

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
OWENSBORO DIVISION

UNITED STATES OF AMERICA, ) Case No. 4:17-CR-12-GNS  
)  
Plaintiff, )  
)  
vs. )  
)  
RICHARD G. MAIKE, )  
DOYCE G. BARNES, and )  
FARADAY HOSSEINIPOUR, )  
) February 2, 2023  
Defendants. ) Bowling Green, Kentucky

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TRANSCRIPT OF RESTITUTION HEARING  
BEFORE HONORABLE GREG N. STIVERS  
UNITED STATES DISTRICT CHIEF JUDGE  
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APPEARANCES:

For United States:

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Proceedings recorded by digital recording. Transcript produced  
by computer from audio recording that the Court provided to  
transcriber.

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12 For Defendant Faraday Hosseinipour:

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17 [Defendants present.]  
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1 (Begin proceedings in open court.)

2 DEPUTY CLERK: Case Number 4:17-CR-12, *United States*  
3 *of America vs. Richard G. Maike, Doyce G. Barnes, and Faraday*  
4 *Hosseini*. We're here this morning for a restitution  
5 hearing.

6 MR. SEWELL: Madison Sewell for the United States.  
7 Also with me is Marisa Ford for the United States and AUSA Erin  
8 Bravo.

9 And, Judge Stivers, I don't know that you've met Erin --  
10 AUSA Bravo before.

11 THE COURT: I don't believe so.

12 MR. SEWELL: You've seen her work product, although  
13 you don't realize it. She is the AUSA who covers restitution.  
14 So she does restitution collection stuff. She's out of the  
15 Louisville office. And so she's -- any case that involves  
16 restitution, she's going to be heavily involved in. So that's  
17 who she is.

18 And then we have Agent Matt Sauber, case agent, here.

19 THE COURT: All right. For the defendants?

20 MR. WISENBERG: Good morning, Your Honor. Sol  
21 Wisenberg on behalf of Mr. Maike.

22 If I could request, Your Honor, if Your Honor would allow  
23 his leg chains to be removed. You did that in Owensboro during  
24 the sentencing.

25 THE COURT: Of course.

1 MR. WISENBERG: Okay. Thank you.

2 MR. MEYER: Your Honor, Kenyon Meyer for Doyce Barnes,  
3 who is present. And Marilyn Nash, my paralegal, is present.

4 THE COURT: All right.

5 MR. DENBOW: Good morning, Your Honor. Michael Denbow  
6 on behalf of the defendant, Faraday Hosseinipour, who's present  
7 to my left.

8 THE COURT: All right. Well, welcome to my home  
9 court. You can see why we couldn't have had the trial here, I  
10 don't think. You'd have people over in the corner. But this  
11 is -- this is my courtroom.

12 So it's good to see you-all, actually.

13 MR. WISENBERG: Good to see you, Judge.

14 THE COURT: All right. And the parties -- it's my  
15 understanding there's been much discussion about restitution,  
16 that there has been some partial agreement, some stipulation.

17 Could you flesh that out, Mr. Sewell?

18 MR. SEWELL: Yes, Your Honor. So what's in front of  
19 the Court now, I gave the draft copies, and that's the current  
20 state of affairs. And so what you'll see there is you'll see a  
21 draft order of restitution for each defendant -- for Maike,  
22 Barnes, and Hosseinipour -- and then each of those drafts would  
23 have an attachment, and the attachment is this Attachment A.

24 And I have given you two versions of that. So the first one  
25 is one that -- what it would look like when filed with the

1 Court, which does not list any of the victims' names but just  
2 has all of them identified just by number and then what their  
3 amounts would be. And then the second one, just for the Court's  
4 reference in today's hearing, are who the actual names are.

5 So that list has been changing over time as different events  
6 have happened. So that list came from some overlapping groups.  
7 So you have people that filled out surveys, and that was very  
8 on -- heard in the case and there's pretrial litigation about  
9 these surveys that the FBI sent out pre-indictment. Then you  
10 have victim impact statements, and I believe --

11 THE COURT: Which is about a million five, is that  
12 right, on the victim impact statements?

13 MR. SEWELL: I don't know exactly what that total is  
14 on victim impact statements alone.

15 THE COURT: I saw a spreadsheet at one point, and it  
16 was a million -- a little bit over a million five. And for some  
17 reason, I was under the impression that's how much the victims  
18 had requested in response to some mailings.

19 MR. SEWELL: So there's --

20 THE COURT: Anyway, that's just -- that's where I  
21 stand in terms of my grasp of what the parties' positions are.

22 MR. SEWELL: So there's multiple ways that a victim  
23 could request. So some of the victims -- there's no requirement  
24 that a victim has to fill out a victim impact statement. Some  
25 of them talked with the agents but didn't fill out the

1 statements. Some of them sent in these surveys. Some of them  
2 were witnesses at the trial and didn't fill out a victim impact  
3 statement.

4 So those are kind of overlapping groups. So some people  
5 have a 302 and a victim impact statement but not a survey. Some  
6 people have two of those categories, three of those categories,  
7 one of those categories. What AUSA Bravo has done is combined  
8 all those and kind of de-duplicated all of it into one  
9 restitution list, and that's what this -- has been kind of our  
10 working document that we've been talking about with defense.

11 THE COURT: Okay.

12 MR. SEWELL: So since we have been talking about it,  
13 there have been changes to that list, and we've had two video  
14 conferences with all of the defendants present. We also invited  
15 attorneys for Barnes -- I mean, for Dvorin and Syn to sit in on  
16 those conferences because they likely will be affected by the  
17 final result of today's hearing, although they'll have separate  
18 determinations made in the future. And so those meetings were  
19 productive, but we were unable to resolve all of our  
20 differences. So there's still some outstanding differences.

21 Then, also, new victim impact statements have come in. So  
22 as they've come in, AUSA Bravo has added them into the sheet of  
23 new requests that have come in, and so those are -- so that  
24 sheet is kind of evolving. Names have been added, been taken  
25 off.

1           And what is in front of you now is the current state of  
2           affairs based on those discussions that we've had and everything  
3           that we have now. And so there's still some remaining disputes,  
4           but that's where we are now.

5           THE COURT: 428 victims for a total for Mr. Maike of  
6           \$4.914 million; is that right?

7           MR. SEWELL: That's right. So Maike --

8           THE COURT: That's your position; correct?

9           MR. SEWELL: Correct.

10          And Maike also has the tax loss, so that's why you see that  
11          Maike's total restitution is higher than the others. And Maike  
12          also disputes the tax loss, but the tax loss is why Maike has a  
13          different number than the others. And the tax loss is not on  
14          this list. This is just for the non-IRS victims.

15          THE COURT: Oh, okay. So the -- so this four hundred  
16          and -- this spreadsheet isn't -- it's totaled at the end. So  
17          the spreadsheet then is the 3.618 million?

18          MR. SEWELL: That's correct.

19          THE COURT: Okay. All right.

20          All right. I will tell you -- give you another impression I  
21          have, and then I'll let you speak further, that this farm in  
22          Kansas is going to -- it should yield a lot of money. I mean,  
23          over 4 million. I would assume that the price of farmland since  
24          2014, '15 has gone up substantially. So anyway.

25          MR. SEWELL: So I have had some discussions with Dolly

1 Anderson, who you recall from the trial --

2 THE COURT: Yes.

3 MR. SEWELL: -- was a Realtor there, just out of  
4 curiosity about, you know, if it was sold now, then what, you  
5 know, could it potentially bring. And, you know -- and, again,  
6 this is just her estimate based on what the average price per  
7 acre, that type of thing is, but she said it could be up close  
8 to 4 million. But, of course, that depends on when it is sold  
9 and how it is sold.

10 THE COURT: Timing is everything.

11 MR. SEWELL: Timing is everything.

12 And also how it's sold. If it goes through the long process  
13 of forfeiture and then being sold by the United States without  
14 any involvement from the defense, that's a different process  
15 than -- sometimes you see in cases where there's a resolution  
16 prior where the defendant will be more actively involved in the  
17 sale of the property, the money sits in escrow, and then that  
18 sometimes brings a better price. We've seen that, kind of, in  
19 other cases.

20 But right now, we don't know when it will be sold or how  
21 it'll be sold, and those two things will also affect the final  
22 price of it.

23 THE COURT: All right. Okay. So could you outline  
24 for the Court the disputed issues from your understanding, the  
25 topics upon which there has not been an agreement of the



1 parties?

2 MR. SEWELL: There's a number of different issues to  
3 go through. I think it may be -- my proposal would be to go  
4 through them one at a time and just have -- and let the -- since  
5 there are defense objections to the United States' proposal, to  
6 have the objection and response and resolve, and then just go  
7 through them one at a time that way.

8 THE COURT: I just want a list. Yes, sir. I'll  
9 conduct the hearing.

10 MR. SEWELL: Okay.

11 THE COURT: That makes perfect sense. I appreciate  
12 you outlining how we should proceed. But I just want to know,  
13 what are the issues?

14 MR. SEWELL: And Mr. Meyer may be the best person to  
15 answer that question, because we've had these conversations -- I  
16 can tell you what the issues were as of two days ago, but if  
17 he's deciding not to raise them today, then they may not --

18 THE COURT: Let me rephrase my question, Mr. Sewell.  
19 What is your understanding of what the remaining issues are?

20 MR. SEWELL: Okay. The remaining issues. One issue,  
21 broadly speaking, is that defense is relying on internal  
22 transfers and internal movements of money through the  
23 spreadsheets.

24 The United States' position generally is that the money  
25 that -- the question is how much money did each victim get back

1 from I2G, how much did they earn, and the United States'  
2 position is that that money should be traced through the Global  
3 Payroll evidence, because there is evidence from Global  
4 Payroll -- that was Jayme Amirie -- the company that handled the  
5 actual payouts.

6 So the United States' position is that if there is internal  
7 movement of money -- let's say, for example, you had six emperor  
8 positions and you decided to consolidate the money. So those  
9 each are going to accumulate money, right, as commissions get  
10 paid into those accounts. And if you decided to consolidate  
11 that money before withdrawing it, you would have some internal  
12 movement in Jerry's system before it got to Amirie, right, to  
13 Global Payroll. So if something like that happened but then you  
14 didn't actually take out the money, the United States says that  
15 that is a loss to you because you never actually got the money  
16 out.

17 The United States wants to rely on just money -- take the  
18 purchase price of what was purchased and subtract the money that  
19 we have evidence that was paid out by Global Payroll. And the  
20 defense position is that some of these internal transfers should  
21 be credited to the loss amount. So that's one disagreement.

22 There are some other specific disagreements, and I can go  
23 through those.

24 The casino profits -- and this is a related issue. The  
25 casino profits, you'll remember from trial, were paltry amounts

1 of \$20 a month. The defense position was that the casino  
2 profits that were not withdrawn should be credited towards their  
3 restitution because they earned the profits, they just, you  
4 know, didn't bother to take them out. And so by letting the  
5 money that kind of dies on the vine, that sits in I2G and is  
6 never claimed, their position is that since it's unclaimed  
7 money, then they don't get that in restitution.

8 The United States' position is that -- I mean, a lot of  
9 people didn't request their casino profits until it was too  
10 late. They were -- we heard some testimony at trial about that  
11 too. "Did you go in and request this money?" And, well,  
12 they're waiting for it to accumulate to something more than the  
13 paltry --

14 THE COURT: It was 15 or 20 dollars a month. Okay.

15 MR. SEWELL: Right, to fill out the paperwork there.

16 THE COURT: So the defendants -- or at least Mr. Meyer  
17 is contending that if there was \$200 accumulated in your account  
18 but you didn't actually pull it out before the whole thing  
19 collapsed, then they should still get credit for the \$200  
20 because you could have gotten that money?

21 MR. SEWELL: That's their position. And our position  
22 is if they did not withdraw it --

23 THE COURT: I'll let him speak in a second, yes.

24 MR. MEYER: [Inaudible.]

25 THE COURT: All right. Okay.

1 MR. SEWELL: Well, that's my understanding. That's  
2 all I'm trying to convey.

3 THE COURT: No. You're doing a great job, because it  
4 sounds like -- the way you characterized the defendants'  
5 position, it didn't seem tenable. So I can imagine Mr. Meyer  
6 would like to rephrase his contention.

7 All right. What's the other issues?

8 MR. SEWELL: There are some people that received  
9 1099s. So there's evidence, which was -- I don't think the 1099  
10 evidence was admitted at trial, but there is a list of people  
11 who received 1099s. And the question is, should that be  
12 credited towards the defendants' restitution?

13 The United States' position is that what should be credited  
14 is when money was actually received, not a 1099. And you'll  
15 recall -- I believe in trial the evidence came out that one of  
16 the victims received a 1099, never received the money, and then  
17 she ended up paying taxes on the 1099 because she didn't want to  
18 be in trouble for not claiming it on her taxes.

19 Agent Sauber has been talking with a number of people, tried  
20 to reach the people on the list of 1099 recipients, who are also  
21 on the list in front of you, and he was able to reach one so far  
22 on the list, I believe, and that person said that he never  
23 received a 1099. So I2G certainly printed -- or certainly  
24 produced 1099s. Whether or not they were received by the  
25 victims and, more importantly, whether the money was received by

1 the victims is what's in doubt.

2 The United States' position is that we should follow the  
3 money, not I2G's internal paperwork, which the 1099 paperwork  
4 is, for a number of reasons, not particularly helpful and does  
5 not appear to be accurate even for the people who did receive  
6 money back from I2G.

7 Then there are some individual --

8 THE COURT: All right. Let me -- okay. All right.  
9 Somebody will explain to me, I'm sure, whether -- if you've got  
10 the right to withdraw money from an account in a tax year  
11 whether that's income to you whether you withdraw it or not,  
12 Mr. Sauber. But my tax expertise, anyway, is pretty -- is  
13 pretty slim. So anyway.

14 I can see that issue. I mean, I could see the issue on  
15 whether they had control of that money because they could  
16 withdraw it. I at least understand that.

17 MR. SEWELL: But the question for today is not whether  
18 or not --

19 THE COURT: I understand.

20 MR. SEWELL: -- it should have been claimed. It's  
21 whether or not they're entitled to it for restitution.

22 THE COURT: I'm just thinking out loud.

23 MR. SEWELL: Okay. Then there's also some individual  
24 victims that there's remaining disputes on. Those kind of get  
25 case specific on, you know, this particular victim and whether

1 or not they should remain on the list, whether or not their  
2 number is correct.

3 Agent Sauber has reached out to as many of them as possible  
4 that were identified by the defense as people that there were  
5 remaining disputes over. We resolved as many of the disputes as  
6 we could. And there's one who is available today by phone if  
7 needed. So if she remains in dispute, then she would like to  
8 address the Court directly, and her name is Maria Franco. And  
9 so she's available today by phone if needed.

10 And the other ones Agent Sauber will -- if needed, if it  
11 remains in dispute, he can testify to his phone calls and what  
12 he -- the conversations that he had with the victims that were  
13 still in dispute and his efforts to reach out to the people that  
14 were still on that list.

15 THE COURT: All right. Let me ask you first, are  
16 we -- is the statute we're dealing with -- is it 18 U.S.C. 3663?

17 MR. SEWELL: (a).

18 THE COURT: (a).

19 Okay. So it's mandatory restitution in this case?

20 MR. SEWELL: Correct.

21 THE COURT: Okay. Very well.

22 All right.

23 MR. SEWELL: And then Mr. Wisenberg has one specific  
24 to Maike on the IRS restitution. So you'll recall from the  
25 trial that we -- Maike's -- on one of his tax returns, he claims

1     \$680,000 of income and did not claim the loans, and that was the  
2     evidence at trial that -- you know, we showed the tax return,  
3     and there his tax return was 680,000 some in income, and the  
4     loan money is not there. And at trial, they said, "Well, the  
5     loan money wasn't there because it was a loan, and you don't  
6     claim loan money on a tax return," and that's what -- the  
7     argument that was presented to the jury.

8             Now defense is arguing that that -- part of that 683,000 is  
9     loan money, that that is the loan money, and so that his tax  
10    liability should be reduced by -- instead of the, you know,  
11    millions that he took out in loans, that some of the loan money  
12    he already claimed on his tax return, which is that 683,000.

13            MR. WISENBERG: That's not our argument.

14            MR. SEWELL: Well, that's my understanding of it, and  
15    that's why I don't understand it.

16            THE COURT: Well, the parties haven't briefed it, so  
17    we're kind of shooting from the hip there. But that's your  
18    understanding. I'll let the defendants go.

19            So those are the five issues that you understand remain?

20            MR. SEWELL: That's correct.

21            THE COURT: All right. Mr. Wisenberg?

22            MR. WISENBERG: Yes, Your Honor. Should I stand?

23            THE COURT: Not unless you want to.

24            MR. WISENBERG: I'm kind of a sedentary guy.

25            THE COURT: I'm the same way.

1 MR. WISENBERG: I'll sit if you don't --

2 THE COURT: I'll afford the attorneys that  
3 opportunity. Wherever you feel more comfortable.

4 MR. WISENBERG: Thank you, Your Honor. I appreciate  
5 that.

6 Let me just start with the tax issue since it was the last  
7 thing mentioned, because it's the only real item we have in  
8 dispute. And Mr. Sewell is right. There was -- there was  
9 income reported that flowed through to Mr. Maike -- on the I2G  
10 Hong Kong account that flowed through to Mr. Maike.

11 Our position is very simple on this. And recall that the  
12 restitution figure from the government is based on the testimony  
13 of Paula Basham, who had just testified, "The government gave me  
14 the figures, and I said this is what his taxes should be based  
15 upon those income figures." So the point is it's double  
16 counting if you add to the amount he already -- to the income he  
17 already reported.

18 If you add that -- we understand -- obviously, we think it  
19 is a loan, but we understand that the government says it isn't a  
20 loan and that they want to count as income. The problem is he  
21 has already reported income, and so it's double counting.  
22 They're adding six hundred and -- they're adding it to the  
23 667,000, which is what was reported to him, once it all flowed  
24 through, you know, to his final return.

25 Now, my understanding is -- all I have heard from the



1 government is, "We disagree with you that it's double counting."  
2 The only possible reason they could -- and they said it's  
3 unrealistic to think that the only money that he got from I2G  
4 Hong Kong was from the loans.

5 The problem with that is that there is no evidence of that.  
6 That wasn't litigated at trial. So the appropriate venue to  
7 litigate the concept that maybe Mr. Maike had other income other  
8 than the loans is in the civil tax process. That's our only  
9 point.

10 If you -- if Your Honor decides here that, "No. I'm going  
11 to throw it in his restitution," then it's -- we're effectively  
12 collaterally estopped from ever arguing to the contrary in the  
13 IRS civil process.

14 And you can't just say, as Mr. Sewell has said to me, you  
15 know, it's unrealistic to think that the only income that he got  
16 in that tax year was from loans. That's not enough to add to a  
17 restitution order. And it's perfectly appropriate in the IRS  
18 civil process, which we know is coming down the line, for them  
19 to make that argument in that litigation.

20 That's the only point on the tax issue. That's serving up  
21 the issue as simply as I know how, and I really can't do it much  
22 more complexly because Mr. Hollander isn't here to help me any  
23 further. But it's all based on analysis I got from  
24 Mr. Hollander.

25 THE COURT: I could tell where the brains were at

1 trial, Mr. Wisenberg.

2 No. Mr. Hollander is a tax attorney; right?

3 MR. WISENBERG: He is, Your Honor.

4 THE COURT: All right. Well, two things. I guess,  
5 number one, to the extent that the money used to buy that  
6 farmland through these loans, which were sham loans -- there's  
7 no doubt in my mind they were not arm's length transactions.

8 But to the extent that was reported as taxable income when  
9 Mr. Maiké ultimately did his tax returns -- and I frankly don't  
10 recall that, exactly how it was reported, but it would seem that  
11 if Mr. Maiké already reported those sham loans, that money, as  
12 income, then I would not think he would -- he would have to pay  
13 it again. But it was my understanding that these loans were not  
14 reported as income. But they -- I think the evidence was clear  
15 at trial to my mind that they were -- that these were sham  
16 loans.

17 So somebody's going to have to show me the tax returns. If  
18 there's a dispute on whether it was included or not in his  
19 actual tax returns -- and you don't have to do it right this  
20 second, because we'll take these one at a time. But I'm just  
21 trying to get an idea of what the issues are. But anyway.

22 MR. WISENBERG: And, Your Honor --

23 THE COURT: You'll need to show me how it was double  
24 counted. If you can convince me of that, then that's fine.

25 MR. WISENBERG: I will, and I can just submit

1 Mr. Hollander's analysis of it. And I can give you the exhibit  
2 numbers.

3 But we're not claiming that he reported the loans. We're  
4 claiming that I2G Hong Kong reported a certain amount of income  
5 and that it flowed through to Maiké's return and he reported  
6 that. And we get that the sham -- the loans that the government  
7 says are sham loans and that the jury found are sham loans and  
8 that Your Honor believes are sham loans, we understand for  
9 purposes of this that that gets added. Our point is simply he's  
10 already paid -- I2G Hong Kong has already paid significant --  
11 reported income and paid income [sic] based upon that, and it  
12 amounts to double counting to add that to the other income  
13 amount.

14 THE COURT: Okay. All right. But that's your primary  
15 issue then?

16 MR. WISENBERG: That's the only remaining issue, and  
17 it really reduces the tax restitution. I can give you the exact  
18 figure, but it's a little over 200,000.

19 Now, would Your Honor also like me to speak to the other  
20 issues raised by Mr. Sewell in a very general way, not --

21 MR. SEWELL: Your Honor, if I can respond to that one  
22 first --

23 THE COURT: No. I'm just trying to get my arms  
24 around --

25 MR. SEWELL: Okay.

1           THE COURT: -- what the parties' positions are. No.  
2 We'll start back at the beginning, but you got a chance to  
3 outline the government's positions on these issues.

4           And so if you -- yes. With regard to the internal  
5 transfers, what's your position?

6           MR. WISENBERG: Well, could I be even broader than  
7 that?

8           THE COURT: All right. Yes.

9           MR. WISENBERG: Because rather than to have just  
10 complete repetition, Mr. Meyer is the one who's been -- we've  
11 all been dealing with this with Mr. Sewell, but Mr. -- my  
12 understanding is there are four or five concepts that Mr. Meyer  
13 and Mr. Sewell agreed that if the judge can rule on these  
14 concepts, the parties can then get together and, if we still  
15 disagree, submit it strictly on paperwork, like, in ten days.

16           THE COURT: All right.

17           MR. WISENBERG: And that once these concepts can be  
18 resolved, that this get counted and this doesn't, we can do  
19 that.

20           I do want to start with some general principles that I think  
21 need to be kept in mind. One, my understanding -- number one, I  
22 know that the burden is reduced in restitution issues and I  
23 understand the rules of evidence don't apply, but it is still  
24 the government's burden, and there still has to be some proof.

25           Now, my understanding is -- one of the problems that we have

1 is that there are three categories, according to the government,  
2 that they're getting their restitution figures from. One are  
3 various interviews conducted by Special Agent -- former Special  
4 Agent McClelland -- some of those are many, many years old; most  
5 of them are -- the questionnaires, those early questionnaires  
6 that were sent out, which are already several years old; and the  
7 victim impact -- official victim impact statements that were  
8 sent in after the government asked for victim impact statements  
9 in their electronic system that they've been maintaining the  
10 whole time.

11 So my first point is I believe the restitution should be  
12 confined to that, people the government has been notifying the  
13 whole time and who were on the system and then get told, "This  
14 case is over. There's been a conviction. How much did you  
15 lose?" We have no idea -- we do not have figures from the  
16 government about which total figures and which people come from  
17 which group. So that would be my first position.

18 The other thing that I want to say -- the other thing is,  
19 again, these categories you've got that we believe should not be  
20 counted. People who were given gifted slots. As you know from  
21 the trial, a lot of testimony that a lot of people got gifted  
22 positions. As Mr. Sewell said, people who got commissions and  
23 used those commissions for their purchases rather than cash.  
24 Somebody who sponsored himself with commissions would not be  
25 included in the spreadsheet the government is relying on.

1 Finally -- or in addition to that, transfers to and from other  
2 people.

3 For example, Jason Syn transferring 120,000 to another  
4 purchaser. Obviously, that should not be counted as a cash  
5 outlay by the person who ends up on a piece of paperwork that  
6 looks like they paid for it.

7 So those are very important distinctions that can make a big  
8 difference in the final total figure.

9 Also, again -- and that includes the 1099s. You know, I  
10 would trust the 1099 more than somebody's recollection of  
11 whether or not they got a 1099 eight or nine years ago. The  
12 fact is they exist and they're there. And if somebody got a  
13 1099 showing that they got a profit, I think that should be  
14 considered.

15 The point about -- the point I want to make about -- and  
16 Mr. Meyer will make all these points further. But a point about  
17 the Global Payroll -- recall, there are two different payroll  
18 companies. GPG is one of them. Once money goes to those  
19 companies, once money goes in -- and this is the way the system  
20 worked and everyone understood it worked -- I2G couldn't go back  
21 and get that money if they wanted to. I2G is not the individual  
22 customer of the payroll company. That person is.

23 And so it is not fair to say -- to add that to the person's  
24 loss through laches. And this is not just confined to casino  
25 commissions, Your Honor. It is not I2G's fault that the person

1 did not go in and get that money from the payroll company.

2 And I think that covers the general contours of disagreement  
3 that we're talking about.

4 May I have just a moment?

5 (Counsel conferring.)

6 MR. WISENBERG: According to the last list that we've  
7 gotten from the government, there's still \$80,000 at GPG  
8 unclaimed, though I understand this morning -- as of this  
9 morning, according to a conversation Agent Sauber had with the  
10 head of GPG, who testified, I think, it's zero.

11 But it doesn't change the principle that I'm talking about,  
12 which is that these payroll companies are different companies,  
13 and everybody in the system understood that. And the fact that  
14 they did not go in and get it, like so many other people did get  
15 their money, should not be attributed to the restitution owed by  
16 these defendants.

17 THE COURT: Well, your argument would certainly seem  
18 to make sense if there was still \$80,000 at Global Payroll.  
19 Somebody else didn't -- the victim didn't pull it out, but it's  
20 still sitting there in the account. The account's down to zero.  
21 Where did that money go? That's a question I would have. Maybe  
22 somebody can answer that . But anyway.

23 Yeah. If there was still \$100,000 left -- call it 80,000 --  
24 in the Global Payroll system that had been transferred from I2G,  
25 it would make perfect sense that you would not -- that that

1 would be credited against the victims' loss. If that money is  
2 still available, I'd assume somehow that money could be obtained  
3 from GPS.

4 MR. WISENBERG: GPG.

5 THE COURT: Or GPG, whatever it's called.

6 MR. WISENBERG: And there are two companies. And I  
7 had thought at the time of trial that the figure was closer to  
8 200,000, but I can't swear to that. And so we --

9 Eighty?

10 Okay. Sorry. 80,000.

11 THE COURT: Surely somebody can answer where that  
12 money went. So I don't know. Maybe Ms. Bravo knows what  
13 happened.

14 I mean, there are a lot of questions. How much money  
15 Mr. Maike and Mr. Barnes actually took out of this venture, I  
16 still never heard the answer to that. It's my understanding it  
17 really can't be known because they couldn't get the tax records  
18 from the out-of-country bank accounts. In fact, it's my  
19 impression that there were bank accounts opened in several  
20 different countries, but none of the records from those were  
21 available. Not all the accounts.

22 There was reference in e-mails to opening accounts -- I  
23 don't know. I can't remember if it was Costa Rica or the  
24 Caymans or someplace.

25 MR. WISENBERG: Right, Your Honor, but --



1           THE COURT: And there's an e-mail. I don't know that  
2 there --

3           MR. WISENBERG: Right.

4           THE COURT: Again, an impression from trial was how  
5 much money Mr. Maike and Mr. Barnes yielded from this pyramid  
6 scheme is a big question mark, so --

7           MR. WISENBERG: But restitution has to be tied to  
8 something specific.

9           THE COURT: I understand. I do understand, yes, that.  
10 I do.

11           MR. WISENBERG: But my big understanding, which I hope  
12 is still here -- Mr. Meyer can speak to that further perhaps --  
13 is that if we can agree on some core concepts of whether or not  
14 "X" money is included or not, the parties can then settle it  
15 hopefully within a week or ten days strictly on paper, not  
16 having to come back to court.

17           THE COURT: Okay. All right. Mr. Meyer, I'm sure you  
18 don't have much to add, do you?

19           MR. MEYER: Less than that.

20           I do think -- I mean, and we had very productive  
21 conversations, and I'm appreciative of how forthright the  
22 government's been. And just -- and I don't think there are many  
23 issues that we disagree on.

24           And here is what my -- if the Court -- there was an exhibit  
25 at trial -- it was 101-I -- that was the gain-loss thing that

1       said, you know -- and it was a Jerry Reynolds document, and  
2       that's kind of the starting point for these calculations. So  
3       that 101-I, if a person had an emperor spot or if a person had  
4       two emperor spots or if a person had three emperor spots, that  
5       document assumed that the person paid \$5,000 for each of those  
6       spots.

7       As Sol mentioned, we know from the evidence some of those  
8       people were given spots. Mr. Maike, to the best of his memory,  
9       told Sol who he remembered were gifted spots. That was  
10      communicated to the government. They checked it out. Some of  
11      them they agreed with; some of them they didn't. There's no  
12      dispute because we don't have any more proof other than that.  
13      So they have taken people off of the list that were on it  
14      because they confirmed they were given some spots.

15               THE COURT: Well, Mr. Barnes' son, for example; right?

16               MR. MEYER: Correct.

17               THE COURT: Was it 15 or 30 thousand dollars? I mean,  
18      it wasn't much money, according to him. But he didn't pay for  
19      it; right?

20               MR. MEYER: Correct.

21               THE COURT: So that's backed out already.

22               MR. MEYER: Correct.

23               THE COURT: Of course the parties agree to that.  
24      Well, good.

25               MR. MEYER: Right.

1           And so -- but on 101-I, if a person had multiple spots --  
2           so, for example, if a person -- there's a couple -- there's like  
3           three people on this list that are seeking a lot of money, like  
4           \$100,000. If they have 20 spots, the testimony at trial would  
5           be that they would sponsor themselves. So they would get a  
6           spot, they'd put two under there, they'd put two under there,  
7           they'd put two under there. They would earn commissions on  
8           their own purchases.

9           That is not reflected on Jerry's spreadsheet. So if a  
10          person, for example, bought three spots, they would earn -- from  
11          the fast start bonuses and the binary fees, they would earn  
12          1,600 bucks. So on the fourth spot, rather than pay 5,000 --  
13          so -- and I don't think there's any disagreement on that. The  
14          issue is it's not reflected on 101-I.

15          Where it is reflected is there was a different document that  
16          Jerry Reynolds produced in the case. It's Exhibit -- it's  
17          not -- it wasn't introduced at trial. It's U.S. 7240, and it  
18          does reflect all those transactions. It reflects if a person  
19          used money that they earned in commission for a purchase. We're  
20          not asking you to read that and get into that, but that concept,  
21          we believe -- and I don't think they disagree with this. I just  
22          don't think --

23          Do you disagree with that?

24                 MR. SEWELL: I do.

25                 MR. MEYER: Okay. Well, that is a concept --

1           THE COURT: That's more like it. That's more what I  
2 remember.

3           MR. MEYER: That's a concept I think the Court should  
4 address. If a person uses commissions earned to purchase  
5 another spot and, therefore, rather than 5,000 they pay -- what?

6           THE COURT: 3,400 for that.

7           MR. MEYER: Correct.

8           THE COURT: Right.

9           MR. MEYER: Should it be 3,400, or should it be 500  
10 [sic]? So that's --

11           THE COURT: Well, you've done an excellent job  
12 throughout this whole case, Mr. Meyer.

13           But, yeah, that seems so simple, I can't imagine there would  
14 be an argument about it, frankly. Yeah, that person didn't  
15 really pay 5,000 for that last spot. They paid 3,400. So  
16 that's their loss. You wouldn't pay them back \$5,000 when they  
17 only paid 3,400. That makes perfect sense. An argument to the  
18 contrary would not seem reasonable to me, but ...

19           MR. MEYER: The second issue I want to clarify on the  
20 transfer, we do not -- so if I have money in commissions and I  
21 transfer it to my -- what happened is if a person had 20 spots  
22 and they got 20 different sets of commissions, some people would  
23 transfer it all to one spot. So they had an accumulated amount  
24 they could take out rather than throwing it down from 20 spots.

25           We don't -- we are not arguing that you should do anything

1 for occasions when a person transfers money to themselves. I  
2 agree a hundred percent. If I transfer money to myself and I  
3 take it out once, I don't get [indiscernible]. That's not our  
4 argument.

5 What our argument is, there are -- and we have -- Jerry  
6 Reynolds produced a document that shows sometimes a person would  
7 earn commissions and they -- so I have commissions of \$10,000  
8 and I go to my good buddy Sol and I want to buy a spot in his  
9 name, I transfer \$5,000 to Sol for his benefit, and he uses it  
10 to get a spot. That did not show up on Jerry Reynolds' 101-I,  
11 because only the checks that were issued showed up.

12 And we have a document -- and we know, for example, that  
13 Ms. Pepito, who is dead, by the way, but yet she's listed for  
14 \$190,000 on this sheet, we have a record showing that she  
15 transferred money to other people for their benefit. That's a  
16 concept we believe -- and, again, I thought --

17 THE COURT: Transferred money or transferred  
18 positions?

19 MR. MEYER: Money.

20 THE COURT: Okay.

21 MR. MEYER: So there's a record where -- and then the  
22 opposite is true. For example, Jason Syn transferred \$90,000,  
23 according to Jerry Reynolds' records, to Ms. Pepito, who then  
24 used that to buy spots. So if the records show that a person  
25 earned commissions and transferred to another person, that

1       should be deemed earnings by the person.

2               Secondly, if a person like Jason Syn transferred \$90,000 to  
3 me and then I use that money to buy spots, I should not get -- I  
4 didn't pay 90 grand out of my pocket. I spent Syn's money, and  
5 I shouldn't be paid back his 90 grand.

6               So those are really the only issues related to transfers.  
7 You know, again, three issues: commissions earned and used to  
8 pay another spot, commissions earned and transferred to another  
9 person, commissions another person had and transferred to me.  
10 So that's really the transfer issue.

11               THE COURT: And you say U.S. 7240 shows --

12               MR. MEYER: Yes, sir.

13               THE COURT: -- what those numbers are?

14               MR. MEYER: Yes, sir.

15               THE COURT: Okay.

16               MR. MEYER: And what Jerry Reynolds said, according to  
17 the conversations we've had, correctly is that Jerry Reynolds  
18 could not say -- for example, Jerry Reynolds -- all Jerry  
19 Reynolds could see is what his database indicated. His database  
20 would indicate that he sent a signal to GPG that people should  
21 get money. He had no idea whether the person actually did what  
22 was necessary to get the money from GPG. And so the record that  
23 was used at trial, 101-I, simply reflected what Jerry Reynolds  
24 was able to say, which is, "You've got this much in positions,  
25 and I have records that you earned this much and the

1 differences."

2       So those are -- I mean, for -- and you're right. For us --  
3 for Doyce and Faraday, this doesn't really -- I mean, if -- I  
4 agree. We think Mr. Maike should sell his farm, put it in  
5 escrow. If he loses on appeal, the money wouldn't -- the money  
6 is used. And none of this is really that significant for us,  
7 but --

8               THE COURT: It needs to be right.

9               MR. MEYER: Right.

10              THE COURT: No question about it.

11              MR. MEYER: One or two other issues.

12       The GPG issue. So what -- what the government, I believe,  
13 is saying, although I don't think it is -- we got these final --  
14 this final list at 6:00 this morning, so we haven't been able to  
15 look. But some of these -- so GPG -- and this was not  
16 introduced at trial. There's a spreadsheet that indicates when  
17 GPG sent money to a person -- each person, and then there's a  
18 different spreadsheet that says -- and it's like 80 grand --  
19 "These are the people that we had received money for and they  
20 never requested it."

21       GPG, according to the 302, stopped doing business with I2G  
22 in 2014. There's -- I think the 302 says in June of 2014 they  
23 stopped doing business because I think they got scared and  
24 jumped ship because of the casino issue. Another company -- I  
25 can't remember the name of it -- replaced them, and we don't

1 have those records.

2 So this is kind of the whole issue -- the 1099 is not --  
3 here's what we think is the case: A person is on this list,  
4 Jerry Reynolds' records indicate they received commission, but  
5 that person's commission is not listed on GPG. The government  
6 assumes that if GPG doesn't reflect a payment, the person did  
7 not receive the money, and, therefore, even though Jerry  
8 Reynolds indicates they earned commission, we're going to assume  
9 they didn't get it. So that is an issue --

10 THE COURT: Let me just share, again, an impression  
11 would be that Jerry Reynolds just had the internal information,  
12 just like the books you might keep at the office, but what  
13 people actually get paid, it seemed -- GPG seems to be a much  
14 more reasonable measure of how much money people got, even more  
15 so maybe than a 1099. A 1099 might be sent out to people. I  
16 could conceive where the 1099 wouldn't be entirely accurate.

17 MR. MEYER: Correct.

18 THE COURT: So GPG -- and I've forgotten the name of  
19 what the -- the next -- replacement payroll processor, if that's  
20 what they're called, what the name of that entity was. But  
21 anyway.

22 MR. MEYER: I don't --

23 THE COURT: Somewhere, though, does somebody have a  
24 figure as to how much money was paid into that other entity and  
25 how much money was paid by I2G into Global Payroll? Surely --



1           MR. MEYER: We do have the money that was paid to  
2     Global Payroll. I have not -- I don't think there was anything  
3     in discovery related to the second entity.

4           But I don't disagree -- so if the Court's trying to -- you  
5     know, looking at a person and saying, "Okay. They had a spot,  
6     we know they paid 5,000 for it, and Jerry Reynolds' record said  
7     they earned \$200 in commissions and they never got paid from  
8     GPG," and that's all the evidence, most judges were likely to  
9     conclude they didn't get the money.

10          I mean, the difference here is that -- there's two  
11     differences. One is, for big earners, they got paid outside of  
12     the GPG. That was the testimony. That doesn't apply to 99  
13     percent of these people. But for a couple of people where -- if  
14     there's no other evidence and somebody -- I mean, a couple of  
15     people on this list in our view should have been -- I mean,  
16     they're conspirators. I mean, they are --

17          THE COURT: There's no question there was some  
18     unindicted co-conspirators.

19          MR. MEYER: Right.

20          So if a person -- and, again, if -- and there's only like  
21     three people, I think, on here with more than a hundred grand --  
22     that are seeking more than a hundred grand, one of whom is  
23     deceased. But if the records indicate that they got a \$20,000  
24     commission, I don't think it's a reasonable conclusion that  
25     since it didn't come through GPG they didn't get it if there's

1 no other evidence.

2 So some -- one person, Ms. Pepito, in her 302, said she  
3 never got paid. The other people, we have no evidence. They  
4 never -- so there's a list of people who Mr. McClelland  
5 testified -- or talked to that never said they didn't get paid.  
6 It's just that we're assuming they didn't get paid, and I would  
7 suggest that the evidence is contrary to that. And then a lot  
8 of these people are --

9 THE COURT: So what do you have to show that they did  
10 get paid?

11 MR. MEYER: Nothing other than --

12 THE COURT: Nothing to nothing is --

13 MR. MEYER: No. Nothing other than -- nothing other  
14 than Jerry Reynolds' records, and I understand the problem with  
15 that. And I'm not saying -- but I think for a couple people who  
16 got paid money in excess of the cap, we should conclude it's  
17 more likely than not they did get paid, especially people who  
18 are in photos. We've got people on this list that are holding  
19 big ole checks.

20 THE COURT: I'm sure we do. I remember that, yes.

21 MR. MEYER: And we've got people on this list who are  
22 listed in the top 25 earners of the company, and it's not  
23 reasonable in my judgment to conclude that those people were  
24 never paid.

25 And then the final issue is if a person --

1           THE COURT: Hold on one second. If you can remind me,  
2 was the cap on what -- this Global Payroll would pay, was it  
3 \$5,000? I was thinking that there was a -- there was a number,  
4 a dollar value, over which -- they wouldn't send out checks for  
5 \$35,000. I thought it was something -- I thought 5,000, but  
6 it's been a while.

7           MR. MEYER: Madison, do you remember?

8           THE COURT: Do you remember that?

9           There was a cap. I thought --

10          MR. SEWELL: There is a cap. I don't recall the  
11 number, but it's ten grand maybe, something like that. But you  
12 could -- that's just per transaction. So you could have  
13 multiple checks issued. So some of the big earners, rather than  
14 requesting Global Payroll 14 times, they would request a paper  
15 check. And so that was --

16          THE COURT: Right, right, right, which is exactly what  
17 Mr. Meyer was saying, is that some of these heavy hitters,  
18 somebody that was in -- you know, really selling a bunch of  
19 positions, if they had a \$20,000 commission, they wouldn't run  
20 two checks if it was ten or four at 5,000 apiece. They'd just  
21 get one check for \$20,000. It wouldn't run through the Global  
22 Payroll. That makes sense.

23          Now, showing how much that was, though, that may be the rub.

24          MR. SEWELL: We have the checks.

25          THE COURT: You have -- okay.

1           MR. SEWELL: There's -- I2G's bank account, we have  
2 all the checks.

3           THE COURT: Okay. All right then.

4           MR. MEYER: I mean, really, we could pick over all  
5 this stuff, but the big issues from my perspective is --

6           THE COURT: Well, hold on one second then.

7           Mr. Sewell, so the checks that you have from I2G's bank  
8 accounts, you-all -- the United States isn't asking for  
9 restitution -- they're getting credit against restitution for  
10 the amounts that were paid to Jason Syn, for instance, or, I  
11 mean, to Mr. Barnes or --

12           MR. SEWELL: Right. If someone is claiming  
13 restitution, if the evidence shows that they received a check  
14 and we have evidence that they received a check, then we're  
15 reducing their amount.

16           THE COURT: Okay. Very well.

17           MR. SEWELL: And that's for the people that we could  
18 find those checks.

19           THE COURT: Okay.

20           MR. SEWELL: And we have I2G's -- all of I2G's checks.

21           THE COURT: Okay.

22           MR. WISENBERG: But the problem is if they got --  
23 checks from Global Payroll or the other payroll company would  
24 not be reflected in I2G's accounts, bank accounts.

25           MR. MEYER: Correct. But they're not -- yeah. We

1 agree with that. I mean, really --

2 THE COURT: Well, the total amount paid out should be  
3 the total sum of the checks paid out of I2G's bank account plus  
4 the amount that Global Payroll paid out; right?

5 MR. MEYER: Right. And then what we don't know is  
6 from the day that Global stopped, there's no evidence in the  
7 record concerning what was paid.

8 So our belief -- I mean, most people got paid. Like, the  
9 assumption that it's more likely than not that a person who got  
10 money did not take their money out is not true. It's more  
11 likely than not if a person earned money, they took their money  
12 out.

13 So the question is, I would argue, can they meet the burden  
14 of proof that a person that the records indicate received  
15 money -- and there's no other proof; right? The person's not  
16 denying that they received money. So if after -- if a person  
17 got money throughout 2015 and the records show that and we don't  
18 have anything from the payroll company one way or the other, we  
19 would argue it's more likely than not the person got the benefit  
20 of that money rather than -- now, if a person comes in and  
21 says -- or not in. But if they say -- if they've got a document  
22 where they say, "Look," under oath, "we never got any money," I  
23 guess we're -- you know --

24 THE COURT: It would be one to nothing.

25 MR. MEYER: Right, right.

1 But, really, again, I think -- I believe this issue -- all  
2 of the issues could be resolved by the Court determining  
3 whether -- kind of the three issues I talked about of the  
4 transfers, because I think the records are what they are, and we  
5 can calculate that. And then, really, the only other issue I  
6 would say is what to do about the period of time after Global.

7 THE COURT: Yeah. Well, there's no evidence one way  
8 or the other; right?

9 MR. MEYER: Right.

10 THE COURT: Okay.

11 MR. DENBOW: And, Your Honor, I'll be very brief,  
12 because I didn't live through this trial, and all these folks  
13 know this stuff very, very well.

14 THE COURT: Just like your predecessor, by the time  
15 they get to you, most of it's already been said. But, yes, sir.

16 MR. DENBOW: So I think maybe what I would like to say  
17 is I think -- you know, Mr. Sewell talked about there being  
18 three different ways by which they've put people on the list --  
19 surveys from many, many years ago; spoke with the agents or a  
20 302 many, many years ago; or a victim impact statement in the  
21 very near future -- and I think we would like to have that list  
22 broken down by those three categories, because I think that  
23 speaks to their burden.

24 Again, it's a preponderance burden and we understand that,  
25 but if someone -- and this just came up as an outsider kind of

1 in these calls this week. There was a situation whereby  
2 somebody claimed \$30,000 of loss in 2014. Special Agent Sauber  
3 has tried calling this person, has tried reaching out to this  
4 person. And I understand that you get a little worried if the  
5 government is coming after you, but they're literally trying to  
6 bring a check to this person. And they've had no contact in the  
7 intervening five, six, seven years.

8 And I would posit that that may not rise to the level of  
9 their burden at this point just because someone said they paid  
10 money seven or eight years ago. There have been numerous  
11 attempts at contact. Agent Sauber's been working very  
12 diligently, I believe, of trying to contact all these people.  
13 And now all of a sudden the government's going to say, "In 2014,  
14 this person said, 'I paid \$30,000.'" And does that meet the  
15 preponderance?

16 So I think we need to break these down even more as opposed  
17 to the 400 people we've got listed.

18 THE COURT: My years are a little shaky. Was the  
19 search of Mr. Maike's home -- was that December of '14?

20 MR. SEWELL: January of '15.

21 THE COURT: Okay. January of '15. Okay.

22 MR. DENBOW: So we're eight-plus years.

23 THE COURT: All right. Well, I understand that point.  
24 I mean, depending how early on the interview was -- I mean, the  
25 company continued into the middle of 2015?

1 MR. DENBOW: Yes, Your Honor.

2 THE COURT: Okay. I understand your point.

3 MR. DENBOW: And then the second point is on this  
4 1099, what you'll hear from Mr. Sewell is they're going to --

5 THE COURT: How many hundreds of thousands of dollars  
6 are you talking about from the interviews that Agent Sauber  
7 conducted in 2014? Do you know?

8 MR. DENBOW: Well, candidly --

9 THE COURT: A relative scope?

10 MR. DENBOW: No, we don't know that. Because Your  
11 Honor talked about victim impact statements. I think the victim  
12 impact statements are 1.5 or 2 million dollars. We're talking  
13 about a million plus here for these older concepts of either  
14 302s or surveys.

15 THE COURT: But the victim impact statements -- again,  
16 an impression -- they wouldn't have been filled out before the  
17 indictment. Were they?

18 MR. DENBOW: No. I think we --

19 THE COURT: I wouldn't think so.

20 MR. DENBOW: I think our side would be willing to  
21 concede the victim impact statements minus the transfer issue,  
22 that those are the best evidence of people that paid money and  
23 lost money because they were willing to fill out a form and say  
24 we lost money. And I think those have all happened in the last  
25 six months or a year.



1 I think the second point I was going to make, again,  
2 briefly, is this 1099 issue. We're going to hear from the  
3 government that they don't like 7240, which is the spreadsheet  
4 we like because it shows the commissions and things, and they  
5 say, "Well, Mr. Reynolds said we don't like that evidence."  
6 Well, we have these 1099s, and they're simply going to say, "We  
7 don't like this evidence." I mean, they're going to repeatedly  
8 say there's no evidence of. Well, there is evidence of. It  
9 goes to the weight of the evidence.

10 And I think a good example is this Ms. Pepito. She's  
11 without a doubt an unindicted co-conspirator. She was a  
12 participant on this. And now her estate is claiming \$190,000  
13 restitution.

14 And more so, she's claiming in her 302s -- which, again, I  
15 don't believe she was subject to cross-examination. In her 302,  
16 she's claiming, yes, I got this 1099 and, yes, I paid taxes on  
17 it, and yet -- that's strange credulity to say that you're an  
18 unindicted co-conspirator of this situation, that you received a  
19 1099, you didn't challenge it, you didn't tell the IRS. There's  
20 all kind of processes. If you get a 1099 you don't like,  
21 Judge -- if I were to issue you a 1099, you don't have to pay  
22 taxes on that. And, yet, then she did pay taxes on it?

23 THE COURT: Point made. No. I understand that.

24 MR. DENBOW: And so I think these are the type of,  
25 again, concepts that we need to address, because we could, in

1 theory, cut this number -- if we only went by the victim impact  
2 statements subject to the transfer issue, we could be under  
3 2 million bucks or under a million five. And so I think these  
4 are big broad categories that we could strike down pretty  
5 quickly.

6 THE COURT: All right. Well, I'll hear you-all, and  
7 then I'll let you brief what's left, all right?

8 All right. Mr. Sewell, do you want to start out with the  
9 issue of the internal transfers?

10 MR. SEWELL: Yes. So with the internal transfers,  
11 defense is relying on government's produced -- an exhibit  
12 that -- it's not an exhibit. It's a document that the United  
13 States produced in discovery which has Bates Stamp Number 7240,  
14 and Mr. Meyer has filed that with the Court.

15 That document has not been admitted. No one has testified  
16 on that. And Mr. Meyer is not a witness. Mr. Meyer's not a  
17 witness, and there has been no witness on there. So if that is  
18 going to be used, there needs to be some foundation for the  
19 document of what is the document, what are these numbers, and  
20 what do they mean.

21 THE COURT: Could the foundation not be that we got  
22 that from you? I mean, because we're not -- I'm not bound by  
23 rules of evidence in this proceeding.

24 MR. SEWELL: Right, but you do need to be able to  
25 understand the document. And we have fundamental disagreements

1 about what that document means. Now, the history of that  
2 document --

3 THE COURT: Well, you can both make your arguments.  
4 But, yes, I'm --

5 MR. SEWELL: That document was --

6 THE COURT: I would consider 7240 and arguments that  
7 could be reasonably made from what it appears to be. You can  
8 argue what it's not, or you can bring a witness in. But the  
9 fact that the United States didn't introduce it at trial -- and  
10 certainly the defendants weren't going to introduce documents  
11 from -- you know, that relate to how much money was paid  
12 internally. They couldn't do that.

13 I'll definitely consider that document though.

14 MR. SEWELL: So that document --

15 THE COURT: Do you want to let them argue that 7240 --  
16 what it shows first and then you can argue what it doesn't show?  
17 But I will consider it.

18 MR. SEWELL: Right. And that will be -- if that  
19 document is to be considered at all by the Court, then Jerry  
20 Reynolds needs to be the one to explain to the Court, because  
21 this -- both sides --

22 THE COURT: Are you going to call Jerry Reynolds?

23 MR. SEWELL: And we will.

24 So saying one side --

25 THE COURT: Is he here?

1           MR. SEWELL: He's not here, but, I mean, if we need to  
2 get an affidavit from him and get him through.

3           But the important point is that that document was, at trial,  
4 turned into 101-F, because in the meetings with Jerry  
5 Reynolds -- we had meetings with Jerry Reynolds and were  
6 preparing for trial. That 7240 was going to be an exhibit, and  
7 Jerry Reynolds noted again and again that his staff had prepared  
8 the document without his involvement. That was an early  
9 subpoena that was issued. And he said, "This document needs to  
10 be corrected. This document has problems." And so we didn't  
11 get into all the details. He produced the corrected version  
12 that was much, much more helpful, and that was 101-F that was  
13 used at trial.

14           So what --

15           THE COURT: It was much, much more helpful because it  
16 showed what you wanted.

17           Listen, I'll consider what their arguments are from the  
18 document. If you can produce an affidavit from Mr. Reynolds  
19 that says this -- that 7240 is inaccurate and instead 101-F is  
20 more reliable or is accurate, then that's fine, but --

21           MR. SEWELL: And I think --

22           THE COURT: Look, I'm going to ask then, somebody for  
23 the defense, explain to me -- show me what 7240 is and explain  
24 what your argument is about what this document shows.

25           MR. MEYER: I think --

1           THE COURT: Can you put it on the ELMO, or could you  
2 put it somehow so I can look at it?

3           MR. MEYER: Yes.

4           MR. WISENBERG: It's on the computer screen right now.

5           MR. MEYER: Well, it's not on his screen yet.

6           THE COURT: Traci.

7           There it is. Okay.

8           MR. MEYER: So just a couple of preliminary points,  
9 because we did talk -- and Agent Sauber talked to Jerry Reynolds  
10 about this. So, I mean, certainly -- and he explained some of  
11 this to us. But what this is --

12           And if we could do a search for -- can you search for  
13 Ms. Pepito's name? Just do a search for ...

14           So, for example, these are --

15           THE COURT: Hold on. If you would again orient me to  
16 what this spreadsheet -- what went into this? What does it  
17 show?

18           MR. MEYER: Yes. This is a download from Jerry  
19 Reynolds' system showing every time a person did something with  
20 commissions they had earned.

21           THE COURT: Okay.

22           MR. MEYER: And so it would reflect a request for  
23 payment, it would request a transfer for purchase, it reflects a  
24 transfer to another person, and it reflects when a person  
25 receives a transfer from another person.

1           So -- and my understanding based on the conversation with  
2   Agent Sauber was not that Jerry Reynolds ever said, "My  
3   information is correct," that Jerry Reynolds simply said, "I  
4   can't tell from this whether a human being actually received a  
5   check." But nobody ever said this information was not valid.  
6   So --

7           THE COURT: You know -- well, Ms. Pepito, she seems to  
8   be a big deal. If you can pull her up.

9           MR. MEYER: Could you go and just search for Pepito,  
10   please?

11          THE COURT: Let me tell you -- this is another  
12   impression I had -- I remember -- I think I remember her,  
13   thinking, "Gosh, this lady really got suckered into losing a lot  
14   of money." I did not understand during the trial that she was  
15   in -- that she was in on it.

16          MR. MEYER: She did not testify, by the way.

17          THE COURT: I understand that.

18          MR. SEWELL: She was a witness, and we wanted her to  
19   testify. She was overseas and couldn't get here, and video  
20   witnesses were not allowed. She was absolutely a government  
21   witness as a victim.

22          THE COURT: All right. Okay. I just remember seeing  
23   there was a lot of money and thinking, "Well, this poor lady  
24   lost a lot of money." If she was also selling memberships or  
25   positions to a large number of people and used commissions as

1 part -- you know, that was part of that 150 or 190 thousand  
2 dollars, she seems a little less sympathetic.

3 MR. SEWELL: Again, that's Mr. Meyer's reading of the  
4 evidence.

5 THE COURT: Well, I understand. I just said "if." I  
6 don't know what the facts are.

7 MR. MEYER: Again, just to be clear, my argument is  
8 not dependent -- we're assuming for purposes of this discussion  
9 she is a victim. So the question is, what do the records show?

10 So if you look at this column, this -- it's got her name  
11 here. It has -- right here, this 5,019 column and 95 cents  
12 [sic] is the amount of the transfer. It's got a date. So this  
13 is 2/27 of '14 at 6:52 a.m. And in every one of these  
14 transactions, it indicates what it was for.

15 DEPUTY CLERK: Mr. Meyer, could you pull that  
16 microphone closer to you, please?

17 MR. MEYER: Oh, I'm sorry. Yes.

18 So if you look at this column, which is Column R, it says,  
19 "Requested from e-wallet via web." And so literally every  
20 transaction -- these are other people, but this is another  
21 example, "Check created for funds transfer from Petronilo Pineda  
22 to Hosoda." There are similar entries on here that say check --  
23 you know, "Transfer for purchase." And then there's, you know,  
24 a bunch of transfers, like, from, for example, Jason Syn to  
25 another person. So, you know, that's kind of what this is

1 without going through thousands and thousands of entries.

2 But the point is there's --

3 THE COURT: But you-all got this whole database;  
4 right?

5 MR. MEYER: Well --

6 THE COURT: Yes or no?

7 MR. MEYER: -- it's been cut. I mean, we didn't -- I  
8 didn't, but during the trial, Mr. Maike's wife had access to it.  
9 We didn't --

10 THE COURT: My question is, don't you have somebody  
11 that can go through this database and do a spreadsheet of this  
12 one victim?

13 MR. MEYER: Absolutely. And we've done that for  
14 several, but --

15 MR. WISENBERG: We've done that.

16 MR. MEYER: Not for every one. We got the list -- the  
17 final list this morning. But, I mean, yeah.

18 THE COURT: Instead of looking at this, I would  
19 rather -- which I -- frankly, I can't make heads or tails of  
20 this. But if you can --

21 MR. MEYER: Actually --

22 THE COURT: -- if you pulled -- if you can pull a  
23 spreadsheet of just this victim, show her \$190,000 and show how  
24 many checks she requested, that would be helpful. But this, I'm  
25 frankly -- the way this is presented on the screen, it's



1       meaningless.

2               MR. MEYER: Well, we do have -- for example, I do have  
3       Pepito -- you just sort it, and you can cut it and put all of  
4       the entries.

5               THE COURT: You want me to do that?

6               MR. MEYER: Oh, no, no, no, no.

7               THE COURT: I'm kidding.

8               MR. MEYER: No.

9               THE COURT: That's what I want you to do. That's what  
10       I want to see. If I see it, if you show it to me, your argument  
11       will be much more effective. But right now all I can see is  
12       just a bunch of fields on a spreadsheet that -- I mean, you  
13       can't even see the whole thing. On my screen, anyway. You can  
14       see some of the fields.

15              MR. MEYER: I've got one example. It's not  
16       Ms. Pepito, but Marilyn can pull it up.

17              But I guess the point is that Jerry Reynolds did not just  
18       make this stuff -- I mean, the system is what it is. We had  
19       nothing to do with it. They got it from him.

20              If it shows there was a transfer from Person A to Person B,  
21       how can anybody suggest that didn't happen? Or how can anybody  
22       suggest that -- if Jerry Reynolds' system says Jason Syn  
23       transferred \$90,000 to Ms. Pepito in the system that she then  
24       used, how can anybody contest that? If the system says somebody  
25       used \$1,600 to buy an emperor, I don't think --

1           THE COURT: Can I interrupt you one second? Because  
2 this issue about some of these salespeople would buy positions  
3 and then -- like for Ms. Pepito, she would give him \$90,000, and  
4 then he would transfer the units to him. He would keep the  
5 90,000 and then transfer internally through the system, I  
6 thought. I thought that's how that was working.

7           MR. MEYER: Well, for like Majors, the Majors guy, he  
8 said -- I think the testimony was that he was given -- or he had  
9 had a gift certificate. He got a bunch of spots, and then he  
10 would sell them, get the money, and then pay it to the company.  
11 So, yeah, there are all kinds of things. But also what was  
12 going on by Mr. Syn was he was using people as fronts. But  
13 regardless -- I'm not even asking the Court to make a subjective  
14 determination on that.

15           The raw data shows that certain amounts of money earned was  
16 used -- they benefitted from it. You know, they spent it. The  
17 raw data shows they gave it away to other people. The raw data  
18 shows they received money from other people. And I don't think  
19 it's reasonable to conclude that Jerry's database is flawed.

20           Is that the EB?

21           So this is just one example, and it's segregated for -- this  
22 is a woman on the list named Mi Sun Lee, and she operated under  
23 a company called EB, Inc. And so these are just those entries.  
24 And, you know, for example, this shows -- let me find a big one.  
25 This column -- this Column J are the transfers. So, like,

1 here's a twenty thousand -- I'm sorry. That's \$2,062.74 she  
2 requested from e-wallet. This is a \$1,600 check created for  
3 funds transfer. So this would be an example of what Madison was  
4 talking about that we would not count because she's transferring  
5 it to herself.

6 But -- I don't know how to use this, by the way, Judge. I'm  
7 really out of my element here.

8 Anyway, I mean, my point is that some of these -- each of  
9 these transactions say what they're for, and they either should  
10 be counted or they shouldn't. I don't know.

11 THE COURT: Are you the one trying to scroll through  
12 that?

13 MR. MEYER: Yeah.

14 THE COURT: Okay.

15 MR. MEYER: It's --

16 THE COURT: Believe me, I wouldn't be able to do it  
17 either. I know somebody can. I was so impressed with the --

18 MR. MEYER: I mean, I can try to -- like, this is --  
19 this Column C says who the distributor is. That's EB, Inc.  
20 This Column J is the amount of money on the particular  
21 transaction. So, for example, this is \$2,062.74. This Item K  
22 is the date it happened, 6/25/14.

23 Do you see this part at the top where it's popping up,  
24 Judge?

25 THE COURT: Yes.

1           MR. MEYER: Okay. And then this R indicates what it  
2 was. So, for example, on this particular date and time, there  
3 was a request from the e-wallet to get \$2,062. But the thing  
4 that -- the items that we're most focused on that are not on  
5 this particular example are transfers to other people or receipt  
6 of money from other people or requests to use the commissions  
7 for a purchase.

8           THE COURT: Okay.

9           MR. SEWELL: Your Honor, if I can give some options.

10          THE COURT: Well, Mr. Meyer has just demonstrated  
11 nothing. I'm not being -- I don't mean that to sound as  
12 critical as it might. The information is in there, but it would  
13 be helpful if Mr. Meyer could get somebody to pull a spreadsheet  
14 off of here to show how much money went to -- how many transfers  
15 or funds were requested by this EB, Inc.

16          MR. SEWELL: And that's why the United States --

17          THE COURT: I know the lady you-all had at trial that  
18 was so --

19          MR. SEWELL: Right.

20          THE COURT: I mean, she was a maestro at clicking on  
21 the columns. I mean, I watched her do it.

22          MR. MEYER: This may be a better example.

23          THE COURT: All right.

24          MR. SEWELL: The general position of the United  
25 States --

1 THE COURT: Yes.

2 MR. SEWELL: -- is that it's not that this data is  
3 incorrect. It is that Mr. Meyer's interpretation of the data is  
4 incorrect. If there's anything we learned from the trial is  
5 that Jerry Reynolds' spreadsheets are not for, you know, the  
6 layperson to come in and say, "Well, I think it means this." So  
7 this data can come from someone like Jerry Reynolds explaining  
8 what all these code numbers mean -- you recall testimony from  
9 trial that a one or a zero completely changes things -- or we  
10 can call the witness herself.

11 Agent Sauber is checking now to see if Ms. Kim is available  
12 by phone. We talked with her recently this morning. He  
13 indicates that she is available by phone, if needed, and can  
14 address the Court. We've been reaching out to anyone that they  
15 asked about discrepancies on. We've been reaching out to those  
16 victims.

17 And I'm sure that she would have something to say about  
18 this, and Jerry Reynolds would have something to say. But  
19 Kenyon's speculations about what this data means -- I mean, I  
20 can have Agent Sauber speculate on it as well. And that's not  
21 as productive as hearing from the victim or hearing from Jerry  
22 Reynolds, because those are the people who are going to  
23 understand what happened.

24 THE COURT: Well, if this data has been aggregated in  
25 a form that is usable -- or understandable by me, I'll consider

1 it, but so far I don't -- I haven't -- I understand the concept.

2 MR. MEYER: Can I show two examples?

3 THE COURT: Please, yes.

4 MR. MEYER: One is a --

5 MS. NASH: It's on the screen.

6 MR. MEYER: It's on the screen?

7 MS. NASH: Uh-huh.

8 MR. MEYER: Okay. It's on the screen.

9 And this is -- this is just related to Syn Global. Jason  
10 Syn, Syn Global. And if you look at the very bottom entry --  
11 I'm sorry, the second-to-last entry, it's an \$80,000  
12 transaction, and it says, "Check created for funds transfer  
13 from Crisogono Bayani to Queyenne Pepito." And there's a  
14 comparable entry for Ms. Pepito indicating -- so this is -- and  
15 then the next entry is a \$20,000 transfer to Ms. Pepito.

16 And so we can -- I mean, for particular people -- my --  
17 frankly, my understanding from our discussions that we had an  
18 agreement on these items, not on the transfer to yourself. We  
19 never -- but on these disagreed issues.

20 But if the question is can we segregate it for each  
21 particular person and advocate either, you know, their amount  
22 should be reduced by \$10,000 or they're a net gainer, we can do  
23 that, but we haven't done that at this time.

24 THE COURT: Well, I'll let you make that argument in  
25 your brief then if you want to attach an exhibit and total sum

1 these up.

2 With Ms. Pepito in particular, from what I've heard, if she  
3 got a 1099 for \$100,000 and she paid taxes on \$100,000, it  
4 seemed like it would be unreasonable for her to say she never  
5 got \$100,000. So anyway. I don't know what the 1099 shows.  
6 But those -- I understand that entry would suggest she received  
7 \$100,000.

8 MR. MEYER: And in terms --

9 THE COURT: So what does -- do you know what her 1099  
10 shows?

11 MR. MEYER: Yes. In 2014 -- so we just have the 1099s  
12 from 2014. That was what was produced in discovery to us. We  
13 don't have them for 2013.

14 THE COURT: What was the date of those two entries  
15 that showed checks requested for 80 and 20 thousand dollars?

16 MR. MEYER: Again, these are not checks requested.  
17 It's that --

18 THE COURT: Internal transfers?

19 MR. MEYER: -- Syn transferred \$80,000 for her  
20 benefit, and then subsequently she used that. So, you know, she  
21 had \$190,000 in spots, so that's twenty --

22 THE COURT: It's 18.

23 MR. MEYER: You know, 38 -- right? 38 spots. Twenty  
24 times five is a hundred grand, so she had 38 spots. And I  
25 believe the records reflect that some portion of the money that

1 was used came from Syn.

2 THE COURT: All right.

3 MR. SEWELL: And there's an answer to that.

4 THE COURT: Okay.

5 MR. SEWELL: So looking at --

6 THE COURT: Provide it, please.

7 MR. SEWELL: -- that same data -- and this was with  
8 Ms. Lee -- with Pepito. With Pepito, she requested checks on  
9 these two dates. That's why the transfers happened, because  
10 when you request a check, it shows up on that list. That check  
11 she never received, and so that's what she said. And she was --  
12 that's why she's on the victim list, and that's why she's on --  
13 she was going to be a witness at trial had we been able to  
14 proceed by video or get her here.

15 And she met with Agent McClelland. She maintained  
16 consistently that she lost a huge sum of money in this case.  
17 And that's what -- saying that, you know, these records show  
18 that, you know, she may have done this, that's why -- what  
19 happened with the records is she requested money and never got  
20 the money.

21 And so -- and you look at I2G's -- the important thing is  
22 looking at I2G's bank accounts. Is there an outgoing check that  
23 shows that? So she's requesting a check outside of Global  
24 Payroll, so we're not going to look at Global Payroll to do  
25 that. But she's requesting a large check and never receives it.



1           Do we have a check that was issued? Do we have a check that  
2           was canceled? We have all the I2G banking records. And Agent  
3           McClelland at trial put in an exhibit where he analyzed all  
4           of -- you recall this exhibit from trial, which is the I2G  
5           financial summary. It goes through all the money in and all the  
6           money out on I2G's bank accounts. And so we have those records  
7           of the money that came in and the money that came out, and the  
8           check is not there.

9           The United States' position is that if the check is not  
10          there, then -- and the victim has consistently maintained  
11          that -- you see on this --

12                 MR. MEYER: I'm not contending that she got a check.  
13          I don't know if I'm not articulating it clearly.

14                 MR. SEWELL: The records contend that she got a check  
15          and --

16                 MR. MEYER: I'm not talking about those.

17                 MR. SEWELL: You are talking about --

18                 THE COURT: Please, please, please.

19          Mr. Sewell, eight twenty --

20                 MR. SEWELL: 229.

21                 THE COURT: 229. This spreadsheet is taken, then,  
22          from the I2G bank accounts in the United States?

23                 MR. SEWELL: This is the -- this is Agent McClelland's  
24          exhibit that he prepared for trial, and it lists all of the I2G  
25          bank accounts, all of them in the United States except for the

1 HSBC, and he added up all the money into the company and then  
2 the money out of the company. This doesn't track other  
3 international bank accounts. And what it shows is money in,  
4 money out. That's what --

5 THE COURT: Let me see the bottom, the expenses. I  
6 still can't see the bottom. There you go.

7 Okay.

8 MR. SEWELL: So if there's evidence of checks, we  
9 don't have them. And the same thing is the case with other  
10 things. So -- and what's important in this hearing is that we  
11 have to focus on what the actual evidence is.

12 So another example is gifted spots. So we've heard defense  
13 argue that there were gifted spots. So there's zero evidence in  
14 the record. Defense provided us a list that Mr. Maike claims  
15 were gifted. We tracked down as many of those as we could.  
16 Some of them panned out; some of them didn't.

17 But if Mr. Maike wants to maintain that there's other gifted  
18 spots that we haven't already reduced and confirmed, then he  
19 needs to testify. We have to have actual testimony and not just  
20 putting out evidence. And the testimony needs to come from a  
21 witness, from a witness who is familiar with the records.

22 1099s, the same thing. We have a list of 1099s, but I don't  
23 know how they were produced, who produced them, when they were  
24 produced, were they ever sent out. Angela can testify about  
25 that, presumably, because she's the person there. But there's a

1 lot of issues with the 1099s. A lot of them are not accurate,  
2 and we know that from talking with victims that we talked -- the  
3 ones that we were able to reach. And a lot of them were never  
4 received.

5 Now, that is something that if they're going to rely on  
6 1099s, none of which are in evidence, Angela is the witness,  
7 because she's presumably the one who collected those.

8 i-payout records, the same thing.

9 So this list that you see here on all the bank accounts goes  
10 through the end of 2014, okay? So those are the records that  
11 Dave McClelland put together.

12 Now, here's the -- some important other dates. So the  
13 emperor position ends -- so dates that you remember from trial,  
14 the name change to G1E was in July. And then after that --  
15 shortly after that or at that time, the emperor position was  
16 discontinued. So the money that came in all came in before that  
17 as far as the emperor positions, aside from the few stray ones  
18 that Scott Majors continued to do afterwards.

19 Now, Global Payroll continues until October 13th. So  
20 October 13th, Global Payroll is still there. Amirie, Jayme  
21 Amirie, or Amirie, I believe his testimony at trial was on  
22 October 13th of 2014, that's when he terminated the services.  
23 There's an exhibit of an e-mail chain, which we did not admit at  
24 trial, that gives that date of that's when Global Payroll  
25 stopped.

1           So if there's any i-payout money at all -- i-payout was the  
2           second company that succeeded Global Payroll. If there's any  
3           i-payout money at all, we should see at least two and a half  
4           months of it on this I2G financial summary, because you should  
5           see money going into i-payout, just like here we have -- he has  
6           noted here money going into Global Payroll. But there's not  
7           money going into i-payout, which means that either money didn't  
8           go into there or it was so small that it just got put into one  
9           of these other categories.

10           So if the defendant has evidence that money was paid into  
11           i-payout and that that money was distributed, then they can  
12           present that evidence. But in the absence of that evidence,  
13           especially since all of the emperor positions were sold -- and  
14           by the way, virtually everyone on this victim list is an  
15           emperor. That's who the United States reached out to on there.  
16           The United States did not send a mass mailing to all the  
17           20-some-thousand participants. They focused -- we focused on  
18           the emperors, which is a group of twenty -- 2,000-some people.

19           THE COURT: Okay.

20           MR. DENBOW: Your Honor, if I may, Mr. Sewell is  
21           talking a lot about the evidence. I mean, I think we need to  
22           start back with who has the burden in this hearing.

23           They need to have the evidence that Victim A had a check for  
24           \$5,000. We haven't even started with that. We're just taking  
25           their word for it or we're taking interviews or things like

1 that. If we're going to get into this idea of what is the  
2 appropriate evidence, it needs to start with the United States  
3 saying Ms. Pepito wrote a check for \$190,000. I don't believe  
4 we have.

5 MR. SEWELL: The evidence was at trial.

6 MR. MEYER: Well, Judge, again, we're dealing -- like,  
7 we're hearing arguments against arguments we're not making. We  
8 agree if we had evidence that there were spots gifted, we'd  
9 say -- we provided it. They agreed with some of it; they  
10 disagreed. That's not an issue.

11 Ms. Pepito, just to be clear, I am not arguing that she got  
12 a check. We are arguing that the record showed that she  
13 received money from another source that was used to buy her  
14 spots. And we're not arguing --

15 THE COURT: Well, we got off on the wrong foot with  
16 this first issue, because Mr. Sewell actually presented his  
17 rebuttal to your defense which you hadn't made yet.

18 On this issue, I'm inclined to just ask the parties to brief  
19 this issue. You can provide the documentation. I do agree that  
20 the United States has the burden of proof to show what the  
21 amount of loss is, how much did the victims lose.

22 And whatever -- I mean, just telling me we've produced this  
23 evidence at trial among the 375 exhibits, I don't remember them.  
24 And these spreadsheets all look the same. It was helpful when I  
25 could watch them be manipulated to see which columns were

1 being -- were being tallied, but to just show me the spreadsheet  
2 does nothing. I'm not getting any really usable information,  
3 frankly, from either side.

4 So I'll ask you to brief the issue of how much money victims  
5 lost or the total amount of restitution in this case and to  
6 document where your figures are coming from. And then if the  
7 defendants want to claim that 7240, you could manipulate that  
8 data and show that, no, this money was transferred internally  
9 and Ms. Pepito got her money back, they can make that argument.  
10 And then I think it's fair, then, to let the United States reply  
11 to that.

12 But you-all -- I'm -- neither party really is making any  
13 headway to me at this point.

14 MR. SEWELL: And my request would be to just brief the  
15 contested ones, not obviously --

16 THE COURT: Of course. Well, I mean --

17 MR. SEWELL: So if they can let us know which ones are  
18 contested, we will brief those, and then we'll brief -- they can  
19 respond, and we'll reply. I think that makes sense.

20 The other thing is we can attach an affidavit from Jerry  
21 Reynolds. We can attach an affidavit from Ms. Kim, who we  
22 talked about earlier. That's the woman who's available now if  
23 they wish to cross-examine her, but otherwise we'll proceed by  
24 affidavit.

25 THE COURT: Affidavit is fine. And I guess they would

1 be able to submit affidavits in opposition. But anyway.

2 This just isn't getting very far. What I'm being shown is  
3 not very helpful at all. At least with regard to the internal  
4 transfers. I guess that's as far we got down this checklist of  
5 contested issues.

6 The casino profits was the second issue that I -- do you  
7 want to be heard further on that? Wouldn't it be more  
8 efficient, you think, to simply brief what allowance is to be  
9 made for the money paid in the system for casino profits? I  
10 guess it's really still part -- it's a subset of the internal  
11 transfers? Is that -- am I understanding that correctly? I  
12 wrote it down as two separate issues.

13 MR. SEWELL: I think it's a subset of money that -- I  
14 mean, the category there, I call, is money that died on the  
15 vine. So it can die on the vine with Jerry Reynolds, or it can  
16 die on the vine with Global Payroll. And so money that dies on  
17 the vine that was earned but never withdrawn. So that's kind of  
18 the -- that's how I would categorize --

19 THE COURT: The one thing I would want the United  
20 States to be able to do with regard to payment of those casino  
21 profits and any of these other payments is to explain where this  
22 last \$80,000 went.

23 MR. SEWELL: That won't be a problem.

24 THE COURT: Okay. Well, good, because I don't  
25 understand it.

1           But I will tell you that if \$80,000 was still in a bank  
2           account with Global Payroll, then I would give the defendant --  
3           I'd be inclined to give the defendants credit for that. If it  
4           was money that somebody left in a bank account, it was there for  
5           their taking and they didn't take it, I tend to think that that  
6           was a preventable loss. They just never clicked or whatever  
7           they needed to do to take that money out of Global Payroll's  
8           bank account. So that's my inclination on that one.

9           MR. SEWELL: With that money --

10          THE COURT: And the 1099s, if there's information that  
11          there was a 1099 to Ms. Pepito for \$100,000 and she paid taxes  
12          on it, I would be inclined to accept that she got \$100,000.

13          I can tell you one thing. If I got a 1099 for \$100,000 and  
14          I didn't get it, I would raise a ruckus. I most definitely  
15          would not pay taxes on it. I can't imagine a reasonable person  
16          would. If it was \$350, you may just not want to mess with it.  
17          Here, give it to your accountant and pay the taxes. But  
18          \$100,000 is a completely different --

19          (Brief interruption in the proceedings.)

20          THE COURT: Although, you know, as you say, if she was  
21          paid \$100,000, I would expect it to be reflected in this  
22          Exhibit 229. It certainly would have been paid out of one of  
23          those bank accounts.

24          MR. SEWELL: And with respect to the 1099s, if that's  
25          going to be an issue that's briefed, again, they're not in



1 evidence and haven't been put in. And they were created by  
2 Ms. Leonard, so the United States would request to depose  
3 Ms. Leonard to be able to ask her relevant questions about 1099s  
4 before they're relied on by either side.

5 MR. MEYER: I did file it yesterday. I filed the  
6 1099s.

7 MR. SEWELL: That doesn't make it an exhibit. I want  
8 to be able to cross-examine who prepared the 1099s, which is  
9 Ms. Leonard. I want to be able to depose her to get the  
10 information about the --

11 THE COURT: Well, you're not going to get to do that.  
12 You can object that there was no authentication of this  
13 document, you can object there was no testimony, but you don't  
14 get to demand what evidence you get to put on, okay?

15 Sorry if I was sharp there.

16 But, yes, you can point out the weaknesses of an  
17 unauthenticated 1099. I don't know how the defendants are going  
18 to verify that Ms. Pepito paid taxes based on a 1099 that either  
19 was or wasn't mailed out. So, yeah, I mean, the defendants  
20 might have a proof issue there, but if there's an absence of  
21 proof, then there's an absence of proof. It's unlikely they  
22 would prevail on that issue.

23 MR. WISENBERG: Your Honor?

24 THE COURT: Yes, sir.

25 MR. WISENBERG: My client would -- has wanted me to

1 make one point, which this might be a good time to do it, just  
2 simply because it's information that Your Honor might not have,  
3 might not know about, and I can follow up with more detail.

4 But just to give you an example of why all this is important  
5 and the government's burden -- and I think briefing is a great,  
6 great idea -- there's a person who had asked -- who had claimed  
7 150,000 -- this is before the sentencing even -- was on one of  
8 the early government lists, and they said -- they ended up  
9 dropping him, which we appreciated. It's not an issue anymore.  
10 But it turned out this person got 5,000.

11 So we're very concerned about people, which makes sense,  
12 after they've been notified multiple, multiple times over the  
13 years and finally get a notification. You know, that's why  
14 we're concerned about these issues, that people see it as an  
15 opportunity for them to create scams. And we just want the  
16 government to meet its burden. That's all.

17 And I wanted to make sure Your Honor knew that. I'll follow  
18 up with who that person is.

19 MR. MEYER: Your Honor --

20 THE COURT: This seems to be a waste of time, frankly.  
21 Pointing to a spreadsheet on a computer screen without any real  
22 understandable information being shown to me -- it seems to me  
23 that if you-all want me to consider spreadsheets, data taken  
24 from that database, present it to me in a reasonable form. It  
25 would especially be helpful if there was a list to tally at the

1 bottom. That's how I got the 1.5-something million from the  
2 victim impact statements. One of the exhibits that was filed  
3 had it all tallied.

4 But just arguing about what something would show without  
5 showing me what it shows just doesn't do a bit of good.

6 MR. WISENBERG: Your Honor, can we brief the tax issue  
7 as well? I think it can be done very easily.

8 THE COURT: Yes. It can't be done less coherently  
9 than how we spent the last hour or so, in my view.

10 MR. SEWELL: I think it may be helpful for me to  
11 briefly just show you the tax return at issue.

12 THE COURT: That's fine.

13 MR. SEWELL: It has [indiscernible] separately  
14 mentioned from this income, and that may clear it up.

15 THE COURT: I mean, we're here. Make your argument  
16 and then make it in writing.

17 MR. SEWELL: So here's the -- this is Government  
18 Exhibit 409, which is Maiké's 2014 tax return. So here's page 2  
19 of the tax return.

20 THE COURT: What exhibit is that?

21 MR. SEWELL: Government Exhibit 409.

22 MR. WISENBERG: Yeah. And 418 is the other relevant  
23 exhibit.

24 MR. SEWELL: So here's his individual return, and he  
25 claims -- I'm going to blow it up a little. So he claims total

1 income of 667,000 right there.

2 THE COURT: Right.

3 MR. SEWELL: Okay. Then further down, he says --  
4 there's his adjusted gross income, 667,000.

5 THE COURT: Okay.

6 MR. SEWELL: Now, defense position is that is included  
7 in the loan money, that part of that is the loan money. So  
8 defense position is his total money should be the loan amount  
9 and nothing else, that he earned no other money that year.

10 And here on this tax return, he claims that he earned  
11 667,000 and doesn't list the loan at all. And the loan does  
12 appear, though, later in the tax return. So when you go later  
13 to the tax return, there is an attachment, and it has --

14 MR. WISENBERG: Is this the same exhibit, sir? Sorry.

15 MR. SEWELL: Same exhibit.

16 MR. WISENBERG: Okay.

17 MR. SEWELL: Same exhibit.

18 And it has other current assets, and there it is. There's  
19 the 2.9 million. That's the loan. He's not listing it -- the  
20 taxable income, what he claims is 660,000 or whatever it is, is  
21 listed on the tax return. That's money that he got separate  
22 from the loan. The loan is listed right there.

23 And for the defense position to say the only money --

24 THE COURT: Well, I'm not a tax guy, but what your  
25 assets are is not a part of the computation for how much taxes

1       you pay.

2               MR. SEWELL:   Correct.

3               THE COURT:   You pay on the income.

4               MR. SEWELL:   Correct.   And he lists the loan not as  
5       part of his income but as an other asset, and the reason he  
6       doesn't list it as income is because he maintained and created  
7       fake documents to make it look like a loan, not as actual  
8       income.   The whole reason he created those fake documents is  
9       because he didn't want to claim the loan.

10              So for the defense to come in and say the reason that this  
11       600-and-some thousand is part of the loan money just goes  
12       against everything that they said at trial.   At trial, the whole  
13       defense was this is not income because it was a loan, and now  
14       they're saying, well, part of it was claimed as income, that  
15       that 600-and-some thousand is part of the loan money.

16              MR. WISENBERG:   I thought --

17              MR. SEWELL:   And it's separate.   It's two separate  
18       entries here.

19              THE COURT:   So go back to the first page.

20              MR. SEWELL:   This is actually page 2 of the exhibit.  
21       The first page is a cover page.

22              THE COURT:   Under -- at line 21, it says other income,  
23       \$681,400.   And it references an attachment?

24              MR. SEWELL:   And that's the pass-through income from  
25       I2G.

1 THE COURT: Okay.

2 MR. SEWELL: That's the pass-through income that  
3 they've been talking about, which is not -- the loan was never  
4 claimed as income. And, in fact, the whole reason that the  
5 document was created is so that he didn't have to claim it as  
6 income.

7 THE COURT: What was the amount of the loan documents?  
8 I know there were two -- there were two notes that were  
9 produced.

10 MR. SEWELL: We have the --

11 THE COURT: Does that correspond to 681,400?

12 MR. SEWELL: Not exactly, because I think the other  
13 asset might be the value of the land, not the value of the loan.  
14 But I can show you the loan amounts, because those are  
15 exhibits.

16 (Counsel conferring.)

17 MR. SEWELL: So 300 and 301 are the loans.

18 (Counsel conferring.)

19 MR. SEWELL: So this is the 2014 loan for 2.3 million.  
20 And, again, some of that was paid through -- that's the one  
21 where he withdrew some of the money from the safe deposit box,  
22 so the loan money was not the only money that was used to  
23 purchase that second piece of land.

24 THE COURT: Okay.

25 MR. WISENBERG: We don't concede that, just for the

1 record.

2 THE COURT: So the defendant's position is that the  
3 680-something-thousand dollars was part of this loan?

4 MR. SEWELL: Yes.

5 THE COURT: It doesn't seem to correspond exactly to  
6 the loan amount, so ...

7 MR. SEWELL: So the United States' position is that  
8 the total taxable income for the year is the 600-and-some  
9 thousand which he did claim and the loan which he fraudulently  
10 created and did not claim. The position is just the loan should  
11 have been claimed.

12 So the United States' position is that the total income for  
13 2014 is the -- what he has on the return of  
14 600-and-whatever-it-is thousand plus the loan. The defense  
15 position is that the total income for 2014 is the loan money  
16 only. That's the dispute.

17 MR. WISENBERG: That's what -- may I state our  
18 position, Your Honor?

19 THE COURT: Yes, sir. Yes, you may.

20 MR. WISENBERG: And we're focusing --

21 THE COURT: I hope you can do a better job than  
22 Mr. Sewell, because the way Mr. Sewell explained it doesn't make  
23 much sense.

24 MR. WISENBERG: I probably can't, but what I can do is  
25 we can certainly brief it and I can e-mail to the Court

1 Mr. Hollander's three-quarters of a page analysis, which is very  
2 clear.

3 So let me just make it clear. The money on -- our position,  
4 the money on the return is gross and net income of I2G Hong Kong  
5 for the 2014 year. The money for that loan to RAW Ventures came  
6 from I2G Hong Kong; therefore, it's coming out of money already  
7 reported as income on the return unless the Court assumes that  
8 there was unreported I2G Hong Kong income, but there's no  
9 evidence of that from trial. That is why it's appropriate for  
10 the civil process and not for here.

11 But I would ask, since we're briefing these other issues and  
12 this can be, I think, much more easily briefed because there's a  
13 limited pool of actual evidence, that we defer that to the  
14 briefing, if that's acceptable to Your Honor.

15 THE COURT: That's fine.

16 MR. WISENBERG: Thank you.

17 THE COURT: All right. I do understand, though, that  
18 the loan amount shown in these two promissory notes don't  
19 correspond directly to the income reported on the tax returns;  
20 right?

21 Okay. Point's made.

22 MR. WISENBERG: Thank you, Your Honor.

23 THE COURT: All right. Do you-all want to go through  
24 case-specific victims? Is it more effective to do that? If  
25 you're just going to argue about people without showing me the



1 basis for your arguments, then I would prefer you brief it.

2 MR. SEWELL: I'm fine with doing it in the briefing.

3 MR. DENBOW: Your Honor, we would request -- what  
4 we've been given so far is just victim name, amount. And I  
5 think we'd like to ask which of the three buckets it came from  
6 and what is the initial evidence -- either a check, a statement,  
7 a wire transfer -- or what leads them to believe there was  
8 \$5,000, and then we can respond to that. Because right now we  
9 just have names, date or address, and amount. I think we need  
10 to know whether it was a survey, whether it was an interview,  
11 whether it was a victim impact statement, and then what is the  
12 proof or the evidence Mr. Sewell was talking about.

13 THE COURT: I think that's a fair request, yes.

14 MR. SEWELL: And the buckets are not exclusive. So  
15 there's not -- some people have all of those things. It's not  
16 three separate buckets.

17 THE COURT: A, B, and C, you know, however you want to  
18 do it, however you want to footnote the entries to refer to the  
19 source of the information the United States is basing its claim  
20 for restitution on. I think that's easy, and I think it's  
21 necessary. It's the only fair thing to do. It is hard, I'm  
22 sure, for the defendants to respond to a list of 2,000 people  
23 with dollar amounts without something that shows where that  
24 dollar amount came from.

25 So yes. For each one of the case-specific victims that the

1 parties have not agreed upon at this point, indicate the basis  
2 for the United States' position that a specific dollar amount is  
3 being requested or needs to be repaid.

4 MR. MEYER: Your Honor, may I make one final request?  
5 I mean, I'm in agreement with all of that.

6 THE COURT: Get to the microphone, if you would.

7 MR. MEYER: My only request is -- since the United  
8 States has this witness available and everybody's here, my  
9 request would be, even outside of your presence, unless you want  
10 to stick around and listen to it, they go ahead and let her  
11 testify and we can cross-examine. That way, we don't have to  
12 just rely on the affidavit. I mean, if she's ready to testify,  
13 we're here, it'll be preserved on the record, and we can -- to  
14 the extent it's applicable or relevant, either side could cite  
15 it in the brief.

16 THE COURT: Well, if she's going to testify, I'll sit  
17 here and listen to it as well. I'm not going to let you-all  
18 proceed without me.

19 But yeah. If you-all want to get Ms. Lee on the phone,  
20 let's have her testify now, and you can solicit the information  
21 you want to, Mr. Sewell, or -- I mean, if you feel like you need  
22 to bolster her claim for money -- Ms. Pepito is the one,  
23 frankly, that I'm -- I remember one woman who seemed got scammed  
24 out of a lot of money, and she's the one I remember. But if she  
25 also received money, I recoil at the idea of her estate getting

1 paid or submitting a claim for restitution for money that she  
2 received a 1099 for and paid taxes on.

3 That would seem to be strong evidence -- now, I understand  
4 there's a 1099 that's completely disconnected with everything.  
5 It's just a piece of paper. And I don't know how the defendants  
6 are going to support their contention that she paid taxes on  
7 that money. But if she did or if she got any payments of money,  
8 her estate is not entitled to a double recovery.

9 MR. SEWELL: And you'll see other evidence in the  
10 briefing. We're going to attach her 302 so you can see what she  
11 said to the agent prior to her death. You'll also see,  
12 hopefully, an affidavit from Jerry Reynolds explaining, you  
13 know, how it flowed in his case and what the evidence is and  
14 what it's not.

15 THE COURT: Okay.

16 MR. SEWELL: So let's not prejudge the case until  
17 we've seen the evidence is the goal.

18 With respect to the witness, a couple notes. So the witness  
19 does not speak English. She has a friend available who can act  
20 as a translator. I'm not sure if she's still available, but we  
21 can try and see. The alternative would be to --

22 THE COURT: I'm not going to do that.

23 MR. SEWELL: Okay. So we can depose her at a later  
24 date if needed or get an affidavit.

25 THE COURT: You can. I'm not going to listen to

1 somebody talking through an interpreter who's not an official  
2 interpreter. No, that's not going to happen.

3 MR. SEWELL: We'll get an affidavit.

4 THE COURT: Okay.

5 MR. WISENBERG: Your Honor?

6 THE COURT: Yes, sir.

7 MR. DENBOW: They were prepared to provide this person  
8 for testimony today, and now -- we didn't know it was a friend  
9 interpreter. I mean, now they're going to have an affidavit  
10 that we won't have the ability to cross-examine.

11 THE COURT: Well, you can point that out in your  
12 brief.

13 MR. DENBOW: Okay.

14 THE COURT: I will consider that for the manner in  
15 which it's presented. The affidavit needs to be in English.

16 MR. SEWELL: Oh, of course.

17 THE COURT: And there needs to be some kind of  
18 indication as to how it was translated. So yes.

19 MR. WISENBERG: Your Honor, may I make a selfish  
20 procedural request?

21 THE COURT: Yes.

22 MR. WISENBERG: Thank you.

23 It had been my plan today at the conclusion of this hearing  
24 to make an oral motion to withdraw as counsel since this is the  
25 last part of the -- related to the judgment of the case below

1 and was prepared, if Your Honor needed me to, to follow up with  
2 a written motion. Obviously, we're not going to be done with  
3 restitution today or there's going to be briefing. So I would  
4 ask that once all the briefing is done and you've rendered your  
5 decision on it that Mr. Hollander and I and our law firm be  
6 allowed to withdraw from the case.

7 THE COURT: All right. Well, make that motion at the  
8 appropriate time. I'm sure --

9 MR. WISENBERG: And Mr. Maike is aware of it and does  
10 not object to it.

11 THE COURT: Okay.

12 MR. SEWELL: And so we agree that we're going to  
13 proceed by affidavit as far as any additional testimony. So  
14 that means neither side will get the ability to cross-examine,  
15 and that seems to be what the agreement is.

16 THE COURT: Well, how long has this hearing been set?  
17 I mean, if you thought that Jerry Reynolds was going to be  
18 necessary or helpful, you should have had him available. And  
19 with Ms. Lee, I'd let her testify, but I'm not going to let her  
20 testify if she doesn't speak English and we're going to have one  
21 of her friends interpreting. That just -- I'm just not going to  
22 do that. So whoever needed Ms. Lee -- I mean, I'll take into  
23 account that they could have been presented here today.

24 I just was under the impression I was going to get some  
25 concrete documents showing me what the numbers were and not just

1 some conceptual -- a conceptual framework for the restitution  
2 claim by the United States. So let's brief it. I'm sorry I  
3 drug everybody to Bowling Green, frankly.

4 All right?

5 MR. SEWELL: Nonetheless, I know you have not seen the  
6 progress that was made, but a lot of progress has been made.  
7 And especially in the --

8 THE COURT: Well, I do want to thank you all for that.  
9 Absolutely.

10 MR. SEWELL: And especially in the last week as the  
11 hearing approached -- I mean, this week and last week, I mean,  
12 lots and lots. So the hearing absolutely has a purpose because  
13 it gives a date of this is when we need to be ready to go, and  
14 so don't -- no one should consider that this is --

15 THE COURT: I thought that date was February 2nd, but  
16 I guess my order wasn't clear.

17 All right. How much time do you need, Mr. Sewell, to put  
18 your -- the United States' position into written form?

19 MR. SEWELL: Two weeks.

20 THE COURT: All right. And is two weeks for the  
21 defendants to respond -- is that enough time? Does anybody need  
22 more time? If you need more time, then ask for it, okay?

23 And then the United States will have ten days to reply.

24 MR. SEWELL: I'd ask for two weeks for the reply,  
25 because I think the reply will be longer than your average

1       reply.

2               THE COURT:   That's fine.

3               MR. WISENBERG:  I have a -- yeah.  I need to check  
4       dates, because I have a conference, I think, February 28th into  
5       March 2nd or something like that.  So I wouldn't -- I think our  
6       time would be up before I had to leave for that.  So if I need  
7       more time, can we --

8               THE COURT:  Do you want 20 days?  I want to give the  
9       parties plenty of time.

10              MR. WISENBERG:  Sure.  I'll take 21 days, yeah.

11              MR. SEWELL:  That would be fine for the United States  
12       as well.

13              THE COURT:  All right.  Three weeks.

14              MR. SEWELL:  Just do 21 days, three weeks.

15              THE COURT:  Okay.

16              MR. SEWELL:  So we'll get the first brief within three  
17       weeks and then everyone -- three weeks, three weeks, three  
18       weeks.

19              THE COURT:  That will be fine.

20              MR. WISENBERG:  And, Your Honor, I don't know if you  
21       can -- if you have the power to do this, but is there any way --  
22       Mr. Maike would like to -- he's held in county jails, as you  
23       know.  He would like to actually go to BOP and begin serving a  
24       portion of his sentence there.  I mean, it all counts for him,  
25       but ...

1           THE COURT: You know, although I love to think that my  
2 power is omnipotent, when it comes to the BOP, I've got little  
3 sway.

4           DEPUTY CLERK: They were holding him pending this  
5 hearing.

6           THE COURT: Oh, pending this hearing?

7           DEPUTY CLERK: Today, yeah. Everything should get  
8 moving, yeah.

9           THE COURT: All right. But what I say to them doesn't  
10 seem to matter.

11          MR. WISENBERG: Oh, but they are holding pending this  
12 hearing? So okay.

13          THE COURT: I did not know that. Thank you, Traci.  
14 So he should then be processed --

15          MR. WISENBERG: And we don't --

16          THE COURT: -- forthwith.

17          MR. WISENBERG: And we don't anticipate another  
18 hearing. It's going to be decided on the briefs; correct?

19          THE COURT: Exactly.

20          MR. WISENBERG: Okay.

21          THE COURT: Exactly. So give it your best shot.  
22 Document what your request is. And, defendants, document what  
23 your objections are.

24          But the parties should remain mindful -- I know the  
25 defendants will be -- the United States has the burden of proof



1 to show me where their numbers come from, and if they -- I can't  
2 imagine that that's not going to be part of the defense  
3 response, is going to be, "This is speculation. It's not really  
4 tied to anything. We don't know what these numbers mean." And  
5 I suppose it's Ms. Bravo's job to make sure that it's clear in  
6 the first instance or at the very end.

7 MR. DENBOW: Your Honor, one minor point. The United  
8 States added a new victim yesterday. Can we ask that the  
9 victims be cut off as of today so they don't keep trickling in  
10 for the next three weeks? Today was their day. Today was the  
11 hearing. It was their burden.

12 MR. SEWELL: Ms. Bravo indicates that the statute  
13 doesn't allow for that. Until the Court issues the order, the  
14 statute says if a victim puts in their request -- I mean, we've  
15 really slowed to a trickle here.

16 THE COURT: All right. For any request for  
17 restitution that comes after today, I want the United States to  
18 set that out in a separate category so I'll see to the extent to  
19 which it's a trickle. But yeah. This is -- you know, we're  
20 talking seven or eight years after this business collapsed, and  
21 you would think if somebody wanted their money back, they would  
22 bother to fill out a form or whatever it is.

23 MR. SEWELL: Some have lost hope, Your Honor.

24 THE COURT: You know, I'll be honest. I was surprised  
25 that only a million five had been requested, at least on that

1 one spreadsheet. A million five seemed very low. I frankly  
2 thought a lot of people -- if it was -- to them, if it was only  
3 \$5,000, they would give up hope. They would have -- you get  
4 notices in the mail all the time from a class action that you  
5 might have bought something or -- I don't read them. They're --  
6 it would take an hour to read them. And so I would imagine some  
7 people just started throwing them in the garbage can.

8 I'm most pleased by the hope that the people that have  
9 claimed restitution will get money back and maybe all their  
10 money back depending on when and for how much this farm sells.  
11 So, yes, I think that's one of the best things about the whole  
12 case is that -- is that there should be a source of repayment  
13 for most of the victims, certainly if it's in the 1.5- to  
14 3-million-dollar range. So anyway.

15 MR. SEWELL: Your Honor, Ms. Hosseinipour has two  
16 outstanding motions. I don't know if the Court wants to address  
17 them now or if you want the United States to brief a response.  
18 They were, I believe, filed last week, one about extending her  
19 report date and one about delaying her -- any report until after  
20 the appeal was finalized.

21 DEPUTY CLERK: I thought those were Mr. Barnes'  
22 motions.

23 MR. DENBOW: Those are Mr. Barnes', but  
24 Ms. Hosseinipour --

25 THE COURT: I was going to say --

1           MR. SEWELL: That's what I meant to say, Barnes'. I  
2 apologize.

3           THE COURT: All right. No. I read those this  
4 morning. They were just filed two days ago?

5           MR. SEWELL: Last week, I believe.

6           THE COURT: The 31st I thought is what I saw. I could  
7 be wrong.

8           MR. SEWELL: Okay.

9           THE COURT: I think it best to simply file a response.  
10 Yes, that's best. I read the motion with regard to the appeal.  
11 I'm unlikely to grant it. With regard to going out 120 days,  
12 I'm unlikely to grant it, frankly. But I'm not sure. So  
13 respond, and I'll get an order out fairly quickly on those two,  
14 all right?

15           Anything further from the defendants?

16           MR. WISENBERG: No, Your Honor.

17           MR. MEYER: No, Your Honor.

18           THE COURT: All right. Well, listen, it's good to see  
19 you-all again. After having spent the whole summer with you, I  
20 feel like I got to know all of you fairly well. I mean, the  
21 defendants didn't testify, but at least I got a feel for how  
22 they carried themselves. So anyway.

23           MR. WISENBERG: And you're still speaking to the  
24 defense attorneys, Your Honor.

25           THE COURT: Yeah. I'm still speaking to the

1 prosecution too.

2 MR. SEWELL: Two out of three.

3 THE COURT: No. I mean, honestly, you-all, I  
4 appreciate the way you-all -- I appreciate your professionalism.  
5 I thought you-all did a wonderful job of expressing  
6 collegiality. And sometimes I maybe -- may have had a lapse or  
7 two myself in that regard.

8 But, yeah, it is good to see you-all. It was -- it's been a  
9 very interesting case. I hope -- I hope I did the right thing.  
10 I think I did. And if I didn't, then I'll write a note of  
11 apology to the defendants, okay? So anyway.

12 All right. If there's nothing further, then we'll look  
13 forward to getting your briefs, all right?

14 (End of proceedings.)

15

16 C E R T I F I C A T E

17 I am an official court reporter for the U.S. District Court  
18 for the Western District of Kentucky and certify that the  
19 foregoing is a true and correct transcript, to the best of my  
20 ability, of the above pages, of the digital audio recording  
provided to me by the Court of the proceedings taken on the date  
and time previously stated in the above matter.

21

22 s/Terri L. Turner  
23 Terri L. Turner, RMR, CRR  
24 Official Court Reporter  
25

April 4, 2023  
Date