

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF HAWAII

3 UNITED STATES OF AMERICA,) CR 17-00101 LEK
 4)
 Plaintiff,) Honolulu, Hawaii
 5) February 12, 2020
 vs.)
 6) JURY TRIAL - DAY 7
 (1) ANTHONY T. WILLIAMS,)
 7)
 Defendant.)
 8 _____)

9
 10 TRANSCRIPT OF TRIAL PROCEEDINGS
 BEFORE THE HONORABLE LESLIE E. KOBAYASHI
 11 UNITED STATES DISTRICT JUDGE

12 APPEARANCES:

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I N D E X

CHRONOLOGICAL INDEX OF WITNESSES

1		
2		
3		
4	<u>GOVERNMENT'S WITNESSES</u>	<u>PAGE</u>
5		
6	HENRY MALINAY (Resumed the Stand)	
7	Cross-Examination Resumed By The Defendant	34
8	Redirect Examination By Mr. Sorenson	82
9	PATRICIA A. MAU-SHIMIZU	
10	Direct Examination By Mr. Yates	89
11	Cross-Examination By The Defendant	94
12	EVELYN SUBIA	
13	Direct Examination By Mr. Sorenson	123
14	Cross-Examination By The Defendant	137
15	MACRINA PILLOS	
16	Direct Examination By Mr. Yates	158
17		
18		
19		
20		
21		
22		
23		
24		
25		

1	<u>I</u> <u>N</u> <u>D</u> <u>E</u> <u>X</u>	
2	<u>E</u> <u>X</u> <u>H</u> <u>I</u> <u>B</u> <u>I</u> <u>T</u> <u>S</u>	
3		
4	NO.	PAGE
5		
	807	170
6	819	171
	820	177
7	2145	150
	2152	6
8	2153	6
	2154	8
9	2155	8
	2156-2	12
10	2157	13
	2158	14
11	2160-23	20
	2160-24-42	22
12	2160-9-11	18
	2161-1-7	51
13	2161-37-41	44
	2161-1-7	23
14	2161-18-19	25
	2161-20	26
15	2161-21	26
	2161-22-25	26
16	2161-37-41	27
	2161-8-9	24
17	2163	139
18		
19		
20		
21		
22		
23		
24		
25		

1 WEDNESDAY, FEBRUARY 12, 2020 8:58 A.M.

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

3 THE COURTROOM MANAGER: This is Criminal

4 No. 17-00101 LEK, United States versus Anthony Williams.

5 The matter is set for further jury trial, day 7.

6 Counsel, your appearances for the record, please.

7 MR. SORENSON: Good morning, Your Honor.

8 Assistant United States Attorneys Ken Sorenson and
9 Gregg Yates here for the United States. We have FBI Special
10 Agent Megan Crawley with us.

11 THE COURT: All right. Good morning to all of you.

12 Mr. Williams.

13 THE DEFENDANT: Good morning.

14 Private attorney general Anthony Williams appearing sui
15 juris.

16 THE COURT: Good morning. And Mr. Isaacson.

17 MR. ISAACSON: Good morning, Your Honor.

18 Lars Isaacson, standby counsel, with Ms. Beecher
19 and
20 Ms. Yeung.

21 THE COURT: Good morning to all of you. The record
22 will reflect the jury is not present.

23 So I think documents were turned over this morning to
24 Mr. Sorenson and Mr. Yates and you had an opportunity to review
25 them?

1 MR. SORENSON: We did and probably wasn't a thorough
2 review, Your Honor, but I think we have enough look at them to
3 give you our position on them.

4 THE COURT: All right. Volume 9? All right. Let
5 me grab that.

6 All right. So for the record are these plaintiff -- yeah,
7 Plaintiff's Trial Exhibits 2152 to 2162? Is that what we're
8 discussing?

9 MR. ISAACSON: Defendant's.

10 THE COURT: Oh, Defendant's. Thanks. It says
11 Plaintiff's on it but -- but I do understand it's
12 Mr. Williams's proposed exhibits.

13 All right. How would you like to start, Mr. Sorenson?

14 MR. SORENSON: Well, Your Honor, I guess we can just
15 go through them one at a time.

16 THE COURT: All right. Very good. Start with 2152.

17 MR. SORENSON: Your Honor, may I approach?

18 THE COURT: You may.

19 MR. SORENSON: Thank you.

20 Okay. Your Honor, I think as kind of a broad overarching
21 argument from the government, we've heard a lot about Mortgage
22 Enterprise Investments and also Mortgage Enterprises which was
23 kind of the branch-off that Malinay and others apparently
24 operated while Mr. Williams was out of the state.

25 Mr. Williams's argument all along has been that that's the

1 real scam, and that's the problem. And I think -- I think from
2 our point of view that's a red herring in that it really
3 doesn't address his conduct that we've put on trial here and
4 that we've charged which is his operation of Mortgage
5 Enterprise Investments.

6 So really the value of this line of evidence can only be
7 impeachment. Doesn't look like there's substantive value to
8 it. We're not saying that Mr. Williams was part of this little
9 separate operation, although certainly during that time frame
10 Mr. Williams's clients were turning to Malinay and to Cabebe, I
11 believe, and they may have believed that they were still
12 working with Mr. Williams. But our evidence has been pretty
13 much couched in that time frame from early 2013 into that
14 period of early September 2013 when most of these clients came
15 forward -- indeed, all of them that we've brought forward, I
16 believe, Your Honor.

17 THE COURT: Okay.

18 MR. SORENSON: So as an overarching matter, we think
19 if this does have a line of relevance, it would be so minimally
20 probative that it's -- there's just a lot of confusion of
21 issues. We think it's a waste of time. There's a lot of
22 material here. A lot of it relates to Malinay and the
23 bankruptcy proceeding that he was in.

24 THE COURT: Right.

25 MR. SORENSON: And admittedly some of that was ME

1 and some of that was probably MEI. We don't know the lines of
2 difference and I don't know for the purpose of this Court that
3 it really matters.

4 THE COURT: Okay.

5 MR. SORENSON: So again, that's kind of our
6 overarching position on all this ME evidence. If there's
7 impeachment values -- we see transcripts in here. If we have
8 inconsistent statements, he can use those transcripts to
9 attempt to impeach. They're not something we believe that
10 should be introduced into evidence, but he can use them.

11 So all that being said, Your Honor, we're okay with
12 Exhibits 2152 and 2153.

13 THE COURT: 2152 --

14 MR. SORENSON: Those appear to be Malinay's original
15 mortgage and note.

16 THE COURT: Okay. So you're stipulating those into
17 evidence?

18 MR. SORENSON: Yeah. We don't have a problem with
19 those, Your Honor.

20 THE COURT: Okay. So that's 2152, 2153.

21 (Exhibit 2152, 2153 received into evidence.)

22 THE COURT: THE COURT: Now we get to 2154 --

23 MR. SORENSON: Yes. And --

24 THE COURT: -- which is that UCC financing statement
25 on the same property.

1 MR. SORENSON: And we're fine with that, Your Honor.

2 THE COURT: All right. So that's stipulated into
3 evidence as well.

4 (Exhibit 2154 received into evidence.)

5 THE COURT: 2155.

6 MR. SORENSON: 2155 appears to be a proffer letter
7 dated January 13th, 2017, from the U.S. Attorney's Office to
8 Mr. Malinay. We don't have a real problem with this. He can
9 certainly use it to impeach. It's well within proper
10 impeachment, Your Honor. I don't know if it's worthwhile being
11 an exhibit itself, but --

12 THE COURT: You don't have any objection to me
13 receiving it?

14 MR. SORENSON: We don't.

15 THE COURT: All right. So that's received.

16 (Exhibit 2155 received into evidence.)

17 THE COURT: 2156.

18 MR. SORENSON: 2156, again, a lot of these, as
19 you've probably noted, have a lot of materials with them. This
20 is one we're okay with. It's the UCC financing statements.
21 It's already in evidence, Your Honor, I'll point that out, as
22 Exhibit 301. So I don't know that we need to introduce another
23 version of it. It's the same --

24 THE COURT: 215- -- which one --

25 MR. SORENSON: 2154[sic] is our Exhibit 301.

1 THE COURT: Oh, okay. So if it's already in
2 evidence, Mr. Williams, then you can just refer, if you want to
3 show it to him -- it's already received as 301.

4 THE DEFENDANT: Not this --

5 THE COURT: So I won't receive 2155 if they're the
6 same.

7 THE DEFENDANT: 2155?

8 THE COURT: 215- -- he went backwards. We
9 were -- yeah, he went backwards so we're now looking at 2154,
10 the UCC financing statement?

11 You're saying that's the same as 301, Mr. Sorenson; is
12 that correct?

13 MR. SORENSON: Yes. I'm just going in the order
14 they were given to me, Your Honor, and I apologize if there's a
15 little bit out of order there, but, yes.

16 THE COURT: All right. So he doesn't have any
17 objection to it because it's already in evidence as 301. So I
18 don't want to receive two copies 'cause then it indicates that
19 some -- there's a difference between the two.

20 MR. SORENSON: Yeah.

21 THE COURT: So if you want to show him 301, it's
22 already in evidence, so you can show him 301.

23 And then 2155 is the proffer letter.

24 THE DEFENDANT: So the 301 is the same as the 2154?

25 THE COURT: Yes, that's Mr. Sorenson's

1 representation; they're the same UCC financing statement. So
2 why don't you guys compare that and make sure that --

3 MR. SORENSON: Your Honor, our 301 is up there with
4 the -- at the witness table. Could I retrieve that?

5 THE COURT: Yeah. I think they have two paralegals,
6 so they'll find 301, yeah.

7 MR. SORENSON: Maybe we can go ahead, Your Honor,
8 while --

9 THE COURT: Yeah, while they're pulling that up,
10 let's sort of put that aside.

11 So 2155 is the proffer letter. They're agreeing to have
12 that -- receive that into evidence.

13 2156 is a letter from Attorney Louis Ching to Assistant
14 U.S. Attorney Ronald Johnson and has attachments.

15 MR. SORENSON: Okay.

16 THE COURT: Yeah.

17 MR. SORENSON: So going piecemeal, the letter itself
18 we object to, Your Honor, for obvious reasons. There are
19 documents that are attached to it. I'm okay with 2156 page 2.

20 THE COURT: The UCC financing statement, the same
21 one as 301?

22 MR. SORENSON: Yes, Your Honor, I believe it is.

23 THE COURT: Okay.

24 MR. SORENSON: This one just doesn't have a stamp on
25 it, but down at the bottom where it says Exhibit 25, I think

1 it's the same document.

2 THE COURT: Okay. And then how about the notice of
3 removal? Is that the same?

4 MR. SORENSON: Yes, Your Honor. And we would object
5 to this. This appears to be a notice of removal filed -- filed
6 by Malinay, I believe, probably on -- probably by Mr. Williams.
7 I'm not sure. But he can certainly be asked about it. We have
8 no problem with that.

9 THE COURT: Right. But that's the same case that we
10 saw Judge Mollway's order?

11 MR. SORENSON: Yes.

12 THE COURT: Okay. All right. So, Mr. Williams,
13 they're willing to stipulate a page 2. They're saying page 3
14 and 4 is that same UCC filing statement as 301, so that
15 shouldn't come in 'cause it's duplicative.

16 And then pages 5 through 10 appear to be the removal of
17 the foreclosure case to federal court and that's in the same
18 case as the order that they put into evidence from
19 Judge Mollway.

20 So did you want this notice of removal in as an exhibit?

21 THE DEFENDANT: Nah. I mean, 'cause this is -- this
22 is not something I drafted. This is something somebody else
23 drafted.

24 THE COURT: So those you don't want in. So 2156
25 then you're in agreement that page 2 --

1 THE DEFENDANT: And page 1.

2 THE COURT: -- will come in.

3 THE DEFENDANT: And page 1.

4 THE COURT: No, they are objecting to page 1
5 'cause -- my understanding they're saying for obvious
6 reasons -- what I'm assuming by obvious reasons they're
7 saying --

8 MR. SORENSON: Well, it's hearsay, Your Honor,
9 clearly.

10 THE COURT: Yeah. One, it's hearsay 'cause it comes
11 from Mr. Ching and he's not a witness, and two is it's not
12 really relevant because it just gives a listing of things that
13 aren't going to come in.

14 So if you what you want to come in is this -- I don't know
15 what it is -- it's a depiction of information about Common Law
16 of America, then that can come in as 2156. But the rest of it
17 won't come in.

18 THE DEFENDANT: That's fine.

19 THE COURT: Okay. You're in agreement with that,
20 all right.

21 So we'll just remove the other parts --

22 (Exhibit 2156-2 received into evidence.)

23 MR. SORENSON: Yeah, that takes us to 2156, page 9,
24 Your Honor, which I think Mr. Williams would agree that
25 probably shouldn't come in either. It looks like it's a motion

1 for extension of time.

2 THE COURT: All right. Did you want page 9 and 10
3 to come in, Mr. Williams?

4 THE DEFENDANT: Nah. It's not -- I didn't draft
5 this.

6 THE COURT: Okay. And then 11 just appears to be an
7 incomplete document. It's just the first page.

8 THE DEFENDANT: Yeah, that's not --

9 THE COURT: Okay. So 2156 will just be that one
10 page.

11 MR. ISAACSON: Page 2, Your Honor?

12 THE COURT: Page 2, yeah.

13 MR. SORENSON: And we agree to 2157.

14 THE COURT: All right.

15 (Exhibit 2157 received into evidence.)

16 MR. SORENSON: 2158 appears to be a report from the
17 Office of Consumer Protection, an investigative report from
18 Collette Watanabe. Your Honor, we object to this. Clearly
19 it's an investigative report from an agency of the state and
20 certainly they're not a party to these proceedings, so it's not
21 a party opponent situation. It's hearsay and we would argue
22 it's also nonrelevant for the reasons we articulated with
23 respect to the separate ME thing.

24 There may be some MEI overlap in here -- I haven't been
25 able to read the entire document -- but we think under 403 it's

1 simply -- if it does have any relevance, it's minimally
2 probative.

3 THE COURT: Okay. So, Mr. Williams, you want this
4 in evidence?

5 THE DEFENDANT: Yes, I mean, 'cause this -- this is
6 the agency that actually put him under investigation and is the
7 reason why I'm actually here because of his actions that they
8 investigated, and it shows his victims -- well, not all of
9 them, but some of them.

10 THE COURT: All right. I think it's relevant
11 because the government's calling him to prove the case against
12 you. You have the right to cross-examine him and to -- to
13 impeach him on -- with regard to his actions. So you certainly
14 can confront him with this document.

15 In addition -- so it's relevant. So and then under
16 Rule 803-6, records of a regularly-conducted activity, I'm
17 going to receive this into evidence.

18 (Exhibit 2158 received into evidence.)

19 THE COURT: Okay. 2159, this is the transcript.
20 Now, typically I don't take a transcript into evidence,
21 Mr. Williams. You certainly can confront him with the fact
22 that he has testified under oath that he was examined under
23 oath by the State of Hawaii Office of Consumer Affairs. You
24 can point out if he's testified differently under oath in this
25 deposition differently than he's testified under oath in court.

1 But I'm not going to accept the entirety of the transcript into
2 evidence, okay?

3 THE DEFENDANT: Is there portions I can have entered
4 in? 'Cause it's only maybe like three or four pages that I
5 really want to probably enter in based on his answer. If he
6 answers correctly, then I wouldn't need it. But because when I
7 questioned him yesterday, he basically -- you know, when I
8 questioned him about did he see the website that I posted his
9 picture and that he's a scam, he said no.

10 THE COURT: Right.

11 THE DEFENDANT: Okay.

12 THE COURT: So exactly. So you can confront him and
13 tell him -- point out to him -- you know, we can show him this
14 and we'll say, you know, Take a look at Exhibit 2159. Do you
15 remember that you gave, under oath, you know, answers to
16 questions and the court reporter took it down and made a
17 transcript? And didn't you say -- you were asked this question
18 and didn't you give this answer?

19 So you can. I just don't receive it into evidence.

20 THE DEFENDANT: Okay.

21 THE COURT: Okay? But, yeah, you definitely can
22 point that out to him.

23 Okay. 2160.

24 MR. SORENSON: Your Honor, again, this is -- these
25 are a number of documents from the Office of Consumer

1 Protection.

2 THE COURT: Right. So I'm not --

3 MR. SORENSON: This is a subpoena.

4 THE COURT: So, Mr. Williams, I'm not inclined to
5 receive this whole thing into evidence. So is there a
6 particular -- like, for instance, the subpoena, just the fact
7 that he was subpoenaed, you can -- you can question him with
8 regard to that. We don't need the subpoena 'cause there's a
9 lot of stuff and it makes it confusing and has marginal
10 relevance. But is there some document or something that you
11 believe that you should put in evidence?

12 THE DEFENDANT: Uhm, yes, the December page 9 is a
13 letter from the DCCA to Mr. Malinay about the refund and that
14 he was under investigation already by their office, and it
15 shows the responses that he made to the letter where he denied
16 that he basically didn't receive this money, none of this -- he
17 didn't receive any of this money which we know he did 'cause he
18 was the owner of the account.

19 THE COURT: Okay. So those are pages 9 through 11;
20 is that right?

21 THE DEFENDANT: 9 through 11.

22 THE COURT: Okay. So I'll receive those in
23 evidence --

24 MR. SORENSON: Well, Your Honor, could I make my
25 argument on this?

1 THE COURT: Yes, please make your argument.

2 MR. SORENSON: And thank you. I appreciate that.

3 THE COURT: Yeah.

4 MR. SORENSON: But again, this is a hearsay
5 document, isn't it? I mean, this is James Evers's statements
6 offered to prove the truth of the matters asserted in the
7 statements.

8 THE COURT: Right. But these are
9 regularly -- records of regularly-conducted activity.

10 MR. SORENSON: I don't know that they are. Has a
11 foundation been laid for that?

12 THE COURT: Well, not particularly.

13 MR. SORENSON: We should hear that foundation.

14 THE COURT: Okay. Well, you guys listed Mr. Evers
15 as a witness.

16 MR. SORENSON: He's not a witness for us.

17 THE COURT: Yeah, but you listed him as a witness.

18 MR. SORENSON: And?

19 THE COURT: Yeah. So, you know, I understand he's a
20 *pro se* representing himself *pro se*, so, you know, if you guys
21 want to put on -- require him to do that, then I'm going to
22 require you to call Mr. Evers.

23 MR. SORENSON: You are?

24 THE COURT: Yeah. So he can put on the foundation,
25 you know. We need to move this case along.

1 MR. SORENSON: I agree, Your Honor. I just don't
2 know that we can be compelled to call a witness.

3 THE COURT: Well, whichever you want to do, but I'll
4 certainly receive it into evidence over your folks' objections.

5 MR. SORENSON: Okay.

6 THE COURT: All right. So those three are coming in
7 over your objections.

8 (Exhibit 2160, pages 9, 10, 11 received
9 into evidence.)

10 THE COURT: Common Law Office of America, this is
11 addressed to Bruce Kim of the DCCA. Was this written by
12 Mr. -- who signed this letter?

13 THE DEFENDANT: That was me.

14 THE COURT: That was you.

15 THE DEFENDANT: Yeah. That was sent to them by me
16 regarding the --

17 THE COURT: Okay.

18 THE DEFENDANT: -- they had sent the letter to
19 Mr. Malinay regarding his -- I guess his activities in Maui.
20 Now, at this time I didn't know what he was doing.

21 THE COURT: Right. But what does this have to do
22 with Mr. Malinay? So Mr. Malinay has to have either adopted it
23 or written it or somehow participated in its creation, and I
24 don't see like he signed it. For instance, you know, this
25 response to the Office of Consumer Affairs, he signed it, so

1 it's what's called an adopted statement.

2 THE DEFENDANT: Right.

3 THE COURT: Okay? So that I can understand why it's
4 relevant to him and it would come in.

5 THE DEFENDANT: Okay.

6 THE COURT: But I couldn't accept your letter with
7 regard to -- unless you can lay a foundation that Mr. Malinay
8 actually participated in.

9 THE DEFENDANT: Well, I could -- probably later on I
10 could enter it in on my testimony or Mr. Kim because it was
11 addressed to Mr. Kim so --

12 THE COURT: Right, right. I'm just saying not with
13 Mr. Malinay.

14 THE DEFENDANT: Okay. That's fine.

15 THE COURT: Okay. So what's the next one?

16 MR. SORENSON: That was 2060-12, Your Honor --

17 THE DEFENDANT: The next one --

18 MR. SORENSON: -- we just did?

19 THE DEFENDANT: -- 23.

20 THE COURT: This is 2160 page 12.

21 MR. SORENSON: Right.

22 THE DEFENDANT: The next one --

23 MR. SORENSON: That goes back a ways, correct?

24 THE COURT: Right. And that goes I believe up to
25 page 22.

1 THE DEFENDANT: Right.

2 THE COURT: Okay. So that's not going to come in
3 through Mr. Malinay.

4 All right. And then we get to page 23 which appears to be
5 signed by Mr. Malinay -- right? -- to Collette Watanabe of
6 Office of Consumer Affairs. So that is an adopted statement or
7 whatever. So that I'll receive in and you can confront him
8 with that.

9 (Exhibit 2160-23 received into evidence.)

10 THE COURT: Okay. Then we have a variety of checks.

11 THE DEFENDANT: Yes. I definitely need that in.

12 MR. SORENSON: Your Honor, I've got page 23 next
13 which is a letter.

14 THE COURT: Yes. A letter signed by Mr. Malinay?

15 MR. SORENSON: Yeah, to Collette Watanabe. We have
16 a problem with this being a subject for cross-examination, Your
17 Honor.

18 THE COURT: Right, yeah, so that's going to be
19 received.

20 All right. The next is a series of checks. So I can't
21 really read the handwriting, but it looks like they're endorsed
22 by Mr. Malinay; is that right? Not all of them or some of them
23 'cause --

24 THE DEFENDANT: No, they're not endorsed by him.
25 These are actually the clients he scammed. These are their

1 actual checks that they wrote to him out to cash and then some
2 of them --

3 THE COURT: Right. So let's go one by one.

4 On 24, I don't know, but that appears to be Mr. Malinay's
5 signature.

6 THE DEFENDANT: Yeah, on the back, yeah.

7 THE COURT: Yeah. He's endorsing it, right?

8 THE DEFENDANT: Right.

9 THE COURT: So that one, Mr. Sorenson, you have an
10 objection? It looks like, you know, he cashed it. I mean,
11 I -- you have to establish a relevance. I don't know who
12 this --

13 MR. SORENSON: Yeah, I --

14 THE COURT: -- who this Gijal is --

15 THE DEFENDANT: One of the victims.

16 MR. SORENSON: -- think if we page back to part A of
17 my argument really, Your Honor --

18 THE COURT: Yeah.

19 MR. SORENSON: -- which is this ME stuff, if this is
20 ME stuff, I don't really know what it is so --

21 THE COURT: Right.

22 MR. SORENSON: If the Court --

23 THE COURT: I think you can confront him with it
24 because it goes to, you know, whether --

25 MR. SORENSON: Yeah.

1 THE COURT: -- he's a believable --

2 MR. SORENSON: If the Court --

3 THE COURT: -- witness.

4 MR. SORENSON: -- wants to allow this, I understand
5 that.

6 THE COURT: All right. So --

7 MR. SORENSON: That takes us to 2161, Your Honor.

8 THE COURT: Well, so I don't know --

9 MR. SORENSON: Oh, did you want to do each check
10 individually?

11 THE COURT: Yeah. Are you okay with all of them?
12 Some of them look like they say Henry Malinay, but some of them
13 are like scrabble-scrabble, and some of them are just a stamp.
14 But it looks like most of them may be, so he can be confronted
15 with them.

16 MR. SORENSON: I think if it has his name on it,
17 Your Honor, it's certainly okay for him --

18 THE COURT: Okay.

19 MR. SORENSON: -- and if the Court wants to let the
20 other ones in. But I don't know -- he's just going to say he
21 doesn't know what they are.

22 THE COURT: Yeah. Okay. So those are received.

23 (Exhibits received into evidence.)

24 THE COURT: Now we're up to 2161.

25 MR. SORENSON: Your Honor, this is -- looks like

1 it's an application from Felicita Pasion.

2 THE COURT: Yeah.

3 MR. SORENSON: You're right, I don't know the
4 relevance of this, but it looks like it's an ME or MEI
5 document. I don't know which, but it looks like it's at
6 least -- it says Mortgage Enterprises at the top, Your Honor.

7 THE COURT: Right.

8 MR. SORENSON: So again, if the Court wants to allow
9 the Mortgage Enterprises evidence in or at least within reason,
10 but --

11 THE COURT: Right.

12 MR. SORENSON: -- I'll certainly --

13 THE COURT: So 2161-1 through -5 look like to me the
14 same -- part of the same document that has to do with Mortgage
15 Enterprise.

16 THE DEFENDANT: And page 6 and 7.

17 THE COURT: And page 6 and 7.

18 THE DEFENDANT: Right.

19 THE COURT: Okay. So those come in.

20 (Exhibits received into evidence.)

21 THE COURT: And then 2161 at page 8, those are the
22 business cards and some notes that includes Mr. Malinay, so
23 that will come in.

24 2161 page 9 again looks like Mr. Malinay's business cards,
25 so that's going to come in.

1 (Exhibits received into evidence.)

2 THE COURT: 2161 page 10 appears to be a letter from
3 you. So again, unless it's been adopted or somehow created or
4 assisted in the creation --

5 THE DEFENDANT: Yeah, I can't bring it in through
6 him.

7 THE COURT: Right. Okay. So that's not going to
8 come in.

9 And then what is 2161 page 11?

10 THE DEFENDANT: It's the OCP -- these are a list of
11 the victims of Mr. Malinay that OCP --

12 THE COURT: So we don't know that just from looking
13 at it. You can ask him questions about it, but I'm not going
14 to receive it in evidence unless somebody from the Office of
15 Consumer Affairs, you know, testifies about it 'cause it wasn't
16 created by Mr. Malinay. It wasn't adopted by him.

17 Okay. 2161 page 13 and 14, that looks like it is again
18 the UCC financing statement which is already in evidence as
19 301. Unless you can show me there's some sort of distinction,
20 I'm not going to receive that in.

21 2161 page 15 through 17 appears to be the UCC financing
22 statement for Anabel Cabebe. It doesn't appear to be adopted
23 or related to Mr. Malinay, so I'm not going to receive that in.

24 2161 at pages 18 through 19 appear to be some sort of
25 printout. Is that the Western Union?

1 THE DEFENDANT: Yeah, it's the Western Union money
2 transfers.

3 THE COURT: The sender is indicated as Mr. Malinay.

4 THE DEFENDANT: Mr. Malinay, yes.

5 THE COURT: So you can confront him with these
6 documents.

7 Do you have any objection to me receiving them into
8 evidence, Mr. Sorenson?

9 MR. SORENSON: Yes. I mean, obviously, Your Honor,
10 this is going to take a while as we work through these
11 documents with Mr. Malinay.

12 THE COURT: Right.

13 MR. SORENSON: But I don't know the relevance of
14 this, but --

15 THE COURT: Yeah, well, obviously it involves two of
16 the names that are clearly been mentioned in it. So anyway, I
17 think there is relevance; I'm not sure how much relevance, but
18 you can ask him about the money transfers. I don't know that
19 you need them in evidence, but I'll receive 18 and 19, pages 18
20 and 19, into evidence.

21 (Exhibits received into evidence.)

22 THE COURT: Okay. 2161 at page 20, appears to me
23 Mr. Malinay's signature. Okay. So if -- any objection? I
24 don't know what it is, but --

25 THE DEFENDANT: The Western Union?

1 THE COURT: Oh, that's another Western Union?

2 THE DEFENDANT: Yeah.

3 THE COURT: Okay. That'll be received in evidence.

4 (Exhibit 2161-20 received into evidence.)

5 THE COURT: 2161 page 21 Western Union again with

6 Mr. Malinay. That'll be received in evidence.

7 (Exhibit 2161-21 received into evidence.)

8 THE COURT: 2161 at page 22, 23, 24, 25

9 are -- appear to be Western Union, so that'll be -- with
10 Mr. Malinay's name or signature on various documents. So
11 that'll be received.

12 (Exhibits received into evidence.)

13 THE COURT: 2161-26 through --

14 THE DEFENDANT: I think these -- a lot of these are
15 just duplicate copies of the checks that was already --

16 THE COURT: Okay.

17 THE DEFENDANT: -- previously --

18 THE COURT: All right. So you don't need these?

19 THE DEFENDANT: Yeah, they're duplicates.

20 THE COURT: Okay. That takes us to 2161 page 37.

21 This is that Wells Fargo account.

22 THE DEFENDANT: Yes.

23 THE COURT: Isn't this already in? No?

24 THE DEFENDANT: No.

25 THE COURT: Okay. So 2161-37 through 41, right,

1 appears to be with that Wells Fargo account?

2 THE DEFENDANT: Uh-huh.

3 THE COURT: All right. So that'll be received in.

4 (Exhibits received into evidence.)

5 THE COURT: 2161 page 42, that's Anabel Cabebe, so
6 that's not going to come in through Mr. Malinay unless you can
7 show that somehow he helped create it.

8 THE DEFENDANT: No, I just -- I'll wait till
9 Ms. Cabebe testifies.

10 THE COURT: Okay. 2161-43 is a copy of the Hawaii
11 State Judiciary Ho'ohiki. They didn't create it. It's a --
12 you know, the court creates it, so -- and sort of has limited
13 relevance.

14 THE DEFENDANT: Yeah, I don't think it have any
15 relevance.

16 THE COURT: Okay. 2161-44.

17 THE DEFENDANT: I don't know what this is. I don't
18 know what this is.

19 THE COURT: Okay. I'm not going to receive it.

20 THE DEFENDANT: Life insurance?

21 THE COURT: Yeah, I don't know.

22 THE DEFENDANT: Yeah, it's not relevant.

23 THE COURT: 2161 at page 45 has Mr. Malinay's
24 picture and some comments about him --

25 THE DEFENDANT: Yes.

1 THE COURT: -- on the public website, I guess?

2 THE DEFENDANT: Yeah, it's on my website.

3 THE COURT: Okay. So you want to confront him with
4 this?

5 MR. SORENSON: We do object to this, Your Honor,
6 because we believe this is a document that Mr. Williams
7 probably generated.

8 THE COURT: Right. So -- so the problem I have is
9 even though Mr. Malinay's name is on this and others' names, he
10 didn't help create it. You can confront him with questions,
11 you know, based on this, but it wouldn't come in through him
12 because he didn't have anything to do with creating it or
13 whatever, so that part of it's not going to come in. Those are
14 pages 45 through 47 at least not through Mr. Malinay.

15 THE DEFENDANT: Right. But I still can question him
16 on it that has he seen it --

17 THE COURT: Yeah, what his personal knowledge, if he
18 agrees with the statements in it, et cetera.

19 THE DEFENDANT: Right.

20 THE COURT: Okay. So I think that does it for that
21 exhibit.

22 So we're going to go on to 2162. And again, this is a
23 examination under oath and a transcript in bankruptcy court.
24 So I'm not going to receive the transcript into evidence, but
25 you can confront Mr. Malinay with any inconsistencies in

1 testimony or did he testify XYZ. All right?

2 Okay. I think we've addressed all of the exhibits; is
3 that correct?

4 MR. SORENSON: No, there's one more -- that's it,
5 Your Honor. Thank you.

6 THE COURT: Okay.

7 THE DEFENDANT: 21 --

8 MR. ISAACSON: May I inquire, Judge, of these? I
9 just want to make sure I got them all. 2155?

10 THE COURT: Yes.

11 MR. SORENSON: We were okay for -- that was the
12 proffer letter. Yes, Your Honor.

13 THE COURT: Yeah.

14 MR. ISAACSON: And 2157?

15 MR. SORENSON: We're okay with that.

16 MR. ISAACSON: Okay. I think I got the rest, Judge.
17 Thank you.

18 THE DEFENDANT: This --

19 THE COURT: Are there any other matters we need to
20 address before we bring the jury in?

21 THE DEFENDANT: Well, it's this one exhibit. It's
22 actually already enumerated. It's 2033. It's page 18 through
23 26, and what this is, this is actually a Westlaw ruling --

24 THE COURT: Wait. Let us get it first. This is out
25 of the series we addressed. 2033, you said?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Okay. 2033 I see that it starts as a
3 letter to the State of Hawaii Department of Commerce and
4 Consumer Affairs.

5 THE DEFENDANT: Yeah, it starts on page 18 what I'm
6 talking about.

7 THE COURT: What you're talking about, okay.

8 Are you there, Mr. Sorenson?

9 MR. SORENSON: Yes, Your Honor. I've got it. It
10 looks like it's a case.

11 THE COURT: Yeah, it's a slip copy of a Westlaw
12 reporting of a bankruptcy case involving Mr. Malinay and his
13 wife. It was written by Judge Faris, whose name is misspelled
14 in this. So it's apparently his ruling on a motion for summary
15 judgment.

16 So what about this document, Mr. Williams?

17 THE DEFENDANT: Well, it show that there's already
18 been a previous ruling against him. This is a court record,
19 you know. It can be readily ascertained that it is, you know,
20 a valid ruling from the bankruptcy court and also shows that
21 they knew what he -- well, he knew in the report that I was
22 locked up September 13th 'cause he try to say he didn't know I
23 was locked up, yet --

24 THE COURT: Okay. Well, you can refresh his
25 recollection with this, but I don't normally receive, you know,

1 rulings and things like that. I mean, usually
2 what -- technically what you have to do is you have to get a
3 certified copy of the order. But if you want to confront him
4 with certain facts in it, you can show it to him and point it
5 out to him. It's just I wouldn't receive it into evidence.

6 Okay. So have we addressed everything that we need to
7 pre-try for the witness?

8 THE DEFENDANT: No, not yet.

9 THE COURT: Okay. What else?

10 THE DEFENDANT: This was a letter from the
11 prosecution on January 8th regarding what they want to present
12 at trial. One of the things they wanted to present is evidence
13 of MEI's operation in Tennessee, Florida and elsewhere, and
14 they want to present evidence of what happened in Florida.

15 If I'm not going to be able to call these people from
16 these states to testify that I didn't do anything wrong, then
17 they shouldn't be able to even mention any of my other offices
18 and what I was doing 'cause now I can't defend myself with
19 those very people that they're saying I scammed in those other
20 states.

21 THE COURT: Okay. I don't understand -- and
22 Mr. Sorenson and Mr. Yates can clarify for me -- but I believe
23 that the counts in the indictment in this action does not
24 allege clients from other states other than Hawaii.

25 MR. SORENSON: Yeah, that's right. And what we did,

1 Your Honor, in the exercise of caution, we gave a 404(b) notice
2 in case some of that information became relevant at trial.

3 But we have not solicited evidence from outside of Hawaii,
4 other than evidence that directly bears on intent in this case,
5 for instance, the Federal Mortgage American Trust that existed
6 in D.C., the fact that our little badges and things were seized
7 in Florida. We also inquired -- when Mr. Williams had made a
8 big point that he had never been charged for a crime, we did go
9 in back on redirect and ask about his conviction in Florida for
10 the grand theft. So that's been the sum of where we've gone.

11 We do not intend to introduce, in our case-in-chief at
12 least, any evidence of other crimes related to his operation of
13 his mortgage reduction plan in other states.

14 THE COURT: All right. So so far they have not
15 solicited evidence with regard to any alleged wrongdoing as to
16 clients in other states. The only instance I recall during the
17 trial is after you opened the door with regard to not being
18 charged with any federal crimes in the state of Florida --

19 THE DEFENDANT: But --

20 THE COURT: -- which opened up to -- with regard to
21 that witness's personal knowledge that you had indeed been
22 charged with crimes, although in state court. But that was
23 because you brought that issue into the case, not because they
24 were proponents of that and bringing the FBI agent -- and I
25 can't remember his name right now -- to testify in their case

1 with regard to that.

2 So anyway, I'm not going to revisit my ruling with regard
3 to the other witnesses. I find that there is no basis for me
4 to reconsider or change. And if there's nothing further with
5 regard to the exhibits for Mr. Malinay, I'm going to have
6 Ms. Elkington go get the jury.

7 All right. We're in recess.

8 (A recess was taken.)

9 (Open court in the presence of the jury.)

10 THE COURTROOM MANAGER: This is Criminal Case
11 17-00101 LEK United States of America versus Anthony T.
12 Williams.

13 This case has been called for a further jury trial,
14 day 7.

15 Counsel, please make your appearances for the
16 record.

17 MR. SORENSON: Your Honor, good morning.

18 Assistant United States Attorneys Ken Sorenson and Gregg
19 Yates here for the United States. We have Special Agent Megan
20 Crawley with the FBI accompanying us.

21 THE COURT: Good morning to all of you.

22 Mr. Williams.

23 THE DEFENDANT: Good morning.

24 Private attorney general Anthony Williams appearing sui
25 juris.

1 MR. ISAACSON: Good morning, Your Honor.

2 Lars Isaacson as standby counsel with Ms. Beecher
3 assisting.

4 THE COURT: All right. Good morning to all of you,
5 and good morning ladies and gentlemen of the jury. Thank you
6 very much for your patience. We're hopeful that our work in
7 the past hour is going to make things go smoothly. At least
8 that's our desire and that's why we worked and kept you waiting
9 and waiting. So thank you very much.

10 So, Mr. Williams, Mr. Malinay's on the stand. Your
11 witness.

12 Mr. Malinay, I just remind you you're still under oath.

13 THE WITNESS: Yes, ma'am.

14 **HENRY MALINAY, PREVIOUSLY SWORN, RESUMED THE STAND**

15 CROSS-EXAMINATION RESUMED

16 BY THE DEFENDANT:

17 Q Mr. Malinay, how many times have you spoken with the
18 prosecutor's office?

19 A Prosecutor's office?

20 Q The prosecutors. How many times have you spoken
21 with them?

22 A I think the first one's last week.

23 Q The first time was last week?

24 A Yeah.

25 Q So that was the only time you spoke to them, just

1 last week?

2 A Well, I see him couple time in his office.

3 Q Okay. And did you make any calls to him or did you

4 all text any messages?

5 A No. Just, you know, I don't know how to text.

6 Q And you did take a plea deal, correct?

7 A Yes.

8 Q And what was that plea deal for?

9 A Because I did it and it's my fault.

10 Q So you admit that you lied to these customers and

11 that you scammed these customers, correct?

12 A Yes, because that's what I learned from you.

13 Q You did not learn that from me.

14 A Yes.

15 Q Okay. So now when you -- approximately how many

16 people made a complaint against you at the DCCA? Just give me

17 a round figure.

18 A If I'm not mistaken, about 17.

19 Q 17?

20 A If I'm not mistaken, yeah.

21 Q And why did they file a complaint against you?

22 A Because the mortgage fraud that you did us before

23 and I used that one.

24 Q I'm saying what agency did they make a complaint to

25 against you?

1 A DCCA.

2 Q Okay. And were you interviewed by the agency?

3 A What's that?

4 Q Were you interviewed by that agency?

5 A Yes.

6 Q And did you take a sworn statement?

7 A Yeah.

8 Q Okay. And what was the name of the person that

9 interviewed you?

10 A Mr. Evers the name, Evers from the DCCA I think it

11 was, yeah.

12 THE DEFENDANT: Can I get Exhibit 2 -- 2159 pulled

13 up for this witness?

14 Q (BY THE DEFENDANT:) Just want you to look over that

15 sworn statement. Just get yourself familiar with it before I

16 question you about it. Those are your statements?

17 A Well, I don't know how to read.

18 Q But is that your statement, your sworn statement?

19 Is that the deposition of that sworn statement that you gave?

20 A Well, I don't know how to read.

21 Q On the front page it says -- you see where it's the

22 heading? You see what the heading says on the first page?

23 A Yeah.

24 Q Okay. And then you see where it says, "In

25 reference," says In Re:" and colon? It's on the first page?

1 A In here?

2 THE COURT: Yeah. So if you look at the first page,
3 the first page of that document.

4 THE WITNESS: This one, Judge?

5 THE COURT: Yeah, yes. If you look at that page,
6 okay, and do you remember that you gave -- that you were asked
7 questions and you gave answers under oath --

8 THE WITNESS: Yes.

9 THE COURT: -- on Wednesday, February 25, 2015? Do
10 you remember that?

11 THE WITNESS: It's kind of long time, Judge.

12 THE COURT: Right, it was a long time ago. But do
13 you remember that there was a court reporter who took down your
14 testimony?

15 THE WITNESS: Yes.

16 THE COURT: You were asked questions?

17 THE WITNESS: Yes, Judge.

18 THE COURT: And you gave answers?

19 THE WITNESS: Yes.

20 THE COURT: Okay. You remember that.

21 THE WITNESS: Yeah. But I forgot already.

22 THE COURT: Okay. So ask him questions.

23 Q (BY THE DEFENDANT:) Now, in this deposition
24 Mr. Evers he had asked you, "Have you had consumers try to call
25 you for their money back?" Did anybody call you for -- to ask

1 for their money back?

2 A Yeah, that's what they said, but the time I cannot
3 get my job because, you know, if you go my name at the time and
4 I stay online and I cannot find a job because your program.

5 Q No. Let me ask you this again. Mr. Evers had asked
6 you had any consumers called you and asked for a refund.

7 A Yeah, because that's your program.

8 Q What did you tell him?

9 A Yeah, this is Anthony's program.

10 Q Can you turn to page 64 of the -- your examination?

11 THE COURT: There's four pages per page. Okay.

12 Q (BY THE DEFENDANT:) It should be at the top right,
13 page 64 at the top right. Can you see that?

14 A Yeah. If you read it and I listen.

15 Q Okay. You see where it says the second -- the first
16 question, can you read that for me?

17 A No.

18 Q The first question that he asked you?

19 THE COURT: Yeah. You got to ask him if he's able
20 to read English.

21 Q (BY THE DEFENDANT:) You're not able to read
22 English?

23 A No. You know that.

24 Q But you was able to read English very well,
25 Mr. Malinay, and you speak English very well.

1 A I learned 'cause I in the U.S. in 1982. I don't
2 know how to read English. You know that at the beginning. I
3 told you at the beginning.

4 Q Mr. Malinay, now you claiming --

5 THE COURT: So ask him a question. So --

6 THE DEFENDANT: Okay. Let me qualify him.

7 Q (BY THE DEFENDANT:) So where did you go to school
8 at, Mr. Malinay?

9 A In the Philippines.

10 Q So in the Philippines they didn't teach you English,
11 to speak English?

12 A No.

13 Q So you never took no English classes in the
14 Philippines?

15 A No.

16 Q So how did you learn how to speak English,
17 Mr. Malinay?

18 A Well, my family I learn and the TV, that's my
19 friend.

20 Q So if you don't know how to really speak English
21 and -- you don't know how to write English, right?

22 A No.

23 Q So how did you sign your name on a bank account?

24 A Well, I know how to sign my name.

25 Q So how did you fill out the application for people

1 if you don't know how to write English?

2 A I'm not the one to fill out the application. Like
3 you see, if you get all the application, you show me, it's not
4 my write. Only I put my name on it.

5 Q So you know how to write your name, but you don't
6 know how to write nothing else?

7 A Yes.

8 Q Is what you're saying?

9 A Yeah.

10 Q So you don't know how to spell the word cat in
11 English?

12 A No.

13 Q Who did you tell the people to call when they
14 started calling you because you had scammed them? Who did you
15 tell the people to call?

16 A What's that?

17 Q Who did you tell the people that you scammed to call
18 when they start calling you and asking for their money back?
19 Who did you tell them to call?

20 A You.

21 Q Now --

22 A Because you give us.

23 Q -- why would you tell them to call me when you knew
24 you didn't work for me?

25 A Well, because that's why you tell me all the time,

1 you lecture us like you like a agent at the time. You always
2 say that, "You have to listen to me."

3 Q Now, do you remember yesterday -- do you remember
4 your testimony yesterday when I asked you when did you -- when
5 did I fire you and when did you started open up this other
6 fraudulent company? You remember that?

7 A That's why --

8 Q Do you remember that? Yes or no?

9 THE COURT: I'm sorry. So you need to let him
10 answer the question and then --

11 THE WITNESS: If you give me the paperwork that you
12 fire me and then maybe I remember. You have a paperwork that
13 you fire me?

14 Q (BY THE DEFENDANT:) Yes. I got the email.

15 A I need this. Maybe I can remember.

16 Q No. Yesterday you testified -- remember you
17 testified that after I went to jail -- do you remember that?

18 A Yeah.

19 Q Okay. So you said after I went to jail, you said
20 you and Edna said that you all needed to help the people,
21 correct?

22 A Yeah, because I kind of concern about the people
23 that I involve, like I do, you know, 'cause I tried to finish
24 the paperwork because you always say that, "I'm the best. I
25 know how to do this one." A lot of house at the help, so I

1 just kind of trust you at the time.

2 Q No. You testified that after I got incarcerated,
3 that you and Edna formed your own company. Do you remember me
4 showing you the bank account that you flew to California and
5 set up Mortgage Enterprise, correct?

6 A Yes, because --

7 Q And that was set up in August 27, 2013, correct?

8 A Yeah, because --

9 Q That was --

10 THE COURT: Let him answer the question.

11 THE WITNESS: Yeah, because at the time I was kind
12 of worried the people that I -- just ask to get the money and I
13 want them to finish the house, you know. So and then Edna
14 telling me to form another company similar in your company,
15 Edna and Anabel and me at the time, because I understood that
16 you and Edna partner at that time because you always tell me
17 that.

18 Q (BY THE DEFENDANT:) So how you misunderstanding
19 this, Mr. Malinay? I wasn't incarcerated yet when you opened
20 up this bank account. I was still here in Hawaii.

21 MR. SORENSON: Objection. He's doing testimony.

22 THE COURT: So is that your question? Did you know
23 he was -- it was before he was incarcerated that you opened up
24 the new company?

25 THE WITNESS: Uhm, 'cause I call Edna at the time,

1 Judge, that I say, "Oh, Anthony's in the jail, so what we going
2 to do now?" I don't know if he's in the jail at the time or
3 still here. I don't know.

4 THE COURT: Okay. So he doesn't know is his answer.

5 THE WITNESS: No.

6 THE COURT: So ask him another question.

7 Q (BY THE DEFENDANT:) So how could you not know,
8 Mr. Malinay, when I was incarcerated on September 13, 2013?

9 THE COURT: Okay. So ask him if he knew you were
10 incarcerated on September --

11 Q (BY THE DEFENDANT:) So you remember I was
12 incarcerated in September?

13 A That's what Edna told me, but I don't see you in the
14 jail. That's why Edna always tell me that.

15 Q But you saw the news stories. Remember you saw the
16 news story right?

17 A Yeah.

18 Q So you know that was in September?

19 A Yeah.

20 Q Okay. So now if that was in September, you, Edna,
21 and Anabel opened up this bank account in August, before I was
22 incarcerated, right?

23 A I don't remember that one. Yeah, because you give
24 me the paperwork, then maybe I can remember.

25 THE DEFENDANT: Exhibit -- Defense Exhibit 2161,

1 page 37.

2 THE COURT: Did you say 2161?

3 THE DEFENDANT: Yes, ma'am, page 37. Page 37 and 38
4 and 39 -- actually and 40.

5 THE COURT: Yes, they're in the middle.

6 Q (BY THE DEFENDANT:) And do you recognize this bank
7 account --

8 A Yes.

9 Q -- with your name on it?

10 A Yeah, yeah.

11 Q And can you read the date that it was opened up,
12 Mr. Malinay?

13 THE COURT: Wait. Do you want it in received in
14 evidence.

15 THE DEFENDANT: Yes, I want it received and I want
16 to publish it.

17 THE COURT: Okay. So Exhibit 2161, pages 37 through
18 41 are received, only those portions of the exhibit.

19 THE DEFENDANT: Right.

20 (Exhibit 2161 pages 37-41 received into evidence.)

21 THE COURT: All right. So you want him to read
22 what?

23 THE DEFENDANT: On the date on page 37. What was
24 the date that this bank account was opened by him, Anabel
25 Cabebe, and Edna Franco. And I'd like to publish it too so the

1 jury can see it.

2 THE COURT: Okay. So it's on. So if you want to
3 put the document under the docucam, you may publish.

4 THE DEFENDANT: Okay.

5 Q (BY THE DEFENDANT:) You see the date over there on
6 the right, Mr. Malinay?

7 A Yeah. I don't remember this one, but I see the
8 date.

9 Q You don't remember it?

10 A Yeah.

11 Q Okay. What date does that say?

12 A 08-07-2013.

13 Q So that's August 7th, 2013, that you Anabel and Edna
14 Franco opened up this bank account in the name of Mortgage
15 Enterprise, correct?

16 A Yeah. I remember that one, but I don't remember the
17 date. I know that Edna and Anabel and me open, but I don't
18 know exactly the date.

19 Q But you don't remember opening this account?

20 A I remember that I open the account, but I don't
21 remember what's the date.

22 Q Okay. Well, that's the date. It's confirmed. So
23 you see the date was August. Now, is this your signature?

24 A Look like it's not my signature, this one.

25 Q So you didn't sign that signature card, Mr. Malinay?

1 A Yeah, 'cause I don't remember this one.

2 Q So you went to the bank with Anabel and Edna Franco,

3 correct?

4 A Yeah.

5 Q So when you went to the bank, didn't they give you a

6 little signature pad to sign to be added to the account?

7 A Yes.

8 Q Okay. So then you signed on that pad, correct?

9 A Yes, uh-huh.

10 Q Okay. So you signed and opened up this fraudulent

11 company, Mortgage Enterprise, with Edna Franco and Anabel

12 Cabebe in August of 2013, correct?

13 A Yes.

14 Q Okay. So but I was not incarcerated till

15 September 2013, correct?

16 A I don't know.

17 Q Well, you just testified that you knew you saw it on

18 the news.

19 A I don't know what's the date that one.

20 Q No, but you saw it on the news, right?

21 A Yeah, I see on the news, but I forget the date.

22 Q Okay. So I was not incarcerated in August, so I was

23 still here in Hawaii, correct?

24 A I don't know 'cause I don't see you since then.

25 Q So why did you open up this account a

1 month-and-a-half before I was incarcerated, Mr. Malinay? What
2 was the purpose of this account before I was locked up?

3 THE COURT: Okay. So which question do you want him
4 to answer? You asked him --

5 Q (BY THE DEFENDANT:) What was the purpose of you
6 opening this account before I was incarcerated?

7 A Yeah, because Edna call me that, Oh, Anthony going
8 to jail and then we have to open the account in California
9 so -- 'cause I always tell Edna that how can all help all these
10 people now?

11 Q Mr. Malinay, you saw me during this time. Remember
12 me doing your UCC lien during this time in August? Remember I
13 was still helping you? Remember that?

14 A Yeah.

15 Q Okay. Now, did I charge you to do any of the work
16 for your foreclosure? 'Cause you was already in foreclosure,
17 correct?

18 A You tell me that you -- I find people so no judge
19 me. That's what you told me, so I find people.

20 Q No. So when I met you, you was already in
21 foreclosure, correct?

22 A Yeah, I know.

23 Q Okay.

24 A Off and on.

25 Q So I didn't charge you to help you fight your

1 foreclosure, did I not?

2 A I paid \$3,000, me and my wife, twice.

3 Q Paid to who?

4 A Both you and Edna.

5 Q You paid it to Edna?

6 A Yeah, 'cause Edna told me that both of you own the

7 company.

8 Q No, that's not correct.

9 A That's what he told me.

10 Q You did not pay my company. So you told me you paid

11 Edna?

12 THE COURT: Wait, wait. So you need to ask him a

13 question. You can't make statements.

14 Q (BY THE DEFENDANT:) Okay. So you said you paid

15 Edna \$10,000?

16 A No, \$3,000.

17 Q So you paid Edna \$8,000?

18 A \$3,000.

19 Q \$3,000?

20 A Yeah.

21 Q So when you paid Edna \$3,000, when did you pay her

22 this \$3,000?

23 A My wife paid twice with Edna.

24 Q When?

25 A I forgot already. That's kind of long.

1 Q You don't know the time frame?

2 A No.

3 Q Was that before I went to jail? After I went to
4 jail?

5 A Before, after I meet you.

6 Q Was it during this time that you opened the bank
7 account that you paid her?

8 A No, no, before that.

9 Q So you paid her way before that?

10 A Yeah, before -- first time I meet you, that's why
11 Edna tell me to pay \$3,000.

12 Q Well, you know you met Edna before you met me,
13 correct?

14 A I know.

15 Q Right?

16 A But I pay the money the time I meet you because Edna
17 said, "This is my partner. He get lot of experience and lot of
18 house to help already in the mainland." That's why me and my
19 wife give the money to Edna because at the time I meet you.

20 Q But you still haven't answered what was the purpose
21 of you opening up this account while I was still free?

22 A Yeah, 'cause Edna told me to open account because a
23 different company.

24 Q So -- so why wouldn't you come and talk to me? Why
25 didn't you ask me? 'Cause I was here in Hawaii. Why didn't

1 you come to the offices and --

2 THE COURT: So you need to ask one question.

3 Q (BY THE DEFENDANT:) Okay. Why didn't you come to
4 the office and talk to me?

5 A Because I don't want to talk to you that time
6 already 'cause I was so mad.

7 Q So wait a minute. Let's get this straight. So in
8 August you were mad at me?

9 A August. I don't remember the date.

10 Q I mean, this was just what you were saying because
11 you saying this is the reason you opened up this bogus account
12 with Edna. You saying now that you were mad at me. That's the
13 reason why you didn't come to the office and talk to me?

14 A Yeah.

15 Q So what were you mad at me for?

16 A Yeah, 'cause I know that you scam.

17 Q So if I was a scam, then why did you open up this
18 account with Edna and Anabel to continue scamming people if you
19 thought it was a scam?

20 A Yeah, that's why I feel guilty because I take
21 responsibility what I did.

22 Q Yeah, you did this on your own with Edna and Anabel?

23 A Yes.

24 Q You did this behind my back. You did not notify me,
25 did you?

1 A No.

2 Q Right?

3 A Not in your company 'cause at the time your company
4 is out, so Edna and Anabel, I open account, a different
5 company.

6 Q So whose idea was it to forge the documents, my
7 company's documents? Was that your idea?

8 A If you show me something, then I remember.

9 THE DEFENDANT: Exhibit 2161 and I want to publish
10 it. It's page 1, 2, 3, 4, 5.

11 THE COURT: What about 6 and 7? You're not seeking
12 those to be admitted at this time?

13 THE DEFENDANT: Yeah, yeah, yeah, 6 and 7 too.
14 Sorry. Yeah.

15 THE COURT: Okay. So 1 through 7?

16 THE DEFENDANT: Right.

17 THE COURT: Okay. So based on the prior ruling, 1
18 through 7 -- pages 1 through 7 of Exhibit 2161 are received.

19 (Exhibit 2161 pages 1-7 received into evidence.)

20 Q (BY THE DEFENDANT:) Okay. Mr. Malinay, you
21 recognize this MEI application?

22 A Yeah, this Edna make this one.

23 Q So you had nothing to do with forging this document?

24 A Yeah, 'cause that's why he told me the same thing in
25 your company at the time.

1 Q So whose decision was it to try to make it look like
2 my company name? Whose decision was that? Your decision or
3 was that Edna's decision?

4 A All of us.

5 Q So all of you all decided we going to take the
6 Investments off and name it Mortgage Enterprise?

7 A Correct.

8 Q What was your intent of making it look like my
9 company? What was your intent?

10 A My intent at the time 'cause I tried to save the
11 people that I bring in at the time because that's -- Edna told
12 me all the time that you and her is partner, so I just kind of
13 trust. That's why whatever Edna tell me that time, I said yes
14 because that's what you told me, that you partner. You always
15 tell me that before.

16 Q Before I fired her.

17 A I don't know if you fire her. I don't know about
18 that.

19 Q You knew that, Mr. Malinay --

20 THE COURT: Wait, wait, wait. So ask him --

21 THE WITNESS: If you show me the paperwork you fire
22 her, then I trust you.

23 Q (BY THE DEFENDANT:) Okay. So now you recognize
24 this Mortgage Enterprise application, correct?

25 A Yes.

1 Q And this is the application that you had most of the
2 people in Maui fill out, correct?

3 A Correct.

4 Q Now, could you help those people with their
5 foreclosure?

6 A Well, that's -- that's Edna told me 'cause that's
7 you and Edna partner at the time, so that's your form, similar
8 the form, but only thing is no MMI. It's not your company, but
9 same form.

10 Q You see the date on this application, Mr. Malinay,
11 at the bottom right-hand corner I got on the screen?

12 A Yeah.

13 Q Okay. That's December 20th of 2013, correct?

14 THE COURT: It's not published. Did you want to
15 publish it?

16 THE DEFENDANT: Yeah, I want to publish it.

17 THE COURT: Okay. You may publish.

18 Q (BY THE DEFENDANT:) Okay. You see the date?

19 A Uh-huh.

20 Q Okay. Now, at this time I was still incarcerated,
21 correct?

22 A I don't remember if you in custody at the time.

23 Q Do you know I was incarcerated in September, right?
24 September 2013?

25 A I know that you in the news and Edna told me in

1 jail, but I don't remember what's the date.

2 Q So you don't remember me coming back in 2014?

3 A No.

4 Q You recognize this power of attorney form?

5 A What's on the top?

6 Q Well, it's cut off, but it says Short Form Power of
7 Attorney, Hawaii Revised Statute 551D. But you recognize that
8 this is one of the forms that you all forged?

9 A Yeah, I don't fill out this one.

10 Q You don't remember?

11 A I remember the form, but I don't fill up all this
12 one. Maybe the customer fill out this one.

13 Q This is one of your clients, Felicitas Pasion. This
14 is one of the clients that made --

15 THE COURT: So are you asking him?

16 THE DEFENDANT: Right.

17 Q (BY THE DEFENDANT:) Is this one of your clients
18 that made a complaint against you?

19 A Yes.

20 Q Okay. Now, do you see where it says Mortgage
21 Enterprise and then underneath that it says attorneys in fact?

22 A Yeah.

23 Q Okay. Why didn't you put your name, Edna name, or
24 Anabel name as the attorney in fact? Why did you just put
25 Mortgage Enterprise?

1 A I don't know 'cause I don't recollect before that
2 time. Give me all the form.

3 Q No, this is -- this is the form that you said Edna
4 forged of my form. So this is you all's form. This is not
5 mine.

6 THE COURT: So ask him if he knows that if it's his
7 form.

8 Q (BY THE DEFENDANT:) So you know this is the form
9 that Edna edited and put Mortgage Enterprise on that, correct?

10 A I guess so, yeah.

11 Q And you recognize this form right here?

12 A Yeah, 'cause that's your office in Democrat.

13 Q So whose idea was it to use my office address with
14 your business name? Was it that your idea or was it Edna's
15 idea?

16 A Everybody's idea at the time.

17 Q So -- so all of you all conspired to say Hey, we're
18 going to use his address as our address?

19 A Yeah, because Anabel said, Oh, this is my office so
20 we can use the address. That's what he told me at the time.

21 Q Okay. Now, can you see where it says Recording Fee
22 Bureau of Conveyance Research UCC Filing? You see that?

23 A Yeah.

24 Q And it's -- whose idea was it to start collecting
25 cash only? Was that your idea or was it Edna's idea?

1 A That's Edna's idea, but everybody agree at the time.

2 Q So all you all agreed that you all rather have you
3 people paid \$1,500 cash without a receipt?

4 A Yeah, 'cause same like you before, that's what you
5 tell us.

6 Q That's not what I told you, Mr. Malinay.

7 THE COURT: All right. So it's not a conversation.
8 You need to ask a question.

9 Q (BY THE DEFENDANT:) Back to your deposition that
10 you swore under oath, Mr. Malinay. Now yesterday I asked you
11 do you remember going on the website after I fired you and Edna
12 and you said you didn't remember. Remember that yesterday?

13 A Yeah. If you can show me, maybe I remember. It's a
14 long time.

15 Q So right now you don't remember going to the USA
16 Common Law website and seeing the public notice page that I
17 created just for you, Edna, and Henry, and Rowena for you all
18 scamming people? Do you remember that website?

19 A Well, if you show me, maybe I remember.

20 Q I'm saying so you don't remember?

21 A No, 'cause if you show me something, like I said,
22 then maybe I remember.

23 Q I want you to take your attention to page 64 on
24 the --

25 THE COURT: You have to give him an exhibit number.

1 THE DEFENDANT: Exhibit 2159. Go back to page 64,
2 Exhibit 2159.

3 Q (BY THE DEFENDANT:) You see that?

4 A Where?

5 Q Page 64 where we're at?

6 A What number? Oh.

7 Q I'ma show you a website --

8 THE COURT: Okay. So wait, wait. So are you
9 refreshing his recollection with page 64, or did you want to
10 ask him a question about that?

11 THE DEFENDANT: Well, I was going to ask him a
12 question, then I wanted to show him the actual website 'cause I
13 he said he needed to refresh his memory.

14 THE COURT: Okay. So you --

15 THE DEFENDANT: Well, let me ask him the question
16 first.

17 THE COURT: Yeah.

18 Q (BY THE DEFENDANT:) Okay. After -- after I went to
19 jail, after I was incarcerated wrongfully, and you and Edna
20 where you already set up --

21 THE COURT: All right. So ask him the question.
22 You can't testify. So what period of time are you asking him
23 and what do you want to ask him?

24 Q (BY THE DEFENDANT:) The period of time between
25 September 2013 till September 2014 when I got my case

1 dismissed, what were you telling the people -- who were you
2 telling the people to contact when they had a complaint or if
3 they had a question about Mortgage Enterprise? Who were you
4 telling them they need to contact?

5 A Well, I tell them that Edna because you always tell
6 me that you and Edna is partner.

7 Q Okay. Now, can you -- see where on page 64 where
8 James Evers asked you, he said --

9 THE COURT: All right. So tell him the line number,
10 what line. There's a little number --

11 Q (BY THE DEFENDANT:) See on line number 5 --

12 THE COURT: Okay. So -- well, the question starts
13 at 4.

14 THE DEFENDANT: Well, 4.

15 THE COURT: Yeah, so did you -- were you asked these
16 questions and did you give this answer?

17 Q (BY THE DEFENDANT:) Right. So were you asked this
18 question --

19 THE COURT: Do you have that in front of you -- oh,
20 I'm sorry. You know what? He can't read English. So --

21 THE DEFENDANT: I'm going to have to read it.

22 THE COURT: Right. So he's going to read it to you
23 and he's asking you do you remember this.

24 THE WITNESS: Okay, Judge.

25 THE COURT: All right.

1 Q (BY THE DEFENDANT:) Okay. This is Mr. Evers. He
2 said, "So our consumers have said that it's the basis of this
3 document that they've tried to get ahold of you. Have you had
4 consumers try to call you for their money back?"

5 This was your answer: "Some."

6 "What do you tell them."

7 This is your answer: "I told them, you know, I'm
8 not the owner of the company. I only refer only. I don't
9 know. I can't answer. Talk to the company."

10 His next question, "And do they say -- and do they
11 say who should I call?"

12 Your answer is, "And I tell them to go to the
13 website because Anthony got a website. The Mortgage Enterprise
14 Investments Common Law, they have a website."

15 This is his question: "What website is it?"

16 Your answer: "Common Law Office of America. Yeah,
17 they have a website there."

18 His question: "Is there just one Common Law Office
19 of America? Is it just one business using that name or is
20 there more than one?"

21 Your answer: "I don't know idea, sir."

22 His question to you: "What about Mortgage
23 Enterprise? Is there just one or is there more than one."

24 Your answer: "I believe only one that I know,
25 yeah."

1 His question: "And the one that you know of is
2 being run or overseen by Common Law Office of America; is that
3 right?"

4 Your answer: "Yes, that one was right."

5 His question: "So when consumers want their money
6 back, you would tell them to go to the Common Law Office of
7 America website?"

8 Your answer: "Yeah. I point them to the website
9 because I think they have a telephone number there to call."

10 Now, my question to you, Mr. Malinay, you knew I was
11 incarcerated at this time, so when the people were calling you,
12 why would you tell them to call me when you knew that your
13 company had nothing to do with my company after you set it up?

14 A Yeah, because you always say that to us before that
15 you have a office in the mainland and people answer.

16 Q Yeah, that was my office but that was not your
17 office. Remember you just said you all formed Mortgage
18 Enterprise. This is your company, has nothing to do with
19 Mortgage Enterprise Investments. You all forged your own
20 documents --

21 THE COURT: Okay. So ask him a question.

22 Q (BY THE DEFENDANT:) So why would you point them --
23 after you opened up this Mortgage Enterprise company, you,
24 Henry, and Anabel, why would you tell people to call my company
25 when you knew that your company had nothing to do with mine?

1 A Because I thought at the time it was the same
2 company. That's what I understood.

3 Q You -- Mr. Malinay, you knew this was a separate
4 company. Now you've already admitted--

5 A Yeah.

6 Q -- you've already pled guilty that you lied to those
7 people, correct?

8 A Yes.

9 Q You admitted that you defrauded these people,
10 correct?

11 A Yes.

12 Q And you not only defrauded these people, you
13 defrauded me and my company, correct?

14 A Because some of the people at the time that I bring
15 to you is people calling me.

16 Q But you didn't -- these people -- these were not --
17 do you know these -- none of these people knew me? Did you
18 know that? Right?

19 A Yeah, because you always tell us that you don't
20 come, but you train us to go out at the time.

21 Q No, Mr. Malinay. You're not understanding. I was
22 incarcerated during all these complaints that were filed
23 against you. You do understand that, correct?

24 A Yeah. That's why I plead guilty.

25 Q Right. Because of your actions, correct?

1 A Yeah.

2 Q Right. So your actions had nothing to do with my
3 company. You and Anabel --

4 THE COURT: Is that your question that -- you can
5 only ask one question at a time.

6 Did any of your actions have anything to do with
7 Mr. Williams's company?

8 THE WITNESS: What's that, Judge?

9 THE COURT: So you pled guilty, yes?

10 THE WITNESS: Yes, Judge.

11 THE COURT: The reasons for you pleading guilty, did
12 that have anything to do with Mr. Williams's company?

13 THE WITNESS: Yeah. My -- our company, Judge,
14 because I know that I -- that's my -- that's our fault because,
15 you know, I open our company.

16 THE COURT: Okay. So when you say "our company,"
17 what are you referring to? What is "our company"? Who is "our
18 company"?

19 THE WITNESS: Edna and Anabel, Judge.

20 THE COURT: Okay. So ask another question.

21 Q (BY THE DEFENDANT:) So your company is not my
22 company?

23 A No. The one I guilty is my -- the Mortgage
24 Enterprise.

25 Q Right. So the company that you, Edna, and Anabel

1 set up, right?

2 A Correct, yeah.

3 Q Okay. So now I'm going to show you on the screen,
4 'cause you said you don't remember, the website that I put up
5 against you being a scam artist, right?

6 A Yeah.

7 Q Okay. Now take a look at the screen.

8 THE COURT: All right. So could you identify it for
9 the record? It's not in evidence yet so --

10 THE DEFENDANT: This is my Common Law Office of
11 America website. This is my public notice page that I created
12 after I found out what these scam artists was doing.

13 THE COURT: Okay. So remember this is not going to
14 be received into evidence 'cause he didn't create it.

15 THE DEFENDANT: Right.

16 THE COURT: You can ask him if he's familiar with it
17 or seen it before.

18 Q (BY THE DEFENDANT:) Okay. Now, do you remember
19 seeing this website, Mr. Malinay?

20 A No. I don't know how to open a computer.

21 Q So you --

22 A Maybe you did this one. I don't know. Yeah, I
23 don't know.

24 Q Okay. Let me find your statement right quick.

25 Okay. Exhibit 2162 and it's page -- how you gonna see what

1 page it's on? Page 21. Exhibit 2162, page 21.

2 I'll publish this for you. Can you see that,
3 Mr. Malinay?

4 A Yeah, I see my last name.

5 THE COURT: It's page 80. Now, remember he can't
6 read English.

7 Q (BY THE DEFENDANT:) Okay. Mr. Malinay, I'm going
8 to read the question that Mr. Evers asked you and I'm going to
9 read your response since you can't read it, okay?

10 A Uh-huh.

11 Q Mr. Evers, he asked, "Did you ask him why he did
12 this?"

13 Your answer: "I tried to call him, but -- you know,
14 on the telephone because I went to the website and get the
15 number, yeah. See it's bad what he put on me."

16 You see that, Mr. -- you see that, Mr. Malinay?

17 THE COURT: He can't read English.

18 THE WITNESS: I can't read it.

19 Q (BY THE DEFENDANT:) Okay. This is your answer:
20 "And then all my people that I know that they wen Google my
21 name and I explained to them that I don't know the guy put my
22 name on it on his own website."

23 MR. EVERS: "He is also accusing Edna Franco."

24 Your response: "I guess so."

25 MR. EVERS: "Have you talked to Edna Franco about

1 this scam alert?"

2 Your answer: "I think I spoke to him about this one
3 too, to Google Anthony's website. I don't know what he did?

4 MR. EVERS: "You talked to who?"

5 Your answer: "Edna. I mentioned to this one that,
6 'Oh, go look on Anthony's website. You have a picture on it
7 and I get my picture and disappointment. Can you eliminate
8 that because it's not good for me because I doing a network and
9 after that she wouldn't trust me, you know."

10 Now --

11 MR. SORENSON: Your Honor, at this point I
12 would -- is there a question? Maybe it'd be better if we parse
13 this out because he's representing that's what this document
14 says and perhaps if we had a question that was related to it?

15 THE COURT: All right. So were you asked these
16 questions and did you give those answers under oath?

17 Q (BY THE DEFENDANT:) Right. Now, Mr. Malinay, were
18 these the questions that Mr. Evers asked you under oath and
19 these are your answers, correct?

20 A I don't remember. It's been long time.

21 Q This is a sworn statement, Mr. Malinay. You swore
22 under oath to these words.

23 THE COURT: Right. So ask him a question. Does he
24 remember them? He says no. So what do you want to do now?

25 Q (BY THE DEFENDANT:) So are you saying these are not

1 your words, Mr. Malinay, under oath?

2 A No, 'cause I don't see this one. But I know that I
3 spoke to him, but I don't remember this one.

4 Q So are you disputing the validity of the court
5 reporter that reported that, took -- transcribed the
6 examination?

7 A No. I know -- I agree that I spoke to him, but I
8 don't remember this one. I don't see this paperwork.

9 Q Okay. Well, according to this document to your
10 sworn statement, you knew that I had a website, according to
11 this sworn statement that you took before, correct? From what
12 I just read?

13 A Well, you always tell me that you have a website.

14 Q Well, according to your sworn statement, you knew I
15 had a website and you knew that I put your picture on the scam
16 alert on my website, according to your testimony that you did
17 with Mr. Evers. That's what I just read to you.

18 Did you not understand what your words said --

19 THE COURT: So you got to ask him only one question
20 at a time.

21 Q (BY THE DEFENDANT:) Okay. Did you not understand
22 what I just read to you?

23 A I don't remember read. It's kind of long.

24 Q Well, I'm saying do you not remember
25 him -- you -- him questioning you about me putting your

1 picture, her picture, and Hap's picture on my website as scam
2 artists? Do you not remember having that conversation under
3 oath with him?

4 A I don't remember, yeah. I kind of long time, ma'am.

5 Q Okay. That was 2015. But this has been
6 memorialized in a transcript, a sworn statement that you made
7 to Mr. Evers. So you are agreeing that you did talk to him,
8 right?

9 A Yeah, I talk to him, yeah.

10 Q So you're not disputing the truth of this
11 examination of your words under oath, correct?

12 A Because I don't see the paperwork, but I know I
13 spoke to him.

14 Q Right. So what I'm asking you is you're not
15 disputing that you talked to him and these are -- these are the
16 answers that you gave him? You're not disputing that, are you?

17 A Uhm, I don't know 'cause I forget what I tell to him
18 before. It's kind of long time.

19 Q Well, that's why I just read you his words.
20 So -- and your answers. So did you hear the answer that I gave
21 that you said that you went to the website?

22 A So this is -- Judge, is this from State the
23 paperwork?

24 THE COURT: Yes. So this is -- you were examined on
25 March 2, 2015, at the State of Hawaii Office of Consumer

1 Protection, and it's in the United States bankruptcy case
2 15-00044.

3 THE WITNESS: If this is from the State of Hawaii,
4 then maybe I said that, tell him that, yeah, because I have to
5 tell the truth at the time, all the time.

6 Q (BY THE DEFENDANT:) Right. So you was under oath
7 to tell the truth. So the truth of the matter is that you did
8 go on the website, correct? But based on your statement --

9 A Yeah. Edna -- if I went, maybe Edna show me in the
10 website.

11 Q Right. Now, do you remember telling Edna that you
12 need to get me to take your name and your face off of the
13 website because it was damaging you? You remember that?

14 A Yeah, that's -- I do network marketing and my name
15 in Hawaii, 'cause I live 30 years in Hawaii, and I don't have
16 this kind of problem before.

17 Q So me putting your picture on my website as a scam
18 artist, it was damaging your reputation, correct?

19 A Yeah, 'cause you tried to take me down at the time.

20 Q Right, 'cause you was scamming people, right? You
21 admit you were scamming people?

22 THE COURT: So what question do you want to ask?

23 Q (BY THE DEFENDANT:) You admit that you were
24 scamming people, correct?

25 A Correct. I --

1 Q Okay. Right. So that's why I put you on the
2 website with Edna and Hap, correct?

3 THE COURT: He doesn't know why you did it, okay?
4 So he can't testify about your intention. So you need to ask
5 him a question that is within his personal knowledge.

6 Q (BY THE DEFENDANT:) Well --

7 THE COURT: All right. Do you know why
8 your -- Mr. Williams put that information on the website? Do
9 you know why he did that?

10 THE WITNESS: I think if I'm not mistaken, Judge, is
11 Edna told me that he tried to -- to put on the website so he
12 can, you know, get away that he's doing it. That's what Edna
13 told me at the time.

14 THE COURT: That's why he thinks you did it.

15 THE WITNESS: He tried to put me on this program,
16 but I don't know anything, Judge.

17 THE COURT: All right. So ask him another question.

18 Q (BY THE DEFENDANT:) Okay. So do you remember I
19 made a FBI complaint against you and Edna and sent you all a
20 copy?

21 A I don't -- if you show me the paperwork, then I
22 remember.

23 Q Do you remember the DCCA complaint I filed against
24 you?

25 A If you show me the paperwork, then I remember.

1 Q Do you remember DCCA contacting you?

2 A Yeah, I know somebody contacting me, but --

3 Q Right. So when DCCA contacted you, what did they

4 tell you why they was contacting you for?

5 A We had to go and testify, tell -- ask me what this

6 scam thing.

7 Q Right. So they had -- they interviewed you about

8 you scamming people, correct?

9 A Yes.

10 Q And then all the people that complained against you?

11 A Yeah, at the time, yes, so --

12 Q How much -- how much money would you say just

13 approximately -- how much money you scammed people out of, just

14 an approximate number?

15 A I forget already 'cause I think 74,000, I believe,

16 and the DCCA that you give me 74,000. That's what I know.

17 Q Just 74,000?

18 A That's what I know.

19 Q So what about the other, like, \$500,000?

20 A When was that?

21 Q The money that you all collected from people you all

22 scammed.

23 A No. If you show me the paperwork, then --

24 Q What was your bank account?

25 A What's that?

1 Q It was the bank account -- remember the bank
2 account? Remember you opened up Chase Bank, right?

3 A Yeah.

4 Q Okay. And then you also opened up Wells Fargo
5 account, right?

6 A Yes.

7 Q And you also opened up a Union account, right?

8 A Yes.

9 Q Now, would you like to see some of the checks?

10 A Yeah, the kind of amount. I don't know that kind of
11 amount.

12 THE DEFENDANT: Exhibit 2160 start at page --
13 page 24. I'd like to publish.

14 THE COURT: All right. So this is pages 24
15 through -- do you want all of them in evidence?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Okay. So 24 through 42. All right. So
18 those are received based on the prior ruling.

19 Q (BY THE DEFENDANT:) I'm only going to show you just
20 two. I'd like to publish this one.

21 THE COURT: All right. You may.

22 Q (BY THE DEFENDANT:) Do you recognize this victim,
23 Mr. Malinay, Primal Gijal?

24 A Yeah.

25 Q And is this your signature on the endorsement?

1 A Yes, uh-huh.

2 Q Okay. You recognize this one also, this check that
3 was made out to cash?

4 A Yes.

5 Q And do you recognize that this check is made
6 out -- this check is made out to Mortgage Enterprise and not
7 Mortgage Enterprise Investments?

8 A Correct, yeah.

9 Q And do you see the date on there?

10 A Yeah.

11 Q August 25th, 2013?

12 A Uh-huh.

13 Q So that was before I was incarcerated. So you did
14 this before I was incarcerated, right?

15 A I don't remember that you went to the jail, but
16 always Edna told me that, you know.

17 Q So, Mr. Malinay, how many days in prison have you
18 done so far for scamming all these victims?

19 A I never have a problem since then.

20 Q I'm saying but you've already pled guilty, correct?

21 A Yeah, I plead guilty.

22 Q Okay. So I've been unlawfully incarcerated for four
23 years for something I didn't do.

24 MR. SORENSON: Objection to the form of the
25 question, Your Honor.

1 THE COURT: You can't testify. So you can ask him
2 about himself. What would you like to ask him?

3 Q (BY THE DEFENDANT:) So when you took the plea deal,
4 what was the terms of the plea deal? That you wouldn't do no
5 jail time?

6 A I don't know 'cause I have to go back in May -- May
7 I think, Judge?

8 Q So you have to go back into May for what?

9 A I think May 20th, I believe.

10 THE COURT: So he's asking you what's going to
11 happen when you come back to court on May 20th.

12 THE WITNESS: Oh, that I don't know 'cause I just
13 plead guilty because I did wrong and responsible for what I
14 did.

15 Q (BY THE DEFENDANT:) So when did you plead guilty?

16 A My court before, the last week?

17 Q Last week was the first time you pled guilty?

18 A Yeah. I don't know the day now.

19 Q Do you remember FBI Agent Megan Crawley?

20 A Yeah, her (pointing).

21 Q That's her, right?

22 A Yeah.

23 Q Did you meet her before this year?

24 A This year?

25 Q Have you met her before this year, before 2020?

1 A Yeah.

2 Q When did you meet her?

3 A Uhm, in this building.

4 Q What year?

5 A What's that?

6 Q What year did you meet her?

7 A Which year? Only last week, I believe, yeah.

8 Q So this is the first time that you met her was last

9 week?

10 A Yeah.

11 Q Okay. So I want you to look at --

12 A Yeah.

13 Q This is the report. I want you to see the date of

14 this report. Can you see that date?

15 MR. SORENSON: Your Honor, this witness does not

16 know what this document is. Perhaps a foundation could be laid

17 on that first?

18 THE COURT: Well, I -- you know, he's -- you're

19 trying to refresh his recollection --

20 THE DEFENDANT: Right.

21 THE COURT: -- on this. So he can show him anything

22 to refresh his recollection. We're not -- I don't think he's

23 asking it to be received in evidence.

24 THE DEFENDANT: No.

25 MR. SORENSON: No. And there is a motion in limine

1 with respect to these types of documents, Your Honor.

2 THE COURT: Okay.

3 MR. SORENSON: Yeah.

4 THE COURT: So if you look at that date on the
5 document -- and I know you don't read English so the rest of
6 it's not going to mean anything to you -- does that help
7 refresh your recollection as to when you first met Agent
8 Crawley?

9 THE WITNESS: This year, Judge? This year or
10 before?

11 THE COURT: No, the date on the upper right-hand
12 corner. Do you see the numbers?

13 THE WITNESS: Yeah, 'cause I hired this attorney
14 Ching, yeah, and I remember this one now, yeah. That's the one
15 that I meet her in the office.

16 THE COURT: Okay. So on that date do you think you
17 met Agent Crawley on January 20, 2017?

18 THE WITNESS: Yes, Judge. I remember now.

19 THE COURT: Okay. That refreshes his recollection,
20 January 2017.

21 Q (BY THE DEFENDANT:) Okay. Now, when you met her in
22 January 2017, what was the content of your meeting?

23 A You asking me before 'cause I don't know this one.
24 You asking me before that I involve you and me and Edna.

25 Q So when you met Agent Crawley, did she say

1 that -- did they proffer your agreement to where you would
2 testify against me at my trial?

3 A Testify against you?

4 Q Yeah, that you would have to testify against me?

5 A I remember is just tell the truth. That's what they
6 told me, so I just tell the truth. I forget what I said to her
7 before already, so long.

8 Q So but you do remember meeting her before last week,
9 like you said?

10 A Yeah.

11 Q Okay. So did you sign an agreement at that meeting
12 in 2017?

13 A 2017? I don't remember.

14 Q So but you remember meeting her?

15 A Yes.

16 Q But you don't remember signing an agreement?

17 A Yeah, I forgot already. Maybe I sign. I don't
18 know.

19 Q If I read to you what she wrote about your
20 agreement, would that refresh your memory?

21 THE COURT: Well, so this document can be used to
22 refresh his recollection, but you can't refer to it and, like,
23 read the document into the record.

24 So you can ask -- he's testified that he can't remember if
25 he came into an agreement with Agent Crawley, so --

1 Q (BY THE DEFENDANT:) Okay. You said that your
2 attorney -- you was with your attorney Ching?

3 A Yeah, that's my attorney at the time 'cause I --

4 Q Okay. Now, do you remember discussing with your
5 attorney Ching the agreement that you signed that day per her
6 report?

7 A I think so, yeah. I don't recall what I signed.

8 Q You don't know what you signed, though?

9 A Maybe that's the one, yeah.

10 Q So you signed something, but you don't
11 remember -- you don't remember what it was?

12 A Yeah, 'cause I don't know how to read.

13 Q So did your attorney tell you -- did he read to you
14 what you were signing?

15 A Yeah. This is that -- he told me at the time that
16 you had to tell the truth. Whatever investigation said, you
17 have to tell the truth. So that's why I, you know.

18 Q So you signed something at this meeting with Agent
19 Crawley, right?

20 A Yeah.

21 Q And that was an agreement?

22 A What --

23 Q It was like a plea agreement, correct?

24 A When?

25 Q When you met her in 2017, the first time you said

1 you met her.

2 A Yeah, I don't plead guilty at the time yet.

3 Q Well, you hadn't pled guilty?

4 A No, not that time, yeah.

5 Q So what did you sign the agreement for? 'Cause this
6 was a plea agreement. So what was the agreement for?

7 MR. SORENSON: Objection to the mischaracterization
8 of what this document is and a reference to a plea agreement.
9 I don't know where that comes from.

10 THE COURT: Yeah. Sustained.

11 THE DEFENDANT: He just said he signed the
12 agreement. I'm asking him what was the agreement.

13 THE COURT: No. You called it a plea agreement and
14 that mischaracterizes his testimony.

15 Q (BY THE DEFENDANT:) Okay. So what was the
16 agreement that you signed? Do you remember the title of the
17 agreement that you signed?

18 A Well, just tell me that at the time that signature
19 here and then you just tell the truth. That's what he told me
20 at the time.

21 Q Okay. So your attorney didn't explain to you any
22 details or any stipulations in this agreement that you would
23 have to cooperate with the government; whatever they need to
24 you say, you had to say? He didn't explain to you --

25 THE COURT: Okay. So you -- I'm not going to have

1 you inquire what his attorney discussed because that's called
2 the attorney-client privilege.

3 But you can ask him if he has an understanding, if he has
4 that kind of agreement with the government.

5 But any conversations or discussions or advice between the
6 attorney and the client, I can't -- I can't allow you to ask
7 questions.

8 THE DEFENDANT: Okay.

9 Q (BY THE DEFENDANT:) So in your dealings with Edna
10 Franco, was it your normal practice to send her money?

11 A What's that?

12 Q Was it your normal practice to send her money?

13 A Yeah, because what I understood the time is at the
14 beginning both of you own the company because as you tell me
15 all the time.

16 Q No. This is -- this is your company with Edna.
17 This has nothing to do with me. Everything I'm asking --

18 THE COURT: Okay. So wait. So ask him a question.

19 So you're asking questions about Mortgage Enterprise.

20 Q (BY THE DEFENDANT:) Right, your company. So when I
21 was incarcerated -- even really before I was incarcerated, once
22 you all formed this company, was it your.

23 Normal practice to send money to Edna?

24 A Yeah, because every time I collect money before, I
25 have to give to her.

1 Q Okay. And what did you have to give her that money
2 for?

3 A For the people that I sell the system.

4 Q And how would you give her money?

5 A Sometime cash, sometime check.

6 Q Did you ever send a MoneyGram or Western Union?

7 A I think sometime I believe before.

8 Q Okay. And so if you thought you was helping these
9 people, what did you do? What did Edna do to try to help these
10 people? What did you do?

11 A Yeah, because I always tell her that we're
12 going -- 'cause I don't know how to do all the paperwork, and
13 same thing like you said before, they just collect people's
14 paperwork and then process. That's what you tell me and same
15 thing with Edna.

16 Q So what were you processing though? You just got
17 applications filled out. What were you processing?

18 A What we do the time is collect from the bank, like
19 you did before, and I give to Edna and answer her the
20 paperwork.

21 Q So did you see Edna answer any of the bank's motions
22 from the attorneys? Did you see her answer all these
23 clients' --

24 A Yeah, same thing like you.

25 Q So if she answered all these clients, if she did

1 answer, why did all these clients make a complaint against you
2 and her?

3 A I don't know. Maybe like me, I lose my house, you
4 know.

5 Q I'm saying if you helped them, they wouldn't have
6 lost their house. So what did you do to help them stay in
7 their house? What did you file and what did Edna file?

8 A Every time that the bank send them a letter, the
9 owner, then I pick up and then Edna answer again and something
10 like you did before, your company.

11 Q No. So why did the clients, your clients, why did
12 they contact OCP and say they never heard from you again?
13 That's what their complaint --

14 THE COURT: Well, ask him if he knows that was the
15 complaint.

16 Q (BY THE DEFENDANT:) Right. So why did they
17 complain that they never heard from you again?

18 A Yeah, because I'm so scared all the time because I
19 don't want to talk to anybody at the time already, I so scared.

20 Q Because you knew what you were doing was wrong?

21 A Right.

22 THE DEFENDANT: I got no more questions for
23 Mr. Malinay.

24 THE COURT: All right. Thank you I think this is a
25 good time for us to take a recess.

1 So, ladies and gentlemen of the jury, if you would please
2 put down your iPads and your notebooks. And of course don't
3 discuss the case with anyone or allow anyone to discuss it with
4 you.

5 We're in recess for a 15-minute recess.

6 Please rise for the jury.

7 (A recess was taken.)

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

9 THE COURT: All right. So the witness is on the
10 stand. Mr. Sorenson and counsel are -- and Mr. Williams are
11 present.

12 I'm going to have Ms. Elkington go get the jury. All
13 right. Very good. We're in recess.

14 (A recess was taken.)

15 (Open court in the presence of the jury.)

16 THE COURT: And let the record reflect the presence
17 of the ladies and gentlemen of the jury, Mr. Malinay on the
18 witness stand.

19 You've witness, Mr. Sorenson.

20 MR. SORENSON: Thank you, Your Honor.

21 REDIRECT EXAMINATION

22 BY MR. SORENSON:

23 Q Mr. Malinay, you testified you worked for Anthony
24 Williams; is that correct?

25 A Yes, Attorney.

1 Q And did Mr. Williams hire you himself?

2 A Yes, Attorney.

3 Q Why did he hire you?

4 A Because he asked me what I do before and I tell him

5 that I do network marketing. And so he said, "I need you

6 because you got a lot of contact with the Filipino community."

7 That's what he told me.

8 Q And because of your network marketing, did you have

9 contacts within the Ilocano Filipino community?

10 A Yes, Attorney.

11 Q And was this a community of people that Mr. Williams

12 was interested in marketing his product to?

13 A Yes, Attorney.

14 Q And were you sort of the gateway to that community

15 for him?

16 A What's that, Attorney?

17 Q Were you sort of the gateway to that community for

18 him?

19 A He always tell me, "I need you." That's what he

20 told me, Attorney.

21 Q Did Mr. Williams train you to do what you did?

22 A Yes, they train us in Anabel's office all the time,

23 Attorney.

24 Q And did he tell what you to tell people?

25 A What's that, Attorney?

1 Q Did he tell you what to tell people about the
2 product that you were selling to them?

3 A Yeah, yeah. He said, This is what you say, not to
4 say. That's what he said. So I -- he said, Oh, you cut the
5 mortgage half and the monthly. That's what he train us,
6 Attorney.

7 Q And did you talk then to these people for
8 Mr. Williams?

9 A Yes, I do the same thing, but it's us.

10 Q And specifically what did you tell them?

11 A 'Cause I said, Well, if you get a mortgage, hard
12 time to pay the monthly, they have a program that Anthony
13 Williams and Edna help us 'cause I join too, yeah.

14 Q And you told them the deal was what? The half and
15 half kind of thing?

16 A Yes, because of the program, Attorney.

17 Q And, Mr. Malinay, you don't deny scamming these
18 homeowners, do you?

19 A No, Attorney.

20 Q Did you scam people on behalf of Anthony Williams?

21 A Yes, Attorney.

22 THE DEFENDANT: Objection. That's leading and that
23 did not happen.

24 THE COURT: Sustained. The last answer will be
25 stricken and the jury will disregard the response.

1 Q (BY MR. SORENSON:) When you scammed people, did you
2 scam people for anybody in particular?

3 A Only that one, Attorney, on the mortgage.

4 Q Uh-huh. And were you working for anybody when you
5 were scamming people?

6 A No, Attorney, just only this -- I involve this kind
7 of mortgage.

8 Q Okay. When you were working for Mr. Williams, were
9 you scamming people?

10 THE DEFENDANT: Objection. That's leading.

11 THE WITNESS: Yes, Attorney.

12 THE COURT: Sustained. The last answer will be
13 stricken.

14 Q (BY MR. SORENSON:) During the period you were
15 working with Mr. Williams, did you sell his product to people?

16 A Yeah, because that's why he gets us to sell the
17 product, Attorney.

18 Q And based on your work with Mr. Williams, were you
19 charged with crimes?

20 A Well, yeah. Right now that's why I know now, yes.

21 Q Okay.

22 A I know this is scam system.

23 Q Were you charged with the crime of conspiracy to
24 commit wire fraud with Mr. Williams?

25 A Yes, Attorney.

1 Q Okay. And did you plead guilty to that?

2 A Yeah, I plead guilty at that one.

3 Q Have you been sentenced yet?

4 A Not yet, Judge -- Attorney.

5 Q Okay. And do you have a plea agreement with the

6 United States?

7 A What's that?

8 Q Do you have a plea agreement? Did you enter into a

9 plea agreement?

10 A Yes.

11 Q Okay. And in that plea agreement, did you agree to

12 plead guilty?

13 A Yes, because I did it and I apologize about that.

14 Q That's okay. Did the United States make any

15 promises to you with respect to what your sentence would be?

16 A No, not yet, Attorney.

17 Q And what was your understanding of the plea

18 agreement your obligations were to do?

19 A I don't know how much the sentence, Attorney.

20 Q What's that?

21 A I don't know what the sentence, what I have.

22 Q Okay.

23 A I don't know.

24 Q Did you agree to testify if you were called to

25 testify in this case?

1 A Yes, Attorney.

2 Q Okay. And did you agree to testify?

3 A Yes.

4 Q And were you told what to say when you testified?

5 A Yes, I tell the truth attorney.

6 Q I'm sorry?

7 A Yes, I tell the truth from what I learned.

8 Q Can you say that again?

9 A I just tell the truth if I testify again.

10 Q Okay. Did you say you would testify to the truth?

11 A Yes.

12 Q And is that what you've done here?

13 A Yes, Attorney.

14 Q Now, with your arrangement with Mr. Williams, I

15 think he touched on the fact that you had signed up with him

16 also; is that correct?

17 A What's that, Attorney?

18 Q You had signed up for his services as well; is that

19 correct?

20 A Yes, Attorney.

21 Q And did you have to pay him?

22 A Yeah, \$3,000.

23 Q Okay. Did you pay him for the services that he

24 performed for you?

25 THE DEFENDANT: Objection. That's leading.

1 THE WITNESS: Yeah, because --

2 THE COURT: I'm sorry. Let me answer this.

3 Overruled 'cause it's foundational.

4 So what did you pay Mr. Williams for? What was the \$3,000
5 for?

6 THE WITNESS: Because to process the paperwork
7 to -- so they can start my paperwork.

8 Q (BY MR. SORENSON:) Did you have to pay him every
9 month?

10 A No, I don't pay him every month. But he said that
11 since you know people, if you invite people, then don't charge
12 you. That's what he told me, Attorney.

13 Q So you didn't have to pay him because your job was
14 to bring people in?

15 A Yes, like a swap kind of thing.

16 MR. SORENSON: Your Honor, that's all the questions
17 I have. Thank you.

18 THE COURT: There's no further questions,
19 Mr. Williams?

20 MR. SORENSON: Your Honor, this witness --

21 THE COURT: It was not on his list?

22 MR. SORENSON: No.

23 THE COURT: Sorry, I thought he was. Thank you.

24 So, Mr. Malinay, then, you're excused as a witness, all
25 right? So you can go. But don't talk to anybody about your

1 testimony until the trial is done.

2 THE WITNESS: Yes.

3 THE COURT: All right. Good day, sir.

4 THE WITNESS: Okay. Thank you, Judge.

5 THE COURT: Do you have another witness?

6 MR. YATES: Yes, the government will be calling
7 Ms. Pat Mau-Shimizu to the stand.

8 THE COURT: Okay.

9 **PATRICIA A. MAU-SHIMIZU, GOVERNMENT'S WITNESS, WAS SWORN**

10 THE COURTROOM MANAGER: Thank you. If you could
11 state your full name, spell your first and last name for the
12 record.

13 THE WITNESS: My name is Patricia A. Mau, M-a-u
14 hyphen Shimizu, S-h-i-m-i-z-u.

15 Judge, excuse me. I'm coming down with a cold.

16 THE COURT: All right. There's water there if you
17 need. Please help yourself.

18 Mr. Yates, your witness.

19 MR. YATES: Yes, Your Honor.

20 DIRECT EXAMINATION

21 BY MR. YATES:

22 Q Ms. Mau-Shimizu, can you please tell the jury who
23 your employer is?

24 A I'm employed by the Hawaii State Bar Association.

25 Q And what is your title at the Hawaii State Bar

1 Association?

2 A Executive director.

3 Q And what are your responsibilities as executive
4 director?

5 A My daily responsibilities is to meet the goals and
6 objective of the bar association, that is, to improve and
7 regulate the practice of law, and that entails -- the major
8 responsibility is the licensing and registration of all
9 attorneys licensed to practice law in the state of Hawaii.

10 Q Okay. Now, let me ask you a question. Can you
11 please briefly explain to the jury what the Hawaii State Bar
12 Association is?

13 A The Hawaii State Bar Association is a nonprofit
14 organization. It's a trade organization established for
15 attorneys. It's beginnings is I believe it was 1899 when the
16 Hawaii State Bar Association was formed, and in 1989 it was
17 formally incorporated and the Hawaii Supreme Court mandated
18 that all attorneys who wanted to practice law in state courts
19 in the state of Hawaii would have to become members of the
20 Hawaii State Bar Association.

21 Q And can you please briefly explain to the jury what
22 functions the Hawaii State Bar Association has?

23 A The primary function is the licensing and
24 registration of attorneys licensed to practice in state courts
25 in the state of Hawaii.

1 And the second major responsibility is the education
2 of attorneys through a continuing legal education.

3 And then the third is we do encourage *pro bono*, that
4 means the attorneys to provide community service at no charge
5 or at reduced fees for the community at large. So those are
6 the three main responsibilities.

7 Q Okay. And how does one become licensed to practice
8 law in the state of Hawaii?

9 A Well, first I have to back up. You have to apply to
10 take the Hawaii State Bar examination. So you have to submit
11 an application to the Hawaii Supreme Court and that entails,
12 you know, all your personal data, whether you've been licensed
13 in another jurisdiction, and there's a character and fitness
14 question and background check.

15 And then once you are qualified to take the bar
16 exam, then you can sit for the bar exam either in June or
17 November. And then once you pass the bar exam, then the
18 Supreme Court notifies you that you are eligible to be sworn in
19 so that you can practice law in the state of Hawaii.

20 Q Can you generally explain what it is to practice
21 law, what it means to practice law?

22 A Well, it's to be able to use your knowledge that
23 you've gained through law school and through experiences,
24 because most of us work through law school. It's to hone in
25 your craft and to represent people, whether it's in the

1 courtroom in a traditional setting like this, or whether it's
2 in transactional, whether you're drafting contracts or
3 agreements, or for like for me before I became the Hawaii
4 State -- before I came to the HSBA, I served for 30 years at
5 the Hawaii state capitol first as a legislative attorney and
6 then the Clerk of the House. So it's a -- practicing law is
7 applying the law that which you have and researching the law,
8 and then assisting people who come and need your services,
9 whether it's for free or for a fee.

10 Q How does the HSBA attract licensed members and
11 licensed attorneys in Hawaii?

12 A We have the only database in the state. The Hawaii
13 Supreme Court when they formed -- formally
14 incorporated -- well, mandated the membership in the Hawaii
15 State Bar Association in 1989, there was a database that was
16 transferred to the Hawaii State Bar Association -- well, I
17 shouldn't say database in the traditional because its
18 traditional setting was on paper and pencil, then we
19 computerized it.

20 So the Hawaii State Bar Association, we track all of
21 the attorneys who have been authorized by the Supreme Court
22 through their bar numbers. We started number 100 and we're up
23 to about I think over 11,000 numbers have been issued by the
24 Hawaii State Supreme Court.

25 Q Okay. Do you have records -- excuse me. Do you

1 have access to the Hawaii State Bar Association records as the
2 executive director?

3 A Yes, I do.

4 Q Okay. And you're a custodian of records for the
5 Hawaii State Bar Association, correct?

6 A Yes.

7 Q Have you had the opportunity to access and review
8 the records of the Hawaii State Bar Association for Anthony
9 Williams?

10 A Yes.

11 Q Okay. And can you please tell the jury what your
12 findings were?

13 A There was no one listed by the name of Anthony
14 Williams in our database as being admitted to the practice of
15 law by the Hawaii State Supreme Court.

16 Q Okay. Ever, correct?

17 A Yes.

18 Q So at no time has Mr. Anthony Williams ever been
19 licensed to practice law in Hawaii; is that correct?

20 A Not according to our official records.

21 Q Okay. And to be very clear, does one need to be a
22 licensed attorney to practice law in court?

23 A Yes.

24 MR. YATES: Okay. No further questions on direct,
25 Your Honor.

1 THE COURT: Okay. Do you have any questions for
2 this witness, Mr. Williams?

3 THE DEFENDANT: Yes, I do.

4 THE COURT: All right.

5 CROSS-EXAMINATION

6 BY THE DEFENDANT:

7 Q Ms. Mau-Shimizu, is the Hawaii State Bar Association
8 a Hawaii state governmental agency?

9 A No. We were established by the Hawaii State Supreme
10 Court, but I am not officially -- we are not officially a state
11 agency. We are a 501(c)(6) according to the IRS.

12 Q So that means this -- the Hawaii State Bar is a
13 private corporation, correct?

14 A It's a corporation. It's a nonprofit corporation.

15 Q But it's a private corporation, correct?

16 A It is not a government entity.

17 Q I'm saying it's a private corporation, correct?

18 A It's not a government entity.

19 Q Right. But I'm asking you --

20 THE COURT: All right. So --

21 MR. YATES: Objection --

22 THE COURT: -- asked and answered. Ask the next
23 question.

24 THE DEFENDANT: It's a yes or no.

25 THE COURT: She answered the question. You can ask

1 another question.

2 Q (BY THE DEFENDANT:) Is there a constitutional
3 article or amendment that created the Hawaii State Bar?

4 A The Hawaii State Bar Association was created by the
5 Hawaii State Supreme Court by its rules.

6 Q This is a yes or no question. Is there a article or
7 amendment in the Constitution that created the Hawaii State
8 Bar?

9 A It was created by rule by the Hawaii State Supreme
10 Court through their rules.

11 Q Maybe you're misunderstanding my question. This is
12 a yes or no question, Ms. Mau-Shimizu. Is there an article or
13 an amendment in the U.S. Constitution that has a provision that
14 created the Hawaii State Bar? Yes or no?

15 MR. YATES: Objection. Asked and answered.

16 THE COURT: Overruled.

17 THE WITNESS: There is a provision in the Hawaii
18 State Constitution which authorizes the judiciary as the third
19 branch of government and part of that is the regulation of the
20 practice of law in the state of Hawaii. That's the Hawaii
21 State Constitution. And no, there is no provision in the U.S.
22 Constitution creating the Hawaii State Bar Association.

23 Q (BY THE DEFENDANT:) Now, does the Hawaii State
24 Constitution override the U.S. Constitution? Yes or no?

25 A I think it's -- it works in conjunction with the

1 Federal Constitution.

2 Q Do you know what Article VI in the U.S. Constitution
3 states?

4 MR. YATES: Objection. Calling for a legal --

5 THE DEFENDANT: She's a attorney.

6 THE COURT: Wait. Let him put his objection on the
7 record and then I'll rule on it. So your objection?

8 MR. YATES: Asking for a legal opinion and we have
9 not qualified Ms. Mau-Shimizu as a legal expert.

10 THE COURT: Right. But she's testified that she has
11 been in the practice of law and she regulates lawyers.

12 MR. YATES: Yes, correct.

13 THE COURT: All right. So overruled.

14 All right. So do you want the question repeated?

15 THE WITNESS: Yes, please.

16 THE COURT: All right. So let me just read the
17 question from the record: "Do you know what Article VI in the
18 U.S. Constitution states?"

19 THE WITNESS: I'm not familiar verbatim.

20 Q (BY THE DEFENDANT:) Okay. So did you study
21 constitutional law in law school?

22 A Over 40 years ago, yes.

23 Q And so if you studied over 40 years, don't you all
24 still have to have continuing education to be abreast on the
25 laws of the United States, especially the Constitution?

1 A The continuing legal education requirements here in
2 the state of Hawaii, as well as the other 49 states, you don't
3 have to necessarily take constitutional law if that's not your
4 area of practice. Usually attorneys take continuing legal
5 education in their area of practice or if they're transitioning
6 to a new practice. But then of course at the Hawai State Bar
7 Association we offer every year a program by the UH law school
8 dean that gives a overview of the issues coming -- arising from
9 the federal courts. But there's no requirement to take
10 constitutional law as a continuing legal education subject.

11 Q Do you have an oath that you took to uphold the U.S.
12 Constitution?

13 A Yes.

14 Q Now, is it possible to uphold something you know
15 absolutely nothing about?

16 A I didn't say I didn't know absolutely nothing about
17 the U.S. Constitution.

18 Q Okay.

19 THE COURT: Okay. So just ask her about if you have
20 a question about Article VI.

21 THE DEFENDANT: Okay.

22 THE COURT: But she just said she can't repeat it
23 verbatim.

24 Q (BY THE DEFENDANT:) So if I was to quote you the
25 Article VI, would you remember that that's what it states?

1 THE COURT: Okay. So it's not a memory test. Do
2 you have a question about Article VI?

3 Q (BY THE DEFENDANT:) Well, do you know that
4 Article VI states that the U.S. Constitution is the supreme law
5 of the land?

6 A Yes, the U.S. Supreme -- U.S. Constitution is the
7 law of the land for the 50 states and territories.

8 Q Right. So therefore, if a state pass a law, whether
9 it's a state constitutional law or a state law, if it abrogates
10 the Constitution or contravenes the Constitution, is that law
11 valid?

12 A It could be challenged.

13 Q So --

14 A But there's sovereignty in all the 50 states, so it
15 could be challenged if a state promulgated a law, whether it's
16 criminal or civil, which is not -- which is not consistent with
17 the U.S. Supreme Court and the U.S. Constitution.

18 Q So all the laws would have to be in concordance or
19 in harmony with the U.S. Constitution to be valid, correct?

20 A You would hope so.

21 Q Well, isn't that how --

22 THE COURT: Okay. So what's your question on a
23 specific law? Honestly, I'm not going to let you have this big
24 discussion philosophically about the constitutional scope --

25 THE DEFENDANT: Okay.

1 THE COURT: -- of the U.S. Constitution versus
2 state.

3 Q (BY THE DEFENDANT:) Is there a provision in the
4 Constitution, any article or amendment that mentions the word
5 attorney at law anywhere?

6 THE COURT: Okay. Again, she's not being offered to
7 talk about the United States Constitution.

8 THE DEFENDANT: But --

9 THE COURT: Just ask her is that does the United
10 States Constitution permit practice of law by unlicensed people
11 that you don't have to -- that's your point, right?

12 THE DEFENDANT: Well, I have to make the
13 ground -- foundation first to ask that.

14 THE COURT: No, you could ask her because she's
15 already testified what the requirements to practice law in
16 Hawaii.

17 Q (BY THE DEFENDANT:) So according to the
18 Constitution, is there any article or amendment that says
19 someone that's not a member of the bar cannot assist others in
20 court?

21 A I don't believe so.

22 Q Are you familiar with the first Judiciary Act of
23 1789?

24 A No, I'm not.

25 Q Do you know what year the Sixth Amendment was added

1 to the Constitution?

2 THE COURT: Okay. Again, I'm not going to let you
3 ask her these questions because it has nothing to do with the
4 issue she's testifying about about what you need to practice
5 law in the state of Hawaii.

6 THE DEFENDANT: But --

7 THE COURT: So if you have a question that says
8 there's another law that permits an unlicensed person to
9 practice law in Hawaii, go ahead and ask her.

10 Q (BY THE DEFENDANT:) Well, does the Sixth Amendment
11 allow a accused who's been accused of a crime the assistance of
12 counsel?

13 THE COURT: All right. I'm not going to ask
14 you -- let you ask her questions on that 'cause that has
15 nothing to do with the issues in this case.

16 THE DEFENDANT: But that --

17 THE COURT: No, no. I've permitted you to represent
18 yourself in this case. That's not an issue before the jury.

19 What's before the jury are the allegations that the
20 government has to prove against you about Mortgage Enterprise,
21 et cetera. So you can ask her questions about representing
22 people in civil matters.

23 THE DEFENDANT: Well, this is what I'm trying to
24 establish because present in -- this is their witness that she
25 works for the Hawaii State Bar and see --

1 THE COURT: I'm not going to have this dialog with
2 you. I'm just telling you move on, and at the next recess you
3 can put it on the record. But I'm not going to have you
4 inquire about self-representation in criminal law cases. All
5 right. You can ask her about civil cases.

6 Q (BY THE DEFENDANT:) So in civil cases is -- can
7 someone who's not a member of the bar assist anyone in court?

8 A No. A person -- in civil cases a person who is a
9 party in the action may represent him or herself.

10 Q So you're not familiar with the term "next friend"?

11 A No.

12 Q You've never read Rule 17 of the Federal Rules of
13 Civil Procedure?

14 A I'm not familiar with Rule 17, but on rule -- I'm
15 familiar with Rule 17 of the Hawaii State Supreme Court rules
16 which establishes the Hawaii State Bar Association.

17 Q So is the Hawaii state rules different than the
18 federal civil rules?

19 A Yes.

20 Q How so?

21 A Numerous differences. I only practiced in state
22 court. I'm not familiar with federal court. Federal Rules of
23 Civil Procedure, I took that class over 40 years ago, but I
24 never really practiced in federal court. I practiced in state
25 court.

1 Q So then you don't know -- if you didn't practice in
2 federal court, so then you don't know if the rules are similar?

3 THE COURT: Well, okay. So I'm not going to -- so
4 you can ask her if the federal rules or the state rules of
5 civil procedure have anything to do with the licensed practice
6 of law. That's what she's being offered for, the licensed
7 practice of law in the state of Hawaii. So is there some rule
8 you want to point out to her that covers the licensed -- or who
9 can practice law?

10 THE DEFENDANT: Right. That's the U.S. --

11 Q (BY THE DEFENDANT:) Well, you testified earlier
12 that the laws have to be in concordance with the U.S.
13 Constitution, the U.S. Supreme Court, correct?

14 A Yes.

15 Q Okay. So if the U.S. Supreme Court rules on an
16 issue, is all the states bound by that ruling by the U.S.
17 Supreme Court?

18 A Should be.

19 Q Okay. So if the U.S. Supreme Court rules that
20 someone that's not a member of the bar can assist other people
21 in court, whether it's criminal or civil, then the states are
22 bound to obey that U.S. Supreme Court ruling, correct?

23 A If there's such a rule -- if there's such a rule.

24 Q Right. So if I showed you a rule, a plethora of
25 rules from the Supreme Court that states that laymen in and out

1 of prison can assist other people in court without being
2 charged with the unlicensed practice of law, then would you be
3 in accordance with the ruling of the Supreme Court?

4 A I would have to review your documents.

5 Q So if -- if we had a recess and you could look up
6 those --

7 MR. YATES: Objection, Your Honor.

8 THE COURT: Let him finish his question.

9 Q (BY THE DEFENDANT:) So if we had a recess and you
10 could look up those Supreme Courts -- 'cause I can give you the
11 actual case number -- and you read that, then would you agree
12 with the U.S. Supreme Court that one does not have to be a
13 member of the bar, that they can assist others in court without
14 being a member of the bar?

15 MR. YATES: Objection, Your Honor. This witness is
16 not being offered as an expert. She's merely being offered to
17 demonstrate that Mr. Williams is not a licensed member of the
18 Hawaii State Bar Association. This is an inappropriate line of
19 questioning for this witness. You know, had the -- had
20 Mr. Williams posed this line of question with a legal expert,
21 that might be a different matter. This is an inappropriate
22 line of questioning for this witness. Thank you.

23 THE COURT: All right. Sustained.

24 Okay. So next question. She's here to testify whether or
25 not you're licensed to practice law in the state of Hawaii and

1 what the requirements are to be licensed to practice law. If
2 you want to ask her questions --

3 THE DEFENDANT: Okay.

4 THE COURT: -- on that, go ahead.

5 Q (BY THE DEFENDANT:) Ms. Mau-Shimizu, did the Hawaii
6 State Bar write me a letter stating that what I was doing is
7 the unlicensed practice of law?

8 A I don't recall.

9 Q Did the Hawaii State Bar ever charge me for
10 representing people in court for the unlicensed practice of
11 law?

12 A Not to my knowledge since I been there because it
13 hadn't been reported to the Hawaii State Bar Association.

14 Q Well, you just said you looked up the -- my name in
15 your system, correct?

16 A Yes.

17 Q Okay. So if you looked up my name in the system,
18 why were you looking up my name?

19 A I was asked to verify whether you were an attorney
20 licensed to practice law in the state of Hawaii.

21 Q Okay. And so who told you to -- who asked you to
22 look that up?

23 A Someone from the U.S. Attorney's Office.

24 Q Do you have a name?

25 A I don't recall the initial person I spoke to.

1 Q Okay. What about second person you talked to?

2 A I spoke to Mr. Yates and I spoke to Megan and
3 Heather.

4 Q And so when you talked to them, did they say that I
5 was violating the unlicensed practice of law statutes?

6 A No. They just asked whether your name was in the
7 database as a attorney licensed to practice law in the state of
8 Hawaii.

9 Q Okay. Did they tell you that I was telling
10 customers that I was a member of the bar?

11 A I had inquired as to why the inquiry.

12 Q And what did they say?

13 A That you were representing yourself as an attorney
14 licensed to practice in the state of Hawaii.

15 Q So -- so they told you that I was actually
16 representing myself as a licensed attorney in Hawaii?

17 A I believe so.

18 Q So they didn't tell you that I was representing that
19 I was a private attorney general and not a licensed attorney
20 and not a member of the bar? That's not what they told you?

21 A No. They told me that you were not -- they asked me
22 if you were licensed to practice in the state of Hawaii.

23 Q Did you see any of the videos of me assisting people
24 in Hawaii state court here?

25 A I didn't research anything on you.

1 Q So you just basically just took their word?

2 A I answered their question.

3 Q I'm saying you said they told you what -- that I was
4 claiming to be an attorney licensed. So you just took their
5 word that that's what I was telling people?

6 A I had no reason to believe what they said was not
7 true. They didn't say they were telling people. They were
8 answering my question as to why they were inquiring about an
9 Anthony Williams.

10 Q So did they ask you to file civil charges against me
11 for unlicensed practice of law?

12 A No, because that's not within the jurisdiction of
13 the Hawaii State Bar Association.

14 Q So let me get this straight. So if the Hawaii State
15 Bar alleges someone is practicing law without a license, they
16 don't send a letter to that person?

17 THE COURT: Okay. So why don't you ask her if
18 that's what the Hawaii State Bar Association does.

19 Q (BY THE DEFENDANT:) Is that what the Hawaii State
20 Bar Association does?

21 A If someone is reporting to us that they are
22 practicing law, representing themselves as an attorney, and we
23 check the database and they're not licensed in the state of
24 Hawaii, I refer the name to the Office of Disciplinary Counsel,
25 and that's the Supreme Court entity created for the

1 disciplining of people and the investigation. The Hawaii State
2 Bar Association does not investigate allegations. We do not
3 prosecute.

4 Q So is the Hawaii State Bar Association, is it
5 operated differently than the other state bar association?

6 A No, it's very similar. And I might add to my prior
7 answer, I can also refer the matter to the Attorney General's
8 Office, Hawaii State Attorney General's Office, because they do
9 investigate unauthorized practice of law.

10 Q Okay. So I -- 2013 -- so I been in Hawaii since
11 2013. So did they tell you I've ever been charged or ever had
12 any complaints sent to the Attorney General where I was charged
13 with unlicensed practice of law?

14 A No.

15 Q So you said that most of the state bars are similar
16 in rules and practice and their code of conduct and ethics,
17 correct?

18 A Yes.

19 Q Okay. So if I was assisting clients in another
20 state and, say, a state bar wrote me a letter, would not the
21 Hawaii State Bar do the same thing?

22 MR. YATES: Objection. This is far out of scope --

23 THE DEFENDANT: It's not.

24 MR. YATES: -- of my direct as an initial matter,
25 and second this is irrelevant to the question.

1 THE COURT: Sustained. Sustained. She's only
2 talking about the Hawaii State Bar Association.

3 THE DEFENDANT: Right, but she said that they're
4 similar to --

5 THE COURT: No.

6 THE DEFENDANT: -- and the rules --

7 THE COURT: I understand.

8 THE DEFENDANT: What I'm trying to establish that --

9 THE COURT: I understand and I have sustained the
10 objection. Ask her another question about the Hawaii State Bar
11 Association.

12 Q (BY THE DEFENDANT:) So -- so before 1899 in the
13 state of Hawaii, one did not have to be a member of the bar
14 association, correct?

15 A No, it was a loose-knit organization in 1899.

16 Q So before 1899, who could assist people?

17 THE COURT: Okay. So why is that relevant? She's
18 talking about during the period of time that's alleged in the
19 indictment. As fascinating as it is, what happened in the 19th
20 century, it's not relevant to what's going on today.

21 So if you have any questions regarding the area that
22 Mr. Yates asked her questions on, go ahead and ask her other
23 questions.

24 Q (BY THE DEFENDANT:) So if someone was violating the
25 Hawaii State Bar so-called licensed rules, wouldn't that person

1 be sanctioned by the Hawaii State Bar?

2 A No. We would refer the matter to the Office of
3 Disciplinary Counsel or to the Hawaii Attorney General's Office
4 for investigation and possible prosecution. The Hawaii State
5 Bar Association does not investigate or prosecute. That's not
6 within our jurisdiction.

7 Q Okay. So since 2013, has the Hawaii State Bar
8 referred me and my actions of assisting people in court here in
9 Hawaii for investigation and criminal charges for unauthorized
10 practice of law?

11 A Not to my knowledge; however, during that time frame
12 I must disclose I was filling out an insurance form for my
13 volunteer attorneys and you had sued the Hawaii State Bar
14 Association, the governor, lieutenant governor, and all -- the
15 chief justice of the Hawaii Supreme Court and all the judges of
16 the state bench and the Hawaii State Bar Association. I came
17 across that case in which you filed against us, the Hawaii
18 State Bar Association.

19 Q Right. And so since you came across that, what did
20 I allege in that lawsuit?

21 A That you were allowed to practice law.

22 Q That I didn't have to be a member of the bar to
23 practice law, correct?

24 A Yes.

25 Q And since I filed that lawsuit, if what I was doing

1 was illegal, wouldn't the Hawaii State Bar would have answered
2 and say, "You are practicing law and we're charging or the
3 Attorney General?" Wouldn't they would have filed a response
4 to say What you were doing was wrong?

5 A A case was filed in Florida, and this Hawaii State
6 Attorney General's office notified me that the case was
7 dismissed.

8 Q Right. So I'm saying in Hawaii, so if I was doing
9 that, wouldn't I have been charged in Hawaii since the Attorney
10 General knew what I was doing? They actually put an
11 advertising on the TV about if anybody was represented by me to
12 call them and make a complaint. Do you remember that?

13 MR. YATES: Objection.

14 THE WITNESS: No, I don't.

15 MR. YATES: Relevance and speculation and calls for
16 speculation.

17 THE COURT: All right. She's indicated she doesn't
18 know, so, okay.

19 Q (BY THE DEFENDANT:) So I was never charged with
20 unlicensed practice of law in your system in the state of
21 Hawaii, correct?

22 A I don't keep track of people who have been charged
23 with any infraction of the law. I keep track of people who are
24 licensed to practice law in state courts in the state of
25 Hawaii.

1 Q So the Hawaii Bar Association only has authority
2 then over bar members, correct?

3 A We have authority over bar members and we assist the
4 Hawaii Supreme Court to make sure that only those individuals
5 who have been authorized by the Hawaii State Supreme Court to
6 practice law in the state of Hawaii do so.

7 Q So if I leave practicing to attorneys at law and
8 what I did is being an expert, is that different between
9 practicing and being an expert in law?

10 A I don't understand your question.

11 Q Well, let me explain it like this: You saying the
12 attorneys at law practice law, right?

13 A Licensed attorneys, yes, practice law.

14 Q Okay. So if -- just to give you an analogy, if you
15 wanted to have, say, triple bypass surgery, would you want a
16 medical student that's practicing or would you want a doctor
17 that's an expert in triple bypass surgery?

18 THE COURT: Okay. So interesting question, but it's
19 not really relevant. She's talking about licensed individuals
20 so -- to practice law. She doesn't have any training or
21 experience in the medical practice. So...

22 THE DEFENDANT: But she asked what the difference
23 between practice and being an expert. I was just giving her an
24 a analogy so she can understand the question.

25 THE COURT: Understood. So you can ask her

1 questions about license -- what do you have to be to be
2 licensed, how the database is kept. You can ask her those
3 questions. So I'm not going to let you ask her that
4 hypothetical 'cause it's not really relevant.

5 THE DEFENDANT: Well, the only reason I did that
6 because she said she didn't understand --

7 THE COURT: You can ask another question. You can
8 ask another question.

9 Q (BY THE DEFENDANT:) So the practice of law
10 constitute what?

11 A Use the skills one has gained through education and
12 experience to assist people, whether it's in court, drafting
13 documents, or draft -- or drafting laws, like at the state
14 capitol, what I used to do for 30 years.

15 Q So there's no provision where someone who's not a
16 member of the bar can fill out forms for somebody else other
17 than an attorney at law, member of the bar?

18 A Could you repeat the question?

19 Q So there's no other way a person can draft legal
20 pleadings for someone else unless they are a member of the bar
21 association?

22 A But there are a lot of -- I don't know how to answer
23 your question because there are a lot of these forms online
24 like LegalZoom and the rest. So they're licensed in other
25 jurisdictions, and attorneys in other jurisdictions are

1 assisting people here in the state of Hawaii and all across the
2 nation, so they're using technology.

3 Q Okay. You just mentioned LegalZoom. Do you -- are
4 you familiar with the lawsuit that the state bar associations
5 filed against LegalZoom?

6 A No. I'm not a party to that.

7 Q Okay. If you was to look at the lawsuit, the
8 lawsuit was about --

9 THE COURT: No, no. Do you have any objection to
10 this? Isn't this far afield, Mr. --

11 MR. YATES: Yes, yes, Your Honor.

12 THE COURT: I mean, I don't want to earn your
13 paycheck for you.

14 MR. YATES: I apologize, Your Honor. Out of scope
15 and improper hypothetical.

16 THE COURT: All right. Sustained.

17 So you need to ask her questions in the area that
18 Mr. Yates asked her questions in about what you have to be to
19 be licensed, how she keeps the database. We're going kind of
20 far afield here.

21 Q (BY THE DEFENDANT:) Okay. So the licensing by the
22 bar is only for members of the bar, correct -- well, from your
23 agency?

24 A Only people authorized by the Hawaii Supreme Court
25 to practice in state courts come to the Hawaii State Bar

1 Association to check in with us and to become members.

2 Q And are you -- you familiar with the Black's Law
3 Dictionary, correct?

4 A Yeah, I saw one 40 years ago when I was in law
5 school.

6 Q So after you got out of law school, you stopped
7 looking at legal books, legal dictionaries?

8 THE COURT: Okay. So what do you want to ask her
9 that has to do with licensing within the state of Hawaii to
10 practice law?

11 THE DEFENDANT: 'Cause in the Black's Law Dictionary
12 it states who can be licensed and who don't have to be
13 licensed.

14 THE COURT: All right. Is the Black's Law
15 Dictionary something the Hawaii Bar Association relies on to
16 determine who can be licensed to practice law?

17 THE WITNESS: No, we do not rely on Black's Law
18 Dictionary.

19 THE COURT: Okay.

20 Q (BY THE DEFENDANT:) So how do you define legal
21 terms? What authority do you use to define the legal terms?

22 MR. YATES: Objection. Out of scope and irrelevant.

23 THE COURT: Legal terms for what? Like who can
24 practice law?

25 THE DEFENDANT: Right.

1 THE COURT: So where do you get your direction as to
2 how people can be licensed to practice law?

3 THE WITNESS: Through the Hawaii State Supreme
4 Court.

5 Q (BY THE DEFENDANT:) And what is the Hawaii State
6 Supreme Court relying on?

7 THE COURT: Well, she's not on the Hawaii Supreme
8 Court. She just follows the rules that are promulgated by the
9 Hawaii Supreme Court. She's not one of the justices or direct
10 them, so she doesn't know 'cause that's not her job.

11 Q (BY THE DEFENDANT:) Okay. Well, if a judge here in
12 Hawaii looked at the laws that I presented in my notice of
13 appearance and allowed me to practice law in front of their
14 court, would you agree that that judge knew what they were
15 doing?

16 MR. YATES: Objection. Irrelevant and improper
17 hypothetical.

18 THE COURT: Okay. So let me just rephrase the
19 question so we can get to the point.

20 Okay. You've testified what the requirements are to be a
21 licensed attorney, correct?

22 THE WITNESS: Yes.

23 THE COURT: Okay. And if there was a judge who
24 permitted somebody who was not a licensed attorney to come into
25 court and represent someone else, does that change your

1 understanding of what is required to become a licensed attorney
2 to practice law?

3 THE WITNESS: No.

4 Q (BY THE DEFENDANT:) So you would disagree with the
5 judge?

6 A If the judge had knowledge that the person -- that
7 it was state court and the judge had knowledge that the person
8 was not licensed in the state of Hawaii, that state judge would
9 not allow the person to practice law unless he or she was a *pro*
10 *se* party to an action.

11 Q Well, I'm telling you in the state of Hawaii I have
12 done that. So I'm asking --

13 MR. YATES: Objection. Testifying.

14 THE COURT: Okay.

15 THE DEFENDANT: I'm asking --

16 THE COURT: No, no. So she's answered your
17 question. She said no, that wouldn't be proper --

18 THE DEFENDANT: So --

19 THE COURT: -- to let somebody and she wouldn't
20 agree. So what's your next question?

21 Q (BY THE DEFENDANT:) Okay. So if the judge knows
22 what the bar rules are -- correct? -- and he saw the actual
23 U.S. Supreme Court rulings that I presented to show that I
24 don't have to be a member of the bar --

25 THE COURT: All right. So you're asking the same

1 question but adding more stuff into it. So she's already
2 answered that no, that wouldn't be proper if the judge allowed
3 an unlicensed person to represent somebody else, so you need to
4 ask another question.

5 Q (BY THE DEFENDANT:) So you can correct the judge?

6 A No.

7 Q Okay. So are you reprimanding the U.S. Supreme
8 Court?

9 MR. YATES: Objection. Argumentative.

10 THE COURT: Okay. So the U.S. Supreme Court doesn't
11 have anything to do with this.

12 THE DEFENDANT: That's how I get the authority --

13 THE COURT: No, no.

14 THE DEFENDANT: -- to assist people, so I'm trying
15 to ask her.

16 THE COURT: That's your understanding. She's
17 testified what it requires in the state of Hawaii. That's all
18 she's testifying about, in the state of Hawaii. She's not
19 testifying about U.S. Supreme Court law. She's just testifying
20 what is the basis to become licensed --

21 THE DEFENDANT: Okay.

22 THE COURT: -- in the state of Hawaii to practice
23 law. So you can ask her about that, but that's all she's being
24 offered for --

25 THE DEFENDANT: Okay.

1 THE COURT: -- whether you were on the licensed
2 rolls and what it takes to become a licensed attorney.

3 Q (BY THE DEFENDANT:) Okay. So is it safe to say
4 that in your understanding that you know is that someone has to
5 be a member, a part of your private organization to practice
6 law in the courts in Hawaii?

7 A If the Supreme Court has told me through court order
8 that the individual has passed the exam, passed the character
9 fitness test and all the other items required by the Hawaii
10 State Supreme Court, yes I would admit them to be licensed with
11 the Hawaii State Bar Association.

12 Q Well, no, I'm asking you so that's the only thing
13 you know. So you don't know any U.S. Supreme Court rulings
14 outside of what you been taught that you have to be a member of
15 the bar association, correct?

16 A No, this is the Hawaii State Bar Association.

17 Q Right, that's what I'm saying, the Hawaii State Bar.
18 So that's the only thing that you know, correct? So you've
19 never done the research in looking up the U.S. Supreme Court
20 rulings that give people like me the right to assist others in
21 court, correct?

22 A I have not -- did not have occasion to do so.
23 That's out of the scope of my responsibility.

24 Q Okay. So you don't know that it's true 'cause you
25 haven't done the research?

1 A Yes.

2 Q Okay. Now, since I been in Hawaii and you -- are
3 you the director of the Hawaii State Bar Association or you the
4 manager or --

5 THE COURT: She's the executive director.

6 THE DEFENDANT: You the executive director. Okay.

7 THE COURT: She's testified to that.

8 Q (BY THE DEFENDANT:) Okay. So you the executive
9 director, so are you the one that reprimands attorneys?

10 MR. YATES: Objection. Asked and answered.

11 THE COURT: Sustained. She's already testified she
12 doesn't do that. She doesn't -- she just is the director of
13 the licensing. She says she refers it -- if there's
14 unauthorized practice of law, she refers it to attorney
15 generals or to the Office of Disciplinary Counsel.

16 THE DEFENDANT: No, I'm not talking about -- is she
17 the one that actually discipline, like, them.

18 THE COURT: So if there are ethical complaints
19 against lawyers, is that something the Hawaii State Bar
20 Association handles?

21 THE WITNESS: No. We refer it to the -- if it's a
22 licensed attorney, we refer to the Office of Disciplinary
23 Counsel.

24 Q (BY THE DEFENDANT:) Okay. And so in regards to the
25 licensed attorneys and the practice of law, in your system and

1 according to your knowledge, I have never been charged with
2 unlicensed practice of law in the state of Hawaii?

3 MR. YATES: Objection. Foundation.

4 THE COURT: Okay. So she's testified that that's
5 not what she -- her organization does.

6 THE DEFENDANT: But she said they refer.

7 THE COURT: Right. But --

8 Q (BY THE DEFENDANT:) So you've never --

9 THE COURT: She doesn't prosecute. All right. So
10 you could be prosecuted by the AGs and she doesn't know about
11 it.

12 So, anyway, so it's been asked and answered. So you can
13 ask another question.

14 Q (BY THE DEFENDANT:) Okay. So you didn't get any
15 letters from the Attorney General Office that they was going to
16 file some -- a complaint against me for the unlicensed practice
17 of law, correct?

18 A I didn't. That's not a standard practice.

19 Q So would they let you know if they was going to go
20 after somebody? Or you wouldn't know?

21 A They wouldn't necessarily let me know other than to
22 ask me or give me a call or email to say Is this individual in
23 your database authorized to practice law in the state of
24 Hawaii.

25 Q Okay. Did Gregg Yates or Ken Sorenson tell you that

1 I been charged with unlicensed practice of law in the state of
2 Hawaii?

3 A Yes. When they called me to ask me to search the
4 database, then I inquired Why are you searching for the name of
5 this individual?

6 Q No, no, I think you misunderstood what I just asked.
7 I said did they tell you that I have been charged in the state
8 of Hawaii and convicted of unlicensed practice of law?

9 A No.

10 THE DEFENDANT: Okay. I have no more questions.

11 THE COURT: All right. Any redirect?

12 MR. YATES: No redirect from the government, Your
13 Honor.

14 THE COURT: All right. Thank you, Ms. Mau-Shimizu.
15 You're released as a witness. Please don't discuss your
16 testimony with anyone until the conclusion of the trial. Thank
17 you.

18 THE WITNESS: Thank you.

19 THE COURT: Your next witness?

20 MR. SORENSON: Your Honor, do you -- is it -- this
21 witness may take a little while. Do you want to start with
22 this or do you want to take a break now or --

23 THE COURT: I would -- we started about at 11:05 so
24 I was planning to go to about 12:10. Do you have 15 minutes of
25 questions?

1 MR. SORENSON: Well, yes, Your Honor.

2 THE COURT: Because if not, then we would come back
3 and then we'd have to take another break after that because we
4 wouldn't be able to go all the way till 2:00 or 1:45.

5 MR. SORENSON: I got you. I got you.

6 THE COURT: So soldier on then. Who you going to
7 call next?

8 THE WITNESS: Evelyn Subia, Your Honor. Your Honor,
9 this witness requires a translator.

10 THE COURT: Do you need time to set up then?

11 MR. SORENSON: Maybe just a few moments.

12 THE COURT: Okay. And I believe we're going to have
13 the interpreter sit at counsel table and use the microphone
14 while the witness takes the stand.

15 MR. SORENSON: And I believe he will need to be
16 sworn in.

17 THE COURT: Yes, both will need to be sworn in.

18 **EVELYN SUBIA, GOVERNMENT'S WITNESS, WAS SWORN AND TESTIFIED**

19 **THROUGH THE INTERPRETER AS FOLLOWS:**

20 THE COURTROOM MANAGER: Swear in the interpreter
21 first?

22 THE COURT: Can you interpret for her with the oath?

23 THE INTERPRETER: Yes, Your Honor.

24 THE COURT: Yes.

25 THE INTERPRETER: She said, "Yes."

1 THE COURT: All right. Please be seated. You can
2 sit down. And then you can swear in the interpreter.

3 (Ilocano Interpreter was sworn.)

4 THE COURTROOM MANAGER: If you could state your name
5 and spell your last name for the record.

6 THE WITNESS (in English): Evelyn S-u-b-i-a.

7 THE COURT: Your witness.

8 MR. SORENSON: Thank you, Your Honor.

9 THE INTERPRETER: Evelyn S-u-b-i-a. The last name
10 was spelled.

11 DIRECT EXAMINATION

12 BY MR. SORENSON:

13 Q Ms. Subia, where do you live?

14 THE WITNESS(in English): 5065 Likini Street,
15 Honolulu, Hawaii.

16 THE WITNESS(through the Interpreter): 5065 Likini
17 Street.

18 THE WITNESS(in English): Apartment C217.

19 THE WITNESS(through the Interpreter): Apartment
20 C217.

21 MR. SORENSON: She does speak some English.

22 THE COURT: He's required to interpret everything.

23 MR. SORENSON: Yes, yes.

24 THE COURT: Thank you.

25 Q (BY MR. SORENSON:) Are you married?

1 A Yes.

2 Q And what is your husband's name?

3 A Arnold Subia.

4 Q Okay. And how long have you lived in Hawaii?

5 THE WITNESS(in English): Twenty -- 24 years.

6 THE WITNESS(through the Interpreter): 24 years.

7 Q (BY MR. SORENSON:) And were you born outside of the

8 United States?

9 A Yes.

10 Q Where were you born?

11 A Philippines.

12 Q The Philippines. And do you speak any languages

13 from the Philippines?

14 A Ilocano and Tagalog.

15 Q Okay. And do you speak English?

16 A I can.

17 Q How well do you speak English?

18 THE INTERPRETER: Can I repeat the translation, Your

19 Honor?

20 THE COURT: Yes, you may. Thank you.

21 THE WITNESS(through the Interpreter): I am not that

22 well in speaking English.

23 Q (BY MR. SORENSON:) Okay. And do you feel more

24 comfortable speaking through an interpreter?

25 THE INTERPRETER: She said, "Yes."

1 Q (BY MR. SORENSON:) Okay. And can you read and
2 write English?

3 A Yes.

4 Q Okay. I'm going to direct your attention back to
5 the year 2013. Did you own a home back then?

6 THE INTERPRETER: She said, "Yes."

7 Q (BY MR. SORENSON:) Where was that home located?

8 THE INTERPRETER: May I continue, Your Honor?

9 THE WITNESS(in English): 1655 Hauiki Street,
10 Honolulu, Hawaii.

11 MR. SORENSON: I think we got that. Do we still
12 need a translation?

13 THE WITNESS(through the Interpreter): 1655 Hauiki
14 Street, Honolulu, Hawaii.

15 THE COURT: All right.

16 Q (BY MR. SORENSON:) And did you own that home?

17 A We were still paying it.

18 Q Did you have a mortgage on the house?

19 A Yes.

20 Q And do you recall when you bought your house at 1655
21 Hauiki Street?

22 THE INTERPRETER: Can I have the question again,
23 sir?

24 Q (BY MR. SORENSON:) Yeah. Do you recall when you
25 bought the house that you've described?

1 THE COURT: When.

2 THE INTERPRETER: When?

3 MR. SORENSON: When, yes.

4 THE WITNESS: 2006.

5 Q (BY MR. SORENSON:) So in 2013 had you been living
6 there for around seven years?

7 A Yes.

8 Q And when you first bought the house, did you have to
9 borrow some money in order to buy the house?

10 A No.

11 Q Okay. Did you have a mortgage on the house?

12 A There is.

13 THE INTERPRETER: Oh, "there is." That's her
14 answer.

15 MR. SORENSON: She said, "There is"?

16 THE INTERPRETER: Yes, sir.

17 Q (BY MR. SORENSON:) Okay. And do you know who the
18 mortgage was with?

19 THE WITNESS(in English): America Servicing Company.

20 Q (BY MR. SORENSON:) Now, in 20- -- oh, I'm sorry.
21 Do you need to --

22 THE WITNESS(through the Interpreter): American
23 Servicing Company.

24 Q (BY MR. SORENSON:) In 2013, did you still have a
25 mortgage on your house?

1 A There is still.

2 Q Hmm. Okay. And the mortgage in 2013, what was your
3 monthly payment on that, if you had one?

4 A 5,000 something.

5 Q That's what you were paying per month?

6 A Yes.

7 Q Were you having difficulty paying that mortgage?

8 A Yes, Attorney.

9 Q Around that time frame, did you meet a person by the
10 name of Anthony Williams?

11 A I am not sure if I have met him during those times.

12 Q Okay. Do you know -- do you see an Anthony Williams
13 in the courtroom today?

14 A Yes, Attorney.

15 Q Okay. Can you please point out where he is?

16 A (Pointing.)

17 Q And can you describe -- is he wearing anything in
18 particular that you can tell us about?

19 A The one with white cap.

20 MR. SORENSON: Your Honor, if the record could
21 reflect the witness has identified Anthony Williams?

22 THE COURT: It shall.

23 Q (BY MR. SORENSON:) Did you ever go to Mr. Williams
24 seeking any help with your mortgage?

25 A Yes.

1 Q And do you know where you went when you went to
2 Mr. Williams for help on your mortgage?

3 A At the Restaurant Row.

4 Q Okay. And did you speak with Mr. Williams while you
5 were there?

6 A Yes, we talked.

7 Q And are you married?

8 THE INTERPRETER: Sir?

9 THE COURT: She said she was married to Arnold.

10 MR. SORENSON: Yes. Just want to get back there.

11 Q (BY MR. SORENSON:) Was your husband Arnold with
12 you?

13 A Yes.

14 Q And when you were talking with Mr. Williams, did you
15 believe that he was a lawyer?

16 THE DEFENDANT: Objection. Leading.

17 THE COURT: All right. Overruled. It's
18 foundational.

19 Go ahead. You can interpret the question.

20 THE WITNESS: Yes, Attorney.

21 Q (BY MR. SORENSON:) And what did Mr. Williams tell
22 you he could do for you and your mortgage?

23 THE WITNESS(in English): Can you repeat the
24 question?

25 THE WITNESS(through the Interpreter): He told me

1 that he could process it.

2 Q (BY MR. SORENSON:) He could process your mortgage?

3 A Yes, Attorney.

4 Q Did you -- did you sign up for his services?

5 A Yes, Attorney.

6 Q And did you fill out an application form with him?

7 A There is something that he asked me to sign.

8 Q Okay.

9 MR. SORENSON: Your Honor, I'm going to direct the
10 witness's attention to an exhibit that's in evidence,
11 Exhibit 16, and we also will ask to publish it.

12 THE COURT: All right. You may publish.

13 MR. SORENSON: Yes, Your Honor.

14 Q (BY MR. SORENSON:) Okay. Ms. Subia, over to your
15 right, you see that screen?

16 THE COURT: Did you hear that? I don't know --

17 THE WITNESS: Yes, Attorney.

18 Q (BY MR. SORENSON:) Okay. And do you see your name
19 here, Evelyn Subia, there at the top?

20 A Yes.

21 Q Okay. And down at the bottom here, do you see your
22 signature?

23 A Yes.

24 Q And the date is May 28th -- or '13 it says, 2013.

25 Does that sound about the time that you were there?

1 THE INTERPRETER: What's the date again, sir?

2 MR. SORENSON: May 28th, 2013.

3 THE WITNESS: Yes, Attorney.

4 Q (BY MR. SORENSON:) Okay. I'm going to show you the
5 next page, Mrs. Subia. Let me blow it up for you. Have you
6 seen this document before? Do you recognize this?

7 A I can't exactly remember.

8 Q Okay. Do you see your signature on here?

9 A Yes, Attorney.

10 Q Okay. And do you see down below where it says
11 Authorized Representative and above it appears to say Anthony
12 Williams? Do you see that?

13 A Yes, Attorney.

14 Q Now, this document says that, "On average it takes
15 one-half of the time for the original payoff obligation."

16 Do you see that?

17 A Yes, Attorney.

18 Q Is that what you were told that signing up with
19 Mr. Williams's program would do for you and your mortgage?

20 A Yes, Attorney.

21 Q Okay. And after you signed these documents, did you
22 then begin paying Mr. Williams?

23 THE DEFENDANT: Objection. Leading.

24 THE COURT: I'm sorry?

25 THE DEFENDANT: Leading.

1 THE COURT: Foundational. Overruled. Okay.

2 Did you interpret the question?

3 THE INTERPRETER: Yes.

4 THE WITNESS: Yes, Attorney.

5 Q (BY MR. SORENSON:) And how much did you pay him?

6 A The one that we are going to pay for the mortgage,
7 2,000-something.

8 Q And was that on a monthly basis?

9 A Yes, Attorney.

10 Q And when you paid Mr. Williams, how did you pay him?

11 A I issued check.

12 Q Okay. And how did you get the check to him?

13 A He gave me a mortgage to whom we are going to pay.

14 Q Okay. So did you have to send your money somewhere?

15 A We mailed it.

16 Q You mailed it. I'm going to direct your attention
17 to Exhibit 135.

18 Your Honor, may we publish this? It's in evidence.

19 THE COURT: Yes, you may.

20 Q (BY MR. SORENSON:) All right. I'm sorry. This is
21 sideways. Let me just blow this up.

22 If you can -- you don't have to turn your
23 head -- but if you can recognize this document, please tell us.

24 A Yes, Attorney.

25 Q Okay. What is this?

1 A Mortgage Enterprise Investment.

2 Q Is this an envelope that you filled out?

3 A Yes, Attorney.

4 Q And is this the way that you would mail your

5 payments to Mr. Williams?

6 A Yes, Attorney.

7 Q And how many times did you pay Mr. Williams by

8 mailing checks to him?

9 A More than a year.

10 Q Okay. I'm going to direct your attention now to

11 Exhibit 205.

12 Your Honor, I believe this is in evidence?

13 THE COURT: It is in evidence. Do you wish to

14 publish?

15 MR. SORENSON: I do. Thank you.

16 THE COURT: You may.

17 Q (BY MR. SORENSON:) Okay. Mrs. Subia, do you

18 recognize this document?

19 A I cannot remember, Attorney.

20 Q Okay. I'm going to page back into the document and

21 ask you if you recognize part of this.

22 Here on page 5, do you see that up on the screen,

23 Ms. Subia?

24 A Yes, Attorney.

25 Q Okay. And is that your signature there over on the

1 right side?

2 A Yes, Attorney.

3 Q Okay. I'm going to go back here. Do you see this
4 document that's on the screen that says Note at the top,
5 Ms. Subia?

6 A Yes, Attorney.

7 Q And did Mr. Williams talk to you about the terms of
8 this note that you remember?

9 A Yes. He told me that it's going to half the
10 mortgage or divide the mortgage into one-half.

11 Q What did you think was happening with your original
12 mortgage, Ms. Subia?

13 A We were glad because our mortgage will be one-half
14 already of the original one.

15 Q Did you believe that this took the place of your
16 mortgage?

17 THE DEFENDANT: Objection. Leading.

18 THE COURT: I'm going to permit it. It's
19 foundational and this witness has sort of a limited
20 understanding, so we're going to --

21 THE INTERPRETER: Can I request again to repeat the
22 question, sir?

23 Q (BY MR. SORENSON:) Did you believe that this
24 replaced your mortgage?

25 A Yes, because that is what they were saying.

1 Q Okay. So at the top of the document, it
2 states -- it states your original note amount was \$800,000. Do
3 you see that?

4 A Yes, I can see.

5 Q Did you realize that this document, at the end of
6 this document, you promised to pay Mr. Williams \$400,000? Did
7 you realize that?

8 A Yes, because that is what he said.

9 Q And I'm going to direct your attention down in the
10 document just a little bit. And do you see where it says
11 Payments there, Ms. Subia, under 3?

12 A Yes, Attorney.

13 Q And does it state here that you are to pay \$2,095
14 for the next 15.9 years to Mr. Williams? Do you see that?

15 A Yes, Attorney.

16 Q And did you agree to do this because you believed
17 that you no longer had the other mortgage to pay?

18 THE DEFENDANT: Objection. That's leading.

19 THE COURT: Sustained.

20 Q (BY MR. SORENSON:) And you've indicated, Ms. Subia,
21 that you did indeed pay Mr. Williams at least for a year; is
22 that what you said?

23 THE INTERPRETER: Can I have the question again,
24 please?

25 Q (BY MR. SORENSON:) You've indicated that you paid

1 Mr. Williams for about a year; is that correct?

2 A Yes, Attorney.

3 THE COURT: Is this a good time to take a recess or
4 do you -- all right. Please continue.

5 Q (BY MR. SORENSON:) What happened -- what happened
6 to your house there on Hauiki Street? Do you still live there?

7 A It was -- we sold it. No more with us.

8 Q Okay. And were you forced to sell it because you
9 couldn't pay for it?

10 THE DEFENDANT: Objection. Leading.

11 THE COURT: Sustained.

12 Q (BY MR. SORENSON:) Why did you sell it?

13 A Because --

14 THE INTERPRETER: Sorry.

15 THE WITNESS(through the interpreter): Because we
16 had to stop paying at MEI, so we were not paying.

17 MR. SORENSON: I'm sorry?

18 THE WITNESS(through the interpreter): Because we
19 had to stop -- we stopped paying at MEI and we could no longer
20 pay.

21 Q (BY MR. SORENSON:) Did -- did you reach any
22 agreement with your bank with respect to the sale of your
23 house?

24 A None.

25 THE INTERPRETER: The answer was, "None." I'm

1 sorry.

2 Q (BY MR. SORENSON:) And did you sell your house in
3 an agreement with the bank?

4 A Somebody suggested to us or me that we should sell
5 it.

6 Q Okay. And was your house in foreclosure?

7 THE INTERPRETER: Again, please?

8 Q (BY MR. SORENSON:) Was your house in foreclosure?

9 A Not -- no.

10 Q Okay. And did you receive any notices from your
11 bank with respect to your home?

12 A Yes, Attorney.

13 Q And did you voluntarily sell your home?

14 A We were forced to sell it because that happened.

15 MR. SORENSON: Okay. Your Honor, that's all the
16 questions I have. Thank you for the leeway.

17 THE COURT: All right. Thank you. So why don't we
18 take our recess and then you can ask questions of Ms. Subia.

19 All right. So, ladies and gentlemen, if you would leave
20 your notebooks and iPads behind and we'll go into our final
21 recess for today. Don't research or investigate any of the
22 witnesses or issues that were discussed.

23 Please rise for the jury. We are all on a 15-minute
24 recess.

25 (A recess was taken.)

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

2 THE COURT: The record will reflect the presence of
3 counsel and Mr. Williams, and the witness is on the stand with
4 our interpreter. If there's nothing we need to take up, I'm
5 going to have Ms. Elkington get the jury. And we'll be
6 proceeding until -- for about 60 to 75 minutes until the end of
7 our day. All right?

8 (A recess was taken.)

9 (Open court in the presence of the jury.)

10 THE COURT: The record will reflect the presence of
11 the ladies and gentlemen of the jury, counsel, and
12 Mr. Williams. The witness is on the stand.

13 Your witness, Mr. Williams. I also see that you've listed
14 her on your witness list, so you can do your direct examination
15 as well.

16 THE DEFENDANT: Can I get Government Exhibit 16,
17 please?

18 CROSS-EXAMINATION

19 BY THE DEFENDANT:

20 Q Ms. Subia, do you go to church?

21 THE INTERPRETER: Can I have the question again,
22 please?

23 Q (BY THE DEFENDANT:) Do you go to church?

24 A I have.

25 MR. SORENSON: Objection, Your Honor. That is

1 beyond the scope.

2 THE COURT: All right. So it is beyond the scope.
3 He does have an opportunity to do direct, so I'll overrule the
4 objection.

5 Go ahead.

6 Q (BY THE DEFENDANT:) Is it a Filipino church?

7 A English.

8 Q And do you remember coming to my office, Ms. Subia?

9 A Yes.

10 Q Were you with your husband?

11 A Yes.

12 Q Did you speak to me through an interpreter?

13 A There is an interpreter.

14 Q Who was the interpreter?

15 A Remie Carlos.

16 Q And did she have to interpret for your husband also?

17 A Yes.

18 Q Do you remember me going over the application with
19 you and your husband?

20 A Yes.

21 Q And did we both sign the application?

22 A I am not sure with him.

23 THE INTERPRETER: Referring to Mr. Williams.

24 Q (BY THE DEFENDANT:) So you don't remember me going
25 over the application with you?

1 A I cannot remember.

2 Q Okay. Do you remember this particular form that's
3 up on the screen right now?

4 A Yes.

5 Q And did you understand what this form was that you
6 were signing?

7 A I am not sure.

8 Q So you didn't understand the terms and conditions of
9 the contract?

10 A No.

11 Q But you testified that you weren't in foreclosure
12 when you met me; is that correct?

13 MR. SORENSON: Objection, Your Honor. That
14 mischaracterizes the testimony.

15 THE DEFENDANT: That's what he asked her.

16 THE COURT: So overruled.

17 So were you in foreclosure when you met Mr. Williams?

18 THE WITNESS: Not yet.

19 THE DEFENDANT: I'd like to put in Defense
20 Exhibit 2163.

21 MR. SORENSON: No objection.

22 THE COURT: All right. Received.

23 (Exhibit 2163 received into evidence.)

24 Q (BY THE DEFENDANT:) And do you remember signing up
25 for my program in 2013?

1 A I could not remember the exact date.

2 THE DEFENDANT: Pull back up Exhibit 16, the MEI
3 app. Pull that back up first. Go to the front page.

4 Q (BY THE DEFENDANT:) And is that your signature,
5 Ms. Subia?

6 And that's the date --

7 A Yes.

8 THE INTERPRETER: The answer was, "Yes." I'm sorry.

9 Q (BY THE DEFENDANT:) And the date on -- that you
10 signed is 5-28-13?

11 A Yes.

12 Q Okay. I need the Exhibit 2163 back up on the
13 screen.

14 And you were with American Servicing Company? That
15 was the mortgage company that you were with?

16 A Before.

17 Q Okay. And were you not in foreclosure?

18 A None yet.

19 THE DEFENDANT: I'd like to publish this.

20 THE COURT: You may.

21 THE DEFENDANT: And enter as an exhibit. Since
22 she's saying she having a language barrier, I need to read it.

23 THE COURT: Yes, you can read it.

24 MR. SORENSON: I think she can read, Your Honor.

25 THE COURT: Well, you can read it as part of your

1 question. Go ahead.

2 Q (BY THE DEFENDANT:) On this letter from American
3 Servicing Company, they're stating that their records indicate
4 that your loan is default for failure to make payments due.

5 And do you see the date on this letter? Can you see
6 the date, Ms. Subia?

7 A Yes.

8 Q So this was the actual date that you were in
9 foreclosure, correct?

10 THE INTERPRETER: Can I have the question again,
11 please?

12 Q (BY THE DEFENDANT:) Is this the exact date that she
13 was in foreclosure?

14 THE COURT: So, I'm sorry. So you're asking her in
15 foreclosure. It says default in the letter.

16 THE DEFENDANT: Right.

17 THE COURT: Right. So -- so -- but you're asking
18 her about foreclosure. She already testified about
19 foreclosure. This letter says default. It doesn't say
20 anything about foreclosure.

21 THE DEFENDANT: Right. She had --

22 THE COURT: She said by the time she went to see
23 you, she wasn't not in foreclosure.

24 THE DEFENDANT: Okay. Can you -- 'cause it's
25 not -- got to go --

1 THE COURT: All right. This is talking about
2 default.

3 THE DEFENDANT: Right. The whole first paragraph it
4 talks about that her mortgage note --

5 THE COURT: Is in default. But that has nothing to
6 do with foreclosure. So ask another question.

7 Q (BY THE DEFENDANT:) Well, in this default note that
8 they sent you, they said they was going to include -- you were
9 fixing to get into foreclosure, correct?

10 THE COURT: Okay. You're misstating the document.
11 It says, "It will become necessary to pursue." It doesn't say
12 that she's in foreclosure.

13 THE DEFENDANT: Right. It says this was a letter
14 leading up to letting her know that she's in default, so they
15 was fixing to pursue foreclosure.

16 THE COURT: Right. So --

17 THE DEFENDANT: But so this 2011 --

18 THE COURT: -- it speaks for itself.

19 THE DEFENDANT: Right.

20 THE COURT: So it doesn't prove that she was in
21 foreclosure in 2011. Okay?

22 THE DEFENDANT: Yes. I mean --

23 THE COURT: So move on. We're wasting time with
24 this letter. It says she's in default and they could move to
25 go into foreclosure. It's in evidence; it speaks for itself.

1 Q (BY THE DEFENDANT:) So did you pay this \$8,893 to
2 cure this default, Ms. Subia?

3 A No.

4 Q So when you came to me, you were already in
5 foreclosure. You do understand that, correct?

6 MR. SORENSON: It mischaracterizes the testimony,
7 Your Honor. Objection.

8 THE COURT: Sustained. Okay? She's already
9 testified she wasn't yet in foreclosure.

10 THE DEFENDANT: Well --

11 THE COURT: So -- so you don't have any document to
12 show she was in foreclosure -- if you have a document that
13 shows she's in foreclosure in 2013 --

14 THE DEFENDANT: Well --

15 THE COURT: This document doesn't show that.

16 THE DEFENDANT: It showed that she hadn't paid in
17 almost a year, and so --

18 THE COURT: Right.

19 THE DEFENDANT: -- this letter was leading up to her
20 foreclosure.

21 THE COURT: Right.

22 THE DEFENDANT: So that's why I'm showing the letter
23 was showing she was already defaulted. So that's when she came
24 to me. She was already in foreclosure.

25 THE COURT: No. That doesn't show she was in

1 foreclosure in 2013. So you need to ask another question.

2 THE DEFENDANT: Well, she just said she didn't pay
3 it to cure the default.

4 THE COURT: Right.

5 THE DEFENDANT: So --

6 THE COURT: But people can go for years without
7 paying on their mortgage and not be -- that doesn't mean
8 they're necessarily in foreclosure.

9 So what I'm saying is the document speaks for itself and
10 you need to ask another question.

11 Q (BY THE DEFENDANT:) When --

12 THE COURT: If you have her letter of foreclosure or
13 a foreclosure motion or something, you can show her that.

14 THE DEFENDANT: Yeah, I'll show her that. This is
15 Defense Exhibit 2039 starting at page 35.

16 MR. SORENSON: This in evidence?

17 THE COURT: It is not, I believe, yet.

18 THE DEFENDANT: Not yet. I have to lay the
19 foundation.

20 THE COURT: Did you say 2039?

21 THE DEFENDANT: 2039, page 35, starting at page 35.

22 THE COURT: All right. Do you have a question about
23 this document?

24 Q (BY THE DEFENDANT:) Ms. Subia, do you recognize you
25 and your husband name on this document in the heading?

1 A Yes.

2 Q And is this your signature, Ms. Subia?

3 A Yes.

4 Q And did I draft this document on you and your
5 husband's behalf?

6 THE INTERPRETER: Again, please.

7 Q (BY THE DEFENDANT:) Did I draft this document on
8 you and your husband's behalf?

9 A I am not sure.

10 Q Can you verify your name on this document,
11 Ms. Subia?

12 A I do not know that.

13 Q All right. Your name at the top, do you see that,
14 left-hand corner?

15 THE COURT: Can you point to it with your finger so
16 she can see? You have to do it on the docucam.

17 Yeah, okay. Perfect. Do you see your name there?

18 THE WITNESS: Yes.

19 Q (BY THE DEFENDANT:) And do you recognize your
20 signature?

21 A Yes.

22 Q And why did I file these documents on your behalf,
23 Ms. Subia?

24 A I do not know with him.

25 THE DEFENDANT: Can I put this into evidence?

1 THE COURT: Okay. So you just want the
2 first -- first page or you want the entire?

3 THE DEFENDANT: The whole document, both documents,
4 the 2039, the motions that I filed for the --

5 THE COURT: Pages 35 through 43. All right.
6 So, Mr. Sorenson?

7 MR. SORENSON: Yeah, Your Honor, I think this is an
8 effort to impeach the witness with this document and --

9 THE DEFENDANT: No, I'm not trying to impeach her.

10 MR. SORENSON: -- and that's okay, but I think he's
11 stuck with the answer. Under Rule 608(b) extrinsic evidence
12 cannot be used to impeach the witness. So I think he can
13 question her on it, but the answer is what he gets, not the
14 document.

15 THE COURT: What's the purpose of the document?

16 THE DEFENDANT: To show that I was fighting her
17 foreclosure, if she wasn't -- she didn't qualify for the half
18 reduction guarantee 'cause she was in foreclosure, so I had to
19 actually go to court and file the documents to fight her
20 foreclosure.

21 THE COURT: Okay. So the forec- -- but so you want
22 to challenge her testimony that when she met you in 2013, she
23 was --

24 THE DEFENDANT: Right, right.

25 THE COURT: But these are filed in 2015.

1 THE DEFENDANT: Right.

2 THE COURT: Right. So -- so it's not relevant to
3 2013.

4 THE DEFENDANT: Well --

5 THE COURT: There's not proof that anything was
6 going on in 2013.

7 THE DEFENDANT: Yeah, well --

8 THE COURT: So, at any rate, if that's your offer
9 with regard to that, then I have a concern about relevance with
10 regard to these documents.

11 THE DEFENDANT: Well --

12 THE COURT: If you're offering it for -- because you
13 want to show that you did work for them, which they paid you
14 for, or whatever you want to do that, then that would be
15 another purpose.

16 THE DEFENDANT: Well, the purpose is to show that
17 the --

18 THE COURT: She was in foreclosure in 2013?

19 THE DEFENDANT: Right, and that the guarantee is not
20 for her. She didn't -- the guarantee wasn't for her.

21 THE COURT: Understood. So I'm refusing to receive
22 this into evidence because it has to do with events in 2015, so
23 it's not relevant to events in 2013.

24 So ask your next question.

25 Q (BY THE DEFENDANT:) Do you remember me going to

1 jail wrongfully in 2013?

2 THE INTERPRETER: Again, please.

3 MR. SORENSON: Object to the form of the question,
4 Your Honor.

5 Q (BY THE DEFENDANT:) Do you remember me going to
6 jail?

7 THE COURT: So it's withdrawn and that's the
8 question. Do you have the question, Mr. Interpreter?

9 THE INTERPRETER: The first one, Your Honor, was
10 with the year. The second question was with no year. So I
11 don't know which one to translate.

12 THE COURT: The second one with no year.

13 THE WITNESS: Yes.

14 Q (BY THE DEFENDANT:) Do you remember what year?

15 A I cannot remember.

16 Q Do you remember that you was not making payments for
17 a while?

18 THE COURT: To whom?

19 THE DEFENDANT: To MEI.

20 THE WITNESS: Yes.

21 Q (BY THE DEFENDANT:) And do you remember you and
22 your husband sending a payment and it was sent back to you
23 while I was incarcerated?

24 A I cannot remember any.

25 THE DEFENDANT: This ought to refresh her memory.

1 Q (BY THE DEFENDANT:) Can you look at the screen,
2 Ms. Subia? Do you remember receiving this letter in January 6,
3 2014?

4 A Yes.

5 THE DEFENDANT: And since we having a language
6 thing, I would need to read what the letter states. This is a
7 letter my office sent to her.

8 THE COURT: Well, it's not in evidence.

9 MR. SORENSON: Yeah, it's not in evidence.

10 THE COURT: You can't -- you can't read it into
11 evidence.

12 THE DEFENDANT: Well, this is addressed to her. I
13 would like to enter it into evidence.

14 THE COURT: All right. Any objection to the court
15 receiving it into evidence?

16 MR. SORENSON: Well, Your Honor, I'm not sure -- is
17 this -- is this from defense -- I haven't seen this letter
18 before, so --

19 THE COURT: Yeah. What exhibit number is this?

20 THE DEFENDANT: It's Exhibit 2145. It's in -- it's
21 actually in discovery; you all gave it -- discovery you all
22 gave me.

23 MR. SORENSON: What's that?

24 THE DEFENDANT: It's the discovery you all gave me.

25 THE COURT: It's Exhibit 2145, did you say?

1 THE DEFENDANT: Yes, 2145.

2 THE COURT: All right. Why don't you take a look at
3 2145, Mr. Sorenson.

4 MR. SORENSON: Your Honor, actually, to save time --

5 THE COURT: Yes.

6 MR. SORENSON: -- I'll agree that this can come into
7 evidence.

8 THE COURT: Okay. It's received. Do you wish to
9 publish?

10 THE DEFENDANT: Yes, I wish to publish.

11 THE COURT: You may publish.

12 (Exhibit 2145 received into evidence.)

13 THE DEFENDANT: And it's really short, so I would
14 just read -- it's like a couple -- just a few sentences.

15 THE COURT: All right. Go ahead.

16 Q (BY THE DEFENDANT:) This letter, Ms. Subia, that
17 was sent to you by my office, it states, "I regret to inform
18 you that due to unforeseen circumstances that have occurred
19 with Common Law Office of America and Mortgage Enterprise
20 Investments, we need to communicate with you about changes that
21 are very necessary."

22 THE INTERPRETER: Again, please, "about."

23 Q (BY THE DEFENDANT:) "about changes that are very
24 necessary at this time. Your December payment --

25 THE COURT: All right. So don't read the whole

1 thing. What question do you have about that?

2 Q (BY THE DEFENDANT:) Do you remember receiving your
3 December payment that you sent to MEI back?

4 A No.

5 Q Do you remember receiving your January payment sent
6 back to you that you sent, that you mailed in?

7 A None.

8 THE DEFENDANT: Exhibit 2144.

9 THE COURTROOM MANAGER: It's already in evidence.

10 THE COURT: 2144's already in evidence.

11 THE DEFENDANT: Okay. I'd like to publish.

12 THE COURT: You may.

13 Q (BY THE DEFENDANT:) Do you recognize this check,
14 Ms. Subia?

15 A Yes.

16 Q And do you remember this check being mailed back to
17 you as of January 7th, 2014?

18 A I never receive anything.

19 Q Do you have a bank statement to show that this was
20 cashed by Mortgage Enterprise Investments?

21 A I'm not sure.

22 Q Do you remember when you started making your
23 payments back?

24 THE INTERPRETER: Again, please.

25 Q (BY THE DEFENDANT:) Do you remember when you start

1 making payments back to MEI?

2 A No, I cannot remember the date.

3 Q Do you remember approximately how many payments you
4 mailed?

5 A No, I cannot remember.

6 Q Okay. Do you remember that since you were in
7 foreclosure that the guarantee did not apply to you?

8 MR. SORENSON: Objection, Your Honor. Again, facts
9 not in evidence. She's testified she wasn't in foreclosure,
10 so...

11 THE DEFENDANT: It clearly shows she was.

12 THE COURT: Sustained.

13 THE DEFENDANT: Go to -- back Government Exhibit 16,
14 please, foreclosure disclosure.

15 Q (BY THE DEFENDANT:) Okay. Ms. Subia, you recognize
16 your signature on this document, correct?

17 A I am not sure.

18 Q You're not sure of your signature?

19 A The signature I am sure.

20 Q Okay. And if I was to read this terms and condition
21 with you, would it refresh your memory of what I went over with
22 you when you came to the office?

23 THE COURT: Okay. So she hasn't said she doesn't
24 remember what you went over with her. The issue with the last
25 question with Mr. Sorenson is that she testified she wasn't in

1 foreclosure when she went to see you in 2013.

2 THE DEFENDANT: Yeah, but she clearly was. I
3 mean --

4 THE COURT: Well, there's no evidence. You have to
5 show her something. That's her testimony, she was not in
6 foreclosure. So you can't just say, "Yes, you were." I mean,
7 you can ask her a question.

8 THE DEFENDANT: Well --

9 Q (BY THE DEFENDANT:) So you didn't realize that you
10 were in foreclosure?

11 THE INTERPRETER: Oh, sorry. I'm sorry, Your Honor.

12 THE COURT: Sorry. There's no objection to the
13 question, so why don't you --

14 MR. SORENSON: Well, I'm just going to object to
15 asked and answered, Your Honor.

16 THE COURT: Yeah. What time period are you asking?
17 2015?

18 THE DEFENDANT: Between 2011 to 2015 she was in
19 foreclosure. That's why I had to draft all those documents for
20 her.

21 THE COURT: Right. But those documents don't show
22 that. So what do you have to show her that she was in
23 foreclosure in 2013? 'Cause she has testified she was not yet
24 in foreclosure in 2013.

25 THE DEFENDANT: Well, she's obviously --

1 THE COURT: No, no. So I'm not going to have an
2 argument with you. Or you can't keep asking the same question
3 because she's already testified twice.

4 So you can show her a document that shows she was in
5 foreclosure in 2013 when she saw you or before, or you can ask
6 her other questions.

7 Q (BY THE DEFENDANT:) Well, due to her default, was
8 the reason that you came to me to assist you to fight your
9 foreclosure?

10 THE COURT: Okay.

11 THE WITNESS: It's not like that.

12 Q (BY THE DEFENDANT:) How was it?

13 A Mr. Williams is going to fix it.

14 Q So is that why I drafted the motions to fight your
15 foreclosure?

16 THE COURT: This is in 2015 now you're asking her?

17 THE DEFENDANT: Yeah.

18 THE COURT: Okay.

19 THE DEFENDANT: 'Cause I was locked up 2013, almost
20 2014.

21 THE COURT: Right. So you're asking her now about
22 things in 2015, right?

23 THE DEFENDANT: Right, 'cause these are documents I
24 had to file 'cause she was in foreclosure.

25 THE COURT: I understand. So I guess we had talked

1 about before you can ask her about questions in 2013 which she
2 has said she wasn't in foreclosure. So what questions do you
3 want to ask her that have to do with the issues in this case?

4 Q (BY THE DEFENDANT:) Do you remember American
5 Servicing Company transferring your mortgage to U.S. Bank
6 National?

7 THE INTERPRETER: What's that again?

8 THE DEFENDANT: Bank National.

9 THE WITNESS: What is that?

10 Q (BY THE DEFENDANT:) That was the bank that was
11 foreclosing on you?

12 THE COURT: No, you can't tell her what it is she
13 doesn't understand. So ask her a question. You can't testify
14 her information, unless you have a document that you want to
15 show her.

16 THE DEFENDANT: Can I get it published for her?

17 Q (BY THE DEFENDANT:) Can you see the bank name,
18 Ms. Subia?

19 A Yes, I can see it.

20 Q Okay. And you see who the bank was suing?

21 A Yes.

22 Q Okay. And so do you remember me having to file this
23 motion so they wouldn't enter a default against you?

24 A No.

25 Q So you don't -- couldn't remember this document?

1 A No.

2 Q You had previously verified your signature,
3 Ms. Subia. So you just don't remember? You verified your
4 signature. So you just don't remember?

5 A I don't see any -- I don't see any signature in
6 there.

7 Q Do you remember me -- you just now verifying your
8 signature on this document, Ms. Subia?

9 A I can see that it is my signature.

10 Q Okay. And do you recognize that you mailed this to
11 the attorneys for the bank?

12 A I cannot remember.

13 Q Ms. Subia, did I tell you I was a private attorney
14 general?

15 A That is what they are telling.

16 THE DEFENDANT: She said what?

17 THE INTERPRETER: "That is what they are saying."

18 Q (BY THE DEFENDANT:) No. I'm saying is that what I
19 told you when I introduced myself to you? Did I introduce
20 myself as Private Attorney General Anthony Williams?

21 THE INTERPRETER: He did not introduce himself as
22 private attorney general.

23 Q (BY THE DEFENDANT:) What did I introduce myself as,
24 Ms. Subia?

25 A That is the one that is -- that was told by the one

1 who accompanied us.

2 THE DEFENDANT: I don't --

3 THE INTERPRETER: That Mr. Williams is private
4 attorney -- private attorney general.

5 THE DEFENDANT: Okay. I'm not -- so --

6 THE INTERPRETER: You want me to say?

7 THE DEFENDANT: Yeah. Like is she saying somebody
8 told her that?

9 THE COURT: So ask a question. He can only
10 interpret a question, so ask a question.

11 Q (BY THE DEFENDANT:) So you saying somebody told you
12 that I said I was a private attorney general?

13 A Yes.

14 Q You don't remember me addressing myself, introducing
15 myself as Private Attorney General Anthony Williams?

16 A I cannot remember.

17 THE DEFENDANT: Okay. I have no more questions.

18 MR. SORENSON: We have no redirect, Your Honor.

19 THE COURT: All right. Thank you. And I'm going to
20 excuse Ms. Subia as a witness.

21 All right. So you're excused as a witness, and don't
22 discuss your testimony with anyone until the trial is over.

23 THE WITNESS: Yes.

24 THE COURT: Thank you. Good day.

25 Do you have another witness?

1 MR. YATES: We do, Your Honor. We'll be calling
2 Ms. Macrina Pillos to the stand.

3 **MACRINA PILLOS, GOVERNMENT'S WITNESS, WAS SWORN**

4 THE COURTROOM MANAGER: Thank you.

5 If you can state your name and spell your first and last
6 name for the record.

7 THE WITNESS: Okay. I'm Macrina Pillos. And I --

8 THE COURTROOM MANAGER: If you can just spell your
9 name.

10 THE COURT: Spell your name.

11 THE COURTROOM MANAGER: Go ahead and have a seat.

12 THE COURT: Sit down.

13 THE COURTROOM MANAGER: Just spell your last name
14 for the record.

15 THE WITNESS: P, like in Peter, -i-l-l-o-s, like in
16 Sam.

17 THE COURT: So Mr. Yates is going to ask you some
18 questions.

19 Your witness, Mr. Yates.

20 MR. YATES: Thank you, Your Honor.

21 DIRECT EXAMINATION

22 BY MR. YATES:

23 Q Ms. Pillos, can you please tell the jury what you do
24 for a living?

25 A Well, I'm retired right now.

1 Q And since when?

2 A I think that was in 2000 -- 2000 -- I'm not quite
3 sure, but it's 2012 or '11.

4 Q And what did you do before you retired?

5 A Oh, I used to work for Clinical Laboratories of
6 Hawaii.

7 Q And can you please briefly describe your educational
8 background?

9 A Oh, I am -- I was a registered midwife back home in
10 the Philippines.

11 Q And where are you from then?

12 A Uhm, Manila.

13 Q And that's in the Philippines?

14 A That's in the Philippines.

15 Q Okay. Can you please tell the jury what your first
16 language is or was?

17 A Okay. Ilocano, Tagalog, and English.

18 Q Now, at some point you became a client of Anthony
19 Williams and Mortgage Enterprise Investments, correct?

20 A Yes.

21 Q Okay. Let's talk about the period before then.
22 Before you were an MEI client, where did you live?

23 A 942 Akaiki Place.

24 Q And where is that?

25 A Maui.

1 Q And when was your house purchased?

2 A That was in 2012.

3 Q And originally whose name was on the deed?

4 A It was my niece who is Wengie Pillos and my
5 sister-in-law who is Amy Pillos.

6 Q And can you please explain to the jury why it is
7 that their names were on the deed?

8 A Okay. It was under their name because they want to
9 help us to purchase a house.

10 Q And did your niece and sister-in-law -- I believe
11 you said Amy and Wengie; is that correct?

12 A Right. Correct.

13 Q -- did they have a mortgage on the house?

14 A No.

15 Q Who paid the mortgage?

16 A Me and my husband paid for the mortgage.

17 Q Okay. And how much was owing every month?

18 A It's 2,221.

19 Q And you took over the mortgage or you had the
20 mortgage on the house; is that correct?

21 A Yes.

22 Q And who was the mortgage servicer?

23 A Wells Fargo.

24 Q And at the time that you enlisted or enrolled with
25 MEI, how would you describe the status of your payments?

1 A Well, this --

2 Q Your payments to --

3 A To Wells Fargo?

4 Q -- to Wells Fargo, yes.

5 A It's 2,221.

6 Q Okay. So can you describe were you paying

7 currently? Were you behind?

8 A We were very currently.

9 Q Okay. And what was the balance on your mortgage?

10 A It was 258- -- aye -- 358,000, around there.

11 Q Okay. So let's talk a little bit about how you

12 became involved in MEI. How did you first learn about MEI?

13 A Well, the first time was -- this was the first time

14 that Henry Malinay came over to Maui.

15 Q And do you recall when that meeting was?

16 A It was the middle part of the year which is I think

17 June 2013, if I'm not mistaken.

18 Q And what do you remember about that meeting?

19 A Well, about that meeting, Henry Malinay told us that

20 they're going to reduce the mortgage.

21 Q Okay. How much were they -- excuse me. Let me

22 withdraw that.

23 How much were they promising to reduce your mortgage

24 by?

25 A Okay. The reduced payment would be about

1 100-something thousand dollars.

2 Q Okay.

3 A And our monthly payment going be -- will be \$1,032.

4 Q Okay. Did he also talk about the term of your
5 mortgage?

6 A 15 years.

7 Q Okay. And what was the term of your Wells Fargo
8 mortgage?

9 A 30 years.

10 Q So he was going to -- or the MEI program was going
11 to cut your mortgage term in half?

12 A Right.

13 Q Okay. Is it fair to say that the program was also
14 going to cut your monthly payment in half?

15 A Right.

16 Q And your total mortgage loan, correct?

17 A Correct.

18 Q Okay. Now, other than Henry Malinay, did you talk
19 to anyone else with MEI about the MEI program?

20 A Oh, sure. That was the time when I met Anabel
21 Cab- -- Anabel Guzman.

22 Q And let's talk a little bit about why you met with
23 Anabel -- you called her -- I'm sorry. What did you call her?

24 A Anabel.

25 Q Anabel you said?

1 A Guzman.

2 Q Guzman. And is Anabel Guzman also known as Anabel

3 Cabebe?

4 A Oh, no, this is -- I'm so sorry -- different.

5 Q Okay.

6 A This is -- Guzman is the last name.

7 Q Guzman is her last name?

8 A Not Cabebe. I'm so sorry because I have another

9 Anabel which name is Cabebe.

10 Q Okay. Now, at some point did you have to address an

11 issue with respect to your deed?

12 A Yes.

13 Q Okay. And what did -- please explain to the jury

14 what you had to do.

15 A Okay. Anabel Guzman told us that -- no --

16 THE DEFENDANT: Objection. This is hearsay.

17 THE COURT: Sustained.

18 Q (BY MR. YATES:) Okay. Did Anabel Cabebe do any

19 notarizing for you?

20 A Sure, yes.

21 Q Okay. And did Anabel Cabebe make any comments to

22 you or statements to you about --

23 THE DEFENDANT: Objection. That's misleading and

24 hearsay.

25 THE COURT: All right. So foundational.

1 MR. YATES: Foundational.

2 THE COURT: Overruled.

3 And you have to wait till he finishes the question.

4 Okay. So ask your question. It's overruled.

5 Q (BY MR. YATES:) Okay. So did Anabel Cabebe
6 notarize your quitclaim deed?

7 A Yes.

8 Q And did Anabel Cabebe make any representations to
9 you about MEI?

10 A Yes.

11 Q Okay. So let's talk about Anabel Cabebe's
12 representations to you about the quitclaim deed, okay?

13 A Okay.

14 Q All right. So can you explain --

15 THE DEFENDANT: Objection. This is beyond the
16 scope. It has nothing to do with --

17 MR. YATES: Well, it's my direct.

18 THE COURT: Well, so anyway, let me hear his
19 objection. Beyond the scope and what else is your --

20 THE DEFENDANT: Right. It's not relevant to any the
21 charges. It's not relevant. It's --

22 THE COURT: Okay. So he has a relevancy objection,
23 and --

24 MR. YATES: She's a victim of the -- a homeowner
25 victim of the charged scheme, Your Honor.

1 THE COURT: No, I know the witness is.

2 MR. YATES: Oh, I see.

3 THE COURT: But he's objecting to the question
4 involving Anabel Cabebe.

5 MR. YATES: I see. With respect -- this is part of
6 the scheme. Ms. Cabebe actually accepted a large sum of
7 money --

8 THE COURT: So you don't have to go into specifics.
9 Are you saying it's because you're saying Anabel Cabebe
10 worked --

11 MR. YATES: Correct.

12 THE COURT: -- with Mr. Williams? Okay. So that's
13 the relevance aspect of it?

14 MR. YATES: Yes, correct.

15 THE COURT: But are you going to ask for hearsay?

16 MR. YATES: Yes, and to the extent that Ms. Cabebe
17 was an agent of MEI --

18 THE COURT: Right.

19 MR. YATES: -- and an employee of MEI --

20 THE COURT: Right.

21 MR. YATES: -- who utilized -- who offered her home
22 office --

23 THE COURT: So you don't have to go into specifics.
24 So what exception to the hearsay rule are you offering?

25 MR. YATES: Agent and co-conspirator of the party.

1 THE DEFENDANT: I'm objecting because she formed her
2 own company that was Mortgage Enterprise not Mortgage
3 Enterprise Investments.

4 THE COURT: Right.

5 MR. SORENSON: That's --

6 THE DEFENDANT: I'm not charged with conspiracy.

7 THE COURT: Wait. So are you going to lay a
8 foundation with regard to the time period and that -- her
9 understanding of the relationship between Ms. Cabebe and
10 Mr. Williams?

11 MR. YATES: Sure. But I will also note that it's,
12 you know -- I don't believe that it's been established that
13 Ms. Cabebe has founded another company. At least our evidence
14 has demonstrated that she was always --

15 THE COURT: I'm not going to let you argue it now.

16 MR. YATES: Of course.

17 THE COURT: But he has evidence that's already been
18 received which are the bank statements -- the bank cards --

19 MR. YATES: Correct.

20 THE COURT: -- when they formed accounts in the name
21 of Mortgage Enterprise.

22 MR. YATES: Correct. And we also have evidence --

23 THE COURT: Well, I don't want to argue the
24 evidence, but I'm just saying if you're going to ask her
25 questions offering hearsay under that exception, you have to

1 show there's some sort of connection --

2 MR. YATES: Sure.

3 THE COURT: -- between Mr. Williams --

4 MR. YATES: Sure. And I can go ahead and ask her
5 who she understood Anabel Cabebe worked for.

6 THE COURT: Yes. You have to do that first before
7 you ask for the hearsay.

8 MR. YATES: Understood.

9 Q (BY MR. YATES:) Ms. Pillos, do you understand who
10 Anabel Cabebe worked for?

11 A MEI.

12 Q MEI?

13 A Yeah.

14 Q And who do you understand MEI was owned by?

15 A Owned by Anthony Williams.

16 Q Okay. Now, with respect to -- did you understand
17 that there was an issue with respect to your -- your deed?

18 A Yes.

19 THE DEFENDANT: Objection. Leading.

20 THE COURT: All right. So --

21 MR. YATES: That's fine.

22 THE COURT: -- foundational. Overruled.

23 All right. What point in time are we talking about?

24 MR. YATES: It's shortly after she signed up -- or
25 rather, she only --

1 THE COURT: What year? What year?

2 MR. YATES: 2013.

3 THE COURT: Okay.

4 MR. YATES: She's just described a June 2013 meeting
5 with Henry Malinay.

6 THE COURT: Yes. Okay.

7 Q (BY MR. YATES:) And what was the issue with the
8 deed?

9 A Well, the issue of the deed was to take over
10 the -- take over the deed, me and my husband.

11 Q You needed -- you were told you needed to take over
12 the deed?

13 A Yes.

14 Q Who told you that?

15 A Malinay.

16 Q And so what did you do to take over the deed?

17 A So Anabel came over to Maui and she help us for the
18 quitclaim.

19 Q Okay. And how did she do that?

20 A Handwriting.

21 Q Okay. And did she also record a quitclaim deed for
22 you?

23 A Yes.

24 THE DEFENDANT: Objection. Leading.

25 MR. YATES: And.

1 THE COURT: Overruled. Foundational.

2 What's your next question?

3 Q (BY MR. YATES:) And how much did she charge you for
4 that quitclaim deed?

5 A \$1,000 in cash.

6 MR. YATES: I would like to show the witness an
7 exhibit which has not yet been admitted into evidence, but I
8 would like to lay a foundation and then seek its admission.

9 Q (BY MR. YATES:) Ms. Pillos, can you look into your
10 binder at Exhibit 807? Now, at a certain point, Ms. Pillos,
11 did you sign up for MEI services?

12 A Yes, we did.

13 Q Okay. So if you take a look at 80 -- Exhibit 807,
14 do you recognize this document as the MEI application that you
15 signed?

16 A Yes.

17 Q And are those your signatures that appear throughout
18 Exhibit 807?

19 A Right.

20 Q Is this a true and correct copy of the MEI
21 application as you remember it?

22 A Yes.

23 MR. YATES: Okay. Your Honor, at this time I ask to
24 move to admit Exhibit 807 into evidence.

25 THE COURT: Any objection?

1 MR. ISAACSON: One moment, Your Honor.

2 THE DEFENDANT: No objection.

3 THE COURT: All right. 807 is received.

4 (Exhibit 807 received into evidence.)

5 MR. YATES: May I publish, Your Honor?

6 THE COURT: You may.

7 Q (BY MR. YATES:) Now, Ms. Pillos, the jury can now
8 see the document that you're referring to. Is 807 a copy of
9 the MEI application that you filled out?

10 A Yes.

11 Q Okay. Do you remember anything that was unusual or
12 that stood out that you were told when you were filling out
13 this application?

14 A Okay. They told us not to put the date.

15 Q Oak. Don't put any dates on this document?

16 A Any dates on this stuff, so we just signed the
17 paper.

18 MR. YATES: Now, Your Honor, I've got a new exhibit
19 here that I'd like to put before the defendant -- oh, excuse
20 me -- the witness, and I'd like to have her lay a foundation.
21 It's Exhibit 819.

22 Q (BY MR. YATES:) So, Ms. Pillos, can you please turn
23 in your binder to Exhibit 819? Do you have it in front of you?

24 A Yes.

25 Q Okay. Do you recognize Exhibit 819?

1 A Yes.

2 Q Now, is Exhibit 819 a UCC financing statement that
3 was filed on your behalf?

4 A Yes.

5 Q Okay. Now, who filled out the information in this
6 document?

7 A Anabel Cabebe.

8 Q Okay. And did she do that on your behalf?

9 A Yes.

10 Q Okay. And who recorded this document?

11 A Anabel Cabebe.

12 Q And is this -- and did she do that on your behalf?

13 A Yes.

14 Q Okay. And is this a true and correct copy of the
15 UCC document as you remember it?

16 A Yes.

17 MR. YATES: Your Honor, at this time we would move
18 to move Exhibit 819 into evidence.

19 THE COURT: Any objection?

20 THE DEFENDANT: No objection.

21 THE COURT: Received.

22 (Exhibit 819 received into evidence.)

23 MR. YATES: May I publish, Your Honor?

24 THE COURT: You may.

25 Q (BY MR. YATES:) So, Ms. Pillos, Exhibit 819, the

1 UCC document, is now on the screen in front of you. Now, I
2 believe you just testified that this is a copy of the UCC
3 document that MEI recorded for you at the Bureau of
4 Conveyances; is that correct?

5 A Right.

6 Q Okay. And this was prepared for you by Anabel
7 Cabebe?

8 A Right.

9 Q Okay. Now, this was all prepared for you as you
10 were applying for the MEI program, correct?

11 A Correct.

12 Q Okay. Now, when you signed up for MEI's services,
13 what, if anything, did Henry Malinay or Anabel Cabebe tell you
14 about how much to pay MEI?

15 THE DEFENDANT: Objection. That's hearsay.

16 THE WITNESS: Which is --

17 THE COURT: Sustained. I'm sorry. You can't answer
18 that question. Sustained.

19 MR. YATES: Okay. I would like to invoke the
20 hearsay exception for agency and --

21 THE COURT: All right. But you have to show it
22 first.

23 MR. YATES: Okay. Right. Yes, Your Honor.

24 Q (BY MR. YATES:) Ms. Pillos, at that time when you
25 applied for MEI, did you understand that Henry Malinay and

1 Anabel Cabebe were working for MEI?

2 THE DEFENDANT: Objection.

3 THE WITNESS: Yes.

4 THE DEFENDANT: That's leading.

5 THE COURT: Wait. So it's foundational. Overruled.

6 Okay. So your answer is, "Yes." All right.

7 Q (BY MR. YATES:) And do you understand that MEI was
8 owned by Anthony Williams?

9 A Yes.

10 Q Okay. Now, what did Anthony Williams -- excuse me
11 what the Henry Malinay and --

12 THE COURT: Okay. It's still hearsay. So you have
13 no connection between Anabel Cabebe, Henry Malinay, and
14 Mr. Williams. You have to show that there's a connection
15 between them. Just because he owned MEI and she understood --
16 I mean, what was the basis --

17 MR. YATES: They were employees. She just testified
18 that they were employees -- they represented they were
19 employees of MEI.

20 THE COURT: Yeah. So how does she know that? How
21 does she know that? What does she base that
22 Mr. Williams -- did she ever meet Mr. Williams? Did he tell
23 her that?

24 MR. YATES: We -- I appreciate that, Your Honor.

25 THE COURT: Yeah.

1 Q (BY MR. YATES:) Did you start paying MEI at that
2 point?
3 A Uhm, yes, right after, yeah, we did.
4 Q Okay. And how much were you paying MEI?
5 A \$1,032.
6 Q Per month, correct? Per --
7 A Pardon me?
8 Q Per month?
9 A Per month.
10 Q Now, what did you understand you were to do with
11 respect to your Wells Fargo payments?
12 A Well, Mr. Williams told us that he is going to call
13 Wells Fargo.
14 Q Okay. So at some point you did meet Mr. Williams,
15 correct?
16 A Yes, we did meet him.
17 Q Okay. And so let's talk a little bit about that.
18 Can you please describe the context in which you met
19 Mr. Williams? What happened?
20 A Oh, Anabel Cabebe introduced Mr. Williams to us,
21 that he owned the MEI.
22 Q Okay. Thank you, Your Honor -- excuse me -- thank
23 you, Ms. Pillos.
24 A It's good, make somebody nervous.
25 Q Okay. And why did Ms. Cabebe introduce you to

1 Anthony Williams?

2 A Pardon me?

3 Q Why did Ms. Cabebe introduce you to Anthony
4 Williams?

5 A Because she told us that he owned the MEI.

6 Q Okay. And why did you need to speak with or why did
7 you want to speak with Anthony Williams?

8 A Because of the foreclosure and the letter that we
9 received for the default letter from Wells Fargo.

10 Q Okay. So let's talk about that. So at some point
11 you stopped paying Wells Fargo; is that correct?

12 A Right, because they told us to -- not to pay Wells
13 Fargo any more.

14 Q Okay. And so as a result of those instructions to
15 stop paying Wells Fargo, you received default letters?

16 A Right.

17 Q And then you went into foreclosure?

18 A Right.

19 Q Okay. And as a result of that, you met with Anthony
20 Williams?

21 A Yes.

22 Q Okay. Now, how did Anthony Williams refer to
23 himself when he spoke with you?

24 A Well, we met each other at one of the office in
25 Maui, and he introduced himself as a general attorney.

1 Q Okay. And what do you understand a general attorney
2 to be?

3 A Oh, to fight for us.

4 Q Okay. What do you understand the difference is
5 between a general attorney and an attorney at law?

6 A They are the same.

7 Q Okay. And when you met with Anthony Williams, what
8 was the status of your payments to MEI?

9 A It's \$1,032 we were still paying.

10 Q I'm sorry. You were still paying MEI when you met
11 Anthony Williams, correct?

12 A Yes.

13 Q Okay. And what did Anthony Williams do or what did
14 he say in response to your concern about your foreclosure
15 proceeding?

16 A Well, at that point he told us that he is going to
17 contact Wells Fargo and he gave us a letter to show it to the
18 court and to show it to the server.

19 Q Okay. And what did Anthony Williams tell you that
20 letter was going to do when you gave it to the court or you
21 gave it out the server?

22 A Okay. To stop the foreclosure and to stop for the
23 eviction.

24 Q And did you ever show that letter to the court?

25 A Yes, we did.

1 Q And what was the result?

2 A The result was the judge doesn't agree about that
3 because he is not licensed -- he is not -- Mr. Williams not
4 licensed in Hawaii.

5 Q Now, did you and Mr. Williams also talk about the
6 MEI mortgage?

7 A Yes, we did.

8 MR. YATES: Okay. So, Your Honor, at this time I
9 would like to show the witness Exhibit No. 820.

10 Q (BY MR. YATES:) So if you could turn to 820 in your
11 book in front of you. Ms. Pillos, if you could look through
12 820 and verify that that's your signature that appears on the
13 fifth and sixth pages of Exhibit 820 and let me know.

14 A Yes.

15 Q Okay. Now is Exhibit 820 a copy, a true and correct
16 copy of the MEI mortgage that you signed for the MEI program?

17 A Yes.

18 MR. YATES: Okay. Your Honor, at this time I move
19 to admit Exhibit 820 into evidence.

20 THE COURT: All right. Any objection?

21 THE DEFENDANT: No objection.

22 THE COURT: Received.

23 (Exhibit 820 received into evidence.)

24 Q (BY MR. YATES:) All right. So Ms. Pillos, is
25 what's being shown to -- may I publish, Your Honor?

1 THE COURT: You may.

2 Q (BY MR. YATES:) Now, Ms. Pillos, is what's being
3 shown to the jury now a copy of the MEI mortgage that was
4 prepared for you as part of the MEI program?

5 A Yes.

6 Q Okay. Now, what, if anything, did Anthony Williams
7 represent to you about what this MEI mortgage was supposed to
8 do for you and for your Wells Fargo mortgage?

9 A Take over the mortgage.

10 Q So this MEI mortgage was supposed to do what now?

11 A To take over the mortgage.

12 Q Take over your Wells Fargo mortgage?

13 A Wells Fargo mortgage, yeah.

14 Q And what, if anything, was this mortgage document
15 supposed to do with respect to your foreclosure?

16 A Right.

17 Q What was it supposed to do?

18 A Supposed to stop for the foreclosure.

19 Q So do you understand the significance of a
20 foreclosure? Do you know what a foreclosure is?

21 A Sure. They take away our house.

22 Q Okay. And you were in a foreclosure proceeding at
23 that time, correct?

24 A Right.

25 Q Why didn't you hire a lawyer?

1 A Just because we thought Williams would be able to
2 help us out.

3 Q You continued to pay MEI after you met Anthony
4 Williams, correct?

5 A Correct.

6 Q Okay. And how were you paying MEI at that point?

7 A Well, at that time we -- first we sent \$1,500 to
8 Anabel Cabebe, and after that we paid by -- through checks
9 payable -- mailed it to Anabel Cabebe.

10 Q Payable to whom?

11 A MEI.

12 Q So let's talk about the conclusion of those
13 foreclosure proceedings. How did that end?

14 A We have been evicted.

15 Q So let's talk a little bit about that. Do you
16 recall the circumstances of your eviction?

17 A Oh, sure, was very bad because during that eviction,
18 it was Sunday and it was 7 o'clock -- and I'm so sorry about
19 this. My grandson has autism and we're afraid -- he was
20 shaking. He was shaking because, you know, all of us, we were
21 so scared because they keep on pounding the door, yelling at us
22 to get out from the house. So he didn't know what's -- you
23 know, what's going on because they never come to us and tell us
24 ahead of time that they will going to evict us.

25 So my grandson came out from the room because they

1 were -- they're in the middle of sleeping because that was
2 Sunday, and lucky thing my niece came over and she hug him
3 because he was shaking and we were afraid that he's going
4 through trauma. So we -- you know, we don't know -- really
5 don't know because it was scary. We were thinking about my
6 grandson and if he's going through trauma, you think Williams
7 will help us? You think William can pay all of this, our loss,
8 our house? We love our house. We love our house. But we've
9 been doing fine, paying our mortgage, but once this MEI came,
10 that's the time when we lost our house. And, you know, it
11 hurts us so much because we work hard on that house.

12 So I really appreciate it if everything -- I would
13 like to, you know, to file a claim against him, you know. It's
14 not only \$8,000. It's more than that because of everything
15 we've been through -- stress, depressed --

16 THE COURT: Okay. So he's going to have to ask you
17 a question. All right. Thank you.

18 THE WITNESS: Sure, I will. Sorry about that.

19 THE COURT: No, no, that's fine. I understand.

20 THE WITNESS: I'm sorry.

21 THE COURT: Do you want to drink some water or take
22 some time? We're almost at the end of the day.

23 THE WITNESS: No, that's okay. I'm just thinking
24 about my grandson.

25 THE COURT: Why don't we actually recess for the day

1 and give her some time.

2 So, ladies and gentlemen of the jury, I'm going to excuse
3 you a little bit earlier, and if you leave your notebook and
4 your iPads behind. And, of course, with my usual warnings:
5 Don't discuss the case with anyone or allow anyone to discuss
6 it with you. Don't research or investigate any witnesses or
7 events. And don't engage in social media or read, watch, or
8 listen to any media accounts, should there be any.

9 All right. Please rise for the jury. They're excused
10 until 8:30 tomorrow morning. Thank you again for your kind
11 patience with us on behalf of Mr. Williams and all of the
12 attorneys.

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

14 THE WITNESS: I'm sorry. I'm sorry.

15 THE COURT: No, you're fine. If you'd like some
16 water, go ahead and have some. Just sit down and have a few
17 minutes, all right? So take your time. You don't have to
18 leave the courtroom.

19 What I'm going to do is have a recess for a few minutes
20 and then we'll come back and we'll pretrial for tomorrow. All
21 right. We're in recess.

22 (A recess was taken.)

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

24 THE COURT: All right. The record will reflect the
25 presence of counsel and Mr. Williams. The jury and the witness

1 are not present.

2 All right. Are there any matters we need to take up for
3 tomorrow?

4 MR. ISAACSON: Your Honor, may I? Your Honor, if I
5 may, today is the deadline for Mr. Williams to object to the
6 government's motion to strike his experts. He indicated
7 somehow he did not get a copy of that. We've been able to pull
8 up the motion on the computer, so I was wondering is it too
9 late -- today's the date. If I could verbally tell you why
10 he's opposed to the government's motion --

11 THE COURT: Okay. Does he want more time? Is
12 that --

13 MR. ISAACSON: No. We're going next week. I don't
14 know what you want to --

15 THE COURT: Yeah. I mean, does he want to address
16 it tomorrow?

17 THE DEFENDANT: I mean, I can address it now, I
18 mean, 'cause it's --

19 THE COURT: Do you want to address it now?

20 THE DEFENDANT: Yeah, I mean, 'cause it's --

21 THE COURT: Okay. Fine.

22 THE DEFENDANT: Dr. Horowitz's credentials speak for
23 themselves. Not only is he an expert witness, he's actually a
24 fact witness in this case. He's actually one of my clients.
25 And so he has more than firsthand knowledge as a client and as

1 an expert. So he has a unique position in what he's done.

2 This man been exposing government corruption over
3 30 years, author of 17 books about, you know, government
4 corruption, things like that, actually has one of his own cases
5 here against the corrupt attorney named Sula that he finally
6 got indicted for what he was doing with the mortgages and stuff
7 like that.

8 So he's definitely an expert and he's also a fact witness.
9 He already supplied the government with his credentials.

10 MR. ISAACSON: Your Honor, if I may.

11 Is this Mr. Horowitz we're discussing?

12 THE DEFENDANT: Yes.

13 MR. ISAACSON: Judge, for your edifi- -- his CV is
14 attached as Defense Exhibit 2124, if the Court was --
15 wanted --

16 THE COURT: All right. Thank you. Anything else in
17 the opposition that you wanted to raise?

18 THE DEFENDANT: That's it.

19 THE COURT: Okay. All right. So I will then take
20 the matter under advisement and issue a ruling with regard to
21 that.

22 MR. SORENSON: Your Honor, also we had briefed this
23 particular area --

24 THE COURT: Yes.

25 MR. SORENSON: -- just to let the Court know.

1 THE COURT: You mean in your motion?

2 MR. SORENSON: In our -- yes, in our motion, yeah.

3 THE COURT: Yeah. Great. So -- go ahead,

4 Mr. Isaacson.

5 MR. ISAACSON: Sorry. There were three experts. I
6 think they're trying to strike all three.

7 Do you remember?

8 MR. SORENSON: Well, yes, absolutely.

9 MR. ISAACSON: So that's -- Dr. Horowitz is one,
10 there's Dr. Brannon.

11 Do you want to address Dr. Brannon?

12 THE DEFENDANT: Yeah. I mean, Dr. Brannon, his
13 credentials speak for themselves. He can testify regarding me.
14 He actually researched -- well, he had to research me, so he
15 researched my dealings here in Hawaii. He saw the videos here
16 of me in Hawaii, what I did with the clients and stuff like
17 that. So, I mean, his credentials speak for themselves also.

18 THE COURT: All right. So we have Dr. Michael
19 Brannon, B-r-a-n-n-o-n, Leonard Horowitz, Dr. Horowitz.
20 They're also -- the subject of their motion is James W. Harper
21 and/or Harlan U.

22 MR. ISAACSON: They're not going to be --

23 THE DEFENDANT: They're not going to be --

24 THE COURT: Okay. And Lynn Szymoniak.

25 THE DEFENDANT: She has health issues so she's not

1 going to able to --

2 THE COURT: Okay. So we don't have to address that.
3 And Robert Young?

4 MR. ISAACSON: Your Honor, if I may, Mr. Young was
5 kind of a standby person in terms of the technological issues.
6 At this point I'm not -- I don't want to speak for you,
7 Mr. William, -- but I'm not seeing any specific issue at this
8 moment. We can -- I think we can probably bring him by video
9 if we absolutely need him.

10 THE DEFENDANT: Yeah.

11 MR. ISAACSON: But that's kind of what we had him
12 for, Judge. I don't want to speak for Mr. Williams, of course.

13 THE DEFENDANT: Yeah.

14 THE COURT: Are you agreement with that, Mr. Williams?

15 THE DEFENDANT: I'm in agreement.

16 THE COURT: Okay. And then Barry Scheck, Esquire, I
17 think it's Judge Nancy Gertner, and Robert M. Carey. Do you
18 intend to call them?

19 THE DEFENDANT: I don't think we got in contact with
20 them.

21 MR. ISAACSON: No, Your Honor.

22 THE DEFENDANT: We never was able to get them.

23 THE COURT: And then an email expert in the area of
24 email generation and retrieval to be designated. Going to be
25 called?

1 MR. ISAACSON: We don't have one, I don't think.

2 THE DEFENDANT: We didn't get 'em.

3 THE COURT: All right. So that person's not going
4 to be called.

5 You listed yourself also as an expert.

6 THE DEFENDANT: Yes.

7 THE COURT: Okay. So I'll just rule with regard to
8 that.

9 Okay. All right. I thing we've been -- covered all the
10 witnesses that you folks were seeking --

11 MR. ISAACSON: Can I --

12 THE COURT: -- to exclude? Yes.

13 MR. ISAACSON: I'm sorry. I didn't mean to
14 interrupt you, Your Honor.

15 THE COURT: Yeah.

16 MR. ISAACSON: To help the Court, if I might,
17 Mr. -- Dr. Brannon, 2122 is his CV and his report is 2123. If
18 the Court -- again, this is a competency evaluation done by
19 Dr. Brannon in 2015 in Florida, so there is a report. And I
20 know Mr. Williams would like him to testify live, if possible,
21 but perhaps as a fallback -- please don't -- that the report
22 could be admitted in case Dr. Brannon's testimony would not
23 be --

24 THE COURT: All right. Well, his report's not going
25 to come in if he's not allowed to testify.

1 MR. ISAACSON: Very well, Your Honor.

2 MR. SORENSON: Well, Your Honor, there's kind of
3 shifting sands here. We really don't know what this gentleman
4 was being called for. Competency is not an issue, so I don't
5 know -- that's certainly not relevant to this. I don't -- I
6 don't know that he's seen some videos with Anthony. I don't
7 know how that is something an expert does, so -- but I guess we
8 haven't seen anything in writing that really tells us exactly
9 what this gentleman's supposed to testify about.

10 THE COURT: Which one were you referring to? Dr. --

11 MR. SORENSON: Dr. Brannon. Or Bannon? Is that it?

12 THE COURT: Brannon, B-r-a-n-n-o-n. What I've just
13 heard is that what's set forth in the competency -- was that
14 2021, you said? No.

15 MR. ISAACSON: I have it 2122 is his CV and 2123
16 hopefully is his report.

17 THE COURT: Yes, it's his report. It's a Competency
18 to Proceed Evaluation dated December 5, 2015. So I'm taking
19 2123 as a proffer as to what he would testify.

20 MR. SORENSON: And that's fine. If indeed it is a
21 competency report, Your Honor, it's obviously completely
22 nonrelevant since competency, mental state is not a defense or
23 any other time to go to trial. It has not been an issue here.

24 THE COURT: Understood. All right. So the court
25 will take that into account and rule. I'll give you the ruling

1 by Friday.

2 MR. SORENSON: Thank you, Your Honor.

3 THE COURT: All right.

4 THE DEFENDANT: Got one more thing.

5 THE COURT: Do you have another thing?

6 THE DEFENDANT: Yes. I want to address
7 whether -- 'cause I want to be able to utilize Mr. Isaacson
8 where I don't think it would be disruptive to the Court, and I
9 spoke to him about this, that if he saw a need to where he
10 needed to interject, like an objection, that it's okay for him
11 to do that, you know, instead of having to tell me and then I,
12 you know, chime in; that he can have the okay to do that.

13 THE COURT: So on objections, you mean, or questions
14 or --

15 THE DEFENDANT: Right.

16 THE COURT: On objections.

17 THE DEFENDANT: On objections. And then, you know,
18 if I testify, I would want him just to question me. I give him
19 the question to ask me and he just ask the questions?

20 THE COURT: Oh, rather than you testify as a
21 narrative?

22 THE DEFENDANT: Right.

23 THE COURT: I thought you wanted to do a narrative.
24 You want him -- okay. Wait, let's separate these two things.

25 One is while you're questioning or while the government's

1 questioning, if -- you want Mr. Isaacson to be able to raise
2 objections?

3 THE DEFENDANT: Right.

4 THE COURT: Okay. So while the government's
5 questioning, you folks are sitting next to each other, so he
6 can either write you a note or have you -- tell you, suggest to
7 you. So he can't separately make it because there's a rule
8 that there's one person that makes objections and handles the
9 witnesses.

10 But he certainly can send you a note or whisper or
11 indicate to you what he thinks or suggests an objection you can
12 raise.

13 While you're questioning the witness, no, he can't object
14 because that'd be like having you able to object to your own
15 questions. But he can, if you wish, just like Mr. Yates and
16 Mr. Sorenson can do with each other, when one is questioning,
17 if they feel that there's an area that should be covered or
18 suggesting how to ask a question, certainly he can give you a
19 note or, you know, whisper, saying -- ask for a recess or
20 something like that and advise you. So that's okay. It's just
21 I can't have two of you talking at the same time.

22 THE DEFENDANT: Well, I woulda just, you know, let
23 him do that for the objection. I would just defer to him to do
24 that.

25 THE COURT: Yeah, so it's all or one. So if you

1 want him to handle all the objections during the government's
2 case --

3 THE DEFENDANT: Right.

4 THE COURT: -- because that's what he would suggest
5 to you --

6 THE DEFENDANT: Right.

7 THE COURT: -- then that's fine, I'll permit that.

8 THE DEFENDANT: Right.

9 THE COURT: But I don't want both of you --

10 THE DEFENDANT: Oh, no, no.

11 THE COURT: -- making objections.

12 THE DEFENDANT: No, that's why I'm saying --

13 THE COURT: Okay.

14 THE DEFENDANT: That's why I'm saying I just rather
15 him do that. He's whispering to me and I'm doing it late, you
16 know what I mean? So I just rather, You just go ahead and do
17 it. I ain't got to say nothing. You just go ahead and do it.

18 THE COURT: Right. As long as we have one person.

19 THE DEFENDANT: Right. Just --

20 MR. SORENSON: Your Honor, just so we're clear --

21 THE COURT: Yes.

22 MR. SORENSON: -- because my understand with this
23 particular setup we have is Mr. Isaacson cannot act as his
24 counsel and cannot lodge those objections because he's not his
25 counsel. He has to represent himself.

1 The system that they've been using I think is what's been
2 proper. But for Mr. Isaacson then to start exercising his
3 independent representation for Mr. Williams is improper with
4 this setup, I believe.

5 THE DEFENDANT: Well, let me -- can I address that?

6 THE COURT: All right. So -- so we'll do it over
7 their objection. I'm going -- for the orderly progression of
8 the trial, I will let Mr. Isaacson lodge the objections as long
9 as he is the only one for you.

10 THE DEFENDANT: Right.

11 THE COURT: You are designating him, you are
12 agreeing that he will raise those objections on your behalf.

13 THE DEFENDANT: Right, right.

14 MR. ISAACSON: May I just be heard briefly, Judge?

15 THE COURT: Yes.

16 MR. ISAACSON: The only -- obviously there are
17 issues if I am going to be stepping in as counsel. I assume
18 that's not what's happening.

19 THE COURT: Correct.

20 MR. ISAACSON: I am not going to be counsel and I
21 don't have all the implications of what the Court knows what
22 that means.

23 THE COURT: Correct.

24 MR. ISAACSON: It's just a very limited -- a little
25 more heightened -- that's it, right? I mean, you understand my

1 concern, Your Honor?

2 THE COURT: Right. So instead of you whispering to
3 him with a suggestion about objections, for the orderly
4 progression of the trial, Mr. Williams, I understand, is
5 agreeing that he agrees with all of the objections that you
6 will raise during the questioning; is that correct,
7 Mr. Williams?

8 THE DEFENDANT: That's correct.

9 THE COURT: All right. So you are giving
10 Mr. Isaacson, as my son's basketball coach would say, the green
11 light.

12 THE DEFENDANT: Right.

13 THE COURT: Okay. So he can raise these objections
14 for you.

15 THE DEFENDANT: Right.

16 THE COURT: And with your consent and actually your
17 desire for him to do so.

18 THE DEFENDANT: Right. I just want to put this on
19 the record to just rebut what he said. The U.S. Supreme Court
20 *U.S. v. Coupez* and *U.S. v. Guy* actually allows that to
21 actually occur.

22 THE COURT: All right. Well, I don't know what
23 those cases say, but how I'm ruling on it is that I'm in charge
24 to make sure that the trial progresses in an orderly and fair
25 fashion, and rather than all this whispering going on and then

1 you standing up, because you've consented to this process --

2 THE DEFENDANT: Right.

3 THE COURT: -- I will allow it.

4 Mr. Isaacson is not your lawyer. You are representing
5 yourself. But for an orderly progression in the trial, I'm
6 going to allow it with regard to raising objections during the
7 testimony --

8 THE DEFENDANT: Right.

9 THE COURT: -- questioning by the government.

10 MR. SORENSON: Just so we're clear, Your Honor, for
11 the rest of trial then, Mr. Williams will no longer have the
12 right to object, that has been now surrendered to Mr. Isaacson?

13 THE COURT: Well, I mean, it's his right, but it's
14 going to be exercised through Mr. Isaacson.

15 MR. SORENSON: Yeah.

16 THE COURT: Right.

17 MR. SORENSON: But he is not going to be able to
18 make them himself.

19 THE COURT: Correct. That's why I was saying I
20 don't want two people on the same side. For instance, I
21 wouldn't let Mr. Sorenson and Mr. Yates raise objections to
22 your questioning.

23 THE DEFENDANT: Right.

24 THE COURT: Only one of them per witness.

25 THE DEFENDANT: Right.

1 THE COURT: Okay. Yeah. All right. So I just want
2 to go over a little bit about the co-conspirator and/or agent
3 exception to the hearsay rule, Rule 801. So my concern, what I
4 raised, is that the fact that they're employees of MEI is not
5 sufficient. It has to be shown within their scope, or they
6 have to be shown to be part of the conspiracy.

7 MR. YATES: Sure.

8 THE COURT: And looking quickly at Rule 801 and the
9 notes in the Federal Rules of Evidence, co-conspirator follows
10 the same lines of agency. It's not set in stone. I think
11 agency law is -- there's more case law supporting it.

12 So as long as you can show if it's for the agency theory
13 that it's within their scope that they were agents of
14 Mr. Williams, somehow he gave them some sort of power,
15 authority to go out there and make representations on his
16 behalf, then I would let that hearsay in with regard to Anabel
17 Cabebe and/or Mr. Malinay.

18 But all I have right now on the record that I can
19 remember -- and you can correct me if I'm wrong -- is that she
20 understood that they were employees of Mr. Williams. So even
21 if you're relying on employee -- like if you work the counter
22 at Taco Bell, you can't sort of bind the CEO or the board of
23 Trustees, obviously.

24 MR. YATES: Yes, Your Honor. In this case, there
25 was more. We did have Henry Malinay himself talking about what

1 he was empowered to do by Mr. Williams and that he was the
2 referrer of individuals to the MEI program. So there was
3 significantly more with respect to Henry Malinay.

4 With respect to Cabebe, it does require looking at the
5 testimony of several other witnesses. You know, Agent Crawley
6 had testified that the documents were found -- MEI's records
7 were all found at Cabebe's house and numerous of the witnesses,
8 Troxel, Asuncion, and --

9 THE COURT: Okay. So this is under co-conspirator,
10 not agent.

11 MR. YATES: Both, Your Honor. One is a species of
12 the other.

13 THE COURT: Right, one is a specious of the other,
14 but for me is if it's going to be an agency, what's more
15 persuasive of course is the documents of MEI, right? I
16 think -- vaguely recall Ms. Cabebe has a title, I think, of --

17 MR. YATES: Correct, Your Honor, and that's a fair
18 point. The stronger of the two exceptions -- or I keep saying
19 the phrase exception, but as an 801(d) it's nonhearsay. As a
20 co-conspirator, you know, Henry Malinay's statements certainly
21 would qualify and would be attributed to Mr. Williams, and
22 again, also Ms. Cabebe as part of the MEI scheme, you know, her
23 statements also would be attributable to Mr. Williams.

24 I will say, however, as to this particular witness, there
25 really isn't anything that was kept out. We needed to get to

1 the points that we got to, and so it's -- I don't intend to
2 revisit statements.

3 THE COURT: Okay.

4 MR. YATES: But this has, you know, been informative
5 and, you know, certainly in the future I will lay the
6 foundation perhaps out of the presence of the jury as needed.
7 But I see this only coming up with two individuals, this
8 out-of-court statements of Henry Malinay and Anabel Cabebe.

9 THE COURT: 'Cause apparently this witness had
10 direct communication with Mr. Williams.

11 MR. YATES: That's correct, that's correct.

12 THE COURT: All right. And so, yeah, if
13 you -- before those witnesses outside the scope -- presence,
14 that is, of the jury, if we just want to refer back to I
15 believe -- I don't know what exhibit number it was -- but I
16 believe it was some sort of incorporation or organizational
17 document that reflected Ms. Cabebe and Mr. Malinay as officers
18 and directors -- or at least officers of Mortgage Enterprise
19 Investments, then I think that would be enough to satisfy
20 Rule 801 as to agency.

21 MR. SORENSON: As to agency, correct. And I suspect
22 that we'll be relying on the co-conspirator ground in any
23 event.

24 THE COURT: Understood.

25 MR. YATES: Thank you, Your Honor.

1 THE COURT: Very good.

2 THE DEFENDANT: This is the problem with this
3 hearsay, because this particular witness is not my client.
4 This particular witness, she was signed up when I was locked up
5 and so that's why she said Anabel came. I had nothing to do
6 with this woman, Anabel then scamming this lady, and now she's
7 trying to put it like I was the one that and then she's making
8 statements that are just completely false.

9 THE COURT: Okay. So you'll be given an opportunity
10 to cross-examine her, but as to statements and representations
11 made by Anabel Cabebe and/or Henry Malinay, I haven't allowed
12 her to testify to those because sort of what we talked about is
13 like what exception or provision is it for that hearsay.

14 But what Mr. Yates has just told me is they don't intend
15 to ask what Ms. Cabebe or Mr. Malinay told her. He's only
16 asking her -- and I understand you challenge it -- direct
17 representations she's testifying that you made to her about her
18 mortgage.

19 THE DEFENDANT: Right.

20 THE COURT: You'll have an opportunity to ask her
21 questions on it.

22 THE DEFENDANT: Okay.

23 THE COURT: There may be other witnesses that he's
24 going to -- Mr. Yates is going to ask for hearsay to be
25 admitted with regard to statements or representations by

1 Ms. Cabebe and/or Mr. Malinay, but we'll cross that bridge when
2 we get there.

3 MR. ISAACSON: Your Honor, if I may?

4 THE COURT: Yes.

5 MR. ISAACSON: Your Honor, today was the day, the
6 close of business today, any further justification for the
7 out-of-state witnesses. I wanted to make sure if Mr. Williams
8 wanted to add anything, he had the opportunity to do so.

9 THE COURT: Thank you.

10 THE DEFENDANT: I don't have anything.

11 THE COURT: All right. Thank you very much. So
12 then my prior ruling stands and those witnesses --

13 MR. ISAACSON: One last --

14 THE COURT: -- will not be forced -- if I can
15 finish -- will not be forced to observe the subpoena; the
16 subpoenas are quashed.

17 Do you have another matter?

18 MR. ISAACSON: Yes, Your Honor. I just want to
19 advise the Court and I've already advised Mr. Sorenson, so
20 Mr. Williams has on his witness list a series of videos, and so
21 what we are doing is Ms. Yeung has been assisting and putting
22 together a list of them and kind of a description of them with
23 a time. I'm hoping to meet with Mr. Williams now so I can give
24 it to the government tomorrow to see if somehow you can
25 maybe -- give a copy to the Court, you can give an inclination,

1 perhaps, if you will allow it, give a chance to the government
2 to -- they already have copies of the videos.

3 THE COURT: But they don't know what portions that
4 you folks want. So I will need to give them an opportunity to
5 look at it and then we'll take it up on an evidentiary basis so
6 I can pre-rule so it doesn't come in piecemeal.

7 But I am going to do a sentencing, so I think we should
8 recess now to give you folks an opportunity to speak before
9 they have to bring in the defendant who's going to be
10 sentenced --

11 MR. ISAACSON: Appreciate it.

12 THE COURT: -- at 2:45.

13 THE COURTROOM MANAGER: 2:45.

14 THE COURT: I don't want you guys cut short because
15 I don't think they want both of you in the courtroom at the
16 same time.

17 We're in recess.

18 MR. ISAACSON: Thank you, Your Honor.

19 (Proceedings adjourned at 2:26 P.M., until
20 Thursday, February 13, 2020, at 8:30 A.M.)

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COURT REPORTER'S CERTIFICATE

I, DEBRA READ, Official Court Reporter, United States District Court, District of Hawaii, do hereby certify that pursuant to 28 U.S.C. §753 the foregoing is a complete, true, and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

DATED at Honolulu, Hawaii, April 24, 2020.

/s/ Debra Read

DEBRA READ, CSR CRR RMR RDR