

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
FORT LAUDERDALE DIVISION

CASE NO.: 13-CR-20690-RSR

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	Fort Lauderdale, Florida
v.	)	March 11, 2014
	)	
MARIO FABRICIO ORMACHEA ALIAGA,	)	
	)	Pages 1 - 120
Defendant.	)	
_____	)	

JURY TRIAL BEFORE  
THE HONORABLE JOSE A. GONZALEZ  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government:	UNITED STATES ATTORNEY'S OFFICE 99 Northeast 4th Street, Miami, FL 33132 BY: JOHN R. BYRNE, AUSA BY: JON JUENGER, AUSA
For the Defendant:	FEDERAL PUBLIC DEFENDER'S OFFICE One East Broward Blvd., Suite 1100, Fort Lauderdale, FL 33301 BY: CHANTEL R. DOAKES, AFPD
Court Reporter:	Bonnie Joy Lewis, R.P.R. 7001 SW 13 Street Pembroke Pines, FL 33023 954-985-8875 caselawrptg@gmail.com

	INDEX	
1		
2		
3	THE WITNESS:	PAGE NO:
4	HUMBERTO ROCA	
5	Direct Examination by Mr. Byrne:	5
6	Cross Examination by Mr. Doakes:	24
7	Redirect Examination by Mr. Byrne:	54
8		
9		
10	JARED GARTH	
11	Direct Examination by Mr. Byrne:	55
12	Cross Examination by Mr. Doakes:	--
13		
14	DELIA BREA	
15	Direct Examination by Mr. Byrne:	61
16	Cross Examination by Ms. Doakes:	67
17		
18		
19	HOWARD WHITE	
20	Direct Examination by Mr. Juenger:	72
21	Cross Examination by Ms. Doakes:	--
22		
23		
24		
25		

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I N D E X

THE WITNESS:

PAGE NO:

LAURA SCHWARTZENBERGER

Direct Examination by Mr. Byrne: 60

Cross Examination by Ms. Doakes: 66

LUIS ARIAS

Direct Examination by Mr. Juenger: 98

Cross Examination by Ms. Doakes: 109

EXHIBITS

Defendant's Exhibit 1: 58

Defendant's Exhibit 31: 63

1 (Thereupon, the following proceedings were held:)

2 THE COURT: Please be seated and we will need Mr. Roca  
3 back, please.

4 MS. DOAKES: Your Honor, just a couple of things.

5 THE COURT: Yes, ma'am.

6 MS. DOAKES: First, I want to introduce another  
7 investigator from our office, Brandy Troy, who is a paralegal and an  
8 investigator. So she is going to be assisting me as well.

9 THE COURT: Okay. Good morning.

10 MS. DOAKES: The other issue is that I have a defense  
11 witness flying in from Bolivia and the flight won't get in until  
12 2:30 this afternoon. I didn't anticipate the case to be moving so  
13 quickly and I was going to put that witness on tomorrow morning.

14 THE COURT: All right. Mr. Roca, you can have a seat.  
15 Bring in the jury.

16 (Jury entered.)

17 THE COURT: Please be seated and come to order.

18 Please be seated, Mr. Roca.

19 THE COURT: Does the Government waive the polling of the  
20 jury?

21 MR. BYRNE: Polling the jury, no, Your Honor.

22 THE COURT: Does the Defendant waive the polling of the  
23 jury?

24 MS. DOAKES: Yes, Your Honor.

25 THE COURT: You were sworn yesterday and I will remind you

1 that you are still under oath.

2 All right. Mr. Byrne, you may proceed.

3 MR. BYRNE: Thank you, Your Honor.

4 HUMBERTO ROCA, GOVERNMENT'S WITNESS PREVIOUSLY SWORN

5 DIRECT EXAMINATION CONTINUED

6 BY MR. BYRNE:

7 Q. Mr. Roca, before I get into the video, I would like to go into  
8 some followup questions from your testimony yesterday.

9 You testified yesterday that you had a lawsuit against the  
10 Bolivian Government?

11 A. Yes.

12 Q. Approximately when, again, was that filed?

13 A. December 2nd of 2011.

14 Q. And was that before or after the events that gave rise to the  
15 trial in this case?

16 A. Before.

17 Q. Now is the Defendant named as a party in that lawsuit?

18 A. No.

19 Q. Your lawyer in Bolivia, who is defending you against the  
20 criminal cases, what's the name of that lawyer again?

21 A. Jorge Valda.

22 Q. At this point, I have one more question.

23 Your meeting on August 5th at the restaurant in Miami, did the  
24 Defendant identify himself as an attorney at that meeting?

25 A. No, as a police officer.

1 Q. Did he offer to represent you as a lawyer in your criminal  
2 cases?

3 A. No.

4 Q. Did you offer him any money to do the things he was telling you  
5 he could do for you?

6 A. No.

7 Q. Okay. At this point I would like to go to the video.

8 (Video published.)

9 BY MR. BYRNE:

10 Q. Okay. Let me ask you, what room are we looking at here?

11 A. That's the garage.

12 (Video published.)

13 Q. Okay. I know this isn't the best quality picture here, but who  
14 is the person on the left?

15 A. The Colonel.

16 Q. Who is the person on the right?

17 A. That's me.

18 (Video published.)

19 Q. What are you talking about there?

20 A. He's telling me that there are two new cases. I asked him who  
21 they were from and he said -- he told me who they were and he told  
22 me that he was responsible for both.

23 Q. What were the names of the cases that he mentioned?

24 A. It was *Suxo v. Humberto Roca* for illegal enrichment and the Tax  
25 Ministry *v. Humberto Roca* for illegal enrichment.

1 Q. When the Defendant said that those investigations were under  
2 him, what did you interpret him to mean by that?

3 A. That he had decision-making authority to do in those cases  
4 whatever he wanted to do.

5 Q. I want to stop here briefly. Could everyone see that and  
6 what's being said up on the screen, vantage point wise?

7 THE JURORS: (Nodded heads.)

8 (Video published.)

9 BY MR. BYRNE:

10 Q. What did the Defendant tell you there?

11 A. That he was the chief of the Anti-corruption Unit of the  
12 Bolivian National Police and he actually explained to me how that  
13 unit was created.

14 Q. What did you think when he told you that he was the chief of  
15 the Anti-Corruption Unit?

16 A. That he had a great deal of power.

17 Q. Did you have any reason to doubt him when he said that to you?

18 A. No.

19 (Video published.)

20 Q. What did the Defendant tell you there?

21 A. He has explained to me all the various agencies that are  
22 involved in this activity and how he's the coordinator for  
23 everything. And he will actually coordinate matters with the  
24 president and vice president.

25 And in fact, he's the only one that does anything and

1 everything related to Aerosur because no one else knows as much as  
2 he does about it because people get changed around all the time.

3 Q. According to the Defendant, who else knows about your cases?

4 A. Only him.

5 Q. Based on what he just told you there, did you believe that  
6 anyone else had the power to do anything with your cases other than  
7 the Defendant?

8 A. No.

9 (Video published.)

10 Q. Mr. Roca, well, first let me ask you this question. Who is  
11 Sergio Sanzetanea?

12 A. He's my stepbrother and he's the one who kept all of my Aerosur  
13 stock.

14 Q. When the Defendant, at the end is there, said he could create a  
15 50-page report about what Sergio Sanzetenea's administration looked  
16 like, what did you think he meant by that?

17 THE INTERPRETER: May the interpreter inquire?

18 MR. BYRNE: Yes.

19 THE WITNESS: Could you repeat the question, please.

20 BY MR. BYRNE:

21 Q. When the Defendant told you that he could create a 50-page  
22 report of what Sergio Sanzetenea's administration was like, or  
23 looked like, what did you think he meant by that?

24 A. That he, the investigator, would be doing the proper thing.

25 Q. Why is that?



1 A. Because he told me -- and as you heard it there -- and the way  
2 I understood it, that he could deviate things and focus everything  
3 on Sergio Sanzetenea.

4 Q. The Defendant asked you for \$30,000.

5 What kind of report did you think he would prepare if you  
6 didn't pay you that money?

7 MS. DOAKES: Objection; calls for speculation.

8 THE COURT: Overruled.

9 THE WITNESS: Then I would be the party who would be made  
10 responsible for everything.

11 (Video published.)

12 BY MR. BYRNE:

13 Q. What did the Defendant tell you there?

14 A. That it didn't really matter who gave the order to do anything.  
15 That he had the ability and the authority to place the components  
16 and to put on the report whatever he wanted to put on the report.

17 Q. Based on what he just told you there, who did you think  
18 controlled your destiny with respect to your criminal cases?

19 MS. DOAKES: Objection; leading.

20 THE COURT: Overruled.

21 THE WITNESS: The Colonel.

22 (Video published.)

23 BY MR. BYRNE:

24 Q. Who is Jorge Valda?

25 A. My attorney.

1 Q. What are you telling the Defendant there?

2 A. The Colonel, through Jorge Valda, had requested \$20,000 for  
3 each one of my siblings in order not to put them in jail and I had  
4 answered no. And I was reminding him that that had taken place and  
5 I was making sure that he remembered that that had taken place.

6 (Video published.)

7 BY MR. BYRNE:

8 Q. You were talking about the FBI there?

9 A. Yes.

10 Q. Is that the first time the Defendant talked to you about the  
11 FBI?

12 A. No.

13 Q. When was the first time?

14 A. There in the first meeting.

15 Q. What did he say at that first meeting?

16 A. That he had some papers that he had to turn over to the FBI.

17 Q. Were those cases involving cases like yours?

18 A. Yes. My cases and other people's cases.

19 Q. What did you think the Defendant would do with respect to the  
20 FBI if you didn't pay him?

21 A. That he would turn over those reports.

22 (Video published.)

23 BY MR. BYRNE:

24 Q. What did the Defendant tell you there?

25 A. Whether or not the FBI knew that what he was doing was illegal

1 and he said he was the one who would decide what information he  
2 would provide.

3 Q. According to the Defendant, who decided what your  
4 investigations showed or what they didn't show?

5 A. The Colonel.

6 Q. What did you think those investigations would show if you  
7 didn't pay the Defendant \$30,000?

8 A. That I was fully responsible and guilty for everything as well  
9 as my family.

10 (Video published.)

11 BY MR. BYRNE:

12 Q. What case are you talking about with the Defendant there?

13 A. This is a case involving some Chinese barges.

14 Q. Did someone go to jail in that case?

15 A. Yes.

16 Q. Who went to jail?

17 A. An admiral and a frigate captain.

18 Q. Who told you that those men were in jail?

19 A. It was out -- it came out in the papers.

20 Q. And did the Defendant tell you that as well?

21 A. Yes.

22 Q. What did the Defendant tell you as far as whether those men  
23 were guilty or innocent?

24 A. That the guilty parties were out and the innocent ones were in,  
25 in jail.

1 Q. What did he tell you about your case whether you were guilty or  
2 innocent?

3 A. That I was innocent.

4 (Video published.)

5 BY MR. BYRNE:

6 Q. What did the Defendant tell you there?

7 A. That I'm innocent.

8 Q. Who was in charge of the investigations of you?

9 A. The Colonel.

10 Q. What did he ask you for at the end of the conversation?

11 A. \$30,000.

12 Q. To do what?

13 A. To refocus the investigation so I would not be found or deemed  
14 to be guilty.

15 (Video published.)

16 BY MR. BYRNE:

17 Q. What did the Defendant ask you for there?

18 A. \$30,000.

19 (Video published.)

20 BY MR. BYRNE:

21 Q. What cases did the Defendant say he was in charge of?

22 A. ATT and a tax revenue case.

23 Q. What did the Defendant say he would do if you paid him \$30,000?

24 A. That he would shift the focus of the investigation so that the  
25 individuals who were truly responsible would be found.

1 Q. What did he say would happen if you didn't pay him that money?

2 A. I would be the responsible party and I would be guilty.

3 Q. I want to turn your attention now to the second meeting that

4 you had with the Defendant.

5 How long after this first meeting did that second meeting take

6 place?

7 A. The next day.

8 Q. Where did that meeting take place?

9 A. The same location, in my garage.

10 Q. About what time did the meeting take place?

11 A. 2:30 or so; 2:30.

12 Q. Did anyone help you prepare for that meeting?

13 A. Yes, the FBI.

14 Q. Briefly describe how they prepared you for that meeting?

15 A. They told me how to act, that is that I should be calm, that I

16 had to hand over the money to him. And they actually took

17 photographs of all the bills of the money that I had gotten.

18 The agents who had remained before to observe, that is to

19 protect in case anything would happen, they stayed in the house and

20 I stayed in the garage waiting for the Colonel's arrival.

21 Q. Did the Defendant ultimately arrive?

22 A. Yes.

23 Q. Did you meet with him?

24 A. Yes.

25 Q. In the same room?

1 A. Yes.

2 Q. Were you wearing a recording device?

3 A. Yes.

4 Q. Did you have the video camera on as well?

5 A. Yes.

6 Q. Did you tell the Defendant that you were going to be recording

7 the meeting you had with him?

8 A. No.

9 Q. Did you tell him that the FBI was at the house?

10 A. No.

11 Q. I want to now go over the content of that second conversation.

12 What did the Defendant say about future visits he had planned

13 to the United States?

14 A. That he was going to come back in November, mid-November in

15 order to conduct investigations.

16 Q. What did he say about how those investigations or where those

17 investigations would be conducted?

18 A. In Washington and Miami.

19 Q. Where specifically in Washington?

20 A. He said he would get assistance from the FBI to call a man by

21 the name of Sanzetenea for him to go to the Consulate because the

22 Consulate is actually Bolivian territory and that there, they were

23 going to be intimidated for them to give statements.

24 Q. What did the Defendant say about the FBI? You said that he

25 talked about the cooperation of the FBI. What did the Defendant

1 tell you about the FBI's knowledge of what was going to be going on?

2 A. He said that the FBI knew about it and it was just basically a  
3 trap for the other people.

4 Q. Did the FBI know what was going on?

5 A. No.

6 Q. Now, in the first meeting you had with the Defendant you talked  
7 about a detour in reports?

8 A. Yes.

9 Q. Did that come up again at the second meeting as well?

10 A. Yes, it was repeated.

11 Q. What did the Defendant tell you, if anything, about him  
12 exchanging information about the FBI?

13 A. That he handled all of the information with the FBI and that he  
14 could just cut the whole thing off.

15 Q. Did you discuss payment again with the Defendant at this  
16 meeting?

17 A. Yes.

18 Q. What was the price that he asked you for?

19 A. \$30,000.

20 Q. What did the Defendant say at the second meeting about whether  
21 you were guilty or innocent of the criminal charges in Bolivia?

22 A. That I was innocent.

23 Q. Did he give you any examples of innocent people that were in  
24 jail at that second meeting?

25 A. Yes.

1 Q. What names did he mention?

2 A. Isabelino Gomez, who was a prosecutor, who was in jail without  
3 any proof, without any trial. He was in jail innocent.

4 Q. What did you think when the Defendant told you that?

5 A. That something like that could happen to one of my family  
6 members or someone close to me in Bolivia.

7 Q. What did he tell you about your guilt or innocence with respect  
8 to the charges?

9 A. That I was innocent.

10 Q. Now, you mentioned earlier that the Defendant told you about  
11 bringing people to the Bolivian Consulate?

12 A. Yes.

13 Q. Did the Defendant say anything to you about bringing you to the  
14 Bolivian Consulate?

15 A. Yes.

16 Q. What did he say?

17 A. That in the future I, too, could go to the Bolivian Consulate  
18 to give a statement.

19 Q. Did you think that you would have to go to the Bolivian  
20 Consulate if you paid him \$30,000?

21 A. If I didn't pay him, yes.

22 Q. I want to go over, now, parts of this second conversation.

23 (Video published.)

24 BY MR. BYRNE:

25 Q. Who is Patricia Gutierrez and who is Guillermo Sanzetenea?



1 A. Sanzetenea.

2 Q. Who are those people?

3 A. Sanzetenea was the manager, the airline manager in Washington  
4 and Patricia Gutierrez was the general manager for the entire  
5 airline for the United States and was based in Miami.

6 Q. What did the Defendant tell you about where he was going to  
7 have those people summoned?

8 A. The Consulate.

9 Q. And the Defendant described this as a trap?

10 A. Yes.

11 Q. What did you understand him to mean by trap?

12 A. That quite possibly they would be arrested at the Consulate.

13 Q. And what did the Defendant say happens when you are in the  
14 Bolivian Consulate? In what country did he say you were in?

15 A. He said it was Bolivian soil.

16 Q. What did the Defendant tell you about the FBI's involvement in  
17 this?

18 A. That it would contribute and help in this option.

19 Q. Did he say whether or not the FBI knew what was going on?

20 A. I asked him if he knew if this was illegal and he said he  
21 didn't know.

22 Q. Did you understand the FBI to be knowingly assisting the  
23 Defendant with this issue?

24 MS. DOAKES: Objection, Your Honor, to the word knowingly.

25 THE COURT: Sustained.

1 BY MR. BYRNE:

2 Q. According to the Defendant, did the FBI know what was going on?

3 A. No.

4 (Video published.)

5 BY MR. BYRNE:

6 Q. What did the Defendant tell you there?

7 A. Basically, in summary, that the only key available to the FBI  
8 is he.

9 Q. What did you think would happen if you didn't pay the  
10 Defendant?

11 A. That he would continue attempting to trick or to lie to the FBI  
12 and continue sending reports regarding me to have me extradited.

13 (Video published.)

14 BY MR. BYRNE:

15 Q. How much money did the Defendant ask you for?

16 A. \$30,000.

17 Q. How much did you agree to give him at that moment?

18 A. \$5,000.

19 Q. What were you getting in exchange for that?

20 A. That he would shift the reports to the ones that were really  
21 responsible.

22 (Video published.)

23 BY MR. BYRNE:

24 Q. What were you and the Defendant talking about there?

25 A. That I don't like this kind of situation. That he had already

1 told Jorge Valda about some money to free my siblings.

2 THE INTERPRETER: Interpreter stands by the word siblings.

3 THE WITNESS: And that if he had requested \$20,000 per

4 sibling to free them.

5 BY MR. BYRNE:

6 Q. Did he deny doing that?

7 A. No.

8 Q. And who is Jorge Valda again?

9 A. My attorney.

10 (Video published.)

11 BY MR. BYRNE:

12 Q. According to the Defendant, who is Isabelino Gomez?

13 A. He's the general prosecutor for Santa Cruz.

14 Q. According to the Defendant, where was he at the time of this  
15 conversation?

16 A. In jail.

17 Q. What did the Defendant tell you as far as whether he was guilty  
18 or innocent?

19 A. That there was no evidence, no proof and that he was innocent.

20 Q. What did he tell you about your guilt or innocence during this  
21 conversation?

22 A. That I was innocent.

23 Q. Why do you think the Defendant gave you the examples of  
24 Isabelino Gomez right there?

25 A. To prove to me that it didn't matter one way or another if one

1 was guilty or innocent, they were going to end up in jail.

2 Q. Who controlled the information in your cases?

3 A. He, the Colonel.

4 Q. Who is responsible for showing what the evidence showed in  
5 those cases?

6 A. The Colonel.

7 Q. What did he ask you for at the end of this conversation?

8 A. \$30,000.

9 Q. To do what?

10 A. To shift of the reports that I was not guilty. To show that I  
11 was not guilty.

12 (Video published.)

13 BY MR. BYRNE:

14 Q. Who did the Defendant say the evidence is going to be directed  
15 against?

16 A. Towards the true culprits.

17 Q. What did you have to give him to ensure that was going to  
18 happen?

19 A. \$30,000.

20 (Video published.)

21 BY MR. BYRNE:

22 Q. According to the Defendant, who controls the information in  
23 your case?

24 MS. DOAKES: Objection, Your Honor; asked and answered.

25 THE COURT: Overruled.

1 THE WITNESS: He.

2 BY MR. BYRNE:

3 Q. Who knows all the issues in your case?

4 A. The Colonel.

5 (Video published.)

6 BY MR. BYRNE:

7 Q. Who is the Defendant talking about, as far as who he could  
8 bring to the Consulate?

9 A. Me.

10 Q. And what did he just tell you earlier in that conversation?  
11 What did he just tell you happens at the Consulate?

12 A. That the person would be intimidated and intimidated into  
13 giving a statement.

14 Q. Is that where the trap is?

15 MS. DOAKES: Objection; leading.

16 THE COURT: Overruled.

17 THE WITNESS: Yes.

18 (Video published.)

19 BY MR. BYRNE:

20 Q. What did you just give the Defendant there?

21 A. \$5,000.

22 Q. Was this the same money that had been photographed earlier?

23 A. Yeah.

24 Q. What did the Defendant and you talk as far as future payments?

25 A. That I would get the money to him through Carlos Alberto or I

1 would find a way to get it to him.

2 Q. Where was the FBI during this meeting?

3 A. In my bedroom there were three or four agents and throughout

4 the house. And throughout the neighborhood there were others.

5 Q. Sitting right there during that meeting did you fear for your  
6 life?

7 A. No.

8 Q. What did you fear?

9 A. I feared for my family. I wasn't afraid because the FBI was  
10 there and I feared for my mother who was in Bolivia.

11 Q. And what about your future cases?

12 A. If I didn't pay him it was a certainty that I would have  
13 problems in the future.

14 Q. Where did the Defendant tell you he was going to that day after  
15 he left your house?

16 A. Towards the airport.

17 MR. BYRNE: Your Honor, I have copies of the transcript and  
18 translations for the jurors. And at this point, they have been  
19 admitted into evidence yesterday and I would like to show the jurors  
20 the transcripts.

21 THE COURT: All right.

22 MR. BYRNE: Your Honor, I actually have no further  
23 questions for this witness.

24 THE COURT: Ladies and gentlemen, you have been furnished  
25 with typewritten transcripts of a translation from Spanish into

1 English of the only conversations that you just heard on the tape  
2 recording received in evidence.

3           The transcript also purports to identify the speakers  
4 engaged in the conversations. The transcripts have been admitted  
5 for the limited and the secondary purpose of helping you to follow  
6 the content of the conversations as you listen to the tape  
7 recordings. And particularly, those portions spoken in Spanish and  
8 also to help you to identify the speakers.

9           However, you are specifically instructed that whether the  
10 transcript correctly reflects the content of the conversations or  
11 the identity of the speakers is entirely for you to decide based on  
12 your own evaluation of the testimony you have heard and your own  
13 examination of the transcript in relation to hearing the tape  
14 recordings itself as the primary evidence of its own contents.

15           If you determine that the transcript is in any way, or in  
16 any respect incorrect, or unreliable, you should disregard it to  
17 that extent.

18           What that means in plain English is that the evidence in  
19 this case is really what you have heard on the screen here and the  
20 tape recordings and the audio and video recordings. That's the real  
21 evidence. That's just an aid to assist you.

22           So if you find that what you have in the transcript is  
23 different from what you heard or perceived on the screen, then you  
24 should be guided by what you saw on the screen and heard on the  
25 screen as opposed to the transcript.

1 Are you ready to proceed with cross, Miss Doakes?

2 MS. DOAKES: Your Honor, yes, I am ready to proceed, but I  
3 would ask for a quick break.

4 THE COURT: Okay. We'll be in recess at this time. You  
5 can just leave your transcripts there on the chair. We will be in  
6 recess for 15 minutes and when we reconvene, we will proceed with  
7 the cross-examination of Mr. Roca.

8 You may step down Mr. Roca.

9 (Recess.)

10 THE COURT: All right. Will you bring in the jury, Madame  
11 Marshal, please.

12 (Jury entered.)

13 THE COURT: Be seated, please.

14 MR. BYRNE: Your Honor, briefly, we have a stipulation for  
15 the admission of Government's Exhibit 5A through 5E and 6A through  
16 6C.

17 THE COURT: They will be received in evidence.

18 CROSS EXAMINATION

19 BY MS. DOAKES:

20 Q. Mr. Roca, just so we're clear, regarding the family that you  
21 still have in Bolivia -- this is as of August 2013 -- your mom; is  
22 that correct?

23 A. Yes.

24 Q. And she's in Santa Cruz?

25 A. Yes.



1 Q. And you also have your daughter?

2 A. Yes.

3 Q. This is your young daughter that you have with Magnolia

4 Pacheco?

5 A. Yes.

6 Q. And the daughter that you have with Magnolia Pacheco, she

7 hasn't experienced any problems, correct?

8 A. She's only ten years old.

9 Q. Your mother hasn't experienced any problems either, correct?

10 A. Yes. And she's here right now.

11 Q. Your mother is here now?

12 A. Yes.

13 Q. You just said -- when did your mother arrive here in the United

14 States?

15 A. After the Colonel was arrested.

16 Q. Now, you arrived in the United States on December 15 of 2010,

17 correct?

18 A. Yes.

19 Q. And since your arrival you have not returned to Bolivia?

20 A. Never.

21 Q. And if you returned to Bolivia you would be arrested; is that

22 right?

23 A. Yes.

24 Q. You would be arrested for illegal enrichment of private

25 individuals in the States?

1 A. Due to an illegal prosecution, yes.

2 Q. But that is one of the charges against you, correct?

3 A. Yes.

4 Q. And if you return to Bolivia as a result of that pending  
5 charge, it is likely that you would be detained?

6 A. For sure.

7 Q. And you spent some time in jail, correct?

8 A. Yes. Without having gone to trial and without any evidence.

9 Q. Well, you were detained for 18 months in connection with  
10 problems with Banco Sur?

11 A. No. It was actually eleven months without having gone to trial  
12 and without any evidence.

13 Q. But you did go to trial, sir?

14 A. Afterwards, yes.

15 Q. And you and your brothers were acquitted?

16 A. Yes.

17 Q. Because you paid a bribe to the Judge that was involved; is  
18 that correct, sir?

19 A. No. Actually, the lady Judge passed away after the case was  
20 over.

21 Q. But you paid a bribe in exchange -- I'm talking about during  
22 the case you paid bribes in exchange for your freedom?

23 THE COURT: Let's do one question at a time.

24 MS. DOAKES: Sorry, Your Honor.

25 THE WITNESS: I've always fought against corruption and

1 that is how I ended up in the United States.

2 BY MS. DOAKES:

3 Q. Well, the other defendants that were involved in that trial  
4 were found guilty; is that correct?

5 A. Yes, but they are guilty.

6 Q. They didn't pay any bribes, did they?

7 A. I don't know.

8 Q. Now, you also owned Aerosur Airlines and you testified about  
9 that; is that right?

10 A. Yes.

11 Q. And at one time, Aerosur had over 1500 employees; is that  
12 correct?

13 A. Yes.

14 Q. And you also owned other companies, correct?

15 A. Yes.

16 Q. You owned construction companies, right?

17 A. Yes.

18 Q. Plantations?

19 A. Yes.

20 Q. Television channels?

21 A. Yes.

22 Q. And in these companies you had over 6,000 employees; is that  
23 right?

24 A. Yes.

25 Q. You had power in Bolivia; is that right?

- 1 A. I was a businessman.
- 2 Q. And because of your status as a businessman you had power,  
3 right?
- 4 A. I don't know.
- 5 Q. You had control?
- 6 A. Of what?
- 7 Q. You had control of matters within your country, correct?
- 8 A. Only what had to do with my companies.
- 9 Q. You had influence within your companies?
- 10 A. Within my companies I was the boss. I gave the orders.
- 11 Q. And you also had tremendous wealth, correct?
- 12 A. Well, I was a wealthy man. I don't know if I was extremely  
13 wealthy.
- 14 Q. Well, you have stated in the past that you were worth over 50  
15 million U.S. dollars?
- 16 A. Yes.
- 17 Q. You owned over 500 properties in Bolivia?
- 18 A. My family and I, yes.
- 19 Q. And these are the 500 properties that were seized by the  
20 Bolivian Government, correct?
- 21 A. Yes.
- 22 Q. You also had a luxury car collection of over 60 vehicles?
- 23 A. They were not luxury vehicles. They were collectibles.
- 24 Q. You had a Maserati, right?
- 25 A. No, I did not have a Maserati.

1 Q. You had a Ferrari?

2 A. Yes.

3 Q. That is a luxury car, right?

4 A. I would say it's more of a sports car.

5 Q. You had a Lamborghini?

6 A. No.

7 Q. Well, your son made a YouTube video of your extensive car  
8 collection, did he not, correct?

9 A. Yes, he has a channel that is called Humberto Roca, which is my  
10 son's name.

11 Q. And that channel was played on airways all over Bolivia, right?

12 A. Well, the truth of the matter is that it was around the world  
13 because it was on YouTube.

14 Q. Around the world your son bragged about --

15 THE COURT: Don't forgot you're not supposed to go to  
16 YouTube to look for that.

17 MS. DOAKES: Sorry, Your Honor.

18 BY MS. DOAKES:

19 Q. It was displayed around the world about this big luxury  
20 collection that you had, correct?

21 A. Yes.

22 Q. Then, the Bolivian Government started looking into your  
23 business dealings?

24 A. No.

25 Q. The Government never looked into would your business dealings

1 in connection with Aerosur?

2 A. But not because of the automobiles.

3 Q. Okay. After, at some point, the Bolivian Government looked

4 into your business dealings, correct?

5 A. Yes. After I had stated that there was a lot of corruption?

6 Q. Well, let's talk about the ATT investigation and that was

7 started by the -- ATT is the Administer of Institutional

8 Transparency; is that correct?

9 A. No.

10 Q. What's the name of ATT?

11 A. The Transportation and Telecommunications Authority.

12 Q. And in the course of the ATT investigation, ATT found that you

13 commingled money from Aerosur into your private account?

14 A. That investigation or that case began when I was not in

15 Bolivia.

16 Q. All right. But in connection with that investigation, there

17 were certain complaints that were made against your company?

18 A. It could be. I don't know.

19 Q. There is a complaint -- well, let me rephrase the question.

20 Your company, Aerosur, had regional offices around the world,

21 correct?

22 A. At the locations where it flew.

23 Q. Spain?

24 A. Madrid.

25 Q. You had one here in the United States?

1 A. Two.

2 Q. Two in the United States. And you also had a regional office  
3 in Brazil?

4 A. Yes.

5 Q. And in Argentina?

6 A. Yes.

7 Q. And in connection with those regional offices, you also had  
8 bank accounts in those countries as well; is that correct?

9 A. Company accounts, yes.

10 Q. And the reason why you had these bank accounts is because when  
11 you were selling tickets, the money had to go into an account,  
12 correct?

13 A. When you sell tickets, the majority of tickets are sold either  
14 through the Internet or through travel agencies. And of course,  
15 that money automatically goes into checking accounts.

16 Q. In those various regional offices that we talked about?

17 A. Yes.

18 Q. That's money Aerosur earns, correct?

19 A. Yes.

20 Q. And Aerosur is a Bolivian company, correct?

21 A. Yeah.

22 Q. And you lived and resided in Bolivia, right?

23 A. Yes.

24 Q. And as a Bolivian national, you are required to pay taxes,  
25 correct?

1 A. I did not understand. Do you mean through Aerosur or me,  
2 personally?

3 Q. Well, first of all, through Aerosur, the company?

4 A. The company has to pay taxes on its income, its revenues.

5 Q. In Bolivia?

6 A. Of course.

7 Q. And the Bolivian Government alleged that you under-reported the  
8 amount of income on your taxes?

9 MR. BYRNE: Objection, Your Honor. Improper impeachment  
10 under 608(b).

11 THE COURT: Sustained.

12 BY MS. DOAKES:

13 Q. Now, you received political asylum here in the United States;  
14 is that right?

15 A. Yes.

16 Q. And because you received political asylum, your wife and your  
17 children also received political asylum, correct?

18 A. One son, yes.

19 Q. And because you have received political asylum, that means that  
20 the United States Government is not going to return you to your  
21 country, correct?

22 A. I don't know, but that is my belief.

23 Q. That's your belief.

24 It's your belief that you were politically persecuted and you  
25 were persecuted by the Bolivian Government, correct?



1 A. I am sure of that.

2 Q. And the United States Government agreed with you, correct?

3 A. I don't know who actually authorizes the asylum, the Government

4 or --

5 Q. You were granted --

6 A. -- but I do have the asylum.

7 Q. And at some point, you are able to apply for your lawful

8 permanent status here, your green card, correct?

9 A. Yes.

10 Q. And then, after you received your green card, you will be able

11 to apply to become a citizen, correct?

12 A. That is possible.

13 Q. And while you are here or since you have been living here,

14 since December 2010, you haven't been living off of the state,

15 correct?

16 A. No.

17 Q. You are involved in real estate?

18 A. Yes.

19 Q. And your real estate is managed or controlled by various

20 corporations, correct?

21 A. My real estate and my family's real estate holdings.

22 Q. And to buy this real estate you need money, right?

23 A. Yes.

24 Q. Because when you first got here you started purchasing real

25 estate, correct?

1 A. After some six months. Maybe three, four months afterwards.

2 Q. At that time, you were here on a tourist Visa, right?

3 A. Business and tourist.

4 Q. And while you're here on a business tourist Visa, you couldn't  
5 go to a bank and get a loan, correct?

6 A. The truth of the matter is that loans are more easily given to  
7 foreigners than to U.S. citizens.

8 Q. You also needed money?

9 A. Yes.

10 Q. And you had money at the time that you came here to the United  
11 States?

12 A. Not in the United States.

13 Q. But that money that you didn't have in the United States had to  
14 get here to the United States, correct?

15 A. Yes.

16 Q. And in order for you, as a businessman, in order for that money  
17 to get here from a foreign country into the United States, it had to  
18 come in through a wire?

19 A. Yes.

20 Q. And it went from let's say, for example, Aerosur Spain into  
21 Aerosur United States?

22 A. No.

23 Q. Well, you had a bank account, a business bank account for  
24 Aerosur here in the United States, correct?

25 A. Aerosur U.S.A.

1 Q. And any wires that you would receive from out of the United  
2 States would go into that Aerosur Miami account, correct?

3 A. If it was destined to Aerosur then, yes, but if it was for me,  
4 it came to me.

5 Q. Now, getting back to your corporations, you are an owner or  
6 managing partner in a corporation called Humahu Investments LLC; is  
7 that right?

8 A. Yes.

9 Q. You are also an owner or managing partner in a corporation  
10 called Humahu 4 Investments LLC; is that right?

11 A. Yes, but I don't know the percentage ownership.

12 Q. You are also an owner or managing partner in a corporation  
13 called Humahu 5 Investments LLC; is that right?

14 A. Yes.

15 Q. You're also an owner or managing partner in a corporation  
16 called Humahu 6 Investments LLC; is that correct?

17 A. Yes.

18 Q. And you are also an owner or operator of a company called  
19 Humahu 8 Investments LLC; is that correct?

20 A. Yes.

21 Q. And Flexlar, Inc.; is that correct?

22 A. Yes.

23 Q. And your wife, Mrs. Roca, is the owner or a managing partner in  
24 a corporation called Daro Inc; is that right?

25 A. Yeah.

1 Q. Now, your cousin Carlos Guillen is a managing partner of G&B  
2 Servicing Solutions?

3 A. Oh, I don't know.

4 MS. DOAKES: May I approach, Your Honor?

5 THE COURT: Yes, ma'am.

6 MS. DOAKES:

7 Q. Sir, I handed you Department of State document?

8 MR. BYRNE: Objection, Your Honor, foundation?

9 MS. DOAKES: I'm going to lay it now.

10 THE COURT: Overruled.

11 BY MS. DOAKES:

12 Q. Now, if you look at the front page there, you've seen that  
13 document before, Articles of Incorporation documents?

14 A. Yes.

15 Q. And when you look at the first page of that document, what is  
16 the name of the corporation there?

17 A. G and B Service and Solutions Corporation.

18 Q. And that is your cousin's corporation; is that correct?

19 A. I don't know. I'm just learning this right now.

20 Q. Well, can you look at the second page? Do you see your  
21 cousin's name on there?

22 A. Yes.

23 Q. And do you see what the principal place of business address is  
24 there, sir?

25 A. Yes, at my house, but he did not have my authorization to do

1 this, Carlos Alberto did not.

2 MS. DOAKES: May I approach?

3 THE COURT: Yes, ma'am.

4 BY MS. DOAKES:

5 Q. Now, you were previously the owner managing partner of Cruz  
6 Cargo Services LLC; is that right?

7 A. I don't remember.

8 MS. DOAKES: May I approach Your Honor?

9 THE COURT: Yes, ma'am.

10 BY MS. DOAKES:

11 Q. If I show you the Articles of Incorporation do you think that  
12 would help to refresh your recollection?

13 A. Yes, of course.

14 Q. It's in English, sir. I think your name is on Page 3.

15 A. Yes.

16 Q. Is your recollection refreshed now?

17 A. No. This is when I was living in Bolivia. This is my address  
18 when I was in Bolivia and many corporations were formed on behalf of  
19 the airline.

20 Q. And that was one of the corporations, correct?

21 A. It's possible.

22 Q. Well, your name is on there as a managing partner, right?

23 A. Yes.

24 Q. Now, when you first arrived or after arriving in the United  
25 States in December of 2010, you opened a bank account with BB&T; is

1 that correct?

2 A. Yes.

3 Q. And that account was opened on January 26 of 2011, correct?

4 A. It must be. I don't remember.

5 Q. And also on that account -- well, that was an Aerosur account,  
6 business account, right?

7 A. No. It was Humberto Roca's account.

8 Q. Right. You had your own personal account with BB&T, correct?

9 A. Yes.

10 Q. And you also had an Aerosur business account that you had  
11 shared with Patricia Gutierrez?

12 A. That was Aerosur U.S.A.

13 Q. I'm sorry. Aerosur U.S.A.?

14 A. Yes.

15 Q. So you had two accounts with BB&T?

16 A. Yes.

17 Q. Now, after that account was opened on January 6 of 2011, you  
18 had a wire come into that account in the amount of \$100,000,  
19 correct?

20 A. I don't recall exactly, but many wires came in.

21 Q. Okay.

22 MS. DOAKES: May I approach, Your Honor?

23 THE COURT: Ye, ma'am.

24 MR. BYRNE: Your Honor, I would like to have a copy of  
25 whatever the witness is being shown.

1 MS. DOAKES: I'm sorry. I have a separate copy.

2 May I approach?

3 THE COURT: Yes, ma'am.

4 BY MS. DOAKES:

5 Q. Is your memory refreshed, sir?

6 A. Yes. I have had many wire transfers come into that bank.

7 Q. And this wire transfer went into a business account, your  
8 business account at BB&T, correct?

9 A. Transfers were made to both accounts.

10 Q. But I'm asking about this specific \$100,000 wire that came in  
11 on January 14, 2011?

12 A. I don't remember, but the documents so state.

13 Q. And then, on January 19th, Patricia Gutierrez wrote you a check  
14 for \$100,000?

15 A. Yes.

16 Q. And that money was deposited into your personal account?

17 A. Yes.

18 Q. And then, on January 18th, 2011 -- and I'm referring to the  
19 next page, sir that you have in front of you.

20 A. Uh-huh.

21 MS. DOAKES: May I approach, Your Honor?

22 THE COURT: Yes, ma'am.

23 BY MS. DOAKES:

24 Q. In the second wire dated January 18th of 2011, it's in the  
25 amount of \$64,980; is that correct?

1 A. Yes.

2 Q. And that came from a Banco Amambay out of Paraguay.

3 A. That's what it says on the paper.

4 Q. And it went into your Aerosur business account, correct?

5 A. That is correct.

6 Q. And then, on the next day, Patricia Gutierrez wrote you a check

7 in the amount of \$64,980?

8 A. That is correct.

9 Q. And that money went directly into your personal account; is  
10 that correct?

11 A. That is correct.

12 Q. Then, on January 24, 2011, a wire in the amount of \$100,000?

13 MR. BYRNE: Your Honor, I'm going to object.

14 This evidence, these materials are not in evidence. She  
15 can ask him if his memory is refreshed and she can ask, but she  
16 can't have him read from documents that are not in evidence.

17 THE COURT: Sustained.

18 BY MS. DOAKES:

19 Q. Sir, do you recall a wire -- well, on June 16 of 2011, a wire  
20 in the amount of two million dollars came from Aerosur Brazil and  
21 that was deposited into your account, correct?

22 A. That is correct.

23 Q. And then, that money went on June 17th, the next day, into your  
24 personal account?

25 A. Correct.



1 Q. On January 24th of 2011, you also had a wire in the amount of  
2 \$100,000 that went into your Aerosur account?

3 A. Well, I don't remember. However, if they are there those are  
4 the dates.

5 Q. Sir, from January of 2011 to approximately when that account  
6 was closed, about four million dollars of wires went into your  
7 Aerosur account?

8 A. Into my account, yes.

9 Q. And that four million dollars went directly into your personal  
10 account?

11 A. That's what I just said.

12 Q. So it went from business to business account and then into your  
13 personal account?

14 A. Yes.

15 Q. And you did that because you didn't want anyone from the bank  
16 questioning your activities, correct?

17 A. No.

18 Q. That's embezzling funds, isn't it?

19 A. No.

20 Q. Isn't that exactly what you were doing in Bolivia?

21 A. No.

22 Q. Sir, you also own -- and correct me if I'm wrong --  
23 approximately 45 properties here in South Florida?

24 A. Yes. With my family and some partners, yes.

25 Q. And on April 26 of 2013, your wife who owns Darco Inc., she

1 sold a property for 6.7 million dollars; is that correct?

2 A. Yes.

3 Q. From April of 2009 to approximately August 2nd of 2013, you  
4 have purchased 7.5 million dollars in property, isn't that right?

5 A. It's possible, yes.

6 Q. Now, that \$5,000 payment that was given to Mr. Ormachea, that  
7 came from your bank account?

8 A. No.

9 Q. Where did the money come from?

10 A. Carlos Alberto brought it for me.

11 Q. You had the money to pay for it, though, right?

12 A. In the bank, yes.

13 Q. Carlos went to the bank to get it for you?

14 A. No. That was impossible because it was on a Saturday.

15 Q. But he was able to get \$5,000 for you?

16 A. No. It was \$10,000.

17 Q. Oh, he got \$10,000 for you?

18 A. Yes.

19 Q. Now, sir, when you left Bolivia your company was owing your  
20 employees back wages, correct?

21 A. Very little in some areas, yes, but it was a small amount.

22 Q. Five months of unpaid wages, correct?

23 A. No.

24 Q. Well, you haven't sent any money back to those 1500 employees,  
25 have you?

1 MR. BYRNE: Your Honor, objection to relevance.

2 THE COURT: Sustained.

3 BY MS. DOAKES:

4 Q. Now, I want to turn your attention to the August 5th, meeting  
5 with Mr. Ormachea. Now, you chose the location where you would meet  
6 him, correct?

7 A. No. As a matter of fact, it was the attorney.

8 Q. Your attorney?

9 A. Yes.

10 Q. Somebody who works for you?

11 A. He works for the law firm where I have my attorneys.

12 Q. You determined who would be present at that meeting, correct?

13 A. No.

14 Q. Well, Mr. Gonzalez was there, Ignacio Gonzalez, the attorney,  
15 was there?

16 A. Not Ignacio Gonzalez.

17 Q. I'm sorry. Ignacio Alvarez was there?

18 A. Yes.

19 Q. And your cousin, Carlos Guillen picked Mr. Ormachea up from the  
20 airport in Miami, right?

21 A. Yes.

22 Q. And during this restaurant meeting with Mr. Ormachea, he told  
23 you why he traveled to the United States, correct?

24 A. Yes.

25 Q. And he had said that he had traveled here to accompany his

1 father to Maryland, correct?

2 A. He never mentioned his father.

3 Q. Now, at the conclusion of the August 5th meeting, you gave Mr.

4 Ormachea your telephone number, correct?

5 A. Yes.

6 Q. And you gave Mr. Ormachea your telephone number because you

7 wanted him to keep in contact with you, correct?

8 A. Because he asked me for it and I was afraid that he might take

9 reprisals against my family in Bolivia.

10 Q. He told you he was the head of the Anti-Corruption Department

11 within the Bolivian National Police; is that right?

12 A. Yes.

13 Q. And the Bolivian National Police is accountable to the Bolivian

14 Government; is that correct?

15 A. I believe so.

16 Q. This is a Government that is led by President Morales; is that

17 right?

18 A. Yes, it's his Government.

19 Q. And it's a Government that you believe to be corrupt, correct?

20 A. No, I am sure it is corrupt.

21 Q. It's the Government that you believe conspired with others to

22 take property from you, correct?

23 A. Yes.

24 Q. A Government that you believe took your properties and assets

25 from you, correct?

1 A. Illegally, yes.

2 Q. And it's a Government that you believe stripped you of your  
3 citizenship, right?

4 A. Yes.

5 Q. Now, Mr. Ormachea told you that during this August 5th meeting  
6 that he believed the charges against you were politically motivated;  
7 is that right?

8 A. Yes. And that they were unfair and that I was innocent.

9 Q. He believed that you didn't do anything wrong; is that correct?

10 A. He told me that he knew that I had not done anything wrong.

11 Q. Then, for some reason you agreed to meet with him a second  
12 time, is that correct, on August 30th?

13 A. After he called me and I did not want to answer, until I  
14 answered the phone without seeing who was calling. And he spoke to  
15 Carlos Guillen and not with me, about his returning here again.

16 Q. But you agreed to meet with him a second time, Mr. Roca; is  
17 that correct?

18 A. I had no other option because Carlos Alberto told me he was  
19 coming. So he was coming.

20 Q. But you did have another option and you could have said, no,  
21 right?

22 A. And my mother would have landed in jail. And there, what I'm  
23 seeing now, possibly he would have done something to my ten-year-old  
24 daughter, Victoria, and something terrible might have happened.

25 Q. You said no before?

1 A. Not here.

2 Q. Well, in January of 2013, when Mr. Valda asked if you would  
3 meet with someone from the Bolivian National Police, you said, no,  
4 correct?

5 A. Yes. And my siblings ended up here because they wanted to  
6 throw them in jail too.

7 MS. DOAKES: Your Honor, at this time, the Government has  
8 had an objection to this. And I am requesting to move the entire  
9 audio or video DVD of the August 30th meeting that was previously  
10 admitted that was the edited version.

11 MR. BYRNE: No objection.

12 THE COURT: It will be received without objection.

13 BY MS. DOAKES:

14 Q. Now, sir, this August 30th of 2013 meeting occurred at your  
15 house; is that right?

16 A. Yes.

17 Q. And you said that your house was wired by the FBI; is that  
18 correct?

19 A. Yes.

20 Q. And you also recorded that meeting; is that correct?

21 A. I didn't.

22 Q. You didn't record it?

23 A. It was also captured. It was also recorded on a camera that  
24 was in my house already, not because I wanted to do that, but they  
25 asked me for permission to use that.

1 Q. And this is your son right there?

2 I'm showing you what has been marked and admitted as Exhibit  
3 Number 5. That's your son there, correct?

4 MR. BYRNE: Your Honor, I don't believe this has been  
5 admitted, but we have no objection to the admission of Exhibit  
6 Number 5.

7 THE COURT: It will be received into evidence and you have  
8 may publish it.

9 THE WITNESS: That is my son.

10 BY MS. DOAKES:

11 Q. And this is your son, kind of fiddling with the camera; is that  
12 right?

13 A. He's turning it on.

14 Q. He did this before Mr. Ormachea showed up?

15 A. Yes. Under instructions given by the FBI, yes.

16 Q. Sir, I'm showing you what has previously been marked as  
17 Government's Exhibit 5 and 5A. I'm actually showing you  
18 Government's Exhibit 5D. That's you in the picture there; is that  
19 correct, sir?

20 A. Yes.

21 Q. And that's Mr. Ormachea in the orange shirt there?

22 A. Yes.

23 Q. And you're greeting him there and patting him on the back; is  
24 that correct?

25 A. Yes.

1 MS. DOAKES: I'm sorry, Judge. I'm trying to find  
2 something.

3 BY MS. DOAKES:

4 Q. Now, I want to refer you to the exhibit that's Government's  
5 Exhibit Number 7 and 8.

6 And specifically, I wanted to start with Government's Exhibit  
7 Number 7 and that's a transcript of the August 30th meeting,  
8 correct?

9 A. Yes.

10 Q. And you start off -- this is when Mr. Ormachea arrives. You  
11 start off by saying, so tell me so as not to make Carlos Alberto  
12 wait, correct?

13 A. (No verbal response.)

14 Q. And you do that because you want Mr. Ormachea to tell you to  
15 start telling you what he could do for you, correct?

16 A. No.

17 MS. DOAKES: Your Honor, may I have a minute?

18 THE COURT: Yes.

19 THE WITNESS: That is an expression in our language that we  
20 express well.

21 BY MS. DOAKES:

22 Q. Well, tell me what are we going to do; is that right?

23 A. Yes.

24 Q. You're asking him for your assistance, correct?

25 A. No.



1 Q. Well, you're saying what are we going to do?

2 A. It's an expression. It's like saying, so what's up? What are  
3 we going to do?

4 Q. During that August 30th meeting you bring up the money first,  
5 correct?

6 A. No.

7 MS. DOAKES: Your Honor, is there any way we can break at  
8 this time?

9 THE COURT: No, let's go on.

10 MS. DOAKES: I'm just having a hard time looking for  
11 something.

12 BY MS. DOAKES:

13 Q. And he asked you on Page 24 of the transcript --

14 THE COURT: It's upsidedown.

15 BY MS. DOAKES:

16 Q. Do you think something like 30 would be alright?

17 A. Yes.

18 Q. And he's asking you this and you agree with that amount,  
19 correct?

20 A. I was not in agreement with any amount, but what else could I  
21 say?

22 Q. He's not demanding \$30,000 from you?

23 A. Yes, he is demanding.

24 Q. Now, when he left that August 30th meeting or -- strike that  
25 question.

1           During the August 30th meeting, Mr. Ormachea was providing  
2 assurances of what he could do for you in Bolivia, correct?

3 A.     In exchange for the \$30,000, yes.

4 Q.     And you believed he had power, correct?

5 A.     He was very clear when he explained the power, the authority  
6 that he commanded during that meeting.

7 Q.     And you believed he had influence, correct?

8 A.     Yes, of course. And that's why my brothers are here because  
9 they were almost thrown in jail there.

10 Q.    Well, he also told you that he could influence his  
11 investigation of you, correct?

12 A.    He said he could shift it.

13 Q.    But by shifting it, that would benefit you, correct?

14 A.    How could it benefit me if I'm innocent and he, himself, stated  
15 that.

16 Q.    By shifting it the attention would no longer be on you,  
17 correct, Mr. Roca?

18 A.    According to him, it would fall on the truly responsible  
19 persons.

20 Q.    Now, the next day, on the August 31st meeting, you told Carlos  
21 to tell Mr. Ormachea to hurry up and get there, correct?

22 A.    Yes.

23 Q.    Because you were expecting to have people over there for some  
24 sort of party; is that right?

25 A.    Every Saturday my family and I get together for a barbecue.

1 Q. Now, you testified that you filed a lawsuit here in federal  
2 court in 2011; is that correct?

3 A. Yes.

4 Q. And that lawsuit, the case has been closed, correct?

5 A. I don't know.

6 Q. Well, you haven't been able to serve any of the other parties  
7 that were involved in the case; is that right?

8 A. Yes, of course, because they do all these maneuverings and  
9 manipulations in serving these people.

10 Q. Now, after Mr. Ormachea was arrested, your attorney, Mr. Diaz,  
11 said that you had been vindicated, correct?

12 A. Not to me. He mentioned that to the papers, the newspapers.

13 Q. But you believed yourself to be vindicated?

14 A. In Spanish to be vindicated actually means to reestablish -- in  
15 moral terms to reestablish the damage that was done to me as a  
16 person. It's like a re-vindication.

17 THE INTERPRETER: From the interpreter it is to  
18 reestablishment my reputation.

19 BY MS. DOAKES:

20 Q. And the fact that a member, a high-ranking member of the  
21 Bolivian National Police under the Bolivian Government, you trusted  
22 would help restore your reputation, correct?

23 A. That's what the attorney said, not me.

24 Q. Well, you agree that would be an embarrassment to the Bolivian  
25 Government; is that right?

1 A. Yes, but the Bolivian Government is already sufficiently  
2 embarrassed.

3 Q. And then, your attorney in Bolivia, Mr. Valda, he went to the  
4 prosecutor's office on your behalf, correct?

5 A. What prosecutor's office?

6 Q. In Bolivia.

7 A. I don't know.

8 Q. He tried to get your case dismissed after Mr. Ormachea was  
9 arrested, right?

10 MR. BYRNE: Objection, Your Honor. Lack of personal  
11 knowledge as to what Mr. Valda --

12 THE COURT: Overruled.

13 THE WITNESS: He has tried to do that the entire time to  
14 show that it was illegal, but he never got anywhere with it.

15 BY MS. DOAKES:

16 Q. After Mr. Ormachea was arrested?

17 A. I don't know, but after Mr. Ormachea was arrested an arrest  
18 warrant was issued for my mother.

19 THE INTERPRETER: Interpreter wishes to ask something.

20 BY MS. DOAKES:

21 Q. Well, after Mr. Ormachea was arrested he's here in the United  
22 States in jail, correct?

23 A. Yes.

24 Q. So he had nothing to do with that warrant being issued,  
25 correct?

1 A. I don't know.

2 MS. DOAKES: Your Honor, may I have just a second?

3 THE COURT: Yes, ma'am.

4 BY MS. DOAKES:

5 Q. Now, sir, I wanted to ask you some questions about your  
6 political asylum application.

7 A. Yes.

8 Q. You filled out an application for asylum dated June 3rd of  
9 2011; is that right?

10 A. I don't recall the date but, yes, it was during 2011.

11 Q. And attached to that asylum application, you had an affidavit;  
12 is that correct?

13 A. Yes.

14 Q. And you swore that the information contained in that affidavit  
15 was truthful, correct?

16 A. Yes.

17 Q. Now, you previously testified on direct examination that you  
18 traveled to Spain for kidney cancer surgery; is that right?

19 A. Yes.

20 Q. In the application that you submitted to asylum, you stated  
21 that you entered Spain to undergo checkups for my liver cancer,  
22 correct?

23 A. That must be a problem with the transcription, but it was renal  
24 cancer.

25 MS. DOAKES: Okay. Thank you, Mr. Roca. No further

1 questions.

2 THE COURT: Redirect brief?

3 REDIRECT EXAMINATION

4 BY MR. BYRNE:

5 Q. Mr. Roca, who requested the meetings with you? Did you request  
6 the meetings with you or did he ask to meet with you?

7 A. The Colonel.

8 Q. And who brought up money?

9 A. The Colonel.

10 Q. Do you want to stay in the United States as a United States  
11 citizen forever?

12 A. It's very possible because this is a great country.

13 Q. Do you ever intend to back to Bolivia?

14 A. I have no chance of returning to Bolivia.

15 MR. BYRNE: No further questions, Your Honor.

16 THE COURT: Mr. Roca, thank you very much, sir. You may  
17 step down now.

18 May we have the next witness for the Government.

19 MR. BYRNE: Yes, Your Honor.

20 The Government would call Jared Garth from the Federal  
21 Bureau of Investigation.

22 (Witness sworn.)

23 THE COURT: Tell us your full name.

24 THE WITNESS: Jared J-A-R-E-D last name Garth G-A-R-T-H.

25 THE COURT: You have may inquire.

1 MR. BYRNE: Yes, Your Honor.

2 JARED GARTH, GOVERNMENT WITNESS SWORN

3 DIRECT EXAMINATION

4 BY MR. BYRNE:

5 Q. Good morning.

6 A. Good morning.

7 Q. What do you do for a living?

8 A. I'm a supervisory special agent with the Federal Bureau of  
9 Investigations.

10 Q. Where are you based out of?

11 A. Currently assigned to Federal Bureau of Investigations  
12 headquarters in Washington, D.C.

13 Q. What is the specific unit that you're assigned to?

14 A. I'm in the International Operations Division. So the FBI is  
15 comprised of several divisions. I'm in the International Operations  
16 Division.

17 Specifically, I'm the Unit Chief for the unit that handles FBI  
18 resource and personnel overseas in the Americas; that would be  
19 Canada, Mexico, Caribbean, Central America, South America.

20 Q. How long have you been a Unit Chief of that particular unit?

21 A. Since June 3rd of 2013.

22 Q. How long have you been an FBI agent over the course of your  
23 career?

24 A. At the end of this month it will be 17 years.

25 Q. Can you tell us a little bit about what your particular unit

1 does in D.C.?

2 A. Yes. So International Operations Division is responsible and  
3 manages the FBI's program overseas. We have FBI agents assigned to,  
4 I think, we're at 84 offices overseas. Those agents are in the U.S.  
5 Embassy overseas. And as I said, I handle the Americas unit. So  
6 again, Canada, Mexico, Central America, South America, Caribbean.

7 Our agents will assist law enforcement in the countries where  
8 they're assigned with investigative work. We provide training. We  
9 handle visitors to FBI HQ in Washington, D.C., that is foreign law  
10 enforcement partners that come visit us.

11 There are some administrative aspects to our work such as  
12 personnel, budget, and informing our director as to what is  
13 happening overseas.

14 Q. The country of Bolivia, is that within your jurisdiction, so to  
15 speak?

16 A. Yes, it is.

17 Q. If law enforcement from Bolivia, Bolivian National Police  
18 officials wanted to get in touch with the FBI, who would they reach  
19 out to?

20 A. Well, they could reach out to any FBI field office, or just the  
21 general number at FBI headquarters, but eventually they would find  
22 themselves, they would be directed to us because we're the focal  
23 point for all international visits from the countries that we cover.

24 Q. Now, when, for example, Bolivian law enforcement, the Bolivian  
25 National Police get in touch with you and has communications with



1 you, do you all keep records of those communications?

2 A. Yes, we do.

3 Q. How do you keep records of those communications?

4 A. Well, any time we have a meeting we would document that  
5 meeting. So we would keep -- we do keep what are called liaison  
6 files for each country in which we have a relationship, or where we  
7 meet and conduct business.

8 And we would document the sum and substance of those meetings  
9 in that file. That usually takes form in what is called an  
10 electronic communication, or an FBI speak. It's called an EC. It  
11 is basically a format that we document internal activities. We  
12 could attach anything to that document such as e-mail traffic,  
13 letters, any other type of documents.

14 Q. Where are those documents maintained?

15 A. Well, the FBI maintains a system of records, which is now  
16 called Sentinel and that system has been in place coming up on two  
17 years.

18 Q. Are those records regularly maintained in the course of the  
19 business of the FBI?

20 A. Yes, they are.

21 Q. And are they made and maintained at or about the time those  
22 communications occurred?

23 A. Yes. So FBI personnel, agents, and support personnel are  
24 supposed to document the meetings such as the ones that counsel is  
25 talking about, within five or ten days after the meeting takes

1 place. The same would apply to any investigative interview.

2 Q. Now, you talked about meetings and I assume you were talking  
3 about face-to-face kind of interaction.

4 What about e-mails or any other type of communication, do you  
5 maintain records of those kinds of communications?

6 A. Yes. As I explained, e-mails could also be documented in the  
7 same system of records. The system is designed to allow its user,  
8 an FBI agent, for example, to upload e-mails, or letters, or any  
9 type of communication into that system.

10 Q. This system of records that you have, this database that  
11 collects the records of meetings, collects the records of  
12 communications, is that database searchable?

13 A. Yes, it is.

14 Q. How do you search the database or how can you search the  
15 database?

16 A. One can search an individual by their name, date of birth,  
17 Social Security number, any kind of personal identifying  
18 information. One can tailor the search by the type of investigation  
19 it is, the type of file number, the field office. One can tailor  
20 the search around those types of parameters.

21 Q. Did there come a time when the U.S. Attorney's Office asked you  
22 to conduct a search of a name Mario Fabricio Ormachea Aliaga?

23 A. Yes.

24 Q. What did you find when you conducted that search?

25 A. The only reference I found to that particular name was related

1 to this particular investigation, which is before the Court.

2 Q. What about any other communications?

3 A. No.

4 Q. Now, you also talked about meeting with law enforcement from  
5 other countries?

6 A. Yes, sir.

7 Q. Have you or other agents ever met law enforcement from the  
8 country of Bolivia?

9 A. Yes. Specifically, we held the first known meeting with two  
10 representatives from the Bolivian Government on June 25th of 2013 at  
11 FBI headquarters.

12 Q. Where was that? What city?

13 A. It's Washington, D.C.

14 Q. Who were those officials?

15 A. There are two individuals that asked to meet with us. One was  
16 a police attache. His name was Juan Cejas Martinez. He's a police  
17 colonel with the Bolivian National Police assigned to the Bolivian  
18 Embassy in Washington, D.C. And his colleague was a consul and his  
19 name was Marcelo Martinez Cespedes. I believe that is spelled  
20 C-E-S-P-E-D-E-S.

21 Q. How did that meeting come about?

22 A. They requested a meeting.

23 Q. What were the topics of conversation at that meeting?

24 A. There were three general topics that I recall. The first was  
25 training. FBI provides --

1 MS. DOAKES: I'm going to object to this line of  
2 questioning as being irrelevant.

3 THE COURT: What's the relevance?

4 MR. BYRNE: The Defendant represented to Mr. Roca that he  
5 had meetings with the FBI and that he exchanged information with the  
6 FBI.

7 THE COURT: Well, I understand that. And he has already  
8 told us that he researched the records and he found no evidence of  
9 that.

10 MR. BYRNE: I also want to establish that there was no  
11 communications about Mr. Roca's case whatsoever.

12 THE COURT: Well, ask him that directly.

13 BY MR. BYRNE:

14 Q. Did you, at all, discuss a case by the name of Humberto Rocca  
15 during your meetings with Bolivian law enforcement?

16 A. No, we did not.

17 MR. BYRNE: No further questions, Your Honor.

18 THE COURT: Cross-examination.

19 MS. DOAKES: No questions, Your Honor.

20 THE COURT: Mr. Garth, we thank you, sir.

21 THE WITNESS: Thank you.

22 THE COURT: Your next witness, please.

23 MR. BYRNE: The Government calls Delia Brea.

24 (Witness sworn.)

25 THE COURT: Please tell us your full name.

1 THE WITNESS: My full name is Delia Brea; B-R-E-A.

2 DELIA BREA, GOVERNMENT'S WITNESS SWORN

3 DIRECT EXAMINATION

4 BY MR. BYRNE:

5 Q. Good afternoon, Miss Brea.

6 A. Good afternoon.

7 Q. What do you do for a living?

8 A. I am the Customers Relation Manager for LAN Airlines.

9 Q. How long have you been in that job?

10 A. For 25 years.

11 Q. Can you tell us a little bit about what you do on a day-to-day  
12 basis?

13 A. I handle claims, comments from the passengers, and solve  
14 problems.

15 Q. Do you also act as a records custodian of LAN Airlines?

16 A. Yes, I am the records custodian.

17 Q. Did there come a time when the United States Attorney's Office  
18 asked you to find records associated with a man by the name of Mario  
19 Fabricio Ormachea Aliaga?

20 A. Yes.

21 Q. Did you find any records?

22 A. Yes, I did.

23 Q. What specifically did you find? What records?

24 A. I found a copy of the ticket issued in his name. I found the  
25 passenger manifest.

1 Q. Could you just tell us a little bit, what is a ticket copier,  
2 or what is a copy of a ticket?

3 A. Okay. We have electronic tickets, but we can print a copy of  
4 the ticket issued for a passenger to fly on a route.

5 Q. What information does a ticket copy show?

6 A. It shows the flight number, the date, the time, the route, and  
7 the status of the ticket.

8 Q. You also mentioned a flight manifest?

9 A. Yes.

10 Q. What is a flight manifest?

11 A. It's a list of all the passengers that fly on a particular  
12 flight number.

13 Q. Now, if someone doesn't actually make it on their plane, would  
14 the flight manifest reflect them being on the flight?

15 A. No, the name wouldn't be on the flight manifest.

16 Q. Now, you mentioned that you actually found a ticket copy in  
17 this case; is that right?

18 A. Yes.

19 Q. As well as a flight manifest?

20 A. Yes.

21 Q. Generally speaking, what did the ticket copy show?

22 A. The ticket copy showed that Mr. Ormachea traveled from La Paz,  
23 Bolivia to Miami.

24 Q. On or about what date was that?

25 A. About the 29th of August, 2013.

1 Q. What about the flight manifest?

2 A. It reflects the name of the passenger.

3 MR. BYRNE: Your Honor, I have in my hand what has been

4 marked for identification purposes as Government 's Exhibit 4.

5 May I approach the witness?

6 THE COURT: Yes, sir.

7 BY MR. BYRNE:

8 Q. Do you recognize this exhibit?

9 A. Yes, I do.

10 Q. What is it?

11 A. This is a copy of the post departure record. Also the copy of

12 the ticket and the passenger manifest.

13 Q. Were these records made by a person with knowledge of, or made

14 from information from a person with knowledge of the acts and events

15 appearing in this record?

16 A. Yes.

17 Q. Were these records made at or near the time of the acts and

18 events appearing within the record?

19 A. Yes.

20 Q. Is it the regular practice of LAN Airlines to maintain these

21 records?

22 A. Yes, they're maintained in our system.

23 Q. And are they kept in the regular course of business?

24 A. Yes.

25 MR. BYRNE: Your Honor, the Government would offer

1 Government's Exhibit 4 into evidence.

2 THE COURT: It will be received in evidence.

3 MR. BYRNE: Your Honor, may I now publish it to the jury?

4 THE COURT: You may.

5 MR. BYRNE: Thank you.

6 BY MR. BYRNE:

7 Q. Okay. I want to talk to you about what is labeled the virtual  
8 coupon record here. If you could tell me what is a virtual coupon  
9 records?

10 A. It's an actual copy of the ticket that is in the reservation  
11 system. Everything is electronically done.

12 Q. Who is the passenger listed here?

13 A. It's Mr. Mario Ormachea.

14 Q. Now, there are a series of four rows here and I would like to  
15 ask you about each of these rows. This first row right here, row  
16 number one --

17 A. Yes.

18 Q. This first row, what does this first row show?

19 A. It shows the number of the flight, the date of the flight, the  
20 29th of August.

21 Q. And here --

22 A. It's from La Paz, Bolivia to Lima and the status is okay and  
23 it's been used.

24 Q. What's the date listed on this?

25 A. 29th of August.



- 1 Q. And the status here is used?
- 2 A. Used.
- 3 Q. It says used. What does that mean?
- 4 A. That means that the passenger flew on that particular flight.
- 5 Q. Let's talk now about Row 2. What flight number is listed in  
6 Row 2?
- 7 A. It's LA-2510 of the 29th of August from Lima to Miami and the  
8 status is used.
- 9 Q. Again, what does used mean?
- 10 A. The passenger flew on that particular flight.
- 11 Q. And to your knowledge, is Lima and Bolivia foreign countries?
- 12 A. Yes, they are.
- 13 Q. And the destination there is MIA. What --
- 14 A. Miami.
- 15 Q. What is that in reference to?
- 16 A. It's Miami.
- 17 Q. In the United States?
- 18 A. Yes, United States.
- 19 Q. Okay. This third row, tell us what we're looking at in the  
20 third row.
- 21 A. Okay. We are looking at Flight Number LA-2511. And the date  
22 is for the 1st of September from Miami to Lima. And the status is  
23 okay and the ticket has not been used.
- 24 Q. How do you know the ticket has not been used?
- 25 A. Because it says okay. That means that it is ready to be used,

1 but it hasn't been used by the passenger.

2 Q. Does this mean that the passenger had a reservation to fly back  
3 on September 1st?

4 A. He had a reservation to fly back on September the 1st, but he  
5 didn't use it.

6 Q. What about the fourth row?

7 A. The fourth row shows a flight from Lima to La Paz, Bolivia on  
8 September the 1st. And it's also with a status of okay, which means  
9 it hasn't been used.

10 Q. I want to, now, turn your attention to the bottom of this  
11 ticket, the copy. I'm pointing now to this -- I'm sorry. You can't  
12 see this.

13 What is listed here in this area right here?

14 A. It says that the ticket was paid in cash, that it was purchased  
15 and issued on the 24th of August 2013 in La Paz, Bolivia.

16 Q. Now, does this mean that on August 24th the passenger had a  
17 reservation to fly back on September 1st?

18 A. Yes.

19 Q. All right. I want to turn your attention now to a different  
20 page of this exhibit.

21 Okay. I'm turning your attention now to the bottom half of  
22 this page. What is the title here?

23 A. This is the manifest for Flight LA-2510 on the 29th of August.

24 Q. Of what year?

25 A. 2013.

1 Q. I want to turn your attention to about halfway down the page.  
2 What name is listed in this column?

3 A. The name of Mr. Mario Ormachea.

4 Q. What does this mean when his name is listed on the flight  
5 manifest?

6 A. It means that the passenger flew on that flight.

7 MR. BYRNE: I have no further questions for this witness.

8 THE COURT: Cross-examination.

9 MS. DOAKES: Your Honor, just a few questions.

10 Your Honor at this time, I am admitting Defendant's Exhibit  
11 6-A, with no objection from the Government and move for its  
12 admission.

13 THE COURT: It is received into evidence.

14 MS. DOAKES: Thank you, Your Honor.

15 CROSS EXAMINATION

16 BY MS. DOAKES:

17 Q. Now, bear with me, Miss Brea. I'm going to try to zoom this  
18 in.

19 Okay. All right. Now, Miss Brea, this is a ticket and it says  
20 a ticket number for Mr. Ormachea; is that correct?

21 A. Yes.

22 Q. And it's a virtual coupon record that shows on July 31st, Mr.  
23 Ormachea flew from La Paz, Bolivia to Lima; is that correct?

24 A. Right.

25 Q. And on August 1st, it shows that he arrived in Lima -- he

1 arrived at JFK Airport in New York; is that correct?

2 A. Correct.

3 Q. And at the bottom --

4 MS. DOAKES: I need some technical assistance.

5 BY MS. DOAKES:

6 Q. Well, it doesn't look like I will be able to show you on the

7 ELMO.

8 MS. DOAKES: May I approach, Your Honor?

9 THE COURT: Yes, ma'am.

10 BY MS. DOAKES:

11 Q. Okay. On the bottom of that ticket it has a date of birth for

12 Mr. Ormachea; is that correct?

13 A. Yeah.

14 Q. And the date of birth there it says August 6 of 2030, but it's

15 actually 1930; is that right?

16 A. Yes.

17 MS. DOAKES: Thank you, Your Honor. I have no further

18 questions.

19 THE COURT: Anything else of this lady?

20 MS. DOAKES: Oh, Your Honor, I'm sorry. I have one more

21 question.

22 BY MS. DOAKES:

23 Q. That document, the ticket also shows that on September 1st, Mr.

24 Ormachea left Miami headed to Lima?

25 A. But this ticket was a change for another one.

1 Q. Okay. But that was what the ticket showed and that's when he  
2 was scheduled to leave, but didn't leave; is that right?

3 A. Uh-huh. I don't know.

4 MS. DOAKES: Thank you, Miss Brea. I don't have any  
5 further questions.

6 MR. BYRNE: No further questions.

7 THE COURT: Okay. Miss Brea, I thank you very much. You  
8 have may step down.

9 Who is your next witness, Mr. Byrne?

10 MR. BYRNE: Your Honor, it's Special Agent Heath White.

11 THE COURT: All right. We will hear him after lunch.

12 Members of the jury, we will be in recess now until 1:30  
13 and when we come back, we will continue with the case on behalf of  
14 the United States. You can leave your papers there in your chairs.

15 The Court will be in recess until 1:30.

16 (Jury exited.)

17 THE COURT: How many more witnesses does the Government  
18 have?

19 MR. BYRNE: We have two, I believe, Your Honor. Maybe  
20 three, but two for sure and maybe three.

21 THE COURT: Who are they?

22 MR. BYRNE: Heath White, Laura Schwartzenberger, and Luis  
23 Arias.

24 THE COURT: What do they know?

25 MR. BYRNE: They were involved in the arrest of the

1 Defendant.

2 THE COURT: All right. We will be in recess until 1:30.

3 (Noon recess.)

4 MR. BYRNE: Could we take up one matter before the jury  
5 comes out.

6 THE COURT: Go ahead.

7 MR. BYRNE: Miss Doakes had subpoenaed Mr. Roca's tax  
8 records and the tax records of his associated businesses.

9 THE COURT: Right.

10 MR. BYRNE: We learned about this subpoena on Sunday.

11 THE COURT: Right.

12 MR. BYRNE: And Mr. Roca told us about it. He has the  
13 records here. The tax records are here. The Government's position  
14 is they're not admissible under 608(b) -- and I set this out in my  
15 trial brief, but effectively, you can't introduce evidence to  
16 establish specific instances of conduct to establish truthfulness or  
17 untruthfulness and credibility issues under 608(b).

18 And notwithstanding we have the tax records here. The  
19 concern we have is -- obviously, Your Honor, has heard some of the  
20 allegations here -- we are concerned that this might end up getting  
21 back to someone in Bolivia and we don't want that to happen. There  
22 is sensitive personal information here.

23 I understand that the Defense wants to review them and they  
24 are fully entitled to review them. And we have them here for them  
25 to do that, but the Government's position is that they are not

1 admissible. They are not relevant to any of the issues in this  
2 trial and we just have them here. So I would ask for a protective  
3 order in the sense that, obviously, I am asking for the protective  
4 order ore tenus as I haven't filed any motion for it.

5 THE COURT: All right. Show it to the Defense.  
6 Defense?

7 MS. DOAKES: There's a lot of records here and at this time  
8 I don't want to --

9 THE COURT: Don't want to what?

10 MS. DOAKES: Waste the jury's time.

11 MR. BYRNE: She did ask them -- she subpoenaed Mr. Roca's  
12 as a witness in her defense case and that's what he was asked to do  
13 is bring the records associated with him when he came.

14 And obviously, our subpoena did not ask him to bring these  
15 records. So presumably, if she wants to call him as a witness, she  
16 can ask him questions about his taxes. Again, we would say that  
17 even merely the questioning of it is irrelevant.

18 She could question under 608(b), but our position would be  
19 that the probative value of that line of questioning is outweighed  
20 for confusion of the issues and so that would be our position, but  
21 certainly we would be against -- we spelled this out in our trial  
22 brief -- the admission of the tax records.

23 THE COURT: All right. I will study that and see what  
24 happens.

25 MR. BYRNE: Okay.

1 THE COURT: Bring in the jury and call your next witness.

2 MR. JUENGER: Howard White, Your Honor, from the FBI.

3 (The jury entered.)

4 THE COURT: Please raise your right hand and be sworn.

5 (Witness sworn.)

6 THE COURT: Please tell us your full name.

7 THE WITNESS: Howard White; W-H-I-T-E.

8 THE COURT: You have may inquire.

9 MR. JUENGER: Thank you, Your Honor.

10 HOWARD WHITE, GOVERNMENT'S WITNESS SWORN

11 DIRECT EXAMINATION

12 BY MR. JUENGER:

13 Q. Where do you work?

14 A. The FBI.

15 Q. And how long have you worked for the FBI?

16 A. Five years.

17 Q. What's your current title or position with the FBI?

18 A. Special Agent.

19 Q. What did you do prior to the FBI?

20 A. I was a bomber pilot with the United States Air Force.

21 Q. And any other law enforcement or training before that?

22 A. No.

23 Q. Okay. Now, Agent, are you assigned here in the Miami Field  
24 office?

25 A. I am.



1 Q. And were you involved in the investigation of an individual by  
2 the name of Mario Fabricio Ormachea Aliaga?

3 A. Yes.

4 Q. And how did you become involved in the investigation?

5 A. I was asked to participate in a surveillance on August 31st.

6 Q. And what is it that you were assigned to do? What was your  
7 role in the investigation?

8 A. My role in the investigation was to assist in surveillance and  
9 security of the meet location and participate in a possible arrest  
10 following.

11 Q. Okay. And I think you may have said this, but how many days  
12 were you involved in this investigation?

13 A. Just that date.

14 Q. And do you remember what day of the week that was?

15 A. A Saturday.

16 Q. All right. Now, let's talk about that Saturday.

17 Where was this surveillance? Where did it take place?

18 A. Miami Lakes.

19 Q. And do you know whose house it was that you were conducting  
20 surveillance at?

21 A. No.

22 Q. Okay. And what time was it, more or less, that you were  
23 conducting surveillance?

24 A. In the afternoon at approximately 1:00.

25 Q. And how long were you conducting surveillance?

1 A. Approximately 30 minutes.

2 Q. Okay.

3 A. Maybe up to an hour.

4 Q. Were there other agents involved as well?

5 A. Yes.

6 Q. And what was it that you saw when you were on surveillance that  
7 day?

8 A. A silver Nissan, Ultima arrive at the target residence and an  
9 individual exit the Ultima and go in. And shortly thereafter,  
10 estimating 10, 15 minutes, leave the residence and drive away in the  
11 Nissan, Ultima.

12 Q. Okay. And what happened after the individuals left in the  
13 Nissan, Ultima?

14 A. A traffic stop was conducted by a patrol unit and the subject  
15 was arrested.

16 Q. Okay. And how far away from the target house in Miami Lakes  
17 was it before the arrest was made?

18 A. Approximately a mile, a mile and-a-half, maybe.

19 Q. Okay. Can you describe the arrest for us?

20 A. Yes. The subject vehicle left the residence and was followed  
21 by FBI agents who were in radio contact within one another.

22 Once the vehicle left the neighborhood, the patrol unit  
23 effected a traffic stop of the individual. Once the vehicle was  
24 stopped, FBI vehicles followed in and the subject was removed from  
25 the vehicle.

1 Q. Okay. And Agent, do you know if photographs were taken at the  
2 scene of the arrest that day?

3 A. Yes, they were.

4 MR. JUENGER: May I approach the witness, Your Honor?

5 THE COURT: Yes, sir.

6 BY MR. JUENGER:

7 Q. Agent White, I'm showing you what has been marked for  
8 identification as Government's Exhibits 10-A, 10-B, and 10-C.

9 Do you recognize those?

10 A. Yes, I do.

11 Q. What are they?

12 A. They are photos of the traffic stop.

13 Q. And are those photos a fair and accurate depiction of the  
14 arrest seen the day of the arrest?

15 A. Yes.

16 MR. JUENGER: Your Honor, the Government would move to  
17 admit 10-A, 10-B and 10-C.

18 THE COURT: They will be received into evidence.

19 MR. JUENGER: May I approach again, Your Honor?

20 THE COURT: Yes, sir.

21 BY MR. JUENGER:

22 Q. Now, Agent if you will just look to your right up on the screen  
23 here, I want to just put these photographs of 10-A, 10-B, and 10-C  
24 up in order and just describe for the jury what it is we're looking  
25 at.

1           Would you tell us what that is?

2 A.       Yes.    The silver Nissan, Ultima parked on the side of the road.

3 Q.       And showing you 10-B?

4 A.       That's a front view of the Nissan, Ultima with the lights of  
5 the patrol unit in the background.

6 Q.       Okay.   And who are some of the individuals here?

7 A.       FBI agents and FBI Task Force officers, along with the patrol  
8 unit.

9 Q.       So it's actually the patrol unit that did the stop?

10 A.      Yes.

11 Q.      And just lastly, this photograph here, what is this?

12           MR. JUENGER:   This is 10-C for the written record.

13           THE WITNESS:   Once again, the Nissan, Ultima with the  
14 patrol unit behind it.

15 BY MR. JUENGER:

16 Q.      Okay.   Now, Agent, after the arrest was made, did you do a  
17 search of the Defendant?

18 A.      Yes, I did.

19 Q.      And did you find anything of importance?

20 A.      Yes.

21 Q.      And what did you find?

22 A.      A large bundle of money, a passport, and a wallet.

23 Q.      And how much money did you find?

24 A.      Later determined to be \$5,000.

25 Q.      Okay.   And what did you do with that bundle?

1 A. I passed it off to other agents on scene.

2 MR. JUENGER: And may I approach, Your Honor?

3 THE COURT: Yes, sir.

4 BY MR. JUENGER:

5 Q. I'm showing you two items, but first let's talk about what has  
6 been marked for identification as Government's Exhibit Number 11.

7 Do you see that?

8 A. Yes.

9 Q. And what is that?

10 A. The wallet that was removed from the subject at the time of the  
11 arrest.

12 Q. And is that wallet in the same condition as the day you seized  
13 it?

14 A. Yes.

15 Q. And what did you do with that wallet after you seized it?

16 A. Passed it off to other agents on scene.

17 MR. JUENGER: Your Honor, at this time, we would move to  
18 admit Government's Exhibit 11.

19 THE COURT: It will be received into evidence.

20 BY MR. JUENGER:

21 Q. Could you just hold it up and show it to the jury?

22 A. (Complied.)

23 Q. And I also have placed in front of you Government's Exhibit 2,  
24 which has already been admitted into evidence. Could you hold that  
25 up for the jury to see?

- 1 A. (Complied.)
- 2 Q. And tell us what that is.
- 3 A. It's a passport from Bolivia.
- 4 Q. Okay. And whose name is that passport in?
- 5 A. Mario Fabricio Ormachea Aliaga.
- 6 Q. And does it have a photograph in there?
- 7 A. Yes.
- 8 Q. And do you recognize the photograph?
- 9 A. Yes.
- 10 Q. Who is that?
- 11 A. The Defendant.
- 12 Q. Okay. Is that the person that was arrested that day?
- 13 A. Yes.
- 14 Q. And if you would turn to Page 21 of that passport, please, and
- 15 tell us what is located on Page 21?
- 16 A. On Page 21, it's appears to be an entrance stamp.
- 17 Q. And what's the date on the entrance stamp?
- 18 A. August 29, 2013.
- 19 Q. And what was of the date that you and other agents arrested the
- 20 Defendant?
- 21 A. August 31st.
- 22 Q. How many days after the entry?
- 23 A. Two days.
- 24 MR. JUENGER: That's all I have, Your Honor.
- 25 THE COURT: Cross-examination.

1 MS. DOAKES: None, Your Honor.

2 THE COURT: Okay. Thank you, sir. You have may step down.  
3 Call your next witness, please.

4 MR. BYRNE: Yes, Your Honor.

5 The Government calls Laura Schwartzenger from the  
6 Federal Bureau of Investigation.

7 THE COURT: Please raise your right hand to be sworn.  
8 (Witness sworn.)

9 THE COURT: Please have a seat and tell us your full name,  
10 please.

11 THE WITNESS: Laura A. Schwartzenger; last name is  
12 S-C-H-W-A-R-T-Z-E-N-B-E-R-G-E-R.

13 LAURA SCHWARTZENBERGER, GOVERNMENT'S WITNESS SWORN

14 DIRECT EXAMINATION

15 BY MR. BYRNE:

16 Q. Good afternoon.

17 A. Good afternoon, sir.

18 Q. What do you do for a living?

19 A. I am a Special Agent with the Federal Bureau of Investigation.

20 Q. And how long have you been an FBI agent?

21 A. Approximately eight years.

22 Q. What unit are you currently assigned with?

23 A. The Crimes Against Children Squad.

24 Q. What about before that?

25 A. I was on the Violent Crimes Squad.

- 1 Q. Were you in the Violent Crimes Squad in August of 2013?
- 2 A. Yes, I was.
- 3 Q. Did you take part in an investigation on August 30th and August  
4 31st of a man by the name of Mario Fabricio Ormachea Aliaga?
- 5 A. Yes.
- 6 Q. Have you seen that person before?
- 7 A. Prior to the investigation?
- 8 Q. No. Have you seen that man before ever?
- 9 A. Yes. During the investigation, yes.
- 10 Q. If you see him in the courtroom today, can you point to him and  
11 please identify an article of clothing that he's wearing?
- 12 A. Yes, I can. A blue suit, jacket, blue shirt and blue tie.
- 13 Q. How did you become involved in the investigation?
- 14 A. I was advised on August 30th of 2013 that assistance was needed  
15 in conducting surveillance.
- 16 Q. Who asked you for your assistance?
- 17 A. Task Force Officer Jerry Starkey.
- 18 Q. Did you end up providing that assistance?
- 19 A. Yes, I did.
- 20 Q. On what date did you provide that assistance?
- 21 A. August 30th of 2013 and August 31st of 2013.
- 22 Q. Where were you providing that surveillance?
- 23 A. In Miami Lakes.
- 24 Q. And what were you surveilling?
- 25 A. A residence.



1 Q. Now, can you just explain to us how you go about setting up for  
2 surveillance on a residence as a general matter?

3 A. Yes. Typically, we have agents and a few vehicles. Usually,  
4 we want two or more vehicles. It just all depends on the situation.

5 And we will have anywhere from maybe one to three agents in a  
6 vehicle and we set up around the residence. And usually, one or  
7 more people have an eye to the residence, if possible.

8 Q. On August 30th of 2013, can you just walk us through the  
9 logistics of how you got set up and where you got set up, et cetera?

10 A. On August 30th of 2013, myself and another agent, Special Agent  
11 Jason Kalin (phonetic), set up across the street and down a couple  
12 of houses from the residence of Mr. Roca, which was the target  
13 residence that we were surveilling.

14 Q. Who was taking the pictures?

15 A. I was.

16 Q. What did you see on August 30th of 2013?

17 A. We saw a black BMW 300 series vehicle pull up into the driveway  
18 of the residence and two white males exit the vehicle.

19 Q. Was the Defendant one of those white males?

20 A. Yes, he was.

21 Q. Now, you were obviously taking photographs of what you were  
22 seeing?

23 A. Yes, I did.

24 Q. What capability did you have to monitor what was going on  
25 inside the residence?

1 A. We had a transmitter in our car whereby we were able to listen  
2 into a device that they had in the residence.

3 Q. And the individuals who got out of the car, did they go  
4 anywhere?

5 A. They went inside the residence.

6 Q. And after they went inside the residence, what did you hear on  
7 the transmitter?

8 A. A conversation in Spanish.

9 Q. Do you speak Spanish?

10 A. Just a little bit.

11 Q. Could you follow along with exactly what was being said in that  
12 conversation?

13 A. Not exactly, no.

14 Q. About how long were the individuals -- well, let me put it this  
15 way. Did anybody ever leave at any point that you saw that day at  
16 the residence?

17 A. Just following the conversation that lasted about 45 minutes.

18 Q. Okay. How many people did you see leave the residence?

19 A. There were three. There were the two that exited the vehicle  
20 and originally entered the residence and Mr. Roca.

21 Q. Was the Defendant one of the people who exited the residence?

22 A. Yes.

23 Q. Did you also provide surveillance on August 31st of 2013?

24 A. Yes, I did.

25 Q. Now, before you provided that surveillance what, if any,

1 assistance did you give the agents or the FBI in preparation for the  
2 investigation that day?

3 A. I was asked by TFO Jerry Starkey to go to Mr. Roca's residence  
4 and photograph \$10,000 of U.S. currency that he had taken out of the  
5 bank.

6 Q. Did you photograph that currency?

7 A. Yes, I did.

8 Q. Why do you photograph currency?

9 A. Because the purpose of that operation that we were conducting  
10 on that day was for Mr. Roca to pay Mr. Ormachea Aliaga.

11 And we photographed the money prior to the operation so that we  
12 could compare it with any money that we may recover after the  
13 operation.

14 Q. When you were doing that photographing, was there anyone else  
15 around?

16 A. Yes. There were agents in the house and Mr. Roca was there.  
17 And Jason -- well, I can't remember if Jason Kalin was inside the  
18 residence.

19 Actually, he was not. I was with Jason Kalin on residence  
20 again, but he stayed in the car and drove around, but there were  
21 other agents in the residence and Mr. Roca as well.

22 Q. How much money did you photograph?

23 A. \$10,000.

24 Q. You also testified that you conducted surveillance as well that  
25 day?

1 A. Yes, I did.

2 Q. Where did you set up for surveillance that day?

3 A. The same place. The driveway of the residence, same place.

4 Q. What did you see after you set up?

5 A. We saw a silver Nissan, Ultima pull into the driveway of the  
6 residence. And then, one white male, the Defendant, exited the  
7 driver's side of the vehicle.

8 Q. Where did he go?

9 A. Inside the residence.

10 Q. Did you have a transmitter in your car like you did the day  
11 before?

12 A. Yes, we did.

13 Q. What did you hear on the transmitter after the Defendant went  
14 inside?

15 A. A conversation in Spanish again.

16 Q. Did there come a time when the Defendant left the residence?

17 A. Yes, he did.

18 Q. About how long was he inside?

19 A. Between 20 and 25 minutes about.

20 Q. Now, after he left the house, did you have any more involvement  
21 with the investigation that day?

22 A. Yes, I did. We drove to the scene where Mr. Ormachea Aliaga  
23 was stopped by a Miami-Dade Police Department marked vehicle and  
24 arrested.

25 Q. What was your role or purpose in being at that scene?

1 A. To photograph the vehicle that he was stopped in and to obtain  
2 items that were taken from his person.

3 Q. Did you obtain items that had been taken from him?

4 A. Yes, I did.

5 Q. What did you get? What did you receive?

6 A. A folding brown wallet and contents, an iPhone, a Ross receipt,  
7 a phone card, a passport in the name of Mr. Ormachea Aliaga, and  
8 U.S. currency.

9 Q. What was the point in you receiving those items?

10 A. To photograph the items received. And also compare the money  
11 that was taken from the person of Mr. Ormachea Aliaga to the money  
12 that I had photographed prior to the operation.

13 Q. Now, when these items were handed to you, were they handed to  
14 you loosely or were they in some kind of packaging?

15 A. The wallet was loose. And then, there were two -- we call them  
16 K-packs -- they're like plastic bags that were open on top  
17 containing items that were taken from his person.

18 Q. Did you take photographs of the items that were handed to you?

19 A. Yes, I did.

20 Q. Now, you mentioned earlier you had taken photographs before  
21 that second meeting in Mr. Roca's house, that you had taken  
22 photographs of approximately \$10,000?

23 A. That is correct.

24 Q. And am I to understand your testimony that you, then,  
25 photographed the money that was given to you in the evidence packs?

1 A. That is correct.

2 Q. Did you compare the money that you received in the evidence  
3 packs with the photographs you had taken of the money earlier that  
4 day?

5 A. Yes, we did. Special agent Jason Kalin and myself, after  
6 photographing money and a \$10,000 money strap that was in one of the  
7 K-packs we laid the money out. I photographed it. It was \$5,000.

8 And then, I compared -- as Jason Kalin as well -- we compared  
9 that \$5,000 with the photograph of the \$10,000 that I took prior to  
10 the operation and we determined a match, that all the \$5,000 matched  
11 from the \$10,000 that was photographed prior.

12 Q. After photographing the items that you received, did you also  
13 have any involvement in the search of a car?

14 A. Yes, I did.

15 Q. Did you find, in that car, passenger boarding pass tickets?

16 A. Yes, I did.

17 MR. BYRNE: Your Honor, I have in my hand what has been  
18 marked for identification as Government's Exhibits 3-A, 3-B, and  
19 3-C. May I approach the witness?

20 THE COURT: Yes, sir.

21 BY MR. BYRNE:

22 Q. Now, with respect to all of these exhibits that I just handed  
23 to you, do you recognize them?

24 A. Yes, I do.

25 Q. What are they, generally speaking?

1 A. They're boarding passes and baggage receipts that were taken  
2 from the rental vehicle used by Mr. Ormachea Aliaga.

3 Q. How were you able to recognize the documents you're looking at  
4 as what you just described?

5 A. I found them and photographed them.

6 Q. Had there been any changes made to these items since you last  
7 saw them?

8 A. No.

9 MR. BYRNE: Your Honor, at this point, the Government would  
10 offer Government's Exhibits 3-A through 3-C into evidence.

11 THE COURT: They will be received into evidence.

12 MR. BYRNE: May I show it to the jury, Your Honor?

13 THE COURT: Yes, sir.

14 BY MR. BYRNE:

15 Q. What is this, just generally speaking?

16 A. It's a boarding pass; a LAN boarding pass.

17 MR. BYRNE: And let the record reflect that I'm talking  
18 about Government's Exhibit 3-A.

19 BY MR. BYRNE:

20 Q. Who is the passenger listed on this boarding pass?

21 A. Mr. Ormachea Aliaga.

22 Q. What is the date listed on this boarding pass?

23 A. August 29th.

24 Q. What's the itinerary reflected here?

25 A. La Paz, Bolivia to Lima.

- 1 Q. Do you know whether Bolivia is a foreign country?
- 2 A. Yes, it is.
- 3 Q. I'm now showing you what has been admitted into evidence as
- 4 Government's Exhibit 3-B. What is this?
- 5 A. That's another LAN boarding pass.
- 6 Q. What's the itinerary listed here?
- 7 A. From Lima to Miami.
- 8 Q. Who is the passenger listed here?
- 9 A. Mr. Ormachea Aliaga.
- 10 Q. What is the date listed here?
- 11 A. August 29th.
- 12 Q. I'm now showing you what has been admitted into evidence as
- 13 Government's Exhibit 3-C. What is this?
- 14 A. It's a luggage receipt.
- 15 Q. What's the itinerary listed here?
- 16 A. It says to Miami via Lima.
- 17 Q. What's the name listed here?
- 18 A. Mr. Ormachea Aliaga.
- 19 Q. And what were the dates listed here?
- 20 A. August 29th.
- 21 Q. I'm now showing you what has been admitted into evidence as
- 22 Government's Exhibit 5-A.
- 23 Do you recognize this photograph?
- 24 A. Yes, I do.
- 25 Q. Who took this photograph?



1 A. I did.

2 Q. At what does it show?

3 A. It shows the black BMW that we saw at the residence on August  
4 30th of 2013.

5 Q. Now showing you what has been admitted into evidence as  
6 Government's Exhibit 5-B.

7 Do you recognize this photograph?

8 A. Yes, I do.

9 Q. Who took this photograph?

10 A. I did.

11 Q. What do you see here?

12 A. Mr. Ormachea Aliaga exit the driver -- or I'm sorry -- the  
13 passenger side of the black BMW.

14 Q. I'm now showing you what has been admitted as Government's  
15 Exhibit 5-C.

16 What are we looking at here?

17 A. Again, Mr. Ormachea Aliaga.

18 Q. I'm now showing you what has been admitted into evidence as  
19 Government's Exhibit 5-D.

20 What are we looking at here?

21 A. This was the conclusion of the first meeting that they had that  
22 we provided surveillance for. Mr. Roca is there in the foreground  
23 in what looks like a blue shirt.

24 There's another white male that was driving the vehicle. I did  
25 not know his name. And then, you can vaguely see the orange plaid

1 shirt that Mr. Ormachea Aliaga was wearing.

2 Q. I'm now showing you what has been admitted into evidence as  
3 Government's Exhibit 5-E.

4 What are we looking at here?

5 A. That's Mr. Ormachea Aliaga in the plaid shirt that he was  
6 wearing on the first meeting that they had on August 30th of 2013.

7 Q. I'm now showing you what has been admitted into evidence as  
8 Government's Exhibit 6-A.

9 What are we looking at here?

10 A. I believe that's just the BMW in the driveway --

11 Q. Is that the silver car that --

12 A. -- at the first meeting.

13 Q. Is that the silver car for the --

14 A. Oh, that could be the -- yeah, I'm sorry. I thought that was  
15 parked along -- it looks white from here.

16 Q. Okay.

17 A. That could be the silver Nissan driving and that would be the  
18 second day on August 31st of 2013.

19 Q. What are we looking at here?

20 A. Yes. That was the second day surveillance on August 31st of  
21 2013 when Mr. Ormachea Aliaga exited the driver's side of the silver  
22 Nissan, Ultima.

23 Q. What does this picture show?

24 A. That was after the second meeting on August 31st when Mr.  
25 Ormachea Aliaga was walking back to the vehicle.

1 Q. These last three pictures that I showed you, who photographed  
2 them?

3 A. I did.

4 Q. I have in my hand what has been admitted into evidence as  
5 Government's Exhibit 2 and Government's Exhibit 11.

6 May I approach the witness, Your Honor?

7 THE COURT: Yes, sir.

8 BY MR. BYRNE:

9 Q. Have you seen --

10 A. Yes, I have.

11 Q. -- these exhibits before?

12 A. Yes.

13 Q. What are they?

14 A. This is the wallet, the brown folding wallet that was taken  
15 from the person of Mr. Ormachea Aliaga and the Bolivian passport  
16 that was also taken from the person of Mr. Ormachea Aliaga.

17 Q. And how do you know that?

18 A. I accepted these items from Task Force Officer Jerry Starkey  
19 and photographed them.

20 MR. BYRNE: Your Honor, may I approach?

21 THE COURT: Yes, sir.

22 BY MR. BYRNE:

23 Q. I have in my hand what has been marked for identification as  
24 Government's Exhibits 12 and 13.

25 MR. BYRNE: May I approach, Your Honor?

1 THE COURT: Yes, sir.

2 BY MR. BYRNE:

3 Q. Do you recognize what has been marked for identification as  
4 Government's Exhibits 12 and 13?

5 A. Yes, I do.

6 Q. What are they?

7 A. They're police identification cards in the name of Mario  
8 Ormachea Aliaga.

9 Q. How are you able to recognize those exhibits as something that  
10 you've seen before?

11 A. These also were provided to me by Task Force Officer Jerry  
12 Starkey who said that they had been taken from the person of Mr.  
13 Ormachea Aliaga and I photographed them.

14 Q. Have there been any changes made to those since you last saw  
15 them?

16 A. No.

17 MR. BYRNE: The Government would offer what has been marked  
18 for identification as Government's Exhibits 12 and 13 into evidence.

19 THE COURT: They will be received into evidence.

20 MR. BYRNE: May I approach, Your Honor?

21 THE COURT: Yes, sir.

22 MR. BYRNE: Your Honor, we have translations, English  
23 translations of Government's Exhibits 12 and 13. I believe there is  
24 no objection to having these moved into evidence.

25 THE COURT: It will be received into evidence.

1 BY MR. BYRNE:

2 Q. I'm now showing you what has been admitted into evidence as  
3 Government's Exhibit 12.

4 What is this that we're looking at now?

5 A. This is one of the police identification cards for Mr. Ormachea  
6 Aliaga.

7 Q. What does it say on the top of the cards?

8 A. Policia Boliviana.

9 Q. Do you know what that means in English?

10 A. Bolivian Police.

11 Q. I'm now showing you what has been admitted into evidence as  
12 Government's Exhibit 13.

13 Do you recognize that?

14 A. Yes, I do.

15 Q. What is that?

16 A. Another police identification card of Mr. Ormachea Aliaga.

17 Q. What is listed across the top of that exhibit?

18 A. Policia Boliviana Fuerza de Lucha Contra el Crimen.

19 Q. I have in my hand what has been marked for identification as  
20 Government's Exhibits 15-A through 15-E.

21 May I approach the witness, Your Honor?

22 THE COURT: Yes, sir.

23 BY MR. BYRNE:

24 Q. Could you please look through those exhibits and let me know  
25 when you've finished reviewing them?

1 A. Yes.

2 Q. Do you recognize those exhibits?

3 A. Yes, I do.

4 Q. What are they?

5 A. These are photographs of the \$10,000 in U.S. currency that I  
6 took prior to the meeting on August 31st of 2013.

7 Q. And do those photographs fairly and accurately depict the  
8 currency that you photographed on that day?

9 A. Yes, they do.

10 MR. BYRNE: Your Honor, we would offer what has been marked  
11 for identification purposes as Government's Exhibits 15-A through  
12 15-E into evidence.

13 THE COURT: They will be received into evidence.

14 MR. BYRNE: May I show it to the jury, Your Honor?

15 THE COURT: Yes, sir.

16 BY MR. BYRNE:

17 Q. I have in my hands what has been marked for identification as  
18 Government's Exhibits 16-A through 16-H?

19 MR. BYRNE: May I approach the witness, Your Honor?

20 THE COURT: Yes, sir.

21 BY MR. BYRNE:

22 Q. Can you look through those exhibits and let me know when you've  
23 finished reviewing them?

24 A. Yes.

25 Q. What are those?

1 A. These are all the items that I received from Task Force Officer  
2 Jerry Starkey following the arrest of Mr. Ormachea Aliaga and the  
3 search of his person.

4 Q. How do you recognize those pictures?

5 A. I took them.

6 Q. Do they fairly and accurately reflect the contents of the items  
7 that you received from Agent Starkey?

8 A. Yes, they do.

9 MR. BYRNE: The Government would offer these exhibits into  
10 evidence, Your Honor.

11 THE COURT: They will be received into evidence.

12 MR. BYRNE: May I show it to the jury, Your Honor?

13 THE COURT: Yes, sir.

14 MR. BYRNE: Excuse me. May I have that back?

15 THE JURORS: Yes.

16 BY MR. BYRNE:

17 Q. I'm showing you what has been admitted into evidence as  
18 Government's Exhibit 16-H.

19 What is reflected here?

20 A. That is the \$5,000 of U.S. currency that we photographed after  
21 the meeting and the arrest of Mr. Ormachea Aliaga.

22 Q. And did you compare this money with the photographs of other  
23 money?

24 A. Yes. I compared the serial numbers on this money with the  
25 photograph of the \$10,000 of money that I photographed prior to the

1 operation and we compared the serial numbers.

2 Q. What did you conclude?

3 A. They were the same \$5,000 -- that \$5,000 was the same \$5,000  
4 that I previously photographed.

5 MR. BYRNE: No further questions, Your Honor.

6 THE COURT: Cross-examination.

7 MS. DOAKES: Just a couple of questions, Your Honor.

8 CROSS EXAMINATION

9 BY MS. DOAKES:

10 Q. Good afternoon, Agent.

11 A. Good afternoon, ma'am.

12 MS. DOAKES: Your Honor, may I approach?

13 THE COURT: Yes, ma'am.

14 BY MS. DOAKES:

15 Q. Agent, I'm handing you what has been previously marked as  
16 Composite Exhibits 7 and 7-A.

17 Do you recognize that?

18 A. There were several items that were taken from the wallet of Mr.  
19 Ormachea Aliaga, several identification cards; Bolivian Police  
20 identification cards and others.

21 These may have been those, but I can't say one hundred percent  
22 sure about that without seeing my photographs.

23 MS. DOAKES: You don't have any objection to it?

24 Your Honor, I would move 7-A and 7-B without Government  
25 objection.



1 THE COURT: They will be received into evidence hearing no  
2 objection.

3 BY MS. DOAKES:

4 Q. Agent, what do those cards depict?

5 A. One of them says Distinguished Bar Association of La Paz and  
6 it's in the name of Mario Fabricio Ormachea Aliaga.

7 And the other says Department of Justice Attorney's Public  
8 Register and it is in the name of Mario Fabricio Ormachea Aliaga,  
9 attorney.

10 MS. DOAKES: Your Honor, these are poor copies, but may I  
11 also publish these to the jury?

12 THE COURT: Yes.

13 MS. DOAKES: Thank you.

14 At this time, Your Honor, I have no further questions.

15 THE COURT: Okay. Agent Schwartzenger, thank you. You  
16 may come down.

17 Your next witness, please.

18 MR. JUENGER: Yes, Your Honor.

19 The United States calls Special Agent ATF Luis Arias.

20 (Witness sworn.)

21 THE COURT: Please have a seat and tell us your full name.

22 THE WITNESS: My name is Luis Arias. The last name is  
23 A-R-I-A-S.

24 THE COURT: You may inquire.

25 MR. JUENGER: Thank you, Your Honor.

1 LUIS ARIAS, GOVERNMENT'S WITNESS SWORN

2 DIRECT EXAMINATION

3 BY MR. JUENGER:

4 Q. Sir, please tell us where you work.

5 A. I'm a Special Agent with the Bureau of Alcohol, Tobacco,  
6 Firearms and Explosives, short for ATF, here in Miami, Florida.

7 Q. And how long have you worked for ATF?

8 A. Approximately six years now.

9 Q. And what did you do prior to joining ATF here in Miami?

10 A. Prior to joining ATF, I was a police officer in New York City  
11 as well as in the private sector, security in the private sector.

12 Q. And what do you do as a Special Agent for ATF?

13 A. As a Special Agent for ATF we're responsible to work  
14 particularly violent crime relating to firearms, as well as  
15 narcotics relating to firearms, as well as arson explosive  
16 investigations.

17 Q. Okay. And are you affiliated in any way with the FBI?

18 A. Yes, I am. I am currently liaison to the FBI's Violent Crime  
19 Fugitive Task Force.

20 Q. Okay. And is it fair to say that you work with the FBI from  
21 time to time?

22 A. Yes, sir.

23 Q. And Agent, were you involved in the investigation of an  
24 individual by the name of Mario Fabricio Ormachea Aliaga?

25 A. Yes, sir.

1 Q. And tell us, how did you become involved in that investigation?

2 A. The members of the Task Force had asked me if I could provide  
3 Spanish translation during this investigation.

4 Q. Okay. And anything else in addition to Spanish translation?

5 A. Yes. I was assigned to be part of a Cover Rescue Team during  
6 this investigation.

7 Q. And what does that mean, Cover Rescue Team?

8 A. Basically, you're part of a team who is prepared to either  
9 provide rescue or arrests in a situation where a danger may pose,  
10 whether it be in an undercover situation, or something sort of like  
11 that.

12 Q. Okay. And how many days were you actively involved in this  
13 investigation?

14 A. Two days.

15 Q. And which two days were those?

16 A. I recall August 30th of 2013 and August 31st of 2013.

17 Q. Okay. And were you located inside Mr. Roca's house on those  
18 days?

19 A. Yes, sir.

20 Q. And where were you in the house?

21 A. Myself and other members of the Cover Rescue Team were secluded  
22 in a bedroom inside the residence while the meeting was conducted.

23 Q. Now, Agent, what languages do you speak fluently, other than  
24 English, hopefully?

25 A. Spanish, sir.

1 Q. Okay. And how did you become fluent in Spanish?

2 A. I am a born native speaker.

3 Q. Okay. And now, at some point, did you interview this person,

4 Mr. Ormachea?

5 A. Yes, sir.

6 Q. Do you see him here in the courtroom today?

7 A. Yes, sir.

8 Q. Could you point him out and identify something that he is

9 wearing?

10 A. Yes. It is a gentleman to my right wearing a blue suit with a

11 lighter blue colored shirt.

12 MR. JUENGER: Your Honor, may the record reflect that the

13 witness has identified the Defendant.

14 THE COURT: The record will so reflect.

15 MR. JUENGER: Thank you.

16 BY MR. JUENGER:

17 Q. What language did you interview the Defendant in?

18 A. In Spanish, sir.

19 Q. And during your interview with him did you have any difficulty

20 communicating?

21 A. No, sir.

22 Q. Where did you interview him at?

23 A. I interviewed the Defendant back at the FBI's headquarters here

24 in Miami, which is located in North Miami Beach in a processing

25 room.

1 Q. Okay. And how long after the arrest was the interview, more or  
2 less?

3 A. I would say the interview was about the same, 30 minutes or so.

4 Q. And how long was the interview, more or less?

5 A. I would say the interview was about the same, 30 minutes.

6 Q. All right. Did you Mirandize the Defendant before you  
7 interviewed him?

8 A. Yes, sir.

9 Q. And what does that mean to Mirandize someone?

10 A. Well, to Mirandize someone is to inform them of their judicial  
11 rights, you know, their right to remain silent, their right to an  
12 attorney, that sort of thing.

13 MR. JUENGER: May I approach the witness, Your Honor?

14 THE COURT: Yes, sir.

15 BY MR. JUENGER:

16 Q. Agent Arias, I placed in front of you what has been marked as  
17 Government's Exhibits 14 and 14-A.

18 Do you recognize them?

19 A. Yes, sir.

20 Q. And what is 14?

21 A. Exhibit Number 14 is a Spanish translation of the Miranda  
22 Rights in Spanish that I provide the Defendant on the day of the  
23 interview.

24 Q. And how do you recognize Government's Exhibit 14?

25 A. I recognize the exhibit by the Defendant's initials that he

1 initialed that day understanding his rights, as well as my  
2 signature, badge number, and time; date and time.

3 MR. JUENGER: Your Honor, I move to admit Government's 14  
4 at this time.

5 THE COURT: It is received into evidence.

6 BY MR. JUENGER:

7 Q. And Special Agent, if you could now look at Government's  
8 Exhibit 14-A.

9 Do you recognize that?

10 A. Yes, sir.

11 Q. And what is that?

12 A. This is an English version of the advice of rights, Miranda  
13 Rights.

14 Q. And is that English version, Government's Exhibit 14, a fair  
15 and accurate English translation of Government's Exhibit 14?

16 A. Yes, it is, sir.

17 MR. JUENGER: Your Honor, I would move to admit 14-A into  
18 evidence.

19 THE COURT: It is received into evidence.

20 MR. JUENGER: Now, may I approach, again, Your Honor?

21 THE COURT: Yes, sir.

22 BY MR. JUENGER:

23 Q. Agent, I'm putting Government's Exhibit 14 up here on the  
24 screen and I just want to have you describe what this form is.

25 What does this indicate up here at the top and parts that I've

1 indicated here up towards the top?

2 A. Sure. Basically, at the top is a title that is (Spanish) which  
3 is the Miranda warnings and --

4 Q. Let's not use Spanish because it's difficult --

5 A. Oh, I'm sorry.

6 Q. -- to type in Spanish. Just tell us what it is in English.

7 A. Sure. It's, basically, a Miranda Waiver form. On top there,  
8 it's the place in which it was taken, which is FBI Miami. The date  
9 is 8/31 2013 and the time.

10 Q. And what is the time? Can you read that?

11 A. I believe it's 1538 hours.

12 Q. That is military time. What does that translate into?

13 A. That's 3:38 in the afternoon.

14 Q. And how about all these paragraphs here that have something  
15 written next to them on the left-hand margin? Tell us what that is.

16 A. That paragraph is, basically, all the Miranda warnings, like I  
17 mentioned before; the right to remain silent, the right to an  
18 attorney. And next to it are the initials by the Defendant that he  
19 wrote, basically, understanding the rights.

20 Q. And did you see him initial those?

21 A. Yes, sir.

22 Q. Did he indicate that he understood those rights?

23 A. Yes, sir. I read them to him and I asked him to initial as  
24 long as he understood the rights.

25 Q. Did he have any questions about them?

1 A. No, sir.

2 Q. And down here at the bottom, this last paragraph with the  
3 writing down here, describe what that is for us?

4 A. Sure. The last paragraph at the bottom is, basically, a  
5 written waiver, whether the Defendant agrees to waive his rights and  
6 to speak with law enforcement and at the bottom, that is the  
7 signature of the Defendant.

8 And then, further down is my signature with my ATF-5031, my  
9 badge number. The witness in the room, that's his signature. And  
10 again, the time, 1538 hours.

11 Q. Now, Agent, before you began this interview with the Defendant,  
12 did you tell him that you had recorded his conversations over the  
13 last two days?

14 A. No, sir.

15 Q. And before you began the interview with the Defendant, did you  
16 tell him that you were arresting him for extorting Mr. Roca?

17 A. No, sir.

18 Q. Now, after you Mirandized the Defendant, what is the very first  
19 question you asked him?

20 A. My very first question to the Defendant was, basically, to let  
21 me know why he was here, why we were sitting in the room and what  
22 was his purpose of being in the United States that day.

23 Q. And what did he tell you was his purpose for being in the  
24 United States?

25 A. The Defendant had stated to me that he had traveled from



1 Bolivia to Miami to wait for his ill father because he has his  
2 father, who is ill living in Washington, D.C., with his sister.

3 His father wanted to return to the country of Bolivia and he  
4 was going to meet with him at the Miami International Airport to fly  
5 back to Bolivia.

6 Q. Okay. When you asked him why he was in the United States, did  
7 he tell you that he was here to meet with a person named Humberto  
8 Rocca?

9 A. No, sir.

10 Q. Did he tell you anything about being here to meet with anyone  
11 in Miami?

12 A. No, sir.

13 Q. Did he say anything about being here in the United States on  
14 vacation for two weeks?

15 A. No, sir.

16 Q. Now, Agent, did you know where the Defendant had been over the  
17 last two days?

18 A. Yes, sir.

19 Q. And where was that?

20 A. It was at Mr. Roca's residence where he was meeting with Mr.  
21 Roca.

22 Q. And how did you know that?

23 A. Because I was there at the residence secluded in a bedroom in  
24 the residence monitoring the meet.

25 Q. So after the Defendant had told you that he was here to pick up

1 his ill father, what did you ask him next?

2 A. My next question to the Defendant was did he see or meet with  
3 anyone here while he was here in the United States.

4 Q. And what did he tell you?

5 A. He told me that he had actually met with a client, Mr. Roca,  
6 reference some criminal legal matters that were pending in the  
7 country of Bolivia.

8 Q. And did he say anything about his relationship with this  
9 client?

10 A. No. Just, basically, that he was there to speak about the  
11 matters in Bolivia and that he was offering his legal services to  
12 him.

13 Q. Okay. Did he say that he was an attorney?

14 A. Yes, sir.

15 Q. And did the Defendant tell you how much money he was charging  
16 Mr. Roca to be his attorney?

17 A. Yes. In the conversation he stated that the services were  
18 going to be approximately \$30,000.

19 Q. Did the Defendant, at any point, tell you that he was a member  
20 of the Bolivian Police?

21 A. Well, after he told me he was an attorney and he was providing  
22 legal services to Mr. Roca and knowing what I had known from the  
23 meet, I asked the Defendant, so you're an attorney?

24 And he stated to me that he was also a police officer in the  
25 Bolivian National Police.

1 Q. So just so the written record is clear, when you asked him,  
2 you're an attorney, describe what it was you were conveying and how  
3 you said that?

4 A. I was just, basically, asking him to, you know, he stated to me  
5 he's an attorney. So I said, you are an attorney? Knowing that he,  
6 you know, was associated with the Police Department in Bolivia.

7 Q. And so what did he tell you about being a police officer?

8 A. He stated to me that he was a police officer in the Bolivian  
9 National Police and he was a Major assigned to, what I understood to  
10 be, a uniform or patrol faction of the Bolivian National Police.

11 And that as of June of 2013, he was no longer part of the

12 Intelligence Anti-Corruption Division of that Police Department.

13 Q. Now, at the time that the Defendant told you that he was an  
14 attorney representing Mr. Roca and also, then, telling you that he  
15 was a police officer, did that cause any concerns to you or raise  
16 any red flags?

17 A. I believed that it was a conflict. I didn't understand how he  
18 could be a police officer and also be an attorney.

19 Q. What do you mean by a conflict?

20 A. Well, being that he was a police officer in the department  
21 that's investigating Mr. Roca, the other individual, I thought it  
22 would be wrong to also be an attorney where he could provide legal  
23 counsel reference a matter that's being investigating in a  
24 department that you work for.

25 Q. Did the Defendant say anything about this conflict or

1 potential conflict?

2 A. I asked if there was a conflict. And the Defendant stated to  
3 me that it was quite legal in his country, that there were no issues  
4 with that happening in Bolivia.

5 Q. Okay. Now, at this point, did the Defendant have anything else  
6 to say about Mr. Roca's case, or why he was there, and so forth?

7 A. The Defendant just, basically, began to speak to us that since  
8 he was law enforcement in his country, about how he understood law  
9 enforcement. And the fact that he had trained, or done some  
10 training with the FBI in the United States, as well as worked in  
11 several different cases that involved narcotic trafficking and  
12 possible terrorism, and other factors of such.

13 Q. But did any of this have to do with why he was arrested?

14 A. No, sir.

15 Q. Agent, did you advise the Defendant of his consular rights?

16 A. Yes, I did.

17 Q. And what are consular rights?

18 A. Consular rights are provided to a person who is, of course, of  
19 another country, international.

20 When they are arrested or accused of a crime in the United  
21 States, basically, what we do is we notify their consul of that  
22 country to let them know that the person has been arrested. And it  
23 is, basically, for that consul to either notify -- well, notify the  
24 family, as well as maybe provide legal services to that individual.

25 Q. Okay. And those are the rights. Did you ask the Defendant if

1 he wanted you to do that?

2 A. Yes, I did, sir.

3 Q. And what did he say?

4 MS. DOAKES: Objection, Your Honor.

5 THE COURT: Overruled.

6 THE WITNESS: The Defendant stated no.

7 BY MR. JUENGER:

8 Q. Okay. Did the Defendant say anything else to you after that?

9 A. Well, at the end of our conversation, at that time, we were  
10 done with the interview and I was bringing the Defendant back to a  
11 processing room for my counterparts to continue the processing. And  
12 the Defendant asked me, so what's going to happen next?

13 And I, basically, told him that he was being arrested for  
14 crimes of the United States, criminal matters, that he would see a  
15 Judge in the next couple of days or so.

16 And I, again, reiterated, would you like me to communicate with  
17 your consul and let them know that you've been arrested. He, again,  
18 stated to me, no. And he stated, I'm basically a dead man.

19 MR. JUENGER: Pass the witness, Your Honor.

20 THE COURT: Cross examination.

21 CROSS EXAMINATION

22 BY MS. DOAKES:

23 Q. Agent, do you know Ignacio Alvarez?

24 A. Ignacio Alvarez? No, ma'am.

25 Q. Now, Agent, you testified that Mr. Ormachea stated that prior

1 to his arrest he traveled to the United States from Bolivia to meet  
2 with his ill father, right?

3 A. Yes, ma'am.

4 Q. Who was staying with his sister in the D.C. area?

5 A. I believe so. Yes, ma'am.

6 Q. Now, you prepared a report in connection with this case,  
7 correct?

8 A. No, ma'am. One of my counterparts in the Task Force prepared  
9 the report.

10 Q. Now, at the time of that interview, he told you when he arrived  
11 here in the United States?

12 A. No, ma'am.

13 MS. DOAKES: Your Honor, I have no further questions.

14 THE COURT: Agent Arias, thank you. You may step down.

15 Who is your next witness, Mr. Byrne?

16 MR. BYRNE: Your Honor, the Government rests.

17 THE COURT: Members of the jury, you have now heard all the  
18 evidence and testimony in connection with this case on behalf of the  
19 prosecution.

20 At this point in the trial, that is at the conclusion of  
21 the Government's case-in-chief, the Court has to hear motions and  
22 other matters of law outside of your presence.

23 And for that reason, I am going to excuse you into the jury  
24 room. And when we reconvene, we will proceed with the trial and  
25 this will take a few minutes. So just be patient and relax.

1           Counsel should remain for motions to be made at the  
2 conclusion of the Government's case-in-chief.  
3 (Jury exited.)

4           THE COURT: All right. Motions on behalf of any party.

5           MS. DOAKES: Your Honor, on behalf of the Defendant, I  
6 would move for a Motion For Judgment of Acquittal pursuant to Rule  
7 29 to state that the Government has failed to prove the fact that  
8 there was an extortion. There has been no showing of fear. There  
9 is no evidence of any actual threatened physical violence. There is  
10 no fear of economic harm.

11           In fact, as the Court saw on the tapes, the conversations  
12 were very friendly in nature as far as economic harm. Mr. Roca  
13 testified that, you know, he most recently -- a few months prior to  
14 the meeting -- his wife had sold a property for 6.7 million dollars.  
15 I don't see how \$30,000 could result in any economic harm.

16           And so based on those reasons, we would state that the  
17 Government has failed to prove its case and would move the Court for  
18 a Rule 29.

19           THE COURT: The rule 29 motion of the Defendant Mario  
20 Ormachea Aliaga made at the conclusion of the Government's  
21 case-in-chief will be denied.

22           What will you have to offer, Miss Doakes?

23           MS. DOAKES: Your Honor, as I stated to the Court, I do  
24 have one defense witness who should have landed. Her flight landed  
25 at 2:33 coming from Bolivia and I know that it's going to take some

1 time to have her processed in.

2 I need to confer with my client as well to determine  
3 whether or not he would like to exercise his right to testify. And  
4 I realize that this Court is set to adjourn at 4:00.

5 THE COURT: Before we recess, I want to advise Mr. Ormachea  
6 that you should discuss with your lawyer whether or not you are  
7 going to testify in this case.

8 Pursuant to the Constitution and the laws of the United  
9 States, you have a right to appear as a witness in your own defense.  
10 Although, you cannot be compelled to testify if you choose not to  
11 testify.

12 So after you have discussed this with your lawyer, I am  
13 going to ask you what your decision is with regard to that. You may  
14 testify if you wish, but you are not compelled to testify, nor do  
15 you have to testify. And no inference whatsoever can be drawn from  
16 the fact that you remain silent.

17 So during the recess, confer with your lawyer and when we  
18 come back, please let me know what your decision is with respect to  
19 whether you are going to testify or not testify.

20 Also, there is pending the Court's ruling on whether or not  
21 extrinsic, what the Court finds to be extrinsic evidence, should be  
22 received on behalf of the Defendant in this case.

23 And for the reasons well stated in the Government's trial  
24 brief previously filed in this case, which is Docket Entry 55 of  
25 Case Number 13-20690, the Government's objection to the offer of any



1 extrinsic evidence will be sustained and that evidence will not be  
2 received.

3           And we will be in recess for 15 minutes. And then, you can  
4 advise me of what your client's decision is with respect to  
5 testifying, or otherwise, Miss Doakes. And also, we will find out  
6 what is happening with your witness.

7           MS. DOAKES: Thank you, Your Honor.

8           THE COURT: All right. Court is in recess for 15 minutes.  
9 (Recess.)

10          THE COURT: Court will come to order. Please be seated.  
11           What do you report, Miss Doakes?

12          MS. DOAKES: Your Honor, with respect to my client, he has  
13 advised me that he chooses not to the testify and I would ask the  
14 Court to inquire.

15          THE COURT: All right. Senior Ormachea, your lawyer has  
16 informed the Court that you desire to remain silent and not testify  
17 in this case; is that correct?

18          THE Defendant: That is correct, Your Honor.

19          THE COURT: You understand that you have the right to  
20 testify if you would like to do so?

21          THE Defendant: I understand.

22          THE COURT: Is your decision to remain silent made freely  
23 and voluntarily?

24          THE Defendant: It is a decision that I have made freely  
25 and voluntarily.

1 THE COURT: Do you have any questions concerning your  
2 rights in this regard?

3 THE Defendant: No, Your Honor, none.

4 THE COURT: All right. Thank you, sir.

5 Now, what is the status of your witness, Miss Doakes?

6 MS. DOAKES: Your Honor, my investigator stepped out to  
7 make a phone call because I have another investigator picking her up  
8 from the airport from Fort Lauderdale.

9 MR. BYRNE: Your Honor, I thought we could take up the  
10 charge conference.

11 THE COURT: We can do that right now.

12 All right. Let's go to the Government's proposed jury  
13 instructions and verdict form.

14 The following will be refused: Expert witnesses. That's  
15 Page 11. Uncalled witnesses; that's Page 13. Similar acts  
16 evidence; Page 14.

17 MR. BYRNE: Your Honor, we did have evidence that was  
18 offered on similar acts and Judge Rosenbaum had admitted that  
19 pretrial in denying the Defendant's Motion in Limine.

20 THE COURT: What are they?

21 MR. BYRNE: It was very brief. There was evidence from Mr.  
22 Valda that the Defendant had extorted other clients of Mr. Valda and  
23 those clients were Jindal Steel clients and he testified about not  
24 delivering arrest warrants to Interpol.

25 We briefed that before Judge Rosenbaum. The Defense filed

1 a Motion in Limine and Judge Rosenbaum denied it and filed a -- not  
2 a published decision, but it was a minute order. And because there  
3 has been testimony on it, I think the jury should know and be warned  
4 about how to consider it.

5 MS. DOAKES: And I would ask that the Court --

6 THE COURT: The Government's objection to the Court's  
7 failure to give the similar acts evidence instruction, Rule 404(b),  
8 which is on Page 14 of the proposed instructions, that objection is  
9 noted and will be overruled. The motion to give that instruction  
10 will be denied.

11 Number 15, note-taking, that will also be refused. The  
12 remainder of the proposed instructions will be granted.

13 Are there any objections for the Defendant to any of the  
14 Court's proposed instructions?

15 MS. DOAKES: I also object to the Court's failure to give  
16 the limited 404(b) instruction. The evidence of any prior acts that  
17 occurred in January of 2013, as well as in March of 2013 from  
18 Attorney Valda, I argued to keep that out. And alternatively, since  
19 Judge Rosenbaum granted it, I would request this Court to order the  
20 limiting instruction so that the jury can --

21 THE COURT: If everybody wants it, I will give it.

22 MS. DOAKES: Thank you, Your Honor.

23 MR. BYRNE: Thank you, Your Honor.

24 THE COURT: Objection sustained.

25 MS. DOAKES: And also, Your Honor, on Page 18 --

1 THE COURT: I don't believe in Santa Claus, but if you do,  
2 I respect that.

3 MS. DOAKES: Thank you, Judge. I had a bad day.

4 Page 18 --

5 THE COURT: Yes, ma'am.

6 MS. DOAKES: Your Honor, Page 18, Government's instruction,  
7 the last paragraph where the statute lists various ways or methods  
8 that violate the law.

9 So if you find beyond a reasonable doubt that any one  
10 method of violating the law that is sufficient, but you must all  
11 agree on the particular way involved, I would submit to the Court  
12 that that would be an instructive amendment to the indictment.

13 The indictment charges and what the grand jury found as to  
14 what the extortion is. And I would say that is what the Court  
15 should rely on and I would request that the Court remove that last  
16 paragraph.

17 THE COURT: What does the Government say about that?

18 MR. BYRNE: Chantel, are you referring to force, threats,  
19 or fear?

20 THE COURT: She is objecting to the last sentence in the  
21 last paragraph beginning on Page 18.

22 MS. DOAKES: I was looking at the one that you initially  
23 provided to me at the time dealing with the Florida law.

24 MR. BYRNE: I think, Your Honor, this is the pattern  
25 instruction. It is instruction number 71 and I don't think there's

1 any instructive amendment as for interstate travel. I think acting,  
2 promoting, managing, or establishing are the various ways and that  
3 was listed in the indictment.

4 MS. DOAKES: But the way that the jury found was extortion  
5 and I believe that needs to be made clear in the indictment.

6 MR. BYRNE: So this is the travel act violation, correct?

7 THE COURT: Right.

8 MR. BYRNE: So if the indictment charges: Did willfully  
9 knowingly travel in foreign commerce with the intent to promote,  
10 manage, carry on, and facilitate.

11 And so, the indictment did allege those various ways that  
12 one could, you know, establish, promote, carry on, and facilitate  
13 extortion. So to be sure, we're only mentioning extortion here and  
14 we're only instructing the jury on extortion.

15 We're not asking the jury to decide bribery or any of the  
16 other -- I think there is a couple of enumerated offenses in the  
17 statute, but there is no reference to that. They won't have a copy  
18 of the statute. They will have a copy of the jury instructions and  
19 the jury instructions only talk about extortion.

20 MS. DOAKES: Then, if that's the case, you don't need that  
21 paragraph.

22 MR. BYRNE: That paragraph is not referring to the  
23 different --

24 MS. DOAKES: It is. It lists the various --

25 MR. BYRNE: Ways or methods -- I read the jury pattern

1 instruction to refer to they can establish, carry on, facilitate as  
2 the ways and methods.

3 THE COURT: All right. I am going to sustain a part of the  
4 objection. I am going to strike the words the statute lists various  
5 ways or methods to violate the law.

6 MR. BYRNE: Okay.

7 THE COURT: And after that, the remainder will remain.

8 Okay. All right. The objection is sustained in part and  
9 overruled in part.

10 Anything else?

11 What do we hear from the witness, ladies?

12 MS. PEREZ: They have landed. The problem is clearing  
13 Customs.

14 THE COURT: If this lady or gentleman has the same  
15 experience that I, unfortunately, have when I come through U.S.  
16 Customs, they will probably be here some time tomorrow.

17 MS. DOAKES: Your Honor, I don't anticipate that witness to  
18 be a very long witness, maybe 15, 20 minutes.

19 THE COURT: Let's see, if she gets here by 3:30, we will  
20 take her. If not, we will recess for the day.

21 MS. DOAKES: Okay.

22 THE COURT: We will see what happens.

23 MS. DOAKES: What I was saying is, for purposes of  
24 tomorrow, she is not going to take that long. For purposes for  
25 scheduling tomorrow, she won't take that long.

1 THE COURT: Let me send these folks home, then. That will  
2 be your last witness, Miss Doakes?

3 MS. DOAKES: Yes, Your Honor.

4 THE COURT: Okay. Bring in the jury and we will send them  
5 home and come back tomorrow at 1:00. And we will discuss the  
6 closing arguments after the jury has left for the day.

7 (The jury entered.)

8 THE COURT: Be seated please and come to order.

9 Ladies and gentlemen, as I told you before, we took the  
10 recess, you have now heard all the evidence and the testimony on  
11 behalf of the United States. And now, the Defendant has the  
12 opportunity to offer what testimony or evidence he may wish to offer  
13 by way of defense.

14 The next witness who will testify in this matter is coming  
15 from Bolivia. That witness has flown in here. That witness has  
16 landed. That witness is going through Customs.

17 Has any of you been through Customs lately? I think we  
18 better call it a day. She is on the ground and she will be here in  
19 the morning. And rather than keep you here waiting because we do  
20 not think that she will be able to be here by 5:00, I am going to  
21 excuse you for the day and ask you to come back tomorrow.

22 Remember, tomorrow we are going to start at 1:00 as opposed  
23 to 9:00. So please report back to the jury room tomorrow afternoon  
24 at 1:00. And at that time, we will proceed to consider whatever  
25 evidence or testimony the Defendant may wish to offer in connection

1 with this case. We anticipate that we should have this case to you  
2 for your deliberations and consideration before we recess for the  
3 day tomorrow afternoon.

4           So don't go to YouTube and don't go on the Internet or we  
5 will have to do this all over again. So thank you for your patience  
6 and your attention. You are excused until tomorrow at 1:00.

7           And counsel should remain so we can discuss the closing  
8 arguments.

9           THE JUROR: I'm not going to YouTube.

10 (The jury exited.)

11           THE COURT: How long will the Government require an  
12 argument?

13           MR. BYRNE: 45 minutes, Your Honor.

14           THE COURT: How about the Defendant?

15           MS. DOAKES: The same, Your Honor.

16           THE COURT: 45 minutes for each side. The Government has  
17 to use at least 25 minutes in his opening, or if you don't use the  
18 whole 25, then you are limited to the same amount in rebuttal.

19           Okay. We will see you tomorrow afternoon at 1:00 p.m.

20           MR. BYRNE: Thank you, Your Honor.

21           THE COURT: Who is the witness, by the way?

22           MS. DOAKES: It's Nancy Ormachea Aliaga, Your Honor.

23           THE COURT: Court is in recess until 1:00 p.m. tomorrow.

24           (Thereupon, the proceedings adjourned for the evening.)

25



CERTIFICATE

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I hereby certify that the foregoing transcript is  
an accurate transcript of the proceedings in the above-entitled  
matter.

05/23/14

Bonnie Joy Lewis,  
Registered Professional Reporter  
CASE LAW REPORTING, INC.  
7001 Southwest 13 Street,  
Pembroke Pines, Florida 33023  
954-985-8875