cause for: One, denying
22 their application for registration as an NFA member or an
23 associate; two, denying the application for registration as an
24 NFA member of any firm of which either of them is a principal;
25 and/or three, revoking the registration of any NFA member of

DIRECT EXAMINATION OF JASON MCKEE

1 which either of them is a principal."

2 Q Did Mr. DaCorta tell you about this settlement agreement
3 he had with the NFA prior to you loaning his company \$300,000?

4 A No.

5 Q If Mr. DaCorta had told you about this settlement
6 agreement, would have that affected your decision to loan his
7 company money in any way?

8 A No.

9 Q Why not?

10 A First off, I don't even know what the NFA is. And I
11 don't know if it was even pertinent to what he is doing now,
12 is something he needs.

13 Q If I told you that the NFA was a regulatory agency that
14 regulated individuals who were trading in forex for their
15 clients' money or even pooling a whole bunch of clients' money
16 and trading for them in a fiduciary fashion, would that have
17 made a difference?

18 A Restate that question.

19 Q Sure. You indicated that you don't think this would have
20 made any difference because you didn't know what the NFA was.
21 Okay? So if I told you that the NFA was a regulatory agency
22 that regulated individuals who were trading commodities which
23 includes currencies for individual clients, would this
24 settlement agreement have made a difference to you in loaning
25 your money to Oasis International Group?

DIRECT EXAMINATION OF JASON MCKEE

1 A No, because I loaned the company my money. I didn't care
2 what they did with it, and I didn't care about that license.

3 Q Were you under the impression from your conversations
4 with Mr. DaCorta or with anybody else at OIG that Mr. DaCorta
5 would be trading your money for profit and loss for you?

6 MR. CHEE: Objection. Hearsay.

7 THE COURT: Overruled.

8 A He was trading for himself or for Oasis. Oasis was
9 trading for Oasis.

10 BY MR. ALLEN:

11 Q And what was your understanding of who would get the
12 profits or losses of that trading versus 1 percent on your
13 loan?

14 A I was under a loan agreement. I didn't care about the
15 profit and losses because he had made a commitment to me with
16 a loan. I loaned him my money, and he was paying me back
17 interest that he owed me on the loan. So that had never been
18 jeopardized or never been a part where it was a problem. Any
19 time -- I know hundreds of people who had loaned money to this
20 company, and nobody had ever had a problem getting their money
21 back or nobody had ever filed a complaint or anything saying
22 that they called up Oasis and asked for the money, and nobody
23 ever said that, well, they said we couldn't get our money this
24 time. Nobody ever said that. So it was -- I was under the
25 loan agreement. And so their profits and losses, that was

DIRECT EXAMINATION OF JASON MCKEE

1 Oasis' problem, not mine.

2 Q If you were told that the principal and interest on your
3 loan would be returned to you through the proceeds of selling
4 real estate, would have that mattered to you?

5 A Once again, it didn't matter. I wanted my promissory
6 note, the -- I wanted the terms and conditions of my
7 promissory note met, period. That's what I wanted. I wanted
8 the 12 percent or 25 percent, whatever was greater.

9 Q If you learned that the spread that was being generated
10 on the trading platform which was determining whether you got
11 the 1 percent per month or greater depending on the terms of
12 your agreement was being created through money that you and
13 others had loaned and was not coming from some other source,
14 would have that made a difference to you?

15 A Once again, I loaned him my money wanting to -- with the
16 history that they had of paying everybody back and knowing
17 some of the folks who had money in, that wasn't an issue for
18 me. I wanted the terms of my contract to be completed.

19 Q If you learned that the money, your money that was being
20 loaned and other people's money that was being loaned was used
21 in addition to the real estate, in addition to hard gold and
22 silver and in addition to investing in companies like Roar of
23 the Lion was also used by Mr. DaCorta to make his car payment,
24 would that have made a difference to you?

25 A I would say probably most corporations in the country pay

DIRECT EXAMINATION OF JASON MCKEE

1 for their CEO's cars and houses. So what would be any
2 different with this?

3 Q Would it have made a difference to you to learn that
4 Mr. DaCorta and others were residing in some of the properties
5 that they were purchasing with the lenders' money?

6 A No. Once again, corporations all over the world do that
7 every single day.

8 Q Would it have made a difference to you if you learned
9 that Mr. DaCorta helped subsidize his daughter's college
10 education by paying the room and board part of it with some of
11 the money that was being loaned to Oasis International Group?

12 A Once again, as the CEO of Oasis and in the contract of
13 my -- that I signed, the promissory note, it was very, very
14 clear that they could use the money for just about anything
15 that they wanted to. And I signed it.

16 Q Do you think you are responsible for what you agreed to
17 in a written document?

18 A That's the purpose, right?

19 Q Do you think people shouldn't be held responsible if they
20 chose not to read a written document they signed?

21 A That's shame on them.

22 Q If you learned that that holiday party you went to in
23 2017 cost \$130,000 and the money that others were lending paid
24 for that, would have that changed your decision to loan money
25 to Oasis International Group?

DIRECT EXAMINATION OF JASON MCKEE

1 A Once again, that was as a -- as corporate America,
2 companies do that stuff all the time for stockholders, for
3 people who are involved in the companies and stuff like that.
4 So, no, it was absolutely nothing out of the ordinary that you
5 would expect from typical corporation behavior from my
6 perspective. It was all fine.

7 Q Did you end up referring others to this lending
8 opportunity?

9 A I did.

10 Q Who else did you refer?

11 A Several of my family members, friends. I referred
12 several people because of the success that my account was
13 having.

14 Q And did you receive any type of extra interest by doing
15 that?

16 A Yes. There was additional interest that was added to my
17 account.

18 Q Can you explain to the jury how that worked? I think
19 they called them lender service agents?

20 A Yes. Whenever somebody else had put in money -- so my
21 mom put in \$10,000. She is a school bus driver, and that was
22 an annuity for my mom. So we put her \$10,000 in there. And
23 from that, I had received an additional interest because she
24 put in her \$10,000 as a fee, as additional interest into my
25 account from her doing that, and then also from an uncle of

DIRECT EXAMINATION OF JASON MCKEE

1 mine and from several of my friends.

2 Q Have you received any of your money back other than what
3 you with withdrew?

4 A Besides what I withdrew, not a penny.

5 Q Have your friends and families that you referred received
6 any of their money back?

7 A Not a penny.

8 Q Who do you think is responsible for you not receiving
9 your money or your friends and family not receiving their
10 money back?

11 MR. CHEE: Objection, Your Honor.

12 THE COURT: Let's approach, please.

13 (Bench conference on the record.)

14 THE COURT: I don't understand his qualifications for
15 saying who is responsible.

16 MR. ALLEN: It's his opinion.

17 THE COURT: He is not an expert. So why are you
18 eliciting an opinion from him?

19 MR. ALLEN: For the same reason the government
20 elicited opinions from their lenders that they blame
21 Mr. DaCorta. He's not blaming Mr. DaCorta.

22 THE COURT: All right. And what's your objection?

23 MR. CHEE: Foundation, speculation. He basically
24 said that he had no understanding whatsoever of the internal
25 operations of this company.

DIRECT EXAMINATION OF JASON MCKEE

1 THE COURT: All right. Mr. Allen had a good point.
2 You did elicit from these victims that it's all Michael's
3 fault. And he's going to elicit that's it's all, I guess,
4 Burt Wiand's fault.

5 MR. CHEE: There is another issue, Your Honor, if I
6 may.

7 THE COURT: Yes.

8 MR. CHEE: That is objectionable. It's not relevant,
9 Your Honor, whatever Burt Wiand did. He came in after the
10 events of this case.

11 THE COURT: I think it's offered to rebut your
12 witnesses that say this disaster was caused by DaCorta. So
13 I'm going to permit it.

14 (End of bench conference.)

15 THE COURT: All right. We will try to keep going
16 until lunch gets here or 12:30, whichever comes first.

17 Go ahead.

18 MR. ALLEN: Yes, sir.

19 BY MR. ALLEN:

20 Q In your opinion, why do you believe neither you nor your
21 friends and family have received their money back?

22 A Because of government intervention.

23 Q How so?

24 A First off, by bringing on this case. I always ask the
25 question, why didn't they just come into the office to Oasis

DIRECT EXAMINATION OF JASON MCKEE

1 headquarters? Why didn't they come in and close down the
2 books and say, hey, why don't we do an audit because we need
3 to understand what you guys are doing. And from what we find
4 here, then we'll make a judgment whether or not there is a
5 crime being committed, but they didn't do that. They come in
6 and just shut them down, said it was a Ponzi scheme, took all
7 the money. And now the only person I know that's benefited
8 from it was the receiver who has charged us millions and
9 millions of our own money. And actually they accused
10 Mr. DaCorta of living the high life, but it appears that they
11 have charged now more money than Mr. DaCorta paid himself. So
12 I don't know who is living the high life, but I know I haven't
13 received one dollar of my money.

14 Q If you learned that in 2018 Oasis International Group was
15 losing a significant amount of money, millions of dollars --

16 A Uh-huh.

17 Q -- on the trading of forex in 2018, would have you wanted
18 Mr. DaCorta to tell you about those trading losses?

19 A I don't find it -- with only a portion of the money going
20 into the trading account, the company is still solvent. No, I
21 didn't -- I don't require him to do that because that's his
22 business. And he is taking care of his business, and he is
23 continuing to fulfill his duty to me.

24 Q If you learned that maybe the company wasn't solvent
25 enough to cover all of the outstanding loan obligations, would

DIRECT EXAMINATION OF JASON MCKEE

1 have you wanted Mr. DaCorta to tell you that, hey, Mr. McKee,
2 we are suffering some significant deficits in our trading?
3 Would you have wanted him to tell you that?

4 A Did the trading deficits break the company?

5 Q No, sir.

6 MR. CHEE: Your Honor, I have to object.

7 THE COURT: Overruled. You can't ask questions.

8 Just answer.

9 Put the Q again.

10 MR. ALLEN: Sure.

11 BY MR. ALLEN:

12 Q If the company had not become insolvent but didn't have
13 enough assets to cover every outstanding loan if everybody
14 asked for their loan to be repaid on the same day so that they
15 were all due in 90 days, would have you wanted Mr. DaCorta to
16 tell you that at the 2018 holiday party you were at?

17 A No, because it would cause mass panic amongst everybody.
18 Why are they so -- why do they never want to run on a bank?
19 The bank can't give you all your money back either. So why
20 they keep from telling everybody that is to keep from mass
21 hysteria so all the public don't go crazy and break their
22 financial system.

23 Q What would you have wanted Mr. DaCorta to do if he wasn't
24 telling you at the 2018 holiday party?

25 A Well --

CROSS-EXAMINATION OF JASON MCKEE

1 Q Regarding the company's finances.

2 A The definition of insanity is continuing to do the same
3 thing over and over. I hope the path that he was walking on
4 was walking -- he had to jump off of it and start rerouting
5 what's going on so the same objective isn't happening every
6 single time, so insanity isn't happening. So hopefully he was
7 changing his trading model if that was the case.

8 MR. ALLEN: May I have a moment, Your Honor?

9 THE COURT: Sure.

10 MR. ALLEN: No further questions, Your Honor.

11 THE COURT: All right. Cross-examination, please.

12 And ladies and gentlemen, just to let you know, the
13 receivership is under supervision of one of my colleagues.
14 This is all randomly assigned. It was randomly assigned to
15 the United States District Judge in this building and is being
16 handled appropriately pursuant to the law, but I don't have
17 it. Another judge does.

18 **CROSS-EXAMINATION**

19 BY MR. CHEE:

20 Q Good afternoon, sir.

21 A How are you doing?

22 Q I'd just like to thank you for your honorable service to
23 this country.

24 A Thank you.

25 Q Sir, on direct examination you told Mr. Allen that you

CROSS-EXAMINATION OF JASON MCKEE

1 would have preferred if at the outset an audit would have been
2 done on Oasis' books and records. Isn't that correct, sir?

3 A That is correct.

4 Q Are you aware, sir, that in fact a government entity, the
5 CFTC, did such an audit?

6 A Not aware of it.

7 Q And, sir, you are not aware of the CFTC's findings in
8 this case, are you?

9 A I read their complaint.

10 Q And the CFTC is the Commodity Futures Trading Commission;
11 is that correct, sir?

12 A That is correct.

13 Q And the CFTC's audit, sir, you are not aware that they
14 determined that Oasis had an \$88 million deficit?

15 MR. ALLEN: Objection, Your Honor. Objection, Your
16 Honor. He said he wasn't aware.

17 THE COURT: You asked his opinion.

18 So ladies and gentlemen, that will be overruled. On
19 cross-examination of course we test the metes and bounds of
20 the testimony. So I if say it's raining, he can say, well,
21 isn't it true it's dry as a bone outside. So that's all we
22 are doing is on cross. These questions are not offered for
23 substantive evidence. It's cross-examination of the metes and
24 bounds of the opinion that was rendered.

25 Go ahead.

CROSS-EXAMINATION OF JASON MCKEE

1 BY MR. CHEE:

2 Q And I will ask that question again, sir. You are not
3 aware that the CFTC did in fact do an audit and found an
4 \$88 million deficit upon an inspection and an examination of
5 all of Oasis' books and records. You're not aware of that,
6 are you, sir?

7 A No, I'm not.

8 Q And you're also not aware that according to the CFTC's
9 audit of all the books and records of Oasis, that Oasis only
10 had approximately \$17 million in assets. You are not aware of
11 that, are you, sir?

12 A I'm not.

13 Q And you are also not aware then that the CFTC's audit of
14 all the books and records --

15 THE COURT: We have tested the metes and bounds. He
16 is not aware of their audit. So let's move on. Otherwise,
17 it's just put for the question. He is not aware of the CFTC
18 audit. Go ahead.

19 BY MR. CHEE:

20 Q Are you aware of a \$17 million -- \$70 million gap in
21 Oasis' books and records?

22 A No. I'm sure it's been brought out in this court the
23 documentation of exactly where it was at.

24 MR. CHEE: Thank you, sir. No further questions.

25 THE COURT: Any redirect?

REDIRECT EXAMINATION OF JASON MCKEE

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REDIRECT EXAMINATION

BY MR. ALLEN:

Q What was your main concern?

A Return on my money.

Q Did you ever not get your money back prior to the receiver taking over the matter?

A Me nor anybody else that I have ever spoke to, which is hundreds of people who have loaned money to this company.

MR. ALLEN: No further questions. Thank you.

THE COURT: Thank you. You may go. Thank you. Or stay if you wish.

Let's call your next witness, please.

MR. ALLEN: Yes, Your Honor. We would call Kevin Johnson, please.

THE COURT: All right. Thank you.

THE COURTROOM DEPUTY: Please raise your right hand.

(Witness sworn.)

THE COURTROOM DEPUTY: Can you state your full name for the record.

THE WITNESS: Kevin Johnson.

THE COURTROOM DEPUTY: Thank you. Please be seated in the witness stand.

MR. ALLEN: Your Honor, it appears Mr. McKee has stayed in the courtroom. We were not planning on recalling him.

DIRECT EXAMINATION OF KEVIN JOHNSON

1 THE COURT: Like anybody else that's not a witness,
2 he may be present if he cares to, of course. He is welcome.

3 MR. ALLEN: Thank you, Your Honor.

4 **KEVIN JOHNSON, CALLED BY THE DEFENSE, SWORN**

5 **DIRECT EXAMINATION**

6 BY MR. ALLEN:

7 Q Mr. Johnson, I'm not sure if you stated your full name or
8 not. Can you state your full name for the record, please?

9 A Kevin Johnson.

10 Q And Mr. Johnson, where do you reside?

11 A 205 Appletree Lane, Clarks Summit, South Abington,
12 Pennsylvania.

13 Q So you have a pretty good Pennsylvania accent.

14 A New York, Pennsylvania.

15 Q So it's just important that you kind of slow down with
16 your answers so the jurors -- we can all, us from the South,
17 we can all make it out and so the court reporter can hear
18 everything that you're saying, okay? And there's a microphone
19 there. You are speaking loud enough now, but just speak loud
20 enough so everybody way over here can hear you, okay?

21 A Sure.

22 Q What was the name of the town in Pennsylvania?

23 A South Abington.

24 Q Can you give us some reference where that's located next
25 to, I don't know, a larger town in Pennsylvania?

DIRECT EXAMINATION OF KEVIN JOHNSON

1 A Twenty minutes from Scranton, Pennsylvania.

2 Q That's where they did the show "The Office"?

3 A I believe they -- from what I heard, they filmed an
4 episode there, yeah.

5 Q And how long have you lived there in that part of
6 Pennsylvania?

7 A I have been in Pennsylvania now for close to four years.

8 Q And how old are you?

9 A Forty-five.

10 Q So nearly all your life?

11 A No. Pennsylvania four years.

12 Q I thought you said 40. I apologize.

13 A I grew up in New York, yeah.

14 Q Was the majority of your life in New York before you
15 relocated to Pennsylvania?

16 A Yes. I was born in Queens and then raised in Suffolk
17 County, Long Island.

18 Q Are you married?

19 A I am.

20 Q And how long have you been married?

21 A Three years this coming -- this month.

22 Q Do you have any children?

23 A Yes, a two-and-a-half-year-old daughter.

24 Q And what do you do for a living?

25 A Variety of things. I'm a breeder of rare and exotic

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1 reptiles, snakes specifically. I do a little bit of part-time
2 contracting work, ex-realtor that I'm kind of getting back
3 into.

4 Q What type of contract work do you do?

5 A Sheetrock work, plumbing work, building decks, anything
6 really.

7 Q And how far did you go in school?

8 A Graduated high school, and I went to college for one year
9 before I left and then started a different business.

10 Q And give us a little more understanding of the snake
11 breeding that you do. How does that work? I mean, I know how
12 snakes breed but more generally as a business model?

13 A I get this pretty often, as you can imagine. When I was
14 a kid, I used to always have an interest in animals in
15 general, reptiles specifically. When I turned 18, I inherited
16 a little bit of money from my father passing away when I was a
17 kid. And I saw an opportunity to invest in some pretty rare
18 animals that had never been in existence before, purchased
19 them for 20-something thousand dollars. And it turned into a
20 very profitable thing for me.

21 So throughout my last 20-plus years, I didn't always
22 breed snakes as a full-time business, but on and off I did in
23 between different careers in real estate and different things.
24 And I have just always had a passion for animals and reptiles.
25 And just like people who breed dogs and horses, there is an

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1 opportunity to make money with certain types of reptiles as
2 well.

3 Q Does that require any special licensing?

4 A No, not for the animals that I deal with.

5 Q And can one make a decent living breeding snakes?

6 A Yes. You can make six figures a year.

7 Q And at some point, did you become familiar with an
8 investment opportunity through a company called Oasis
9 International Group?

10 A Yes, I did.

11 Q And do you recall approximately when that happened, like
12 the year? I don't need the months, but are we talking --

13 A I'm guesstimating around 2017.

14 Q And how did you first become familiar with Oasis
15 International Group?

16 A Through my friend, Ray Montie.

17 Q We have heard testimony that Mr. Montie was affiliated
18 with Ambit Energy. Were you also affiliated Ambit Energy?

19 A I was a consultant with Ambit Energy. I didn't put a lot
20 of time into that business but I was a consultant and had met
21 a lot of people in the business and in Ray's network of
22 people.

23 Q You indicated that you were friends with Mr. Montie. Did
24 that friendship predate Ambit Energy?

25 A It did, yeah. I've been friends with Ray since probably

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1 the mid 1990s.

2 Q And how did you come into contact with Mr. Montie in the
3 1990s?

4 A One of my childhood friends, my buddy Charlie, he met Ray
5 Montie at a local pizzeria in Hauppauge, New York,
6 Branchinelli's. And we -- well, Charlie knew the owners of
7 the pizzeria at that point. And the guy Marco who owned the
8 place said, that's my buddy Ray. You should talk to him.
9 He's a successful guy. Charlie introduced me to him. Ray was
10 involved with a different network marketing company at that
11 point, and Charlie introduced me to Ray. I went to a meeting
12 for a different communications company, and that's how I got
13 involved with, you know, my first business with Ray and how I
14 became friends with Ray from there on.

15 Q Have you continued to be in business with Mr. Montie
16 throughout the years?

17 A In business meetings like with Ambit and --

18 Q Anything.

19 A Network marketing companies?

20 Q Or any type of company.

21 A On and off throughout the years. Not consistently.

22 Q So your first introduction to Oasis International Group
23 was through a conversation you had with Mr. Montie?

24 A Correct, yeah.

25 Q Without getting into what Mr. Montie told you, what was

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1 your understanding as to what OIG was about based on those
2 initial meetings with Mr. Montie?

3 A Basically an opportunity to put money into an investment
4 that was going to be diverse in many ways and probably a
5 better return on my money than putting it into a checking
6 account. I was under the impression that the company was not
7 just generating money from, you know, trading but also from
8 real estate investments, from silver, gold, and I'm sure other
9 things that were going on.

10 Q Had you ever invested prior to this meeting with
11 Mr. Montie in anything?

12 A Yes.

13 Q Let's talk about your prior investments. What type of
14 things have you invested in prior to learning about Oasis
15 International Group?

16 A I invested into a cellular phone store company with a
17 friend of mine, put money in that and became a partner in that
18 back in the early 2000s I believe it was.

19 Q You said you put some money into a cell phone company?

20 A A storefront. Two of them, actually.

21 Q Were you a part owner?

22 A I was, yes.

23 Q And you shared in the profit and losses of that cell
24 phone company as an owner, part owner?

25 A I did.

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1 Q What other type of investments had you been involved in
2 prior to this meeting with Mr. Montie?

3 A Primarily I would say snake purchases, snake investments,
4 yeah. For the most part I was never really big into -- I
5 might have bought one stock over my whole life. And I was not
6 big into that. I was more entrepreneurial.

7 Q Is the goal in investing in snakes to buy them at one
8 price and sell them at a higher price?

9 A That's generally the goal, yeah. Generally to buy
10 animals that are first of its kind, animals that you may find
11 in a pet shop but due to their colors and patterns the value
12 is way more. And it takes generally a lot longer for them to
13 become affordable to the average person in a pet shop. So
14 private hobbyists like myself would have a home-based business
15 of some sense or do it in a different way, but that's the
16 overall goal, yeah.

17 Q Was the matter that you learned about from Mr. Montie,
18 was it similar or dissimilar to the cell phone opportunity?

19 A I would say different. One is a traditional business,
20 and this was more of an investment.

21 Q And what was your understanding from that initial meeting
22 as to how the investment would work?

23 A I would invest whatever I wanted to invest. And there
24 would be -- I don't know if it was monthly or annual but a
25 minimum of 12 percent return with the possibility of a larger

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1 upside as well.

2 Q You had indicated that you had previously purchased a
3 stock?

4 A Yeah.

5 Q And when one buys a stock, it is either going to go up or
6 go down.

7 A Correct.

8 Q Was the investment opportunity that you learned about
9 through your conversations with Mr. Montie like that or was it
10 something different than like buying a stock?

11 A Different. Yes, very different.

12 Q And how was it different?

13 A Because my eggs weren't all in one basket. It was
14 diversified among many revenue streams or opportunities like I
15 mentioned earlier with silver, real estate, and whatever else
16 was generating money.

17 Q And your recollection was a 12 percent return or a
18 potential for greater?

19 A Yeah. I believe the promissory note was a minimum of
20 12 percent return annually.

21 Q Do you recall how the greater than 12 percent would come
22 about, if possible?

23 A I think it was based on more earnings, I guess would be
24 the best way to sum it up.

25 Q Do you recall hearing the term "transaction fee" or

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1 "spread"?

2 A I did, yes.

3 Q What was your understanding about transaction fee or
4 spread?

5 A In my head, I kind of related that to what I did in my
6 real estate career because I was a real estate agent in
7 New York for probably close to ten years. And in the real
8 estate world, I performed a transaction for either the people
9 I was listing the house for, or if I was working with a buyer
10 I would be the middleman. I performed a service, and I would
11 get a commission for what I did. So in my head that's kind of
12 how I perceived the transaction fee or spread. If they are
13 the same, I'm not even sure, but that's how I perceived it.

14 Q So what you were learning was that OIG was like the
15 equivalent of a broker in a real estate thing, but they're a
16 broker regarding what?

17 A Yeah, that's kind of how I formulated it in my head,
18 yeah. Kind of the way my brokerage firm and real estate
19 company was operating, I guess, where I would make money off
20 of things like that.

21 Q Off the transaction?

22 A Correct, yeah.

23 Q Not tied to profit and loss. Just a transaction fee?

24 MR. CHEE: Objection. Leading.

25 THE COURT: Sustained.

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1 BY MR. ALLEN:

2 Q Was it going to be tied to profit and loss trading or to
3 a transaction fee or to something else?

4 A I believe it was tied to everything. Like I said, I was
5 just a lender to the company who lent my money with a
6 promissory note, that I would receive a minimum of 12 percent
7 with a possibility of a greater upside. And there was many
8 avenues of revenue stream is the best I could sum it up I
9 think.

10 Q And after your initial meeting with Mr. Montie, did you
11 follow up with anybody else about this loan opportunity?

12 A I did, yeah. I mentioned it to a few people, yes.

13 Q Who did you follow up with?

14 A I mentioned it to at the time my fiancée who is now my
15 wife.

16 Q What's her name?

17 A Her name is Christy.

18 Q What was her maiden name?

19 A Last name was Leong, L-E-O-N-G.

20 Q So then you and your future wife have a conversation?

21 A Yeah.

22 Q And what did she do for a living at the time?

23 A She worked for Aetna doing data analysis, great with
24 numbers, actually did her own investing in her spare time with
25 stocks and all those things that I wasn't involved with, but

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1 she worked for Aetna.

2 Q And after this conversation with your soon-to-be wife,
3 future wife, what did you do next, if anything, in
4 relationship to this Oasis International Group lending
5 opportunity?

6 A Well, after I spoke to her about it initially, I had -- I
7 believe I got her on the phone for one of the calls that she
8 could listen to just to get a little more clarity because I
9 wasn't the best at explaining it. So I would get her on the
10 phone. I know at one time, at least one time, she had spoke
11 to Michael on the phone personally, but aside from that there
12 were times where she just listened to a general call to
13 understand the concept. And her coming from an investment
14 industry and having that mindset, it made perfect sense to
15 her.

16 Q And when you say a call, are you talking about conference
17 calls that were being put on --

18 A Yeah.

19 Q Hold on.

20 A Sorry.

21 Q That's okay. I'm not trying to be rude, but we can't
22 talk over each other.

23 So by conference call, are you referring to call-ins
24 that were being organized by Mr. Montie and other principals
25 of Oasis International Group?

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1 A Correct. Every so often, I guess every week, two weeks,
2 three weeks, whenever there was a need for a call, there would
3 be an open conference call where people could call in and kind
4 of listen to what the company was doing and what the
5 opportunity was. And after she heard that and I guess thought
6 about it, she invested some money.

7 Q And did she end up loaning money to Oasis International
8 Group?

9 A Yes. She initially -- if I remember correctly, she
10 initially loaned 17,000, but then I mentioned we were engaged
11 to be married. She was living in California at the time. I
12 was in New York. She had sold her house in California, and
13 she did very well on that. And she took a very large portion
14 of that and put that into Oasis as well. So it was well up
15 into the high six figures.

16 Q And did you separate and apart from your future wife loan
17 any money?

18 A Yeah. I loaned 15,000 was my investment.

19 Q Did you -- other than the conversations with
20 Mr. DaCorta -- I'm sorry -- the conversations with Mr. Montie
21 and your wife listening to the conference calls, did you have
22 any conversations with anybody else with Oasis International
23 Group prior to you or your future wife loaning money to OIG?

24 A I believe myself and my wife before she put the second
25 round of money in, which was a way larger sum, she had spoke

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1 to Gil at the office.

2 Q Would that be Gil Wilson?

3 A Gil Wilson, yes. I know she spoke to Mike again at the
4 office at least once.

5 Q I'm sorry. To who?

6 A Mike DaCorta.

7 Q Okay.

8 A So, yeah, there was other people that she had spoke to,
9 and I believe I might have been on the phone also. Probably a
10 speaker phone call, yeah.

11 Q Let's talk about the conversations with Mr. Wilson first.
12 Were there any questions asked by you or your wife that
13 Mr. Wilson refused to answer?

14 A Absolutely not.

15 Q Let's talk about the conversation between you and your
16 wife and Mr. DaCorta. Were there ever any questions about the
17 investment opportunity that you or your wife asked Mr. DaCorta
18 that he did not answer?

19 A Absolutely no. Very transparent.

20 Q And based on your give and take with Mr. DaCorta and with
21 Mr. Wilson, did your understanding of the lending opportunity
22 change in any way from your initial conversations with
23 Mr. Montie?

24 A No. They did not change, no.

25 Q You indicated that you understood throughout your

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1 conversations with Mr. Montie, your conversations with
2 Mr. Wilson and your conversations with Mr. DaCorta that OIG
3 was a diversified company. And I think you indicated that
4 included real estate, gold and silver. Did it include
5 anything else?

6 A From my initial understanding, that was the majority of
7 the investment. Yeah, that's my initial understanding. Gold
8 and silver, real estate, yeah.

9 Q You indicated that you previously worked in the real
10 estate industry?

11 A I did, yes.

12 Q Did it give you any concern that the money you were being
13 loaned was going to be used to purchase real estate?

14 A Not at all. Made me more confident.

15 Q Why is that?

16 A Real estate is usually a very solid investment in most
17 cases.

18 Q What about any concerns about the portion of the money
19 you loaning being used to buy gold and silver? Any concerns
20 about that?

21 A Not at all. Something I do myself. So it made me
22 comfortable.

23 Q You buy gold and silver?

24 A A little bit, yeah.

25 Q Why?

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1 A Just seems to be more stable. And I think it will stand
2 the test of time maybe more than the dollar.

3 Q Without getting into deep dark secrets, where do you keep
4 your gold and silver generally?

5 A In my home.

6 Q Not in a safety deposit box?

7 A No, not yet. We are looking into that.

8 Q And I don't want to know where. Did you ever come to
9 learn from your conversations with Mr. Montie or Mr. DaCorta
10 or Mr. Wilson or anybody else affiliated with Oasis
11 International Group that some of the money that you were
12 loaning might be used to invest in startup companies?

13 A I did hear that, actually yes. Now that you mention it,
14 I did hear that.

15 Q What was your understanding about that?

16 A I wasn't opposed to it. Like I mentioned earlier,
17 diversifying -- that was the initial reason why I wanted to
18 invest, because of diversity. And I did hear that. I just
19 forgot to mention that earlier.

20 Q What was your understanding on the money that you were
21 loaning and your wife were loaning about your ability to
22 withdraw interest? What was your understanding?

23 A Whenever -- basically whenever money was needed, if I
24 needed money or my wife needed money, we would submit a form
25 to request that money. And there was a time frame in which it

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1 could be returned to us, given back to us. And we did do
2 that. I did it and my wife did it at least two to three times
3 each. And the return came back always faster than what the
4 promissory note had said.

5 Q Did you ever have any problems getting you or your
6 monies -- you or your wife's, future wife's money returned?

7 A No. No. Like I mentioned, it was quicker than what was
8 initially promised.

9 Q Had you ever heard of any other lenders having issues
10 getting their interest or principal returned?

11 A No, no, I never have. I remember one person who I met
12 through Ambit who at some point, I don't know what the
13 reasoning was --

14 MR. CHEE: Objection, Your Honor. Hearsay.

15 THE COURT: Well, I didn't -- we really didn't get
16 the answer out. Why don't you put the question again. Go
17 ahead.

18 BY MR. ALLEN:

19 Q Did it ever come to you, any knowledge that anybody else
20 who had loaned money had never gotten either their principal
21 or interest returned when they asked for it?

22 A That never came to my attention, no.

23 THE COURT: We are going to break now for lunch. So
24 the food is here. Ladies and gentlemen, the deal with the
25 food though is since it's here, we are taking a little shorter

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1 break, and that moves matters along.

2 So why don't we meet back here, if you can, at five
3 minutes after the hour, at 1:05, and we will keep going with
4 the direct examination of Mr. Johnson.

5 Thanks so much.

6 (Jury escorted out of the courtroom.)

7 THE COURT: Can we talk about these instructions
8 maybe just very briefly -- I assume we will have an afternoon
9 break also. Can we meet back here at five 'til and start
10 nipping on them? There aren't many in dispute.

11 MR. ALLEN: Yes, Your Honor.

12 THE COURT: Will that work?

13 MS. BEDKE: Yes, Your Honor.

14 THE COURT: Mr. Johnson, we've got to break, but
15 you've got to be back at five after.

16 Thank you.

17 (Lunch recess taken.)

18 THE COURT: On the record. So let's look at -- and I
19 handed it out yesterday morning -- let's look through
20 pages 1 through 13. So we are focusing on 1 through 13 in the
21 big package. On page 3 I deleted that line in the third
22 paragraph, "A defendant does not have to testify. And if the
23 defendant chose not to testify, you can't consider that." So
24 I deleted that.

25 And then I deleted the typo on page 13 where it says,

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1 "I will not define." It's, "I will now define."

2 So tell me pages 1 through 13 any objections.

3 MS. BEDKE: I just need a moment, Your Honor. I
4 think we only have one copy.

5 THE COURT: You have one copy. Usually there is just
6 one person that's handling these. Maybe you're a committee.
7 They were handed out yesterday morning.

8 MR. ALLEN: Your Honor, on page 11, which is the
9 conspiracy to commit wire fraud, in our proposed instruction,
10 which is our page 24 of 44 of the docket sheet, Docket 140, we
11 asked that the Court add at the very end of that instruction,
12 "To prove the defendant is guilty of conspiracy, the
13 government has to prove that the defendant had wrongful
14 intent. You may not just assume that the defendant had
15 wrongful intent because he committed a certain act. The
16 defendant's state of mind must be established by the evidence
17 or from the inferences you draw from the evidence.
18 Furthermore, to establish a conspiratorial agreement, the
19 government must demonstrate that the conspirators possess at
20 least a degree of criminal intent necessary for the
21 substantive offense itself. As indicated above, the defendant
22 is not charged with the offense of mail fraud or wire fraud."

23 You already have that part. So just that paragraph
24 on Docket 140, page 24, the highlighted -- I mean, the
25 italicized section.

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1 THE COURT: Where did that come from? Where did the
2 italics come from?

3 MR. ALLEN: Footnote 2, United States v. Gibson
4 Company.

5 THE COURT: That's where it came from?

6 MR. ALLEN: Yes, Your Honor.

7 THE COURT: And otherwise this is the standard plus
8 the italics?

9 MR. ALLEN: Yes, Your Honor.

10 THE COURT: What says the government on those
11 italics?

12 MS. BEDKE: Your Honor, I apologize sincerely. I
13 don't think I'm looking at the right document.

14 MR. ALLEN: Let me show you.

15 MS. BEDKE: I have the defendant's -- Your Honor, I
16 would object to the italicized language. It is not part of
17 the pattern. It's not necessary.

18 THE COURT: All right. And Mr. Allen, this is the
19 pattern, and you want the italics added which are not part of
20 the pattern, correct?

21 MR. ALLEN: Yes, please.

22 THE COURT: That's denied.

23 Any other objections on pages 1 through 13?

24 MS. BEDKE: Your Honor, if I'm looking at the right
25 package, I think that Instruction 2.2 on page 3 refers to when

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1 the defendant does not testify.

2 THE COURT: You weren't listening. About three
3 minutes ago I said I deleted that.

4 MS. BEDKE: Oh, I'm sorry.

5 THE COURT: No problem.

6 MR. ALLEN: No other requests, Your Honor.

7 THE COURT: The substantive instructions, pages 14
8 through 17, I understand those are substantive pattern
9 instructions. Any objection?

10 MR. ALLEN: No objection, Your Honor.

11 MS. BEDKE: No objection.

12 THE COURT: Middle District conjunctive charge.
13 Mr. Allen, they always put that in there.

14 MR. ALLEN: I always object. It always stays in, but
15 I want to be consistent so I object.

16 THE COURT: I'll leave it in. I don't like it
17 either, but I'll leave it in. I never frankly to this day
18 don't understand that concept, but whatever.

19 All right. Nineteen, the money laundering charge?

20 MS. BEDKE: No objection.

21 MR. ALLEN: No objection.

22 THE COURT: So we are through 20 then. Twenty-one,
23 the elements of what I call tax perjury.

24 MR. HARDY: Yes, Your Honor. We in our Document 140
25 at page 34 have an italicized section. For the record, we are

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1 asking at the end of the standard instruction that the Court
2 add, "The defendant is charged only with making a false
3 statement on line 22 of his 2017 joint personal tax return.
4 There are no charges that relate to any other tax year, nor
5 are there any additional allegations with respect to any other
6 entry on the 2017 joint personal tax return other than the
7 entry on line 22."

8 THE COURT: And what's wrong with that, government?

9 MS. BEDKE: It's not necessary, Your Honor. The 2017
10 individual return is the only one that's been charged. That's
11 the only one the government is going to argue about, and it's
12 not necessary.

13 MR. ALLEN: We're just concerned that the jurors may
14 focus on other parts of the tax return he's not been charged
15 with.

16 THE COURT: Are the partnership returns in evidence?

17 MS. BEDKE: Yes, for 2016 and 2017. And that's
18 because, as you know, Your Honor, Mr. Burling testified that
19 the '16 numbers -- the '16, '17 numbers came over into the
20 individual return. They flowed through.

21 THE COURT: So at the beginning of this -- and what
22 count is this? Three?

23 MR. ALLEN: It is Count 3.

24 THE COURT: At the beginning I'm going to say, "As to
25 Count 3, which charge involves the 2017" -- wouldn't that be a

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1 Form 1040?

2 MS. BEDKE: Yes, sir.

3 THE COURT: "Form 1040." I'm going to leave it at
4 that. That gives Mr. Allen about half of what he wanted or a
5 portion of it.

6 MR. ALLEN: I guess I half object.

7 THE COURT: Sure. You object. I got it, but that
8 focuses them at the beginning as to Count 3 which charge
9 involves the 2017 Form 1040. At least that focuses them.
10 They don't start thinking about the partnership.

11 MR. ALLEN: I think our concern is more than line 22
12 even if you're focused on the 2017 return.

13 THE COURT: I don't fault you for that. I don't see
14 any indication the government is suggesting that other stuff
15 on there is false. It's simply you should have declared this
16 as income X, Y, and Z.

17 I don't know where our CSO is to see how the jury is
18 doing. There you are. You're hiding down there.

19 So that takes us through page 22. Now, the next
20 issue is the good faith instruction which I intend to give,
21 but it seems like you supplemented it, Mr. Allen, with the
22 thing you filed last night.

23 MR. ALLEN: That's correct, Your Honor.

24 THE COURT: So you'd prefer that one?

25 MR. ALLEN: Yes, Your Honor.

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1 THE COURT: And have you seen the supplement which is
2 defendant's supplemental Number 4, government?

3 MS. BEDKE: I'm just looking at it now, Your Honor.

4 THE COURT: I'm going to include that for now, and
5 then all can complain about it later. There is a typo in it,
6 you stinker, in that first paragraph. You say, "If you find
7 the defendant provided the relevant information to," the
8 preposition "to" you missed, "to his tax preparer," correct?
9 Is that right? "If you find the defendant provided the
10 relevant information."

11 MR. ALLEN: Yes, Your Honor, "to" should be in there.

12 THE COURT: So that's coming in unless the
13 government -- we will hear from you at the break about this,
14 but they put it on. I think it's part of the defense case
15 obviously. We had Burling on the stand twice. So we're
16 through that.

17 Let's get the witness on the stand, please.

18 (Jury escorted into the courtroom.)

19 THE COURT: Let's continue, please.

20 BY MR. ALLEN:

21 Q Mr. Johnson, I apologize because I'm not sure I remember
22 where I left off, and it was only an hour ago, but let's pick
23 up where I think I left off.

24 You were able to withdraw any interest that you ever
25 asked for, correct?

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1 A Correct, yes.

2 Q Did you ever attempt to withdraw principal?

3 A Yes.

4 Q Were you able to withdraw your principal?

5 A Yes. We were, yes.

6 Q Did you have an occasion to attend a holiday party at
7 Oasis International Group?

8 A Yes, I did.

9 Q Do you recall how many parties you attended if it was
10 more than one?

11 A I believe it was two of them that I went to.

12 Q And was the first one in 2017 and the second one in 2018?

13 A That sounds correct.

14 Q What was the purpose of attending the 2017 holiday party
15 from your perspective?

16 A Just an invite to socialize with other company members
17 and investors. Basically kind of like what I did with my real
18 estate company when I was working at a big company. They had
19 a holiday gathering every year.

20 Q And when you did that for your real estate company's
21 customers, did people who worked at the real estate agency
22 also attend?

23 A Yeah. I would say it was probably 50/50.

24 Q And who paid for that?

25 A The brokers of my real estate company paid for that.

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1 Q Did you feel the holiday party in -- what was your
2 impression of the holiday party in 2017?

3 A It was a very nice party.

4 Q Would it trouble you to learn that Oasis International
5 Group used lender funds to pay for that holiday party?

6 A No. It wouldn't, no.

7 Q What if it was \$130,000?

8 A From the looks of it, it looks like it could have been
9 more, yeah.

10 Q Did you interact with Mr. DaCorta or any other principals
11 at the 2017 holiday party?

12 A Well, I believe I was sitting at the table with my
13 friend, Ray, so we --

14 Q Meaning Ray Montie?

15 A Ray Montie, yes. We talked throughout the night. I
16 talked to Mike a few times throughout the night. I believe I
17 was up on the dance floor with him and other people at the
18 same time. We chatted a little bit. I was introduced to Joe
19 Anile for the first time, very brief, hello type thing, no
20 real conversation.

21 Q What was your understanding as to Mr. Anile's role at
22 Oasis International Group?

23 A My understanding was he was the attorney, legal counsel
24 for the company.

25 Q Did you ever learn that he held some other role at OIG?

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1 A Not that I can remember, no.

2 Q And you said you met with Mike, meaning Mr. DaCorta?

3 A Yes, Mr. DaCorta.

4 Q Did you and Mr. DaCorta at the 2017 holiday party have
5 any discussions about the nature of the loans you and your
6 wife had provided?

7 A No. No. There was no business talk, to the best of my
8 ability, at that party.

9 Q Was there any discussions with you and Mr. DaCorta about
10 what they were using your loan money and other lenders' money
11 for at that point in time in 2017, if you recall?

12 A No.

13 Q So you went to the 2017 holiday party. You went to the
14 2018 holiday party. There's literally a year between those
15 two. During from December 2017 until December of 2018, did
16 you have any communications with Mr. DaCorta or other
17 principals at OIG related to your loan or the interest or
18 anything to do with your investment?

19 A Related to that, only when I needed to withdraw money,
20 occasionally I would reach out to Mike or text him.

21 THE COURT: We have to take one break. I got a call
22 I have to make. It's very unusual. So it's from another
23 judge, so hold on. Let's all take a stretch break. I'm going
24 to step out over here and make this quick call.

25 (Brief recess taken.)

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1 THE COURT: I guess because there is a Roe v. Wade
2 abortion ruling coming out, they think there are going to be
3 some protestors, but they won't bother us. Plus, they will be
4 long gone by the time we're done. Sorry about that. If I get
5 these calls, I've got to do it.

6 All right, sir.

7 BY MR. ALLEN:

8 Q I think I was asking from the end of the first Christmas
9 party in December of 2017 until the second Christmas party or
10 holiday party in December of 2018 whether there were any
11 communications. And I think you were explaining about some of
12 the withdrawals.

13 A Correct, yeah. There was a couple times occasionally
14 that I would call Mike and give him a heads up or text him and
15 give him a heads up, let him know if we wanted to withdraw
16 some money or Christy wanted to call and talk to him about
17 something. And there was another conversation or two
18 conversations but not pertaining to the investment.

19 Q At some time did you attend and informational retreat
20 with Mr. DaCorta and other principals of OIG?

21 A I did, yes, in Sarasota, yeah.

22 Q Was that after the 2018 party, after the 2017 party or
23 before the 2017 party or do you recall?

24 A I've got to be honest. I don't recall when it was, what
25 the time frame was. My memory is kind of -- not a hundred

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1 percent positive.

2 Q What was the purpose of that retreat as you understood
3 it?

4 A It was more of kind of like an open door informational
5 type thing where we could have a weekend where some of the
6 people who were interested in learning more and having a
7 bigger discussion with Mike, learning -- seeing the building
8 they bought, learning more about the day-to-day activities of
9 the company, meet some of the people who are I guess working
10 in the office face to face rather than just talking to them on
11 the phone like Gil Wilson I mentioned earlier.

12 Q Did you ever refer others to the Oasis loan investment
13 opportunity?

14 A Other than my wife, I did, yes, two others.

15 Q Were you getting extra interest on your loan for doing
16 that?

17 A Yeah. I don't know if you referred to it as interest or
18 a referral fee or commission. I don't know how you phrase it,
19 but there was some sort of commission, I guess you call it.

20 Q How many individuals were at this retreat that you
21 recall?

22 A Twenty-five or so, give or take.

23 Q Did you ask any questions about the lending opportunity,
24 the nature of it, if you recall?

25 A I don't think I personally asked any questions during

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1 that weekend.

2 Q Did others ask questions?

3 A They did, yes.

4 Q Did Mr. DaCorta and others at OIG answer those questions?

5 A They did, yes.

6 Q Were the questions and answers satisfying any concerns
7 that you may have?

8 A Definitely, yeah.

9 Q Did you at any time hear that OIG was acting as a market
10 maker?

11 A I heard that word, yeah.

12 Q What was explained to you by Mr. DaCorta or others at OIG
13 as to what they meant by market maker?

14 A I don't know if I can phrase it properly, but basically I
15 think the summary of it was setting the market so that they
16 could generate a spread, I think. I'm not sure if I'm saying
17 it correctly. I'm not sure how to exactly phrase it.

18 Q Do you recall them telling you that they were a large
19 bank providing liquidity to the market, in other words
20 providing the actual currencies that were being traded?

21 A Providing the actual currencies?

22 Q Yeah. That they had all of this currency that they owned
23 that they were providing to a marketplace to trade?

24 A When you say "currency," are you talking about like --

25 Q They owned all the francs or yen or euro that was being

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1 provided to a marketplace for trading?

2 A No. I don't think so, no.

3 Q Your recollection is that they were setting the market to
4 earn spreads?

5 A Yes.

6 MR. CHEE: Objection, Your Honor. It's a leading
7 question.

8 THE COURT: What's the legal grounds?

9 MR. CHEE: Leading, Your Honor.

10 THE COURT: Sustained.

11 BY MR. ALLEN:

12 Q Was your understanding of what they meant by market maker
13 to include anything other than earning spread revenue on
14 trading?

15 A No.

16 Q Was it their explanation of market making that you relied
17 upon in making your decision to loan money or was it some
18 other definition of market maker?

19 A The reason I loaned money is because, like I mentioned
20 earlier, it was a very diverse situation and not just based on
21 one type of way to generate income.

22 Q When you made this loan, what was your primary objective
23 for you?

24 A Put a little nest egg away and let it grow and hopefully
25 one day it would be worth quite a bit.

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1 Q And were you concerned how OIG was going to be able to
2 repay your principal and interest?

3 A No. I wasn't, no.

4 Q If you learned that the spread revenue that was being
5 generated to determine whether you were getting the 1 percent
6 per month or higher interest was being funded through lenders'
7 money, in other words, the spread and the interest you are
8 getting is part and parcel from loan money, would have that
9 affected your decision to loan money to OIG?

10 A Would it have affected it? No.

11 Q Why?

12 A Because of diversity in the different investments that
13 were going on. And I knew it was a very involved operation
14 that was generating money from many different sources. So my
15 biggest concern was that I knew that I would get what was
16 promised back to me in my promissory note, that there was a
17 bigger picture with this investment rather than just what was
18 based on the trading.

19 Q Did Mr. DaCorta ever tell you prior to loaning your money
20 or your wife loaning her money that on August 9 of 2010, he
21 had entered a settlement agreement with the National Futures
22 Association?

23 MR. CHEE: Objection, Your Honor. Form of the
24 question is leading. Hearsay.

25 THE COURT: Well, it's not leading. All right.

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1 Well, hearsay is sustained.

2 BY MR. ALLEN:

3 Q Did you ever learn from Mr. DaCorta or anybody else
4 affiliated with Oasis International Group that Mr. DaCorta had
5 entered a settlement agreement with the National Futures
6 Association in August of 2010?

7 A No, I had not.

8 Q I'm showing you what's already been introduced into
9 evidence as Defense Exhibit 308. Sir, do you recognize what
10 is Defense Exhibit 308?

11 A Yes.

12 Q Is this something that I showed you prior to you coming
13 to court to testify?

14 A Yes, it is.

15 Q And did you have an opportunity to fully read 308?

16 A I did read it, yes.

17 Q If you could read the second full paragraph, please.

18 A "Whereas, in 2009 NFA conducted an audit of International
19 Currency Traders, Ltd., a forex commodity trading advisor,
20 CTA, NFA member. The audit cited the firm as its principal,
21 Michael DaCorta, with certain deficiencies in connection with
22 their solicitations of investors to make loans to ICT and/or
23 DaCorta and purchase stock in a company owned and operated by
24 DaCorta. In addition, the audit also cited ICT with failing
25 to register certain individuals as associated persons, list

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1 certain branches, offices, supervisors, APs working at the
2 branch offices, adopt and implement promotional material,
3 procedures, or develop and implement a business continually
4 and disaster recovery program or adequate ethics training
5 program. ICT and DaCorta denied many of the findings in NFA's
6 audit report, especially those relating to their solicitations
7 of loans and stock purchases from investors."

8 Q And if you could read the last paragraph of Defense
9 Exhibit 308 which begins, "In consideration of."

10 A "In consideration of NFA's agreement, ICT, without
11 admitting or denying the findings in NFA's audit, hereby agree
12 to withdraw NFA membership and not reapply for registration as
13 an NFA member or act as a principal of an NFA member at any
14 time in the future. And DaCorta, without admitting or denying
15 the findings in NFA's audit hereby agrees to withdraw from NFA
16 associate membership and as a principal of ICT and not reapply
17 for registration as an NFA member or associate, or act as a
18 principal of an NFA member at any time in the future. ICT and
19 DaCorta further agree that in any event they were to breach
20 this agreement by applying for registration as an NFA member
21 or associate or acting as a principal of an NFA member, then
22 their breach of this agreement" -- I'm not sure if I'm reading
23 that word correctly. "Then their breach of this agreement
24 shall constitute sole good cause for, one, denying their
25 application for registration as an NFA member or associate;

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1 two, denying the application for registration as an NFA member
2 of any firm which either of them is principal; and/or, three,
3 revoking the registration of any NFA member of which either of
4 them is a principal."

5 Q If I told you that by the terms of this agreement
6 Mr. DaCorta could not trade a U.S. citizen's money as a
7 fiduciary generating profit and loss for that U.S. citizen,
8 okay, understanding that with the NFA what this agreement
9 means, that the NFA is a regulatory agency, if Mr. DaCorta or
10 anybody else at OIG had told you about this prior to you or
11 your wife loaning money to OIG, would have you or your wife
12 still loaned the money?

13 A I believe we would have based on diversity of the company
14 and my wife having quite a background in trading in different
15 investments. That was the main reason for our investment was
16 diversity of the company.

17 Q So you attended the 2018 holiday party?

18 A Yes.

19 Q If the money that was being loaned to OIG -- you remember
20 seeing ice sculptures there, right?

21 A I did, yes.

22 Q And people carving food, right?

23 A Yes.

24 Q And there was a band, right, dancing, maybe a Santa
25 Claus. If you learned that OIG was using some of the money

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1 that was being loaned to them to fund those ice sculptures,
2 that Santa Claus, that musical band, would have that caused
3 you to not loan the money that you loaned to OIG?

4 A No. It would not, no.

5 Q Why not?

6 A Once again, the diversity in the company and being in
7 business myself, I have seen how businesses use money for many
8 different types of things in business. And that's really my
9 reasoning for it.

10 Q If you learned that Mr. DaCorta paid himself money that
11 was being loaned to OIG to purchase -- to pay loans on
12 vehicles, to pay for his daughter's room and board at college
13 that wasn't being covered by her scholarship, to go on a
14 vacation with his wife of 34 years, to own a Maserati, to fund
15 business-related private jet trips, four of them, would have
16 that affected your decision to loan money to OIG?

17 A No. I was aware of some of that stuff. I believe I saw
18 the Maserati when I was in Sarasota. I believe I had heard
19 that Mike was on a vacation with his family. So I was aware
20 of probably half of those things that you mentioned.

21 Q If you learned that in 2018 Oasis International Group was
22 suffering significant, millions of dollars worth of trading
23 losses in the forex marketplace, would have you expected
24 Mr. DaCorta to tell you about that at the 2018 holiday party?

25 A Not necessarily. If that was the only stream of revenue,

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1 then I would probably say maybe I would expect it, yeah. But
2 if that wasn't the only stream of revenue, then I wouldn't see
3 why it would be necessary.

4 Q Would that be the case even if the only stream of revenue
5 was being generated in part through the lenders' money or
6 funded through the lenders' money?

7 A Can you ask the question again?

8 Q Sure. Would you have the same answer if you learned that
9 the only other revenue stream, because the properties hadn't
10 been sold or anything, was being generated from the spread
11 revenue but the spread revenue was coming from the lenders'
12 money as opposed to from some third party?

13 A Right.

14 Q Would that change your answer?

15 A No, it wouldn't, due to the diversity of things.

16 Q Did you and your wife have the opportunity to follow your
17 principal and your interest growth through a login system?

18 A We did, yes.

19 Q Did the login system change at any time?

20 A Yeah. There was a point where there was definitely on
21 upgrade from a 1.0 to 2.0 system. It was a way more advanced
22 way to look at things.

23 Q Okay. And let's start with the first unadvanced system.

24 A Okay. If I can remember.

25 Q When you logged on to that, do you recall what you were

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1 able to see?

2 A I'm a little foggy on this because my wife looked at it
3 more than I did. If I remember correctly, it was either a
4 weekly or a monthly information. And then as it got advanced,
5 it became more of a daily availability.

6 Q Was what you were seeing on either showing you the profit
7 and loss trading? Was it showing you the interest and your
8 principal, or was it showing you something else, if you
9 recall?

10 A I've got to be honest. I can't answer that with real
11 confidence.

12 Q Okay. I'm showing what's already been introduced into
13 evidence as Defense Exhibit 230. Do you recognize your name
14 on this?

15 A I do, yes.

16 Q Is that your email address?

17 A Yes.

18 Q Do you recall what your IB account number was?

19 A That looks correct.

20 Q Turning to Bates stamp AWS-00902 of Defense Exhibit 230,
21 do you recognize that signature?

22 A Yep, that's my signature.

23 Q Do you recall what Defense Exhibit 230 is? It's
24 entitled, "Lender/LSA Summary Details."

25 A Yes. I recognize it, yes.

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1 Q What do you recognize it as?

2 A All the information that I created, my username, my phone
3 number, my user ID, my email. Just general information.

4 Q That you would have provided to open your online portal?

5 A Correct, yeah.

6 Q I'm showing you what's already in evidence as Defense
7 Exhibit 263. Does this look familiar to you?

8 A It looks familiar, yes.

9 Q And what does it look familiar to you to be?

10 A The initial amount of money that I deposited, which was
11 10,000, and then I increased it to 15,000.

12 Q Referring to the starting balance?

13 A Yes.

14 Q Is 263 -- I apologize. I was showing you the wrong --

15 I apologize, Your Honor. My assistant was trying to
16 catch me in a mistake.

17 Does 263 reflect what you were seeing when you would
18 log on the portal?

19 A Looks familiar, yes.

20 MR. ALLEN: May I approach the witness?

21 THE COURT: Yes.

22 BY MR. ALLEN:

23 Q Why don't you look through all the pages to refresh your
24 memory.

25 THE COURT: Let's see if we can get a question.

DIRECT EXAMINATION OF KEVIN JOHNSON

1 BY MR. ALLEN:

2 Q Have you had -- I'm not going to drill you on it. Have
3 you been able to review it sufficiently enough to get a fair
4 understanding?

5 A I have a general idea, yeah.

6 Q And what does that exhibit represent?

7 A Overall summary of the daily activity of the trades
8 associated with my account, withdrawals, spreads, deposits,
9 things pertaining to the business's daily activity of trading,
10 I assume.

11 Q Well, does it show OIG's trading activity or does it show
12 the daily interest that you are getting?

13 A It shows the daily interest.

14 Q Were you expecting to see anything other than your daily
15 interest when you would log in to follow your loan and the
16 interest you were earning?

17 A No. As an investor that's really all I care about.

18 Q Were you and Mr. Montie involved in some sort of reptile
19 business that's become the subject of the receivership's
20 attempt to claw back money?

21 MR. CHEE: Objection, relevance.

22 MR. ALLEN: Sidebar?

23 THE COURT: Go ahead. Overruled.

24 BY MR. ALLEN:

25 Q Just yes or no.

CROSS-EXAMINATION OF KEVIN JOHNSON

1 A Yes.

2 Q Is your involvement in that clawback activity by the
3 receiver in any way affecting your truthful testimony here
4 today?

5 A No.

6 MR. ALLEN: If I can have a moment, Your Honor.

7 THE COURT: Yes.

8 MR. ALLEN: No further questions, Your Honor.

9 THE COURT: Let's have some cross-examination,
10 please.

11 **CROSS-EXAMINATION**

12 BY MR. CHEE:

13 Q How are you this afternoon, sir?

14 A Good. Yourself?

15 Q Well. Thank you for asking.

16 Sir, on direct examination you had testified that you
17 had never bought one single stock in your life; isn't that
18 right?

19 A I believe I said I had bought one stock in my life.

20 Q Oh, you only bought one stock?

21 A Yeah.

22 Q Now, on direct examination you also testified, sir, that
23 you received a promissory note in return for the loan you made
24 to Oasis; is that right?

25 A Correct.

CROSS-EXAMINATION OF KEVIN JOHNSON

1 Q Now, you would agree with me, sir, that the value of that
2 promissory note is intrinsically tied to the value of the
3 company; isn't that right?

4 A In some aspects I guess so, yeah.

5 Q Well, in one aspect, let's look at it this way, that if
6 the company that you've received a promissory note from didn't
7 have the capital in its bank account to pay you back, that
8 promissory note would be essentially worthless; isn't that
9 right, sir?

10 A If there was no other avenue to repay me?

11 Q Yes, no other avenue. It would be worthless. It would
12 worthless as a piece of paper.

13 A If there was no silver or real estate or anything else,
14 then possibly.

15 Q Possibly, okay. You mentioned that you have a business
16 selling snakes, right?

17 A Yes.

18 Q Breeding snakes?

19 A Correct.

20 Q Okay. Now, as a business owner, how would you -- would
21 you raise money for your business by making misrepresentations
22 to your clients?

23 A Of course not.

24 Q And do you think that it's wrong to do so?

25 A Yes.

CROSS-EXAMINATION OF KEVIN JOHNSON

1 Q Now, you also mentioned on direct examination that you
2 did real estate in New York; isn't that correct, sir?

3 A Yes.

4 Q So in that circumstance, isn't it true that if you are in
5 a real estate transaction, it's the seller that pays the
6 commission, right?

7 A In most situations.

8 Q Most situations.

9 A Not always.

10 Q But what if I told you, sir, that in this situation that
11 the broker himself was paying himself commission at closing,
12 would that make much financial sense to you in calling it a
13 profit?

14 A In the real estate world, that wouldn't make sense to me.
15 But in this world which I'm not really part of, I don't know
16 if that makes sense or not.

17 Q You mentioned that part of your decision to invest in
18 Oasis was the assertion, the representation that it was
19 diversified; isn't that right?

20 A Correct.

21 Q By diversified, you indicated that there was real estate
22 and gold and silver, right?

23 A Correct, and business investments.

24 Q Business investments?

25 A Right.

CROSS-EXAMINATION OF KEVIN JOHNSON

1 Q Now, Mr. DaCorta never told you that he was flipping
2 houses on the real estate market to generate profit, was he?

3 A I was aware of that, yeah. I was aware of somebody who
4 actually lived in one of the buildings or places they bought.

5 Q You are aware of all of the properties that are involved
6 here, the officers of Oasis were actually living in those
7 houses. They weren't flipping them, right?

8 A I'm aware of somebody who was living in the house who was
9 not an officer.

10 Q But the economic engine driving Oasis was forex trades;
11 isn't that right, sir?

12 A I don't know.

13 Q You don't know what exactly produced the interest or at
14 least that was told to you the interest or the spreads?

15 A I wasn't part of the daily activity. You know, I just
16 lent me money and assumed that over the course of the
17 diversity of the company, that's how I would generate money.

18 Q But you were told that forex was an integral part of the
19 Oasis economic or supposed economic engine that would drive
20 profits and make you money, right?

21 A It was one of the ingredients, yes.

22 Q Were you also aware that the silver and gold that you
23 testified to earlier was actually found in a paint bucket in
24 the defendant's home on Lost Key Place?

25 A I remember reading something about silver and gold being

CROSS-EXAMINATION OF KEVIN JOHNSON

1 in Mr. DaCorta's property. I don't recall hearing it was in a
2 paint bucket, but it sounds familiar.

3 Q Now, you really didn't understand what spread pay was,
4 correct, before you invested in Oasis?

5 A Not a hundred percent thoroughly, no. It's not my forte.

6 Q Right. Now sitting here today, if you were aware --
7 well, let me ask that again.

8 If you were aware at the time that you made your
9 investment that spread pay was not in fact profit at all, it
10 was fake, and that you in fact were paying for the spread pay,
11 would you have still invested in Oasis?

12 A I don't know that to be true, so I don't know how I could
13 answer that.

14 Q Well, let's just say that suppose you learned at the time
15 you made your investment that you in fact were paying for
16 those extra pips on the trades, that Oasis was marking up the
17 trades and you were paying for that difference and that it
18 wasn't profit at all. It was actually your money being
19 recycled to you. Would that have made a difference, sir, in
20 your analysis and decision to invest?

21 A Well, like I said, based on the diversity of everything,
22 if I knew that then, it would not have made a difference, no,
23 based on everything.

24 Q You also testified, sir, on direct examination that the
25 defendant was transparent with you in 2018 and 2019, isn't

CROSS-EXAMINATION OF KEVIN JOHNSON

1 that correct, when you met with him?

2 A Transparent at the Christmas parties you mean or meeting
3 in Sarasota?

4 Q Let's just say in general. I think you characterized him
5 as transparent.

6 A Correct.

7 Q Is it transparent of the defendant to not tell you about
8 a 20 to \$22 million loss in the trading account?

9 A Well, with me not knowing the daily activity of the
10 overall company's business, not just the trading itself but
11 everything, it may or may not be important to say that.

12 Q Would you characterize someone as transparent if they
13 told you -- if they didn't tell you that not a single penny
14 came back from his forex trading account?

15 A Could you ask me that question one more time?

16 Q Would you characterize somebody as transparent if they
17 concealed from you the fact that no trading profits came back
18 from the trading account, that your money was in that account
19 used to trade?

20 A It's hard for me to answer that. If that was the only
21 investment that my money was being put in and that was the
22 only thing that was part of the investment, then, yes,
23 possibly. But from everything that I am under the impression
24 of, I don't know if that would be totally something that would
25 have to be told to me. I mean, like I said, my investment,

CROSS-EXAMINATION OF KEVIN JOHNSON

1 whenever I needed money, I asked for it. And the same thing
2 with my wife, and there were no issues.

3 Q You hadn't heard about the NFA until today, had you, sir?

4 A Correct.

5 Q So you didn't know that the NFA stood for the National
6 Futures Association, right?

7 A That's correct.

8 Q And that the NFA, part of its responsibilities is to
9 ensure protection for investors. Did you know that before
10 coming today?

11 A I'm not aware of NFA. It's not my --

12 Q Okay. So on direct examination you testified that it
13 wouldn't have made a difference to you if the defendant told
14 you that he was banned from trading in forex by the National
15 Futures Association; is that right?

16 A I believe that's what I said, yeah.

17 Q Do you think you would characterize somebody as
18 transparent if they concealed the fact that they were banned
19 in trading forex by the National Futures Association?

20 A Well, I did a little due diligence when I was making my
21 investment, and none of that came up to me. So I would
22 imagine if it was that damning, I would be able to find it
23 myself. So the importance of it I guess was not that great.

24 Q But you just said that that was something that you would
25 consider to be pretty damning, right, had you found it?

CROSS-EXAMINATION OF KEVIN JOHNSON

1 A If I had found something, possibly, yeah.

2 Q Now, you mentioned you went to the holiday parties, the
3 Christmas parties in Sarasota in 2017 and 2018, right?

4 A Yes.

5 Q Would it concern you, sir, that had you known Oasis was
6 sustaining stunning and staggering losses at the time they
7 were hosting a Christmas party, would that be something of
8 concern to you?

9 A I would have asked more questions.

10 Q I'm sorry. Could you repeat your answer?

11 A I would have asked more questions.

12 Q Because that kind of information would have prompted an
13 inquiry by yourself; isn't that correct, sir?

14 A I would have wanted to know more, yeah.

15 Q Had you known that there were stunning and staggering
16 losses sustained by Oasis in the year prior to hosting that
17 Christmas party in Sarasota?

18 A Are you asking me if I knew that?

19 Q Well, had you known that, had you known about those
20 stunning and staggering losses sustained by Oasis, that would
21 have prompted you to ask more questions, right?

22 A I would have asked more questions, yeah.

23 Q At the Christmas party the defendant didn't tell you that
24 he lost \$20 million in his trading account, did he?

25 A No. There was no discussion of business at the party.

CROSS-EXAMINATION OF KEVIN JOHNSON

1 Q He didn't tell you that out of the \$88 million he had in
2 Oasis, only \$16 million remained?

3 A No. There was no discussion of it.

4 Q In your discussion with the defendant about market
5 making, you never heard that term prior to the defendant
6 telling you about it, right?

7 A I can't -- I can't say I never heard it, but it was
8 something that I was not familiar with. I might have heard it
9 once many years ago, but I'm not familiar with it at all.

10 Q But it was something that was important to you that
11 factored into your decision to give Mr. DaCorta, the
12 defendant, and Oasis \$15,000 of your hard-earned money then,
13 right?

14 A The market maker aspect you are saying?

15 Q Yes.

16 A No, it was not. It was the diversity of everything, of
17 all the investments is what wanted me to diversify into
18 different things.

19 Q If you knew that the defendant's description of market
20 making and his supposed market-making activities was a total
21 lie, would you then have still invested in Oasis with your
22 \$15,000?

23 A Well, I don't know it to be a lie. I can't honestly
24 answer that if I don't know it to be a lie or not.

25 Q It would have concerned you, sir, to learn at the time

CROSS-EXAMINATION OF KEVIN JOHNSON

1 that you made the investments that the whole idea of spread
2 was fictitious and fake; would it not have done so, sir?

3 A Could you ask me that again, please?

4 Q Sure. If at the time or let's just say before you made
5 your \$15,000 investment in Oasis if you learned that this
6 whole spread pay business was a total fabrication, a
7 bookkeeping entry, not real and in fact your own money being
8 recycled to you, would that have been something that would
9 have factored into your analysis or decision to invest in
10 Oasis?

11 A No. I think Mr. Allen asked me that. And based on the
12 diversity of everything, it wouldn't have factored.

13 Q So getting your own money back and the defendant calling
14 it profit would not have concerned you at all?

15 A Once again, based on the fact that I don't know the ins
16 and outs of that type of business, I was simply just lending
17 my money to an investment company that was going to be
18 diversified. And I never had a problem with ever getting
19 money. I had no reason to be concerned with anything.

20 MR. CHEE: If I may have access to the Elmo, please.

21 BY MR. CHEE:

22 Q I would like to re-publish Defense Exhibit 230.
23 Mr. Johnson, there is your lender summary detail, correct --

24 A Yes.

25 Q -- that Mr. Allen showed you on direct examination,

CROSS-EXAMINATION OF KEVIN JOHNSON

1 right?

2 A Yes, correct.

3 Q I'm going to turn to the Bates stamp page 000901. I
4 would just like to read your net worth on the screen there.

5 Do you see that?

6 A I do, yeah.

7 Q Your net worth isn't \$0, is it?

8 A I hope not.

9 Q Did anybody at Oasis contact you and try to get that
10 fixed?

11 A No. I never -- you know, I don't remember ever seeing
12 that, to be honest. I mean, I see what it says, but I didn't
13 pay much attention to the net worth and knowing my net worth
14 wasn't zero.

15 Q When you used the word "transparent," that means to get
16 all the information, right?

17 A Yeah.

18 Q I'm sorry. Go ahead.

19 A Be forthright about whatever is important, I guess.

20 Q Forthright, not holding critical information back?

21 A Yeah.

22 Q Not lying?

23 A Correct.

24 Q Not saying things to get people to invest in their
25 company?

REDIRECT EXAMINATION OF KEVIN JOHNSON

1 A Correct.

2 MR. CHEE: Thank you, sir.

3 THE COURT: All right. Redirect, please.

4 MR. ALLEN: Thank you, Your Honor.

5 **REDIRECT EXAMINATION**

6 BY MR. ALLEN:

7 Q Mr. Johnson?

8 A Yes.

9 Q If Mr. DaCorta came to you at the holiday party in 2018
10 and said this year we suffered some trading losses but I'm
11 going to change my strategy and I'm going to take a long
12 position on silver which I believe will reverse those trading
13 losses, what would you have thought about that?

14 A I would have -- based on my initial confidence of
15 investing money to begin with, I would have probably thought
16 it was a good idea. I personally invest in silver. So I
17 would have agreed with that.

18 Q If Mr. DaCorta came to you and said, Mr. Johnson, 2018
19 has not been a good year, but I'm going to take a loan to pay
20 you back your principal and interest, would you have had a
21 problem with that?

22 A No. It happened in my real estate company. So I have
23 gone through that already.

24 MR. ALLEN: No further questions.

25 THE COURT: All right. Well, thank you very much,

DIRECT EXAMINATION OF JOHN PANIAGUA

1 Mr. Johnson. You may step down.

2 Let's call your next witness, please.

3 MR. ALLEN: Your Honor, the defense would call John
4 Paniagua.

5 THE COURT: All right. John Paniagua. Thank you.
6 (Witness sworn.)

7 THE COURTROOM DEPUTY: Can you state your full name
8 for the record.

9 THE WITNESS: John Paniagua.

10 THE COURTROOM DEPUTY: Thank you. Please be seated
11 at the witness stand.

12 **JOHN PANIAGUA, CALLED BY THE DEFENSE, SWORN**

13 **DIRECT EXAMINATION**

14 BY MR. ALLEN:

15 Q Mr. Paniagua, how are you today?

16 A Okay.

17 Q Do you have a brother?

18 A Yes, Joseph.

19 Q Joseph Paniagua?

20 A Joseph Paniagua.

21 Q Mr. Paniagua, how old are you?

22 A Sixty.

23 Q So the jurors are way over here. There is a microphone
24 there in front of you, and there is a court reporter over
25 there taking everything down. If you could speak up a little

DIRECT EXAMINATION OF JOHN PANIAGUA

1 bit --

2 A Sure.

3 Q -- so everybody can hear you.

4 A Okay.

5 Q So how old are you?

6 A Sixty.

7 Q And where do you live?

8 A Rego Park, Queens, 9805, 63rd Row, Apartment 16E.

9 Q And what is your educational background?

10 A Engineering. I have a Ph.D. in engineering, University
11 of Stoney Brook. Master's from Colombia, and a bachelor's
12 from New York Institute of Technology.

13 Q And a Ph.D. from where?

14 A Stoney Brook University, University of Stoney Brook.

15 Q And what is your Ph.D. in?

16 A Mechanical engineering.

17 Q Any other degrees?

18 A Master's in mechanical engineering from Columbia
19 University. And a bachelor's in engineering and aerospace
20 from New York Institute of Technology.

21 Q Would you prefer that I refer to you as doctor?

22 A That's fine.

23 Q Dr. Paniagua, have you received any other training other
24 than your educational background?

25 A I have a certification in -- I'm a professional risk

DIRECT EXAMINATION OF JOHN PANIAGUA

1 management in finance.

2 Q Professional business management in finance?

3 A Professional risk management.

4 Q Oh, risk management?

5 A Yes, sir.

6 Q Let's talk about that. What is professional risk
7 management about?

8 A It's a certification where -- that you get educated on
9 and you have to pass exams for risk management in finance,
10 covering major fields, different financial instruments,
11 looking at risks across different assets, and finance,
12 including stocks, bonds, currency.

13 Q Okay.

14 A And real estate, life insurance.

15 Q What type of work do you do?

16 A Right now I'm work -- currently I'm working in a private
17 equity firm, KKR, in New York City.

18 Q And what does this private equity firm do?

19 A What they do is they raise capital using risk management
20 techniques, and they do investments across major lines of
21 business, including insurance, real estate companies. They
22 buy, they restructure companies, take companies public.

23 Q So is your current employment buying an ownership
24 interest in companies?

25 A Yes.

DIRECT EXAMINATION OF JOHN PANIAGUA

1 Q What type of companies?

2 A It could be anything from -- they raise funds for
3 anything from biomedical, telecommunications, real estate,
4 technology firms.

5 Q And when they purchase ownership in these different
6 companies, do they -- will they eventually share in the
7 profits of the companies?

8 A Yes, they do. Yes.

9 Q Will they -- hopefully not, but would they also share in
10 the losses of the companies?

11 A Private equities firms, the way they work is it's almost
12 like a venture capital funds where they invest in -- could be
13 X number of companies. Some of them turn out to be much more
14 profitable than others. Usually what they do is they wait.
15 There is a time dimension to this until they put enough effort
16 into turnaround and then the company becomes profitable, and
17 then they sell out.

18 Q Did you previously work for the New York Stock Exchange?

19 A Yes.

20 Q Tell the jury about that work experience.

21 A I started at the New York Stock Exchange as a consultant
22 in the year 2004. And I became a full-time employee in 2007,
23 and I was working in regulation technology. So my -- I grew
24 to the point where I became manager of building the
25 surveillances that monitor the markets for any illegal trading

DIRECT EXAMINATION OF JOHN PANIAGUA

1 activity, any trade anomalies.

2 Q Did you -- do you have any expertise in computer code
3 writing, software development, that type of stuff?

4 A Besides being a manager, I started out in software
5 writing. And to this day, I still -- I write programs by
6 using languages like JAVA and Microsoft C language.

7 Q Prior to 2014, had you ever invested in the stock market?

8 A Yes.

9 Q Tell the jury about the process that somebody goes
10 through to invest in the stock market.

11 A Well, when I started working, usually they put you into a
12 401(k), but what I also did besides that, I would take that
13 money that's taken from your salary, pretax and they put it
14 into your 401(k), but I also started investing my own private
15 money into individual stocks. I started doing that prior to
16 2014.

17 Q And when you purchased these stocks, I assume that was as
18 an investment opportunity?

19 A Yes.

20 Q Was there any risk involved in doing that?

21 A In the stock market there is always risk if your timeline
22 is very short, you know, but if you keep doing this over a
23 long period of time, your investments -- and depending on the
24 companies. If you don't diversify among the companies that
25 you invest in, usually diversify to minimize the risk, but

DIRECT EXAMINATION OF JOHN PANIAGUA

1 otherwise you have to do your due diligence. So you have to
2 look at the company's fundamentals, and then you assess the
3 risk, and then hopefully you decide I will invest with this
4 company.

5 Q At some point, did you become aware of a company by the
6 name of Oasis International Group?

7 A Yes.

8 Q And how did you become aware of this company?

9 A Through my brother, Joseph Paniagua.

10 Q Without getting into what your brother specifically told
11 you, what was your understanding based on your conversations
12 with your brother what OIG was or was about?

13 A In 2014, it was -- they were doing forex trading.

14 Q And did you know what forex trading was?

15 A Not really, not at that time.

16 Q Okay. And what was your understanding -- did you talk --
17 did you eventually invest in Oasis International Group back in
18 2014?

19 A Yes, I did.

20 Q Other than the conversations with your brother about OIG,
21 did you have any conversations with anybody else associated
22 with OIG prior to investing?

23 A No.

24 Q What was your understanding about OIG from your brother
25 other than they were trading in forex?

DIRECT EXAMINATION OF JOHN PANIAGUA

1 A That was it. It was mostly I invested with them because
2 I trusted my brother.

3 Q Okay. And how much did you initially invest; do you
4 recall?

5 A It was a hundred thousand.

6 Q And what was the source of this hundred thousand dollars
7 that you invested?

8 A My own money, salary.

9 Q It was just money you had earned from work --

10 A Yes, correct.

11 Q Let me finish so she can get it down right. So it was
12 money you had earned working on the New York Stock Exchange?

13 A Yes.

14 Q And did you realize any profits or losses or both?

15 A From where?

16 Q From your \$100,000 investment in 2014?

17 A It grew to 212,000 by 2018.

18 Q By when?

19 A By 2018.

20 Q And at some point in time, did the structure of your
21 investment change?

22 A Yeah. The new program my brother told me about had
23 rolled out, and it became a loan program.

24 Q Could you speak up a little bit, please?

25 A I'm sorry. So, yeah, by then the program had changed and

DIRECT EXAMINATION OF JOHN PANIAGUA

1 it became a loan program. So essentially I took the money and
2 I rolled it over and it became a loan to Oasis.

3 Q When you initially invested in forex through OIG in 2014,
4 were you told there was no risk?

5 A No. There was risk.

6 Q What risk was there?

7 A Foreign currency movements against -- you know, from
8 doing the trading. My understanding is when you do forex
9 trading there is a trading pair. You go long, short, and
10 depending which pair you are, there could be movements against
11 you. You could make or lose money.

12 Q Okay. And then you said it switched to a loan in 2017?

13 A 2018.

14 Q 2018. Were you given the option to get your money out as
15 opposed to switching over to a loan?

16 A Yes.

17 Q And what did you decide to do when given that option?

18 A I rolled it over. So loaned it out.

19 Q And what was -- other than talking to your brother about
20 the loan, did you talk to anybody else at OIG before you
21 rolled it over?

22 A No.

23 Q What was your understanding about how the loan would
24 work?

25 A You would loan them money. And based on how much, you

DIRECT EXAMINATION OF JOHN PANIAGUA

1 get a certain percentage, which was a minimum of 1 percent or
2 25 percent of the spread they were capturing.

3 Q Were you told that there was no risk in loaning money to
4 OIG?

5 A I mean, there is always risk in loaning money.

6 Q And what is that risk?

7 A That they can't pay it back.

8 Q Did you employ your knowledge in risk management prior to
9 making a determination to loan a significant amount of money
10 to Oasis International Group?

11 A Yes.

12 Q And explain to the jury that risk management analysis
13 that you went through.

14 A Well, you never put all your money -- you always
15 diversify. So when you loan them money, certain percentage
16 went to trading, right? Not a hundred percent but a certain
17 percent went into that trading, and the rest in other assets.
18 Before OIG was shut town, what those other assets were I never
19 knew, but I do know only a small percentage went to trading.
20 After it was shut down and then I saw the receiver reports, I
21 started looking at what were those other assets. My sense was
22 it was definitely the right move because it was well
23 diversified. It looks like they had invested in properties
24 and real estate. It looks like there was a commodity, silver,
25 and in small companies. So from a diversification point of

DIRECT EXAMINATION OF JOHN PANIAGUA

1 view, it was sound strategy.

2 Q This investing in small companies, is that the same thing
3 that you are currently doing with your current employer?

4 A Yes. KKR specializes in investing in small companies,
5 investing in big companies. They do their financial analysis,
6 and they determine based on that whether or not to proceed.

7 Q Did you at any time ever withdraw any of your principal
8 or interest once you voluntarily switched over to the loan
9 program? You need to answer out loud.

10 A No. Sorry. No.

11 Q Based on your understanding of the agreement you had
12 entered, did you have the right to withdraw your interest?

13 A Yes.

14 Q You just elected not to?

15 A Correct. Yes.

16 Q Based on your understanding of the loan agreement that
17 you entered, did you have the right to withdraw your
18 principal?

19 A Yes.

20 Q Do you recall based on the terms of your agreement
21 whether you had to give any notice to withdraw your principal
22 and, if so, how much?

23 A That I don't remember because I never had any intention
24 of withdrawing it. Just let it build out over time.

25 Q When did you first become aware that you would not be

DIRECT EXAMINATION OF JOHN PANIAGUA

1 able to withdraw your interest or principal?

2 A When it ceased operations.

3 Q In April of 2019?

4 A Correct.

5 Q Did you at some point get hired by OIG to do some
6 services for them?

7 A Yes.

8 Q And what were those services?

9 A It was to build a reporting system.

10 Q I'm sorry?

11 A It was to build a reporting system.

12 Q Okay. What type of reporting system?

13 A The reporting system was to allow the users, what I call
14 users, the clients, the lenders, to be able to go in and they
15 could see their accounts in Oasis.

16 Q And can you explain to the jury in the least technical
17 way how you went about doing that?

18 A I remembered we were reviewing two options. One was to
19 build out the computers, what's called a data center. And the
20 other was to use a cloud, Amazon Web Services. The cheaper
21 and quicker time to market solution was to use Amazon. So
22 what we did was we built a program that pulls the data from
23 the trading system, right, and the data that it pulled was the
24 spreads. And then it was added to the balance on a daily
25 basis and then presented -- the user can log in and it was

DIRECT EXAMINATION OF JOHN PANIAGUA

1 presented as a report. They could see how they are doing on a
2 daily basis.

3 Q And where was the data coming from?

4 A Spotex, ATC/Spotex trading system.

5 MR. ALLEN: May I approach the witness?

6 THE COURT: Of course.

7 BY MR. ALLEN:

8 Q I hand you what's been marked as Defense Exhibit 4.

9 A Okay.

10 Q Do you recognize what Defense Exhibit 4 is?

11 A Yes.

12 Q What is Defense Exhibit 4?

13 A It's my drawing of the application architecture.

14 Q Okay. Does it fairly and accurately represent your
15 drawing of the architecture for creating the Oasis back
16 office?

17 A Yes.

18 MR. ALLEN: Your Honor, at this time I would move
19 into evidence Defense Exhibit 4.

20 THE COURT: Admitted.

21 MR. CHEE: No objection, Your Honor.

22 (Defendant Exhibit 4 admitted.)

23 MR. ALLEN: If we could publish that on the Trial
24 Director, please. If we could pull out the diagram to make it
25 a little more visible.

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1 BY MR. ALLEN:

2 Q Okay. I see up here in the upper left-hand corner
3 ATC/Spotex database. So what is that?

4 A That's the trading system. It represents on the diagram
5 their database or data source. It's a trading source. And
6 then I was pulling the spreads from that source.

7 Q Do you know what an ECN is?

8 A Electronic communications network.

9 Q What does an ECN do?

10 A It's a system that takes fees, data feeds from other
11 sources that provides liquidity, what they call quotes. So
12 orders come into the ECN system, and then they do trading
13 there. They're able to trade.

14 Q So was -- in this picture here in the upper left-hand
15 corner, was ATC or Spotex the ECN or was it something else?

16 A That was part of the ECN. It's a part of it.

17 Q Okay. And providing the liquidity, is that meaning
18 providing the currencies that are going to be traded?

19 A Yes, from outside, from external sources.

20 Q So it's the software that says there is this currency
21 available to be traded?

22 A Well, not particularly -- I mean, this one here is kind
23 of like the -- at the end of the day, I imagine these were the
24 spreads that they calculated at the end of the day. Trading
25 goes on through the day, and then at the end of the day they

DIRECT EXAMINATION OF JOHN PANIAGUA

1 do -- like at the stock exchange it's like post trade. And
2 then they store all the results of the trading throughout the
3 day. And there they do the calculations of the spreads.

4 Q So then your arrow is going both ways, points down to
5 ATC/Spotex server, web service provider. What is that?

6 A That's just a machine that -- it's their server. The way
7 these systems are designed, you have the data sitting
8 somewhere. You have the machine that pulls the data out when
9 you request it from their machine. So it's just a conduit.

10 Q And then that goes down and up to ATC/Spotex web service?

11 A Yeah. That's the interface. That's what I have to
12 connect to. So what you see above the dotted line, that's
13 their infrastructure. They are components, but then below it
14 is the program that I wrote that pulls the data through that
15 interface from Spotex.

16 Q What is this down here that I just put the cursor on?

17 A That's a program I wrote. It's a batch program. It runs
18 on a nightly basis at the end of trading and it pulls the
19 spreads.

20 Q And what is the purpose of pulling the spreads?

21 A To show it to the client later when it gets stored in the
22 back office database. The client can log in and see how they
23 do for the day, what their balances are.

24 Q Is that because the loan that you had entered and other
25 people had entered, the interest was going to be 1 percent or

DIRECT EXAMINATION OF JOHN PANIAGUA

1 higher based on the spread?

2 MR. CHEE: Object to the leading question.

3 THE COURT: Sustained.

4 BY MR. ALLEN:

5 Q What was your understanding of how the interest would be
6 determined as a lender who loaned several hundred thousand
7 dollars to OIG?

8 A It was either they were going to give 25 percent of the
9 spreads or 1 percent. The higher of both.

10 Q Was the software you were writing for OIG designed in
11 relationship to your understanding of how the spread was going
12 to be allocated?

13 A I'm not sure about the question.

14 Q I'm not sure about the question either. So was the
15 software you were writing designed to facilitate a lender's
16 ability to see whether they were getting the 1 percent or the
17 greater based on the spread that was being generated?

18 A Yes.

19 Q And so where does that then go to?

20 A That would be in the Oasis database.

21 Q Okay. Where is that located?

22 A At the bottom. Those calculations went in there.

23 Q Is that like a server or something?

24 A That one is actually databases inside Amazon.

25 Q What role was Amazon playing?

DIRECT EXAMINATION OF JOHN PANIAGUA

1 A Think of a database as just a data storage. And Amazon
2 provided an environment that you can rent, you could pay for
3 so you don't have to buy the computers. You rent their
4 servers. And here in this instance this database was on
5 Amazon. We rented it.

6 Q And then you have a long arrow. It goes up to that?

7 A Again, every database, in order to get data out of the
8 data storage, you need a machine. It pulls the data out like
9 a conduit. When that happens, the application pulls the data
10 out and then shows the individual here your results.

11 Q Okay. And then you have it going up to the web server.
12 What's that?

13 A That's where your web pages are served to you, through a
14 web server.

15 Q So I think you just testified everything below the dotted
16 line is OIG's side and everything above is Spotex/ATC?

17 A On the left side, everything above on the left side,
18 everything above the line, that's ATC. Everything above the
19 line Internet and all that, that's the web. That's somebody
20 accessing Amazon.

21 Q Okay. So after web server, you go up to account summary
22 view page?

23 A That's the web page that displays the results.

24 Q Is that what a lender would see when they logged on?

25 A They would see their page. And they would enter their

DIRECT EXAMINATION OF JOHN PANIAGUA

1 username and password and get into the system.

2 Q And that's the next box, the logging into the system?

3 A Yes.

4 Q You wrote the software?

5 A Yes.

6 Q And why didn't you write the software in a way to show
7 the lender what the daily profit and loss trading was for OIG?

8 A The requirements for this application was just to pull
9 the spreads added to the balances on a daily basis.

10 Q Was there anything about your loan that was tied to the
11 profit and loss trading of OIG?

12 A I have no idea.

13 Q Well, you entered the loan agreement --

14 A Right.

15 Q -- correct? And it was 1 percent or 25 percent of the
16 spread.

17 A Correct?

18 MR. CHEE: Object to the leading question, Your
19 Honor.

20 MR. ALLEN: I didn't ask the question.

21 THE COURT: Let's get it out. We'll see.

22 BY MR. ALLEN:

23 Q Did you have any understanding that that spread was tied
24 to profit and loss trading?

25 A Yes. I mean, the spread is -- my understanding of the

DIRECT EXAMINATION OF JOHN PANIAGUA

1 spreads was just whatever came from that trading system.
2 Using the application API from Spotex, I was to pull the
3 values that came from this field into the reporting system.
4 So if there was trading going on, right, there would be --
5 that value should be greater than zero. Something is going
6 on. So there were spreads in there. That would get pulled.

7 Q Was your loan tied -- best on your knowledge, was your
8 loan tied to anything other than the spread?

9 A As far as I know, no. It was all based on the spread.

10 Q As a lender to OIG -- we're at the lender stage -- what
11 was your main concern about your principal and your interest
12 when you were loaning money to OIG, if any?

13 A As long as I was receiving interest on the loan, that was
14 my main concern.

15 Q To your knowledge, were you ever not receiving interest
16 on your loan?

17 A No. As far as since the system went up and I saw the
18 spreads, there were always spreads coming in daily.

19 Q In addition to writing the software to transmit the
20 spread to the lender log-in accounts, did you write any
21 software to help facilitate a lender creating a log-in
22 account?

23 A No. Other than the initial boarding -- there was an
24 initial boarding application, if that's what you're referring
25 to.

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1 Q Yes, to set up the application process.

2 A Yes.

3 Q I'm showing you -- if we can take it off the Trial
4 Director. I'm showing you what's been already admitted into
5 evidence. If we could move to the Elmo -- or not. I
6 apologize. If we could pull up on the Trial Director what's
7 already in evidence at Defense Exhibit 6.

8 Do you recognize what Defense Exhibit 6 is?

9 A Yes.

10 Q And what is it?

11 A Registration steps for the users.

12 Q If you could turn to the Bates stamp Oasis-00020 to Step
13 17. Sir, what is Step 17 directing the applicant to do?

14 A To sign, to read first any disclosures that are there and
15 sign.

16 Q And do you recall what the agreement in the disclosure
17 document was?

18 A In detail I can't remember. I do know there were risk
19 disclosures, and you couldn't proceed any further without
20 having to -- I think there was a link down there. Yeah, right
21 there, the link. And then once you did that, then you sign
22 and click the submit button.

23 Q So you couldn't proceed forward without clicking that you
24 had reviewed the agreement and risk disclosure?

25 A Yes.

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1 Q And then you would sign as if you are signing on the
2 note?

3 A Yes. That was the requirements that came to me for the
4 design of the application.

5 Q And did the computer software keep track of every time
6 somebody signed indicating they had reviewed and read the risk
7 disclosure?

8 A Yes. When you hit submit, the application would take all
9 the data and save it in the database to store.

10 MR. ALLEN: Approaching the witness with Defense
11 Exhibit 7A.

12 BY MR. ALLEN:

13 Q Sir, if you could look at 7A, please.

14 A Yes.

15 Q Do you know what 7A is?

16 A It's the database. It's the table and the database.

17 Q What database?

18 A The Oasis back office.

19 Q And does 7A fairly and accurately reflect the Oasis back
20 office database?

21 A Yes.

22 MR. ALLEN: Your Honor, at this time we would move
23 into evidence Defense Exhibit 7A.

24 MR. CHEE: Your Honor, I think slightly more
25 authentication is needed on this 338-page document.

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1 THE COURT: All right. Well, why don't you do that.

2 BY MR. ALLEN:

3 Q Do you know where 7A originated from?

4 A The design of the database, of the application
5 requirements that were handed to me.

6 Q Did you generate 7A and provide it to me, my office?

7 A I don't remember.

8 Q Do you recognize 7A? Take your time.

9 A Sorry. What was the question again?

10 Q Do you recognize 7A?

11 A 7A, yes.

12 Q Okay. And how do you recognize it?

13 A Because it's the database. It looks like it's the output
14 of a table in the database.

15 Q And the database that you wrote?

16 A Yes.

17 Q In and around the time that you created the OIG AWS
18 login --

19 A Yes.

20 Q -- account?

21 A Yes. It's part of the design.

22 Q And did you not meet with the U.S. Attorney's Office on
23 numerous occasions about that database?

24 A Yes.

25 Q Did you not explain to the U.S. Attorney's Office how the

DIRECT EXAMINATION OF JOHN PANIAGUA

1 database worked?

2 A Yes.

3 MR. ALLEN: Your Honor, at this time --

4 THE COURT: All right. 7A is admitted.

5 MR. ALLEN: Thank you.

6 (Defendant Exhibit 7A admitted.)

7 BY MR. ALLEN:

8 Q If we could publish 7A which is being published on the
9 screen.

10 Sir, this left-hand column, if we could pull out a
11 little bit of it. What is all that?

12 A That's the data interpretation of a signature. So when
13 it's stored in the database, right, it looks like some sort of
14 encoding of the signature.

15 Q So when somebody signs on the application process at Step
16 17 of how to open an application, the database saves the
17 signature as a whole bunch of letters?

18 A Correct.

19 Q And numbers, I guess?

20 A Yes.

21 Q And does it then associate the signature with a lender?

22 A Yes. If you look at every column over here, there is
23 data that's particular to a lender.

24 Q If we could then just start scrolling through this
25 300-some-page document. So every time we see this squiggly

DIRECT EXAMINATION OF JOHN PANIAGUA

1 means a lender signed that they had reviewed the risk
2 disclosure and clicked that they understood it?

3 A Yes.

4 MR. ALLEN: Let the record reflect that we are
5 scrolling through the pages showing the squiggly lines which
6 represent signatures of the lenders.

7 BY MR. ALLEN:

8 Q Would it be fair to say that every lender represented in
9 7A has data collected that they signed indicating that they
10 had reviewed and understood the risk disclosure?

11 A Yes.

12 Q And that would be including yourself when you owned your
13 own trading account, correct?

14 A Yes. If I look for my account, you see a signature
15 associated with it.

16 Q If we could turn to page 5 of that exhibit, and if we
17 could pull out the lender on page 5.

18 Who is this lender? The name, is that Michael
19 Chalhub?

20 A Yes.

21 Q And there's squiggly that he had signed?

22 A Yes.

23 Q If we could turn to page 7 and pull out that lender's
24 name. And who is that?

25 A That's me.

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1 Q Okay. And you have your little squiggly that you had
2 signed as well?

3 A Yes.

4 Q If we could go to page 23. Pull out that lender's name.
5 Is that Matt Kihnke?

6 A Yes.

7 Q With the data collected that he had signed?

8 A Yes.

9 Q If we could go to page 42. And who is that lender when
10 she pulls it out for you? Is that Kevin Johnson?

11 A Yes.

12 Q If we could go to page 43. If we could pull out that
13 lender. And that is a Sandra Feeney-Charles?

14 A Yes.

15 Q If we could go to page 48. Pull out that lender's name.
16 That's Ian Howard, right?

17 A Yes.

18 Q Page 57. And who is that lender when she pulls it out?
19 I'm sorry. Fifty-one. That's Deborah Cheslow?

20 A Yes.

21 Q Page 54, Patti Katter?

22 A Yes.

23 Q Page 108. Jason McKee. Sorry. Doris McKee?

24 A Yes.

25 Q Page 1 through 9. Kevin Johnson?

DIRECT EXAMINATION OF JOHN PANIAGUA

1 A Yes.

2 Q As I understand your testimony so far, you never had any
3 conversations with Mr. DaCorta prior to investing -- lending
4 money to OIG?

5 A No.

6 Q Just conversations with your brother?

7 A Yes.

8 Q If you had been told by your brother or Mr. DaCorta or
9 anybody else at OIG that in August of 2010 Mr. DaCorta had
10 entered a settlement agreement with the National Futures
11 Association, do you know what the National Futures Association
12 is?

13 A I'm aware of them.

14 Q I'm sorry?

15 A I'm aware of them.

16 Q That's the organization that regulates individuals who
17 are trading for U.S. citizens in commodities?

18 A I don't know about commodities. I know National Futures
19 Association. The only thing I know about them is derivatives
20 from the New York Stock Exchange. Before we merged with ICE,
21 as part of our merger we had to sell off part of the futures
22 that we had. But that's my knowledge with them, of what they
23 are. That's it.

24 Q If Mr. DaCorta had told you -- well, let me strike that.

25 Publishing what's already in evidence as Defense

DIRECT EXAMINATION OF JOHN PANIAGUA

1 Exhibit 308. If we can turn on the Elmo, please.

2 Sir, have you seen this agreement between Mr. DaCorta
3 and the National Futures Association?

4 A No.

5 MR. ALLEN: I'm going to approach the witness.

6 THE COURT: Let's don't read it because the last two
7 witnesses read it.

8 MR. ALLEN: I'm letting him refresh his memory and
9 look at it.

10 BY MR. ALLEN:

11 Q Can you read Exhibit 308 to yourself?

12 Have you had a chance to review it?

13 A Yes.

14 Q I want to go back to your 2014 investment. Who was that
15 money being -- was that invested to a company, you
16 individually; do you recall?

17 A The only think I recall is it went through Elysium
18 International.

19 Q What is Elysium International?

20 A I believe it was a company, my brother's company that was
21 set up where I would send the funds through there.

22 Q Was Elysium a company that Mr. DaCorta owned and
23 operated?

24 A Not that I know of, no.

25 Q But your loan in 2017 or 2018 was through Oasis

DIRECT EXAMINATION OF JOHN PANIAGUA

1 International Group?

2 A Yes.

3 Q And let's focus on that. You have had an opportunity to
4 read Defense Exhibit 308?

5 A Yes.

6 Q If you had been advised of Defense Exhibit 308 prior to
7 loaning money to OIG, would you have still loaned the money to
8 OIG?

9 A Yes.

10 Q Why?

11 A Because again, it is a risk assessment I made on the loan
12 to OIG. A certain percentage went to trade trading. The rest
13 was going to be collateralized elsewhere.

14 Q So the fact that Mr. DaCorta had agreed to not be a
15 member of the NFA in '09 wouldn't have affected your decision
16 to loan money?

17 A No, because the investments were elsewhere. It was
18 diversified.

19 Q The fact that Mr. DaCorta without admitting any
20 wrongdoing agreed to not in essence trade individual client
21 money as a fiduciary in forex trading wouldn't have affect
22 your decision to loan money to OIG?

23 THE COURT: Would you do me a favor? I think that
24 paper is over the top of your mic. Pull that off. Now, you
25 shook your head. You have to speak because she can't take

DIRECT EXAMINATION OF JOHN PANIAGUA

1 that down so. What was your answer there?

2 THE WITNESS: It was, "No."

3 BY MR. ALLEN:

4 Q If you learned that the money, that part of the money you
5 were loaning to OIG as part of this loan agreement in 2018 was
6 going to be used to purchase eleven investment properties,
7 would have that affected your decision to loan money to OIG?

8 A Yes, I mean, because it's an investment. It's
9 diversifying. It's not just forex trading. It's other
10 avenues.

11 Q What if you learned that Mr. DaCorta and his family was
12 going to live in one of those investment properties? Would
13 that have affected your decision to loan money to OIG?

14 A No, it doesn't affect it.

15 Q What if you learned that other principals of OIG or
16 employees of OIG were going to reside in some of these
17 investment properties? Would that have affected your
18 decision?

19 A No.

20 Q Did you attend either the 2017 or the 2018 holiday
21 parties put on by Oasis International Group?

22 A Yes. I went to the 2018.

23 Q Were there ice sculptures?

24 A I don't remember. That I don't remember.

25 Q Was there a band?

DIRECT EXAMINATION OF JOHN PANIAGUA

1 A I don't remember that either.

2 Q Was there good food?

3 A Yes.

4 Q Was there an open bar?

5 A Yes.

6 Q Would it have affected your decision to loan money to OIG
7 if you learned that some of the money that was being loaned by
8 you and others was used to pay for the food and the drinks and
9 the meal?

10 A No.

11 Q Why not?

12 A Because as long as I get -- it's a contract. As long as
13 I get the return that I expect, how a fund brought -- I
14 consider like a fund could be like a bank. It could be like
15 another private equity institution. When you give them money,
16 how they run the business, whether they have to -- how they
17 run the business is theirs. Whether they need to do
18 marketing, whether they need to, you know, spend money to
19 achieve whatever the goals, how they run their business is
20 theirs. As long as I get what I've been told, I get the
21 return, you know, and I can get my money back if I ever pulled
22 it out, that was my only concern.

23 Q If OIG ended up taking a loan to pay you back your
24 principal and interest, would that have affected your decision
25 to loan them money?

DIRECT EXAMINATION OF JOHN PANIAGUA

1 A No.

2 Q Why not?

3 A Again, how they decide to run their business or how they
4 decide, that's their prerogative.

5 Q What if the spread revenue that was being generated on
6 their trading platform because they were suffering losses was
7 being generated by them paying themselves a fee, would that
8 have affected your decision to loan them money?

9 A No.

10 Q What if you learned that Mr. DaCorta subsidized his
11 daughter's college room and board with some of the money that
12 was being loaned by you or others with OIG?

13 A No.

14 Q What if you learned that Mr. DaCorta and his wife of 34
15 years went on a vacation to Italy and the money that paid for
16 that derived at some point from money that was being loaned to
17 OIG?

18 A No.

19 Q Did you anticipate when you loaned money to OIG that
20 Mr. DaCorta and the other employees and principals of OIG were
21 going to work for free?

22 A I had no idea what they were going to do. Again, the
23 money, they decided what they need for the business, for the
24 fund. As long as they met me contractually what I had signed
25 up for, that's all I was concerned with.

DIRECT EXAMINATION OF JOHN PANIAGUA

1 Q What about if you learned that Mr. DaCorta on four
2 occasions used a private jet for business/family purposes?
3 Would that have affected your decision to loan money to OIG?

4 A No.

5 Q What if you learned that Mr. DaCorta paid car payments on
6 multiple vehicles with the money that was being loaned to OIG
7 from your money and other lenders' money?

8 A No.

9 MR. ALLEN: If I could have a moment. No further
10 questions, Your Honor.

11 THE COURT: We are going to take our afternoon break.
12 We will meet back here at 3:15. Please don't discuss the
13 case. We will see you at 3:15. Thank you.

14 (Jury escorted out of the courtroom.)

15 THE COURT: Take a look at those. On the defense
16 supplements, Number 4 I accepted and put in as we discussed.
17 Number 4 is the good faith reliance on tax advice. The other
18 supplements, the first one is -- hold on. Let me get it.

19 MS. BEDKE: Your Honor, I apologize for interrupting.

20 THE COURT: You can step out, thank you.

21 MS. BEDKE: Your Honor, with respect to Number 4 --

22 THE COURT: Let me do these first.

23 MS. BEDKE: I'm sorry.

24 THE COURT: You are talking about Number 4 being the
25 good faith advice of counsel.

DIRECT EXAMINATION OF JOHN PANIAGUA

1 MS. BEDKE: Yes, Your Honor.

2 THE COURT: We discussed it previously, but I didn't
3 give you a chance to discuss it. Just hold on.

4 MS. BEDKE: Yes.

5 THE COURT: So Number 1 I'm not giving. It says he's
6 not on trial for this, he's not on trial for that. I don't
7 think anybody is arguing that. I don't think the "pool" word
8 was used hardly -- you used it more than they did. I'm not
9 giving Number 1.

10 MR. ALLEN: If they argue it in closing, will the
11 Court reconsider?

12 THE COURT: Sure. Sure. Now, there's nothing wrong
13 with them showing the proper way to trade pool commodities,
14 which is what they did. And the inference is that Mr. DaCorta
15 didn't do that pursuant to Count 1. But if they get into he's
16 violating this, that, and the other, you may get an
17 instruction reminding the jury what he's charged with.

18 MR. ALLEN: Thank you, sir.

19 THE COURT: But they are allowed to argue that his
20 structure was illegal, okay, because there's a strong
21 inference here that he was trading a pool. Don't use the word
22 "pool." Trading for domestic forex people when he was barred
23 from doing so, they can argue that. Okay? How could they
24 not?

25 MR. ALLEN: Well, because they didn't allege it in

DIRECT EXAMINATION OF JOHN PANIAGUA

1 the indictment as one of the fraudulent activities and
2 therefore to construct --

3 THE COURT: It's a scheme or artifice to defraud. So
4 I'm not sure they didn't come close to saying that. But
5 anyway, if they get all over that, then maybe you will get an
6 instruction.

7 The puffing, I'm not giving puffing. There's no
8 allegation of puffing here. No one says that Mr. DaCorta was
9 puffing. To the contrary.

10 You want to make a record on that?

11 MR. ALLEN: I do, Your Honor. I think the issue of
12 calling yourself a market maker when you are not the technical
13 definition of market maker would fall under the concept of
14 puffing. I suspect the government is going to spend a lot of
15 time in their closing that he said he was a market maker and
16 he wasn't. What the evidence shows is he defined what he
17 meant by market maker.

18 THE COURT: Only in his cross-examination did he
19 define that.

20 MR. ALLEN: Yes, Your Honor.

21 THE COURT: You opened all over market making. Wait
22 a minute. You basically said that all the money was coming
23 from spread pay. That seemed to have morphed into something
24 halfway through it. And now it kind of morphed into
25 variegated investments, whatever the word is.

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1 MR. ALLEN: The government introduced an audio
2 exhibit where Mr. DaCorta is talking about market making. We
3 have also introduced an exhibit about him talking about market
4 making, but in both occasions he defines what he meant by
5 market making.

6 THE COURT: On those exhibits?

7 MR. ALLEN: Yes, in the audio.

8 THE COURT: Then why do you need an instruction on
9 puffery?

10 MR. ALLEN: Because the government called an expert
11 witness that says he's not a market maker. We believe that
12 him saying he is a market maker, not meeting their expert's
13 definition, meets the concept of puffery or sales talk. And
14 we believe pursuant to the Eleventh Circuit cases that we
15 cited in our proposal --

16 THE COURT: And I don't think this is a puffery case.
17 I decline to give that instruction.

18 MR. ALLEN: Yes, sir.

19 THE COURT: You are fully preserved. I haven't heard
20 anybody saying, well, isn't it true he was really exaggerating
21 or isn't this like saying this is a mint car and a little old
22 lady drove it to school every day or whatever. To the
23 contrary. Mr. DaCorta testified that he is a straight
24 shooter, he always follows by the rules. He didn't suggest in
25 any way, shape, or form that he ever exaggerated. Just to the

DIRECT EXAMINATION OF JOHN PANIAGUA

1 contrary by my recollection.

2 Your final instruction, I will give a defense
3 instruction, okay? I think I'm required to. I think you're
4 entitled to one. This is not it because this is me using your
5 lingo about striving, intent to succeed, striving, all that.
6 And I already gave a defense instruction. We are going to
7 talk about it in a minute, the good faith tax defense. So if
8 you want one, just write one. And it will go something like
9 this. The defense suggests, colon, it is Mr. DaCorta's
10 defense that X, Y, Z, he was striving to succeed. I will give
11 a defense instruction but not this one, which comes from my
12 mouth rather than couched as a defense. I know it says theory
13 of defense. I'm not blaming you, but it needs to say that
14 expressly. I will give a defense beyond the good faith tax
15 which only goes to Count 3.

16 MR. ALLEN: We are writing it as we speak.

17 THE COURT: We will talk about that in a minute.

18 Tell me about the good faith tax instruction. You
19 object to that, counsel? It's 22 or 23.

20 MS. BEDKE: Your Honor, I certainly agree with the
21 Court that they have put evidence on primarily through
22 Mr. DaCorta himself that he purports to have relied in good
23 faith on Mr. Burling's guidance. I just object to their
24 version of the instruction. I would much prefer the form
25 instruction, Your Honor.

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1 THE COURT: Is there an Eleventh Circuit form
2 instruction?

3 MS. BEDKE: Yes, Your Honor. I believe --

4 THE COURT: Do you have a copy of that?

5 MS. BEDKE: I have.

6 THE COURT: Did you tender it as part of your packet?

7 MS. BEDKE: I don't recall honestly if I did, Your
8 Honor. I was probably waiting to see what they were going to
9 do, but it is S9.

10 THE COURT: Can you hand it to me?

11 MS. BEDKE: Yes, sir.

12 THE COURT: Now, I will look at that as I'm
13 multitasking. What are we going to do? We are going to cross
14 this gentleman, and then where are we? Are we going to close?

15 MR. ALLEN: Your Honor, we are going to close.

16 THE COURT: How much time do you think you need?

17 MR. ALLEN: For the cross?

18 THE COURT: No. For closing.

19 MS. BEDKE: Your Honor, I would ask for an hour and a
20 half so I have time for rebuttal.

21 THE COURT: How much do you need?

22 MR. ALLEN: Ms. Irvin is doing it. She stepped out.
23 I can get an answer quickly.

24 THE COURT: I'm thinking 80 minutes. That's kind of
25 what I was thinking. That's a long time, both sides 80

DIRECT EXAMINATION OF JOHN PANIAGUA

1 minutes. That's a long time.

2 MS. BEDKE: I'll do my level best, Your Honor.

3 THE COURT: Ninety minutes, okay, both sides.

4 MS. BEDKE: I'm not looking to go longer than
5 necessary, Your Honor.

6 THE COURT: Then that will probably take us to the
7 end of the day. And then I'm going to offer them dinner if
8 they want to stay. Let's hope they say no. But if they do, I
9 mean, I know it is the most important thing in Mr. DaCorta's
10 life, so we want to be careful about not pushing them. But by
11 the same token, we've had them now for 13, 14 days of their
12 lives.

13 MR. ALLEN: They took more than us.

14 THE COURT: They're stinkers. Everybody is bad.

15 The good faith is a complete defense to Count 3
16 since -- well, to every count. No. I'm going to give the
17 government's. I think it's talking about tax returns.

18 MR. ALLEN: You are going to give the government's.

19 THE COURT: I'm sorry. The defense's. I'm giving
20 the defense's tax good faith instruction as they requested it.

21 MS. BEDKE: Your Honor, then I would only ask that
22 you -- I know it is a joint return, but there has really been
23 no conversation about Carolyn DaCorta other than her name is
24 on it.

25 THE COURT: Where?

DIRECT EXAMINATION OF JOHN PANIAGUA

1 MS. BEDKE: It says in sentence one that defendant
2 relied on the advice of his tax preparer in submitting his
3 joint 2017 federal income tax return.

4 MR. ALLEN: That's what it is.

5 THE COURT: Are they going to acquit or hang
6 Mr. DaCorta on that word?

7 MS. BEDKE: I would hope not, Your Honor.

8 THE COURT: Then by hang, I don't mean hang like hang
9 at dawn. I mean deadlock. It's fine.

10 Okay. So what I'm waiting for then is a standard --
11 Eleventh Circuit says I have to give one. I would give one
12 anyway. Judge Nimmons made me find the case law on that once.
13 Mr. DaCorta or, you know, whatever -- it's the defense because
14 most of these instructions frankly are the theory of the case
15 of the government. So you get that. Just don't argue. State
16 striving -- you can put that language in there, whatever
17 that's -- I'm not adopting it. I'm stating your theory of
18 defense.

19 All right. You want to take a break?

20 MR. ROSENTHAL: One more brief matter. I was advised
21 that I had not moved Defense Exhibit 72 into evidence this
22 morning when I was questioning Mr. McFarland. I believe I
23 published it. I may not have, but I would go ahead and
24 formally move it into evidence.

25 THE COURT: It's admitted. And without getting real

CROSS-EXAMINATION OF JOHN PANIAGUA

1 weird, that was a clinic on tax defense. Thank you. It's
2 admitted. Of course if there is any follow-up, we forgot to
3 do this, do that, of course I'm very flexible.

4 (Defendant Exhibit 72 admitted.)

5 THE COURT: So your Rule 29, depending where we are,
6 it's preserved. I will take it before the end of the day, but
7 we might not take it immediately upon close, your Rule 29
8 motion.

9 MR. ALLEN: Yes, sir. And all other motions are
10 renewed.

11 THE COURT: Totally preserved, very much so.

12 MR. ALLEN: Thank you, Your Honor.

13 MR. MURRAY: Your Honor, we have a redacted copy of
14 the superceding indictment.

15 THE COURT: What's redacted? I do have a clean copy.

16 MR. MURRAY: The forfeiture section and foreperson's
17 name.

18 THE COURT: Thank you. If you'd give that to
19 Mr. Houston.

20 (Recess taken.)

21 THE COURT: Thank you. Counsel, you may.

22 **CROSS-EXAMINATION**

23 BY MR. CHEE:

24 Q Good afternoon, Doctor. How are you today?

25 A I'm good.

CROSS-EXAMINATION OF JOHN PANIAGUA

1 Q Dr. Paniagua, you have a quite extensive technical and
2 engineering background, right?

3 A Yes.

4 Q I myself am trained in engineering. So I'm hoping we can
5 speak the same language during this examination. So let's get
6 started. You were paid by Oasis, correct?

7 A Correct.

8 Q To do the interfacing between Spotex and Amazon Web
9 Services, correct?

10 A Yes.

11 Q So when I use the word "interface," that really means to
12 have two platforms talk to each other, right?

13 A Yes.

14 Q So data is being transferred from one side to the other,
15 right?

16 A Yes.

17 Q And you were paid about, let's say maybe around \$170,000
18 for your work interfacing the Spotex back office and AWS. Is
19 that more or less accurate?

20 A I don't remember 170. The numbers -- I would have to
21 check. Like 130, whatever.

22 Q We can agree on \$130,000. That's a lot of money, isn't
23 it?

24 A Yeah.

25 Q So right off the bat I want to show you again Defense

CROSS-EXAMINATION OF JOHN PANIAGUA

1 Exhibit 4. If I may republish using the Elmo device.

2 So Dr. Paniagua, you agree with me that this is a
3 high-level architecture overview of the interface that you
4 were charged with creating or designing, correct?

5 A Correct.

6 Q Now, these little arrows here, do you see these arrows?
7 Some of them are two-headed arrows, and some of them are
8 one-headed arrows. Do you see that there? You can see that
9 right, sir?

10 A Yes.

11 Q That's not money, right, Dr. Paniagua? That's not money
12 moving between these two areas, the boxes?

13 A I don't know what you mean by "money."

14 Q Cash. Is that cash that's being transferred back and
15 forth here, or is that data?

16 A That's data.

17 Q That's data. Okay. So there is not money going between
18 ATC/Spotex and the Spotex server, right?

19 A No.

20 Q And then this little dash line here, right, is this the
21 interface between Spotex on top, Amazon AWS on the bottom?

22 A Not totally correct. Spotex is more like the three
23 components on the left. ATC/Spotex database, ATC/Spotex
24 server, and ATC/Spotex web server. That's Spotex.

25 Q Well, you would agree with me, sir, that Spotex doesn't

CROSS-EXAMINATION OF JOHN PANIAGUA

1 actually handle any money, right?

2 A No.

3 Q Spotex handles data. They record the trades, right?

4 A Whatever is in their database. My knowledge of Spotex is
5 only pulling -- I was given a certain interface specification,
6 right, and it was for me to pull the spreads based on that
7 specification.

8 Q As far as you know, Spotex is not a bank, right, like TD
9 Bank? It's not a bank, right? You don't deposit money there?

10 A That I don't know.

11 Q Now, sir, Doctor, you testified on direct examination
12 that you work for a company called KKR; isn't that right?

13 A Yes, correct.

14 Q KKR is a large, very large private equity trading
15 company, right?

16 A Trading? I would say private equity.

17 Q A private equity company, but it's very large, correct?

18 A Yes.

19 Q It employs over a thousand people?

20 A Yes.

21 Q It does more than -- well, it has done billions of
22 dollars of trades over the years?

23 A Billions of dollars in investments.

24 Q Investments. It's traded on the New York Stock Exchange.

25 Isn't that correct, Doctor?

CROSS-EXAMINATION OF JOHN PANIAGUA

1 A Yes. Stock symbol, yes.

2 Q And I'm sorry. Go ahead.

3 A The stock symbol -- the company has stock, issues stock.

4 So it is publicly traded on the New York Stock Exchange.

5 Q It's got about 20 offices throughout the world?

6 A Yes.

7 Q Multiple countries?

8 A Yes.

9 Q It's very, very different from Oasis, right?

10 A Yes.

11 Q Which was one person behind the trades, correct?

12 A Through Oasis?

13 Q Yes, sir.

14 A As far as my knowledge, yes.

15 Q And that one person behind the trades is the defendant,

16 correct?

17 A Yes.

18 Q Using a retail trading application that you can download

19 onto your phone; is that right?

20 A I'm not familiar with that piece.

21 Q Well, there are many points of distinction between Oasis

22 and KKR. You would agree with me on that point, Doctor,

23 wouldn't you?

24 A Yes.

25 Q Now, you have an advanced engineering background, right?

CROSS-EXAMINATION OF JOHN PANIAGUA

1 A Yes.

2 Q Mechanical engineering, right?

3 A Yes.

4 Q Master's and doctorate degrees?

5 A Yes.

6 Q You would agree with me that a risk assessment is very
7 much like an equation, right?

8 A Well, equation -- yeah, you can look at it that way. I
9 mean, you break up -- when you do a risk assessment, you look
10 at each component, you know, when you are looking at
11 diversified areas.

12 Q Exactly. You look at each component. And engineers like
13 ourselves, we try to be very analytical, right?

14 A Yes.

15 Q So going back to my analogy of an equation, you would
16 have variables, right?

17 A Yes.

18 Q Variables can change?

19 A Yes.

20 Q You have constants?

21 A Yes.

22 Q Constants don't change?

23 A Correct.

24 Q So if we were to look at a risk assessment equation, you
25 would have constants and variables presumably?

CROSS-EXAMINATION OF JOHN PANIAGUA

1 A Or you could have all variables.

2 Q You could have a lot of variables?

3 A I'm sorry?

4 Q You could have a lot of variables?

5 A Yes.

6 Q It would be a pretty complicated equation.

7 A Yes.

8 Q So you testified on direct examination that you learned
9 about Oasis through your brother, Joseph Paniagua, right?

10 A Yes.

11 Q And, Doctor, you said that Joseph Paniagua was working in
12 the company prior to you getting involved?

13 A Yes.

14 Q And Joseph Paniagua worked with the defendant, right?

15 A Yes.

16 Q He took direction from the defendant?

17 A Yes.

18 Q He also worked with a guy named -- an individual named
19 Dave Manoukian at ATC; isn't that right?

20 A Yes.

21 Q And Joseph Paniagua's job was to apply what's called
22 adjustments to the Spotex back office, right?

23 MR. ALLEN: Objection. Outside the scope of direct.

24 THE COURT: Overruled.

25 BY MR. CHEE:

CROSS-EXAMINATION OF JOHN PANIAGUA

1 Q Joseph Paniagua's job was to apply adjustments to the
2 Spotex back office; isn't that right?

3 A Yes.

4 Q And he would do so at the direction of the defendant?

5 A That I don't know. That I don't know.

6 Q So he did them by himself, or did he just make the
7 adjustments up on the fly?

8 A I wrote a program that does those adjustments. And it
9 was based on something that was within Spotex that was then
10 compared to the balance that was originally put in by the
11 lenders, and it would make the adjustments to bring the
12 balance, you know, the net equity in the platform back into
13 the original balance.

14 Q Yes, Doctor, I'm getting there, but I want to take a few
15 steps before we get to your specific role. Is that okay?

16 A Sure.

17 Q So Joseph Paniagua was making the adjustments to
18 individual accounts at the direction of the defendant?

19 A I don't know if he made if at the direction of the
20 defendant or it was his responsibility. I don't know that.

21 Q Yes, Doctor. So it was his responsibility?

22 A Yes.

23 Q There came a time where there were a lot of investors,
24 many, many, many investors, and it became burdensome for
25 Joseph Paniagua to do that on a daily basis. There were just

CROSS-EXAMINATION OF JOHN PANIAGUA

1 too many adjustments; is that correct?

2 A Correct.

3 Q And that's where you came in, right?

4 A Well, that's when he asked me to write a program that can
5 automate that, running it at the end of the month, yes.

6 Q So the program that you developed or designed, it did a
7 few things. And one of the things that it did was it
8 automated -- or let me just say it automated all of the
9 adjustments bringing it into the Spotex side, right?

10 A The way the program worked is based on the specification
11 it looked at a value that was within Spotex. It compared it
12 to the original balance that the lender has, all right, and if
13 it's negative, it applies -- it adds a positive adjustment.
14 If it's positive, it adds a negative adjustment. I had gone
15 over that with the district attorney earlier. I remember we
16 stepped through the code, and it's right there.

17 Q So after you designed the code, Joseph Paniagua no longer
18 needed to add up everything and do that manually, correct?

19 A Correct.

20 Q That was all brought into the -- it was automated and
21 brought into the Spotex side?

22 A Correct.

23 Q And applied automatically to each account, right?

24 A Yes. At the end of the month, yes.

25 Q And Joseph Paniagua testified before you did, and he said

CROSS-EXAMINATION OF JOHN PANIAGUA

1 that he made those adjustments to make negative accounts
2 positive; isn't that right?

3 A Again, I'm not sure what he alluded to there. I can tell
4 you the program, the way it worked is it went into Spotex,
5 pulled a value, compared it to the original loan balance, and
6 it made the adjustment to bring it back in line.

7 Q So it made the adjustments to make a negative account
8 positive?

9 A Based on what was inside Spotex.

10 Q Right. And then the other component of your program was
11 to transfer data from Spotex to this platform called AWS,
12 right?

13 A Correct.

14 Q And the data that you transferred was the spread pay
15 data, correct?

16 A Yes.

17 Q And you did that because the parameters of your work came
18 from the defendant, correct?

19 A The requirements came from my brother.

20 Q And where did those come from?

21 A It was from Joe Anile.

22 Q So Joe Anile worked at Oasis, right?

23 A Yes.

24 Q And your program brought in the spread pay to the Amazon
25 Web Services portal, right?

CROSS-EXAMINATION OF JOHN PANIAGUA

1 A Yes.

2 Q So that investors could log into AWS and see the spread
3 pay, correct?

4 A Correct, on a daily basis.

5 Q And you didn't bring in any other data into Amazon Web
6 Services, did you?

7 A That was the only data. And then there was a calculation
8 that was made to compare the 1 percent versus whatever the
9 spread amount was.

10 Q So you didn't bring in the trading losses, correct, that
11 were underlying the spread pay or connected to the spread pay;
12 is that right?

13 A All it was is a specification. It didn't have nothing to
14 do with what was happening inside, just the spreads that were
15 generated that day.

16 Q So the only thing that a user could see when logging into
17 Amazon Web Services was the spread, right?

18 A Yes.

19 Q They couldn't see the losses on their trades, right?

20 A Nope.

21 Q Would that be an important piece of information to look
22 at in your opinion?

23 A In my opinion for me, no.

24 Q For you, no. But if you were doing a risk assessment,
25 right, would you -- it would make sense, would you agree with

CROSS-EXAMINATION OF JOHN PANIAGUA

1 me, Doctor, to know the performance of the underlying trades?

2 A To me I look at -- my opinion is I look at the overall
3 solution.

4 Q But that would be a variable, would it not, Doctor?

5 A Yes. It would be one of four.

6 Q You never had any access to the books and records of
7 Oasis, did you?

8 A No.

9 Q You never knew about the profitability or losses of the
10 company, correct?

11 A No.

12 Q You never actually even saw any trading losses or any
13 trading data, right?

14 A No.

15 Q If I were to tell you today or you were to learn that
16 spread pay was totally fictitious, a false allocation of
17 profit, would that be a factor in your risk assessment
18 decision?

19 A Overall risk? The overall risk, again I compare it to
20 the three elements that I mentioned before, the real estate,
21 the position on silver, and investments in small companies.

22 Q Wait a minute. You testified on direct examination that
23 the only thing that Joseph Paniagua told you that Oasis was
24 doing was trading in forex; isn't that right?

25 A Only 25 percent of my money that went in, the loan that

CROSS-EXAMINATION OF JOHN PANIAGUA

1 went in, 25 percent of whatever that number was, it wasn't the
2 full, went in there, and then the rest was allocated
3 elsewhere.

4 Q I recall that on direct examination you said that the
5 only thing that Joseph Paniagua told you about Oasis was that
6 it was trading forex and that was it; isn't that correct?

7 A That was in 2014. 2018 the new loan program was
8 different.

9 Q Well, let's go back to 2014 then when you are told that
10 the only thing they are doing is trading forex because that's
11 what your brother told you?

12 A Yes.

13 Q So if you were to know that -- if you were to have an
14 understanding that the spread pay was totally false and fake,
15 would that have affected your risk analysis decision in
16 investing in Oasis?

17 A Then I would have seen that in statements that I got.
18 You know, I would have seen that my balance didn't go to
19 212,000, whatever that number was. So I never bothered to
20 look.

21 Q Now, you also testified that you made a risk assessment
22 again later on, after 2014 based on you said the additional
23 variables, correct?

24 A Yes.

25 Q Additional factors?

CROSS-EXAMINATION OF JOHN PANIAGUA

1 A Yes.

2 Q You had no idea at that time about what sort of companies
3 the defendant was managing, where the silver was located. How
4 were you able to make a risk assessment based on such limited
5 data?

6 A Without that. That was trust. I trusted my brother.

7 Q You trusted your brother?

8 A Not all of it went into forex. It was only a certain
9 percentage went in, and the rest went elsewhere.

10 Q Would you agree with me that the total amount of Oasis's
11 liabilities is a factor or variable -- actually, let me
12 rephrase that.

13 Would you agree with me that Oasis's total
14 liabilities is a variable in your risk assessment calculation?

15 A Correct. It depends on moments in time.

16 Q Would you also agree with me that Oasis's assets are a
17 variable in your risk assessment equation?

18 A Yes.

19 Q So if I were to tell you right now that Oasis had
20 \$80 million in liabilities and \$16 million in assets, would
21 that affect your decision to invest in Oasis?

22 A Depends. It depends because, for example, you can use
23 companies as an analogy. I use analogies. Some companies are
24 not profitable in the beginning. And based on time and the
25 management and leadership, you can grow the company and become

CROSS-EXAMINATION OF JOHN PANIAGUA

1 profitable. So a lot of times, you know, in the beginning,
2 especially Amazon in the beginning, you know, especially when
3 the Internet boom crashed in late '90s, early 2000s, would
4 people have invested in Amazon or keep investing in it?

5 Q Dr. Paniagua, if I were to give you a promissory note
6 here and now and promised to pay you 12 percent on your
7 investment, which was quite substantial, and I also told you
8 that my company had \$80 million in liabilities and only
9 \$16 million of assets, would you agree with me that the
10 promissory note that I'm giving you is essentially worthless?

11 A I would do my due diligence and explore further.

12 Q Speaking of due diligence, were you able to do any due
13 diligence on Oasis before you made the investment?

14 A Which investment?

15 Q Let's say your first investment.

16 A No, because I trusted my brother.

17 Q How about the second investment?

18 A Well, that one, again based on what my brother had told
19 me that this time that all of it was going into trading, then
20 I knew the risk was minimized as compared to before.

21 Q Now, in your due diligence investigation, you didn't come
22 up with an agreement with the National Futures Association
23 that effectively banned the defendant from trading in forex,
24 did you?

25 A No.

CROSS-EXAMINATION OF JOHN PANIAGUA

1 Q Would that be a variable in your risk assessment decision
2 to invest in Oasis?

3 A Again, depends on the overall. I look at it and I say,
4 okay, I look to see where they are investing. Where are they
5 looking at? All right. And I saw, again with the receiver's
6 report I saw it was real estate, it was commodities, and it
7 was small companies.

8 Q But you would agree with me it would be a variable of
9 perhaps a larger equation, correct?

10 A Yes.

11 Q So we've agreed that the ban of the defendant of trading
12 in forex is a variable, correct?

13 A Correct.

14 Q We've also agreed that the -- excuse me.

15 We've also agreed that the liabilities and assets of
16 Oasis would be a variable, correct?

17 A Correct.

18 Q And you would also agree with me that another variable
19 would be whether or not the actual trades are profitable,
20 right?

21 A Correct.

22 Q Those are all variables that could factor into your
23 decision whether to invest in Oasis?

24 A Do what you can with the information you have at the
25 time, and then you make the assessment.

CROSS-EXAMINATION OF JOHN PANIAGUA

1 Q Now, you were aware that a person named Duran said to
2 investors that there's no need to actually read --

3 MR. ALLEN: Objection. Outside the scope of direct.

4 THE COURT: Sustained.

5 BY MR. CHEE:

6 Q Dr. Paniagua, you have never met Michael Chalhub, have
7 you?

8 A I'm sorry. Who?

9 Q You have never met Michael Chalhub?

10 A No.

11 Q The gentleman that Mr. Allen asked you about that was on
12 the spreadsheet that you had?

13 A No.

14 Q So you don't know that he was told that his money would
15 never be traded, right?

16 MR. ALLEN: Objection. Outside the scope of direct.

17 THE COURT: Sustained.

18 BY MR. CHEE:

19 Q You don't know Patti Katter, do you?

20 MR. ALLEN: Same objection.

21 THE COURT: Well, you can answer the question. Do
22 you know Patti Katter?

23 THE WITNESS: No.

24 THE COURT: Let's ask the next question.

25 BY MR. CHEE:

CROSS-EXAMINATION OF JOHN PANIAGUA

1 Q You don't know Matt Kihnke, do you?

2 A I met him briefly at that Christmas dinner.

3 Q But you don't know any of the representations made to
4 those people by the defendant, do you?

5 A No.

6 Q I want you to add another variable to the risk equation.
7 I want you to assume right now that there is a \$70 million
8 gap, okay, in the -- as a difference between the liabilities
9 owed by Oasis and the assets that they have, okay? So keeping
10 that as a constant, I want you to add these variables. So
11 let's talk about whether the spread was fake, okay? If that
12 was true, would that affect your decision whether to invest in
13 Oasis?

14 A You are asking me to assume everything that you are
15 saying is correct.

16 Q Yes.

17 A And you are asking me to come up with numbers. The
18 assessment is based on what you are saying. Again, I need --
19 I need to look deeper. I need to look under the cover.

20 Q You need to look under the hood of the car so to speak?

21 A Correct.

22 Q Assuming --

23 A You're asking me to take on faith what you're stating
24 right now.

25 Q Well, let's just take it one step at a time. So if the

CROSS-EXAMINATION OF JOHN PANIAGUA

1 spread was fake, would that be a variable in your decision to
2 invest? I'm simply asking if it's a variable.

3 A I would say no.

4 Q So the supposed profits that you would be getting from
5 the company, if those were fake and had no economic basis,
6 that would be not a variable to consider in your risk analysis
7 equation?

8 A You can consider it. You can consider it. But again you
9 look at the other pieces to it aggregated in the whole.

10 Again, you could have a private equity firm invest in five
11 companies. Four of them failed and the fifth one is a home
12 run and it more than covers the investment. That's the nature
13 of the beast.

14 Q What about if Oasis had no revenue stream whatsoever?
15 Would that be a variable in your decision to invest in this
16 company?

17 A Depends on what they're investing in. I will give you a
18 perfect example. Real estate, new development, okay? So a
19 lot of times you have the sponsors and need to raise capital
20 because they are doing a new development. As an investor I
21 put money in. I'm not going to get any returns for four or
22 five years until the development is completed. You
23 understand? And then when they sell it, then you get your
24 distributions after a period of time.

25 So like I said, based on points and time you may not

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1 make money in the beginning, but if you allow time, like with
2 any investment and it could be risky, time does cure a lot of
3 these issues. It could become very profitable. For example,
4 the real estate. I have seen the real estate in Florida.
5 It's very, very hot now. I suspect that the investments Oasis
6 made in the real estate have gone up in value. The silver
7 position, I took a look at it April 15 when it was shut down.
8 It was like \$14, \$15 an ounce, and it peaked at \$28 two years
9 later. So with investments you need to add time to it because
10 time is what makes an investment, can make an investment less
11 risky. Again, you need to have good management. You need to
12 have good leadership in making the company grow, but you have
13 to give it a chance. I wouldn't invest -- would you invest
14 money in the stock market right now?

15 Q Doctor, I really appreciate your answer, but it really
16 wasn't the answer to my question. So let me reask it again.
17 If there is no revenue stream from the forex trading that the
18 defendant is supposedly making, would that be a variable in
19 your decision whether to provide monies to Oasis? It's a
20 simple question, Doctor.

21 A No.

22 Q If the defendant was spending lavishly while taking
23 staggering losses in the forex trading market, would that be a
24 variable in your decision to invest in Oasis?

25 A The answer is no. I can give you an example.

CROSS-EXAMINATION OF JOHN PANIAGUA

1 Q I appreciate, you know, your desire to give an example.

2 MR. ALLEN: Objection. Argumentive.

3 THE COURT: All right. Well, if you need to explain
4 your answer, you're permitted to.

5 A Okay. I will give you an example, KKR. In the late
6 '80s, early '90s, they did the leverage buyout of Nabisco.
7 There was a CEO, Ross Johnson, who was known for flying the
8 business jets on company's money all over the world. In fact,
9 he even took his dog. There is a famous instance where he
10 took his German shepherd and he used the executive jet for
11 that one purpose in time.

12 To me, I look at it as parts. Private equity funds,
13 they do charge asset management fees for their services to be
14 able to build. You have to give them a chance to build the
15 company, build and make it grow.

16 BY MR. CHEE:

17 Q If you learned that the defendant had lied about his
18 ability to be a market maker, would that be something that you
19 would like to consider in your risk assessment in determining
20 whether to invest in Oasis?

21 A No. Again, I will say it again, because on the forex
22 side it was one piece of other pieces. The analogy I use, I
23 can invest in four or five different areas. If one of them
24 for whatever reason doesn't generate revenue, I focus on the
25 others. It's diversification.

CROSS-EXAMINATION OF JOHN PANIAGUA

1 Q Are you done, Doctor? I didn't want to cut you off.

2 If you learned that not a single cent, not a single
3 penny was coming back from the Oasis trading account that the
4 defendant was using to make trades, would you consider that to
5 be a variable in your risk assessment equation?

6 A No.

7 Q If you learned that interest payments, that you were
8 guaranteed the 12 percent interest payments, if you learned
9 that those payments were funded as Ponzi-style payments from
10 other investors, would that be a variable in your risk
11 assessment equation?

12 A No.

13 Q You testified earlier that you had no idea what the real
14 estate assets were or where the silver positions were located
15 for the defendant; is that correct?

16 A Correct.

17 Q And yet you are still able to make a risk assessment with
18 that gap in your knowledge?

19 A Yes. I trusted my brother.

20 Q Just a few more questions, Doctor. I appreciate your
21 time this afternoon.

22 A No problem.

23 Q You mentioned trust in your brother, and I understand
24 what you're saying there, but as a man of a hard engineering
25 background of numbers, is trust in a person an appropriate

REDIRECT EXAMINATION OF JOHN PANIAGUA

1 factor in your business?

2 A Actually, yes. Yes, it is. It's a very big factor
3 especially when you network. I can give you an example. Like
4 multifamily investments I have been doing, trust is a big
5 factor.

6 Q So you would agree with me then trust between the
7 defendant and people that he knew was an important factor in
8 their decision as well to invest in Oasis?

9 A My trust was with my brother. And if my brother trusted
10 the defendant, so be it. But my trust was with my brother.

11 Q Let me just ask you one last question. The program that
12 you developed to interface between AWS and Spotex, that didn't
13 actually verify any of the numbers coming out of Spotex,
14 correct?

15 A Can you clarify "verify"?

16 Q Your programming didn't look back into bank accounts or
17 financing of Oasis?

18 A No, no, no. All it did was pull the spreads, all right,
19 and then adjusted the balances on a daily basis.

20 Q You just pulled in the data and you sent it somewhere
21 else essentially?

22 A Correct, for consumption.

23 MR. CHEE: Thank you very much for your time, Doctor.

24 THE COURT: Redirect, please.

25 **REDIRECT EXAMINATION**

REDIRECT EXAMINATION OF JOHN PANIAGUA

1 BY MR. ALLEN:

2 Q Mr. Paniagua, the \$130,000 that you got paid to do the
3 technical work to create the AWS login portal --

4 A Yes.

5 Q -- is that a common fee for that type of work?

6 A I was charging \$125 an hour. So whatever the hours, and
7 it was many, many hours, and it came out to that amount.

8 Q And what did you do with the 130,000 that you got?

9 A I put it back -- I put it back into the loan.

10 Q Did you --

11 A I loaned it again.

12 Q Did you write a software to deceive yourself?

13 A No.

14 Q The first time you invested that your brother
15 recommended, do you recall?

16 A Yes.

17 Q That wasn't with Mr. DaCorta. It was through a company
18 that started with an A? Alice --

19 A Elysium.

20 Q And I believe you testified on direct examination
21 Mr. DaCorta wasn't associated with Elysium?

22 A Not that I know of, no.

23 Q You worked on the New York Stock Exchange?

24 A Yes.

25 Q For companies that were trading stocks?

REDIRECT EXAMINATION OF JOHN PANIAGUA

1 A Yes.

2 Q When a company is trading stocks on the New York Stock
3 Exchange and the stock goes up in value, does the company take
4 the money out of the stock exchange and send it all the way
5 back to the investor, or do they pay the investor out of their
6 operating bank account?

7 A I'm not sure what you mean.

8 Q Okay. So somebody buys a stock.

9 A Correct.

10 Q It goes up in value. The stockholder decides to cash out
11 of the stock. When they cash out of the stock, does the money
12 come all the way back from the trading platform, or does the
13 company that made the trade pay the customer back out of their
14 operating bank account, if you know?

15 A That mechanism I don't know. I do know that -- that I'm
16 not sure of, all right. I do know that they cleared the
17 trades. So when you trade, everything goes through a
18 clearinghouse, okay, and the trades are settled there. And
19 then I guess the broker or whoever you traded through, you get
20 the proceeds from the clearinghouse that clears the trades.
21 You know, the proceeds go back through the broker back to the
22 client.

23 Q Okay. The government asked you on cross-examination
24 about your software not showing money transferring, correct?

25 A Correct.

REDIRECT EXAMINATION OF JOHN PANIAGUA

1 Q Is it because it's only capturing the transaction, not a
2 bank account tracking money?

3 A It only captures the data, whatever the value -- whatever
4 those numbers are for the spreads.

5 Q And do you have any reason to believe that they were not
6 real currencies being traded?

7 A I have no reason to believe that there was no trade -- if
8 there was -- if there is any shenanigans going on, it would be
9 inside Spotex.

10 Q Do you have any reason to believe that Spotex was
11 involved in shenanigans?

12 A No.

13 Q Do you have any reason to believe that trades were not
14 actually cleared?

15 A No. They had to be cleared.

16 Q How do you know that?

17 A Because otherwise Spotex wouldn't be able to trade
18 because you are required a prime broker to clear your trades.
19 As far as I knew, Spotex had a clearinghouse.

20 Q Mr. Chee asked you if you knew Ms. Katter, if you knew
21 Mr. Kihnke, if you knew Mr. Johnson, if you knew the
22 individuals that I had showed you on your -- on the data
23 collection. Do you remember that?

24 A Yes.

25 Q And you indicated you don't know those people, correct?

REDIRECT EXAMINATION OF JOHN PANIAGUA

1 A I'm sorry?

2 Q You indicated you don't know those individuals.

3 A Nope.

4 Q But you do know based on the data collected by the
5 computer software that they all must have clicked that they
6 read the risk disclosure, indicated that they understood it
7 and signed, correct?

8 A Yes.

9 MR. ALLEN: No further questions.

10 THE COURT: All right. Thank you, sir. You may step
11 down.

12 Let's call that next witness, please.

13 MR. ALLEN: Your Honor, the defense rests.

14 THE COURT: All right. Anything else from the
15 government?

16 MS. BEDKE: No, Your Honor.

17 THE COURT: All right. Ladies and gentlemen, thank
18 you. You have the entire case. The evidence is now closed.

19 Okay. Schedule wise, let's just talk for a minute.

20 Normally I wouldn't lay this all out, but y'all have been a
21 super jury. So we can run -- so to get the closings done and
22 my instructions on the law is going to take about three hours,
23 and we could have dinner here at 7:00 if you wanted to go and
24 then deliberate. Or we can do the government's first closing
25 at about two-thirds of the defense closing and then break,

REDIRECT EXAMINATION OF JOHN PANIAGUA

1 which would be about 6:00, and then come back in the morning.

2 So you want to do that, break at 6:00? It's been a long day.

3 So what we're going to do, let's take just the
4 shortest little comfort break. So the government has the
5 burden of proof. So they get the opening closing, then the
6 defense goes, and then they get a brief rebuttal. So we will
7 take the government's opening closing. We'll take about
8 two-thirds of the defense closing, and we'll break for the
9 night and then get it fresh in the morning. Will that work
10 for everybody?

11 Let's take just as quick as we can. Try to get back
12 here at five after. Thank you.

13 (Recess taken.)

14 THE COURT: Ladies and gentlemen, thanks again for
15 your close attention. What the judges say and what the
16 lawyers aren't evidence, but the lawyers are allowed to argue
17 their case. And we are going to recognize the government for
18 what's called their first opening, and then we will ask the
19 defense to give us about two-thirds of their opening, and then
20 will break for the night. And then tomorrow morning we will
21 take the last, the last third of the defense closing, the
22 government's rebuttal. And then I will instruct you on the
23 law, and you should have this case fairly early in the morning
24 tomorrow.

25 All right. Government, we will hear from you now.

REDIRECT EXAMINATION OF JOHN PANIAGUA

1 MS. BEDKE: Thank you, Your Honor.

2 CLOSING ARGUMENT ON BEHALF OF
3 COUNSEL FOR THE GOVERNMENT

4 MS. BEDKE: Good afternoon, ladies and gentlemen.

5 My name again is Rachelle Desvaux Bedke, and I have
6 the privilege of serving as an Assistant United States
7 Attorney here in the Middle District of Florida. This is my
8 opportunity to say on behalf of the United States thank you
9 for your patience, for your kind attention throughout the
10 course of this proceeding.

11 It's also the government's opportunity to comment to
12 you about the evidence that has been admitted during the
13 course of this trial. But before I do that, I would like to
14 take just a couple of minutes to address some housekeeping
15 issues.

16 Now, once you have heard all the closing arguments
17 and the Court's instruction on the law, you all will be
18 excused to the jury room to deliberate and hopefully render a
19 verdict in this case. All of the evidence that has been
20 admitted during the course of the proceeding will go back to
21 the jury room with you. We want to make sure that if you have
22 any question or you feel the need to consult any of that
23 documentary or electronic evidence, that you know where to
24 find it. So while you will get the evidence, you will not get
25 this table. So let me just explain that there is a method to

REDIRECT EXAMINATION OF JOHN PANIAGUA

1 the madness, if you will.

2 The first part of the government's exhibit list
3 numbers 1 through 99, and not all the numbers are used, refers
4 to what I will call in general terms infrastructure. That
5 includes all of the corporation records, right, for OIG, for
6 Oasis Management, for all of the stand-alone LLCs incorporated
7 to purchase the properties and so forth. It also includes all
8 the bank records, so all of those CDs that you saw me provide
9 to Agent Batsch at the outset of his testimony. It includes
10 records of the Fund Administration and Mainstream Services
11 account, ATC applications and agreements, Mr. Joseph
12 Paniagua's spreadsheets, and Mr. John Paniagua's new back
13 office documentation.

14 The 100 series relates to the regulators that you
15 heard from, Deborah Oremland and Jennifer Sunu from the NFA.

16 The 200 series refers to the victim records. That is
17 all of the records related to the investments of Patti Katter,
18 Matthew Kihnke, Anthony Charles, and so forth. Those
19 documents are going to be in the 200 series of exhibits.

20 The 300 series of exhibits refers to the evidence,
21 both photos and documents that were acquired during the
22 searches. It also includes documents regarding all of the
23 expenditures. So documents relating, for example, to the
24 purchases of the Lost Key residence, Lacantera, Founders Club,
25 Maserati, Ferraris and so forth. All of that documentation

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1 about the expenditure of funds is in the 300 series.

2 The 400 series, those are the documents that relate
3 to the Spotex trading platform. So that includes documents
4 and demonstrative videos that Mr. Mitchell testified about.
5 It also includes documents and diagrams that Mr. Childers
6 testified about.

7 And finally, the 500 series of exhibits speaks to the
8 financial summaries, that is Agent Batsch's information
9 analysis of all the relevant banking account records and also
10 all of the records related to Count 3. That is the tax count.
11 So the certified copies of the individual and partnership tax
12 returns are in that section as well as the documents about
13 Mr. Burling and his relationship with Mr. DaCorta.

14 So if you want to find anything, you will have all of
15 that evidence at your disposal. And we just wanted to give
16 you a little guidance as to where to find it.

17 Now, in this case the defendant has been charged with
18 three federal felony offenses. Count 1 charges him with
19 conspiracy to commit wire fraud and mail fraud. And it is the
20 government's burden of proof to establish the following two
21 elements to prove that charge: First, that two or more
22 persons in some way or manner agreed to try to accomplish a
23 common and unlawful plan to commit wire fraud or mail fraud,
24 as charged in the superseding indictment, and that the
25 defendant knew of the unlawful purpose of the plan and

REDIRECT EXAMINATION OF JOHN PANIAGUA

1 willfully joined in it.

2 Now, you know from Joseph Anile's testimony that he
3 and the defendant had a common and unlawful plan. Mr. Anile
4 told you from the outset he did not invest any money in Oasis.
5 He did not recommend anyone to Oasis because he knew it was a
6 scam. You also know from his testimony and from the
7 defendant's testimony that the defendant discussed with him
8 certain CFTC and NFA rules as well as the investors that they
9 were targeting for purposes of this operation. You know that
10 the Oasis entities were funded with investor money. That's
11 clear from both the testimony of Mr. Anile and Mr. DaCorta.
12 They both knew that fact. You also know that it was the
13 investor money that was used to pay everything. That was the
14 money that was used to transfer to ATC, and before that for a
15 brief period to CFH for trading in forex currency. It was the
16 money that was used to cover operating expenses associated
17 with this operation. It was the money that was used to pay
18 purported interest to the victims and withdrawals of
19 principals when those were requested. It was also the money
20 that the conspirators used to fund their lavish lifestyles.

21 Now, remember Mr. DaCorta did not have any meaningful
22 money to invest in Oasis at the outset of this venture. The
23 testimony is clear that he filed for bankruptcy in about 2010.
24 And that is why one of the things he asked Mr. Anile to do was
25 to help him secure a license to trade in Belize. You'll

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1 recall from documents 80B and 80C that the defendant said he
2 was statutorily disqualified from securing this license in
3 Belize because he had filed for bankruptcy and that Mr. Anile
4 wrote a letter challenging the Belizean authority's decision
5 so that Mr. DaCorta could get that license, and it was denied.
6 That's in the documentation. And so when Oasis got off the
7 ground, the money that came into it from the very first
8 offering, the Reg D offering all the way through the entire
9 period relevant to this case came from investors. That was
10 the only money that ever came in.

11 You also know, and both Mr. Anile and the defendant
12 testified unequivocally that no money ever came back from ATC.
13 Now, they both knew the unlawful purpose of the plan.
14 Mr. Anile testified as much. You also know from the evidence
15 which establishes beyond a reasonable doubt that the defendant
16 also knew the unlawful purpose of the plan.

17 One of the ways you know that is because you heard
18 the testimony of Deborah Oremland of FINRA. Ms. Oremland
19 testified to you and shared with you the defendant's CRD which
20 showed all of his education, all of the challenging
21 examinations specific to this industry he was required to take
22 and to pass and that he passed in some instances on two
23 occasions. You saw years of work history. And you heard from
24 the defendant himself when he testified that he was a very
25 educated, very experienced trader.

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1 You also know in addition to the CRD and the exams
2 and history that it reflects that the defendant took and
3 passed the Series 3. That was not reflected on the CRD
4 because rather than being related to equity trading, it
5 relates to commodities and futures trading right under the
6 bailiwick of the FDC and NFA. The defendant told you just
7 yesterday that he took and passed the Series 3 and that that
8 exam related to, among other topics, futures trading,
9 commodity and futures contracts, CFTC and NFA rules and
10 regulations, and NFA disciplinary proceedings. That by the
11 way, the CRD is Exhibit 100A.

12 Now, the defendant certainly knew about his NFA
13 settlement. And there's been a lot of talk about that
14 document, Exhibit 111 initially and I believe 308, the
15 unredacted version of that settlement agreement. And you know
16 from the testimony that the defendant was effectively banned
17 from soliciting U.S. residents to engage in forex trading or
18 for trading on behalf of U.S. residents, that is forex. And
19 you also know from Deborah Cheslow's testimony, among others,
20 including that giant spreadsheet that she created when she was
21 trying to get a handle on all of the accounts near the end of
22 this operation, that is Exhibit 202AA, that virtually every
23 single client of Oasis was a U.S. resident, right, in
24 contravention of the defendant's settlement with the NFA.

25 You will recall too that the defendant mentioned

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1 ECPs. And Mr. Anile testified that during the course of their
2 dealings with Oasis, the defendant came to him and said we
3 need to target ECPs. And he described them as super
4 accredited investors who had more income, more investment
5 experience, more sophistication such that they were able to
6 bear greater risk. Now, that doesn't sound like someone who
7 doesn't know what he's doing. The defendant was part of these
8 conversations and he testified about what it meant to be an
9 ECP and that those were the people there were looking for
10 during his testimony to you.

11 Now, you know, members of the jury, because you heard
12 directly from, among others, Anthony Charles, Patti Katter,
13 even Michael Chalhub that they were not ECPs. Certainly
14 Mrs. Katter, she was one of the handful of people who actually
15 filled out the financial data on that application for the new
16 AWS online portal and even reported her income or net worth.
17 I believe, although you should rely on your own recollections
18 or refer to the documents, she reported about \$32,000 in
19 income. I may be off a little there, and \$500,000 of net
20 worth, but you also know from her testimony that her net worth
21 was primarily based on her residence. She said if we sold our
22 residence we would have that. And they didn't buy it. It was
23 a gift to them by Homes for Heros, right. That is not an ECP,
24 nor is Mr. Charles who testified about being an immigrant from
25 Ireland, a construction worker who worked three jobs in order

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1 to save money to fund his son's college education.

2 Members of the jury, those are not ECPs. And even if
3 they were, they are still U.S. residents, which means the
4 defendant cannot solicit them to engage in forex trading nor
5 can he trade on their behalf because that would be in
6 contravention of his agreement, the one that he entered in
7 voluntarily with the NFA.

8 The government would submit that those ECP forms
9 where they ask for the net income and the assets is just
10 window dressing. Clearly there was no effort on behalf of
11 Oasis to make sure that that part of the application was
12 completed because almost none of them were of those we saw
13 here in court. And if it wasn't completed, then there is no
14 information for the defendant or anybody else at Oasis to even
15 determine whether they were ECPs.

16 As I said, the documentary evidence substantiates
17 that the testimony that you heard, that the Oasis accounts
18 were funded with victim dollars. You will recall all the
19 wires, from among others, Ms. Katter. This is Exhibit 200D;
20 Ms. Cheslow, 200R; Mr. Charles, 204E, among others. And you
21 also saw through Mr. Anile some of the Mainstream Fund
22 Services cash reconciliation reports that he received from
23 Mainstream Fund, and he said for a time Mr. DaCorta also got
24 these. And that is at 9B and I believe 9C as well. So
25 clearly that was the money coming in, and there is no

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1 testimony or documentary evidence to show that there was any
2 other money that came in to fund the Oasis accounts.

3 The documentary evidence also shows that a portion of
4 that money, probably roughly 20 or \$22 million -- and I'm
5 looking here at Exhibit 501 of Agent Batsch -- was used to
6 transfer to ATC for forex trading. None of the money came
7 back from ATC. That is beyond dispute, members of the jury.
8 You heard that not only from Mr. Anile. You heard it from Joe
9 Paniagua. You heard it from Mr. Childers. You heard it from
10 Mr. Wiand, the receiver. You heard it from Agent Batsch. You
11 even heard it from the defendant. No money ever came back. I
12 should add Mr. McFarland as well. He testified to that just
13 this morning.

14 Mr. Anile also testified to you that he and the
15 defendant agreed not to disclose the trading losses. He
16 testified, among other things, that in or about August of
17 2018, the defendant came to him and told him that there was
18 7.5 to \$15 million in trading losses. And Mr. Anile said that
19 sounds like a Ponzi scheme, and he said the defendant
20 responded, yes, it does. Notwithstanding that fact, they
21 agreed they were not going to disclose it. And the evidence
22 is clear that no one else knew about it at that time.
23 Notwithstanding that, you know that the trading losses
24 continued to climb. And this exhibit, 425F, is just one of
25 the diagrams that displays the tremendous trading losses

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1 particularly in 2018. And these are losses that the defendant
2 himself told you it was a terrible year in 2018 and the losses
3 were growing until about the end of the year when they were
4 roughly, according to the defendant's own account, about
5 \$18 million.

6 The evidence establishes beyond a reasonable doubt
7 that notwithstanding those massive trading losses, the
8 defendant and Mr. Anile continued with their extravagant
9 spending. Mr. Anile bought a Ferrari. Mr. DaCorta purchased
10 the residence at Lacantera. Mr. DaCorta also made the final
11 payment. He paid off the Lost Key Place residence. And that,
12 members of the jury, was in February of 2019, \$653,000. And
13 that is evidenced in Exhibit 306A2 and the satisfaction of
14 mortgage that resulted from that payment is Exhibit 306B.

15 And of course you all know that they threw an
16 incredible holiday party to mark the end of 2018. And neither
17 defendant nor Mr. Anile told any of the investors all gathered
18 there about the massive trading losses. Why, members of the
19 jury? Because they wanted to prevent a run on the bank having
20 all of the investors ask to withdraw their money at the same
21 time.

22 Even Mr. McKee who testified earlier today, I think
23 he said it would have created mass hysteria. And
24 Mr. McFarland acknowledged that there wouldn't be enough money
25 to pay all the investors back if they all requested their

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1 principal investments and earnings at the same time.

2 Now, the conspiracy charged in Count 1 alleges two,
3 what we call objects. The count says that the defendant and
4 co-conspirators conspired to violate or commit -- pardon me --
5 wire fraud and/or mail fraud. So I'd like to take a moment to
6 just tell you what the government has the burden of proving
7 with respect to those two objects of the conspiracy charged.

8 To establish a wire fraud, the government must prove
9 beyond a reasonable doubt that the defendant knowingly devised
10 or participated in a scheme to defraud or to obtain money or
11 property by using false pretenses, representations, or
12 promises.

13 Two, that the false pretenses, representations, or
14 promises were about a material fact.

15 Three, that the defendant acted with the intent to
16 defraud. And you will find this language in the jury
17 instructions that you will have when you go back to the jury
18 room.

19 And finally, that the defendant transmitted or caused
20 to be transmitted by wire some communication in interstate
21 commerce to help carry out the scheme to defraud.

22 Now, there is absolutely no dispute that there were
23 wires used during the course of the Oasis operation. There
24 were investment funds that were wired, by among others
25 Mr. Charles here. There were promissory notes that were

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1 emailed by Mr. Paniagua to Mrs. Katter and to others once
2 their payments were received. There were emails. You recall
3 Deborah Cheslow testified that early on she received about a
4 weekly email from the defendant kind of reporting on that
5 week's performance. And there's a big exhibit, it's 202X,
6 that includes a compilation of all of those, and those were
7 transmitted via email. Those are wires.

8 In addition, they wired out via email loan
9 statements. And Mr. Kihnke, among others, testified about
10 receiving loan statements via email during the earlier days.
11 That is until the AWS online portal was created by John
12 Paniagua, and then everybody just logs in to the website which
13 of course is provided courtesy of wires. So there is no
14 question that we have wires here that were used to
15 perpetuate -- perpetrate, pardon me, this scheme.

16 Mail fraud, the elements of mail fraud are
17 comparable. Let me go over them with you briefly. The
18 government must prove, one, that the defendant knowingly
19 devised or participated in a scheme to defraud someone, or to
20 obtain money or property using false or fraudulent pretenses,
21 representations, or promises.

22 Two, that the false or fraudulent pretenses,
23 representation, or promises were about a material fact.

24 Three, the defendant intended to defraud someone.

25 And finally, four, the defendant used the United

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1 States Postal Service by mailing or causing to be mailed or
2 used a private commercial interstate carrier by depositing
3 with that carrier -- that would be like a FedEx or UPS, for
4 example -- to help carry out the scheme to defraud.

5 In particular, you heard from Deborah Cheslow that
6 early on she mailed her checks. And I would refer you in
7 particular to Exhibit 202C which is her email I believe to
8 John Haas during the very early days when she said the check
9 and the W-9 are in the mail. And you also saw her initial
10 check, 570, that's Exhibit 202D. And later when she invested
11 additional funds, you saw Exhibit 202F1 wherein Mr. DaCorta
12 said, Deb, just simply mail out a check made to Oasis, LLC,
13 and mail it to the Lost Key residence. And Ms. Cheslow
14 testified that she did exactly that, and here is the check.
15 It's Exhibit 202F2. So there is no dispute about the fact
16 that there were wires, there were mailings.

17 Now, focusing on the other elements of mail fraud and
18 wire fraud, I want to talk to you a little bit about the
19 fraudulent pretenses, representations, and promises.

20 There were also, the government alleges, there was
21 also a material omission, a very material omission. Now, with
22 respect to fraudulent representations, you heard from all of
23 the victim investors as well as on the conference call
24 recording that was offered by Ms. Cheslow. She testified that
25 she recorded it. You also heard the undercover agent, Agent

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1 Stone's recordings of the interaction he had first with
2 Mr. Duran, one of the defendant's sales agents, and the
3 defendant himself.

4 And in all of those recordings and conversations and
5 presentations, you heard a number of fraudulent
6 representations, including that there were no fees and
7 commissions associated with this investment; that the
8 investors were guaranteed 12 percent interest minimum; that
9 there was never a losing month on forex trades; that the
10 interest and principal were funded by trading activity; that
11 there were other assets sufficient to cover the principal
12 investments and this was a safe and no-risk proposition.

13 Recall in particular Agent Stone testified that the
14 defendant and -- well, this was the recording that Deb Cheslow
15 offered. This was the recording at 202U. You also heard the
16 undercover agent's recording that as Exhibit 210E. Agent
17 Stone testified that both Frank Duran and the defendant told
18 him that his money wasn't going into real estate. They told
19 him he didn't have to worry about the risk disclosure. That
20 was just something the lawyers required them to do and that
21 99 percent of that stuff would never happen. They also told
22 him that he was guaranteed the 12 percent at a minimum and
23 that this was a no-risk proposition.

24 You heard comparable representations reported by
25 Patti Katter. Mrs. Katter told you that she and her husband,

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1 Kenneth Katter, and the defendant were close personal friends
2 and they lived in the same general neighborhood. They trusted
3 the defendant, and that's why they invested. She said the
4 defendant knew about their personal circumstances, about her
5 husband's injuries and that the defendant assured them that
6 this was no risk. When she asked about the risk disclosure,
7 she testified to you he said don't worry about those
8 legalities. If anything happens, if there's an emergency I
9 will take care of you. She said that the NFA settlement was
10 never disclosed to them, and they invested their life savings.
11 She was comforted even after making the investment, even
12 though she said she was very nervous and hesitant at the
13 outset, by the emails reporting the performance, by the loan
14 statements that she received, and by the other assurances
15 provided to her by the defendant.

16 You heard something comparable from Matthew Kihnke.
17 The defendant told him his money was going to sit safely in a
18 bank account or bank accounts around the world as collateral,
19 that it was never going to be traded, and that's why there was
20 no risk in investing his money. He said when he asked the
21 defendant why the operation, why the entities were offshore
22 that the defendant told him, oh, because it's too costly,
23 there's too much red tape or something to that effect to be
24 operating in the United States. The defendant never disclosed
25 the NFA settlement which banned him from doing this kind of

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1 trading on behalf of U.S. residents.

2 Mr. Kihnke said he wasn't granted any access to
3 financial details. And based upon his memory, he was
4 pressured to sign this lengthy, unknown document later in
5 time, about the time the program switched from supposed
6 investments to supposed loans. Now, we don't know if that was
7 the risk disclosure because Mr. Kihnke doesn't know, but it
8 certainly would coincide with the time.

9 Members of the jury, you also heard from Anthony
10 Charles. Mr. Charles said he attended three different
11 presentations. And he was persuaded in particular when the
12 defendant came to his home and sat in his living room and
13 talked to him and his wife and met, if my memory serves, their
14 two-year-old, and that the defendant knew because Mr. Charles
15 told him this is the money I'm setting aside to send my son to
16 college, that this was the American dream as far as he was
17 concerned. He had worked three jobs in construction to save
18 this nest egg to make a better life for his child, for his
19 children. And he was assured that this was no risk. And he
20 was never told about the NFA settlement.

21 You also heard from Mr. Chalhub. Mr. Chalhub, a
22 neighbor and close friend of the defendant's, he said he
23 trusted the defendant because of that friendship and was also
24 told like Mr. Kihnke that his money would sit in a collateral
25 account and that it would never be traded and therefore it was

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1 not at risk. The NFA settlement was never disclosed to him.
2 He also told you he performed some due diligence on some of
3 the businesses that Oasis talked about investing in and that,
4 if my memory serves again, he did not recommend any of them
5 and that none of those investments were made.

6 You heard from Mr. Ian Howard, another personal
7 friend who spent a lot of time with the defendant. Now, he
8 understood that his money was going to be traded. So the
9 story, you know, changes a little bit, but he also understood
10 that there was no risk. There was no disclosure of the NFA
11 settlement to Mr. Howard, and there was never any disclosure
12 of the massive, the staggering trading losses. Even up until
13 the day or so before the search warrants and the seizure
14 warrants were executed and the receiver was appointed,
15 Mr. Howard testified that a day or a few days before that they
16 both were in attendance at a birthday party and the defendant
17 told him none of this. And as a result, the money that he had
18 hoped to set aside to help with foster children he and his
19 wife have adopted is no longer available to them.

20 Those victims testified to you that had they known
21 that this was false, had they known about the NFA settlement,
22 had they known that the spread wasn't generating the gains
23 that were going to account for the interest they were
24 promised, they would not have invested. These
25 representations, this material omission were material

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1 considerations.

2 Now, the Court will instruct you that a material fact
3 is an important fact that a reasonable person would use to
4 decide whether to do or not do something. A fact is material
5 if it has the capacity or natural tendency to influence a
6 person's decision. It doesn't matter whether the decision
7 maker actually relied on the statement or knew or should have
8 known that the defendant -- that the statement was false.

9 So members of the jury, the government would submit
10 to you that the evidence is clear and that the testimony of
11 the victims is uniform. These are facts, and this omission
12 are things that they needed to know, that had they known,
13 their decisions to invest would have been different. That
14 makes them material.

15 Ms. Cheslow was yet another one. And she said that
16 she had understood that her money at the outset was never
17 going to be traded, held in a collateral account. She also
18 said the NFA settlement was never disclosed. She mailed her
19 checks as we discussed. And she withdrew funds during that
20 program change period. She took all of her money out of the
21 investments before she put it back, the 185,000 in the loan
22 program, and that was the ultimate proof to her that this was
23 legitimate.

24 Now, you know that the NFA settlement is real because
25 you heard from Jennifer Sunu, and you heard from the defendant

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1 who said he entered into it. She is the compliance director
2 with the National Futures Association. And she told you that
3 if someone is trading -- is soliciting or trading forex on
4 behalf of a U.S. resident or more than one U.S. resident that
5 CFTC membership is required and NFA membership is also
6 required. And that is because the NFA has rules and
7 regulations about how an offering is made, about what
8 disclosures are provided to prospects, about how funds are
9 managed, and so forth. She went on at some length, but most
10 important she said the overarching mission is investor
11 protection and market integrity. Investor protection and
12 market integrity. That's why these rules are in place.
13 That's why the NFA exists, and that's why the defendant didn't
14 want to tell anyone about his settlement with the NFA and his
15 ban from participating in this activity because he wanted to
16 stay under the radar and avoid detection.

17 Let's talk about some additional fraudulent
18 misrepresentations. This screen went out. Are you still able
19 to see?

20 MR. MURRAY: Yes.

21 MS. BEDKE: I will look at this one.

22 Mr. Mitchell talked to you about a couple of other
23 very important concepts in this case, or issues. One is the
24 spread and another are the adjustments. So recall that
25 Mr. Mitchell explained that his software, Spotex's software

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1 platform is a passive technology conduit. He likened it to an
2 eBay. They are not trading. They're not handling money.
3 They're just providing the platform for buyers and sellers to
4 come together, and that all of that trading data and other
5 recordkeeping data is housed on that website -- or on that
6 platform, pardon me, so that people can see it and use it.

7 He also testified to you that they provide certain
8 functionalities to their clients, including ATC, which in turn
9 made the platform available to its customer, Oasis. And one
10 of those functionalities is the ability to go in and make
11 adjustments. He also told you about the spread, and he said
12 that spread is not real dollars; it's data. And he explained
13 and you saw it in a demonstrative video that the user can go
14 onto the Spotex platform, go to a certain menu and put in
15 whatever spread they choose. And in this case, you know from
16 the testimony of Joseph Paniagua that he did exactly that.
17 The defendant directed Joseph Paniagua to go onto the Spotex
18 website and to put in two pips. And Mr. Paniagua said that's
19 exactly what he did. He reached out to Dave Manoukian at ATC
20 and had Mr. Manoukian walk him through the process. He put it
21 in once. He added two on the open, two on the close, and it
22 was there in perpetuity.

23 Mr. Paniagua also told you that he was directed to
24 make adjustments. Now, there was a lot of conversation about
25 these adjustments. And you will recall that Mr. Paniagua said

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1 my job at the defendant's direction was to go in because
2 Spotex automatically allocated all of the trading losses and
3 profits across all the subaccounts in the Oasis portfolio.
4 And so he had to go in manually in the early days to bring
5 those numbers up. So if the trading losses were allocated,
6 for example, Ms. Katter's account which you saw or another
7 investor's account, he had to go in and add back in numbers to
8 bring that number up to the original amount of the principal
9 invested, plus any interest that supposedly had been earned on
10 that account, and that the reason he did that is because
11 Mr. DaCorta told him to do that. And he also added, well, the
12 investors didn't need to see the trading losses and profits
13 because that didn't have anything to do with the way they were
14 being paid. They were being paid because of the spread,
15 because of the volume of trading.

16 But members of the jury, you know that that spread is
17 a fiction. It's a fiction. And if it really didn't matter
18 that the investors see the trading losses and profits because
19 it didn't affect their bottom line, well, then what reason is
20 there to conceal it? It should be on the statements. It
21 should be made available to them on the AWS platform. It
22 never was. Mr. Joseph Paniagua said the investors never had
23 access to the trading data or the profits and losses.

24 John Paniagua testified to the same. He said because
25 his brother after a time became so overwhelmed with the number

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1 of investors that had come into Oasis, he could no longer make
2 the adjustments manually on a monthly basis. And that's why
3 John Paniagua had to build software to make the adjustments
4 automatic and that that was the data that was drawn from the
5 Spotex website from the platform and broadcast, if you will,
6 or transmitted for publication and consumption on the AW
7 website.

8 Remember, just a few moments ago Mr. John Paniagua
9 said, I was directed to pull the spreads and the adjustments.
10 That's what I did. If the trading losses and profits really
11 don't have anything to do with the investors, then why should
12 they care? Because the defendant and Mr. Anile don't want a
13 run on the bank. There's not enough money there to make
14 everybody whole.

15 You also heard Joseph Paniagua testify about the
16 daily reports that he provided and the monthly account
17 statements. We've talked about that. Mr. Joseph Paniagua
18 said he never had access to the bank accounts. So he didn't
19 realize, you know, how things didn't line up. He only saw the
20 Spotex data. And he told you that at the end after the
21 receiver was appointed and stepped into the shoes of the
22 operators of Oasis, that Joseph Paniagua was asked to look at
23 that data and try and come up with a calculation as to how
24 much money was owed to the investors. And that calculation is
25 in Government Exhibit 90C, and it says \$88 million in

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1 principal and promised interest.

2 Here is another example of fraudulent representations
3 regarding the spread and the adjustments. This is -- I
4 believe it's Exhibit 425. I don't want to misspeak, but this
5 is one of the charts that talks about the trading losses by
6 month. And this chart shows losses, among other points in
7 time, in 2018 in staggering amounts. And we talked about the
8 extravagant expenditures that happened after that. In
9 addition, Mr. DaCorta sent an email out to all investors
10 telling them on June 14 of 2018 that there was going to be a
11 bonus awarded in July. This is on the heels of millions of
12 dollars in trading losses. Why, members of the jury? Again,
13 they didn't want a run on the bank. If people discover -- if
14 investors discover all these trading losses, they're going to
15 want to get out. And this bonus, the government submits, is
16 yet another example of an effort to conceal those trading
17 losses and have people keep their money in Oasis. And this
18 exhibit, the chart is Exhibit 425F1.

19 In addition on these issues of the spread pay, you
20 heard from Matthew Childers. And Mr. Childers told you
21 unequivocally that the defendant and Oasis were not a market
22 maker. That is just not what they did. And he gave you a
23 panoply of reasons as to why and how he came to that
24 determination based on his extensive experience not only as a
25 forex trader himself and market maker but also as a ten-year

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1 regulator with the NFA. He told you that the spread pay was
2 illusory. It was a fiction. It was like fairy dust.

3 He explained to you in terms that I could understand
4 that Oasis was putting a two-point markup or a two-pip markup
5 on the trade that was being charged to investors and then
6 putting that same two pips back into its pockets or back into
7 its account and claiming it as earnings, right? He said it's
8 like taking money out of one pocket and putting it in the
9 other. You are not generating any revenue.

10 And it makes sense, doesn't it, because at the end of
11 the operation of Oasis when the receiver is appointed and he
12 steps in and takes over, there is no account over there at ATC
13 that's holding any additional spread pay. There is one
14 trading account. \$22 million went over there. There's
15 \$2,005,000 left. There's no 50 million. There's no
16 10 million. There's no anything. There is no spread pay.

17 And if you had any doubts at all about what happened
18 to the spread pay or if somehow someone was persuaded that the
19 defendant's version of what this is was true, he testified
20 that he put all the spread pay, he plowed it back into the
21 trading. So even if it did exist, it was lost. And none of
22 it ever made its way back to the OIG account or the Oasis
23 Management account to be available to make distributions to
24 investors.

25 Further, Mr. Childers talked to you about the trading

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1 that was in particular happening at the very end. So later in
2 2018 and into 2019, and the defendant told you during his
3 testimony that again 2018 was a terrible trading year and that
4 a lot of money was lost. And so in his words, they backed off
5 or slowed down on the trading and took a silver position. And
6 Mr. Childers told you that that silver position was an
7 incredibly risky position to take. He said it was woefully
8 undercapitalized and that it would have been liquidated,
9 absent the addition of a significant amount, millions of
10 additional dollars into the ATC account, by May of 2019
11 because the position that he took vis-a-vis the capital that
12 was there in the ATC account was unworkable. It wouldn't have
13 lasted. It wouldn't have saved the day.

14 Mr. Childers also said as to the real estate and the
15 hard gold and silver, the gold coins and silver ingots and
16 whatnot, that it was not liquid, and so it wasn't a good hedge
17 and it wasn't able to be liquidated quickly such that it could
18 be poured into trading to save the drowning trading account.

19 And here is an example of how he explained it in a
20 visual way. This is Exhibit 425B1. And he showed you that if
21 you looked at all the trading data in Spotex, that the spread
22 just inflated the numbers, that it wasn't really real because
23 at the end of the day the net profits and losses were the
24 same. It was a loss of over \$18 million. Whether you
25 factored in the spread or you didn't factor in the spread, the

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1 result is the same. And remember, members of the jury, this
2 \$18 million figure, that aligns with exactly what Defendant
3 DaCorta told you. He said at the end of the day by the end of
4 2018, they were \$18 million down.

5 So on April 19 -- pardon me -- 18th I think it was of
6 2019 when the CFTC's civil action came to light and the
7 receiver initiated his action and law enforcement executed
8 search warrants and seizure warrants, the defendant was
9 interviewed. And he told law enforcement that he thought he
10 owed \$50 million, but he wasn't precisely sure about the
11 amount. When they asked him about revenue stream, he said, I
12 don't know. And he said, I'm sorry. And he added that
13 Mr. Gil Wilson, one of the employees of Oasis was an innocent
14 person. That's consistent with the documentary and
15 testimonial evidence of the other witnesses.

16 Now, you also know from Mr. Wiand, the receiver who
17 was appointed by the Court, that at that same time he stepped
18 in and took over the entire Oasis operation and all of its
19 assets and holdings. And he told you that based upon all of
20 his calculations and that of the forensic accountants and
21 other staff whose assistance he enlisted, that there was
22 approximately \$83 million that came in from investors. And
23 that after all was said and done, there was only about
24 17.4 million available to distribute to victims at this time.
25 That includes, members of the jury, the \$2,005,000 in the ATC

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1 account. It includes some money that was still in the OIG
2 account, money in the Oasis Management account, and a little
3 bit of money here and there in those LLCs that were created to
4 purchase the real properties. It includes the money, the
5 proceeds from the sales of the real properties, cars, jewelry,
6 things like that where that was possible. All of that, all of
7 those assets, all of that cash amounted to \$17.4 million.

8 And Mr. Wiand testified that he still has other
9 actions. He is pursuing other parties civilly hopefully to
10 recover more that can be distributed to the victims, but
11 that's where he stands now. And that leaves a significant gap
12 because he has received claims from victims to the tune of
13 somewhere between 56 and \$60 million. That does not show that
14 Oasis was in any position to pay back the investors, not their
15 interest gained and certainly not even their principal
16 investments.

17 Agent Batsch, his testimony, his financial analysis
18 substantiates that other testimony. And as I said before, all
19 of his summaries, all of his many spreadsheets are in the 500
20 series of exhibits. His analysis covered a slightly more
21 limited period but the period during which the bulk of the
22 relevant activity took place. So whereas Mr. Wiand's went all
23 the way back to 2011, Agent Batsch's started in January of
24 2015 and went all the way through the April date in 2019. And
25 you can see that Agent Batsch's numbers given the difference

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1 in periods are comparable. He identified over \$77 million of
2 investor funds coming in.

3 He also prepared for you Exhibit 500, which shows
4 where all of the money went, including over to trading at ATC
5 and CFH before that. That's not included in the 2015 date.
6 He also showed you all of the money that went for operating
7 expenses. He showed you the money that was used to pay back
8 interest and principal withdrawals when they were requested.
9 He also showed you all the other distributions that were made
10 in connection with the defendant and Mr. Anile's lifestyle.
11 That's all in 500 and the supporting spreadsheets in the
12 detail.

13 The defendant knew the unlawful purpose of this
14 conspiratorial plan, and he knew that there was not enough
15 money to repay the investors. There is no evidence, nothing
16 to show that any of these real properties were liquidated or
17 in the process of being liquidated by Oasis. We know that
18 there was no money that came from those properties back into
19 the OIG or Oasis Management account. Only money went out.
20 You know from the testimony that there was no income generated
21 from any of these business ventures like Roar of the Lion,
22 Full Spectrum Wellness, et cetera. None of that resulted in
23 any money coming back into the Oasis accounts. You know that
24 there was no money that came back into the Oasis accounts via
25 the silver, either the silver position because all that money

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1 was lost in the trading, or the hard silver and gold coins.
2 No money ever came back. And that testimony is consistent
3 through and including the defendant's own testimony.

4 Now, that is Count 1. And the government submits
5 that based upon all of that evidence it is beyond question
6 that the defendant and Mr. Anile had a mutual understanding
7 that they were going to run this operation and they were going
8 to use the lenders' funds for all of these purposes including
9 return of interest and principal withdrawals when requested to
10 the investors which is a Ponzi-style scheme.

11 They also agreed to conceal the trading losses. And
12 they perpetuated or perpetrated this fraud via the wires and
13 the mailings. They had an intent to deceive. They concealed
14 it through the fraudulent misrepresentations and the material
15 omission alleged.

16 Now, let's turn briefly to Counts 2 and 3. Count 2
17 charges money laundering. It is an illegal monetary
18 transaction. And with respect to Count 2, it is the
19 government's burden to prove the following:

20 One, the defendant knowingly engaged or attempted to
21 engage in a monetary transaction.

22 Two, the defendant knew the transaction involved
23 property or funds that were the proceeds of some criminal
24 activity;

25 Three, the property had a value of more than \$10,000;

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1 Four, the property was in fact proceeds of wire fraud
2 or mail fraud;

3 And, five, the transaction took place in the United
4 States.

5 Now, the transaction that is the subject of this
6 account is the payoff of the Lost Key residential property.
7 Here's a picture of it in Exhibit 302A. You know and we
8 discussed this just a little bit ago that in Exhibit 306A2,
9 there was a wire in February of 2019 that was sent to the law
10 firm handling the settlement in the amount of \$653,293.67.
11 That money came from investor dollars that were acquired from
12 investors via fraudulent misrepresentations and promises and
13 that material omission. That makes that money, the proceeds
14 of the wire fraud and/or the mail fraud, and that's the money
15 that was used to pay off this house. It was more than
16 \$10,000. It was \$653,000, and it satisfied the mortgage in
17 this case. It was in the United States. The government has
18 satisfied its burden with respect to this count.

19 The final count is filing a false tax return. And
20 with respect to this count, Count 3, the government has to
21 prove the following:

22 One, the defendant made or caused to be made a U.S.
23 individual income tax return Form 1040 for the year 2017;

24 Two, the tax return contained a written declaration
25 that it was made under the penalty of perjury;

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1 Three, when the defendant made or helped to make the
2 tax return, he knew it contained false material information;

3 Four, when the defendant did so, he intended to do
4 something he knew violated the law;

5 And, five, the false matter in the tax return related
6 to a material statement.

7 Members of the jury, you recall the testimony of Mark
8 Burling. That is the CPA the defendant retained once he got
9 down to Florida after he had been -- after his prior CPA firm
10 in New York had withdrawn from the engagement. Mr. Burling
11 was unequivocal that he used the information provided by the
12 defendant to prepare the 2017 income tax return. He said he
13 used that information, he prepared the return. He sent a
14 draft of the return to Mr. DaCorta and asked him to review it,
15 and if he had any questions or wanted to discuss it, to call
16 him and let him know.

17 Mr. Burling said contrary to the defendant's
18 testimony, that he never got a call, he never had a request
19 for a meeting. There was no issue. Mr. DaCorta didn't raise
20 any. And I asked him specifically, I said if the defendant
21 testified that he called you and expressed concern that the
22 income number was too low, would that be a false statement?
23 And Mr. Burling said, yes, that would be a false statement.
24 That was just yesterday afternoon.

25 Mr. Burling further testified that the defendant,

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1 instead of calling him and expressing concerns or asking
2 questions, signed the E-file authorization. That's the
3 document that says under penalties of perjury I am attesting
4 that the information in this tax return is true and correct.
5 He signed that authorization. He provided it to Mr. Burling.
6 And Mr. Burling sent the tax return to the IRS. And you have
7 all of the documents that support and substantiate
8 Mr. Burling's testimony. This one, Exhibit 555, is the
9 certified copy of that return that was submitted to the
10 Internal Revenue Service. This return shows on the 1040 that
11 the income reported was negative \$439,026. Based on the
12 evidence we have been discussing, you know that's not an
13 accurate number. The defendant knows that's an inaccurate
14 number.

15 And just one piece of additional evidence that shows
16 that? During 2017 the defendant bought this Maserati. Now,
17 he didn't pay in full for it. He applied for financing,
18 right, for part of it. And on his credit application, which
19 is Exhibit 321, he reports his gross income as \$250,000. Oh,
20 and he has a second employer, and he gets over 16,000 a month
21 from that. That money is not reported on the income tax
22 return. The defendant knew the income number was false. He
23 didn't need to ask Mr. Burling. You have Mr. Burling's draft
24 of the return. That's Exhibit 58. This is the one that he
25 sent to the defendant and said look at it, make sure it's

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1 right, let me know if you have questions. It includes the K-1
2 we discussed, and it includes the E-file authorization
3 document that says the taxpayer declaration and signature
4 authorization. Under penalties of perjury, I declare I have
5 examined a copy of my electronic individual tax return and
6 accompanying schedules and statements, and to the best of my
7 knowledge and belief it is true, correct and accurate and
8 accurately lists the amounts and sources of income and so
9 forth. And the defendant signed it. Members of the jury,
10 based upon that evidence, Count 3 has also been proved beyond
11 a reasonable doubt.

12 So on behalf of the United States based upon all of
13 the evidence that we have discussed this afternoon and all
14 that you have heard during the course of the trial, the United
15 States respectfully requests that you return verdicts of
16 guilty as to all three counts.

17 Thank you.

18 THE COURT: All right. Well, thank you, counsel.

19 And Mr. Allen, why don't you give us -- or I'm sorry.

20 Ms. Irvin, why don't you give us about the first two-thirds of
21 your defense closing, and we'll take the next third first
22 thing in the morning.

23 Yes, ma'am, you have the floor.

24 MS. IRVIN: Can we have the Elmo available?

25 Your Honor, would it be all right if the jury took a

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1 stretch break if they need one while I'm preparing?

2 THE COURT: While she's doing that, I do need one.
3 Maybe they don't. Okay.

4 (Brief recess taken.)

5 THE COURT: Ms. Irvin, what say you?

6 CLOSING ARGUMENT ON BEHALF OF

7 COUNSEL FOR THE DEFENSE

8 MS. IRVIN: At the beginning of this trial in opening
9 statements, my colleague, Mr. Allen, put up this picture, gave
10 you notice that there was going to be a lot of information, a
11 lot of testimony. And I don't want that to be something that
12 overwhelms your process because in reality there's really only
13 one thing that you need to focus on. Focus on what was in
14 Michael DaCorta's heart, mind, and soul. That's what this
15 case is about. It's about what Michael DaCorta intended to
16 do. Did he have a scheme to defraud or a complex business
17 that was misunderstood by the government?

18 The evidence in this case shows he was striving to
19 succeed, not intending to deceive. How do you figure that
20 out? Well, the first place that you can look is his journal.
21 His journal entries are from November 2012. Those journal
22 entries represent what he was thinking, what he was intending.
23 And he wrote in his own words, "My desire is to rebuild a new
24 business in the same manner as I built ICT, only this time use
25 the lesson of failure to catapult me to enormous success, so

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1 great that most would believe it to be impossible to achieve."
2 Read his words. He's telling you what he intends to do. He's
3 telling you what he wants to achieve.

4 Let's start with the NFA agreement. You heard
5 directly from Mr. DaCorta on Friday and on Monday describe the
6 foundation and growth of Oasis Management, LLC, and Oasis
7 International Group. In doing so, he testified about his NFA
8 agreement. That's not easy for him to do because this goes
9 back to a time where it was difficult for him and for this
10 company that he was trying to build.

11 As a result of the NFA closing audit in 2009, he
12 considered the NFA's findings. He neither admitted nor denied
13 them. And he agreed not to seek further NFA membership by his
14 own signature. Let's look at what that NFA agreement said.
15 As long as he did not seek NFA membership in the future, he
16 was abiding by this agreement. And what would happen if he
17 breached the agreement? Well, it's written there. And it
18 says they would deny his application as registration as an NFA
19 member or associate. They would deny any application for
20 registration as an NFA member of any firm of which he was
21 acting as a principal and/or revoke the registration of any
22 NFA member of which either of them is a principal. That's
23 all. Regulatory, informal, offline. That's what this
24 agreement says.

25 In moving forward, he had to make some decisions. In

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1 the months that followed, he had no plans to participate in
2 forex trading. He was looking for another business
3 opportunity. He was frustrated by the 2008 financial crisis.
4 He was trying to figure out what was next for him.

5 And that next opportunity came with Ray Montie and
6 Ambit Energy. He found a trusted friend and partner in Ray
7 Montie, someone who encouraged him to pick himself up, someone
8 who was interested in and excited about his financial
9 background, encouraged him to get back into trading. And he
10 asked him, would you trade forex for me? Mr. DaCorta
11 testified he hesitated. He wasn't sure. Mr. Montie, he said,
12 was persuasive and said go ahead and try. So Mr. DaCorta
13 agreed.

14 Before he agreed, he believed that he could still
15 trade for Mr. Montie despite the NFA agreement because he
16 thought I could trade just for one person. There was a
17 successful trade. And that let Mr. Montie to suggest, hey,
18 this was successful, you made me some money. I believe it was
19 a \$25,000 forex trade that turned into like a \$37,000 result.

20 So they have an additional conversation. And
21 Mr. Montie says, I think we should expand this to some of our
22 friends and family. Mr. DaCorta hesitates again, takes some
23 consideration, wonders is this something that I can do and
24 stay in compliance with the NFA agreement. So what did he do?
25 You heard him testify that he called someone that he knew and

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1 already had a business relationship with at CitiFX. His name
2 was Michael Merachi. And he discussed his ability to trade
3 for this small investment club that they called it, these
4 friends and family, these six to eight people. And because it
5 was less than 15 people, Mr. DaCorta believed and understood
6 that he could trade forex for those folks.

7 There's no testimony that Mr. DaCorta solicited or
8 pressured or even asked Ray Montie if he could trade for him.
9 There's no testimony that Mr. DaCorta asked or solicited or
10 pressured any of the six to eight family or friends asking
11 them, hey, can I trade forex for you? This was simply a small
12 investment club of six to eight friends and family, that's
13 what they called it, that were interested in forex trading.
14 And Mr. DaCorta did the trading for them successfully.

15 Let's fast forward slightly to OIG. Mr. DaCorta
16 testified that he showed the same NFA agreement that we have
17 seen many times to Attorney Joseph Anile. It was
18 Mr. DaCorta's testimony that he showed it to Mr. Anile to get
19 his advice as an attorney to find out whether or not the steps
20 that they were making to start creating Oasis International
21 Group would allow Mr. DaCorta to trade on behalf of OIG.

22 Why ask Attorney Joseph Anile? Well, Mr. DaCorta
23 testified that he respected Mr. Anile's reputation, his
24 knowledge, that he was known for being an attorney that worked
25 in the financial field, compliance, regulatory, someone that

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1 came with a certain kind of reputation and experience so much
2 so that he asked Mr. Anile to join him and Ray Montie at OIG.
3 At each of these steps, Mr. DaCorta considered should I do
4 this? Can I do this? Can I trade forex and still be in
5 compliance with the NFA agreement? That was his clear
6 intention. You heard him testify to it, what was in his
7 heart, what was in his mind, what was in his soul.

8 But what about Joe Anile's testimony that Mr. DaCorta
9 never showed him the NFA agreement? Ask yourselves, is
10 Attorney Joseph Anile credible? He testified in this
11 courtroom under oath that he was not acting as an attorney at
12 any time for Oasis International Group. He was absolutely
13 adamant that he was only a partner, that he was not an
14 attorney, and he only brought in other attorneys to help as
15 needed. Yet almost every person who testified in this case
16 that was associated with OIG either as a lender or employer
17 recognized that Mr. Anile was the attorney for OIG and Oasis
18 Management, LLC, and Oasis Global FX. You heard that from Deb
19 Cheslow, not just saying that he was an attorney but that he
20 was an attorney that was in company meetings, giving advice,
21 talking about compliance, giving guidance about what people
22 should say. If they didn't know something, he was telling
23 them you shouldn't say it. If this is not within your purview
24 of knowledge, don't say that. That's one example from Deb
25 Cheslow about her impression about who Mr. Anile was as the

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1 attorney for OIG.

2 You heard it from Joe Paniagua who had daily
3 interaction with Mr. Anile. He provided him daily reports
4 about what was going on every day and recognized that he was
5 the attorney. He was the one that approved any loan
6 applications. He was the one in charge of wiring money. You
7 heard it from John Paniagua today. You heard it from Michael
8 DaCorta. You also heard it from lenders, Michael Chalhub and
9 Ian Howard.

10 Why would he not want to be the attorney for the
11 company that he was actually doing legal work, compliance work
12 for? Not sure. But on cross, I showed him a memo from OIG
13 that was drafted with his name that said Joseph Salvatore
14 Anile, II, Esquire. He said the esquire is just a formality,
15 but he recognized that that was a memo that came from him,
16 Attorney Joseph Anile.

17 You may recall that on cross-examination I showed him
18 the transcript from Mr. Anile's own sentencing hearing in this
19 courthouse in front of another federal district court judge
20 where he was also placed under oath. And in that testimony,
21 Mr. Anile, in speaking to the judge sentencing him, admitted
22 that he was the attorney for OIG, that he was the attorney for
23 Mr. DaCorta. And when presented with this transcript, he
24 still would not concede that he was the attorney for Oasis.

25 Ask yourself, what was his motivation for testifying

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1 in this court today, in this court last week? What was in his
2 heart, his mind, in his soul? Well, we know from his
3 testimony, Number 1, his health. He's in terrible health. He
4 is looking at serious issues going forward with respect to his
5 health. We saw that he was in a wheelchair. He explained
6 some of the things that are going on with him, diagnoses that
7 he's waiting to get. His health is absolutely a consideration
8 for him as it would be for any middle-aged man but in
9 particular a middle-age man who is getting ready to serve a
10 ten-year sentence that has already been imposed by a judge.

11 I asked him in consideration for whatever testimony
12 he was giving, did he anticipate or did he know that there was
13 an option for the government to file a motion to reduce his
14 sentence based on his testimony. And on cross he said no, but
15 on redirect by Ms. Bedke, he then suddenly understood, oh,
16 yes, there is this possibility for me to get a benefit from
17 sitting here today, an ill man in the middle part of his life
18 looking at a ten-year sentence with his family in the back of
19 the courtroom.

20 Why does Mr. Anile's credibility matter? Because he
21 testified under oath about four different stories no one else
22 can corroborate about Michael DaCorta. Let's talk about that
23 first story. The first story is that Michael DaCorta did not
24 show him the NFA agreement. That's how Mr. Anile testified.
25 Mr. Anile testified he never saw it. Michael DaCorta

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1 testified that he and Mr. Montie met Mr. Anile at a Long
2 Island diner to discuss the beginnings and start brainstorming
3 how they were going to structure Oasis International Group.
4 Nobody was a partner yet. This was really just discussing the
5 beginnings of this. What kind of structure are we going to
6 have for this corporation? How are we going to do this? Is
7 this going to be a hedge fund or something else?

8 Not long after that meeting, Mr. Anile went to
9 Mr. DaCorta's house, according to Mr. DaCorta's testimony, and
10 at his house Mr. DaCorta testified that he showed the
11 agreement that he had in his home office to Mr. Anile to ask
12 him specifically can we do this? Can I trade forex for OIG
13 and still be in compliance with the NFA agreement? Based on
14 that conversation, Mr. DaCorta understood that he could. He
15 sought counsel from Mr. Anile, and because of that, they went
16 forward.

17 Decide who you believe. Mr. DaCorta's consistent
18 efforts to try to stay in compliance with the NFA agreement or
19 Mr. Anile who has every reason to make up a story, who has
20 every reason to do whatever he can to get a lesser sentence
21 because of his health and because of the amount of time that
22 he's looking at.

23 Story Number 2. Around 2016, Mr. Joseph Anile claims
24 that his brother, Frank Anile, who at the time was working on
25 developing the back office for OIG, told him, Joseph Anile,

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1 that Michael DaCorta had changed a customer account. There is
2 no other witness to this conversation. Mr. Frank Anile is now
3 deceased. He passed away not long after this supposed
4 conversation took place. So what evidence do you have to look
5 for Michael DaCorta's credibility in his testimony that this
6 never happened?

7 Well, first, testimony from Joseph Paniagua who ended
8 up taking over the back office after Frank Anile passed away.
9 And he testified that Mr. DaCorta never had access to the back
10 office, never had access to customers' back office accounts.
11 And there was a relationship between Frank Anile and Joseph
12 Paniagua that went back to their coaching days together where
13 they would have been communicating with each other on a
14 regular basis. And however it is that Frank Anile was
15 operating the back office, he handed that same back office on
16 to Joseph Paniagua for him to continue to develop. The
17 government showed no record evidence that any customer account
18 was changed. No one was there to hear this claimed story.

19 Who do you believe? Mr. Paniagua who can tell you
20 who had access to the back office that he worked on from 2016
21 all the way until OIG was closed in 2019? Mr. DaCorta who
22 testified that that conversation never happened and that he
23 had no ability to be able to access those customer accounts?
24 Or Mr. Anile who has a reason to tell a story, who has a
25 reason to help himself out?

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1 Story Number 3. Mr. Anile also said that in 2017
2 there was a conversation in which Mr. DaCorta told him there
3 is a \$4 million gap. And what he meant by gap, I assume, is a
4 loss, and that there is a supposed agreement during that
5 conversation that we're not going to tell the investors.
6 There is no other witness to this conversation. Why this does
7 not make a lot of sense is because there are daily reports
8 that both Mr. Anile and Mr. DaCorta get from Mr. Joe Paniagua.
9 They regularly communicated with each other about these daily
10 reports, all three of them. If there was a discrepancy, if
11 there was a problem, there was a communication that was going
12 on between all three of them by email or by phone.

13 Mr. DaCorta testified that conversation did not happen.

14 There was no conversation about hiding information
15 from investors. Decide who you want to believe, Mr. DaCorta
16 or Mr. Anile, already sentenced, looking for a way to reduce
17 his sentence.

18 Story Number 4. He claims that in 2018 there was a
19 conversation between he and Mr. DaCorta, now not about
20 \$4 million but now about a seven and a half to \$15 million
21 loss, and again we are not going to tell investors.

22 And the government tells the story like this: Oh, my
23 gosh, says Mr. Anile. That sounds like a Ponzi scheme. And
24 Mr. DaCorta responds, oh, my gosh, yes, it is a Ponzi scheme.
25 Mr. DaCorta testified there was no such conversation.

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1 Mr. Anile has a reason to tell these stories. Can you believe
2 Mr. Anile? Can you believe him when he is the same person who
3 after OIG was closed on April 18, 2019, took it upon himself
4 in the middle of this chaos of their company being shattered
5 to decide to record conversations without the permission of
6 his partners, of his colleagues, of his friends, of his
7 personal CPA. Consider the timing of when he did this.

8 Consider his testimony here a week and a half ago
9 when he said, I was lying, I was lying on those phone
10 conversations. I was going on a fishing expedition. I wanted
11 to see what they knew. I wanted to find out what they were
12 going to say about what was going on. He was pretending like
13 he was getting attorneys for his partners, for his colleagues,
14 for his business. That's what he generally was talking about,
15 getting counsel.

16 And listen to the recordings and hear what he says.
17 Don't talk. Don't talk without counsel at the same time that
18 he is pretending that he is getting counsel for the company,
19 for his colleagues, for his partner. Those partners and
20 colleagues included his CPA, John Caliendo, Joseph Paniagua
21 who ran the back office, interestingly Burt Wiand who is the
22 receiver, and Michael DaCorta.

23 When you listen to the calls, and I encourage you to
24 do so, listen to what Joe Anile sounds like on these calls.
25 He's energetic, almost excited. On one of the calls in the

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1 background you can hear the song playing, and ironically it's
2 the song "Taking Care of Business." He is in fact taking care
3 of business, but he's taking care of his own personal
4 business.

5 Keep in mind again these recordings are in the days
6 and week following the closing of this business that he has
7 been a part of, yet he sounds excited. He sounds energetic.
8 This is at the same time after FBI and IRS agents have served
9 search warrants on Mr. DaCorta's home, Mr. Anile's home where
10 their wives and children live, their other business
11 properties, their office. They seize cell phones, computers,
12 documents, but Mr. Anile finds a way to be able to record
13 these conversations with his colleagues and business partners.

14 He even testified that on Easter Sunday he called an
15 attorney because he is actually finding attorneys for himself
16 and his family but not for these other colleagues. And when
17 he calls the attorney and he tells him, hey, I recorded these
18 conversations, the attorney yells at him and tells him he
19 shouldn't have done that, tells him all the reasons why. That
20 could be obstructing a federal investigation. Don't do that.
21 What does he do? Keeps recording conversations the following
22 week. Is that a reason to believe Mr. Anile?

23 I also want you to listen to how Michael DaCorta
24 sounds on those conversations. And I want you to remember
25 that the people on the other side of that line don't know that

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1 they are being recorded. Mr. DaCorta sound listless,
2 depressed, forlorn, uncertain. He tells Mr. Anile, I just
3 don't know what to do. Mr. Anile says, Michael, pick yourself
4 up, pack up your house, you got to go.

5 Compare their reactions to agents showing up at their
6 houses that day right before Easter weekend. Compare how they
7 react to this. One person almost giddy, energetic. The other
8 person uncertain about what to do next, because who is
9 Mr. DaCorta calling on that phone call? Mr. Anile, his
10 friend, his partner, his attorney.

11 I also want you to listen to those calls between
12 Joseph Anile and Mr. DaCorta, in particular to listen to the
13 things that you don't hear. There is no conversation that
14 says, hey, we've got to get out of town, pack up your house so
15 we can leave the country. There's no conversation on there
16 about how do we cover up this Ponzi scheme. There's no
17 conversation about how do we cover up this fraud. None of
18 that is on there. Take note. Listen for yourselves.

19 What is in Mr. Anile's agenda when he makes these
20 calls? Self-preservation. That's what you saw. That's what
21 you heard when he testified in this court. If the supposed
22 conversations that he had, those stories, Number 3 and
23 Number 4 that I talked about, if they really were about a
24 fraud, if they really were about keeping quiet to the
25 investors, if there really was a conversation where they said,

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1 oh, is this a Ponzi scheme, yes, it is, how come there is no
2 conversation about that in these recorded conversations. Ask
3 yourself that.

4 Mr. Anile is a middle-aged man, very serious,
5 concerning health issues looking for a way to get a lesser
6 sentence. It's up to you to decide what you think about his
7 credibility. It's up to you to decide what was in Mr. Anile's
8 heart, mind, and soul when he testified here last week.

9 Putting Mr. Joseph Anile to the side, let's look at
10 what the testimony and evidence showed about Michael DaCorta's
11 efforts to build and grow Oasis Management, LLC, and Oasis
12 International Group. Again, this started as a small group of
13 family and friends, forex trading in the beginning. And we
14 learned that there is a change in the business model to a loan
15 program or what we learned is debt financing in about 2017.

16 There's no pressure to change to the loan program.
17 If you are an investor in 2016 and you don't want to go to the
18 2017 loan program, it's not a problem. Withdraw your money
19 and go invest wherever you want to. If you're interested in
20 it, you are given a promissory note to sign and that's how you
21 start the program.

22 You saw and heard numerous times what the use of
23 funds paragraph allowed for the funds to be used for and the
24 terms of the loan. Attorney Joseph Anile testified he drafted
25 that loan agreement. An attorney who worked for OIG drafted

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1 that agreement. If a prospective lender disagreed, they
2 didn't have to participate. If you don't like the terms of
3 the loan, whether it's a mortgage or a car loan or buying
4 furniture, if you don't like the terms of the loan, you don't
5 go forward with it.

6 You heard some sales calls. I think those are around
7 2018, in evidence. There is no pressuring anyone to invest.
8 There is no pressuring anyone to be a lender. You heard
9 informational calls with the opportunity to follow up with
10 questions. And whoever was hosting that informational call
11 provided their email address and cell phone number. If what
12 you heard was something you didn't like, you don't send the
13 email, you don't make the phone call. If it's something you
14 do like, if it's something you are interested in, then you
15 send the email, you make the phone call, you get more
16 information. You decide as a lender is that something you
17 want to do.

18 You also saw and heard numerous times about the risk
19 disclosure. Consider retired Special Agent Stone's 2019
20 undercover call with Mr. DaCorta. In that call, Mr. Stone who
21 at the time was pretending to be somebody named Spinelli asks,
22 so my money goes to forex? And Mr. DaCorta says, well, we own
23 other capital, real estate, silver, private equity. It's to
24 ensure we have more assets than what we owe. Is that what he
25 intended? Absolutely.

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1 Let me read that again to you. What did Mr. DaCorta
2 intend about this loan program? To be able to own other
3 capital, real estate, silver, private equity, to ensure we
4 have more assets than we owe. Mr. DaCorta tells Agent Stone
5 acting as Mr. Spinelli, there's no pressure. The amount is up
6 to you.

7 In 2017, OIG is growing, and it's doing okay for a
8 young company. It's profitable and the spread is bringing in
9 revenue. At the end of 2017 and 2018, there is going to be
10 another change in the loan program. We also heard from
11 Mr. Joe Paniagua's testimony that his workload had been
12 increasing and he was having trouble keeping up with the
13 documents.

14 There was testimony, for example, from Patti Katter
15 that she didn't get her loan document right away. There was
16 testimony both from Deb Cheslow and from Mr. Paniagua
17 explaining it really had to do with not having enough
18 administrative help at OIG at the time. Not because he was
19 careless, not because he was trying to hide something but
20 because he needed help.

21 Deb Cheslow also testified about the need for what
22 she called on ops officer or an operations officer. John
23 Paniagua and Michael DaCorta testified about -- excuse me.
24 Joseph Paniagua and Michael DaCorta testified about
25 conversations seeking to hire a CFO. They knew they needed

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1 someone else other than Mr. Anile to be taking care of the
2 financial books of the accounting.

3 You also heard testimony that Mr. Anile disagreed and
4 he delayed those hires, and he disagreed with the possibility
5 of Deb Cheslow becoming an operations officer. It wasn't
6 until into 2019 that he agreed, okay, we'll bring on my own
7 personal CPA, John Caliendo, and that will be the person that
8 will help us with the audit.

9 At that time Deb Cheslow is hired by Mr. DaCorta, and
10 she starts to bring some well needed organization to this
11 business. She also testified importantly that she had done
12 due diligence on Oasis, and she even had tests to see whether
13 if she withdrew money it would work. She believed in OIG so
14 much she wanted to help it succeed. She saw there were
15 customer service needs. She saw there was administrative
16 needs. And so even though Mr. Anile was not interested in
17 hiring her as an operations officer, Michael DaCorta brought
18 her in on a contract basis. Again, she would bring much
19 needed structure, maybe a little too late, and some relief to
20 Mr. Joe Paniagua.

21 At that time there is also a real need to update the
22 back office, to automate it and to make sure that the IB
23 accounts for each lender are available online. And you heard
24 testimony about the efforts to do that, and a transition is
25 happening in 2018. Again, this is an important place because

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1 lenders can make the decision do they want to stay in this
2 program? Is this something they agree with, or is this the
3 time for them to say, you know what, I'm not interested in it
4 anymore. I'm going to take my money out and invest it in
5 something else. And they have the opportunity without
6 pressure to be able to withdraw their money or continue on the
7 loan program.

8 And that's where that AWS website comes into play
9 here, because this is when we hear through testimony from Joe
10 Paniagua, from Deb Cheslow, from John Paniagua that there is a
11 loan agreement that must be reviewed online and that a person
12 as a new lender or an already existing lender who is going to
13 stay in the program has to go in and fill in their
14 information, read the loan agreement, and then agree that they
15 have had the opportunity to read and review the risk
16 disclosure. And the only way to be able to submit that risk
17 disclosure is by clicking, having the opportunity to read it,
18 signing and then submitting it.

19 You heard from Mr. Stone when he was working in his
20 undercover capacity that he was trying to figure out a way to
21 be able to do it without submitting the application, and it
22 didn't work. And the reason why is because they put in place
23 this safeguard to demonstrate, lender, we are giving you the
24 opportunity. In fact, you should take the opportunity to read
25 the loan agreement, the promissory note, and you must read the

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1 risk disclosures. Now, they can't force somebody to read
2 those terms, but those are the only safeguards they could put
3 in place to say there's risks here. Here is the risk
4 disclosure. Read it. And we are not going to let you go
5 forward until you click on it and you are able to look at it.

6 How do we know that people like Ian Howard, Patti
7 Katter and others signed? Because there is a digital
8 signature that John Paniagua was able to demonstrate happened
9 in each one of those cases. That wasn't a digital signature
10 that was just sort of formulated by a computer. It was that
11 person's own signature that they either use with a pen or use
12 with their finger to be able to sign online. That's
13 important.

14 And that's important because you saw and you heard
15 testimony from some lenders who remembered signing, from some
16 lenders who weren't sure if they filled out the account, from
17 at least one lender who had his wife fill out the account, but
18 you heard how it was captured, and you heard that you could
19 not submit the application until that click and until that
20 signature happened.

21 You heard testimony from both Joe and John Paniagua
22 that there were adjustments that were being made to bring the
23 balance to the correct amount each month. And I want to talk
24 about what that means. These are two brothers who both have a
25 lot of knowledge in their own industry. I think based on

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1 their testimony, I will leave it to you to judge their
2 credibility about the way that they handle themselves in their
3 job that they did for OIG and the jobs that they have outside
4 of OIG.

5 But I want you to consider their testimony in line
6 with the testimony that Mr. Mitchell from Spotex gave about
7 how Spotex really works. This is software that Spotex
8 provides for other companies to be able to use, other
9 companies who trade in forex. There is something called a
10 PAMM account. PAMM account means you can trade from one
11 account. So if you are a company who wants to trade in forex,
12 this might be the kind of software that you would want to use.

13 Spotex software was used by ATC. Oasis was a
14 customer of ATC. As a result, that's how they were using
15 Spotex software. Each fund, each company decides the
16 allocations that it's going to use according to that company's
17 decisions. And reconciliations are done at the end of every
18 day. At the end of every day there is a reconciliation. And
19 you heard testimony about that from Joe Paniagua, from John
20 Paniagua. You also saw at least one email during the Spotex
21 witness's testimony that there was an email where even when
22 it's pennies off, the business and Spotex are trying to ensure
23 that those numbers match. The business and Spotex are trying
24 to make sure that those pennies match. That's an adjustment.

25 There is a secure login which means there is

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1 generally only one person from each company that's able to log
2 in. Of course, they can designate how many there is, but we
3 know from testimony there is one person that had the ability
4 to log in, and that's the person who ran the back office for
5 OIG.

6 Mr. Mitchell was asked, can you provide a four-pip
7 markup? He agreed that you could. He also testified we made
8 that option available for all customers. The software was
9 designed to make adjustments. He did say he didn't know how
10 OIG was using it for their loan program, but he also testified
11 that there is nothing nefarious about changing the spread.

12 The government's position is this was all fake. The
13 spread is not fake. The money that is being exchanged is not
14 fake. This is real foreign currency. There is a real
15 counterparty. Mr. Mitchell's testimony demonstrates the
16 credibility of the software that was being used and that this
17 trading was real and credible.

18 Why did some additional adjustments need to be made
19 at the end of each month according to the Paniaguas'
20 testimony? Because this was a loan program. This was not a
21 traditional investment program. Mr. Mitchell had no
22 information about that when he was testifying. So he couldn't
23 speak to why they were making those adjustments, but the
24 adjustments were not nefarious. They were the changes they
25 were making to bring the loan amount to the correct place that

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1 it was supposed to be according to the program.

2 You decide for yourself based on what you heard from
3 Joe Paniagua and John Paniagua. Decide for yourself their
4 credibility. Decide for yourself their knowledge base about
5 the software that they were working with over a long period of
6 time.

7 Now, in 2018 OIG had losses. There is no question
8 about that. Mr. DaCorta doesn't deny it. He testified that
9 the spread continued to create revenue. Remember the
10 difference between profit and revenue. He also testified
11 about the corrective action that he was making to combat the
12 losses and to continue to grow the company's assets.

13 Real estate, eleven residential and commercial
14 properties in total. You heard from two appraisers who
15 testified as to the value of those properties and how they
16 substantially increased. Look at those numbers and compare
17 what those numbers are. And you don't just have to rely on
18 the defense appraisal experts that we presented. Think about
19 what Mr. Kihnke told you. He's a real estate developer. And
20 he talked about what he called a very beautiful property, the
21 Longboat parcel, that he and Mr. DaCorta had been in
22 conversations about purchasing that parcel, developing it into
23 condos. And Mr. Kihnke, a lender in this case, a government
24 witness said that he estimated that if they were able to do
25 what they were intending to do, this would be a

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1 30 percent-plus return on the investment. It's not fake.
2 It's not fiction. It is real money. Real investment. Real
3 profit, real revenue, the reason why Mr. DaCorta and OIG were
4 acquiring real estate assets.

5 Private equity. You heard testimony from
6 Mr. DaCorta, Deb Cheslow, and even Joe Anile about the efforts
7 they were making to invest in other businesses to bring
8 additional revenue to the company. Do business ideas always
9 work?

10 Mr. Allen told you at opening statement that there is
11 a show called Shark Tank that I watch too much. Ideas aren't
12 always great ideas. Business ideas aren't always profitable.
13 Sometimes they don't work, but if you don't pursue them, how
14 do you know?

15 So you heard Mr. DaCorta talk about the business
16 opportunities that worked and the ones that didn't. Example,
17 you heard about Full Spectrum Wellness. It's a medical device
18 that's supposed to scan and demonstrate what might be going on
19 that's making you not feel well. It's not intrusive. It's
20 not an x-ray, but the problem was there wasn't a way to have a
21 medical code associated with it, and so there wasn't a way to
22 be able to charge the medical insurance companies so they
23 could reimburse the doctor who is using this device.

24 Did money go into trying to develop that product?
25 Yes, over the course of two years. Larry Waldman was hired on

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1 a contract basis to be able to help develop this. Both of
2 Mr. DaCorta's sons were brought in at Mr. Waldman's
3 encouragement to try to develop this business. You heard that
4 they went to training in Carson City, Nevada, to be able to
5 figure out what are the things they needed to do to be able to
6 market and sell this device. It didn't work because there
7 wasn't a medical insurance code, not because the device didn't
8 work, not because the company wasn't still operating. Was
9 that a loss for Oasis Management, LLC? Yes. But it was a
10 business opportunity that they were pursuing to bring more
11 assets to the company.

12 Mr. DaCorta also talked about two opportunities that
13 were ready to work. You heard him testify about Mirror
14 Innovations, and you heard him describe this way of being able
15 to advertise literally on a mirror. For example, he gave
16 CitiFX Field where the Mets play or where the Lightning play
17 where you would be able to put right there in the bathroom for
18 the men's or women's restroom some advertisement for a
19 company, and it would be right on the mirror. There was a
20 patent that was already held for this product. And as a
21 result of the contract, they were to have 51 percent of that
22 patent, but the government closed OIG before they could start
23 work with the company. That was not a loss. That was not
24 their fault. That wasn't something where there wasn't a code
25 and that's the reason why they couldn't make a profit. That

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1 was their inability to be able to move forward because their
2 business was shut down on April 18, 2019. They never got a
3 chance to get it off the ground.

4 And the same is true for Roar of the Lion. This was
5 not a made-up company. This was a company where Deb Cheslow
6 came in on a contract basis to be able to help develop the
7 online presence of this company. This is health and fitness
8 supplements. They had real inventory. This is online and
9 ready to sell. Were they selling a ton of product? No. They
10 had just gotten started. And in just getting started on their
11 online presence, they didn't just wait passively to see if
12 this was going to work. Mr. DaCorta had also reached out to
13 another company, Deleese, and he was able to establish a
14 contract and a lease at an LA Fitness with a possible
15 opportunity to do it at four or five other LA Fitnesses where
16 they would lease space and be able to display the Roar of the
17 Lion products. They signed a contract, completed and ready to
18 go. On online presence for Roar of the Lion products,
19 inventory in place and ready to go and shut down on April 18,
20 2019. Another business that could have been a part of the
21 assets that Mr. DaCorta was intending to bring to OIG.

22 You saw the pictures and you heard testimony about
23 the hard gold and silver that they were purchasing. You have
24 heard a great deal about the silver position. I will note
25 that Mr. Childers' testimony did not take into account the

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1 other assets that were not fully realized by OIG at the time
2 that he testified. He did testify that he didn't know about
3 all of Oasis Management, LLC, and OIG's assets. And so when
4 you consider Mr. Childers' testimony, consider that it's in
5 the vacuum of what he knows, and he doesn't know everything.

6 What was the point of the real estate, the hard
7 silver and gold, the private equity deals and the silver
8 position? Regardless of whether they were a great success or
9 an emerging opportunity, Mr. DaCorta's intent was to ensure
10 that he could always repay lenders when they asked for their
11 interest or they asked for their principal.

12 If OIG struggled, if trading was not doing what it
13 was supposed to be doing, if he was holding positions too long
14 and that was incurring too many fees, you heard him testify
15 that he made corrective action. You heard Joseph Paniagua say
16 that he would tell him if he was concerned about something and
17 that Mr. DaCorta would take corrective action.

18 Important to take in mind the testimony that up until
19 the day OIG was shut down on April 18, 2019, every lender
20 request for interest or principal was paid back. Every
21 request by every lender for interest or principal was paid
22 back until OIG was shut down on April 18 of 2019.

23 Before we break, I would like to talk about the
24 lenders. Some did due diligence. Some did not. We know, for
25 example, that Deb Cheslow did. Not only did she do due

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1 diligence, she did those test cases of withdrawing some money,
2 putting in some more money, withdrawing completely from one
3 program, completely taking out her entire amount that she had
4 invested and then putting it back into the loan program.

5 We know that Ian Howard showed his loan agreement and
6 the risk disclosure to his attorney, and his attorney gave his
7 approval. He showed the loan agreement and the risk
8 disclosure to a very wealthy friend of his who he trusted in
9 and felt like was a great investor, and he gave his okay. He
10 gave his approval to participate in the OIG program.

11 We also heard from lenders who didn't read the loan
12 program -- the loan agreement, who admitted that they didn't
13 read the risk disclosure and yet they signed it. They all had
14 the opportunity to ask more questions. You heard testimony
15 from Mr. Paniagua that Mr. DaCorta always made himself
16 available to answer questions whether it was by phone or
17 whether it was by email or whether it was in person. All had
18 the opportunity to be able to vet this loan program with an
19 attorney, with a financial advisor. All had the opportunity
20 to read the risk disclosure. And all signed the loan
21 agreement per Mr. Paniagua's testimony.

22 Your Honor, this is a good time to break.

23 THE COURT: All right. Very well. Thank you.

24 All right, ladies and gentlemen. Thank you very
25 much. Tomorrow you don't need to pack your lunch. If you are

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1 here and you want lunch, we've got it covered. Also, eat a
2 light breakfast. Between my house and the courthouse is
3 Krispy Kreme, so I'll bring some. We can get all sugared up
4 for the final argument.

5 So have a good evening. Does 8:30 work?

6 THE COURTROOM DEPUTY: 9:00.

7 THE COURT: The man says 9:00 a.m. And we might even
8 have a mid morning Krispy Kreme if there's some left over.

9 (Jury escorted out of the courtroom.)

10 THE COURT: You have a defense instruction you want
11 me to look at?

12 MR. ALLEN: Yes, Your Honor.

13 THE COURT: Did you show it to Ms. Bedke?

14 MR. ALLEN: I did.

15 THE COURT: And I jumped the gun a little bit,
16 government. Counsel, I assume you object to the puffery
17 instruction?

18 MS. BEDKE: Yes, Your Honor.

19 THE COURT: Thank you.

20 MR. ALLEN: Your Honor, I know the Court has ruled,
21 but based on the government's opening and discussions about
22 how Mr. DaCorta violated the NFA rules and regulations, we
23 would renew our request for the instruction about Mr. DaCorta
24 not being on trial for violating regulatory rules.

25 THE COURT: All right. It's so noted. Thank you.

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1 MR. ALLEN: Thank you, Your Honor.

2 THE COURT: Anything else, everybody?

3 MR. ALLEN: No, Your Honor.

4 THE COURT: So Ms. Bedke has got a half hour on
5 rebuttal, but Ms. Irvin has a little bit more than that for
6 her, like 35. Does that sound right?

7 MS. IRVIN: Yes, sir.

8 THE COURT: All right. We will see you all later.
9 Mr. Houston says 9:00.

10 Thank you.

11 (Proceedings concluded at 6:00 p.m.)

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1 UNITED STATES DISTRICT COURT)
2 MIDDLE DISTRICT OF FLORIDA)

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4 **REPORTER TRANSCRIPT CERTIFICATE**

5 I, Tracey Aurelio, Official Court Reporter for the United
6 States District Court, Middle District of Florida, certify,
7 pursuant to Section 753, Title 28, United States Code, that
8 the foregoing is a true and correct transcription of the
9 stenographic notes taken by the undersigned in the
10 above-entitled matter (Pages 1 through inclusive) and that
11 the transcript page format is in conformance with the
12 regulations of the Judicial Conference of the United States of
13 America.

14 /s Tracey Aurelio

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Tracey Aurelio, RMR, RDR, CRR
Official Court Reporter
United States District Court
Middle District of Florida
Tampa Division
Date: September 5, 2022