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**APPEARANCES**

Ms. Amanda Maxfield-Green and Mr. Charles Brown, Assistant United States Attorneys, U.S. Attorney's Office, 210 West Park Avenue, Suite 400, Oklahoma City, Oklahoma 73102, appearing for the United States of America.

Mr. William Earley and Mr. Kyle Wackenheim, Assistant United States Public Defenders, 215 Dean A. McGee, Suite 124, Oklahoma City, Oklahoma 73102, appearing for the defendant.

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1 (The following record was made in open court on April 1,  
2 2019, in the presence of all parties, counsel, and out of the  
3 presence and hearing of the jury.)

4 THE COURT: Record would reflect the parties are  
5 present, the jury has not been brought in yet.

6 It was brought to my attention that there is a potential  
7 witness issue this morning with one of your witnesses,  
8 Mr. Earley.

9 MR. EARLEY: That's correct, Your Honor.

10 THE COURT: And what -- can you tell me where we're at  
11 on that?

12 MR. EARLEY: Well, Your Honor, it is our intention to  
13 call an individual by the name of Robert Engesser. This concerns  
14 part of the allegations in the indictment with respect to the  
15 government's assertion that there was the sale of a tiger cub for  
16 \$3,000 around the time that Mr. Glover was leaving for South  
17 Carolina.

18 We, obviously, received reports in discovery concerning this  
19 particular matter. Those reports indicated and led to the  
20 conclusion that the person was Robert Engesser. We investigated  
21 that aspect of it and determined that Mr. Engesser, if he were  
22 called to testify, would say that he was not in Wynnewood,  
23 Oklahoma, in November of 2017 and did not provide any money to  
24 Mr. Passage during that time frame. And as a result of that, we  
25 issued a subpoena for Mr. Engesser and he responded to that.

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1           Now, it's my understanding that, if Mr. Engesser is called  
2 as a witness, the government may seek to try to impeach him with  
3 respect to his involvement in either submitting forms or  
4 conducting sales or receipt of tigers in interstate commerce,  
5 something that could potentially incriminate him. It is my  
6 intention to limit my inquiry from Mr. Engesser to a very limited  
7 set of circumstances. Were you there, is that your picture, and  
8 that's about it; no business relationship with Mr. Passage,  
9 nothing to that degree.

10           So when the government advised, however, that they may seek  
11 to impeach him with some sort of potential incriminating  
12 information, I did advise Mr. Engesser of that. I felt a  
13 professional and ethical obligation to let him know that, you  
14 know, I don't control how things go in court. I can make  
15 objections and things like that, but I can't promise you that you  
16 will not be asked questions that if, in your mind, you believe  
17 they could incriminate yourself -- incriminate you, then you may  
18 be required to answer.

19           So given that, Mr. Engesser expressed to me a desire to  
20 speak to an attorney before he testified. And I kind of started  
21 that process over the weekend. But he is here and he has not  
22 changed his mind about that and --

23           THE COURT: Has not changed his mind about testifying  
24 or has not changed his mind about wanting to speak to an  
25 attorney?

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1           MR. EARLEY: About wanting to speak to an attorney. To  
2 be perfectly honest, you know, as far as direct examination, I  
3 can't imagine anything that would be requested of Mr. Engesser  
4 that is in any way, shape or form incriminating. It's the  
5 cross-examination that I have no control over.

6           THE COURT: You don't have any indication he's going to  
7 assert some type of blanket refusal to testify?

8           MR. EARLEY: I don't know that. I can ask him.

9           THE COURT: Okay. Well, be that as it may, I -- you  
10 know, obviously, I want to be sure that he is aware that he has  
11 rights. It sounds like you have, at least in some limited  
12 fashion, kind of started along that process. He has not, I don't  
13 believe at this point in time, invoked his right to counsel or  
14 invoked a Fifth Amendment privilege.

15           We'll -- I mean, while I am certainly obligated to protect  
16 his right, I also want to be a good custodian of the taxpayer  
17 dollars and I don't want to appoint him an attorney without him  
18 having requested one, much less a court-appointed attorney. We  
19 have kind of started that process. And so if we get to that  
20 position, we can -- we'll cross that bridge when we come to it.  
21 I want to minimize as much as we can any delay for the jury, but  
22 -- the government have anything additional, Mr. Brown?

23           MR. BROWN: Judge, to the extent Mr. Earley is going to  
24 actually limit the scope of his direct to conduct right around  
25 Thanksgiving of 2017, we don't anticipate asking Mr. Engesser

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1 anything. And I would remind the Court that to the extent that  
2 is, indeed, all the testimony that will be elicited, we have  
3 offered all along to stipulate to specifically everything  
4 Mr. Earley just explained, Judge.

5 THE COURT: Anything further, Mr. Earley?

6 MR. EARLEY: Just that, you know, I think their offer  
7 was sometime last week, if I'm not mistaken. But anyway,  
8 let's -- we can just -- but it sounds to me like this may not be  
9 an issue at all.

10 THE COURT: I understand. And I appreciate the parties  
11 working toward that end. So I just wanted to have my head  
12 wrapped around it before we got him on the stand. So in the  
13 event that that does come up, I will excuse the jury prior to us  
14 dealing with any kind of issue like that, just so the parties are  
15 aware.

16 Marcia, you can go ahead and bring the jury in.

17 (Jury entered.)

18 (The following record was made in open court, in the  
19 presence of all parties, counsel, and in the presence and hearing  
20 of the jury.)

21 THE COURT: Good morning, welcome back. Hope you had a  
22 good and relaxing weekend.

23 I had to get -- I was anxious to get back to work to rest.  
24 My wife had me doing yard work all day yesterday. I can't hardly  
25 move today.

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1           Anyway, welcome back. We'll get down to business.

2           Mr. Earley, defendant's next witness.

3                   MR. EARLEY: Yes. We'll call Robert Engesser.

4           (WITNESS SWORN.)

5                   THE COURT: Good morning, Mr. Engesser. If you could,  
6 just feel free to adjust that chair or that mic. I just want to  
7 be sure that everybody can hear you.

8                                   ROBERT ENGESSER,

9                                   DIRECT EXAMINATION

10 BY MR. EARLEY:

11 Q.    Could you state your name, please?

12 A.    Robert Engesser.

13 Q.    And go ahead and spell your last name for the court  
14 reporter.

15 A.    E-N-G-E-S-S-E-R.

16 Q.    All right. And, Mr. Engesser, where do you live?

17 A.    Trenton, Florida.

18 Q.    And what is your occupation?

19 A.    Now? Driving a truck.

20 Q.    Okay. Prior to driving a truck, what did you do for a  
21 living?

22 A.    Me and my family owned and operated a petting zoo.

23 Q.    Now, are you familiar with the GW Animal Park or zoo in  
24 Wynnewood, Oklahoma?

25 A.    Yes, sir.

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1 Q. All right. Now, I think in front of you may be an exhibit  
2 book. If you could, please turn to Tab No. 62, Defendant's  
3 Exhibit 62.

4 A. Okay.

5 Q. And what is that?

6 A. I think -- what it is here is a -- a picture of a text from  
7 a phone.

8 Q. Okay.

9 MR. EARLEY: Your Honor, may I assist the witness?

10 THE COURT: You may.

11 Q. (By Mr. Earley) Okay. That's Defendant's Exhibit 62. What  
12 is that?

13 A. That's a picture of me, sir.

14 Q. All right. And I -- it's been previously introduced, but do  
15 you know where that picture came from?

16 A. Probably from a social media, like Facebook.

17 Q. You have a Facebook page or account?

18 A. Yes, sir.

19 Q. All right. Now, back in the fall of 2018 were you contacted  
20 by law enforcement agents?

21 A. Yes, sir.

22 Q. And what did the officers want to know from you?

23 A. They questioned me about animals that we had on hand.

24 Q. Did they ask you anything about your location in November  
25 of 2017?

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1 A. Correct, yes, sir.

2 Q. All right. And where did they want to know if you had -- or  
3 what location did they want to know if you had been there in  
4 November of 2017?

5 A. Well, I was in Palestine, Texas, and the week before that we  
6 was in Big Springs, and the week after that we was in Lufkin,  
7 Texas.

8 Q. Did they ask you if you were in Wynnewood, Oklahoma, in  
9 November of 2017?

10 A. Yes, sir.

11 Q. And what did you tell them?

12 A. I was in Palestine, in Big Springs. And when we went to  
13 Palestine, I had to go to Kokomo, Indiana, to pick up a truck  
14 that had been in an accident from a Dodge dealer, Button's Dodge  
15 Dealer.

16 Q. So you told them your specific whereabouts during the month  
17 of November of 2017?

18 A. They asked about the end of -- around Thanksgiving, yes,  
19 sir.

20 Q. All right. Were you in Wynnewood, Oklahoma, in November  
21 of 2017?

22 A. Not to my knowledge, no, sir.

23 Q. And you provided the agents every location you thought you  
24 had been in November of 2017, correct?

25 A. Yes, sir.

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1 MR. EARLEY: Nothing further.

2 THE COURT: Cross-examination, Mr. Brown?

3 **CROSS-EXAMINATION**

4 **BY MR. BROWN:**

5 Q. Good morning, Mr. Engesser.

6 A. Good morning, sir.

7 Q. The interview Mr. Earley is discussing with the agents, did  
8 that take place up in, I think Indiana?

9 A. No, sir. Illinois.

10 Q. Illinois. I'm sorry. Yes. And do you remember the exact  
11 date of the interview?

12 A. No, sir, I do not.

13 Q. If I told you it was September 13th, would you have any  
14 reason to disagree with me?

15 A. No, sir, I don't.

16 Q. And when you were interviewed, do you know whether or not  
17 Mr. Passage had already been charged in this case?

18 A. Not to my recollection. I don't know.

19 Q. But if I were to tell you that the interview took place  
20 after Mr. Passage -- after the grand jury had already deliberated  
21 and returned an indictment, would you disagree with me?

22 A. I wouldn't know.

23 MR. BROWN: Thank you.

24 No questions, Judge.

25 THE COURT: Anything further, Mr. Earley?

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1 MR. EARLEY: No, sir.

2 THE COURT: Thank you, Mr. Engesser. You may step  
3 down.

4 Defendant's next witness.

5 MR. EARLEY: Call Agent Matthew Bryant.

6 (WITNESS SWORN.)

7 MATTHEW BRYANT,

8 DIRECT EXAMINATION

9 BY MR. EARLEY:

10 Q. State your name, please.

11 A. Matthew Bryant.

12 Q. And, Mr. Bryant, how are you employed?

13 A. I'm a special agent with the U.S. Fish & Wildlife Service.

14 Q. How long have you been with the Fish & Wildlife Service?

15 A. I have been in law enforcement with Fish & Wildlife Service  
16 for approximately 25 years, the last 18 as a special agent.

17 Q. And what kind of training do you receive with respect to  
18 being an agent with the Fish & Wildlife Service?

19 A. We attend the Federal Law Enforcement Training Center  
20 criminal investigation investigator's course, and then follow-up  
21 training related to specific wildlife laws that we enforce.

22 Q. All right. And we have heard a couple of terms. We have  
23 heard the Endangered Species Act. Are you familiar with that?

24 A. Yes, sir.

25 Q. Does that come within your -- the purview of the Fish &

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1 Wildlife Service?

2 A. Yes, sir.

3 Q. And we have also heard about the Lacey Act. Do you know  
4 about that?

5 A. Yes, sir.

6 Q. And does that come within the purview of the Fish & Wildlife  
7 Service?

8 A. Yes, sir.

9 Q. Okay. Can you explain what the difference is between the  
10 two acts, I mean what their focus is?

11 A. I'll try, Mr. Earley. The Endangered Species Act is an act  
12 by Congress to protect endangered species. Endangered species  
13 are species that are indigenous to the U.S. and species of  
14 concern that may be of international importance. It prohibits  
15 the -- the take or commercialization, among other things, to  
16 include habitat for various species.

17 Q. So the Endangered Species Act is aimed at trying to protect  
18 animals that I guess there's been some agreement on that are in  
19 danger of being -- either going into extinction or something  
20 similar to that, correct?

21 A. Endangered or threatened. There is a list of species.

22 Q. Now -- and the Lacey Act, what's the focus of that  
23 particular area of law?

24 A. The Lacey Act is a -- an act to prohibit the interstate  
25 commerce of illegally possessed, transported or -- wildlife.

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Matthew Bryant - Direct by Mr. Earley

1 Q. Now, we heard from some USDA inspectors, United States  
2 Department of Agriculture inspector, I think Debbie Boone, if I'm  
3 not mistaken. Is that correct?

4 A. Yes, sir.

5 Q. And so is she in your department?

6 A. No, sir. She works for the Department of Agriculture.

7 Q. Completely separate agency, correct?

8 A. Yes, sir.

9 Q. All right. And as far as the USDA inspectors, are you  
10 familiar with their role with respect to either one of these  
11 acts?

12 A. Limited.

13 Q. All right. Now, during your employment with Fish &  
14 Wildlife, how many Lacey Act investigations have you been  
15 involved with?

16 A. I would have to give you an estimate, Mr. Earley, of  
17 probably at least 30 to 40.

18 Q. All right. And out of that 30 to 40, how many have been  
19 criminally prosecuted?

20 A. All of them.

21 Q. And when you say "criminally prosecuted," which venue are  
22 they prosecuted in? In district court?

23 A. Yes, sir.

24 Q. All right. So they have all resulted in criminal  
25 prosecutions?

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1 A. Yes, sir, either through violation notices or criminal  
2 informations or indictments.

3 Q. Okay. So how many of them have resulted in felony  
4 prosecutions?

5 A. I would say probably ten, perhaps.

6 Q. Now, how many endangered species investigations that you  
7 participated in have resulted in criminal prosecutions?

8 A. Oh, I would -- that's tough. I'm trying to remember all the  
9 various cases that I have worked. I think it would be fair to  
10 say six to eight.

11 Q. All right. Over your career with Fish & Wildlife, correct?

12 A. Yes, sir. Those are just a couple of the acts that we  
13 enforce.

14 Q. All right. Now, there's also been some terms that we have  
15 heard about with respect to tigers. "Generic tiger," can you  
16 explain what that term is?

17 A. There are several species of tigers. I'll probably not be  
18 able to list them all. But two species of tigers that breed  
19 together, the offspring is referred to as a generic tiger.

20 Q. All right. So we're talking about -- at least for purposes  
21 of this case, are we talking about tigers and lions that have  
22 basically been in the United States for -- for their lives?

23 A. Well, used -- the Tiger Exemption Act only applies to  
24 tigers.

25 Q. So as far as the animals involved in this case that you have

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Matthew Bryant - Direct by Mr. Earley

1 been investigating, have any of these tigers or lions or any  
2 other species that you have come across during this  
3 investigation, have any of those been actually imported into the  
4 United States?

5 A. Not to my knowledge.

6 Q. All right. Would it be fair to say that most of the animals  
7 that you have dealt with in this case have been in captivity for  
8 a number of years?

9 A. Yes, sir.

10 Q. And probably born in captivity?

11 A. Probably so.

12 Q. And may go back several generations in captivity?

13 A. Yes, sir.

14 Q. All right. Now, with respect to the Endangered Species Act,  
15 does that act allow a citizen to sue an individual or entity for  
16 a -- for a perceived violation of the Act?

17 A. It does have a civil side, yes, sir.

18 Q. All right. So can organizations such as PETA or other  
19 animal rights organizations bring lawsuits against individuals?

20 A. Yes, sir.

21 Q. All right. Do these organizations sometimes work hand in  
22 hand with the USDA and Fish & Wildlife?

23 A. I agree with you to a point, Mr. Earley, except for the  
24 "hand in hand."

25 Q. Well, let me ask you about this particular investigation.

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1 Did any animal rights organizations provide you with information  
2 during the course of your investigation of this case?

3 A. There was information supplied to my agency from these  
4 organizations regarding information that they had learned about  
5 Greater Wynnewood Exotic Animal Park.

6 Q. All right. And which organizations were those?

7 A. PETA is one, Humane Society of the United States is another,  
8 and then I believe it's Animal Legal Defense Fund is another one.

9 Q. All right. Were you provided information by Carole or  
10 Harold -- Howard Baskin during this investigation?

11 A. Yes, sir.

12 Q. And as far as the investigation itself, were you provided  
13 information from them prior to any of this murder-for-hire  
14 investigation beginning?

15 A. Not that I recall.

16 Q. Now, prior to you entering into your agreement with  
17 Mr. Garretson, had Fish & Wildlife, you or any other officer from  
18 Fish & Wildlife been to the park?

19 A. Yes, sir.

20 Q. For what purpose?

21 A. I believe it was in approximately -- and, again, I state  
22 approximately -- 2009. I went to the Greater Wynnewood Exotic  
23 Animal Park with a USDA investigator who had to conduct an  
24 interview. It was USDA policy that an armed person accompany  
25 them on any investigation that happened at the Greater Wynnewood

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1 Exotic Animal Park.

2 Q. Okay. So that was in 2009?

3 A. And I say approximately, Mr. Earley.

4 Q. Okay. Well, and that's fine.

5 Now, between whenever that was, 2009 or '10, whenever, had  
6 you or any other officer been back to that park prior to getting  
7 involved with Mr. Garretson and his undercover activities?

8 A. No, sir.

9 Q. So I take it that Fish & Wildlife agents don't routinely do  
10 inspections or -- or look at places that have exotic animals in  
11 their facility?

12 A. I would agree with you when you say "routinely," yes, sir.

13 Q. All right. Now, prior to February of 2017, were you  
14 investigating Mr. Passage and this park?

15 A. Yes, sir.

16 Q. All right. And what was your investigation primarily  
17 focused on?

18 A. The illegal movement of wildlife.

19 Q. All right. And when did that change -- or when was the  
20 additional focus of threats to Carole Baskin developed?

21 A. During the initial stage of the investigation, even when it  
22 was focused on wildlife, I began to have knowledge of some social  
23 media threats that existed. In February of 2017, information was  
24 gained indicating that there was a person that had information  
25 regarding someone wanting to harm Ms. Baskin.

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Matthew Bryant - Direct by Mr. Earley

1 Q. So is that kind of when the focus started to shift over to  
2 include this investigation for the murder-for-hire plot?

3 A. Yes, sir.

4 Q. All right. So about February of 2017.

5 Now, were you a part of the discussion in March of 2017 with  
6 the U.S. attorney's office and Agent Farabow about how best to  
7 proceed in this matter?

8 A. Yes, sir.

9 Q. All right. And was there a suggestion by one of you that  
10 you just bring Mr. Passage and Mr. Lowe and his wife in to have a  
11 little sit-down about these -- these alleged threats?

12 A. Yes, sir.

13 Q. And what is your recollection as to why that course of  
14 action was not taken?

15 A. Collectively it was decided that it would be best for the  
16 investigation to continue to gather evidence.

17 Q. So Mr. Passage was never contacted about these -- these  
18 things that were being seen on social media or about this  
19 telephone call that prompted the switch in -- in the focus of his  
20 investigation?

21 A. Not at that time.

22 Q. Now, Garretson, I think we -- we have in evidence that he  
23 made this call to Carole Baskin, I guess around August 24th or  
24 so; is that right?

25 A. Yes, sir.

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1 Q. Okay. So what was going on between, you know, February and  
2 August with respect to the investigation?

3 A. You talking about -- can you repeat that, Mr. Earley? I'm  
4 sorry.

5 Q. What was going on between February and August with respect  
6 to your investigation? What were you doing?

7 A. I was looking at information, trying to understand how  
8 Greater Wynnewood Exotic Animal Park worked, who were the owners.  
9 I was researching the civil litigation to try to determine how  
10 all of the changes at Greater Wynnewood Exotic Animal Park had  
11 happened, kind of the history of that, who was involved in the  
12 management of the park.

13 I started making contact with USDA, started to look at  
14 records. I believed at the time that records were going to be an  
15 important part of the investigation, so I spent time doing  
16 background work and trying to develop the case at the -- at the  
17 floor level to have a good understanding of what I would be  
18 looking into.

19 Q. Now, the Baskins referred you to this telephone call that  
20 they had received, correct, in August?

21 A. Yes, sir.

22 Q. All right. So you called back and you contacted  
23 Mr. Garretson, right?

24 A. Yes, sir.

25 Q. And did you at that time, in August, ask Garretson who the

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Matthew Bryant - Direct by Mr. Earley

1 bad guy was in this scenario? Do you remember that?

2 A. Those exact words, I do not remember.

3 Q. Okay. Well, do you remember having a discussion with  
4 Garretson as to who was the person you should focus on?

5 A. If you're speaking about the initial interview with  
6 Mr. Garretson.

7 Q. Yes.

8 A. Yes, sir. I had that discussion about how things worked at  
9 the park. He had involvement with Mr. Maldonado and Mr. Lowe and  
10 shed light on how the park operated, who ran the park, who was  
11 doing what.

12 Q. All right. And so is it fair to say, then, after your  
13 discussions with Garretson that you decided you would focus on  
14 Mr. Passage?

15 A. Not at all, sir.

16 Q. All right. So -- well, what steps were taken to include  
17 Lowe in the investigation of this murder-for-hire plot?

18 A. It was my belief at the time, at the onset of the  
19 investigation, that Mr. Lowe and Mr. Maldonado -- excuse me --  
20 Mr. Passage were both involved in the operation of the park. I  
21 asked the CI to find out information about the park. And let me  
22 also add, I also knew that both of them possessed exotic animals  
23 and that all the exotic animals were at the park property. I  
24 asked Mr. Lowe to make contact -- excuse me -- I asked  
25 Mr. Garretson to make contact with Mr. Lowe and Mr. Passage and

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1 to record phone calls with each.

2 Q. All right. There was an initial recording at -- on  
3 September 29th with Mr. Passage, correct?

4 A. Yes, sir.

5 Q. All right. And I believe the first phone call that was  
6 recorded with Mr. Lowe was not until November, correct?

7 A. Yes, sir.

8 Q. Do you know why there were no recorded meetings or recorded  
9 telephone conversations between Garretson and Lowe prior to  
10 November?

11 A. I do not know other than Mr. Garretson, at times, informed  
12 me that Mr. Lowe was hard to get ahold of. And Mr. Lowe, at the  
13 time, I believe, was in -- in Las -- Las Vegas.

14 Q. Well, Mr. Lowe had spent a lot of time in Las Vegas prior to  
15 the fall of 2017, hadn't he?

16 A. That's what I began to learn, yes, sir.

17 Q. Yes. And did Mr. Garretson indicate to you that he had  
18 frequent contact with Mr. Lowe?

19 A. Yes. He and Mr. Lowe did have frequent contact, as  
20 explained to me during our initial meeting, but at times Mr. Lowe  
21 would be hard to get ahold of.

22 Q. So apparently, after Mr. Garretson decides to get on board  
23 with your investigation, it was extremely difficult for him to  
24 get into contact with Mr. Lowe, apparently? Would that be fair  
25 to say?

*Emily Eakle, RMR, CRR*

1 A. I would agree that at times it was difficult for  
2 Mr. Garretson to get in touch with Mr. Lowe.

3 Q. Now, does your agency normally investigate murder-for-hire  
4 charges?

5 A. No, sir.

6 Q. Is that why you asked the FBI to assist?

7 A. Yes, sir.

8 Q. And now, in spite of the FBI's involvement, was your agency  
9 still the primary investigating agency?

10 A. We initiated the investigation. So by that, yes, we were  
11 still the primary.

12 Q. Now, we heard evidence that on November 16th, 2017, there  
13 was some belief on the part of law enforcement that this plan for  
14 Glover to do something had kind of fizzled out; is that right?

15 A. That's what we believed.

16 Q. And what was the reason behind your belief?

17 A. There was a text message between Mr. Glover and  
18 Mr. Garretson where Mr. Glover informed Mr. Garretson that things  
19 had changed.

20 Q. Now, during the course of your investigation were you made  
21 aware of something that occurred with Jeff Lowe on that very same  
22 day, November 16th, 2017?

23 A. On November 16th, Mr. Lowe, who was then operating in Las  
24 Vegas, Nevada, was the subject of an investigation by the Animal  
25 Control department for the city of Las Vegas.

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1 Q. Was there a search warrant executed at the place where he  
2 was residing?

3 A. Yes, sir.

4 Q. Do you know if he was charged for any activities out there?

5 A. My understanding at the time, he was written citations and  
6 requested to appear in court.

7 Q. So that's the same day that he got in trouble out in Las  
8 Vegas, correct, that this plot supposedly fizzled out based on  
9 Glover's communications?

10 A. Yes, sir.

11 Q. All right.

12 A. Mr. Earley, may I pour a glass of water?

13 Q. Sure. Go ahead. I'm sorry.

14 A. Thank you.

15 Q. Sure.

16 Now, although the Glover situation had apparently resolved  
17 itself on November 16th, you asked Garretson to continue to  
18 attempt to make a meeting happen between Mr. Passage and an  
19 undercover FBI agent, correct?

20 A. Yes -- yes, I did. Mr. Garretson had been previously  
21 contacted by Mr. Maldonado and requested to find a hit man. My  
22 belief, that Mr. Maldonado had asked Mr. Garretson several times.

23 Q. And when were those conversations supposedly had?

24 A. During the -- I believe April through July of 2017.

25 Q. That preceded the date that Mr. Lowe and Mr. Garretson

*Emily Eakle, RMR, CRR*

Matthew Bryant - Direct by Mr. Earley

1 apparently had a conversation about contacting Carole Baskin,  
2 correct?

3 A. Yes, sir.

4 Q. All right. And with respect to Mr. Garretson's efforts,  
5 were those efforts going on simultaneously to the investigation  
6 with respect to Glover and his activities?

7 A. I didn't follow you, Mr. Earley.

8 Q. Well, I mean, Garretson at some point figures out that  
9 there's some plot, or at least he tells you that he's figured out  
10 that there's some plot involving Alan Glover, correct?

11 A. Yes, sir. We learned that from recorded phone calls.

12 Q. And so you -- you have got that going on, but were your --  
13 were you continuing to try to get somebody involved that was in  
14 an undercover capacity with Mr. Passage?

15 A. Yes, sir.

16 Q. And those things were kind of going along in tandem, were  
17 they not?

18 A. Yes, sir. Our initial goal was to try to get an undercover  
19 officer in there to meet the requests that Mr. Maldonado had made  
20 towards Mr. Garretson. We wanted to do that to gain control over  
21 the situation so that the undercover would know Mr. Maldonado's  
22 plans or potential plans or any changes in plans.

23 During that process we learned that Mr. Maldonado -- excuse  
24 me, I apologize -- that's the way that I have learned his name.  
25 I'll do better to try to remember Mr. Passage.

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1 Mr. Passage had -- had -- while we were in the process of  
2 trying to do that, I believe in September, we had initial  
3 conversations with Mr. Maldonado -- Mr. Passage regarding the use  
4 of an undercover. During that time, between September and  
5 November, we learned that Mr. Passage had planned to use  
6 Mr. Glover.

7 Q. At least that's what Garretson advised you, correct?

8 A. Also Mr. Maldonado -- Mr. Passage made those statements  
9 and -- in recordings.

10 Q. Sure. And so Garretson apparently had known about that,  
11 correct, that Glover issue, correct?

12 A. Yes, sir.

13 Q. And -- but from the very beginning, in September through  
14 October and November, you were focused on him trying to get an  
15 undercover agent in to see Mr. Passage, correct?

16 A. Yes, sir. I -- I agree with that.

17 Q. You know, those efforts began after he was signed up to try  
18 to help you-all, I mean Garretson, correct?

19 A. Yes, sir.

20 Q. And so those efforts were ongoing for at least two, maybe  
21 two and a half months before a meeting was ever agreed to by  
22 Mr. Passage, correct?

23 A. That's correct, but Mr. Passage did have plans to use  
24 Mr. Glover in between then in their interaction with  
25 Mr. Garretson and Mr. Maldonado. That's when we were trying to

*Emily Eakle, RMR, CRR*

1 encourage Mr. Passage not to use Mr. Glover but to use our  
2 undercover, so that we could gain control over the plan.

3 Q. Mr. Passage was never arrested for any activity involving  
4 this alleged Glover murder-for-hire scheme in -- in 2017,  
5 correct?

6 A. Correct.

7 Q. In fact, he wasn't arrested for anything until the  
8 indictment was returned in this case; is that correct?

9 A. Yes, sir.

10 Q. All right. Now, with respect to the undercover meeting, you  
11 were involved in that part of the investigation, correct?

12 A. Yes, sir.

13 Q. They didn't leave you out just because it was an FBI agent  
14 going in?

15 A. I was present and learning, yes, sir.

16 Q. Okay. So you were involved in pretty much everything,  
17 right?

18 A. Yes, sir.

19 Q. So Mr. Passage was not arrested immediately following that  
20 December 8th meeting with the undercover agent, was he?

21 A. No, sir.

22 Q. He wasn't arrested anytime near the conclusion of that  
23 December 8th meeting, correct?

24 A. Yes, sir.

25 Q. Now, at the very beginning of this case we heard about the

*Emily Eakle, RMR, CRR*

1 deaths of these five tigers. Do you recall all that?

2 A. Yes, sir.

3 Q. And you were involved in that part of the investigation?

4 A. Yes, sir.

5 Q. Now, did you interview Erik Cowie, Dylan West and Amber  
6 Estep about their recollection of the events?

7 A. Yes, sir.

8 Q. And that was around August 2nd, 2018?

9 A. Yes, sir.

10 Q. All right. And did you interview them individually?

11 A. I had previously, I believe -- I think I have my interview  
12 dates correct. I believe I interviewed Ms. Estep prior to that,  
13 and on that day I interviewed Mr. Cowie and Mr. Dylan separately  
14 first.

15 Q. Now, who suggested the Culpepper Merriweather animals with  
16 respect to kind of tying in the time frame?

17 A. I believe it was Dylan West that remembered that portion of  
18 it.

19 Q. All right. And as far as your other conversations with  
20 either Erik Cowie or Amber Estep, was there some confusion about  
21 the actual dates?

22 A. There was a lot of confusion there, sir. I -- I  
23 eventually -- after I interviewed each one of them, I had facts  
24 that each one of them shared that were similar and facts that --  
25 that were not. There was confusion because there was a -- a

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1 short period of time, I believe it would have been June through  
2 October, where there were multiple animals that had been killed  
3 at the park. Some were euthanized when Dr. Green was present,  
4 some had medical concerns. Some of the hides from -- or some of  
5 these carcasses were buried, some of these carcasses were placed  
6 in a truck and carried to Terry's Taxidermy here in Oklahoma City  
7 for their hides to be tanned. Some teeth were taken out of some  
8 skulls. And, again, there was a lot of confusion between the  
9 people on the events that happened.

10 My point was to get to the truth and the facts and to  
11 clarify some of the concerns. So I did bring them all together,  
12 after interviewing them each individually, to try to have a  
13 discussion, okay, on what facts each remembered, not to get  
14 anybody to change their story, but to see if the certain facts  
15 between these would help clarify the events that happened  
16 concerning the -- what I now believed to be the truth, five to  
17 six tigers that were euthanized in June and five tigers that were  
18 killed in October.

19 Q. Now, were each one of them still working for Mr. Lowe at  
20 that time?

21 A. Yes, sir.

22 Q. All right. So you had a group conversation so that everyone  
23 could kind of come to a consensus on what they remembered?

24 A. I agree with you to a point, Mr. Earley, that we had a group  
25 conversation. It was not so that we could come to a consensus.

*Emily Eakle, RMR, CRR*

1 If anyone did not agree with the facts, I did not want them to  
2 change their story. But if something somebody else remembered  
3 helped them clarify the time of events, I wanted to know what  
4 factually happened and at what period of time.

5 Q. And they all got to hear what the other person had to say  
6 about their recollection, correct?

7 A. I'll agree with that, yes, sir.

8 Q. All right. Did Jeff Lowe participate in those discussions?

9 A. Jeff Lowe was present. I don't remember him participating  
10 in those group discussions.

11 Q. But he was in the room with his three employees, correct?

12 A. He did come into the room, yes, sir.

13 Q. Now, you heard testimony from Alan Glover that the money  
14 that he said he got for this trip to South Carolina came from the  
15 sale of a cub. Do you recall that?

16 A. Yes, sir.

17 Q. And did your agency, and perhaps other agencies, spend time  
18 and resources trying to identify the person that Glover had said  
19 was the source of that money?

20 A. Yes, sir.

21 Q. All right. Did that investigation include interviewing  
22 several park employees?

23 A. Yes, sir.

24 Q. All right. At some point did Jeff Lowe provide you  
25 information about the identity of that person?

*Emily Eakle, RMR, CRR*

1 A. Yes, sir.

2 Q. And what do you recall Jeff Lowe doing to provide you that?

3 A. I received information from Mr. Lowe that he had figured out  
4 who the person was in the parking lot that Mr. Glover took the  
5 cub to. He provided me a photograph of a gentleman by the name  
6 of Robert Engesser. It was -- I'm sorry. Go ahead, sir.

7 Q. Let me put that up. Is this -- is this the photograph that  
8 he provided to you?

9 A. Yes, sir.

10 Q. He actually texted that to you, correct?

11 A. Yes, sir.

12 Q. All right. And he also confirmed that he had shown that to  
13 Glover; is that right?

14 A. He did say that.

15 Q. And he informed you that Glover identified that person as  
16 well?

17 A. That's what he said.

18 Q. All right. Now, did you ask Glover to look at that picture?

19 A. I later interviewed Mr. Glover with Special Agent Farabow,  
20 and I believe it was in July. During a portion of that interview  
21 I had that photograph and I asked Mr. Glover, is this the guy  
22 that you remember in the parking lot, and Mr. Glover did again  
23 confirm that that was the guy he saw in the parking lot.

24 Q. Okay. And supposedly that was the guy who handed over this  
25 thick envelope full of cash, correct?

*Emily Eakle, RMR, CRR*

1 A. That is according to Mr. Glover.

2 Q. Did you ask Garretson to contact Mr. Engesser?

3 A. Yes, I did. I knew Mr. Garretson was from Florida. The  
4 information that we had initially received during the  
5 investigation was that a lady from Florida was coming up to pick  
6 the tiger up, or liliger, and that's the money that Mr. Passage  
7 was going to use to pay Mr. Glover.

8 So I had a Florida base, I believed. And when this  
9 information was supplied to me, I asked the CI, or Mr. Garretson,  
10 if he knew of Mr. Engesser or anybody like that in Florida that  
11 dealt with Mr. Passage routinely.

12 Q. So did Mr. Garretson provide you some contact information on  
13 Mr. Engesser?

14 A. I don't remember if he provided contact information. I --  
15 my memory is that he was going to try to reach out to  
16 Mr. Engesser to try to make contact with him covertly, but that  
17 never resulted.

18 Q. Now, you were able to contact Mr. Engesser, correct?

19 A. Yes, sir.

20 Q. All right. And did you ask him about his whereabouts?

21 A. Yes.

22 Q. In November of 2017?

23 A. Yes, sir.

24 Q. And did you send requests to other law enforcement agencies  
25 to try to verify the information that he provided to you?

*Emily Eakle, RMR, CRR*

1 A. Yes, sir.

2 Q. To your knowledge, did those collateral investigations  
3 suggest that Mr. Engesser was not telling you the truth?

4 A. There was some -- some confusion. One of the -- there was  
5 some -- Mr. Engesser believed that during the time in question,  
6 the period of Thanksgiving, the first part of the week of  
7 Thanksgiving, that he was in Indiana -- yes, I believe that's  
8 correct. I wanted to know what dates he was actually in Indiana.  
9 The information I had was that the cub had been -- or the --  
10 yeah, the cub had been put in, what we believed at the time  
11 Mr. Engesser's vehicle, around November 22nd.

12 Mr. Engesser thought that he was in Indiana at the time  
13 getting a truck worked on or picking up a truck. So I wanted to  
14 verify that information. I was able to verify that on November  
15 21st Mr. Engesser was in Indiana.

16 Q. So was there any other information that you obtained from  
17 other law enforcement agencies that suggested that Mr. Engesser's  
18 denial that he was at the park in November of 2017 was false?

19 A. I wouldn't say false. I did ask USDA -- Mr. Engesser, as  
20 part of his business, is required to submit an itinerary. He has  
21 a traveling animal petting business and he must submit an  
22 itinerary to USDA where he's going to be the following week. And  
23 if memory serves, I believe every Friday he sends an itinerary to  
24 USDA setting what animals he possesses, is going to be  
25 exhibiting, and what location he is going to be traveling to and

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1 for the duration and the dates.

2 So I did work with USDA to try to figure out where  
3 Mr. Engesser was during the month of November. And I learned  
4 that during the first part of November, I believe he was in Big  
5 Spring, Texas. And while in Big Spring, Texas, he submitted an  
6 itinerary stating that -- I'm going to do the best I can with  
7 these dates, Mr. Earley -- but I believe he suggested then he was  
8 going to Palestine, Texas, I believe it was, and he would be in  
9 Palestine the 26th -- or the 22nd through the 26th. Then after  
10 he left there he'd be going to Lufkin,, Texas, and then after  
11 there he would be going to Odessa. And I may have Lufkin and  
12 Odessa mixed up, but he was traveling throughout Texas during the  
13 period of November.

14 Q. Now, you had already testified at the grand jury before you  
15 talked to Mr. Engesser, correct?

16 A. Yes, sir.

17 Q. And your testimony before the grand jury was that it was  
18 Mr. Engesser who had purchased a cub and provided the money to  
19 Mr. Passage that was subsequently given back over to Mr. Glover  
20 for his trip to South Carolina, correct?

21 A. Yes, sir.

22 Q. All right. So your investigation -- after you testified to  
23 those things before the grand jury, did you question whether or  
24 not that was correct, after you investigated it?

25 A. I believed it was correct at the time. There was also, as

*Emily Eakle, RMR, CRR*

1 you mentioned earlier, other interviews done with park employees.  
2 And one of the park employees remembered seeing Engesser on  
3 November 22nd at the facility, prepared an affidavit, and in the  
4 affidavit said that she remembered Mr. Engesser stating his name  
5 and that he was there to see Mr. Passage, and Mr. Passage had  
6 asked Mr. Engesser to come to the back of the park. So I had the  
7 information from Mr. Glover, referenced this photograph in his  
8 memory, and then the other information from another park employee  
9 that stated she specifically remembered talking to Mr. Engesser.

10 Q. Who was that?

11 A. Brenda Verger (phonetic) -- wait. That's not correct,  
12 Mr. Earley. It was Verger or Varga.

13 Q. Okay. Well, do you -- as you sit here today, do you believe  
14 that Mr. Engesser was at the park that day?

15 A. I had peers interview Mr. Engesser in Illinois.  
16 Mr. Engesser denied that he was at the park during that time  
17 period. I and Special Agent Farabow conducted a follow-up  
18 interview with Mr. Engesser. During the follow-up interview we  
19 discussed his interaction with the car dealership in Indiana on  
20 the 21st, his plans for his movement of his petting business, the  
21 different facilities, and his schedule, and Mr. Engesser again  
22 denied that it was him.

23 Q. Well, the question was, as you sit here today, do you  
24 believe that Mr. Engesser was at the park in the end of November  
25 and providing money to Mr. Passage in exchange for a cub?

*Emily Eakle, RMR, CRR*

1 A. I have no reason to believe that it -- Mr. Engesser could  
2 not have been there, that it could not have been him also, based  
3 on his statements.

4 Q. So who have you identified as this person who supposedly  
5 picked up a cub and exchanged money with Mr. Passage that was  
6 subsequently given to Mr. Glover?

7 A. Initially we believed it was Mr. Engesser, but as -- today  
8 it could be Mr. Engesser, it may not be Mr. Engesser. We do not  
9 know.

10 Q. So your testimony is that you haven't discounted him as the  
11 possible source of that money?

12 A. Just say we have conflicting statements. Some people said  
13 he was there; Mr. Engesser said he was not. We cannot verify the  
14 total truth of either.

15 Q. When did you come to this conclusion that maybe -- maybe I  
16 was wrong, maybe I wasn't wrong? When did you and Mr. Farabow  
17 discuss this and come to the conclusion that, well, maybe it  
18 wasn't him?

19 A. Well, there's kind of two different time periods. One of my  
20 peers who did the interview with Mr. Engesser I respect very much  
21 and I asked him specifically, "Do you believe Mr. Engesser?" He  
22 said that his gut feeling -- and he had been doing this type of  
23 work for about the same period that I have and has interviewed  
24 numerous people. He did say that he felt Mr. Engesser was being  
25 truthful, and this was during the face-to-face interview.

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1 Q. When was that?

2 A. Oh, Mr. Earley, you might have to help me with dates, but I  
3 believe it was in September of -- late September of 2018. It was  
4 the -- it was the lead request I sent to agents in Illinois.

5 Q. Okay.

6 A. And then when Agent Farabow and I interviewed him, I did  
7 have the same feeling, that Mr. Engesser may be telling the truth  
8 that it wasn't him.

9 Q. So the grand jury incorporated that allegation with respect  
10 to the sale of a cub for \$3,000 subsequently going to Glover to  
11 fund the trip to South Carolina, the grand jury incorporated that  
12 allegation in their indictment, correct?

13 A. Yes, sir.

14 Q. All right. So you testified twice in front of a grand jury,  
15 correct?

16 A. Yes, sir.

17 Q. Once around September 5th, or somewhere in that  
18 neighborhood; is that correct?

19 A. Yes, sir.

20 Q. All right. And then you testified again in front of the  
21 grand jury in November, correct?

22 A. Yes, sir.

23 Q. So when you testified the second time in front of the grand  
24 jury, did you advise the grand jury that the allegation they  
25 made, based on your testimony in September, the allegation

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1 concerning the source of these funds might be questionable at  
2 this point in time?

3 A. I don't remember that from the second grand jury.

4 Q. In fact, none of that was discussed during your testimony  
5 with the second grand jury, correct?

6 A. I don't believe so.

7 Q. None of the prior testimony concerning the alleged  
8 murder-for-hire plot was revisited during this second grand jury  
9 session, was it?

10 A. No, sir.

11 Q. And no one asked you any questions in front of the grand  
12 jury to advise them that the previous information they received  
13 may have been erroneous, correct?

14 A. Correct.

15 MR. EARLEY: May I have just a moment, Your Honor?

16 THE COURT: You may.

17 Q. (By Mr. Earley) I believe that the exhibits that concern  
18 the transportation of the animals by Mr. Finlay, his testimony,  
19 all of those postdate the passage of the generic tiger loophole  
20 closure, would that be fair to say?

21 A. Yes, sir.

22 Q. So Mr. Finlay testified that he took maybe a hundred trips  
23 transporting animals across state lines, correct?

24 A. Yes, sir.

25 Q. Over a number of years' period, correct?

*Emily Eakle, RMR, CRR*

1 A. Yes, sir.

2 Q. With respect to these transports, all of the charged acts  
3 are in November 2016 or later. Why is that?

4 A. The generic tiger change in the law happened in May of 2016.  
5 We felt it best to use those transports in support of this  
6 investigation. Prior to that, tigers that were transported would  
7 have -- had they been generic tigers and not been able to  
8 determine that they were purebred tigers, would not have been  
9 covered by the Endangered Species Act.

10 Q. So it's possible, then, that when Mr. Finlay testified about  
11 these numerous trips that he made, a good number of those trips  
12 were probably not in violation of the law, correct?

13 A. I would not know that.

14 Q. Well, prior to 2016 for sure, correct?

15 A. I can state if the tigers were not purebreds that he  
16 transported.

17 Q. Did you find any purebred tigers at the facility?

18 A. I have not looked, no, sir.

19 MR. EARLEY: Nothing further.

20 THE COURT: Cross-examination?

21 **CROSS-EXAMINATION**

22 **BY MS. MAXFIELD-GREEN:**

23 Q. Good morning, Special Agent Bryant.

24 A. Good morning.

25 Q. Just going to go through a few things that you discussed

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1 with Mr. Earley. So Mr. Earley asked you about whether animal  
2 welfare organizations had provided some information to you about  
3 the GW Zoo, correct?

4 A. Yes, ma'am.

5 Q. Okay. And, in fact, did some animal welfare organizations  
6 provide you with allegations of specific violations they thought  
7 Mr. Passage had committed?

8 A. Yes, ma'am.

9 Q. And were those wildlife trafficking violations?

10 A. Yes, ma'am.

11 Q. And are any of those allegations that were brought to you by  
12 those animal welfare organizations, are any of those alleged  
13 violations being prosecuted in this case?

14 A. No, ma'am.

15 Q. Now, Mr. Earley asked you about your -- your initial  
16 conversations with Mr. Garretson in August of 2017. And at that  
17 time Mr. Garretson provided you knowledge about the plot to  
18 murder Ms. Baskin, correct?

19 A. Yes, ma'am.

20 Q. Did he also provide you with information about Mr. Passage's  
21 illegal wildlife trafficking?

22 A. Yes, ma'am.

23 Q. So he was able to provide you with two different types of  
24 information, correct?

25 A. Yes, ma'am.

*Emily Eakle, RMR, CRR*

1 Q. And so -- and as the investigation proceeded from the time  
2 you met Mr. Garretson forward, were you essentially -- did you  
3 essentially have two different investigations going; one into  
4 murder for hire and one into wildlife trafficking?

5 A. Yes, ma'am. And I will also add, too, that Mr. Garretson,  
6 on the initial meeting, alleged that Mr. Lowe was also illegally  
7 moving wildlife.

8 Q. Okay. So -- and at that time you described for Mr. Earley  
9 on direct, if you recall, that you had to do some kind of  
10 background research into this park, correct?

11 A. Yes, ma'am.

12 Q. At the time in -- in August of 2017, when you first kind of  
13 met Mr. Garretson, he was an insider, correct?

14 A. Yes, ma'am.

15 Q. And at that time would -- was it correct that you were  
16 looking at at least three possible owners of the park, Mr. --  
17 sorry. Go ahead.

18 A. That was my impression, yes, ma'am.

19 Q. Were there multiple employees that were arguably management  
20 at the park over the wildlife?

21 A. Yes, ma'am. I believe -- I was trying to figure out the  
22 ownership, who was owning, and who were the -- the people that  
23 management was using in day-to-day operations, who were the  
24 people that were at the lower end of the spectrum that were not  
25 really involved in day-to-day operations.

*Emily Eakle, RMR, CRR*

1 Q. Now, Mr. Earley talked to you about the course of the  
2 investigation through the fall of 2017. And he established with  
3 you that there were no recorded calls from the time you met  
4 Mr. Garretson in September of 2017 until November 7th of 2017  
5 with Mr. Lowe; is that correct?

6 A. That's correct.

7 Q. And Mr. Earley also established with you that from -- it was  
8 a -- about two and a half months from when you met Mr. Garretson  
9 in August -- or September, I should say, until December, that it  
10 took that length of time to introduce the undercover agent. Do  
11 you recall that testimony?

12 A. Yes, ma'am.

13 Q. Now, the whole -- was the whole investigation of this case  
14 functionally on hold for basically the entire month of October?

15 A. Yes, ma'am. I learned that Mr. Passage's husband had passed  
16 and out of respect for that we put the case on hold for  
17 approximately a month.

18 Q. Did you instruct Mr. Garretson to essentially lay off with  
19 the trying to introduce an undercover agent?

20 A. Yes, ma'am.

21 Q. Did you essentially instruct Mr. Garretson to lay off of  
22 trying to talk to him about illegal wildlife trafficking during  
23 that time?

24 A. Yes, ma'am.

25 Q. Mr. Earley asked you -- he talked to you about November 16th

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1 of 2017. And that was the day that -- that the investigators,  
2 including you, believed that the Glover plan had been set aside,  
3 correct?

4 A. Yes, ma'am.

5 Q. And Mr. Earley also asked you if it was on November 16th of  
6 2017 that Mr. Lowe was the subject of an investigation in -- or a  
7 search warrant, at least, in Las Vegas, correct?

8 A. Yes, ma'am.

9 Q. Now, did you know about Mr. Lowe's Las Vegas issues on  
10 November 16th or later?

11 A. Later.

12 Q. How much later?

13 A. I believe it was in -- in December, or at least the latter  
14 part of November that I learned Mr. Lowe got in trouble in Las  
15 Vegas.

16 Q. Okay. So Mr. Passage was indicted on the murder-for-hire  
17 charges on September 5th of 2018, correct?

18 A. Yes, ma'am.

19 Q. And you sent the lead for the contact of Mr. Engesser after  
20 that, correct?

21 A. Yes, ma'am.

22 Q. And so Mr. Engesser was not interviewed until September 13th  
23 of 2018, correct?

24 A. Yes, ma'am.

25 Q. Is that about nine days after the indictment?

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- 1 A. Yes, ma'am.
- 2 Q. And was it a conscious decision to hold off on contacting  
3 Mr. Engesser until after the indictment?
- 4 A. Yes, ma'am.
- 5 Q. And why was that?
- 6 A. At the time we felt Mr. Engesser had a close relationship  
7 with Mr. Passage. And if we interviewed Mr. Engesser prior to  
8 the indictment, Mr. Engesser may inform Mr. Passage of the  
9 investigation.
- 10 Q. So that -- that face-to-face interview you described by  
11 agents in Illinois that you respect, that happened on  
12 September 13th of 2018, correct?
- 13 A. Yes, ma'am.
- 14 Q. Now, when Mr. Glover had initially described the person who  
15 bought the cub in November of 2017 that was the source of the  
16 money to fund the hit, what kind of description did he provide?
- 17 A. Mr. Glover described him as a "scruffy looking dude."
- 18 Q. Did he describe him as a white man?
- 19 A. Yes, ma'am.
- 20 Q. Now, did anyone ever present a photo array to Mr. Glover,  
21 like several photos for him to pick from?
- 22 A. No, ma'am.
- 23 Q. Or was he just presented with that one Facebook photo?
- 24 A. Just presented with that one.
- 25 Q. And in your 25-year career of investigating crimes, have you

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1 ever had a witness mistake something that was later determined to  
2 be incorrect, such as an identification, a date or an amount,  
3 something like that?

4 A. Yes, ma'am.

5 MS. MAXFIELD-GREEN: No further questions, Your Honor.

6 THE COURT: Redirect?

7 **REDIRECT EXAMINATION**

8 **BY MR. EARLEY:**

9 Q. So prior to Mr. Passage's loss October 6th, 2017, there was  
10 an active investigation on a murder-for-hire scheme, correct?

11 A. Yes, sir.

12 Q. All right. And so the agents, if I understand your  
13 testimony, because of this loss suffered by Mr. Passage, who was  
14 the target of this investigation, correct?

15 A. Yes, sir.

16 Q. You decided, well, we'll just take the month of October off,  
17 correct?

18 A. I learned that Mr. Passage was extremely distraught. I did  
19 not think Mr. Passage was going to be involved in the day-to-day  
20 operations of the zoo or any plans that we believe he -- he had  
21 during this time period. And it was my opinion that we did not  
22 need to be continuing contact with Mr. Passage until he was done  
23 grieving and got back into the operation of the park business.

24 Q. So I assume, then, that this -- the decision to kind of put  
25 things on hold took into account your belief that he didn't pose

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1 a risk to Ms. Baskin at all, correct?

2 A. Not necessarily. My decision to -- to put things on hold  
3 was strictly because I did not believe at the time that  
4 Mr. Passage was going to be involved in the day-to-day operations  
5 or completing plans that he had previously suggested during that  
6 time period.

7 Q. Now, you were asked by Ms. Green about your knowledge of  
8 Lowe and his problems that arose on November 16th, 2017, correct?

9 A. Yes, sir.

10 Q. All right. And my question is, during your discussions with  
11 Mr. Glover, did he advise you whether or not he was aware of  
12 Mr. Lowe's problems that occurred on that very day that he  
13 apparently decided he wasn't following through with anything?

14 A. Not to my knowledge.

15 Q. Well, subsequent to your somewhat change of heart about  
16 whether that was Engesser in November or not, did you revisit  
17 that issue with Mr. Glover?

18 A. No, sir.

19 Q. Did you show him a -- an array of photographs and say, you  
20 know, hey, I know you already picked this one out, but are you  
21 sure you can't find this person in this group of people?

22 A. No, sir.

23 MR. EARLEY: I have no further questions.

24 THE COURT: Thank you.

25 Any additional questions, Ms. Green?

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1 MS. MAXFIELD-GREEN: Please, Your Honor.

2 **RECROSS EXAMINATION**

3 **BY MS. GREEN:**

4 Q. Special Agent Bryant, let me direct your attention back to  
5 October of 2017. Now, does -- although you had instructed  
6 Mr. Garretson to not push for information from Mr. Passage while  
7 he was grieving after October 6th, that's -- that's correct,  
8 right, right?

9 A. Yes, ma'am.

10 Q. Did you still -- you did still instruct him to provide any  
11 information that he heard or obtained during that time period,  
12 correct?

13 A. Right -- that's correct. Excuse me.

14 Q. Okay. Now, as of -- Mr. Passage's husband passed away on  
15 October 6th of 2017, correct?

16 A. Yes, ma'am.

17 Q. And as of that date you only had one recorded conversation  
18 between Mr. Garretson and Mr. Passage, correct?

19 A. Yes, ma'am.

20 Q. And that was the video we saw of them walking around the  
21 park on September 29th of 2017, correct?

22 A. Yes, ma'am.

23 Q. In that video was there -- did Mr. Passage make any mention  
24 of a plan to use Alan Glover?

25 A. No, ma'am.

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1 Q. Was the only discussion of Ms. Baskin at all in context of  
2 Mr. Garretson proposing his hit man?

3 A. Yes, ma'am.

4 Q. And Mr. Garretson's hit man was going to be an undercover  
5 agent, correct?

6 A. Yes, ma'am.

7 MS. MAXFIELD-GREEN: No further questions.

8 THE COURT: Thank you.

9 Special agent, you may step down.

10 Defendant's next.

11 MR. EARLEY: May we approach, Your Honor?

12 THE COURT: You may.

13 (The following bench conference was held outside the hearing  
14 of the jury.)

15 MR. EARLEY: Our next witness will be Mr. Passage, and  
16 I'm not sure how the Court handles this. Usually the Court will  
17 inquire about whether or not he's been advised of his right to  
18 testify and to not testify and make sure he understands that on  
19 the record. And so I don't know if you want him to just come up  
20 here before we start or --

21 THE COURT: We're probably close enough to a morning  
22 break. We can just excuse the jury and make that record with  
23 them out of the courtroom. And, you know, I -- I actually don't  
24 have a practice.

25 MR. EARLEY: Okay.

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1 THE COURT: I have been on both ends of it. I would be  
2 happy to make the inquiry. Do you want to make a -- just a  
3 record about it and I can ask for his confirmation?

4 MR. EARLEY: That would be fine. Yeah, we could do it  
5 that way. Just as long as it's on the record.

6 THE COURT: Sure.

7 Government, is that --

8 MS. MAXFIELD-GREEN: That's fine.

9 MR. EARLEY: And my other question, and this is  
10 probably directed at the marshals, but as far as him being in the  
11 witness chair, I don't know if they're going to escort him. I'm  
12 not sure how all that's going to go.

13 THE COURT: Yeah. I don't want a bunch of movement  
14 when he -- would you have any concerns if, prior to the jury  
15 coming back, we went ahead and had him in the witness chair?

16 MR. EARLEY: I think that's fine.

17 MR. WACKENHEIM: That's fine. I don't know if the  
18 marshals would also sit directly behind him. That might be a bit  
19 of a distraction.

20 THE COURT: I'm sure they will go over there.

21 MR. WACKENHEIM: I have seen it both ways, that's --

22 THE COURT: I'm sure they'll sit over there. And then  
23 I assume he's going to take us through the lunch break and after  
24 the lunch break, so -- in which case we could do that process the  
25 same way, where he is always there when the jury comes and goes.

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1 What I was thinking was if his testimony wrapped up, how we'll  
2 get him back to the table without causing the same concern, but  
3 I'll mull that over. It sounds -- I expect we'll go into the  
4 afternoon with him.

5 MR. EARLEY: Well, and maybe -- maybe what we could do,  
6 after he's all done, is just -- I could just announce rest and  
7 then, depending on what time it is, whether they're having  
8 rebuttal --

9 THE COURT: Is he your last witness?

10 MR. EARLEY: Yes. We can kind of make it work somehow.

11 THE COURT: We may -- well, we may also make any  
12 necessary record about jury instructions maybe at the -- I don't  
13 want to kill your entire lunch break, but maybe we could make it  
14 -- my understanding is that we don't have a whole lot on  
15 instructions, so maybe we -- our record may be kind of quick, so  
16 anyway -- okay. We'll take a break.

17 MS. MAXFIELD-GREEN: Your Honor, the government just  
18 wants to put on the record sort of in advance, for a heads-up for  
19 the Court and defense counsel, so Mr. Passage has stated in calls  
20 over the weekend that he is very intent on getting his story out  
21 and that he, I believe, has said he doesn't care if there are  
22 objections or if he's held in contempt of court, he's getting it  
23 all out. And based on our review of depositions and hearings in  
24 which Mr. Passage has participated in the past, it is -- from  
25 my -- our experience of reading those transcripts, he tends to

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1 continue talking when instructed to answer, he continues to  
2 repeatedly disregard the Court's instructions about when and how  
3 to answer a question. And just to the extent that he attempts to  
4 put in a rambling narrative of his entire life story, we -- the  
5 government intends to create at that time a standing objection  
6 to -- to his -- just a narrative that has no stop and no -- and  
7 no respect for the rules of hearsay and such things. So we're  
8 just kind of giving notice of that.

9 THE COURT: Well, I don't want to -- thank you. I  
10 don't want to prejudge it. I mean, what you say on the phone and  
11 what you do on the stand may be two very different things. I  
12 would ask that, as we get into that scenario, to please do not  
13 correct or argue with him on the record. If his answer is  
14 nonresponsive, simply lodge an objection for being nonresponsive.  
15 I'll advise him.

16 If, in fact, we go down the road of where he is becoming  
17 difficult, in terms of process, my intent would be if it -- if a  
18 mild reminder as I have done with other witnesses is ineffective,  
19 I would be likely to excuse the jury and have an increased  
20 admonishment outside the presence of the jury, talk to him about  
21 the ramifications.

22 I assume, Mr. Earley and Mr. Wackenheim, I assume you guys  
23 have visited with him about testimony and -- and honestly, some  
24 of that stuff may hurt him more than it helps him. So we'll just  
25 kind of play it -- see how it goes, but thank you.

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1 MS. MAXFIELD-GREEN: Thank you, Your Honor.

2 (The following record was made in open court, in the  
3 presence of all parties, counsel, and in the presence and hearing  
4 of the jury.)

5 THE COURT: Ladies and gentlemen of the jury, we'll  
6 take our morning break, again with the usual admonition. We'll  
7 break for 15 minutes. And we're going to handle some things on  
8 the record so you don't have to just keep waiting during that.  
9 We'll get a little housekeeping done.

10 So we'll break for 15 minutes. Please remain seated as the  
11 jury leaves the courtroom.

12 (Jury exited.)

13 (The following record was made in open court, in the  
14 presence of all parties, counsel, and out of the presence and  
15 hearing of the jury.)

16 THE COURT: Record will reflect the jury has left the  
17 courtroom.

18 Mr. Earley, do you have an announcement in terms of your  
19 next witness?

20 MR. EARLEY: Yes, Your Honor. With respect to  
21 Mr. Passage, Mr. Wackenheim and I have explained to him his right  
22 to remain silent as guaranteed by the Fifth Amendment to the  
23 Constitution. We have explained that he has an absolute right  
24 not to testify in his own defense, but also that he does have a  
25 right to testify in his own defense if he chooses to do so. We

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1 have explained those choices to him, and I believe that he  
2 understands the two choices. And it's my understanding that  
3 Mr. Passage elects to testify in his own defense. And I just  
4 think the Court needs to ensure or verify on the record that he  
5 understands his choices and that it is, indeed, his choice to  
6 make.

7 THE COURT: Thank you, Mr. Earley.

8 Mr. Passage, you can remain seated. Did you understand  
9 everything that your attorney just said?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And have you fully discussed with  
12 Mr. Earley and Mr. Wackenheim your rights in that regard?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: And can you confirm for the record that you  
15 do understand that you have an absolute right not to testify  
16 should you choose not to and that the jury would be instructed  
17 that they cannot hold that against you?

18 THE DEFENDANT: I do, Your Honor.

19 THE COURT: Knowing all of that, is it your choice to  
20 testify?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Do you have any questions of your counsel  
23 or have any need to consult with your counsel further prior to  
24 doing that?

25 THE DEFENDANT: No, sir.

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1 THE COURT: Do you have any questions of me at all?

2 THE DEFENDANT: No, sir.

3 THE COURT: Okay. Anything else, Mr. Earley?

4 MR. EARLEY: No, Your Honor.

5 THE COURT: Government, is there any additional inquiry  
6 that you would request the Court to make?

7 MS. MAXFIELD-GREEN: No, Your Honor.

8 THE COURT: Okay. Court will be in recess for -- we'll  
9 still go ahead and take the full 15.

10 (Break taken.)

11 (The following record was made in open court, in the  
12 presence of all parties, counsel, and in the presence and hearing  
13 of the jury.)

14 (WITNESS SWORN.)

15 THE COURT: Mr. Earley, you may proceed.

16 MR. EARLEY: And for the record, Your Honor, we are  
17 calling Joseph Passage as a witness.

18 **JOSEPH MALDONADO-PASSAGE**

19 **DIRECT EXAMINATION**

20 **BY MR. EARLEY:**

21 Q. Would you state your name, please?

22 A. Joseph Maldonado-Passage.

23 Q. Now, Mr. Passage -- can I refer to you as Mr. Passage?

24 A. Yes, sir.

25 Q. All right. Now, we have also heard another name, I believe

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1 it's Schreibvogel, if I'm not mistaken.

2 A. That was my birth name, yes, sir.

3 Q. All right. And I don't know if the court reporter has ever  
4 had it spelled for her. So, if you would, just spell that for  
5 the court reporter.

6 A. Schreibvogel?

7 Q. Yes.

8 A. S-C-H-R-E-I-B, as in boy, V as in victor, O-G-E-L.

9 Q. So Mr. Passage, what type of employment have you had during  
10 your adult life?

11 A. When I was in high school, I worked at a nursing home as a  
12 nurse's aide. When I graduated high school, I went through the  
13 Texoma Police Academy in Dennison, Texas, and graduated as the  
14 youngest police chief in the state of Texas's history.

15 In 1986, me and my brother and my first husband bought a pet  
16 store in Arlington, Texas. Did that for 16 years. My brother  
17 got killed in 1997, and me and my parents built the zoo there in  
18 Wynnewood, Oklahoma, in memory of him. And we opened in 1999.

19 Q. All right. So the zoo, the park that we have heard about in  
20 testimony was something that you started?

21 A. Yes, sir.

22 Q. And that was based on -- on what?

23 A. Well, when my brother got killed, he was the biggest part of  
24 the pet store, so it was never the same. So me and mama and dad  
25 and Brian decided to sell the pet store. And mom and dad got

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1 \$140,000 from the insurance company from my brother being killed  
2 in a car wreck. And my dad called it blood money, and he didn't  
3 want anybody making any money off of that. So he was going to  
4 donate it to charity.

5 And you hear on TV how all the charities misuse money and  
6 stuff, so we all kind of agreed to build this rescue zoo in  
7 memory of my brother because one of his dreams was to go to  
8 Africa and see the animals running free. So we built -- built  
9 the animal park there in Wynnewood, Oklahoma.

10 Q. So describe the park.

11 A. It's right off of I-35 and Exit 64. It's 16 -- started out  
12 with 16 acres. It came with just an exterior fence and a roping  
13 arena and an old barn and an old farmhouse. And we started  
14 building cages, and animals started coming in and they never  
15 stopped.

16 Q. So what was the source of these animals?

17 A. Most of all the animals come from people that rehomed them  
18 there because they had exotic animals, and they either couldn't  
19 take care of them anymore, or they got too big, or the city laws  
20 changed, or some state laws changed. And over the course of 20  
21 years, we probably rescued and rehomed more animals than anybody  
22 in the United States.

23 Q. So is it fair to say that over the years the facility grew?

24 A. It grew tremendous, yes, sir.

25 Q. All right. So what was offered at the park as far as what

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1 could the public do at your park?

2 A. When we first started, we just had a gift shop and a few  
3 cages and a -- in the gift shop we had a -- kind of a Subway shop  
4 where my mom would actually be the cashier and make the Subway  
5 sandwiches and stuff. And over the years we incorporated a  
6 traveling show where we did fairs and malls and stuff like that.  
7 And people built cages in memory of people that they have lost,  
8 so we called it a memorial park because animals got to live in  
9 honor of people that passed away. And there was actually three  
10 people buried underneath their exhibits there at the zoo.

11 So it turned into 152 memorials as of when I left the zoo  
12 last year. And we turned it into a traveling magic show and  
13 tiger show for nine years.

14 Q. So did you offer any educational programs at the park?

15 A. We -- after -- after we did the -- retired the magic show  
16 and the traveling educational show, we built a stage that had  
17 bleachers, and I did an educational show twice a day.

18 Q. Now, at some point was there a video production facility  
19 built at the park?

20 A. I believe that started late 2011, maybe 2012. We had a TV  
21 studio where we videotaped everything going on in the park, and  
22 we broadcasted it on a website called Joe Exotic TV. And we  
23 did -- brought animals on the show and taught people about  
24 animals.

25 Q. So Joe Exotic TV, was that something that was broadcast over

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1 the Internet, essentially?

2 A. Yes, sir. It was -- it was on YouTube and the website, yes,  
3 sir.

4 Q. Okay. And you talked about some of the things that you put  
5 on the show to include things about animals. What other things  
6 were on the show?

7 A. We did online auctions. We raised money. And in 2008, I  
8 formed a corporation called the United States Zoological  
9 Association, where we went around and helped people rebuild their  
10 zoos instead of taking their animals away from them. We taught  
11 them how to -- to fix up their zoo so they could keep their  
12 animals instead of always sending them to a sanctuary. So we  
13 raised money for that organization.

14 And then we had another thing online that we called the  
15 Animal Miracle Network, where we reached out to people that were  
16 terminally ill and dying, and we granted last wishes with animals  
17 for people all over the United States for one of their last  
18 wishes. So we kind of did all of that on our TV show.

19 Q. Did you have sponsors?

20 A. We did have sponsors.

21 Q. For example, who would sponsor your show?

22 A. Seth Wadley Ford, the local Sonics, and the local  
23 McDonald's.

24 Q. Now, at some point was there another show developed for  
25 broadcast?

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1 A. We did. We created a second show with a complete separate  
2 website called Joe Gone Wild.

3 Q. So when was that developed?

4 A. I want to believe maybe late 2013.

5 Q. Okay. And what was the content of the Joe Gone Wild show?

6 A. It was -- it was pretty out there. I don't know if you have  
7 ever watched the movie Jackass, but we kind of incorporated it to  
8 be after the movie Jackass because the crazier you got, the more  
9 people watched it. We ended up with 64 million viewers.

10 But the website had an age restriction to where you had to  
11 be 18 years old, and you had to verify your date of birth in  
12 order to watch the show. And the webmaster that designed the  
13 website had a chat room on one side, and people all over the  
14 world could chat with each other during the show, and then they  
15 could call into the zoo office and request requests or dare us to  
16 do different things on the show for donations for the animals.  
17 And at times we raised \$20,000 in two hours.

18 Q. Now, if you would, just -- and keep it as tame as possible,  
19 but what kind of outlandish material would you -- would you do on  
20 these shows?

21 A. We had tons of costumes underneath the desk. There was  
22 times that we dressed up like we were in Jamaica, and we had big  
23 drink glasses that we got at the state fair, and we put dry ice  
24 in them and made them look like bongos, smoking weed on the thing,  
25 even though I don't smoke weed.

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1           We had -- I don't know if you have ever run into the diaper  
2 people on Facebook, but there's a huge community of adult diaper  
3 people on Facebook, and they called in and dared us to wear adult  
4 diapers one night. We did that for 500 bucks. We had blowup  
5 dolls. It was -- it was pretty crazy.

6 Q.   All right. Now, we saw a number of videos that the  
7 government played during their case in chief. Do you recall  
8 those?

9 A.   Yes, sir.

10 Q.   All right. And, obviously, all of those were kind of  
11 centered on either animal rights or Carole Baskin, correct?

12 A.   Correct.

13 Q.   Where were those shows? I mean, were they within the Joe  
14 Exotic, or were they on the Joe Gone Wild?

15 A.   I can't be exactly because they didn't play the entire video  
16 of the show. Every show was recorded live. And at the beginning  
17 of every show it had disclaimers saying it was for entertainment  
18 purposes only and viewer discretion advised and foul language  
19 would be involved and all that, and some would go to YouTube  
20 after they were recorded.

21 Q.   All right. So were there shows that you produced or got  
22 yourself involved in that had nothing to do with Carole Baskin?

23 A.   Thousands.

24 Q.   Give us an example of a show that you would do that didn't  
25 have anything to do with Carole Baskin.

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1 A. On Joe Gone Wild or Joe Exotic TV?

2 Q. Both.

3 A. On Joe Exotic TV, we had little kid shows, where we had  
4 little baby ducks and chickens and baby animals, and we taught  
5 kids about, you know, how long they stay in the egg and how they  
6 hatch and stuff like that. And then on Joe Gone Wild, I picked  
7 on Governor Kasich, I picked on PETA. I mean, we -- it was about  
8 anybody that had issues with having animals in cages or zoos or  
9 anything or other facilities that thought that they could do  
10 things and we couldn't.

11 Q. So when these -- these videos that we saw here in court,  
12 would you agree that there was some pretty outrageous stuff going  
13 on in those videos?

14 A. There was some pretty outrageous stuff going on.

15 Q. Was there a purpose behind those videos?

16 A. Yeah. In the animal world, if I could make you look like  
17 you're an abuser -- and -- and Carole made this website called  
18 911animalabuse.org, or .com, where she had 92 of us on this  
19 website. And her opinion, to get around free speech, was that it  
20 was her opinion that we abused baby tigers for allowing you to  
21 pet them. And the more that they can make you look bad, the more  
22 money they can raise because people think that you are going to  
23 stop them from doing that.

24 So I could take any one of you tonight and put you on my  
25 website and say you chained a pit bull to your tree in your

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1 backyard, and you never feed him, and by midnight tonight I bet I  
2 could raise \$2,000 on something that you're not even doing wrong.  
3 In the animal industry, that's the key way to raise money is  
4 they'll put stuff on each other's websites and badmouth people.  
5 And the more viewers you have, the more money you raise.

6 And that's -- so the bad thing about that, though, is the  
7 Humane Society of the United States, you know, sent in spies and  
8 made videos about us. The PETA sent in spies, and we have got  
9 four FBI records to verify some of this. And they would send in  
10 spies to make videos, and they would put a video online and edit  
11 it and make it look like the Humane Society videos that you see  
12 on dogs shivering on TV right now. That's all pre-made videos.  
13 Okay? And we could do the same thing with tigers and lions. But  
14 what they do is they prey on the mentally unstable to carry out  
15 their crimes for them, and that is, to break into the zoo, cut  
16 the cages open at night.

17 One morning, at 8 o'clock in the morning -- our manager,  
18 John Reineke, has two prosthetic legs -- and a man drove all the  
19 way from Mustang, Oklahoma, down there to cut the animals out of  
20 their cages and kill -- kill John Reineke. And it took 29  
21 minutes on 911 to get the first officer at the park.

22 So a lot of the stuff that we portray on TV and our videos  
23 is to look like these dangerous psycho mutts that you didn't want  
24 to break into our zoo in the middle of the night because we are  
25 armed, and we're not going to tolerate you coming in and cutting

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1 our cages open. And that was our -- our simple line of defense.

2 Q. Now, in spite of the content of those shows, did you want  
3 Carole Baskin dead?

4 A. No.

5 Q. Did Carole Baskin and your ongoing dispute with her actually  
6 help you in some strange way?

7 A. I -- I didn't know who Carole Baskin was until 2006, when I  
8 picked up a newspaper in Oklahoma City, and here's this article  
9 about this trashy little roadside zoo, and it was me, and the  
10 person that they interviewed was Carole Baskin. And over the  
11 years, I would say we both probably made each other pretty  
12 famous.

13 Q. What was Big Cat Rescue Entertainment?

14 A. Okay. Big Cat Rescue Entertainment, I believe that come  
15 about 2009 maybe, somewhere around there. We had growed into two  
16 road shows, two 18-wheelers and a tour bus. And one 18-wheeler  
17 was the animal show, and one 18-wheeler was my illusions, my  
18 magic show. And some of the malls -- we always did malls because  
19 it was easy to market and you were guaranteed customers because  
20 people came to the mall.

21 Okay. So some of the malls wanted just the animal show, and  
22 some wanted just the magic show, and some wanted both of them at  
23 the same time. So the animal show was Tigers In Need, and the  
24 magic show was Mystical Magic of the Endangered. Okay. And then  
25 whenever we both were at one location, instead of having two

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1 posters and confusing people and everything else, we came up with  
2 one name. Okay. And during that time, Big Cat Rescue had a  
3 program called Cat Whiz. Okay. And anytime you showed up  
4 somewhere, this program would flood the mall with 70, 80,000  
5 emails and jam all of their computers up and their website up and  
6 everything else with this, "Oh, these people are so horrible to  
7 these baby tigers and this is abuse and you shouldn't allow  
8 this."

9       Okay. So I had a marketing director named Darren Stone that  
10 came up with the idea, well, if she's going to send out 70,000  
11 emails, let's make everybody think that it's her at the mall. So  
12 we called the Trade Commission and verified that she didn't own  
13 the three words "Big Cat Rescue." Okay. She had a logo, and she  
14 only owned it with the tiger jumping over the logo. So he  
15 created a logo with Big Cat Rescue, and we used the eyeballs from  
16 a facility we had permission to in Colorado called Serenity  
17 Springs.

18       Okay. And when both shows were at one location, we used the  
19 word and -- and the logo Big Cat Rescue Entertainment because it  
20 was magic, and it was with big cats. Made sense to us. And then  
21 everybody called back down to Florida and bitched at Carole. Was  
22 just a marketing way to pay back for flooding our clients with  
23 70,000 emails.

24 Q.   Okay. So as you were explaining that, my understanding  
25 would be that Big Cat Rescue, the Carole Baskin entity --

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1 A. Correct.

2 Q. -- they would contact the locations where you were doing a  
3 show and do this email flood; is that correct?

4 A. Yes, sir.

5 Q. Okay. So your purpose in forming this entity, Big Cat  
6 Rescue Entertainment, was to kind of throw them off their game,  
7 correct?

8 A. Correct.

9 Q. All right. Did you get sued by Ms. Baskin for that?

10 A. We got sued for trademark infringement, and then she  
11 testified the other day that she sued me for copyright  
12 infringement as well. And that had absolutely nothing to do with  
13 putting her face picture on anything. It was a picture that I  
14 got off of Facebook of three of her employees bashing rabbits in  
15 the head and bloody, dead rabbits to feed to the tigers and  
16 laughing about it. So kind of give her a little taste of her own  
17 medicine -- and I sent that picture to every rabbit rescue in the  
18 country I could find, and she got a taste of her own medicine.

19 So she went and bought the picture for \$5 from the employee.  
20 Three months after I posted it, she filed a copyright and  
21 copyrighted it, and then she just out-moneyed me in a lawsuit.

22 Q. Now, did she get a judgment from you -- or against you?

23 A. Our lawyers at one point just said, you need to just quit  
24 spending bad money after bad money, and just give her a judgment  
25 of whatever she wants. And so she got a million-dollar judgment.

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1 And we didn't expect her to move that judgment to Oklahoma. So  
2 she moved that judgment to Oklahoma, and my lawyers recommended  
3 just filing bankruptcy on the judgment, and she sued the  
4 bankruptcy court as well.

5 Q. All right. So that initial lawsuit, the trademark and the  
6 copyright, those were being litigated in Florida; is that  
7 correct?

8 A. That's where it started, yes, sir.

9 Q. All right. And before the case was moved here for  
10 collection, were you required to litigate the case in the state  
11 of Florida?

12 A. Yes, sir.

13 Q. So did it become pretty costly?

14 A. We have -- we spent close to a quarter-million dollars.

15 Q. All right. Now, did that judgment affect you and the zoo at  
16 that time?

17 A. As in how?

18 Q. Financially.

19 A. We -- we spent a lot of money on lawyers, but we kept  
20 operating.

21 Q. All right. Now, aside from the -- the lawsuits and the  
22 judgment that Ms. Baskin has against you, what's your problem  
23 with her?

24 A. My problem is she's a hypocrite. You know, just like some  
25 of her other facilities in her -- within her little organization

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1 she's created. Her facility is in the middle of Tampa, Florida.  
2 It's right next to a major highway. She sells every kind of tour  
3 under the sun: Bone tour, feeding tour, kid tour, adult tour.  
4 It doesn't matter. I mean, I have taken one of her tours.

5 Her animals are on exhibit. She can complain one month in  
6 public, writing that there's too many tigers in America, and then  
7 the next month she's rescuing one from Peru because there's none  
8 in America that can hold a good story to raise donations, so  
9 she's bringing in this tiger from Peru. And she'll drive clear  
10 across the United States to rescue a baby bobcat because baby  
11 animals raise money better because everybody likes baby  
12 everything, especially if you're going to rescue one.

13 So there's absolutely nothing except petting animals, which  
14 she used to do before she made her millions, that -- that we do  
15 any different than she does, except she wants to make every state  
16 illegal except Florida so she can corner the market on exhibiting  
17 tigers.

18 Q. Now, did you have any disagreements with her position on  
19 certain legislation?

20 A. I -- I'm probably one of the biggest, most outspoken critics  
21 of her legislation push that she's -- she's continuing to push  
22 because -- like the Big Cat Safety Act that they are trying to  
23 introduce right now, her organization that she started, which is  
24 the global federation of animal sanctuaries, is the only one  
25 exempt from this law they're trying to introduce. And the way

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1 that they're doing this is by making political donations to  
2 different politicians in order to get these laws passed.

3 But the big thing was in Ohio, when Zanesville, Ohio,  
4 happened with Terry Thompson, the guy that supposedly let all of  
5 his animals out and shot himself and killed himself in  
6 Zanesville, Ohio. And that right there is what started the  
7 controversy of -- I knew Terry and that wasn't something Terry  
8 would have done, especially if you love your animals because you  
9 know they're going to be massacred the minute you open the door  
10 and let them run.

11 Not to mention that I do investigative reporting because I'm  
12 a member of the United States Press, and I belly-crawled that  
13 farm to do my story. And to this day I don't believe that he  
14 killed himself. It was what they needed in order to make exotic  
15 animal owners look crazy and passed a law in Ohio to make it  
16 illegal to own exotic animals.

17 So after they started that, I testified in front of the  
18 Senate and in front of the House on -- to try and stop that bill  
19 that they were pushing through. And they got it pushed through,  
20 and they sent SWAT teams in peoples' homes and they took their  
21 animals, and Carole's organization got quarter-million dollar  
22 contracts to move animals from Ohio to California, and from Ohio  
23 to Florida to their facilities, which are absolutely no different  
24 than the facilities they were taking them from, except they came  
25 with quarter-million dollar contracts of taxpayer money. And

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1 that's why I went after John Kasich, Governor Kasich.

2 Q. So these disagreements that you were having with Ms. Baskin  
3 about legislation, about what you did, did those things get  
4 incorporated into your -- your on-air shows, so to speak?

5 A. Absolutely. Big time, because we raised money for peoples'  
6 lawyers over in Ohio and everywhere else in the United States  
7 that were fighting laws. And we used the TV show to educate the  
8 general public, such as you, of what's going on. And -- and you  
9 have a right under the Constitution of the United States to own  
10 personal property. And, unfortunately, tigers and lions and  
11 animals are personal property.

12 Q. And you may have already spoken to this, but with respect to  
13 your on-air antics, did the viewership go up the nuttier it all  
14 got?

15 A. When we first started out, our -- our viewership was  
16 pathetic because people just got bored with the same antics every  
17 day. Okay. And that's where we tried the Joe Gone Wild thing,  
18 and we started getting 60, 70,000 viewers a night, and it went  
19 into the millions. And the last time I saw the counter on our  
20 YouTube was we had 64 million viewers from all over the world  
21 that would sit up at 2 or 3 o'clock in the morning their time  
22 just to watch our show at 7 o'clock our time. And the crazier it  
23 got, the more money we raised and the more people watched. And  
24 that flowed over even to my political thing is -- I tried to be  
25 serious in politics, and I got no support, and the more

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1 outlandish I got, the more real I got, the more support I got.

2 Q. Now, as far as the park is concerned, did you discuss your  
3 difficulties with Ms. Baskin at the park?

4 A. I -- I never spoke to Carole Baskin at the park. The only  
5 time I have ever spoke to Ms. Baskin was face-to-face in Ohio at  
6 one of the hearings, and I never even spoke to her during any of  
7 the depositions. It was always Mr. Howard.

8 Q. But as far as your problem that you were having with her,  
9 either legal or philosophical, did you talk about those things  
10 with people at your park?

11 A. Oh, every -- every day.

12 Q. All right. So who would be involved in those conversations?

13 A. You know, the staff, at morning meetings or night meetings  
14 or the management in the office. It was no secret that, you  
15 know, we're being sued, we're being watched. And you never know  
16 which employee is a plant because she had a bad habit of hiring  
17 spies, and she had no problem bragging about that on her website.

18 So we -- we discussed, you know, what was right and what was  
19 wrong going on at the park that -- that we needed to be careful  
20 with.

21 Q. Now, did you ever mention to park employees that you wish  
22 Carole Baskin was dead?

23 A. You know, there was -- there was never a time that I wished  
24 she was dead. There was many times of -- and I say this about a  
25 lot of people -- is I don't understand why -- you know, I was --

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1 I was raised to believe in God, and I don't understand why little  
2 kids have to suffer so bad, and people that treat people like  
3 that just get to live on and on and on without ever being in a  
4 car wreck or something like that, and -- and why so many little  
5 kids have to suffer.

6 Q. Did you yourself get death threats?

7 A. I had many death threats, and I turned them in to the  
8 sheriff's office. We sent them in to the FBI. I actually have  
9 the -- the FBI agent's number on my cell phone from the Norman  
10 office.

11 Q. All right. Now, was your ability to run the park impaired  
12 somewhat in 2014?

13 A. I was extremely ill. I threw up for 188 days. And I went  
14 to the doctors and my T-cell count was off the chart, and my  
15 white blood cell count was off the chart. So they automatically  
16 thought I had AIDS. And I took nine HIV tests within probably  
17 four months, and every one of them came back negative.

18 So the next step was to think that I had cancer. And so  
19 they did several tests, and we never got to a PET scan, but they  
20 did prostate surgery on me on October the 21st of 2014. And all  
21 of my -- I did that at Baptist Hospital, and two days later all  
22 of my organs quit. I went into kidney and liver failure and  
23 spent almost 37 days in ICU and in the hospital there. And the  
24 doctors actually gave me -- because I would not take dialysis,  
25 the doctors gave me two days to live.

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1           So they did all they could with IVs and stuff. And I sat  
2 there and made God a deal because I had a really bad breakup with  
3 John Finlay, and I was just an ugly person at that time. And I  
4 made a deal with God that if he let me walk out of that hospital,  
5 that I would completely change my attitude. And He let me walk  
6 out of that hospital, and I practically raised John Finlay's  
7 daughter. And to this day, me and her are connected at the hip.  
8 And from that time on I -- we quit the Joe Exotic Gone Wild, and  
9 I tried to do what was right.

10 Q.   Now, did that cause you to reflect on whether or not you  
11 were able to run this park by yourself?

12 A.   Well, I -- it was no secret on social media that -- that I  
13 was in rough shape. I was on IVs for the next year. While I was  
14 at work, I carried an IV bag with me. I did my shows with IVs in  
15 my arms.

16           And a gentleman by the name of Jeff Lowe contacted me on  
17 Facebook. He had tigers in South Carolina. And we got to  
18 talking, and he ended up buying a baby tiliger from me. So him  
19 and his original wife, Cathy, came to the park and picked up the  
20 baby tiliger and stayed for an hour or so, and then they left.

21           Okay. And then I get this phone call from this reporter out  
22 in South Carolina that said that Jeff Lowe said that he owned  
23 tigers in Wynnewood, Oklahoma, and in Colorado. And I was like,  
24 there is nobody that owns tigers in Wynnewood, Oklahoma, except  
25 me. So we kind of had a little disagreement there. And then he

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1 started to buy a facility out in Colorado. And that was when me  
2 and Travis Maldonado got married. And Jeff flew us out to his  
3 place to see his house and the facility that he was working on  
4 buying and -- and we went skydiving for our honeymoon.

5 And he had this gigantic house. I mean, it was a mansion,  
6 and it had an indoor swimming pool in it and a Ferrari in the  
7 driveway and a Hummer and flashing money. And -- and he asked me  
8 if I wanted to sell the zoo. And I didn't exactly want to sell  
9 the zoo, but I said, "Hey, I'm open for a partner, you know."  
10 And I had IVs in my arm at the time when we flew out there and --  
11 and he knew I was sick, and I was concerned whether or not I was  
12 actually going to make it or not.

13 So we had talked about Carole and the lawsuits. And my mom  
14 and dad were adamant that my brothers and sisters were not going  
15 to get possession of that property in order to sell it, and tear  
16 it apart if something happened to me or mom and dad. So Jeff  
17 talked me into putting his name -- having mom put his name on the  
18 deed of the land, a quitclaim deed. And then through the  
19 lawsuits with Carole, she had always said that -- my life  
20 insurance policies were being paid by the zoo, so she had a  
21 judgment against the original zoo. So if I was to die, the  
22 judgment should get my million-dollar life insurance policies,  
23 okay, to pay off the judgment, since they were paying the  
24 premiums.

25 So Jeff talked me into putting him on as 25 percent of the

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1 life insurance and he would pay the premiums, so that way the zoo  
2 was out of my life insurance, and it was in Jeff's hands. So,  
3 yeah, I -- I thought -- I just took him for face value, and I  
4 thought, you know, these -- this man's got all this money, he can  
5 take care of the animals if something happened to me, and he was  
6 going to buy this place out in Colorado and help the place in  
7 Oklahoma.

8 And so we went home. And he called me again and asked if we  
9 wanted to come out for a Halloween party. So we flew -- he flew  
10 us back there for a Halloween party. And by then his name was  
11 already on the land, and his name was already on all the health  
12 insurance and all that. And that's when I got the first taste of  
13 how he treated his -- his original wife. We came --

14 Q. Let me back up for one minute because I want to go back to  
15 something you said a little bit earlier. When you originally met  
16 him, you said that he purchased a baby tiliger.

17 A. Correct.

18 Q. What's a tiliger?

19 A. Amongst everything else I do, I am the only person on this  
20 planet who has produced a liger, a tiliger, a liliger and a  
21 tigon. And I worked very closely with the scientists of the  
22 National Institute of Health and Texas A&M, providing DNA testing  
23 and umbilical cords so they can study big cats and how they  
24 evolved and how they're going to handle the climate change and  
25 stuff.

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1           And a tiliger is a tiger -- and you can do it in different  
2 colors; you can use a white tiger; you can use an orange tiger or  
3 a tabby tiger or a snow tiger -- and you breed that with a female  
4 liger and you get a tiliger. And the color variation depends on  
5 what color of father you use. For years it was believed that  
6 ligers are sterile, and it's only male ligers that are sterile,  
7 not female ligers. But the trick is you can't put two adults  
8 together or they're going to kill each other, so you have to  
9 raise them together. And that takes five years before they  
10 become fertile enough and adult enough to breed, but the  
11 discrimination between the two species is gone. And that's why  
12 nobody does it because there's no money in it because you have to  
13 wait five years in between each step. And I'm the only person in  
14 America that has made that fourth step -- actually, I'm the only  
15 person in the world that has made that fourth step, because after  
16 you hybrid them four times, the males are no longer sterile.  
17 It's just like a bengal cat or a Savannah cat that's bred with  
18 exotic animals.

19           Okay. And the theory that the animal rights people like to  
20 use out there is they outgrow their bones. I think you have  
21 heard that in here before. Okay. Or they're deformed or they're  
22 too big for their parents.

23           There has never been a recorded incident in our world of a  
24 hybrid cat born with a genetic flaw. Okay. A lot of people  
25 confuse genetics and birth defects, okay, as -- as the same

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1 thing, and it's not. A birth defect happens from being cramped  
2 in the womb or something like that versus a genetic defect that  
3 is actually passed down a blood line.

4 Q. Now, you sold this to Mr. Lowe; is that right?

5 A. I did.

6 Q. Was it legal to sell that?

7 A. It's absolutely legal to sell any hybrid.

8 Q. Now, Mr. Lowe has managed to kind of get into your business  
9 at this point; is that right?

10 A. Yes, sir.

11 Q. Were you still in the process of litigation with Carole  
12 Baskin?

13 A. Yes, sir.

14 Q. Were you, at this time when Mr. Lowe starts to get on the  
15 scene, still in settlement talks with the Baskins?

16 A. When we were out there for Halloween, for his Halloween  
17 party, when we flew back to Oklahoma City, we stayed in Oklahoma  
18 City that night because the next morning I had mediation with  
19 Howard Baskin, and we spent 10 or 11 hours in -- in mediation.  
20 And me and Howard actually had it worked out to where he was  
21 going to allow me to continue for the year, and then we would  
22 stop cub petting and we'd stop breeding and we would simply  
23 slowly close the zoo down. But I needed to make sure that we  
24 could pay our outstanding bills, you know, throughout that  
25 period, and he understood that.

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1           So at the end of the day, we had come to an agreement to do  
2 all of this until he picked up the phone and called Carole. And  
3 part of that was a \$5,000 payment every month toward the  
4 settlement, okay, toward the judgment. Okay. But the thing that  
5 we were worried about was we are cutting our funding of play  
6 cages and everything else to make that \$5,000 payment. And in  
7 case we couldn't, Carole wanted my mom and dad's house and  
8 property that was completely paid for. And that's when the  
9 lawyer stepped in and said, absolutely not. So that kind of went  
10 to -- went to crap.

11 Q.    About what time period is this going on?

12 A.    November of 2015.

13 Q.    All right. So in early 2016, who took over as the owner of  
14 the park?

15 A.    Late February of 2015, Jeff Lowe created --

16 Q.    '15 or '16?

17 A.    '16. I'm sorry. Created three companies: One was the  
18 Greater Wynnewood Exotic Animal Park, which operated the zoo; one  
19 was called Big Cat Institute, which was supposed to be a  
20 nonprofit that trained interns to do what we do -- it turned out  
21 to be nothing but a way to hide payroll. The third one was the  
22 Greater Wynnewood Development Group, which was in charge of the  
23 land.

24 Q.    All right. So who actually owned the zoo after February  
25 of 2016?

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1 A. Jeff Lowe.

2 Q. Now, did the name of the park change?

3 A. It did. It was -- it was the Garold Wayne Interactive  
4 Zoological Park until February when they -- the board voted to  
5 dissolution and close it.

6 Q. Was there a reason behind the name change?

7 A. Well, in order to shut one organization down and escape  
8 the -- another judgment, it closed and had to, by law, change the  
9 name to open up another organization. So Carole would have to  
10 start the lawsuits all over again.

11 Q. At least that was the thought?

12 A. That was the thought.

13 Q. Now, had Lowe already got his name onto the insurance  
14 policies at this time?

15 A. Yes, sir.

16 Q. Who all was on those policies?

17 A. It was Jeff Lowe; in 2016, it was my husband, Travis  
18 Maldonado; and then 25 percent went to John's little girl  
19 Kimberlin.

20 Q. All right. What was your role at the park after Lowe took  
21 over?

22 A. Entertainment director.

23 Q. And what did that mean as far as your daily work?

24 A. Well, the -- the park had been basically branded with my  
25 face for 20 years, close to 20 years. So I put on all the shows.

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1 I did the big tours twice a day at 11:30 and 2:30 every day. I  
2 did the ordering. Most of the merchandise was all private  
3 labeled with my picture on it and my name.

4 The bad part was my license was -- was there, along with  
5 Beth Corley's license and Trey Key's license and Ryan Easley's  
6 license. And Jeff didn't have a license there at that time  
7 because his license was still in South Carolina, but his cats  
8 were there. So we put all of his cats under my license, not Beth  
9 Corley's license. They were under my license. And the reason  
10 for that was is because he knew that I wanted to quit. Okay. So  
11 it didn't matter how many noncompliant citations we got from the  
12 USDA under my license, it wasn't going to affect anybody else  
13 because I was going to turn my license in eventually because I  
14 wanted out of it. So almost everything that we did had to be  
15 under my license, whether I owned the animals or not.

16 Q. So how close in time to when Jeff Lowe took over had you  
17 started having these thoughts about "I'm on my way out"?

18 A. Well, they moved to Wynnewood the last part of November  
19 of 2015, and they didn't have a place to stay. They were in a  
20 hotel for --

21 Q. Who is "they"?

22 A. Jeff and Lauren. They left Cathy in Colorado that time  
23 because Jeff got arrested for beating her up. So they had to  
24 rush out of Colorado. Okay. So they moved in my house with me  
25 and Travis, and they stayed there for probably two, three months.

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1 And that's when I found out everything in Colorado was rented.  
2 He didn't own nothing. He was behind on his payments on the  
3 Ferrari and the house was rented. He skipped out on the lease of  
4 the house. And by that time it was already too late because his  
5 name was on everything in Wynnewood.

6 So I went to Tampa, Florida, to do a music video. I think  
7 it was in March of 2016. And I did a music video with elephants  
8 there at the Two Tail Ranch, and then I was a speaker at a  
9 convention called Take Back the Conversation convention there in  
10 Tampa. And then I had a political rally at the same time, then I  
11 came home. And I came home and sat in the office and wanted to  
12 quit. I was just going to walk away at that point. And he  
13 talked me into staying there.

14 Okay. So he builds this little cabin out of storage  
15 buildings and -- for him and Lauren to move into. So they  
16 finally move into their own cabin. And by that time the criminal  
17 side started coming out, and I started seeing what kind of scams  
18 they're running and -- and they turned the park into a front for  
19 his criminal side. And then it turned into their own little  
20 private hunting ranch of young girls, and it just escalated from  
21 there until I just couldn't stomach it anymore.

22 Q. Now, about this time did Alan Glover show up on the scene?

23 A. Alan showed up, I want to think it was probably April  
24 of 2016. He came from South Carolina. He had worked for Jeff  
25 out there with some liquidation companies or some -- some

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1 liquidation stores or something. But anyway, he came to work at  
2 the zoo as a yard guy.

3 Q. All right. Was he your employee?

4 A. He made it very clear he wasn't my employee.

5 Q. Okay. Now, was Lowe at the park on a daily basis?

6 A. They lived on the -- on the park, and he was pretty much at  
7 the park all the time through 2016. And that's where they  
8 started -- they had a little old lady in town that made clothes  
9 for the funeral home. And Jeff, in his liquidation history,  
10 somehow or another got ahold of some -- of the singer Prince's  
11 outfits and got sued by Prince.

12 MS. MAXFIELD-GREEN: Your Honor, may we approach?

13 THE COURT: You may.

14 (The following bench conference was held outside the hearing  
15 of the jury.)

16 MS. MAXFIELD-GREEN: Your Honor, I think we're starting  
17 down a line of Mr. Passage -- he has a lot of what he believes  
18 are criminal allegations against Jeff Lowe that are totally  
19 unfounded and have -- there's no evidentiary support for at all.  
20 He does not -- there's no good faith basis or extrinsic evidence  
21 available to offer any of that, not that it would be admissible  
22 anyway. And I just don't think we can go down the line of let's  
23 bring out every theory we have about Jeff Lowe's criminal -- we  
24 have already had -- he's already said -- made comments about him  
25 beating up his wife and the young girls at the park. And I think

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1 we're just headed down a road here that is: A, irrelevant under  
2 Rule 401; and, B, prejudicial, a waste of time, speculative, and  
3 a variety of other things under Rule 403.

4 THE COURT: Well, what immediately comes to mind is the  
5 question was is Mr. Lowe at the park very often, and then I don't  
6 know how that got to Prince, but -- all right.

7 Mr. Earley, I'll give you a chance to respond.

8 MR. EARLEY: Well, that was not the answer that I was  
9 seeking to solicit, but I will go back and maybe rephrase the  
10 question.

11 THE COURT: And I'm going to ask him to think about  
12 your questions, and please answer your questions and then if you  
13 have additional inquiry you will ask.

14 The objection is sustained.

15 (The following record was made in open court, in the  
16 presence of all parties, counsel, and in the presence and hearing  
17 of the jury.)

18 THE COURT: Mr. Passage, I want to ask you to listen  
19 very carefully to your lawyer's question and only answer that  
20 question. I think the question that Mr. Earley had asked you was  
21 whether or not Mr. Lowe was at the park very often. Please just  
22 answer his question. And then if Mr. Earley has -- wants  
23 additional information, he'll ask you some followup questions.  
24 Okay?

25 THE DEFENDANT: Yes, sir.

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1 THE COURT: Thank you.

2 Q. (By Mr. Earley) All right. I believe you did answer that  
3 question, that he was there pretty much daily. Would that be  
4 fair to say?

5 A. Through 2016, yes, sir.

6 Q. All right. And during that period of time was there an  
7 off-site business with respect to either animal petting or a show  
8 that Mr. Lowe was involved with?

9 A. That started, I believe, along about March of 2017. He had  
10 a place in Oklahoma City called the Neon Jungle.

11 Q. All right. And was that basically just an offshoot of the  
12 business down there in Wynnewood?

13 A. It was set up in a -- in a mall there in Oklahoma City to  
14 play with baby tigers, yes, sir.

15 Q. All right. Now, as far as Mr. Lowe is concerned, and his  
16 activities, did he eventually move out of state for long periods  
17 of time?

18 A. March, April -- March through June is when the Neon Jungle  
19 was there. And he hooked up with this lady from Las Vegas in the  
20 middle of that and started human trafficking in Las Vegas.

21 THE COURT: Mr. Passage, again, the question was did he  
22 eventually move out of state for long periods of time. I want  
23 you to listen to the lawyer's questions and answer those  
24 questions.

25 THE WITNESS: He did.

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1 Q. (By Mr. Earley) And where did he go?

2 A. Las Vegas.

3 Q. All right. And as it concerns the park's business, and I  
4 mean animal business, what was your understanding of what  
5 Mr. Lowe was doing out in Las Vegas?

6 A. He was supposed to go out there and -- and open up a company  
7 called The Jungle Bus and --

8 Q. And what was that supposed to be?

9 A. It was supposed to be where people could pay to get on this  
10 bus with the animals on the bus and go on, like, an hour or  
11 two-hour drive and play with the animals on the bus, kind of like  
12 you would a party bus.

13 Q. All right. Now, as far as his business interest out in Las  
14 Vegas, was that contributing substantially to the park's income?

15 A. It didn't contribute at all.

16 Q. Now, I think you testified that you considered leaving the  
17 park after Lowe got ingrained in it in 2016; is that correct?

18 A. Yes, sir.

19 Q. Did your desire to remain at the park change in 2017?

20 A. It did.

21 Q. What changed?

22 A. The -- the more that they used the park as a front for  
23 everything, the more the meaning of it being a memorial park and  
24 representing people that have died went away. And it just -- the  
25 whole morals of what we worked 20 years for is -- was gone.

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1 Q. So you were even more inclined to get out of the business at  
2 that point?

3 A. Absolutely.

4 Q. All right. I want to switch gears with you for just a  
5 moment and address some of the specific counts in the indictment.  
6 Okay?

7 A. Okay.

8 Q. And the first set of counts I want to address are Counts 8,  
9 and then 9 through 11.

10 So Count 8, if you recall, concerns an offer for sale to, I  
11 think it was Darlene Cervantes; is that correct?

12 A. Correct.

13 Q. Do you remember that testimony?

14 A. Yes.

15 Q. All right. And with respect to that particular text  
16 exchange you had with Ms. Cervantes, explain that to the jury.

17 A. Well, I have 19 Facebooks because they limit you to 5,000  
18 friends. So my office people would run all of my Facebooks and  
19 answer my messages for me because I had to be out on the park  
20 most of the time.

21 So I was in the office one day and Darlene, who is kind of  
22 out there anyway, asked me if -- if she could buy a tiger. And  
23 that's when I asked her if she had a USDA license and asked her  
24 which state and all that. And I went to work and -- and Amber  
25 continued that conversation via a radio because we carried

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1 radios. So it was between me and Amber.

2 But the easiest way -- and I probably have done this a  
3 thousand times in the history of this park and being on the  
4 road -- is somebody always walks up and say, how much would a  
5 tiger cost me. And the easiest way to end the conversation is  
6 jack up a price to where you know they can't afford it, and the  
7 conversation ended right there and you didn't have to go through  
8 all of the legalities and spend 30 minutes with everybody that  
9 wanted to buy a tiger.

10 So, you know, I would -- I told her a thousand bucks because  
11 she was homeless. She didn't have a thousand dollars and I knew  
12 that conversation would stop. No different than a conversation  
13 at a magic show when I tell people it was \$20,000, because you  
14 know they ain't got it, and the conversation just ended right  
15 there.

16 Q. So was it your intention to offer these cubs for sale to  
17 Darlene Cervantes?

18 A. Pardon?

19 Q. Was it your intention to offer those cubs for sale to  
20 Darlene?

21 A. No. It was my intention to just say a price and she'd go  
22 away, which she did.

23 Q. Now, Counts 9 through 11 concerned a number of what  
24 Mr. Finlay, I think, determined were sales. Count 9,  
25 November 16, 2016, a male tiger cub to Brown Zoo in Illinois. Do

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1 you recall that?

2 A. I recall -- I recall that.

3 Q. All right. Was that a zoo-to-zoo transfer?

4 A. It was.

5 Q. What kind of license do you have?

6 A. I have a Class C exhibitor's license by the United States  
7 Department of Agriculture, the Animal Welfare Act, which allows  
8 me the right to exhibit, breed, sell and transfer. Because they  
9 only have three licenses: And it's an exhibitor's license, which  
10 does it all; a breeder's license that only allows you to breed  
11 and sell; or a broker's license so you can be the middleman in  
12 between all the sales.

13 Q. Mr. Finlay testified that, I guess in his opinion, the  
14 transaction or this zoo-to-zoo transfer was a sale. What is your  
15 testimony with respect to this transaction?

16 A. I don't remember every transaction, but, I mean, it could  
17 have been. But can I explain the forms?

18 Q. Sure.

19 A. Okay. Under my license, I had peoples' animals that were  
20 from Louisiana; I had Jeff's animals; I had some of my animals; I  
21 had some of the circus animals because in order for them to be at  
22 the zoo and us be open to the public, it doesn't matter who owns  
23 them, you could bring your bobcat to my zoo, and I could exhibit  
24 it and it still remain yours, but it's got to be on my inventory  
25 in order to be legal.

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1           Okay. So anytime an animal or a baby tiger or anything was  
2 taken off of my inventory, it has to come from Joe Maldonado.  
3 Okay. It can't come from you in Louisiana, because you're not an  
4 exhibitor. I'm the exhibitor, even though it's under my license  
5 and you own the animal. Okay. So it's got to be from me to the  
6 Brown Zoo. All right. And I don't sell that. I didn't sell  
7 that. Jeff, the owner of the zoo, sold those.

8           So that's why they say donation on there, because I  
9 transferred them off of my license to someone else for no charge,  
10 and he made the sale between them and him. And from day one,  
11 when I knew what he was all about, I kept ledgers of my own to  
12 verify every dollar and every sale. And I logged in QuickBooks;  
13 I earmarked every deposit that was made from cubs so I could  
14 defend myself one day.

15 Q. With respect to Count 10, that is a tiger female, 11 weeks  
16 old, to TS in Indiana. Do you recall that transaction?

17 A. That one would be Tim Stark, and I remember that one very  
18 well.

19 Q. All right. So was that the sale in interstate commerce?

20 A. That one was actually free. Depending on your inspector --  
21 our inspector allowed us to use cubs between four weeks and 16  
22 weeks. Tim Stark's inspector's only allowed him to use cubs up  
23 to 12 weeks old. And that's the problem with the vague laws is  
24 every inspector can read into what they want it to read in.

25           So the zoo made him a deal, if he took this one that was 11

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1 weeks old that he could only use for one week, we would give him  
2 a younger one for free, and that would get a bigger one out of  
3 our zoo that we didn't have to grow up and feed for the rest of  
4 his life.

5 Q. All right.

6 A. So that was not a sale.

7 Q. And then also Count 11 is March 6, 2018, tiger, female, six  
8 weeks old, again to Brown's, which is referred to as Oakridge Zoo  
9 in Illinois. Is that the same Brown's?

10 A. It is the same folks.

11 Q. So the same as Count 9. Do you recall that?

12 A. Without looking at my notes in QuickBooks and verifying that  
13 deposit, but I would probably say it probably was.

14 Q. A sale?

15 A. Probably so.

16 Q. By who?

17 A. By the zoo.

18 Q. But not you?

19 A. Not me.

20 Q. So if I'm understanding you correctly -- and -- of course,  
21 we don't know what Brown's or Tim -- TS, whoever that is, has to  
22 say about this, but you are simply passing them off of your  
23 inventory to another zoo's inventory by creating the paperwork  
24 that's associated with this; is that correct?

25 A. Yes, sir. And we did that with Beth Corley's inventory as

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1 well.

2 Q. All right. And so whether or not this was being sold or  
3 someone was providing a donation back for the animal, that was  
4 between Mr. Lowe and that entity; is that correct?

5 A. Correct.

6 Q. All right. So that's the substance of your testimony as to  
7 why you're not selling anything, correct?

8 A. I didn't sell anything and I didn't collect a dime for  
9 myself, no. It all went in his bank account.

10 Q. So if Mr. Finlay, after one or all of these trips, came back  
11 with cash or check or however these people may have been paying,  
12 what -- and he handed it over to you, is that what happened?

13 A. He would either give it to me, or if I wasn't there he'd  
14 give it to one of the girls in the office.

15 Q. What would happen to the money from there?

16 A. It would be put on a deposit slip for the park, and on the  
17 very bottom I would write "Jeff" so I knew what -- where the  
18 money come from, and I would put it in the bank and I would log  
19 it in QuickBooks as "cash Jeff."

20 Q. All right. I want to talk a little bit now about Counts 12  
21 through 20, and these are labeled in the indictment as Lacey Act  
22 false labeling of wildlife charges. Do you remember the  
23 substance of the testimony concerning these allegations against  
24 you?

25 A. Is that the vet certificates or the forms?

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1 Q. The forms and the -- the certificate of veterinary  
2 inspection.

3 A. I believe I do.

4 Q. All right. Now, I don't really plan to go through each one  
5 of these individually with you, but, in substance, with the  
6 exception of one of the counts, which involves a CVI form and  
7 we'll talk about that separately.

8 A. Okay.

9 Q. But these are all counts dealing with what is alleged to be  
10 a falsification of those delivery and receipt forms. Do you  
11 understand that?

12 A. Yes, sir.

13 Q. All right. So with respect to those particular allegations,  
14 tell us about your understanding of the forms and the information  
15 that's required.

16 A. The form is simply, like I explained before, to get it off  
17 of inventory. That's all the USDA cares about is where the  
18 animal ended up. Okay. We were supposed to get where it's  
19 coming from, where it's going to, both of our license numbers,  
20 the animal information of what species it was, what sex it was,  
21 approximately how old it was and what condition it's in, and then  
22 who transported it and how it was transported, if it was  
23 transported. And that's all they required. And we got some of  
24 those on napkins from people. I mean, they didn't even put them  
25 on actual pieces of paper.

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1 Q. Well, there were forms that were introduced. Do you recall  
2 these?

3 A. I do.

4 Q. And, I mean, were those your forms?

5 A. The ones -- okay. Which ones are you talking about that  
6 were introduced?

7 Q. For example, the delivery form that went to Brown's Zoo.

8 A. Okay. Those were the zoo's forms, yes.

9 Q. All right. So the delivery forms would have been developed  
10 by who?

11 A. Whatever secretary was in the office that created them on  
12 Microsoft Word.

13 Q. All right. Now, there are -- on some of the forms there's  
14 little boxes to check for sale, donation, exchange; on others  
15 there's nothing, but there appears to be something written on  
16 them about it's a donation. Explain -- explain how that happens.

17 A. How it gets written on there or how the forms are different?

18 Q. How the forms are different.

19 A. It depends on -- it was like whoever works in the office,  
20 gives themselves the title as the office manager, redoes  
21 everything. Every time you hire one, they had to redo  
22 everything. And some of the forms would -- would come out with  
23 the boxes on there.

24 But what never made sense was if you put "sale" on there, it  
25 never asked you how much you sold it for. And it wasn't required

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1 on the -- on the official form for the USDA, so nobody really  
2 paid any attention to that. And the reason why it was always  
3 written "donation" on there is because the person that had the  
4 license never got the money. So the people whose license it was  
5 actually did donate it.

6 Q. Do you know why those options were even provided or why that  
7 word was written on there if it wasn't required?

8 A. I think -- I think Jeff and Lauren had done one inspection  
9 one time while I wasn't at the zoo, and the inspector talked to  
10 them about something, and they had the office girl redo the  
11 forms.

12 Q. All right. To your knowledge, is that information, whether  
13 it was a sale, an exchange or a donation, is that information  
14 required by the United States Department of Agriculture?

15 A. No.

16 Q. Now, Count 18 is the certificate of veterinary inspection.  
17 Have you seen those forms before?

18 A. I have.

19 Q. And how are those forms created?

20 A. Those stay at the veterinarian office and either me or  
21 Reineke or one of the girls in the office would call the vet and  
22 give them what -- you know, the animal, the sex, the species, how  
23 old it is. And -- and then either Reineke -- Reineke done most  
24 of it, John Reineke, as far as running the animal over to the vet  
25 so Dr. Green can see it and then finish the exam, and bring back

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1 the pink copy that we give the receiver at the other end.

2 So after the transaction is completely done, we don't even  
3 have a copy of the certificate of veterinarian because the vet  
4 keeps one to send to the state, she keeps one for her records,  
5 and the pink one goes to the people to prove that they got it at  
6 that end.

7 There was -- there was times that we would be actually in a  
8 cage with an animal and we would be calling on the radio to the  
9 office the information for them to call in to the -- to the vet.  
10 And in 20 years, I don't ever remember telling a vet whether it  
11 was an exchange, a donation or an exhibition or transfer. We  
12 never even -- we never even discussed that ever.

13 Q. Well, with respect to Count 18, the June 12th, 2018, form  
14 that Dr. Green testified about, did you advise her to place  
15 "donation" or any other type of exchange on that form?

16 A. Which animals are on there?

17 Q. It's an African lion, male, eight years old, and an African  
18 lion, female, eight years old.

19 A. I did not even call that one in. I had nothing to do with  
20 that one or the transfer form.

21 Q. All right. That was in June -- specifically, the form is  
22 dated June 12th, 2018.

23 A. Correct.

24 Q. Were you at the park that day?

25 A. I was at the park, yes, sir.

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1 Q. But you don't recall having anything to do with the  
2 information?

3 A. I know I didn't.

4 Q. Now, finally, with respect to the false labeling  
5 allegations, there's Count 21. And you may recall that is a form  
6 that you were asked by Mr. Garretson to generate. Do you  
7 remember that?

8 A. Yes, sir.

9 Q. Do you remember that particular interaction with  
10 Mr. Garretson?

11 A. I don't remember it except for watching the video.

12 Q. Okay. So tell us about what you remember, why you created  
13 the form, what the situation was with that.

14 A. Apparently, by watching the video -- and to this day, all I  
15 can do is be honest, I don't even remember that -- that video.  
16 But he had asked for a copy of a disposition form for his lemur.  
17 Okay. And at that time he had a gentleman work for him that  
18 stole all of his records and a bunch of other equipment, and he  
19 was having trouble finding all of his receipts from where his  
20 animals came from. And he had previously purchased a lemur from  
21 us, and that's why on the video I say, is this one the one we  
22 lost, because I thought he was needing one to replace the one  
23 that we lost.

24 And so apparently he said, no, it's the one from Omar. And  
25 I wasn't even thinking about an animal coming across state lines

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1 being an endangered lemur. I was more thinking because he was in  
2 a hurry, because he claimed that he was going to be inspected by  
3 the USDA, and he just needed to show that he had a lemur on a  
4 disposition form. It wasn't to get around the Fish & Wildlife or  
5 anything, because in 20 years I have never seen them people. So  
6 it was just for that form.

7 And then I walked over, on the video, and Xeroxed it so we  
8 had a copy of it, which even confuses me more because my  
9 inspector knows exactly how many animals I got and what animals I  
10 got. And I would have not figured out how I would have covered  
11 having a lemur, because he has the same inspector. So the whole  
12 damn thing was confusing to me. I can't really answer why the  
13 hell I did that. I'm sorry about my language.

14 Q. Well, did you create that form to create a false record to  
15 try to fool the USDA somehow?

16 A. Apparently I did.

17 Q. Now, before we get into the remaining counts in the  
18 indictment, I want to talk to you a little bit about late summer  
19 of 2017 and then going into the fall. What was your relationship  
20 with Mr. Lowe like at that time? How would you describe it?

21 A. He was in Vegas primarily, most of the time. And it was  
22 really rocky because we got to know him and James real well.  
23 They talked to each other, and James comes to the park and  
24 they -- they just constantly are tape-recording each other and  
25 tape-recording everybody they talk to, and it's just like a big

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1 circle of drama. And every time I would talk to James about how  
2 bad I couldn't stand Lauren and what was going on with all of the  
3 illegal stuff and -- and Vegas draining that zoo and money, he  
4 would play that to Jeff. And within a couple of hours of talking  
5 to James, I would get a phone call getting an ass-chewing from  
6 Jeff of why I'm talking about his wife or why I'm bitching about  
7 money and so forth. So it was -- it was pretty rocky.

8 Q. Okay.

9 THE COURT: Mr. Earley, is this a logical time for us  
10 to take our lunch break or --

11 MR. EARLEY: It's as good a time as any, yes.

12 THE COURT: Okay. Ladies and gentlemen of the jury, we  
13 will take our -- counsel approach for just a moment.

14 (The following bench conference was held outside the hearing  
15 of the jury.)

16 THE COURT: Do you know -- I don't see by any stretch  
17 of the imagination that we're going to instruct today.

18 MS. MAXFIELD-GREEN: We would love that. I don't know  
19 how much longer he's going to go on.

20 THE COURT: Well, what I'm trying to figure out is if  
21 it makes sense for me to give the jury a little bit longer of a  
22 lunch break and we do -- make our record about instructions  
23 before we start back, which would give you-all a lunch hour,  
24 still get it done without making them wait, or if it makes more  
25 sense that we do it -- you know, I hate to do it on the afternoon

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1 break because that takes the whole break up. But if it looked  
2 like this was going to last until near the end of the day, we  
3 could do our instructions at the end of the day. But if I'm  
4 hearing that there is a possibility that we could instruct and  
5 close, then why don't we do it -- I'll give them an hour and a  
6 half for lunch.

7 Mr. Earley, do you -- how long do you think your record will  
8 take on instructions?

9 MR. WACKENHEIM: Not terribly long. Yes, I'll be  
10 handling that part.

11 THE COURT: I'll give them an hour and a half for  
12 lunch. Does that work for everybody?

13 MR. EARLEY: Yes.

14 MS. MAXFIELD-GREEN: Certainly.

15 (The following record was made in open court, in the  
16 presence of all parties, counsel, and in the presence and hearing  
17 of the jury.)

18 THE COURT: Ladies and gentlemen, what we'll do today  
19 for our lunch break -- and this will prevent a premature or a  
20 long break and having you guys wait in the afternoon -- I'm going  
21 to give you a little bit longer break today for lunch. We'll do  
22 an hour and a half for lunch. That will permit us to be able to  
23 get back here before you, take care of some things before you  
24 return, and then that way we'll just sail through the rest of the  
25 day without having to have an interruption. That's me knocking

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1 wood.

2 So that being said, we'll -- ladies and gentlemen, for an  
3 hour and a half. Again, the admonition applies. Court will  
4 remain in attendance while the jury leaves.

5 (Jury exited.)

6 THE COURT: Counsel, so they're coming back at 1:30.  
7 If we come back at 1:15, we could make a record on instructions.  
8 Is that sufficient time for everybody?

9 MS. MAXFIELD-GREEN: Sounds good, Your Honor.

10 MR. WACKENHEIM: Yes, Your Honor.

11 THE COURT: Okay. We'll be in recess until 1:15.

12 (Lunch break.)

13 (The following record was made in open court, in the  
14 presence of all parties, counsel, and out of the presence and  
15 hearing of the jury.)

16 THE COURT: Record will reflect that the jury has not  
17 been brought back in yet.

18 Counsel has been provided with -- and I understand that we  
19 may be a tad bit premature, so I'll give both parties the  
20 opportunity to re-raise anything that might develop from here on  
21 out. But for housekeeping purposes, I thought we could go ahead  
22 and address jury instructions.

23 Counsel has each been provided with a draft copy of the  
24 proposed instructions, which will be a collective of those  
25 submitted by each side and those crafted by the Court.

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1 With regard to the draft instructions, at least as we are  
2 right now, government, do you have any objections to the  
3 instructions as proposed?

4 MS. MAXFIELD-GREEN: Your Honor, just one more second,  
5 please.

6 THE COURT: Sure.

7 MS. MAXFIELD-GREEN: I don't believe we have any  
8 objections, Your Honor.

9 THE COURT: Thank you.

10 Mr. Wackenheim, I understand you were going to address the  
11 jury instructions.

12 MR. WACKENHEIM: Yes, please.

13 THE COURT: Any objections by the defendant?

14 MR. WACKENHEIM: Yes.

15 Now looking to Instruction No. 18 in the draft instructions,  
16 this is a non-stock -- it's not a Tenth Circuit uniform jury  
17 instruction on investigative techniques. We're objecting to the  
18 inclusion of that instruction. Do acknowledge that there is an  
19 unpublished decision from 2012, Johnson, at 479 Fed Appendix 811,  
20 where at most the Court said it was not an abuse of discretion to  
21 give it. I know the government also cited there was a district  
22 court case, Faust, which another judge in this district gave. I  
23 went back and looked, I did not see that it was objected to. So  
24 I don't know if it was at issue. Just know that it's not a  
25 uniform jury instruction; it's not needed in this case; and it

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1 unnecessarily suggests that the government does not need to use  
2 all investigative techniques.

3       If it is -- I'm not exactly sure why it needs to be stated  
4 to begin with. At some level it appears to diminish the  
5 responsibility of the government to investigate its case. And,  
6 of course, it does include a sentence that the issue is whether  
7 or not the government has presented sufficient evidence to  
8 convince the jury of the defendant's guilt beyond a reasonable  
9 doubt. Part of the defendant's theory here is that the  
10 government's investigative techniques resulted in the  
11 investigation of Mr. Passage to the exclusion of others, and even  
12 that is covered in a different instruction, that the guilt of  
13 others is not concerned.

14       So if it's not an abuse of discretion to give it, I don't  
15 necessarily understand why it needs to be given at all,  
16 particularly when it's not a uniform instruction from the Tenth  
17 Circuit.

18               THE COURT: Okay. That's the proposed 18. Okay.

19               MR. WACKENHEIM: Yes, sir. And then probably the more  
20 important, at least with respect to the Lacey Act counts, is our  
21 proposed instruction included a materiality requirement. I know  
22 the Court's reviewed our proposed instruction. And there is a  
23 split in authority at two different court levels, both of which  
24 are not binding on this Court.

25       There's a Fifth Circuit case from 2001 which states that the

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1 Lacey Act does not have a materiality requirement. What we're  
2 asking for is an instruction that requires the jury to find that  
3 any of those false statements as alleged are material, which,  
4 whether or not they have a natural tendency to influence, or if  
5 it's capable of influencing the decision of the decision-making  
6 body to which it's addressed. We submit that that is a  
7 requirement of the Lacey Act in spite of the Fifth Circuit's  
8 decision from 2001.

9 I'll note that we cited a case, Kokesh, it is a district  
10 court order. It's from the Northern District of Florida. It  
11 comes 12 years after Fountain and does take a look at Fountain.  
12 And the senior judge -- it wasn't even at issue; both parties  
13 seemed to agree that materiality was not an issue, but this judge  
14 decided that it was. And I think it was well reasoned.

15 It began with discussion that materiality is an essential  
16 element of most, if not all, fraud offenses. But even more  
17 important than that, if materiality is not a requirement of the  
18 Lacey Act, which is a felony punishable up to five years for each  
19 false statement, then it could apply to and criminalize all sorts  
20 of innocuous falsehoods. Now, I suspect the government will say  
21 that the falsehoods here are not innocuous, but that is a  
22 question for the jury, and that's why we submit that materiality  
23 should be an element of the offense.

24 THE COURT: So just 18, and then I believe 23 and 24,  
25 which are the Lacey Act instructions?

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1 MR. WACKENHEIM: Yes, Your Honor.

2 And then if the Court doesn't have any questions about that,  
3 we had proposed the Tenth Circuit pattern Instruction 1.16, which  
4 was witness's use of addictive drugs. That's a pattern  
5 instruction. We think that Mr. Glover's testimony was pretty  
6 clear on the variety of substances that he ingested and was  
7 addicted to, including at least cocaine and alcohol. We think  
8 that it's something for the jury to properly consider when it's  
9 evaluating his credibility. So we would request that that  
10 instruction be used, modified to include alcohol as well.

11 THE COURT: Wasn't his testimony, though, consistent  
12 with that? Didn't he readily admit, oh, yeah, I was using  
13 alcohol and drugs and I don't remember but if that's what the  
14 recording says I said, I said it?

15 MR. WACKENHEIM: Right. Well, there was -- I think  
16 there is in dispute some testimony relating to events that were  
17 not recorded, some conversations that he had with other  
18 individuals, his motivations to give the story that he gave to  
19 law enforcement, and just general credibility issues. I mean, I  
20 believe he testified that when he drove to Florida he was drunk  
21 and/or high, intoxicated the whole way through.

22 So I think for that part of it, it's true that it undermines  
23 his credibility. And that is, in light of the pattern  
24 instruction, an additional criteria that the jury should be able  
25 to evaluate.

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1 THE COURT: Okay. I know there was some discussion  
2 about the definition for "consideration" in Instruction 19 in the  
3 murder-for-hire elements, and there was some discussion about  
4 whether or not there would be a replacement for "as consideration  
5 for," and I believe the government was originally talking about  
6 changing that to "in exchange for."

7 Do you still have an objection in terms of the  
8 murder-for-hire instruction, No. 19?

9 MR. WACKENHEIM: As proposed, we do not. We believe  
10 the definition --

11 THE COURT: As proposed, no?

12 MR. WACKENHEIM: Yeah. The consideration definition  
13 which was supplied, we believe covers the law on that.

14 THE COURT: Okay. Anything else?

15 MR. WACKENHEIM: No, Your Honor.

16 THE COURT: Thank you.

17 Response from the government.

18 MS. MAXFIELD-GREEN: Yes, Your Honor. I will try to go  
19 in the order that Mr. Wackenheim did. As to Instruction No. 18,  
20 the government does propose that to -- as an instruction that  
21 should be included on investigative techniques. It is not a  
22 uniform instruction, but it has been utilized a number of times  
23 in this courthouse, as well as other courthouses. It's kind of  
24 become known as the CSI instruction. It has become fairly  
25 standard in the modern era where there's much more awareness and

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1 publicity about various types of investigative techniques that  
2 the government could use. And I think it -- those issues have  
3 been touched on in this case and it would be an appropriate  
4 instruction here.

5 As for the materiality requirement, the only case that has  
6 imposed a materiality requirement onto the Lacey Act is the  
7 Kokesch decision, which is an unpublished district court decision  
8 from the Middle District of Florida. No other courts have  
9 adopted the reasoning of that case. And, in fact, the Fifth  
10 Circuit in Fountain specifically addressed the issue of whether  
11 there was a materiality requirement in the Lacey Act. And in  
12 very detailed reasoning, the Fifth Circuit explained that the  
13 materiality requirement is not in the language of the statute of  
14 the Lacey Act, and that if Congress had wanted to impose a  
15 materiality requirement, it certainly could have and knows how,  
16 as it has in numerous other criminal statutes. And, therefore,  
17 we don't -- the government does not believe that this Court  
18 should impose any kind of materiality requirement onto the Lacey  
19 Act.

20 THE COURT: I think the final one was Pattern  
21 Instruction 1.16, the use of --

22 MS. MAXFIELD-GREEN: Yes, on the use of addictive  
23 drugs. The pattern instruction refers to the use of addictive --  
24 actually, the abuse of addictive drugs. The pattern instruction  
25 does not address alcohol at all. I think Mr. Glover's testimony

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1 was certainly that -- that he was a user of alcohol, I believe he  
2 also testified that he had used drugs. I don't believe there was  
3 any evidence or even testimony by him that he abused the drugs.  
4 I think that might be an inference the jury could draw. But to  
5 the extent that they can assess his credibility based on what he  
6 was -- had already testified to, I think his credibility could  
7 very well be covered by the basic credibility of witnesses  
8 instruction without having to impose the addictive drug  
9 instruction and then also alter it with the inference of  
10 addiction to alcohol. So the government would object to that as  
11 well.

12 THE COURT: Okay. Thank you.

13 Anything further, Mr. Wackenheim?

14 MR. WACKENHEIM: No, Your Honor.

15 THE COURT: Thank you. I appreciate both parties' work  
16 on this.

17 With regard to the objection by the defendant as to  
18 Instruction No. 19 on the investigative techniques instruction, I  
19 tend to agree with the government in that case, that that current  
20 language, that instruction, while a non-pattern instruction, has,  
21 in fact, been used here in the Western District on a number of  
22 times; but also, as both counsel I think pointed out, in the  
23 Johnson case, in the Tenth Circuit case, as the Court had held  
24 that was, in fact -- that instruction was an accurate statement  
25 of the law, and that objection will be overruled.

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1           As to the materiality element in the Lacey Act instructions,  
2 you know, again, I don't know that -- I mean, I understand  
3 there's some -- at least some mild split out there. The Fifth  
4 Circuit does appear to be most on point. And I agree with the  
5 government that, you know, in the wisdom of Congress, if they  
6 wanted -- if they wanted a materiality element, they would have  
7 included it, and they certainly still could. The -- you know,  
8 the Kokesh decision, again, also is not particularly persuasive.  
9 It's been, oh, I don't know, more than five years since that  
10 decision came down. And at least to our knowledge, no court has  
11 relied on Kokesh for including a materiality requirement in a  
12 Lacey Act violation. And for that reason, the defendant's  
13 objection to the Lacey Act instructions, inasmuch as wanting to  
14 include a materiality component, will be overruled.

15           With regard to the defendant's proposed 1.16, the use of  
16 addictive drugs, I also think that, for the reasons already in  
17 the record and as described by the government, I think the  
18 credibility of a witness instruction covers that. I think the  
19 parties fully cross-examined Mr. Glover on his drug and alcohol  
20 abuse and his ability to recall or not recall, I think, was very  
21 clearly -- for the jury to weigh. So that request for that  
22 instruction will be overruled.

23           As I said also, I understand we have some testimony  
24 remaining and defendant has not rested, and so we can certainly  
25 revisit the instructions if we need to, should something arise

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1 that was not incorporated in your argument today. I'll permit  
2 the parties an opportunity to re-raise or add to any objections  
3 or requests based on the testimony from here on out.

4 Anything else from either party in terms of the  
5 instructions?

6 MS. MAXFIELD-GREEN: No, Your Honor.

7 MR. WACKENHEIM: No, Your Honor.

8 THE COURT: Thank you.

9 Mr. Passage, if you want to take the stand.

10 (The following record was made in open court, in the  
11 presence of all parties, counsel, and in the presence and hearing  
12 of the jury.)

13 THE COURT: Ladies and gentlemen, how are we doing on  
14 temperature? I have gotten reports that it is cold in here, but,  
15 you know, this robe's like a parka so sometimes I'm a little  
16 oblivious to that. Are you-all cold? Little mixed bag? Maybe  
17 we'll make a little minor adjustment and see how that goes.

18 Mr. Earley, you may proceed.

19 Q. (By Mr. Earley) Mr. Passage, I think we left off with your  
20 relationship with Mr. Lowe, but I want to back up just for a  
21 moment to go back to what we were discussing before, and that's  
22 Counts 12 through 21.

23 Now, with respect to Government Exhibit 12, I believe this  
24 deals with Count 19 in a delivery form. Do you recognize that?

25 A. Yes, sir.

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1 Q. All right. Now, is this your handwriting on the form?

2 A. Yes, it is.

3 Q. And were you involved in the transaction itself?

4 A. Yes, sir.

5 Q. All right. Tell us about that.

6 A. This was right at the time that I was actually leaving the  
7 zoo for good. And I had this pair of lions that we were donating  
8 to the Animal Haven Zoo up in Wisconsin. And we -- what I done  
9 was I billed them for the two drivers and the gasoline and the  
10 truck to get -- to take them up there, and I -- if I remember  
11 right, it was \$3,200. And we ended up blowing an engine on one  
12 of the trucks and we had to send another truck to go get that  
13 truck and another driver to go up there and rescue the other  
14 drivers. And we finally got it all done.

15 But anyway, by the time it was all over with, we didn't even  
16 make any money to pay the gas and stuff to get it all done. And  
17 that is part of what our license allows me to do. It's the same  
18 as if I had FedEx do it or American Airlines or anybody else.  
19 They would have charged the people for the gas and the trouble to  
20 go up there and back because they couldn't come get them.

21 Q. So was this form inaccurate with respect to any information  
22 on it?

23 A. Absolutely not.

24 MR. EARLEY: Could you pull up Government Exhibit 13?

25 Q. (By Mr. Earley) Now, this is Count 20, which deals with the

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1 form associated with the delivery to Branson Wild World, correct?

2 A. Correct.

3 Q. Do you remember the testimony about that?

4 A. From who?

5 Q. Mr. Finlay, I believe.

6 A. I remember him saying that he's the one that delivered  
7 these, yes, sir.

8 Q. And that there was some money that was counted out and -- I  
9 think by his girlfriend at the time. Do you recall that?

10 A. Yes, sir.

11 Q. Okay. What about this form? Is that your handwriting?

12 A. No. This is not mine. And actually, I wasn't even in the  
13 state of Oklahoma when this transfer was done.

14 Q. All right. Did you have any participation in getting this  
15 transfer arranged?

16 A. I did. Before I left the state -- and we'll probably get  
17 into that later because I was threatened is the reason why I left  
18 for a few days -- Branson Wildlife Park wanted to purchase the  
19 serval and the African cat and the bats and everything else. And  
20 because I was leaving the park, we had a bunch of babies that I  
21 had to get rid of because Jeff couldn't take care of them without  
22 killing them, and nobody else at the park could raise them being  
23 that little.

24 All right. So I told Jim with Branson Wildlife Park on the  
25 telephone that I had some baby lions that I would give him

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1 because they were illegal to sell baby lions. Since he was  
2 buying the bats and everything else, if he would take these  
3 babies because the rent house that I had up in Yukon at the time  
4 ready to go to, we couldn't have the tigers or lions up there in  
5 the rent house.

6 So technically, if you really want to complain about this  
7 form, it should have said donate and sell instead of whoever  
8 filled this out and just hit the donate box, because everything  
9 on there was sold except for the two lion cubs.

10 Q. All right. Now, I believe your testimony right before we  
11 broke was that in the summer of 2017 your relationship with  
12 Mr. Lowe was pretty rocky.

13 A. Very rocky.

14 Q. All right. What was your relationship with Mr. Garretson  
15 like at this time?

16 A. Me and -- me and James was never friends or close friends.  
17 And I referred to him as a giant Chucky Doll because he's just  
18 eerie all the time. He's always up to no good. Everything he  
19 done was criminal. And him and Jeff were tight, they were very  
20 tight in everything they did. So mine and his relationship,  
21 there was none.

22 Q. All right. Now, what about Mr. Glover? We haven't really  
23 talked about him. What was your relationship like with Alan  
24 Glover?

25 A. We hated each other.

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1 Q. Was there any time that you-all kind of got along?

2 A. You know, he helped me with Travis's memorial for a few  
3 days, and that's probably about the only time we got along.

4 Q. All right. What was your problem with Mr. Glover?

5 A. Well, I mean, constantly drunk, would not come to a staff  
6 meeting, sleeping with my mother-in-law, both of them doing meth.  
7 I had to fire her from smoking meth in the commissary. He just  
8 wouldn't listen. And he came with Jeff and they don't know  
9 anything about the Oklahoma weather, and he just starts chopping  
10 trees down and bamboo down, and this is protection that the  
11 animals need from the wintertime, and it was October. And -- and  
12 he just wouldn't listen to anything.

13 Q. Well, why didn't you fire him?

14 A. I couldn't fire him. He was -- they made that pretty clear,  
15 that he worked for Jeff. And in his testimony you heard that he  
16 had nobody to save him all the time, like I was going to hurt him  
17 or something.

18 Q. Now, during this time period, did you believe that maybe  
19 there was something going on between Lowe and Garretson as far as  
20 it affected you and the park?

21 A. Well, I mean, it started out that they were -- they were  
22 manufacturing fake Prince clothes in the office and --

23 Q. But --

24 A. I mean, all of that is why we didn't get along, everything  
25 they done criminal at the park.

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1 Q. Okay. But did you think that they were spending a lot of  
2 time together?

3 A. They spent a bunch of time together.

4 Q. All right. And with respect to, you know, anything that  
5 subsequently happened, were you aware that they were talking with  
6 each other about ways to get you out of the park?

7 A. I mean, at first, in late 2016, it didn't affect James, but  
8 Jeff -- at that time I was taking CBD oil without THC in it  
9 because I don't like smoking weed because I just can't handle the  
10 high. So I would open up a capsule of Amoxicillin -- this is  
11 real important to --

12 MS. MAXFIELD-GREEN: May we approach, Your Honor --

13 (The following bench conference was held outside the hearing  
14 of the jury.)

15 MS. MAXFIELD-GREEN: Your Honor, again, we have already  
16 gotten Prince clothes back in, which seems apropos to nothing  
17 that was asked. He's now attempting to insert a story I know  
18 very well that he wants to get out there about, again, totally  
19 unfounded accusations, things we have no evidence for other than  
20 his accusations. There's no extrinsic evidence of any of this.  
21 And I just don't -- and it doesn't seem relevant to anything  
22 that's being asked.

23 I don't think that defendant can just give a rambling  
24 narrative of every terrible thing he thinks someone who is not  
25 subject to cross-examination has done. That's --

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1 THE COURT: Well, and the question was is he aware  
2 about these two talking about ways to get him out of the park,  
3 which I understand has been part of the context of all of this.  
4 But, Mr. Earley, where are we going -- we were getting -- it was  
5 getting a little far afield.

6 MR. EARLEY: Well, actually, I think -- what I  
7 anticipate Mr. Passage testifying to is a couple of occasions at  
8 the park: One where he believed that someone, I think he thinks  
9 it was Lowe, had put some hash oil into his medication. He was  
10 doing a show inside a tiger cage with some tigers in there, it  
11 affected him, and it could have resulted in him being seriously  
12 injured or killed. The second thing that I anticipate he'll get  
13 into is that there was at some point some perfume placed on his  
14 boots. Tigers react very aggressively to certain smells and  
15 the -- the time that he went into the tiger pen, he was basically  
16 attacked by a tiger. This is actually on a video.

17 So there is a basis for it, at least the tiger attacking his  
18 shoes. And he believes that Mr. Lowe, with the assistance of  
19 someone else, had put that into motion so that they could, you  
20 know, have him seriously injured, somehow removed from the park  
21 based on that.

22 THE COURT: But is that not all just rank speculation  
23 on his part?

24 MR. EARLEY: Mr. Passage would testify that Mr. Lowe  
25 actually admitted on Facebook or social media that he had

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1 switched out his medication. And the -- you know, I have seen a  
2 video where the lions did go after his boots and after him, or at  
3 least one of them. He actually had to fire his weapon to get the  
4 lion to get away before he could get out of the cage.

5 MS. MAXFIELD-GREEN: Your Honor, number one, hearsay.  
6 Whatever Mr. Lowe may have posted on Facebook about it is clearly  
7 hearsay. Any admission he made to anybody about it is hearsay.  
8 I mean, there -- I will concede, on the government's side, we  
9 have seen a video of him being dragged by his foot by an animal,  
10 but there is just simply no way -- we can't -- we can't have a  
11 trial of every perceived wrong that Mr. Passage believes is  
12 attributable to Mr. Lowe.

13 THE COURT: Yeah. Mr. Earley, I just think it's -- I  
14 think it's well established in the evidence, at least the jury  
15 could believe or disbelieve that there's ample testimony that  
16 Mr. Passage and Mr. Lowe were at odds at various times on various  
17 ends of the extremities. And I don't think it is a mystery, and  
18 it's clearly established that there's testimony that Mr. Lowe  
19 wanted him out of the park. I think it's getting a little far  
20 afield to get into all these other things in terms of these  
21 individual steps that he may or may not have taken. It seems a  
22 little tenuous to me, so I'm going to sustain the objection.

23 MR. EARLEY: May I just sort of do a very summary  
24 question to move him off this topic and move on?

25 THE COURT: Well, it's hard for me to know what the

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1 question's going to be, but we'll see what -- Ms. Green?

2 MS. MAXFIELD-GREEN: I think that it has been  
3 established, and maybe one more question would establish to his  
4 satisfaction that he believed Mr. Lowe was out to get him or  
5 trying to get him off the park in a variety of ways. If that's  
6 his belief, that's his belief, but all of this specific detail  
7 that cannot be substantiated is irrelevant and prejudicial.

8 THE COURT: I think that's fair.

9 (The following record was made in open court, in the  
10 presence of all parties, counsel, and in the presence and hearing  
11 of the jury.)

12 THE COURT: I have made no progress on getting elevator  
13 music instead of the white noise sound, but...

14 Q. (By Mr. Earley) Mr. Passage, was it your belief that  
15 Mr. Lowe was trying to get you off the park?

16 A. Yes.

17 Q. All right. Now, with respect to Fish & Wildlife Service,  
18 you had frequent inspections by the USDA; is that correct?

19 A. Very frequent.

20 Q. Okay. About how often did they come out to your park?

21 A. Sometimes every month, sometimes you didn't see them for a  
22 couple of months. The inspectors have to show up every time  
23 somebody calls in a complaint on you. So that's another thing in  
24 this industry is it's fun for one facility to keep calling in  
25 fake complaints to another facility because it keeps the

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1 inspectors coming and it just ties you up with paperwork.

2 Q. Now, they would come at whatever frequency they would, but  
3 did Fish & Wildlife ever inspect your premises?

4 A. The Oklahoma Fish & Wildlife, I had to have an exhibitor's  
5 license from them for native animals, like raccoons or black  
6 bears or mountain lions and foxes and stuff like that. The  
7 Federal Fish & Wildlife, in 20 years I never seen a person from  
8 the Federal Fish & Wildlife. And that goes down to the  
9 Endangered Species Act. For 20 years nobody was concerned  
10 whether or not I had a purebred Siberian tiger or a Sumatran  
11 tiger. And we sold tigers up until 2016, and then they -- they  
12 put on this generic thing, okay, which is really just a policy,  
13 it's not even a law by Congress. And to this day, they still  
14 don't have a form to tell how many tigers you have, how many are  
15 born, how many die, where their bodies are after they die. In 20  
16 years, I have had probably 50-plus tigers pass away or  
17 euthanized, buried in that back pasture, and nobody gives a damn.  
18 Nobody.

19 Q. All right. I want to change the topic here to the fall,  
20 now, of 2017. Did anything happen during that time frame that  
21 changed your entire way of thinking?

22 A. I went to town to get my car fixed, and I got a phone call  
23 that my husband shot and killed himself inside the gift shop.

24 Q. When did that happen?

25 A. October the 6th of 2017.

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1 Q. May sound like a silly question, but how did that affect  
2 you?

3 A. My entire soul died.

4 Q. In the days following, did you get a chance to stay by  
5 yourself and grieve your loss?

6 A. I held a press conference the very next day, and I did my  
7 show at 11:30, just like I was supposed to. And I never took a  
8 day off. And I was even his preacher at his funeral.

9 Q. Did you ever contemplate harming yourself?

10 A. Yeah.

11 Q. Who helped you get through the first few days of that?

12 A. John and his daughter.

13 Q. Now, we have heard testimony, a lot of testimony, about  
14 these five tigers being put down in October 2017. Do you recall  
15 that?

16 A. Yes, sir.

17 Q. Did you do that?

18 A. I did.

19 Q. All right. Tell the jury why you did that.

20 A. After Travis died, I walked through the park every morning  
21 looking at the clouds trying to see his face because I couldn't  
22 dream about him or anything. And I walked through and checked  
23 the animals every morning, and I would have to ask myself what  
24 the hell am I doing because I have all these crippled animals  
25 that I am making suffer to be on display to suck donations out of

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1 people. And I was no better than -- than the facilities that we  
2 talk bad about, or the people that we took the animals away from.

3 And me -- me and John Reineke talked about it. And we owed  
4 the vet so many thousand dollars already. And to tranquilize a  
5 tiger so a vet can give it a shot takes 45 minutes sometimes, and  
6 it takes several hundred dollars worth of medicine, and then the  
7 animal is just convulsing and throwing up and seizing until the  
8 vet can even get to it. And the shotgun was a half a second and  
9 it was twice as fast. And I had legal right, according to the  
10 state of Oklahoma and the USDA, to do that.

11 Q. How many years have you dealt with tigers and big cats?

12 A. Close to 25.

13 Q. Do you consider yourself very familiar with that species?

14 A. I consider myself one of the world's experts in tigers.

15 Q. Now, you had a veterinarian associated with the park,  
16 correct?

17 A. Yes, sir.

18 Q. And that was Dr. Green?

19 A. Dr. Green.

20 Q. And you and Dr. Green, through your agreement, had developed  
21 a euthanasia protocol, correct?

22 A. Yes, sir.

23 Q. And that protocol required Dr. Green to euthanize any animal  
24 that needed it, correct?

25 A. For the USDA license, yes.

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1 Q. All right. Did you violate that protocol in October?

2 A. The USDA license -- I would have gotten cited by the USDA as  
3 a noncompliance for not calling the vet. Wouldn't have been  
4 anything criminal, but I was giving up my license anyway, so I  
5 didn't care if I get wrote up. The idea was to quit making all  
6 these animals suffer for money.

7 Q. Did you violate the law by euthanizing those animals?

8 A. Absolutely not.

9 Q. Now, explain why you think you did not violate the law by  
10 euthanizing those five tigers.

11 A. Because the state of Oklahoma says that you have the right  
12 to shoot -- or euthanize your own livestock as long as it doesn't  
13 -- "instantaneously" is the word that they use for it. And this  
14 law that they have charged me with is absolutely a law that is  
15 extremely vague because Congress didn't enact this right, and  
16 that's why the Trump administration is working on redoing this  
17 law right now.

18 The word "take" is to pursue, harass, harm, shoot, kill,  
19 wound, capture, or collect an endangered species. That is for  
20 something in the wild, that's not something born in a zoo or  
21 every zoo owner would be arrested by now, and every circus owner  
22 would be arrested for harassing an animal to make them jump  
23 through a hoop. This is for animals in the wild, has nothing to  
24 do with this. And if it did have something to do with animals in  
25 captivity, I had 50 born, according to the last testimony you

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1 heard the other day, and I euthanized five, so I should be  
2 getting credit for 45 more.

3 Q. After Travis died, what did you decide you were going to do?

4 A. I was done. I called Brittany Peet several times, crying  
5 because of what Jeff put me through and James always holding my  
6 teeth over my head because I have stolen teeth in my head thanks  
7 to them two.

8 Q. Now, had you met Ms. Peet before?

9 A. Not before -- not before the Dade City Wild Things thing.

10 Q. All right.

11 A. Talked to her on the phone.

12 Q. What was -- what was it like for you to meet Brittany Peet?

13 A. I wished I'd have met her ten years ago.

14 Q. Why?

15 A. Because she was nothing like we all portray each other to  
16 be. She was a real human being with real feelings, and she  
17 understood what position I was in, and she wasn't about just  
18 killing animals like we all think PETA is about.

19 Q. Did you think that she was someone who could help you get  
20 yourself out of the park?

21 A. She was helping me get out of the park.

22 Q. All right. Now, as far as your arrangements with Ms. Peet,  
23 tell the jury what you had in mind.

24 A. Me and my mom had a plan, and it was going to take a little  
25 while because we had to jump through all of the civil litigation

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1 hoops to do it. But Carole was suing my mom for illegal transfer  
2 of assets of the land because we changed the name from the first  
3 park to the Garold Wayne Interactive Zoological Park. So the  
4 transfer of the land was an issue.

5 And we came up with the idea and the plan, and we ran that  
6 by Howard Baskin, through a third person because we couldn't talk  
7 direct to him because of the lawsuit, that mom was going to quit  
8 fighting it and quit paying the lawyers. So that way, Carole  
9 could get -- win the judgment on the illegal transfer of assets,  
10 which would void the land deed that Jeff was on and it would go  
11 back to 100 percent of my mom owning the property. And because  
12 Jeff never paid the lease like they had a contract, she was going  
13 to evict him. And that would have got Jeff off the park. And we  
14 were working out a deal with PETA to work out with Carole to move  
15 all the animals out, and let John Finlay cut the cages apart and  
16 sell them for scrap iron in order to have us some private money  
17 to move because Carole would have owned the land with that deal.  
18 And that was our plan.

19 Q. So effectively shut down the entire operation?

20 A. Correct.

21 Q. While this was going on, you're trying to work with PETA and  
22 resolve issues with Ms. Baskin, was there still a lot of drama  
23 going on at the park?

24 A. It was constantly drama going on at the park. I couldn't  
25 even go to town. I couldn't even go home and eat lunch. My

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1 house is inside the zoo. And I would go home and eat lunch, and  
2 I hear this screaming on the radio. And I run out in the park  
3 and here's one of my female workers laying there without an arm  
4 and everybody standing there just looking at her like she has  
5 some kind of disease. And I kill myself trying to train my staff  
6 for medical emergencies and animal emergencies, and then they let  
7 the chimpanzees out, then they let the tigers out, then they let  
8 the leopards out. And then I go to town and my husband dies. I  
9 just couldn't take any more.

10 Q. Now, during this same period of time, even prior to Travis's  
11 death, did you become involved in some outside activities?

12 A. I ran for public office, yes.

13 Q. What did you run for?

14 A. In 2016, I just -- I write a lot of letters to senators and  
15 congressmen, and you never hear anything back ever. You get a  
16 form letter if you're lucky. And I laid in bed one night and I  
17 was like, how do a normal person like me and you ever get heard  
18 in this country. And I woke up the next morning and I filled out  
19 my federal papers to run for president against Donald Trump as an  
20 independent. And I didn't know what I was getting into really.  
21 And we didn't do it as a joke. I was very serious about it. And  
22 I probably learned more in 11 months running for president than I  
23 did in 12 years of school. And an independent is not recognized  
24 in this country, so you have to go to every state and get 140,000  
25 signatures in order to get access to the ballot and pay a fee.

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1 And I was the first person to ever make 37 ballots when it come  
2 election time in November.

3 So after that, the night of the election, the Libertarian  
4 party that had Gary Johnson running for president against Donald  
5 Trump called me and asked me if I would change parties and run  
6 for 2020. And I thought, hell, yeah, if they're calling me from  
7 the national Libertarian office to run for president, I'm game.  
8 So the next morning I changed my parties and I was like, I don't  
9 know if I can keep my mouth shut for four more years.

10 So the governor race in Oklahoma was up because she had  
11 termed out. So I signed up to run for governor of the state of  
12 Oklahoma. And for a year and a half they had to put up with me  
13 on that stage with 15 others debating them. So we as American  
14 people that normally pay taxes and work out here for a living had  
15 a voice.

16 Q. Were you kept busy during the fall of 2017 with that as  
17 well?

18 A. I was in, I believe, six parades between Thanksgiving and  
19 the first week of Christmas. And I had Amber, John's girlfriend  
20 at the time, and her three kids living in my house to keep me  
21 alive. And the -- you know, a lot of people give me a hard time  
22 about getting married so soon, but I studied regression and I was  
23 looking for every reason for Travis to come back. And I believed  
24 that God gave me Dillon to keep me alive.

25 Q. Now, I believe you testified earlier that you have been to

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- 1 Tampa, Florida, correct?
- 2 A. Many times.
- 3 Q. Okay. Tell me what years you have been in Tampa, Florida.
- 4 A. The entire time that we were fighting this litigation, we
- 5 went down there for depositions several times. I flew down there
- 6 and went shark fishing and parasailing. I took John and another
- 7 kid on a -- on a trip down there deep sea fishing. I flew down
- 8 there to do the music video. I actually flew down there to do a
- 9 protest in front of Carole's road that goes to her place.
- 10 Q. When was that?
- 11 A. Maybe 2012, somewhere around there.
- 12 Q. Okay. How about 2015 or '16, had you been down to Tampa?
- 13 A. I think '15 -- I think '16 is when I did the music video
- 14 and -- and was running for president. I did a presidential rally
- 15 there in Clearwater.
- 16 Q. During those visits to Tampa, Florida, and particularly the
- 17 visits after the lawsuit and things started getting acrimonious
- 18 between the two of you, did you ever try to approach Carole
- 19 Baskin?
- 20 A. I even went on a tour. I paid a tour -- to go on a tour at
- 21 her facility to see what it looked like compared to ours. I
- 22 never even saw Carole Baskin. And -- and I have never emailed
- 23 her; I have never called her; I have never sent her a message on
- 24 social media.
- 25 Q. Well, have you ever called her and threatened her?

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1 A. Absolutely not.

2 Q. Have you ever delivered or sought to have delivered a threat  
3 in writing?

4 A. No, sir.

5 Q. Now, prior to the fall of 2017, had anyone ever approached  
6 you about hiring someone to kill Carole Baskin?

7 A. Not that I can recall.

8 Q. Now, let's talk about Count 1 of the indictment. Count 1  
9 charges that in November you inquired of Alan Glover if he would  
10 travel to Florida to murder Carole Baskin in exchange for some  
11 money. Did you do that?

12 A. I never talked to Alan Glover about this.

13 Q. It also says that you told Glover that -- or that Glover  
14 told you he would go to Florida to murder Carole Baskin in  
15 exchange for some money. Did he ever say that to you?

16 A. No, sir.

17 Q. Now, the indictment charges that on or about November 6th  
18 you caused Mr. Glover to travel to Dallas to get a fake ID for  
19 use in this proposed plot for him to go to Florida and kill  
20 Carole Baskin. Tell us about this ID situation.

21 A. Okay. In October, the last -- last week of October, Jeff  
22 called me from Las Vegas and told me to call James and get the  
23 address of where he goes and gets these fake driver's licenses  
24 that they make to go lease fake addresses, and have Alan go down  
25 there and get a fake driver's license because he needed to get a

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1 bus to go back to South Carolina and fix all of his legal  
2 problems and everything else he had back there. And Jeff said,  
3 and I may send him to Florida to take care of my problem. That  
4 was his exact words. And we --

5 Q. Was that in October?

6 A. That was in October. And we all forgot about it. Jeff and  
7 James never responded to me. I -- we just forgot about it. And  
8 then Jeff called about a week, week and a half later and said,  
9 did you ever get Alan that address. So I called James again and  
10 James sent me the address. And I asked John if he'd take him to  
11 Dallas because I didn't want anything to do with Alan in a car  
12 for five hours, and I didn't want any part of whatever they were  
13 up to because I had already received a tip through the little  
14 canary grapevine there at the park that they were up to  
15 something. So that's when I called John on his way to Dallas and  
16 told him to keep at least a block away from that place and do not  
17 go in.

18 Q. Now, according to your testimony, you were aware that Lowe  
19 wanted him to travel to Dallas and get this ID, potentially for  
20 going to Florida; is that right?

21 A. That's what Jeff said, yes, sir.

22 Q. Okay. So did you provide Finlay a vehicle to go down there?

23 A. That's the vehicle he always drove.

24 Q. All right. And did you tell him maybe find a different  
25 vehicle, don't take one associated with the park?

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1 A. No. We didn't have any other vehicles.

2 Q. All right. So it didn't bother you that there was a bumper  
3 sticker or something on that vehicle that would associate the  
4 vehicle with the park?

5 A. No.

6 Q. All right. And what was your intention of keeping  
7 Mr. Finlay a block or so away from the business?

8 A. Because whatever they were up to, I didn't want John being  
9 implicated in that. And I think I said that on one of them  
10 videos too, that we didn't want any part of it because mom's  
11 nurse told me that they were up to something.

12 Q. Now, what did you think they were up to?

13 A. You know, between him and James, you never know what they're  
14 up to because, I mean, they'll look on social media, at each  
15 other, like they're fighting and they're best of friends. It's  
16 just -- it's a constant game between them two.

17 Q. Well, did you question in your mind, why is Jeff telling me  
18 things? I mean --

19 A. I questioned in my mind why Jeff was telling me things all  
20 along because on September the 30th he sold a tiger in Las Vegas  
21 to Paul Logan, the YouTube star. And I got him to wire \$2,000  
22 back to the park so I would have a receipt of him selling that  
23 tiger. And he did. And, I mean, it was -- it was just the  
24 craziest thing because everything that they did they kept  
25 providing me with exactly what I needed, copies of leases and the

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1 whole nine yards.

2 Q. Well, I believe Mr. Glover said something to the effect that  
3 he thought you were trying to gather information or something  
4 like that. Do you recall that testimony?

5 A. I remember him saying that I was fishing, and that's exactly  
6 what I was doing.

7 Q. So when you provided the information that would allow Finlay  
8 and Glover to go down to Dallas and pick up an ID, did you do  
9 that with the intention that Alan Glover used that to assist in a  
10 plot to murder Carole Baskin?

11 A. I didn't exactly know what they was going to use it for  
12 because it was -- it was a toy ID. I didn't even know if he  
13 could get on a bus with it.

14 Q. Now, the indictment also alleges that as part of this --  
15 this plot that on November 25th you used the mail to send a cell  
16 phone out to Las Vegas to conceal Glover's, I guess participation  
17 or involvement in this plot. What do you recall about the cell  
18 phone?

19 A. Okay. Before all that -- there was a lot that happened  
20 before that. Jeff had -- Jeff had called me several times,  
21 talking about him going to -- to South Carolina and him going to  
22 Florida and --

23 Q. Who's "him"?

24 A. Alan.

25 Q. All right.

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1 A. Okay. And then Jeff gets arrested. In between that all, I  
2 think, was -- if I have got my timeline right -- I don't remember  
3 when he got arrested. It was -- it was close to Thanksgiving he  
4 gets arrested. And I had talked to James, and I repeated exactly  
5 what Jeff told me because I know they're talking to each other.  
6 And that made them both feel like, yeah, they got me in this  
7 little web, but I was also consulting a police officer that --  
8 that drove for me and -- and was my bodyguard. And he kept  
9 telling me, just don't cross the line, you can fish all you want  
10 to get the information, but don't cross the line. And I thought  
11 crossing the line was actually hiring a man to go do this, you  
12 know. I didn't think asking questions was crossing the line  
13 because I just wanted to know what the hell they were up to. But  
14 they were -- they were like high-pressure salesmen trying to sell  
15 you a vacuum cleaner with extra parts. They just nonstop.

16 It was all about Carole, Carole, Carole, Carole. And then  
17 Jeff said, give him three -- I mean, at that time I was texting  
18 Jeff and saying, the man won't work for me, he won't come to a  
19 meeting, he won't do this, he won't do that. And I guess Jeff --  
20 Alan was bitching at Jeff too about the same thing. He didn't  
21 want to work for me anymore. He wanted to go home.

22 So Jeff calls me and says, give Alan \$3,000 so he can get  
23 his ass back to South Carolina and get his legal mess cleaned up,  
24 and he'll be out of your hair. Okay. So --

25 Q. Okay. So we're covering a couple of extra things here. So

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- 1 hang with me.
- 2 A. All right.
- 3 Q. And we'll just cover that while we're on it. Did you give  
4 Alan Glover some money?
- 5 A. I did.
- 6 Q. And you did that because you were told to?
- 7 A. I was directed by Jeff to give him 3,000 bucks to go home so  
8 he had traveling money and living money because Jeff had retail  
9 stores out in the east coast and he was going to go work for Jeff  
10 out there.
- 11 Q. All right. So where did the money come from that you gave  
12 to Glover?
- 13 A. Out of the night deposits, just like Jeff told me to take it  
14 out of the night deposits.
- 15 Q. And what do you mean "night deposits"?
- 16 A. Every night, and especially during the holidays, we just  
17 kept every day's income in an envelope in the safe until the end  
18 of the holiday, and then combine it all together and put it in  
19 one deposit.
- 20 Q. So are these like park admission fees and things like that?
- 21 A. And the pizza restaurant money and both gift shop money,  
22 uh-huh.
- 23 Q. So the cash that you provided came from the business,  
24 correct?
- 25 A. Correct.

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1 Q. All right. Now, along with that there's this allegation  
2 about the cell phone. Tell me what your participation was with  
3 respect to this cell phone allegedly being mailed to Mr. Lowe as  
4 part of this plot.

5 A. After -- after I gave Alan the money, a couple hours later  
6 he walks over into the office and he lays his cell phone on the  
7 desk, and to this day I swear it didn't have a charger. It was  
8 just a cell phone. And he says, here, we're supposed to mail  
9 this to Jeff. And I carried it in, and I give it to Brenda  
10 because I didn't have his address. And I said, Brenda, Jeff  
11 wants you to mail this cell phone to him. And that was the end  
12 of it.

13 Q. Was there any other discussion between you and Alan about  
14 this cell phone?

15 A. No.

16 Q. Any discussion with Jeff about this cell phone?

17 A. No, sir.

18 Q. Now, there was testimony from Mr. Glover that you gave him  
19 another cell phone.

20 A. That was all a lie.

21 Q. Did you give him another cell phone?

22 A. Absolutely not, especially a company phone that we just  
23 advertised several thousand dollars to order pizza with.

24 Q. So did you see a phone on the day that he was leaving town?

25 A. No, sir.

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1 Q. Did you use a phone that belonged to Glover to take screen  
2 shots of information about Carole Baskin and her place?

3 A. No, sir.

4 Q. When did -- did you know that Alan Glover was leaving the  
5 park on November 25th?

6 A. I didn't even know he left.

7 Q. When was the first time you figured out that he actually  
8 left the park?

9 A. Probably two or three days later.

10 Q. Did you have anything to do with him making arrangements to  
11 fly back to South Carolina?

12 A. I didn't even know he took an airplane until this all  
13 started.

14 Q. Did you hire Alan Glover to kill Carole Baskin?

15 A. Absolutely not.

16 Q. Well, let's talk about the second count. Do you recall the  
17 recordings that were played between Mr. Garretson and you that --  
18 in which Garretson is talking to you about this guy that he had  
19 that could do things? Do you remember that?

20 A. Yes, sir.

21 Q. Do you remember those conversations with Garretson?

22 A. Pretty much.

23 Q. When did you first hear from Garretson about this guy  
24 that -- that he supposedly had?

25 A. I don't even remember exactly, maybe mid September after I

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1 had my teeth.

2 Q. All right. And so how did that come up?

3 A. Well, can I back up just a little bit and fill you in on  
4 that?

5 Q. Well, if it has something to do with how this topic came up,  
6 go ahead.

7 A. I believe that -- that's the reason why this topic come up  
8 is in -- in late June or August -- or July, I had a horrible,  
9 horrible toothache and I needed two root canals and two crowns.  
10 And James says, I have a CareCredit card that's about to  
11 expire --

12 MS. MAXFIELD-GREEN: Your Honor we'd object. Same  
13 objection as before; relevance and hearsay and prejudicial.

14 THE COURT: Sustained.

15 Q. (By Mr. Earley) Okay. Mr. Passage, what I need you to do  
16 is talk about how this topic of Mr. Garretson's guy came up and  
17 when it first came up.

18 A. We were on the phone talking about my teeth.

19 Q. Okay. And that's fine. And when was that?

20 A. August -- September, August. August, I think.

21 Q. Okay. So that's the first time that you heard Mr. Garretson  
22 bring up some guy that he might have to -- to do something. What  
23 was it that this guy could do?

24 A. Well, he called me; I didn't call him.

25 Q. Okay.

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1 A. Okay. And every time he called you, it was about Carole or  
2 Jeff. Okay. So it was -- it was what information you know about  
3 Carole, or what -- you know, is Jeff paying any bills, or what's  
4 Jeff doing in Las Vegas. And if I remember right, he just -- he  
5 just said, is Carole still F'g with you. And I said, yeah,  
6 obviously, she never stops. And he says, well, I know a guy that  
7 can take care of it.

8 And -- and through this entire process -- you can watch  
9 these videos -- and every time I use the excuse I have to sell a  
10 cub or I ain't got no babies born, I ain't got no money. It was  
11 the easiest way to get rid of the man.

12 Q. Well, just thinking back, maybe including the recordings and  
13 maybe non-recorded contacts you had with Garretson, how many  
14 times do you think he brought up his guy during the fall of 2017?

15 A. Probably 10 or 12, at least.

16 Q. Okay. Did those remarks continue into December?

17 A. Yes, sir.

18 Q. All right. Were those conversations that you started or was  
19 the topic brought up by Garretson?

20 A. It was always him calling. And I believe one of them in  
21 early December even -- I even lied to him and told him I had a  
22 photo shoot in Dallas to get out of even the conversation, but I  
23 was actually at a parade in Davis, Oklahoma.

24 Q. Now, when he was contacting you in December and November  
25 about this, were you still in discussions with Ms. Peet about

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1 extricating yourself from the park?

2 A. We were still moving tigers out and -- and cutting cages  
3 apart.

4 Q. Your decision to leave the park, how did that -- how did  
5 that affect your thoughts about Carole Baskin?

6 A. You know, after Travis died and dealing with that and  
7 dealing with PETA's lawsuit to come get them first 19 tigers  
8 and -- and having three kids that I'm not used to in the house  
9 screaming and hollering and meeting Dillon on the 28th and six  
10 parades to do and running for office and doing debates at the  
11 same time, Carole Baskin didn't even enter my mind unless one of  
12 them called and brought it up.

13 Q. Did you ever agree, whether it's recorded or not, to meet  
14 this guy before this December 8th meeting?

15 A. He only had one recording of that, but he called like two or  
16 three times, hey, I'm going to bring my guy up tomorrow. And he  
17 never shows up. I'm going to bring him up Thursday, and he never  
18 shows up. Well, hey, you going to be around Friday. You know  
19 what, it's the same as always. The man never done what he said  
20 he was going to do. So I just said, sure. And I'll be damned if  
21 they didn't show up.

22 Q. Yeah. Well, let's talk about December 8th. Did you plan on  
23 meeting with this person?

24 A. No.

25 Q. Now, he obviously did show up at the park.

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1 A. Yes, sir.

2 Q. What were you doing at the time that they popped in on you?

3 A. I don't recall, but I'm sure I was working the park doing  
4 something.

5 Q. Were you continuing to do your daily duties and do tours and  
6 take care of animals and all that other stuff?

7 A. Yes, sir.

8 Q. Was that in addition to your concentration on your campaign?

9 A. It was during the concentration on everything. I mean, that  
10 was the first day actually that -- well, no, Dillon had already  
11 moved in and -- and even he was -- I mean, everybody was in and  
12 out of the office the entire time.

13 Q. Now, where did that -- where did most of that conversation  
14 take place?

15 A. In the office away from the gift shop.

16 Q. Is that sort of a secretive, closed-off place?

17 A. No, it's open. Everybody had access to it. It's just a  
18 portable building that we had next to the big gift shop office  
19 because we outgrew the gift shop office.

20 Q. Now, what was your -- your gut feeling about this  
21 conversation?

22 A. I had a gut feeling it was an undercover cop.

23 Q. Why?

24 A. Because they were so high pressure. I mean, it -- first of  
25 all, they blocked the door. I couldn't get out the door. They

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1 stood in front of the door. I don't recall anybody ever sitting  
2 down. And you have got a giant Chucky and a guy that looks like  
3 hell blocking the only door to get out of the building. And  
4 they're like, oh, we can kill her, we can do this, we can -- we  
5 can drop the price down to 5,000 bucks. You're really going to  
6 drive to Tampa, Florida and stay there and -- and kill somebody  
7 and come back on 5,000 bucks? I can't even deliver a tiger that  
8 cheap.

9 Q. Did you think it was a setup?

10 A. I believed it was a setup.

11 Q. Now, there was a discussion about getting some money  
12 together. Do you remember that?

13 A. I do.

14 Q. Did you ever get money together?

15 A. No. And I told them -- I told them on the recording that I  
16 had to sell some cubs to get some money, but I kept telling them  
17 the same thing I heard from Jeff during his little setup because  
18 at the same time he's -- he's trucking around with an undercover  
19 FBI guy using stolen credit cards.

20 Q. Did you ever provide Garretson money for the services of  
21 Marc?

22 A. Not a dime.

23 Q. Now, there was this discussion about getting a gun for  
24 purposes of carrying out this plot. Do you remember that?

25 A. That was their idea.

*Emily Eakle, RMR, CRR*

1 Q. All right. So did you ever try to go get a gun for Mark?

2 A. No.

3 Q. Now, there was also some discussion about getting some  
4 phones, a phone for you and a phone for Mark so that you two  
5 could communicate, and it wouldn't have anything to do with the  
6 park. Do you remember that?

7 A. Yep.

8 Q. Did you ever go and purchase any phones for you and Mark?

9 A. Never even thought about it after they left.

10 Q. So did you hire Mark to kill Carole Baskin?

11 A. Absolutely not.

12 Q. Did you take any further steps, as far as collecting money,  
13 making inquiry about guns, inquiry about phones, anything that  
14 would suggest you had any interest at all in carrying through  
15 with what Mark and Mr. Garretson had proposed?

16 A. Nope.

17 Q. Now, we heard a little bit of testimony from Ms. Peet about  
18 her trying to intervene and perhaps reach some sort of settlement  
19 that would, you know, basically take care of not only them but  
20 also the Baskin situation.

21 A. Okay.

22 Q. What was your understanding of what she was trying to broker  
23 for you?

24 A. Okay. PETA had a separate contract of their own where I had  
25 to get rid of all of the animals, and I could not ever own an

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1 exotic animal again, couldn't have anything to do with anybody  
2 that had exotic animals. So I couldn't go to work for anybody  
3 that had exotic animals. And we were going to move all the  
4 animals. We were going to allow John Finlay to move into the  
5 main house and cut the cages apart, and that's where we were  
6 going to get our extra money.

7 Plus she had no problem coming up with \$100,000 to replace  
8 the money that mom paid for the land, but they didn't want Jeff  
9 Lowe making a dime. And that's what broke the deal was Jeff  
10 wouldn't agree to anything because he wanted \$400,000 to walk  
11 away from it. So we couldn't get Jeff out. So that's why we  
12 needed mine and my mom's plan to work on through. And that's  
13 what we were working on. Between the lawyers and PETA and me and  
14 mom, we were actually working on that plan up until I got  
15 snatched out of having them investigated.

16 Q. All right. So there wasn't a settlement?

17 A. No, sir.

18 Q. And at least from your view, was that because Jeff Lowe  
19 wouldn't sign on?

20 A. It is because Jeff Lowe wouldn't sign off on it.

21 Q. So after the first of the year, going into February, March  
22 of 2018, what was your plan as it pertains to the park?

23 A. Well, January the 2nd of 2018, I got my first traffic ticket  
24 in my life -- running a stop sign -- and broke my neck and my  
25 back and my right leg. And I was in OU Medical Center for a few

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1 days there. And then I get home and I'm in braces. And the --  
2 the whole thing of leaving the zoo was still priority on my mind.

3 So we move some bears and some monkeys and some more tigers,  
4 and then -- because Alan was finally out of my hair. Every time  
5 I moved an animal before Alan left, he'd call Jeff and Jeff would  
6 call and say, what are you doing moving this animal or getting  
7 rid of this animal. So I couldn't get rid of most of the animals  
8 that were under my license until Alan was gone.

9 So after Alan was gone, and after I got out of the hospital  
10 of having my wreck, we moved almost every primate in that zoo to  
11 other facilities, except for the two chimpanzees and the one  
12 primate pigtail macaque that John Reineke, the manager --  
13 actually, it was his monkey. So we got rid of all the primates.  
14 We got rid of almost all the bears. We only had three bears  
15 left. And we were still placing tigers at different private  
16 facilities.

17 And Brittany was helping me organize all this, but we were  
18 having troubles finding sanctuaries that had room for 200 tigers.  
19 I mean, moving 200 tigers is a process, you just don't do it  
20 overnight. And June -- June -- I mean, they -- they come up with  
21 this Carole thing, you know, a couple more times. And then May  
22 he got in some more legal trouble out there and -- and I was  
23 feeding information to Brittany. I was feeding information to  
24 the district attorney in Las Vegas. I was feeding information to  
25 another man that was piping it up the USDA to -- Bernadette

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1 Juarez is the top USDA for us, and she was supposed to be giving  
2 some of this stuff to the FBI because he was selling skins and  
3 teeth and everything out in Vegas from tigers. And -- and so I  
4 have got these screen shots and all of the information I needed.  
5 If somebody would have just come and ask me, we could have  
6 avoided this whole thing.

7 Q. Well, did anybody ever come and ask you?

8 A. To this day, nobody has.

9 Q. Now, we heard a recording of a phone call that you had with  
10 Mr. Finlay while you were being held in custody. Do you recall  
11 that?

12 A. Yes, sir. Yes, sir.

13 Q. And during that phone call you suggested that he had told on  
14 you. Do you remember --

15 A. Yes, sir.

16 Q. Do you remember what -- what you said?

17 A. I asked him -- I asked him who he's been talking to and he  
18 said the FBI. And I -- John, the only thing John knew was he was  
19 taking Alan to Dallas to go to Florida. Because if he'd have  
20 told John the truth, John has a very low self-esteem, so he  
21 always attaches himself to the wrong people because they become  
22 his friend fast. And he just wouldn't keep his mouth shut if I  
23 would have told him the truth, so that's why I told him to park a  
24 block away from the damn place so he didn't get implicated in  
25 anything. And what's he do, he walks right in the damn building.

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1 Q. So what did you mean during this conversation when you  
2 accused him of selling you out, or whatever the exact words were?

3 A. Well, I mean, he knew that the -- the direct orders came  
4 from Jeff. And I wanted to make sure that when he talked to the  
5 FBI he didn't say it was just my -- my sending him down there,  
6 that I wanted to make sure that he told them that Jeff is the one  
7 who told us to send him down there.

8 Q. All right. Now, at any time did you intend for someone to  
9 kill Carole Baskin in exchange for money or any other thing of  
10 value?

11 A. No.

12 MR. EARLEY: May I have just a moment?

13 THE COURT: You may.

14 MR. EARLEY: Pass the witness.

15 MS. MAXFIELD-GREEN: Your Honor, if I could just have  
16 an extra couple of minutes.

17 THE COURT: Sure. Actually, ladies and gentlemen, it's  
18 sometimes a lot better if we don't interrupt you as -- we're at a  
19 natural break here, so let's take our afternoon break just a  
20 little bit early. We'll break for 15 minutes, and please  
21 remember the admonition.

22 If those in the courtroom would please remain seated as the  
23 jury exits.

24 (Jury exited.)

25 THE COURT: Counsel, my -- so we'll start back up at

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1 about five 'til. My intent is that we power through and -- and  
2 finish at least with testimony today, even if that means we may  
3 end up having to stay just a little bit late.

4 I don't know how much you have, Ms. Green, or any redirect,  
5 but my plan is is that we get this wrapped up. I don't see any  
6 way that we're going to instruct and close this afternoon. I  
7 don't want to break those things up, but I also don't want to  
8 break early today. But at the pace we're going, I'm expecting  
9 this will probably run us all the way to 5:00 anyway. So even if  
10 we go over a little bit, I'm going to assess that with the jury.

11 But my intent is that we finish Mr. Passage's testimony  
12 today. And then I don't know if you have anything additional  
13 after that, Mr. Earley. But anyway, so we'll be in recess until  
14 about five 'til.

15 (Break taken.)

16 (The following record was made in open court, in the  
17 presence of all parties, counsel, and in the presence and hearing  
18 of the jury.)

19 THE COURT: Ms. Green, cross-examination.

20 MS. MAXFIELD-GREEN: Thank you, Your Honor.

21 **CROSS-EXAMINATION**

22 **BY MS. GREEN:**

23 Q. Good afternoon, Mr. Passage.

24 Mr. Passage, since you have been in jail, you have been  
25 working on selling your life story to several different members

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- 1 of the media, correct?
- 2 A. I have been working on selling some of the footage from the  
3 zoo and -- and the past. And -- and one of them I had a contract  
4 with in, like, 2017.
- 5 Q. And Rebecca Chaiklin, is that how you say it?
- 6 A. I have no idea how to say her last name.
- 7 Q. Chaiklin is the best I can do. Rebecca Chaiklin is one of  
8 your filmmakers, correct?
- 9 A. Correct.
- 10 Q. And what about Eric Goode, he's one of your filmmakers,  
11 correct?
- 12 A. They're together.
- 13 Q. Rebecca and Eric work together?
- 14 A. Correct.
- 15 Q. Is Rebecca in the courtroom today?
- 16 A. Eric is.
- 17 Q. So Rebecca and Eric, they're working on a film about your  
18 life, right?
- 19 A. We started a documentary way before Travis died.
- 20 Q. Okay. What about Teresa McCown? She's one of your  
21 filmmakers, correct?
- 22 A. She used to be my producer before my studio burnt down.
- 23 Q. And is she making a film about you as well?
- 24 A. She hasn't asked for any footage or anything yet. She  
25 hadn't done anything. I don't know what she's doing.

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1 Q. Well, you have gotten several thousands of dollars already  
2 from Rebecca and Eric, correct?

3 A. Correct.

4 Q. And have you gotten several thousand dollars from Teresa  
5 McCown for your story?

6 A. I haven't gotten a dime from Theresa. My husband has.

7 Q. Okay. And that's up into the several thousands of dollars,  
8 correct?

9 A. Correct.

10 Q. And you have been negotiating with them ever since you have  
11 been in jail, correct?

12 A. Correct.

13 Q. And it was Rebecca Chaiklin and Eric Goode who paid John  
14 Finlay for an interview about you, correct?

15 A. From my understanding, they paid a lot of people.

16 Q. And this is all in connection with a film about your life,  
17 correct?

18 A. Correct.

19 Q. Now, you and Mr. Earley covered a lot of stuff. So I'm  
20 going to try to go a little bit in order but --

21 A. Okay.

22 Q. Now, Mr. Earley talked to you about Darlene Cervantes. Do  
23 you recall that?

24 A. Yes, ma'am.

25 Q. And your testimony was -- and he talked to you about

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1 Government's Exhibit 21, which is that text exchange with her,  
2 correct?

3 A. Yes, ma'am.

4 Q. Now, your testimony was that you told -- you told her that  
5 the cubs would be a thousand dollars just to get rid of her,  
6 correct?

7 A. Correct.

8 Q. Okay. But that -- you saw that text exchange in the  
9 government's part of the case, right?

10 A. I saw it, yes, ma'am.

11 Q. Now, that text exchange went on from October to February,  
12 correct?

13 A. That -- that should explain that it wasn't a very serious  
14 sale, was it?

15 Q. But that whole text exchange was all about selling a couple  
16 of tigers for a thousand dollars, correct?

17 A. Correct.

18 Q. Okay. Now -- you have got to forgive me, I have got a lot  
19 of notes here.

20 A. You're all right.

21 Q. So you told -- you said on direct that in 2014, in October  
22 of 2014, you got extremely ill; is that right?

23 A. Very ill.

24 Q. And you got so ill, it sounds like you were on your  
25 deathbed; is that right?

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- 1 A. I was.
- 2 Q. And you made a deal with God, correct?
- 3 A. I did.
- 4 Q. That if you walked out of that hospital you were going to be  
5 different and -- and kind of -- I can't remember what words you  
6 used, but you were going to do better, I think you said.
- 7 A. I was going to try and change, yes, ma'am.
- 8 Q. And that was in October of 2014?
- 9 A. That was. October the 21st, to be exact.
- 10 Q. Okay. So do you remember on -- when we were talking to  
11 Ms. Baskin, and during the government's case, we looked at a lot  
12 of posts and videos of yours, correct?
- 13 A. Correct.
- 14 MS. MAXFIELD-GREEN: Can we see Government's  
15 Exhibit 97, Jane? Just blow that up.
- 16 Q. (By Ms. Maxfield-Green) Now, that's a post on your Facebook  
17 page, right?
- 18 A. It's a post on one of my Facebook pages.
- 19 Q. And you had several, correct?
- 20 A. I had 19 of them.
- 21 Q. So this is one of them, correct?
- 22 A. That is one of them.
- 23 Q. Is that a photo of you standing at the coffin?
- 24 A. That is.
- 25 Q. And now, as I recall -- this one says, "I bought my good

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1 friend Carole in Florida a Christmas present. It even came with  
2 me singing a farewell song." That was posted on December 28th of  
3 2014, correct?

4 A. Mine says 21 hours.

5 Q. Okay. I think if you look in the lower right-hand corner  
6 of when that's -- shows when that screen shot was --

7 A. Oh, when the screen shot was taken. Well, I mean, that  
8 shows when the screen shot was taken, but that don't show when  
9 the post was put up.

10 Q. Okay. Well, you heard the testimony on direct that Ms.  
11 Baskin believed it was posted on about December 28th of 2014?

12 A. I heard a lot about what Ms. Baskin believes.

13 Q. So December 28th of 2014 would have been after you made your  
14 deal with God, correct?

15 A. Would have been a long time after that, but may I elaborate  
16 on that?

17 Q. No. That -- I just -- December is after -- December 14 is  
18 after October 14, correct?

19 A. I was way too sick to be on top of that casket in December  
20 of '14.

21 Q. Okay. If we can see Government's Exhibit 100, which was  
22 also played during the government's case.

23 (Video played in open court.)

24 Q. (By Ms. Maxfield-Green) Okay. So that video was posted on  
25 September 17th of 2015, correct?

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1 A. All right.

2 Q. Okay. And that would have been after October of '14,  
3 correct?

4 A. Correct.

5 Q. Okay.

6 A. Can we play the music video?

7 Q. I don't think we need to.

8 A. Well, it shows that --

9 THE COURT: Mr. Passage, Mr. Passage, please just  
10 answer the questions. Your -- Mr. Earley will have the  
11 opportunity to ask you additional questions if he wants to  
12 elaborate for some additional information, but please just answer  
13 the questions before you.

14 THE WITNESS: Yes, sir.

15 Q. (By Ms. Maxfield-Green) Okay. Mr. Passage, the best as I  
16 understood your testimony on direct, you're telling us that you  
17 never sold a tiger across state lines, right?

18 A. Up until 2016 I sold a bunch of them.

19 Q. Okay. So you're -- let me get this right then. Your  
20 testimony is that after 2016 when the generic tiger loophole  
21 closed --

22 A. And I didn't own a zoo at that time.

23 Q. So your testimony is that, after that point in 2016, you  
24 never sold tigers, correct?

25 A. I did not.

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1 Q. Okay. And you -- is your testimony also that you never, in  
2 the same regard, would have never falsified any documents to  
3 cover up a sale like that, correct?

4 A. I mean, all of the -- all of the documents that we fill out  
5 are transfer forms and those are donated from whoever owned the  
6 animal.

7 Q. Now, Jeff and Lauren Lowe were back at the park by May  
8 of 2018, correct?

9 A. Yes, somewhere around there.

10 Q. And you had a conversation with the two of them when you  
11 were sitting at a desk in their house at the zoo, correct, on  
12 about May 3rd of 2018?

13 A. I think that conversation started in the office.

14 Q. Okay.

15 A. And overflowed through the house.

16 Q. So you recall that conversation?

17 A. I think so, if you're talking about the same one.

18 Q. Okay. And you're aware that conversation was recorded,  
19 correct?

20 A. Yes, ma'am.

21 Q. Okay.

22 MS. MAXFIELD-GREEN: The government moves to admit  
23 Exhibit 62-1, -2 and -3, which are clips of that conversation,  
24 Your Honor.

25 THE COURT: Is there any objection from the defendant?

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1 MR. EARLEY: Well, we haven't actually seen these  
2 exhibits, Your Honor.

3 THE COURT: Parties approach.

4 (The following bench conference was held outside the hearing  
5 of the jury.)

6 THE COURT: These were not produced in discovery?

7 MS. MAXFIELD-GREEN: They were produced in discovery,  
8 Your Honor. They have had this video for a long time. What we  
9 were discussing is that this is a conversation, kind of a  
10 long-ranging conversation between Mr. and Mrs. Lowe and  
11 Mr. Passage. And the reason it is clipped into three little  
12 parts is because we made every attempt to get as much of  
13 Mr. Lowe's comments out of it, just enough for the context of  
14 what they're talking about. There are long sections where  
15 Mr. Lowe is talking and making accusations. We cut all that out.  
16 It is pretty much cut down to just Mr. Passage's statements.

17 MR. EARLEY: The only concern was that this -- this  
18 particular video covered a lot of territory, to include  
19 allegations of campaign finance --

20 MS. MAXFIELD-GREEN: There is nothing in this exhibit  
21 about campaign finance, embezzlement. This is all -- the  
22 comments that are being offered are being used to directly  
23 impeach what Mr. Passage has said. He is talking about sales of  
24 tiger cubs to Mr. Engesser that had clearly happened at the few  
25 months prior and his falsification of documents to cover that up.

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1 THE COURT: So, Mr. Earley, your concern was that it  
2 went into some other areas?

3 MR. EARLEY: Correct.

4 THE COURT: And if the government's representing that's  
5 not the case, do you have any objection to the exhibits?

6 MR. EARLEY: No.

7 THE COURT: Okay.

8 (The following record was made in open court, in the  
9 presence of all parties, counsel, and in the presence and hearing  
10 of the jury.)

11 THE COURT: Ms. Green, could you repeat those numbers  
12 again?

13 MS. MAXFIELD-GREEN: Yes, Your Honor, the government's  
14 moving to admit 61-1, 61-2, 61-3.

15 THE COURT: Those will be admitted without objection.

16 (Video played in open court.)

17 Q. (By Ms. Maxfield-Green) Okay. And that conversation was on  
18 May 3rd of 2018, correct?

19 A. I guess, yes.

20 Q. Now, Mr. Passage, again, you -- it was your testimony that  
21 you never sold endangered species cubs, lions or tigers, correct?

22 A. According to this video right here, he was accusing me of  
23 stealing his money from selling a cub.

24 Q. Okay. Were you intending to broker the sale of a litter of  
25 lions from your jail cell?

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1 A. Do what?

2 Q. Were you intending to broker the sale of a litter of lions  
3 from your jail cell?

4 A. Broker a litter of lions from my jail cell? I don't have  
5 any lions.

6 Q. Now, you made phone calls from jail, right?

7 A. Made a couple hundred.

8 Q. Okay. And you're aware that those calls are recorded,  
9 right?

10 A. I am.

11 MS. MAXFIELD-GREEN: Government moves to admit  
12 Exhibit 162 and 163.

13 THE COURT: Any objection?

14 MR. EARLEY: I'm sure they're among the thousands that  
15 there are, but if Ms. Green's representing that they're phone  
16 calls from the jail and that Mr. Passage is on them, I have no  
17 reason to disbelieve her.

18 THE COURT: So no objection?

19 MR. EARLEY: No.

20 THE COURT: 162 and 163 will be admitted.

21 MS. MAXFIELD-GREEN: 162, Jane.

22 (Audio played in open court.)

23 MS. MAXFIELD-GREEN: And if we can have 163, please.

24 (Audio played in open court.)

25 Q. (By Ms. Maxfield-Green) Okay. Mr. Passage, on direct you

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- 1 testified that -- that Jeff Lowe was selling tiger cubs, correct?
- 2 A. At the zoo.
- 3 Q. Okay. And that you even kept a ledger where you kept track
- 4 of his tiger cub sales, right?
- 5 A. I did.
- 6 Q. Okay. Now, so you knew, you know, back last year that Jeff
- 7 Lowe was selling tiger cubs. Is that your testimony?
- 8 A. Yes.
- 9 Q. Why didn't you report that to law enforcement?
- 10 A. I tried to report a whole bunch of stuff.
- 11 Q. Who did you report the fact that Jeff Lowe was selling tiger
- 12 cubs to? Did you report it to the U.S. Fish & Wildlife Service?
- 13 A. I didn't report it to the U.S. Fish & Wildlife Service
- 14 because I have never seen one of them guys. And when you call
- 15 the U.S. Fish & Wildlife, nobody ever knows nothing. They
- 16 transfer you ten different times. So I told the Garvin County
- 17 Sheriff's Department, I told the USDA, and --
- 18 Q. Who did you tell at the USDA?
- 19 A. I told the guy that was sending everything to Bernadette
- 20 Juarez. And I told the investigator and the district attorney
- 21 out in Las Vegas because I had screen shots of him selling cubs
- 22 out there.
- 23 Q. Okay.
- 24 A. May I comment on your video?
- 25 Q. I didn't have any questions about that.

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- 1 A. Okay.
- 2 Q. Now, and just to understand the timeline and everything, so  
3 Jeff Lowe -- it was your testimony that Jeff Lowe was in Las  
4 Vegas from about May, June of 2017. Is that when he left for Las  
5 Vegas?
- 6 A. Somewhere around there.
- 7 Q. Okay. And he -- sounds like he came back and forth a little  
8 bit, correct?
- 9 A. Whenever he run out of cubs.
- 10 Q. So he came back about in April of 2018, correct, or came  
11 back --
- 12 A. For a little bit or for good?
- 13 Q. For good.
- 14 A. I think it was closer to May. I'm not sure.
- 15 Q. And that would have been 2018 when he came back for good?
- 16 A. Well, he came back, supposedly for good, and then he left  
17 again.
- 18 Q. Now, you talked about this proposal from PETA, correct? You  
19 talked about that on direct?
- 20 A. Yes, ma'am.
- 21 Q. And you were here for Ms. Peet's testimony last Friday,  
22 correct?
- 23 A. Yes, ma'am.
- 24 Q. Okay. And so you heard her testify that any negotiation  
25 with you that she was proposing did not involve Carole Baskin.

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1 Did you hear that testimony?

2 A. Okay. She -- I forget exactly what she said, but the -- the  
3 negotiations that she was working with me was with PETA, and  
4 Carole would not agree to anything unless I agreed to PETA's  
5 thing first. That's what was going on.

6 Q. Okay. But Ms. Peet testified that the Baskins were not part  
7 of a draft proposal she was giving you in January of '18,  
8 correct?

9 A. The draft proposal was PETA's draft, PETA's side of it.

10 Q. Okay. And you saw the email between you and Ms. Peet from  
11 January 24th of 2018, correct?

12 A. I don't recall we saw that email.

13 Q. Well, it's Government Exhibit 160. We can just look at it.  
14 It's already been admitted.

15 Okay. Now, this is an email from you to Ms. Peet on  
16 January 24th, 2018, right?

17 A. Yes, ma'am.

18 Q. And it says, "Brittany, unless I'm blind or stupid, this  
19 does not get rid of the judgment." And it was Ms. Peet's  
20 testimony that that judgment meant the litigation between you and  
21 Carole Baskin. Did you hear that testimony?

22 A. Yes, ma'am.

23 Q. Okay. And it says, "nor help in any way to pay off our  
24 legal bills and to make any money." And that's what it says,  
25 right?

*Emily Eakle, RMR, CRR*

- 1 A. Yes, ma'am.
- 2 Q. Okay. And that email was from you to Ms. Peet in January  
3 of 2018, correct?
- 4 A. Correct.
- 5 Q. Okay. And you also testified that as part of your working  
6 with PETA through the, I guess winter of 2017, 2018, you gave up  
7 40 tigers, correct?
- 8 A. Nineteen the first time and 20 the second time.
- 9 Q. Okay. Now, that first 19, were those -- those were the Dade  
10 City tigers, right?
- 11 A. Yes, ma'am.
- 12 Q. Okay. The ones that came in on the cattle trailer in July  
13 of '17?
- 14 A. Yes, ma'am.
- 15 Q. Okay. Now, you gave those up because PETA sued you to force  
16 you to give them up, correct?
- 17 A. Correct.
- 18 Q. And then you gave them an additional 20, 21 tigers at some  
19 other point?
- 20 A. After I met Ms. Peet in person, yes.
- 21 Q. Okay. Now the tigers you gave them, those were your  
22 nonbreeding males, right?
- 23 A. No. We gave them some pairs.
- 24 Q. Okay.
- 25 A. I believe we did.

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1 Q. Okay. And we spoke about the passing of your husband on  
2 October 6th of 2017, correct?

3 A. Yes, ma'am.

4 Q. And then -- that was Mr. Maldonado, correct?

5 A. Correct.

6 Q. And you're currently married to Mr. Passage, correct?

7 A. Correct.

8 Q. And you remarried him on -- I'm sorry -- you married him on  
9 December 11th of 2017; is that correct?

10 A. Correct.

11 Q. So is that about eight weeks after Mr. Maldonado died?

12 A. Couple of months.

13 Q. And, in fact, the conversation that we listened to between  
14 you and James Garretson and Mark Williams, the undercover, that  
15 was just a few days prior to -- to your being married, correct?

16 A. Correct.

17 Q. Okay. So you testified on direct with Mr. Earley that James  
18 Garretson kept telling you that he could get you a hit man. Is  
19 that your testimony?

20 A. Yes, ma'am.

21 Q. Okay. And you kept telling him that you needed to sell a  
22 cub to get rid of him. Is that your testimony?

23 A. That is my excuse to always get rid of him, yes.

24 Q. Now, when James Garretson kept coming to you and offering  
25 you a hit man, you didn't report that to law enforcement,

*Emily Eakle, RMR, CRR*

1 correct?

2 A. No.

3 Q. You testified on direct you had a FBI agent's phone number  
4 in your phone, correct?

5 A. Correct.

6 Q. But you never reported it to him, right?

7 A. Never got any good response out of the last four things we  
8 reported to him.

9 Q. Okay. And you're saying -- your testimony on direct was  
10 that James Garretson brought you -- or brought Mark Williams to  
11 the park to meet you. We heard that whole recording, correct?

12 A. Correct.

13 Q. And that you -- I understand your testimony to be that you  
14 knew that he was an undercover officer, correct?

15 A. I had a gut feeling.

16 Q. Okay. And you didn't contact law enforcement about that,  
17 did you?

18 A. No.

19 Q. You didn't confront James Garretson about it, did you?

20 A. No, because I still needed to get some information of where  
21 these girls were being held.

22 Q. You didn't try to -- you didn't blow the undercover cop's  
23 cover, did you?

24 A. No. He was still using stolen credit cards hauling that cop  
25 around. Why would I tell him I knew anything?

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1 Q. Okay. And so the best I understand the remainder of the  
2 testimony you did with Mr. Earley is that, essentially, pretty  
3 much all of the government witnesses were lying about something,  
4 correct?

5 A. They were definitely lying about Robert Engesser.

6 Q. Okay. And Alan Glover's lying about pretty much everything?

7 A. He's protecting his boss.

8 Q. Okay. And James Garretson's lying about pretty much  
9 everything?

10 A. About -- all I heard him testify was to the recordings that  
11 we heard.

12 Q. Okay. John Finlay, is he lying?

13 A. John Finlay was pretty on point except for he said we  
14 delivered a hundred cubs over state lines, which is probably  
15 right, but they weren't all after 2016. But other than that,  
16 John was probably your most honest witness you have had so far.

17 Q. Okay. Including the part where he said you called him when  
18 he was on the way to Dallas and told him that the fake ID was so  
19 that Glover could kill Carole Baskin? Was he right about that?

20 A. He had that backwards. I told him that first, and I called  
21 him and told him to stay away from that building on the way.

22 Q. Okay.

23 A. And Carole Baskin was lying.

24 Q. Okay. Thank you. But you're telling the truth, correct?

25 A. Yeah. The -- the --

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1 Q. That's my question, Mr. Passage. You're telling the truth?

2 A. Yes, ma'am.

3 MS. MAXFIELD-GREEN: No further questions, Your Honor.

4 THE COURT: Redirect.

5 **REDIRECT EXAMINATION**

6 **BY MR. EARLEY:**

7 Q. Mr. Passage, how long have you been working with documentary  
8 filmmakers?

9 A. Since probably 2009, 2010.

10 Q. Okay. Let's -- let's just use the time frame of 2009 up  
11 until you left in 2018. In the spring of 2018, were -- was there  
12 anybody there filming you or trying to document what you did at  
13 the park?

14 A. The last part of 2017, we documented when Travis died. I  
15 had to re-act spreading his ashes and the whole bit. And then in  
16 2018, they were out filming other people for the same  
17 documentary. And then when it got close to June and all hell  
18 broke loose and I hid some animals out in Tulsa at a facility  
19 over there, they videotaped me moving and hauling the animals  
20 there and spent all day there. And then I -- I ain't got nothing  
21 to hide -- and then the next day they took me to a motel, and we  
22 did a little bit of soft porn for the same documentary in my  
23 underwear. So I -- I've filmed with Allison Eastwood; I've  
24 filmed with Japanese people for a Japanese film. I have filmed a  
25 lot of films.

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1 Q. So -- and apparently some news outfit, CNN or somebody came  
2 and talked to you, right? We saw a video clip of that.

3 A. Years ago.

4 Q. Yeah. I mean, has that continued throughout the years?

5 A. I -- I have been all over the world on TV, yes. Yes, sir.  
6 And talk shows.

7 Q. So is the fact that someone is collecting footage that you  
8 have from the park, is that something unusual?

9 A. Not at all.

10 Q. So what -- what is somebody working on right now, to your  
11 knowledge?

12 A. Well, Eric Goode and Rebecca is still working on the same  
13 documentary we started two and a half years ago. And after I  
14 left the zoo, they downloaded several computers with probably  
15 30,000 hours of video from -- because we filmed everything at the  
16 park -- I have got the girl losing her arm on tape; I have got it  
17 all. Everything that happened at that zoo is on tape.

18 And -- and I signed a contract back in early 2016, '17 with  
19 Mr. Goode. And he owed me 20 more thousand bucks, and that's  
20 what my husband has been living on since this all started because  
21 we -- they bulldozed my house; they bulldozed everything I own.  
22 I lost my car. We have nowhere to live. He's living with his  
23 mom and his sister in Texas.

24 And, you know, Mr. Goode even has Ms. Baskin on videotape  
25 that he has offered once or twice to show she was lying about

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1 that assault in Tampa, Florida, that happened in 2006 before I  
2 even knew her.

3 Q. So this business about you collecting money or what have you  
4 from people, that's old news?

5 A. It's from people that owe me money, yes, sir.

6 Q. All right. And I guess you have already said this, you have  
7 nothing?

8 A. I have nothing. If I walk out of here today, I have got to  
9 give this suit back.

10 Q. Now, Ms. Green asked you about Government's Exhibit 97,  
11 which was this -- this photo that was supposedly posted on  
12 Facebook December 28th, 2014. You had some disagreement with the  
13 date.

14 A. Okay. Well, first of all, Joe Schreibvogel's Facebook page  
15 was being run by somebody out of the office. Okay? I run the  
16 Joseph Maldonado-Passage page.

17 Second of all, we quit the magic show in 2011. We retired  
18 the magic show. And that's me standing on top of a casket in one  
19 of our main illusion shows, and they're trying to tell me that  
20 was in 2014.

21 Q. So, to your recollection, even though some screen shot may  
22 show that it's in 2014, you believe that photo was actually from  
23 2011, or thereabouts?

24 A. Or thereabouts.

25 Q. All right. Now, Ms. Green showed you a video clip from

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1 September 17th, 2015, suggesting that you -- you broke your deal  
2 with God and you weren't changing your ways; you were going back  
3 to your old ways. Do you remember seeing that?  
4 A. I do.  
5 Q. Is that what that represents?  
6 A. No, it doesn't.  
7 Q. What do you think it represents?  
8 A. It represents a very, very professional music video that we  
9 put out that she hates, and it's about her feeding her husband to  
10 the tigers.  
11 Q. So this -- this is a music video?  
12 A. It is a music video.  
13 Q. All right. Is that all that follows that introductory  
14 comment by you?  
15 A. That is all that follows.  
16 Q. Now, your testimony is that up to 2016 you probably sold a  
17 bunch of tigers; is that right?  
18 A. Yeah.  
19 Q. And it wasn't illegal then?  
20 A. Nobody ever DNA tested them to see if they were purebred  
21 Siberian or Bengal.  
22 Q. Well, if they did would they have found that out?  
23 A. If they had something to compare it to.  
24 Q. All right. So after 2016, your -- your story is that, hey,  
25 I never sold any tigers. Why are you saying that?

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1 A. Because Jeff claimed everything, whether he touched it,  
2 whether he used it, whether he bought it, it become Jeff's. And  
3 I tried to get some of those animals out of there, and he told me  
4 I owed \$4.6 million for boarding, and that was through my legal  
5 team.

6 Q. Now, we saw that little video, or actually three little  
7 clips of that video that Lauren Lowe had recorded. Do you  
8 remember that?

9 A. Yes, sir.

10 Q. Okay. Do you remember that day?

11 A. I do remember that day.

12 Q. What do you remember about that day?

13 A. That day started in the office, and he was throwing shit  
14 around and hitting file cabinets. I thought they were going to  
15 beat the hell out of me because I have seen him beat up an  
16 employee before. And we finally got out of that office, and then  
17 I took the paperwork and the bank statements down to his house to  
18 prove to him that he didn't know what the hell he was talking  
19 about, and it escalated there until I left.

20 Q. Now, you said something to the effect that you had sold  
21 something to Mr. Engesser, a cub?

22 A. I do remember saying that, but I made that up just to get  
23 out of the situation.

24 Q. Okay. So had you, on behalf of the zoo, had any  
25 transactions with Mr. Engesser?

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- 1 A. Yes, sir.
- 2 Q. Okay. Let me ask you this: Whatever transactions you may  
3 have had with him, did they occur in November of 2017?
- 4 A. I don't believe so at all, no, sir.
- 5 Q. And I want to just go back. Is it your testimony that you  
6 did not receive any money from Mr. Engesser in November of 2017?
- 7 A. I know I did not.
- 8 Q. The money that Lowe asked you to give to Glover came from  
9 where?
- 10 A. The cash register deposits.
- 11 Q. So if Mr. Engesser testified, and you heard him, that he  
12 hadn't been there and he didn't buy a cub from you in November  
13 of 2017, would that be true?
- 14 A. That would be true.
- 15 Q. Now, Ms. Green asked you about some phone calls that were  
16 recorded --
- 17 A. Yes, sir.
- 18 Q. -- where you're brokering the sale of a litter of lions.  
19 Did you hear that?
- 20 A. I heard that.
- 21 Q. All right. So the first one, Government's Exhibit 162, had  
22 something to do with Charlie somebody and some lions. Tell the  
23 jury what the conversation is about.
- 24 A. Okay. Dillon was living at his mom's and his sister's down  
25 in Belton, Texas. And Charlie over in Amarillo, Texas, used to

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1 have a zoo open to the public, but PETA harassed him to the point  
2 that he lost his USDA license, and he closed to the public, but  
3 he still has his animals. And every time he has a litter of baby  
4 lions born, they end up dying because he don't know how to take  
5 care of them.

6 So he would have -- call us and Reineke would -- because  
7 Reineke lives in Texas, he would run over to Amarillo and pick  
8 them up and save them. Okay. And we'd take them back to the  
9 zoo. So he was expecting a litter of babies, and we're all gone  
10 from the zoo. So I was going to have Dillon go pick them up over  
11 there. And it's perfectly legal; we're not selling anything  
12 across state lines. And I would have found a buyer from them --  
13 for them from jail in Texas so Dillon had some money to live on.  
14 Simple as that. You don't even need a USDA license because  
15 you're in the same state.

16 Q. So there really wasn't anything illegal or underhanded or  
17 anything having to do with that --

18 A. Absolutely not. And if -- if he would have got some cubs  
19 and came to Oklahoma to stay and start -- because the laws in  
20 Oklahoma are -- are better, he still wouldn't have been breaking  
21 no laws because he's not going to be open to the public. So he  
22 doesn't need a USDA license.

23 And he doesn't need any license from the state of Oklahoma  
24 because in 2006 we did have licenses here. Okay. And you had to  
25 have a \$50 permit to have a bear or a cat that grew to weigh over

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1 50 pounds to keep or maintain on your premises. And in 2006 I  
2 was doing magic shows, and the game wardens wrote me some tickets  
3 for leaving my property with my animals because they thought it  
4 said keep them maintained on premises. You couldn't leave your  
5 premises with the animals.

6 So I hired a law firm in Pauls Valley, Oklahoma, and I filed  
7 a lawsuit against the state of Oklahoma because in 1952 they  
8 wrote a law that said they own all wildlife. So if they're going  
9 to own it and sell you a deer hunting license for a deer on your  
10 property, they're going to pay to take care of it. And I filed a  
11 \$380,000 boarding lawsuit against the state of Oklahoma and they  
12 wrote me a \$20,000 check and told me to go away, and they got rid  
13 of all the laws. And that's why we don't have any laws here.

14 Q. Now, Government's Exhibit 163 was some reference to Charlie  
15 and Greg Woody. What was that about? Do you remember that call?

16 A. It was the same conversation.

17 Q. Okay.

18 A. It's just they cut it apart.

19 Q. All right. Now, I want to make sure I understand what this  
20 situation was and what your testimony is with respect to PETA.

21 Now, this email, what were you talking about as far as the  
22 proposal from PETA?

23 A. Okay. She sent me the draft. Okay. And it didn't have any  
24 dollar figure in it. It was just to close and quit doing all  
25 this and that. Okay. And I sent that email back to her. And

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1 PETA, in order to get a place to close in Texas, paid the man  
2 six -- and all he had was two bears -- paid the man \$60,000 for  
3 those bears, okay, and some of his circus equipment to move to  
4 their facility, which is the Black Beauty Ranch in south Texas.  
5 And that was -- I was referring to, because Jeff just wouldn't do  
6 anything without any money.

7 So I put in there, I'm like, hell, you paid 60,000 bucks for  
8 two bears. I said, you're getting an entire zoo, the property  
9 and everything. And I needed some money to pay off the bills so  
10 we didn't just stick everybody -- owing them money.

11 Q. So if I understand correctly, you had to agree to PETA's  
12 proposal, correct?

13 A. Before we moved on to Big Cat Rescue's proposal.

14 Q. All right. So unless you and Mr. Lowe agreed to that  
15 proposal that was sent to you by Ms. Peet?

16 A. Correct.

17 Q. Ms. Baskin wasn't going to enter into any negotiations with  
18 you to resolve your problem with her?

19 A. You are right.

20 Q. All right. Now, Ms. Green asked you about the transfer of  
21 tigers, the second transfer. The first one had to do with the  
22 Dade City tigers, correct?

23 A. Yes, sir.

24 Q. So the second group that went out, that was you getting rid  
25 of your own, correct?

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1 A. Yes, sir.

2 Q. You weren't paid for that?

3 A. No, sir.

4 Q. And you thought that there were some pairs, correct?

5 A. I believe there was, yes.

6 Q. But what else was included in that transfer?

7 A. Three bears, I believe. Three black bears and some baboons.

8 I think there was a trio of baboons.

9 Q. So as far as reducing your -- your inventory, did that lead  
10 to you almost getting rid of all of the primates on your  
11 property?

12 A. That got rid of the big primates, and then we sent a bunch  
13 of littler primates over to Tulsa.

14 Q. Who assisted with that?

15 A. Just the park staff that helped catch them.

16 Q. So was that part of your agreement to -- with PETA to try to  
17 reduce your inventory?

18 A. Well, I told her that I was going to, and she was having  
19 troubles finding a place to send everything. And to this day,  
20 because of the litigation, I haven't spoke to her directly. We  
21 have been going through somebody.

22 Q. All right.

23 MR. EARLEY: I believe that's it, Your Honor.

24 THE COURT: Redirect -- I'm sorry -- recross.

25 MS. MAXFIELD-GREEN: While we figure out what exhibit

*Emily Eakle, RMR, CRR*

1 number this is, I'm going to give it to defense.

2 THE COURT: Okay.

3 **RE CROSS EXAMINATION**

4 **BY MS. MAXFIELD-GREEN:**

5 Q. Okay. Mr. Passage.

6 A. Yes, ma'am.

7 Q. You just testified that the filmmakers that you have been  
8 communicating with, those were people from your past, correct?

9 A. Yes, ma'am.

10 Q. Okay. And people that got in touch with you prior to all of  
11 this, correct?

12 A. Most of them, uh-huh.

13 Q. Okay. But you have been soliciting to shop your story  
14 around to people since you have been in jail too, correct?

15 A. I haven't been soliciting nobody because I can't reach out  
16 to nobody. There's been a whole lot of people email me to the  
17 jail, yes.

18 Q. Okay. And so you're familiar -- you have been sending and  
19 receiving emails in jail, correct?

20 A. Yes.

21 Q. And you're familiar that all those are logged, correct?

22 A. Yes, ma'am.

23 MS. MAXFIELD-GREEN: Okay. Government's going to  
24 introduce -- well, first let me lay a little more foundation  
25 here.

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1 Q. (By Ms. Maxfield-Green) Do you know Manuel Oteyza?

2 A. I do.

3 Q. Is he in the courtroom today?

4 A. He is.

5 Q. Have you emailed back and forth with him?

6 A. Not as much as we have talked on the phone.

7 Q. Okay.

8 MS. MAXFIELD-GREEN: Government moves to admit Exhibit

9 165.

10 THE COURT: Any objection?

11 MR. EARLEY: No objection.

12 THE COURT: 165 will be admitted.

13 Q. (By Ms. Maxfield-Green) Now, this is an email from you to  
14 Manuel Oteyza, correct?

15 A. It is.

16 Q. And are you familiar with Mr. Oteyza's other films?

17 A. Blackfish.

18 Q. That's one.

19 A. Yes, ma'am.

20 Q. And this was on November 17th, 2018, correct?

21 A. It looks -- appear to be.

22 Q. Does it say, "Manuel, just curious if you ever buy material  
23 for your film. I am desperate to get a rent house before my bond  
24 hearing so I can go home until trial. I have thousands of hours  
25 of footage on computers from my studio at the zoo and on hard

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1 drives, along with over 70 pages of my diary from the age of five  
2 until now and after this experience. I will make the biggest  
3 advocate for animals you have ever seen. I'm in need of \$7,000  
4 for deposits and rent to cover me until trial, or until I can get  
5 home. Just curious, Joe."

6 Is that what you wrote?

7 A. Yes, ma'am.

8 Q. Now, Mr. Earley asked you about that conversation with the  
9 Lowes that we saw earlier, right?

10 A. Yes, ma'am.

11 Q. And your testimony, when Mr. Earley asked you about that, is  
12 that I believe you said that you made that up to get out of the  
13 situation. Is that what you said?

14 A. I did. And it started in the office and I made up one in  
15 there too.

16 Q. That -- that was my only question.

17 A. Okay.

18 Q. Thank you.

19 THE COURT: Parties approach.

20 (The following bench conference was held outside the hearing  
21 of the jury.)

22 THE COURT: I'm going to let Mr. Passage return to the  
23 table. I don't think that that's that big of a deal that the  
24 marshal follows him. You guys fine with that?

25 MS. MAXFIELD-GREEN: I think that's all right.

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1 MR. WACKENHEIM: Yeah.

2 (The following record was made in open court, in the  
3 presence of all parties, counsel, and in the presence and hearing  
4 of the jury.)

5 THE COURT: Mr. Passage, you may step down.

6 (The following proceedings were had at the bench and out of  
7 the hearing of the jury.)

8 THE COURT: Mr. Earley, are you calling any additional  
9 witnesses?

10 MR. EARLEY: No.

11 THE COURT: Any rebuttal from the government?

12 MS. MAXFIELD-GREEN: No.

13 THE COURT: I don't know that it's a cardinal sin for  
14 us to instruct and then close in the morning. I don't prefer  
15 that, but I also hate -- I mean, it's 4 o'clock. I think I can  
16 get the instructions read and -- parties all in agreement with  
17 that?

18 MS. MAXFIELD-GREEN: Does not bother the government.

19 MR. EARLEY: That's fine, Your Honor.

20 THE COURT: I mean, they're -- in terms of instructing,  
21 they have been an extremely attentive jury, so I think they're  
22 not worried about this all flying out of their heads before  
23 morning, so --

24 MR. EARLEY: And they'll know that you have -- you're  
25 going to provide them a copy anyway, correct?

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1 THE COURT: Yeah.

2 MR. EARLEY: That's part of the instruction. Okay. Do  
3 we have the final set? --

4 THE COURT: In that case, if you'll return to the  
5 table, I'll ask you-all if you have any further witnesses and  
6 then I'll ask the government for rebuttal and we'll move right  
7 into instructions.

8 MS. MAXFIELD-GREEN: Perfect.

9 THE COURT: How much time are you-all going to ask for  
10 closing?

11 MS. MAXFIELD-GREEN: I think government needs like an  
12 hour total, 50 minutes and ten. It's been a seven-day trial.

13 MR. EARLEY: Well, whatever she gets, we'll take.

14 THE COURT: We'll talk about it.

15 (The following record was made in open court, in the  
16 presence of all parties, counsel, and in the presence and hearing  
17 of the jury.)

18 THE COURT: Mr. Earley, do you have any additional  
19 witnesses?

20 MR. EARLEY: No. We'll rest, Your Honor.

21 THE COURT: Ms. Green, does the government intend to  
22 put on any rebuttal?

23 MS. MAXFIELD-GREEN: No, Your Honor.

24 THE COURT: Ladies and gentlemen, that concludes the  
25 evidence that will be submitted to you in this case. We are at a

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1 little bit of a crossroads. I typically prefer that, you know,  
2 we usually go right into the instructions, and then the parties,  
3 as I instructed you earlier, would deliver closing argument. It  
4 is not as normal that we would instruct and then break and then  
5 you would hear closing arguments in the morning, but I am also,  
6 again, wanting to be sensitive to your time. Any work we can get  
7 done before 5:00 saves you from work you're doing later.

8 So my intent is is that we will now read to you the  
9 instructions for deliberations, we will break and then we'll see  
10 you back in the morning for closing argument and to begin  
11 deliberations.

12 (Jury instructions taken but not transcribed herein.)

13 THE COURT: Ladies and gentlemen, we will begin closing  
14 arguments and deliberations tomorrow morning at 9:00. I remind  
15 you of the admonishment. In accordance with the instructions,  
16 please be very, very careful. Keep an open mind. The case has  
17 still not been submitted to you for deliberations. Don't  
18 communicate with anyone about it, don't let anyone communicate  
19 with you, no media coverage, no online research, nothing. It is  
20 very important that you come in tomorrow morning pristine,  
21 considering only the evidence that you have heard from the stand  
22 and been admitted here in court.

23 With that in mind, we'll see you tomorrow morning at  
24 9 o'clock. Please remain seated while the jury leaves the  
25 courtroom.

*Emily Eakle, RMR, CRR*

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1 (Jury exited.)

2 (The following record was made in open court, in the  
3 presence of all parties, counsel, and out of the presence and  
4 hearing of the jury.)

5 THE COURT: Record can reflect the jury has left the  
6 courtroom.

7 Counsel, tell me again how much time you want for closing.  
8 Keep in mind, what's the general rule in the courthouse? I  
9 forgot it was either -- was it five minutes per day per trial?

10 MS. MAXFIELD-GREEN: I heard it was ten minutes per  
11 day, Your Honor. But bear in mind that we are looking at, let's  
12 see, 19 counts of three different statutes and we have had six  
13 days of testimony. The government would ask for 45 minutes for  
14 opening -- for first close and reserving ten minutes for second  
15 close, so a total of 55 minutes.

16 THE COURT: Mr. Earley? Mr. Wackenheim?

17 MR. EARLEY: Whatever --

18 THE COURT: Just whatever they get?

19 MR. EARLEY: Yeah. That's all I ask.

20 THE COURT: All right. Fifty-five minutes it is for  
21 each side. There's no penalty for finishing early.

22 MS. MAXFIELD-GREEN: Understood.

23 THE COURT: Anything else from either party that we  
24 need to take care of?

25 MR. EARLEY: I do, Your Honor. Just briefly. I think

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1 this seems to be the most convenient time, at least for today, to  
2 reurge the Rule 29 motion. The case has yet to be submitted to  
3 the jury.

4 I would just reurge the motion on the grounds that I made  
5 earlier after the government's close of their evidence and ask  
6 the Court to dismiss the counts prior to submission of the jury.

7 THE COURT: Thank you, Mr. Earley. The motion will be  
8 denied for the same reasons as our earlier ruling. And also, by  
9 way of explanation, I deliberately did not read the count numbers  
10 in -- in the instructions because I know the government had moved  
11 to dismiss -- the numbers escape me, but two of the counts. And  
12 we may very well get a question when the jury realizes that those  
13 two counts aren't in there, but I thought I would at least not go  
14 ahead and tee it up right now. But we'll cross that bridge when  
15 we come to it, but that was, for the record, why I did not read  
16 the count numbers. And hopefully that didn't add to any kind of  
17 confusion.

18 In any event, anything else?

19 MS. MAXFIELD-GREEN: No, Your Honor.

20 MR. EARLEY: No, Your Honor.

21 THE COURT: Court will be in recess.

22 (Court adjourned.)

23

24

25

*Emily Eakle, RMR, CRR*

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REPORTER'S CERTIFICATION

I, Emily Eakle, Federal Official Realtime Court Reporter, in and for the United States District Court for the Western District of Oklahoma, do hereby certify that pursuant to Section 753, Title 28, United States Code that the foregoing is a 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 this 6th day of March 2020.

**/S/ Emily Eakle**  
EMILY EAKLE, RMR, CRR  
Federal Official Court Reporter

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