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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

12-60049-CR-WILLIAMS/SNOW

THE UNITED STATES OF AMERICA,)
)
 PLAINTIFF,)
)
 VS.)
)
 ROGERIO CHAVES SCOTTON,)
)
 DEFENDANT.)
-----)

(TRANSCRIPT BY DIGITAL RECORDING)

TRANSCRIPT OF REPORT RE: COUNSEL AND PRETRIAL
DETENTION HEARING HAD BEFORE THE HONORABLE LURANA S. SNOW, IN
FORT LAUDERDALE, BROWARD COUNTY, FLORIDA, ON MARCH 29, 2012, IN
THE ABOVE-STYLED MATTER.

APPEARANCES:

FOR THE GOVERNMENT: BERTHA R. MITRANI, A.U.S.A.
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FT. LAUDERDALE, FL 33301 - 954 356-7255

FOR THE DEFENDANT: JONATHAN S. FRIEDMAN, ESQ.
ONE E. BROWARD BLVD., SUITE 925
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OFFICIAL COURT REPORTER
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1 (FORT LAUDERDALE, BROWARD COUNTY, FLORIDA; MARCH 29, 2012, IN
2 OPEN COURT.)

3 THE CLERK: CALLING CASE 12-60049 USA VERSUS ROGERIO
4 CHAVES SCOTTON.

5 MS. MITRANI: GOOD MORNING, YOUR HONOR. BERTHA
6 MITRANI ON BEHALF OF THE UNITED STATES.

7 MR. FRIEDMAN: GOOD MORNING, YOUR HONOR. JONATHAN
8 FRIEDMAN ON BEHALF OF MR. ROGERIO SCOTTON WHO IS PRESENT.

9 THE COURT: ALL RIGHT. YOU MAY BE SEATED.
10 WE ARE HERE FOR A DETENTION HEARING.

11 MISS MITRANI, YOU MAY PROCEED BY PROFFER, AS LONG AS
12 YOU HAVE SOMEBODY AVAILABLE FOR CROSS.

13 MS. MITRANI: YES, YOUR HONOR. I HAVE SPECIAL AGENT
14 ROY VANBRUNT WITH THE FBI WHO IS SITTING TO MY LEFT. HE'S
15 AVAILABLE FOR CROSS.

16 JUDGE, YOUR HONOR, LET ME START OFF --

17 THE COURT: I NEED TO (INAUDIBLE)

18 THE CLERK: JONATHAN, YOUR CLIENT SPEAKS ENGLISH,
19 CORRECT?

20 MR. FRIEDMAN: YES, JUDGE, HE DOES SPEAK ENGLISH AND
21 HE DOESN'T NEED AN INTERPRETER.

22 THE COURT: ALL RIGHT. YOU MAY BE EXCUSED. THANK YOU
23 VERY MUCH.

24 THE INTERPRETER: THANK YOU.

25 THE COURT: ALL RIGHT. YOU MAY PROCEED.

1 MS. MITRANI: THANK YOU, YOUR HONOR.

2 FIRST I WANTED TO START OFF BY ADVISING THE COURT THAT
3 WE ARE SEEKING DETENTION BECAUSE IT IS OUR BELIEF THAT THIS
4 DEFENDANT POSES A SERIOUS RISK OF FLIGHT.

5 YOUR HONOR, MR. SCOTTON IS A BRAZILIAN NATIONAL. HE
6 HAS OVERSTAYED HIS VISA. ACCORDINGLY, HE HAS NO LEGAL STATUS
7 IN THE UNITED STATES. ALSO, YOUR HONOR, THERE -- ALTHOUGH
8 THERE IS AN EXTRADITION TREATY WITH BRAZIL I HAVE BEEN ADVISED
9 BY OUR OFFICE OF INTERNATIONAL AFFAIRS THAT BRAZIL WILL NOT,
10 WILL NOT EXTRADITE ONE OF ITS OWN CITIZENS BACK TO THE UNITED
11 STATES.

12 YOUR HONOR, THIS DEFENDANT ATTEMPTED TO GAIN UNITED
13 STATES CITIZENSHIP BASED ON A PURPORTED MARRIAGE TO A CUBAN
14 NATIONAL. THIS WAS DENIED. IMMIGRATION VIEWED THIS AS A SHAM
15 MARRIAGE. WE DO AS WELL. IMMIGRATION INTERVIEWED THE
16 DEFENDANT WHO APPEARED AT IMMIGRATION FOR AN INTERVIEW TO GAIN
17 CITIZENSHIP, AND AT THAT POINT HE REPRESENTED THIS PERSON AILYN
18 REYES MOLLINEDO WHO IS PRESENT AS WELL TO BE HIS WIFE. IN
19 FACT, THEY ARE MARRIED IN THE SENSE THAT THERE IS A MARRIAGE
20 CERTIFICATE ON FILE.

21 THREE DAYS BEFORE, YOUR HONOR, THIS HEARING THIS
22 DEFENDANT MET WITH SPECIAL AGENT VANBRUNT WHO WAS ACTING IN AN
23 UNDERCOVER CAPACITY. HE WAS POSING AS A DHL EMPLOYEE, AND
24 DURING THAT INTERVIEW WITH SPECIAL AGENT VANBRUNT ACTING AS A
25 DHL EMPLOYEE HE TOLD AGENT VANBRUNT THAT HE HAD A FIANCEE WHO

1 HE IDENTIFIED AS CARLA FELINI.

2 INTERESTINGLY, YOUR HONOR, SPECIAL AGENT VANBRUNT
3 SPOKE WITH MISS FELINI AND SHE SAID THAT THEY HAD BEEN
4 BOYFRIEND AND GIRLFRIEND AND, IN FACT, THAT MR. SCOTTON HAD
5 PROPOSED TO HER IN JUNE OF 2011, WHICH IS WHEN HE'S SUPPOSEDLY
6 MARRIED TO MISS MOLLINEDO AND SHE -- YOU KNOW, SHE DECLINED
7 THAT PROPOSITION.

8 AS FAR AS THE FACTS OF THE CASE, YOUR HONOR. THE
9 FACTS ARE STATED IN THE INDICTMENT AND WE ADOPT THEM HERE. I
10 WILL SUMMARIZE FOR THE COURT. IN A NUTSHELL THROUGH THE YEARS
11 THE DEFENDANT HAS OPERATED DIFFERENT WEBSITES WHERE HE SELLS
12 PRIMARILY ELECTRONIC AND CONSUMER GOODS AND AUTOMOTIVE PARTS.

13 THE DEFENDANT CATERED TO THE BRAZILIAN COMMUNITY. AS
14 I SAID, HE IS A BRAZILIAN AND HIS WEBSITES ARE IN PORTUGUESE.
15 INDIVIDUALS WOULD BUY GOODS FROM THE WEBSITE AND THE DEFENDANT
16 WOULD SHIP THEM PRIMARILY TO BRAZIL. IN ESSENCE, THE DEFENDANT
17 WAS PROVIDING TWO SERVICES, YOUR HONOR. SELLING THE CONSUMER
18 GOODS AND OTHER ITEMS AND THE INTERNATIONAL SHIPPING. THE
19 SHIPPING FEES TO SHIP THINGS TO BRAZIL INCLUDES THE CUSTOMS AND
20 DUTIES THAT THE GOVERNMENT OF BRAZIL REQUIRES FOR IMPORTED INTO
21 THEIR COUNTRY.

22 WHAT THE DEFENDANT WAS DOING, YOUR HONOR, WAS CREATING
23 FRAUDULENT FEDEX, DHL, AND UPS ACCOUNTS IN ORDER TO SHIP HIS
24 PACKAGES TO BRAZIL AND ELSEWHERE, BUT PRIMARILY BRAZIL, USING
25 THESE FRAUDULENTLY CREATED SHIPPING ACCOUNTS.

1 THE DEFENDANT WOULD CALL THE SHIPPING COMPANIES POSING
2 AS A REPRESENTATIVE FROM AN ESTABLISHED COMPANY SUCH AS TARGET
3 OR WALMART, ET CETERA, AND REQUEST A NEW SHIPPING ACCOUNT.
4 FEDEX, DHL, UPS WOULD OPEN A NEW ACCOUNT, THEN WHEN THE COMPANY
5 UNDER WHOSE NAME THE SHIPPING ACCOUNT WAS OPENED WOULD RECEIVE
6 A BILL FROM FEDEX, DHL, UPS, IT WOULD NOTIFY THEM, THE SHIPPING
7 COMPANY, THAT THE ACCOUNT WAS NOT AUTHORIZED. THE SHIPPING
8 COMPANIES, THAT IS, FEDEX, UPS, AND DHL WOULD THEN WRITE OFF
9 THE FRAUDULENT ACCOUNT.

10 YOUR HONOR, THERE WERE DOZENS AND DOZENS OF FRAUDULENT
11 ACCOUNTS. THERE WERE THOUSANDS OF PACKAGES THROUGH THE COURSE
12 OF THE FRAUD BECAUSE THIS ACTIVITY WAS CARRIED ON OVER SEVERAL
13 YEARS, AND THE LOSSES EXCEEDED THREE MILLION DOLLARS.

14 YOUR HONOR, THE DEFENDANT WAS PRIMARILY A ONE MAN ACT.
15 HE MAY HAVE HAD AN ASSISTANT WHO WAS ACTING IN AN
16 ADMINISTRATIVE CAPACITY, BUT IN TERMS OF ORCHESTRATING ALL AS
17 ASPECTS OF THE FRAUD IT WAS MR. SCOTTON. HE WAS THE ONE WHO
18 OPENED THE PRIVATE MAILBOXES AT PAK MAIL AND THE OTHER
19 COMMERCIAL MAIL RECEIVING AGENCIES. HE WAS THE ONE WHO WOULD
20 USE THESE CMRA'S TO RECEIVE THE MERCHANDISE HE WOULD ORDER.

21 THE DEFENDANT DID NOT HAVE A WAREHOUSE OF INVENTORY.
22 ACCORDINGLY, HE WOULD HAVE TO GO OUT AND PURCHASE WHATEVER --
23 WHATEVER THE CUSTOMERS HAD PURCHASED FROM HIS WEBSITES. SO,
24 FOR EXAMPLE, IF HE SOLD A CAMERA THROUGH ONE OF HIS WEBSITES HE
25 WOULD HAVE TO PURCHASE THE CAMERA FROM SOME ENTITY. THE

1 DEFENDANT WOULD EITHER TO GO A RETAIL STORE LIKE BEST BUY OR
2 BUY IT ON LINE AND HAVE IT SHIPPED TO ONE OF THE CMRA'S.
3 LIKEWISE, THE DEFENDANT WOULD PERSONALLY SHIP THE PACKAGES FROM
4 THE CMRA'S TO THEIR DESTINATION IN BRAZIL.

5 IN ADDITION TO RECEIVING AND SHIPPING PACKAGES FROM
6 THE CMRA'S, THE DEFENDANT WOULD RECEIVE AND SHIP PACKAGES FROM
7 HIS RESIDENCE.

8 YOUR HONOR, THE EVIDENCE IS STRONG IN THIS CASE. IT
9 IS DIFFICULT TO SUMMARIZE BECAUSE IT HAS TAKEN VARIOUS
10 DIFFERENT FORMS. WE HAVE -- WE HAVE VIDEO, WE HAVE AUDIO, WE
11 HAVE AN UNDERCOVER PURCHASE WHICH I WILL SUMMARIZE BY WAY OF
12 EXAMPLE. THE UNDERCOVER PURCHASE FORMS COUNT 26 OF THE
13 INDICTMENT.

14 ON OR ABOUT FEBRUARY 22ND, 2011, AN FBI SOURCE WHO IS
15 A BRAZILIAN ACCESSED WWW.SKYAIRONLINE.COM, WHICH WAS IN
16 PORTUGUESE, INTERESTINGLY, YOUR HONOR, THE WEBSITE SHOWED A
17 PICTURE OF AN AIRPLANE CALLED SKY AIR WHICH EMPHASIZES THE
18 SHIPPING ASPECTS OF THE BUSINESS.

19 THE UNDERCOVER ORDERED A SONY CYBERSHOT DIGITAL CAMERA
20 FOR \$219.99 AND INPUTTED A SHIPPING ADDRESS IN BRAZIL. THE
21 UNDERCOVER RECEIVED AN E-MAIL ADVISING THAT HE OWED \$344.99,
22 THE COST OF THE CAMERA PLUS SHIPPING.

23 ULTIMATELY THE UNDERCOVER WAS ADVISED TO PAY DIRECTLY
24 BY DEPOSITING HIS PAYMENT INTO ONE OF TWO ACCOUNTS. THE
25 UNDERCOVER RECEIVED AN E-MAIL PROVIDING HIM WITH A TD BANK

1 ACCOUNT, ACCOUNT NUMBER 5308, AND A BANK OF AMERICA ACCOUNT
2 NUMBER 2582. THE UNDERCOVER DEPOSITED THE MONIES DIRECTLY INTO
3 BANK OF AMERICA ACCOUNT 2582.

4 THE CAMERA WAS SHIPPED VIA DHL TO AN ADDRESS PROVIDED
5 IN BRAZIL. THE DHL ACCOUNT USED TO SHIP THE PACKAGE BELONGED
6 TO CITRIX. CITRIX IS A FORT LAUDERDALE SOFTWARE COMPANY AND IS
7 A LARGE CUSTOMER OF DHL.

8 THE BANK OF AMERICA ACCOUNT TO WHICH THE PAYMENT WAS
9 DEPOSITED WAS REGISTERED TO SKY AIR GLOBAL, INCORPORATED.
10 ROGERIO SCOTTON, THE DEFENDANT, IS LISTED AS THE VICE-PRESIDENT
11 AND HIS BRAZILIAN PASSPORT NUMBER IS ON THE SIGNATURE CARD.
12 MOREOVER, THE DEFENDANT HAS ADMITTED THAT SKY AIR IS HIS
13 COMPANY. HE MADE THESE ADMISSIONS WHEN HE WAS MEETING WITH
14 AGENT VANBRUNT WHEN AGENT VANBRUNT WAS POSING AS THE DHL
15 EMPLOYEE.

16 LIKewise, THE OTHER BANK ACCOUNT GIVEN IN CONNECTION
17 WITH THIS UNDERCOVER PURCHASE IS ASSOCIATED WITH THE
18 DEFENDANT -- IS ASSOCIATED WITH THE DEFENDANT. THERE ARE
19 CHECKS IN THIS OTHER ACCOUNT WHICH ARE RENT PAYMENTS FOR HIS
20 BOCA TOWNHOUSE.

21 YOUR HONOR, IN TERMS OF THE SENTENCING GUIDELINES.
22 THE LOSS HERE IS MORE THAN 2.5 MILLION DOLLARS. ACCORDINGLY,
23 BEING -- IF HE IS A CRIMINAL HISTORY CATEGORY ONE, WHICH WE
24 BELIEVE HE IS, HE WOULD BE LOOKING AT A LEVEL 25 WHICH WOULD BE
25 57 TO 71 MONTHS, OR 41 TO 51 MONTHS ON A PLEA.

1 IF THERE WAS A MASS MARKETING ENHANCEMENT WHICH WE
2 BELIEVE THERE WOULD BE BECAUSE HIS WEBSITES SKY AIR AND BRAZIL
3 EXPRESS ON THE INTERNET WOULD CONSTITUTE MASS MARKETING, HE
4 WOULD THEN BE A LEVEL 27 FACING 70 TO 80 SEVEN MONTHS, OR A
5 LEVEL 24 FACING 51 TO 63 MONTHS ON A PLEA AGREEMENT.

6 BECAUSE -- I THINK THAT'S ALL. AS I INDICATED, I GAVE
7 YOU THE EXAMPLE OF THE UNDERCOVER PURCHASES AS AN EXAMPLE OF
8 THE FRAUD IN ADDITION TO THE UNDERCOVER. AS I SAID, WE HAVE
9 VIDEO WITH HIM TAKING PASSAGES TO BE DELIVERED. ALL THE
10 ADDRESSES ON THESE PACKAGES ARE ASSOCIATED WITH THE DEFENDANT.
11 THEY ARE EITHER HIS -- HIS ADDRESS ON MIZNER BOULEVARD WHERE HE
12 LIVES OR AN ADDRESS ON GOLF CIRCLE DRIVE, WHICH IS WHERE HIS
13 FATHER -- EXCUSE ME, HIS MOTHER AND STEP-MOTHER LIVE, OR ONE OF
14 THE PAK MAIL ADDRESSES THAT HE OPENED THAT'S LISTED IN THE
15 INDICTMENT.

16 MOST OF THE PACKAGES WENT THROUGH, SOME OF THE
17 PACKAGES WERE SEIZED. OUR INFORMATION COMES FROM, YOU KNOW,
18 WORKING CLOSELY WITH THESE SHIPPING COMPANIES TO GET THE
19 INFORMATION DEALING WITH THE COMPANIES THAT WERE USED TO OPEN
20 THESE ACCOUNTS.

21 I DON'T KNOW IF I HAVE CONFUSED THE COURT OR --

22 THE COURT: NO, YOU HAVEN'T CONFUSED ME. I'M PRETTY
23 SHARP.

24 THE REALITY IS YOU'RE GOING PRIMARILY ON RISK OF
25 FLIGHT.

1 MS. MITRANI: ABSOLUTELY.

2 THE COURT: I HAVE A GRAND JURY INDICTMENT, THEY FOUND
3 PROBABLE CAUSE. I AM NOT THAT INTERESTED IN THE WEIGHT OF THE
4 EVIDENCE.

5 MS. MITRANI: GOT IT.

6 THE COURT: OKAY.

7 MS. MITRANI: WITH THAT SAID THAT'S OUR PROFFER, AND
8 THE AGENT IS AVAILABLE HERE FOR CROSS-EXAMINATION.

9 THE COURT: ALL RIGHT. I ASSUME YOU WOULD LIKE TO
10 CROSS-EXAMINE THE AGENT.

11 MR. FRIEDMAN: YES, JUDGE.

12 THE COURT: ALL RIGHT, COUNSEL.

13 (WITNESS SWORN)

14 THE WITNESS: I DO.

15 THE CLERK: PLEASE STATE YOUR NAME AND SPELL YOUR LAST
16 NAME FOR THE RECORD.

17 THE WITNESS: MY NAME IS ROY VANBRUNT, V AS IN VICTOR,
18 A-N, B AS IN BOY, A-R-U-N-T AS IN THOMAS.

19 THE COURT: ALL RIGHT. AGENT, YOU ARE EMPLOYED HOW?

20 THE WITNESS: I'M A SPECIAL AGENT WITH THE FEDERAL
21 BUREAU OF INVESTIGATION IN THE MIAMI FIELD OFFICE.

22 THE COURT: AND YOU HEARD THE GOVERNMENT'S PROFFER IN
23 SUPPORT OF PRETRIAL DETENTION IN THIS CASE?

24 THE WITNESS: YES, I DID, YOUR HONOR.

25 THE COURT: DO YOU HAVE ANY ADDITIONS OR CORRECTIONS

1 THAT YOU WISH TO MAKE TO THE PROFFER?

2 THE WITNESS: NO, YOUR HONOR.

3 THE COURT: AND DO YOU ADOPT THE PROFFER AS YOUR
4 DIRECT TESTIMONY IN THIS CASE?

5 THE WITNESS: I DO.

6 THE COURT: ALL RIGHT. COUNSEL, YOU MAY CROSS.

7 MR. FRIEDMAN: THANK YOU.

8 ROY VANBRUNT,

9 BEING DULY SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

10 CROSS EXAMINATION

11 BY MR. FRIEDMAN:

12 Q. LET ME SEE IF I CAN JUST BREAK THERE DOWN JUST TO SIMPLIFY
13 IT A LITTLE BIT. I KNOW THE COURT IS NOT SO MUCH CONCERNED
14 WITH THE WEIGHT OF THE EVIDENCE BUT JUST TO NARROW THIS DOWN.

15 MR. SCOTTON OWNED A WEBSITE AND HE SOLD MERCHANDISE,
16 CORRECT?

17 A. CORRECT.

18 Q. PEOPLE WOULD GO ON THE WEBSITE, THEY WOULD BUY MERCHANDISE,
19 CORRECT?

20 A. CORRECT.

21 Q. THEY WOULD THEN NEED TO SHIP THE MERCHANDISE PRIMARILY I
22 GUESS TO PEOPLE IN BRAZIL, CORRECT?

23 A. YES.

24 Q. OKAY. AND IT IS THE GOVERNMENT'S ALLEGATION THAT

25 MR. SCOTTON WOULD SHIP THE STUFF DOWN TO BRAZIL, IS THAT

1 CORRECT?

2 A. YES.

3 Q. AND IT IS THE GOVERNMENT'S ALLEGATION THAT HE WOULD USE THE
4 ACCOUNTS OF DIFFERENT COMPANIES, BIG COMPANIES, WALMART,
5 TARGETS, I THINK SHE MENTIONED APPLE COMPUTER TO CHARGE THE
6 SHIPPING THEN FOR THESE DELIVERIES.

7 A. LARGE COMPANIES BUT ALSO SOME SMALLER COMPANIES, YES.

8 Q. I MEAN, THAT'S IN AND OF ITSELF WHAT THE GOVERNMENT IS
9 ALLEGING MR. SCOTTON DID, RIGHT?

10 A. CORRECT.

11 Q. OKAY. PEOPLE BUY STUFF ON THE INTERNET, THEY PAY FOR THE
12 SHIPPING, THEY PAY FOR THE PRODUCT, AND IT IS ALLEGED THAT HE
13 THEN SHIPPED THESE ITEMS TO BRAZIL USING THESE OTHER PEOPLES OR
14 COMPANIES, FEDEX, HDL ACCOUNTS, CORRECT?

15 A. CORRECT.

16 Q. NOW, YOU ARE THE MAIN AGENT IN CHARGE OF INVESTIGATING THIS
17 CASE?

18 A. I AM.

19 Q. AND WHEN IN FACT DID YOU BEGIN THIS INVESTIGATION?

20 A. I BEGAN THIS INVESTIGATION IN 2008.

21 Q. AND THERE IS NOTHING WRONG WITH HAVING A WEBSITE SELLING
22 PRODUCTS TO THE PUBLIC, CORRECT?

23 A. CORRECT.

24 Q. AND THERE IS NOTHING UNLAWFUL OR WRONG ABOUT SOMEBODY WHO
25 PURCHASES A PRODUCT THROUGH A WEBSITE THAT LIVES IN BRAZIL,

1 CORRECT?

2 A. CORRECT.

3 Q. AND THERE IS NOTHING WRONG WITH SHIPPING PROPERTY, OR
4 ELECTRONICS, OR MERCHANDISE TO BRAZIL, CORRECT?

5 A. CORRECT.

6 Q. OKAY. IN YOUR INVESTIGATION OBVIOUSLY YOU HAVE BEEN ON THE
7 COMPUTER AND I'M SURE YOU GOOGLED DIFFERENT WEBSITES THAT WERE
8 CONTAINED IN THE INDICTMENT, CORRECT?

9 A. CORRECT.

10 Q. THERE ARE OTHER WEBSITES BESIDES MR. SCOTTON'S WEBSITES
11 THAT SELL PRODUCTS, AND PRIMARILY PRODUCTS TO PEOPLE IN BRAZIL,
12 CORRECT?

13 A. I BELIEVE SO, YES.

14 Q. AND, IN FACT, WHEN YOU GOOGLE ON THE INTERNET FOR ARE
15 PEOPLE THAT SHIP PRODUCTS TO BRAZIL FROM THE UNITED STATES YOU
16 WILL FIND A MULTITUDE OF SHIPPING COMPANIES, OR WHAT WE CALL
17 THIRD-PARTY VENDORS THAT WILL PROVIDE SHIPPING SERVICES,
18 CORRECT?

19 A. CORRECT. THEY ARE FREQUENTLY CALLED FREIGHT FORWARDERS,
20 BUT, YES.

21 Q. AND ISN'T IT TRUE THAT A LOT OF WEBSITES THAT DO A LOT OF
22 BUSINESS ON THE INTERNET THEY WILL CONTRACT OUT THEIR SHIPPING
23 SERVICES TO THIRD-PARTY VENDORS, ISN'T THAT CORRECT? OR
24 SHIPPING FORWARDERS THAT YOU JUST MENTIONED?

25 A. I DON'T KNOW WHO THEY MAY OR MAY NOT CONTRACT WITH.

1 Q. OKAY. BUT THROUGH YOUR INVESTIGATION DID YOU FIND THAT
2 THERE WERE OTHER FREIGHT FORWARDERS OR THESE SHIPPING COMPANIES
3 OUT THERE?

4 A. THERE ARE FREIGHT FORWARDERS AND THERE ARE CERTAINLY
5 COMPANIES THAT ARE IN THE BUSINESS OF SENDING PACKAGES. I
6 DON'T KNOW --

7 Q. OKAY. DID YOU IN YOUR INVESTIGATION OF MR. SCOTTON LEARN
8 THAT HE HAD IN FACT BEEN USING, OR WAS USING A -- LET'S CALL IT
9 A FREIGHT FORWARDING COMPANY OR ONE OF THESE THIRD-PARTY
10 SHIPPING VENDORS TO DO HIS SHIPPING?

11 A. HE ALLEGED --

12 Q. DID YOU LEARN THAT?

13 A. HE ALLEGED THAT HE HAD USED OTHER COMPANIES TO SHIP.

14 Q. RIGHT. AND THOSE OTHER COMPANIES, DID YOU INVESTIGATE
15 THOSE COMPANIES?

16 A. I INVESTIGATED WHERE THE FACTS OF THE CASE LED ME WHICH
17 REPEATEDLY CAME BACK TO MR. SCOTTON.

18 Q. RIGHT. BECAUSE HE OWNS THE COMPANY. SO, BY SAYING IT
19 COMES BACK TO MR. SCOTTON THAT'S JUST SEMANTICALLY SAYING, YOU
20 INVESTIGATED THE COMPANIES HE USED BUT THEY THEN IN FACT DID
21 BUSINESS FOR MR. SCOTTON, RIGHT?

22 A. WELL, I KEPT ON COMING BACK TO MR. SCOTTON BECAUSE THE
23 PACKAGES ALL ORIGINATED WITH MR. SCOTTON, AND WHEN THE PACKAGES
24 WERE SHIPPED TO THE EXTENT THAT THERE WAS A FRAUDULENT OR
25 INAPPROPRIATE ACCOUNT AS IDENTIFIED BY DHL, FEDEX, OR UPS, THE

1 INDIVIDUALS EITHER REFUSED TO COME TO THE STORE TO PICK UP THE
2 PACKAGES OR TO PRODUCE DOCUMENTATION OF WHO THEY WERE. AND
3 AGAIN, THE INFORMATION SEEMED TO LEAD BACK TO SEVERAL ADDRESSES
4 ALL OF WHICH I LEARNED TO BE ASSOCIATED WITH MR. SCOTTON.

5 Q. DO YOU HAVE ANY EVIDENCE, AGENT, THAT MR. SCOTTON PREPARED
6 AND OBTAINED SURREPTITIOUSLY THESE ACCOUNT NUMBERS FROM
7 TARGETS, WALMARTS, APPLE COMPUTER? DO YOU HAVE ANY EVIDENCE
8 THAT HE DID THAT?

9 A. I'M NOT SURE WHAT YOU MEAN BY EVIDENCE. AS FAR AS -- I HAD
10 A SOURCE WHO PURCHASED A CAMERA THROUGH HIS WEBSITE. THE
11 SOURCE DEPOSITED THE MONEY INTO A BANK ACCOUNT THAT WAS
12 PROVIDED BY THE E-MAILS, CORRESPONDENCE BETWEEN SKYAIRONLINE
13 AND THE SOURCE.

14 Q. OKAY.

15 A. THE CAMERA WAS SHIPPED TO BRAZIL IN THE NAME OF A DIFFERENT
16 CUSTOMER OF DHL'S WHICH HAD NOT AUTHORIZED THE SHIPMENT.

17 Q. ALL RIGHT. SO, BASICALLY YOU CONCLUDED THAT HE SOLD
18 SOMETHING ON THE INTERNET, IT WAS DESTINED TO SOMEBODY IN
19 BRAZIL, HE SHIPPED IT TO BRAZIL. THE PERSON FROM BRAZIL PAID
20 THROUGH WHATEVER CHANNEL -- I MEAN, THAT'S WHAT YOU'RE REALLY
21 TELLING US. YOU FOLLOWED THAT CHAIN OF EVENTS.

22 A. CORRECT.

23 Q. NOTHING UNLAWFUL ABOUT THAT, IS THERE? MY QUESTION TO
24 YOU -- I WILL STRIKE THAT.

25 I ASKED YOU IF YOU HAVE ANY EVIDENCE IN YOUR

1 INVESTIGATION THAT MR. SCOTTON OBTAINED THOSE ACCOUNT NUMBERS
2 THROUGH SOME ILLEGAL MEANS AND ACTUALLY PUT THEM ON THESE
3 WAYBILLS, ON THESE PACKAGES. DO YOU HAVE ANY EVIDENCE THAT HE
4 PERSONALLY DID THAT?

5 A. THAT HE PUT THE SHIPPING LABELS ON THE PACKAGES HIMSELF?

6 Q. DID HE OBTAIN THE INFORMATION, THE FRAUDULENT INFORMATION
7 THAT WENT ON THOSE SHIPPING LABELS. DO YOU HAVE ANY EVIDENCE
8 THAT HE -- THAT HE PERSONALLY DID THAT?

9 A. I HAVE RECORDINGS OF AN INDIVIDUAL WHO SOUNDS LIKE
10 MR. SCOTTON OPENING THE ACCOUNTS WITH THE SHIPPING COMPANIES.

11 Q. THAT WASN'T MY QUESTION.

12 A. OKAY. PERHAPS YOU CAN REPHRASE YOUR QUESTION. I'M SORRY.

13 Q. YOU JUST SAID YOU HAVE RECORDINGS OF TELEPHONE
14 CONVERSATIONS WITH A PERSON WHO SOUNDS LIKE MR. SCOTTON OPENING
15 ACCOUNTS WITH THESE COMPANIES?

16 A. CORRECT.

17 Q. HAVE YOU IDENTIFIED MR. SCOTTON'S VOICE ON THOSE RECORDINGS
18 TO BE HIS VOICE?

19 A. WHAT DO YOU MEAN BY IDENTIFIED? I HAVE MET WITH
20 MR. SCOTTON, I HAVE COMPARED HIS VOICE AND THE RECORDED
21 CONVERSATION I HAD WITH HIM WITH THE AUDIO RECORDINGS.

22 THE COURT: ALL OF WHICH IS ADMISSIBLE AS YOU KNOW.

23 MR. FRIEDMAN: I UNDERSTAND THAT, JUDGE.

24 THE COURT: ALL RIGHT. I AM JUST -- I THINK HE'S
25 HAVING TROUBLE WITH EVIDENCE. I MEAN, ARE WE TALKING ABOUT

1 DIRECT EVIDENCE? ARE WE TALKING ABOUT INFERENCES THAT CAN BE
2 DRAWN? I'M NOT SURE ASKING A NON-LAWYER WITNESS THAT QUESTION
3 IS -- WITHOUT MORE QUALIFICATION IS GOING TO BE HELPFUL TO THE
4 COURT.

5 BY MR. FRIEDMAN:

6 Q. LET ME ASK YOU THIS. WHEN YOU LISTENED TO THOSE RECORDINGS
7 OF THE PERSON WHO WAS OPENING AN ACCOUNT WITH ANOTHER COMPANY,
8 DID THAT PERSON HAVE AN ACCENT?

9 A. HE DID.

10 Q. A BRAZILIAN ACCENT?

11 A. YES.

12 Q. IN YOUR INVESTIGATION WERE YOU PROVIDED THE NAME OF OSVANE
13 DUARTA AS SOMEBODY WHO WOULD BE PERHAPS INVOLVED IN PREPARING
14 SHIPPING LABELS AND GETTING FRAUDULENT INFORMATION OF DIFFERENT
15 COMPANIES SHIPPING ACCOUNTS?

16 A. YES. ON THE DAY THAT WE ARRESTED MR. SCOTTON, IN THE
17 COURSE OF OUR INTERVIEW HE PROVIDED THAT NAME AS AN INDIVIDUAL
18 WHO HAD PROVIDED MR. SCOTTON WITH SHIPPING LABELS.

19 Q. IS THAT INDIVIDUAL BRAZILIAN?

20 A. I DON'T KNOW.

21 Q. FROM THE NAME OSVANE DUARTA, DID YOU DO ANY INVESTIGATION
22 TO SEE WHERE HE IS FROM AND WHETHER HE HAS AN ACCENT FROM
23 BRAZIL?

24 A. I ASKED MR. SCOTTON WHO I ALLOWED TO BRING A CELLPHONE WITH
25 HIM DURING THE BOOKING PROCESS IF HE COULD PROVIDE ME WITH

1 CONTACT INFORMATION FOR THAT INDIVIDUAL SO I COULD REACH OUT TO
2 THEM TO DETERMINE WHETHER THIS PERSON HAD IN FACT PROVIDED
3 MR. SCOTTON WITH DOCUMENTATION TO USE AS SHIPPING LABELS, AND
4 MR. SCOTTON INDICATED HE DID NOT HAVE ANY CONTACT INFORMATION
5 FOR THAT INDIVIDUAL.

6 Q. DIDN'T MR. SCOTTON ADVISE YOU THAT HE HAD IT BUT HIS PHONE,
7 HE HAD CHANGED OVER HIS PHONE, OR SOMETHING, AND THE NUMBERS
8 WEREN'T ALL IN HIS PHONE?

9 A. HE SAID IT WAS IN A DIFFERENT PHONE.

10 Q. RIGHT.

11 A. THAT PHONE HAD PREVIOUSLY BEEN PROVIDED TO MR. CARLOS
12 CALONE WHEN HE CAME IN AND TOOK POSSESSION OF THE CAR.

13 Q. WELL, THAT'S A LOT DIFFERENT THEN WHEN YOU JUST ANSWERED.
14 HE SAID HE JUST DIDN'T HAVE ANY INFORMATION ON THIS PERSON WHO
15 WOULD BE RESPONSIBLE FOR PROVIDING THE SHIPPING LABELS AND
16 OBTAINING THE FRAUDULENT ACCOUNT INFORMATION, ISN'T IT?

17 THAT'S A LITTLE DIFFERENT. I ASKED YOU -- YOU SAID HE
18 EXPLAINED WHY HE DIDN'T HAVE THE NUMBER BASICALLY, RIGHT?

19 A. HE EXPLAINED THAT HE DIDN'T HAVE HIM IN THE CELLPHONE THAT
20 HE USED AS HIS PRIMARY CELLPHONE WHICH IS WHY WE ALLOWED HIM TO
21 BRING THAT PHONE WITH HIM.

22 Q. DID YOU EVER GO TO HIS FATHER AND GET THE PHONE THAT HAD
23 THE NUMBERS TO MAKE THE CALL TO INVESTIGATE FURTHER WHETHER OR
24 NOT THIS GENTLEMAN DUARTA -- OSVANE DUARTA, ANYTHING ABOUT HIM
25 SINCE MR. SCOTTON WAS TELLING YOU THAT THIS IS THE GUY THAT

1 PROVIDED ALL THE INFORMATION, GAVE ME THE SHIPPING LABELS.
2 THAT'S WHO I USED TO SHIP MY PRODUCTS.

3 A. I NEVER SOUGHT A SEARCH WARRANT TO OBTAIN THE PHONE OR
4 RESEARCH THE INFORMATION IN IT, NO.

5 Q. SO AT THIS TIME IN COURT RIGHT NOW THERE HAS BEEN NOTHING
6 REALLY DONE, NOT YOUR FAULT, BUT THERE IS SORT SOMETHING
7 HANGING OUT THERE THAT I PERHAPS WOULD THINK YOU WOULD
8 INVESTIGATE, WOULD YOU?

9 A. I TWO NOT DISAGREE WITH THAT.

10 Q. YOU WOULD NOT --

11 A. I WOULD NOT DISAGREE WITH THAT.

12 Q. OKAY. SO THERE IS SORT OF AN ONGOING INVESTIGATION HERE
13 BASED ON WHAT YOU LEARNED FROM MR. SCOTTON WHEN HE WAS
14 ARRESTED, RIGHT?

15 A. I WOULD NOT SAY THERE IS AN ONGOING INVESTIGATION. I HAVE
16 BEEN FOCUSING AND PREPARING FOR THE HEARINGS AND PREPARING FOR
17 DISCOVERY.

18 Q. WELL, YOU HAVE BEEN PROVIDING AND INTERVIEWING WITNESSES
19 AFTER MR. SCOTTON WAS ARRESTED. SO YOUR INVESTIGATION IS
20 ONGOING, IS IT NOT?

21 A. I WAS PREPARING -- I CONDUCTED THOSE INTERVIEWS IN
22 PREPARATION FOR TODAY'S HEARING, YES.

23 Q. RIGHT. AND IT WAS AFTER HE WAS ARRESTED.

24 A. CORRECT.

25 Q. OKAY. YOU WOULD AGREE, THOUGH, WITH ME THAT GETTING IN

1 TOUCH WITH OSVANE DUARTA MAY BE VERY IMPORTANT TO THIS CASE.

2 A. I WOULD CERTAINLY ENJOY THE OPPORTUNITY TO GET THAT
3 PERSON'S CONTACT INFORMATION.

4 Q. OKAY. LET ME JUST ASK YOU NOW ABOUT MR. SCOTTON.

5 YOU ARE AWARE THAT HE'S BEEN LIVING IN THE COUNTRY FOR
6 THE LAST 20 YEARS, ARE YOU NOT?

7 A. THAT'S WHAT HE TOLD ME, YES.

8 Q. ALL RIGHT. DID YOU -- DID YOU VERIFY THAT WITH HIS MOTHER,
9 HIS FATHER BECAUSE I KNOW YOU SPOKE WITH THEM?

10 A. I HAVE NOT INQUIRED -- I HAVE NEVER SPOKEN WITH ROGER'S
11 MOTHER AND ONLY HAD BRIEF CONVERSATIONS WITH CARLOS COLONE, HIS
12 STEPFATHER.

13 Q. YOU ARE AWARE THAT HIS MOTHER AND FATHER -- HIS STEPFATHER
14 AND HIS MOTHER LIVE IN MARGATE, FLORIDA, CORRECT?

15 A. CORRECT.

16 Q. YOU ARE AWARE THAT HIS MOTHER IS A UNITED STATES CITIZEN.

17 A. I BELIEVE SO, YES.

18 Q. YOU ARE AWARE THAT HIS STEPFATHER IS ALSO A UNITED STATES
19 CITIZEN?

20 A. YES.

21 Q. ARE YOU AWARE THAT MR. SCOTTON HAS A BROTHER WHO LIVES IN
22 CORAL SPRINGS?

23 A. YES. I BELIEVE HIS NAME IS FLAVIO.

24 Q. AND ARE YOU AWARE THAT HIS BROTHER IS MARRIED AND HAS
25 CHILDREN?

1 A. I KNOW HIS BROTHER IS MARRIED. I KNOW THAT THERE ARE
2 CHILDREN THAT LIVE IN THE HOUSEHOLD, ALTHOUGH I DON'T KNOW IF
3 IT'S FROM A PREVIOUS MARRIAGE OF HIS SISTER-IN-LAW OR NOT.

4 Q. THE GOVERNMENT -- THE PROSECUTOR INDICATED TO THE COURT
5 THAT MR. SCOTTON IS ILLEGAL IN THE UNITED STATES. HAVE YOU
6 REVIEWED THE IMMIGRATION FILE ON MR. SCOTTON?

7 A. I DID REQUEST A COPY OF HIS A FILE AND IT WAS PROVIDED TO
8 ME, YES.

9 Q. OKAY. ARE YOU AWARE, CAN YOU TELL THIS COURT WHETHER OR
10 NOT MR. SCOTTON HAS A PENDING APPLICATION FOR RESIDENCY AS WE
11 SPEAK?

12 A. MY REVIEW OF THE FILE AND INFORMATION FROM U.S. CITIZENSHIP
13 AND IMMIGRATION SERVICES IS THAT HE HAD APPLIED FOR -- MOST
14 RECENTLY APPLIED FOR CITIZENSHIP BASED ON HIS MARRIAGE TO A
15 CUBAN WOMAN, AND THAT ADJUSTMENT HEARING TOOK PLACE IN AUGUST
16 OF 2011 AND IT HAD BEEN DENIED. IF HE HAS FILED SOME OTHER
17 DOCUMENTATION IN THE LAST SEVERAL MONTHS I'M NOT AWARE OF IT.

18 Q. DID YOU ACTUALLY SEE SOMETHING IN THE FILE THAT SAID HIS
19 APPLICATION FOR RESIDENCY WAS DENIED?

20 A. I SAW SOME DOCUMENTATION IN THERE THAT INDICATED THAT
21 CITIZENSHIP AND IMMIGRATION SERVICES DID NOT FIND THE MARRIAGE
22 TO BE LEGITIMATE.

23 THE COURT: THERE IS A PENDING APPEAL. I DON'T
24 KNOW -- IF YOU WANT TO PROFFER ALL OF THIS --

25 MR. FRIEDMAN: I HAVE HIS IMMIGRATION ATTORNEY

1 PRESENT, JUDGE. THAT'S INCORRECT INFORMATION IN THE PRETRIAL
2 SERVICE REPORT, AND I WILL HAVE HER TESTIFY TO THAT WHAT THE
3 STATUS -- THE CURRENT STATUS OF HIS STATUS HERE IN THE UNITED
4 STATES IS.

5 THE COURT: YES. SO WHY ASK -- HE'S AN FBI AGENT.

6 MR. FRIEDMAN: OKAY.

7 BY MR. FRIEDMAN:

8 Q. WHEN MR. SCOTTON WAS ARRESTED YOU SEIZED AND OBTAINED HIS
9 PASSPORT, CORRECT?

10 A. CORRECT.

11 Q. AND YOU HAVE THAT, CORRECT?

12 A. I DO.

13 Q. DID YOU COME ACROSS IN YOUR INVESTIGATION OF MR. SCOTTON IS
14 A PROFESSIONAL RACE CAR DRIVER?

15 A. THERE IS SIGNIFICANT INFORMATION THAT HE HAS RACED
16 PROFESSIONALLY, YES.

17 Q. AND, IN FACT, DID YOU GOOGLE HIM ON THE INTERNET AND SEE
18 THAT HE HAS BEEN LIVING A VERY PUBLIC LIFE HERE IN THE UNITED
19 STATES FOR THE LAST 20 YEARS RAISING IN VARIOUS RACES,
20 INCLUDING THE MIAMI GRAND PRIX, I THINK DAYTONA. I MEAN,
21 DOZENS OF RACES WHERE HE IS ON TELEVISION, HE IS IN THE
22 NEWSPAPER, HE HAS BEEN INTERVIEWED. HAVE YOU SEEN ALL OF THAT?

23 A. I HAVE SEEN A LOT OF IT. I DON'T KNOW IF I COULD
24 SPECIFICALLY SAY THE MIAMI GRAND PRIX. BUT, YES, HE HAS
25 CERTAINLY RACED PROFESSIONALLY IN THE UNITED STATES.

1 Q. HE HASN'T TRIED TO DISGUISE WHO HE IS AS A RACE CAR DRIVER
2 TO THE PUBLIC HERE IN THE UNITED STATES, HAS HE?

3 A. NOT AS A RACE CAR DRIVER, NO.

4 Q. NOW, I WANT TO JUST ASK YOU A FEW QUESTIONS ABOUT THE
5 MARRIAGE.

6 YOU INDICATED TO THE COURT THAT THERE WERE DOCUMENTS
7 IN THE IMMIGRATION FILE THAT SAID IT WAS A SHAM MARRIAGE, IS
8 THAT CORRECT?

9 A. THERE WERE DOCUMENTS IN THE IMMIGRATION FILE THAT INDICATED
10 CITIZENSHIP AND IMMIGRATION SERVICES DID NOT BELIEVE IT TO BE A
11 LEGITIMATE MARRIAGE, I BELIEVE WAS THE WORDS.

12 Q. DO YOU KNOW WHAT FORM YOU SAW THAT ON, OR WHERE DID YOU SEE
13 THAT? WAS THAT ON AN ACTUAL FORM FROM THE INS?

14 A. I BROUGHT MY COPY OF THE A FILE WITH ME. I HAVE IT IN MY
15 BAG. IF YOU LIKE I COULD LOOK AT THE DOCUMENT AND REFRESH MY
16 RECOLLECTION.

17 Q. DID YOU GO AND IN FACT INTERVIEW HIS WIFE?

18 A. AILYN?

19 Q. YES?

20 A. YES.

21 Q. AND DID SHE TELL YOU THAT IT WAS A SHAM MARRIAGE?

22 A. SHE TOLD ME THAT SHE NO LONGER LOVED ROGER, THAT SHE HAD
23 BEEN LIVING APART FROM HIM FOR SOME TIME, THAT SHE WOULD HAVE
24 FILED FOR DIVORCE BUT SHE DIDN'T HAVE THE MONEY TO PAY FOR THE
25 FILINGS.

1 Q. WELL, SHE NO LONGER LOVED HIM. THAT MAY BE THE CASE, AS
2 WHAT HAPPENS IN RELATIONSHIPS OFTEN, BUT DID YOU SAY TO HER,
3 DID YOU ENTER INTO THIS MARRIAGE TO BEGIN WITH AS A FRAUD?

4 A. I DID NOT ASK HER THAT QUESTION.

5 Q. SO IT IS JUST YOUR MERE SPECULATION, OR THE GOVERNMENT'S
6 SPECULATION THAT THE MARRIAGE WAS A SCAM OR A SHAM, IS THAT
7 CORRECT?

8 A. IT IS MY POSITION THAT SINCE I MET WITH MR. SCOTTON IN A
9 COVERT CAPACITY THREE DAYS BEFORE HIS ADJUSTMENT HEARING AND HE
10 PROVIDED ME THE NAME OF HIS FIANCEE AS A DIFFERENT WOMAN THAN
11 HE SHOWED UP WITH AT HIS ADJUSTMENT HEARING AT CITIZENSHIP
12 SERVICES THAT THAT MARRIAGE WAS NOT LEGITIMATE.

13 Q. OKAY.

14 MR. FRIEDMAN: JUDGE, IF I CAN APPROACH THE WITNESS
15 AND ASK HIM TO IDENTIFY A PHOTOGRAPH FOR ME?

16 THE COURT: SURE.

17 BY MR. FRIEDMAN:

18 Q. I HAND YOU THIS (INAUDIBLE) CAN YOU JUST IDENTIFY FOR ME
19 AILYN, HIS WIFE? IS SHE IN THERE BY THE WAY?

20 A. YES. THE WOMAN WITH DARK HAIR WHOSE PHOTOGRAPHS ARE IN
21 HERE NUMEROUS TIMES IS THE WOMAN WHO APPEARED AT THE
22 IMMIGRATION ADJUSTMENT HEARING WITH MR. SCOTTON AND I
23 INTERVIEWED YESTERDAY.

24 Q. HAVE YOU SEEN THE PHOTO ALBUM BEFORE?

25 A. I BELIEVE COPIES OF THOSE PHOTOGRAPHS ARE CONTAINED IN THE

1 A FILE THAT WERE PRODUCED OR PROVIDED TO --

2 MR. FRIEDMAN: JUDGE, I (INAUDIBLE) HAND THIS UP TO
3 YOU JUST TO SHOW YOU MR. SCOTTON AND HIS WIFE.

4 BY MR. FRIEDMAN:

5 Q. YOU NEVER ASKED AILYN IF THIS WAS A SHAM MARRIAGE, RIGHT?

6 A. I DID NOT ASK HER THAT SPECIFIC QUESTION.

7 Q. ARE YOU AWARE OF THE REASONS THAT NOW THEIR RELATIONSHIP IS
8 IN TURMOIL AND WHY THEY ARE NOT TOGETHER ANYMORE?

9 A. I DON'T KNOW THE REASONS, ALTHOUGH ON THE DAY OF THE ARREST
10 ROGER -- MR. SCOTTON REQUESTED THAT I NOT CONTACT HIS WIFE
11 BECAUSE HE WANTED TO CONTACT HER DIRECTLY IN ORDER TO SAVE HIS
12 MARRIAGE.

13 Q. SO YOU WEREN'T AWARE THAT ONE OF THE REASONS WAS THAT
14 MR. SCOTTON WANTED THE CHILDREN AND SHE DIDN'T?

15 A. I'M NOT AWARE OF THAT.

16 Q. YOU ARE NOT AWARE THAT MISS AILYN, WHOSE MOTHER HAD JUST
17 CAME FROM CUBA, THAT SHE WANTED HER MOTHER TO LIVE WITH THEM
18 AND ROGER OBVIOUSLY DIDN'T WANT HIS MOTHER-IN-LAW LIVING IN THE
19 HOUSE.

20 ARE YOU AWARE THAT IS ONE OF THE REASONS WHY THEY KIND
21 OF GOT INTO THIS SEPARATION?

22 A. I DON'T KNOW IF THAT'S TRUE OR NOT. I KNOW THAT AT THE
23 TIME OF THE ADJUSTMENT HEARING ROGER AND AILYN WERE ALREADY
24 LIVING IN THE CONDO THAT APPARENTLY ROGER'S MOTHER AND HIS
25 FATHER -- STEPFATHER SHARED WITH THEM OR RENTED TO THEM. I'M

1 NOT SURE.

2 Q. HAVE YOU SPOKEN TO ANY INDIVIDUALS IN YOUR INVESTIGATION
3 THAT SAID ROGER'S MARRIAGE TO AILYN IS A SHAM? YES OR NO.

4 A. WELL, I'M NOT SURE THE WAY YOU RESTRICTED THE QUESTION TO
5 THE TERM SHAM. WORD FOR WORD? NO. THE WORD SHAM, NO.

6 Q. SO THE GOVERNMENT USED THE WORDS SHAM TO THE COURT.

7 A. RIGHT. CORRECT.

8 Q. SO MY QUESTION IS, DID YOU SPEAK TO ANYBODY WHO TOLD YOU
9 THAT THE MARRIAGE WAS A SHAM?

10 A. NO.

11 Q. OKAY. I DON'T BELIEVE I HAVE ANYTHING FURTHER, JUDGE.

12 THE COURT: ANY REDIRECT?

13 MS. MITRANI: YES, YOUR HONOR.

14 REDIRECT EXAMINATION

15 BY MS. MITRANI:

16 Q. JUST TO BE CLEAR, SPECIAL AGENT VANBRUNT, YOU MET FACE TO
17 FACE IN PERSON WITH THE DEFENDANT THREE DAYS BEFORE HIS HEARING
18 BEFORE THE CITIZENSHIP AND IMMIGRATION SERVICES, CORRECT?

19 A. CORRECT.

20 Q. AT THAT TIME WHO DID -- DID HE IDENTIFY A FEMALE AS HE
21 BEING INVOLVED IN A RELATIONSHIP WITH?

22 A. YES.

23 Q. AND WHO DID HE IDENTIFY THAT HE WAS IN A RELATIONSHIP WITH?

24 A. A WOMAN BY THE NAME OF CARLA, C-A-R-L-A, MIDDLE NAME

25 ROBERTA, LAST NAME F-E-L-I-N-I, FELINI.

1 Q. AND DID HE EVER MENTION AILYN MOLLINEDO AT ALL DURING THAT
2 INTERVIEW?

3 A. NO.

4 Q. AND IS THAT THE BASIS -- ONE OF THE BASIS FOR YOU -- OR FOR
5 THE GOVERNMENT USING THIS TERM SHAM?

6 A. YES.

7 Q. AND BY SHAM WE MEAN THAT IT WAS NOT A LEGITIMATE MARRIAGE.

8 A. YES.

9 Q. IT MAY HAVE BEEN A MARRIAGE ON PAPER BUT IT WASN'T WHAT
10 CITIZEN AND IMMIGRATION SERVICES WOULD CONSIDER TO BE A VALID
11 MARRIAGE --

12 A. CORRECT.

13 Q. -- MERITING CITIZENSHIP.

14 A. CORRECT.

15 Q. OKAY. LIKEWISE, AT THE TIME THAT YOU MET WITH MR. SCOTTON
16 IN AUGUST OF 2011 DID YOU ASK HIM FOR AN ADDRESS AS TO WHERE HE
17 WAS LIVING?

18 A. YES.

19 Q. WHAT ADDRESS DID HE TELL YOU?

20 A. HE TOLD ME HE WAS RESIDING AT 398 SOUTHEAST MIZNER
21 BOULEVARD, APARTMENT 1921, BOCA RATON, FLORIDA.

22 Q. THREE DAYS LATER WHEN HE APPEARED AT THE HEARING WHICH --
23 BEFORE THE CITIZENSHIP AND IMMIGRATION SERVICES DID THEY ASK
24 HIM FOR AN ADDRESS?

25 A. THEY DID.

1 Q. AND WHAT ADDRESS DID HE PROVIDE TO THEM?

2 A. GAVE AN ADDRESS OF 7797 GOLF, G-O-L-F, CIRCLE DRIVE,
3 APARTMENT 204, MARGATE, FLORIDA.

4 Q. AND, AS FAR AS YOU KNOW, THE INVESTIGATION SHOWS THAT THIS
5 GOLF CIRCLE DRIVE ADDRESS, THAT'S A CONDOMINIUM THAT'S OWNED BY
6 THE DEFENDANT'S MOTHER AND STEPFATHER.

7 A. CORRECT. IT'S A TWO BEDROOM CONDOMINIUM OWNED BY CARLOS
8 COLONE.

9 Q. WITH RESPECT TO FREIGHT FORWARDING, YOU REMEMBER DEFENSE
10 COUNSEL ASKED YOU A WHOLE BUNCH OF QUESTIONS ABOUT THAT.

11 DURING THE COURSE OF YOUR INVESTIGATION DO YOU HAVE
12 ANY INVESTIGATION THAT MR. SCOTTON USED A FREIGHT FORWARDING
13 SERVICES IN CONNECTION WITH HIS BUSINESSES?

14 A. NO.

15 Q. AND WAS HE THE ONE, AS FAR AS YOUR INVESTIGATION SHOWS,
16 THAT WAS OPENING THE FRAUDULENT ACCOUNTS WITH DHL, UPS, AND
17 FEDEX?

18 A. YES.

19 Q. AND YOU MENTIONED, I THINK YOU CLARIFIED THIS. IN TERMS OF
20 NOT THE ONLY EVIDENCE, BUT PART OF YOUR EVIDENCE IS YOU HAVE
21 SEVERAL RECORDINGS, I THINK AT LEAST SIX, WHERE A HEAVILY
22 ACCENTED MALE IS CALLING FEDEX TO OPEN ACCOUNTS FOR DIFFERENT
23 COMPANIES?

24 A. CORRECT. I THOUGHT THERE MAY HAVE BEEN FOUR OR FIVE. BUT,
25 YES, MULTIPLE CALLS THAT WERE RECORDED BY THE SHIPPING

1 COMPANIES AS PART OF THEIR QUALITY CONTROL PROCESS. IT JUST SO
2 HAPPENED THAT THESE ACCOUNTS WHEN THEY WERE OPENED WERE
3 RECORDED AND THEY WERE PROVIDED TO ME BY THE SHIPPING
4 COMPANIES.

5 Q. AND IN THIS INSTANCE BY FEDERAL EXPRESS, CORRECT?

6 A. CORRECT.

7 Q. AND, FOR EXAMPLE, ONE DISK CONTAINED TWO OR THREE
8 RECORDINGS OF AN INDIVIDUAL OPENING ACCOUNTS, CORRECT?

9 A. CORRECT.

10 Q. AND IT SOUNDS TO YOU TO BE THE EXACT SAME VOICE?

11 A. I BELIEVE IT IS, YES.

12 Q. BUT IN ONE INSTANCE THAT PERSON REPRESENTING HIMSELF TO BE
13 FROM TARGET?

14 A. YES.

15 Q. ANOTHER INSTANCE FROM IMPULSE BEVERAGE CORPORATION?

16 A. YES.

17 Q. AND I THINK YOU TESTIFIED TO THE COURT YOU ALSO HAD THE
18 OPPORTUNITY TO SPEAK IN PERSON WITH MR. SCOTTON, BOTH IN AN
19 UNDERCOVER CAPACITY WHEN YOU WERE ACTING AS A DHL EMPLOYEE AND
20 AT THE TIME OF HIS ARREST, CORRECT?

21 A. CORRECT.

22 Q. AND AS FAR AS YOU ARE CONCERNED DOES IT SOUND LIKE THE SAME
23 INDIVIDUAL?

24 A. IT DOES.

25 Q. ALL RIGHT.

1 MS. MITRANI: THAT'S ALL, YOUR HONOR.

2 MR. FRIEDMAN: JUST ONE QUESTION, JUDGE.

3 THE COURT: ALL RIGHT.

4 RECROSS EXAMINATION

5 BY MR. FRIEDMAN:

6 Q. (INAUDIBLE) YOU JUST THINK IT IS BUT YOU HAVEN'T DONE ANY
7 SCIENTIFIC, YOU KNOW, VOICE EXEMPLARS ON THAT VOICE TO
8 DETERMINE IT'S MR. SCOTTON, CORRECT?

9 A. I ACTUALLY LOOKED INTO THE POSSIBILITY OF DOING A VOICE --
10 WHAT I DESCRIBE AS VOICE ANALYSIS AND CONTACTED THE FBI
11 LABORATORY AND ESSENTIALLY WERE TOLD THAT UNLESS VOICE
12 EXEMPLARS WERE OBTAINED FROM THE SUBJECT INDIVIDUAL AND COMPARE
13 IT TO THE OTHER TAPES ON A SIMILAR OR SAME MEDIUM IT WOULD BE
14 VIRTUALLY IMPOSSIBLE TO GIVE SOME KIND OF A SCIENTIFIC
15 RENDERING.

16 Q. BUT IT COULD BE DONE IF MR. SCOTTON GAVE A VOICE EXAMPLE
17 THROUGH THE PHONES SYSTEM THAT'S RECORDING (INAUDIBLE) YOU
18 LISTENED TO, RIGHT?

19 A. WHAT THE FBI LABORATORY TOLD ME WAS THAT THE INDIVIDUAL
20 WOULD HAVE TO ESSENTIALLY CALL IN TO FEDEX, HAVE THAT CALL
21 RECORDED, USE THE SAME WORDS AS THE ORIGINAL CALL, THEN THAT
22 DOCUMENT -- THAT RECORDING THEN PROVIDED TO THE LAB SO IT COULD
23 BE AS CLOSE TO THE SAME MEDIUM, IF YOU WILL, FOR ANALYSIS.

24 Q. YOU DON'T SPEAK PORTUGUESE (INAUDIBLE)

25 A. I DON'T SPEAK PORTUGUESE, BUT --

1 Q. OKAY. SO WHAT YOU HEARD ON THE TAPES WAS SOMEBODY WITH A
2 HEAVY PORTUGUESE ACCENT, RIGHT?

3 A. I DON'T SPEAK PORTUGUESE BUT MY WIFE IS BRAZILIAN.

4 Q. OKAY.

5 A. AND MY IN-LAWS ARE FROM BRAZIL.

6 Q. THAT'S FINE.

7 A. OKAY.

8 Q. I GUESS (INAUDIBLE) YOU ARE MERELY SPECULATING (INAUDIBLE)
9 A BRAZILIAN ACCENT THAT IT'S MR. SCOTTON (INAUDIBLE)
10 SPECULATION TO THE COURT THAT THAT WAS HIM.

11 THE COURT: COUNSEL, FIRST OF ALL, THIS IS NOT A NEW
12 SUBJECT BROUGHT UP ON REDIRECT, WHICH IS THE ONLY TIME I ALLOW
13 RECROSS.

14 SECOND OF ALL, THIS IS TOTALLY ADMISSIBLE. IT IS UP
15 TO THE JURY. I MEAN, YES, HE IS A LAY PERSON. I AM SURPRISED
16 AT THE FBI BECAUSE LANCING, MICHIGAN, GAVE ME VOICE PRINTS MANY
17 YEARS AGO ON SOMETHING THAT WASN'T AN EXACT DUPLICATE.

18 BUT THE REALITY IS THIS ISN'T HELPING ME AT ALL. HE
19 THINKS IT IS THE SAME GUY. HE CERTAINLY KNOWS A BRAZILIAN
20 ACCENT. HE IS NOT TESTIFYING THAT HE THOUGHT IT WAS THE SAME
21 GUY BECAUSE IT IS A BRAZILIAN ACCENT, AND REASONABLE MINDS CAN
22 DIFFER AS TO WHETHER HE'S QUALIFIED WHEN THEY PLAY IT IN COURT.
23 YOU KNOW, THAT WILL HAPPEN. ALL RIGHT.

24 THANK YOU, AGENT. YOU MAY STEP DOWN.

25 THE WITNESS: THANK YOU, YOUR HONOR.

1 ANY FURTHER EVIDENCE FROM THE GOVERNMENT?

2 MS. MITRANI: NO, YOUR HONOR.

3 THE COURT: ANY EVIDENCE, TESTIMONY, OR PROFFER ON
4 BEHALF OF THE DEFENDANT AT THIS TIME?

5 MR. FRIEDMAN: YES, JUDGE. I WOULD LIKE TO CALL
6 (INAUDIBLE)

7 THE CLERK: RAISE YOUR RIGHT HAND.

8 (WITNESS SWORN)

9 THE WITNESS: I DO.

10 THE CLERK: WILL YOU PLEASE HAVE A SEAT AND STATE YOUR
11 NAME AND SPELL YOUR LAST NAME FOR THE RECORD.

12 THE WITNESS: RIHAB HAMADE, LAST NAME H-A-M-A-D-E.

13 MR. FRIEDMAN: MAY I PROCEED, JUDGE?

14 THE COURT: YOU MAY.

15 RIHAD HAMADE,

16 BEING DULY SWORN, WAS EXAMINED AND TESTIFIED AS FOLLOWS:

17 DIRECT EXAMINATION

18 BY MR. FRIEDMAN:

19 Q. MISS HAMADE, CAN YOU TELL THE COURT WHAT YOU DO FOR A
20 LIVING?

21 A. I AM AN IMMIGRATION ATTORNEY.

22 Q. HOW LONG HAVE YOU BEEN AN ATTORNEY?

23 A. SINCE 2003.

24 Q. OKAY. AND WHAT KIND OF AREA OF LAW DO YOU SPECIALIZE IN?

25 A. I PRACTICE ALL AREAS OF IMMIGRATION LAW.

1 Q. IMMIGRATION LAW.

2 A. YES.

3 Q. DO YOU KNOW MR. SCOTTON?

4 A. YES.

5 Q. CAN YOU TELL THE COURT UNDER WHAT CIRCUMSTANCES YOU MET
6 MR. SCOTTON?

7 A. HE CAME TO MY OFFICE AS A CLIENT TO APPLY FOR RESIDENCY IN
8 JUNE OF 2010 BASED ON MARRIAGE.

9 Q. OKAY. AND WOULD YOU TELL THE COURT WHAT YOU DID AS A
10 RESULT OF HIM COMING TO YOUR OFFICE AND HIRING YOU?

11 A. I FILED -- I FIRST INTERVIEWED HIM AND HIS WIFE. THIS IS A
12 STANDARD PROCEDURE THAT I DO WITH ALL CLIENTS THAT COME TO MY
13 OFFICE TO FILE FOR APPLICATIONS BASED ON MARRIAGE. I WANT TO
14 MAKE SURE THAT THIS IS A REAL RELATIONSHIP BEFORE I GO AHEAD
15 AND DO IT. AND I BELIEVED THAT IT WAS A LEGITIMATE
16 RELATIONSHIP AND I FILED AN APPLICATION FOR RESIDENCY ON HIS
17 BEHALF.

18 Q. AND WHAT TYPES OF THINGS DID YOU DO TO MAKE SURE IT WAS A
19 LEGITIMATE MARRIAGE?

20 A. I REQUESTED DOCUMENTS TO SHOW THAT THEY ARE LIVING
21 TOGETHER. I INTERVIEW THEM. I SEPARATE THEM. I INTERVIEWED
22 THEM ON MORE THAN THREE OCCASIONS.

23 Q. OKAY. AND, AS FAR AS THE NUMBER OF THESE TYPES OF
24 PETITIONS YOU HAVE DONE CAN YOU DESCRIBE OR CHARACTERIZE
25 MR. SCOTTON'S PETITION AND YOUR INTERVIEW PROCESS WITH HIM AND

1 HIS WIFE AS ANY DIFFERENT THAN ANY OF THE OTHERS?

2 A. NO.

3 Q. SO AFTER YOU DETERMINED THAT IN FACT THIS WAS A REAL
4 MARRIAGE WHAT DID YOU DO NEXT?

5 A. I PREPARED THE DOCUMENTS. I REQUESTED WHATEVER I NEEDED
6 FOR ME TO PREPARE THESE DOCUMENTS AND I FILED THE APPLICATION
7 ON HIS BEHALF --

8 Q. OKAY.

9 A. -- WITH THE USCIS.

10 Q. DID YOU ATTEND ANY INTERVIEWS?

11 A. YES.

12 Q. AND WHAT, AS WE SIT HERE TODAY, IS THE CURRENT STATUS OF
13 MR. SCOTTON IN THE UNITED STATES?

14 A. HE HAS AN APPLICATION FOR RESIDENCY PENDING.

15 Q. IS HE ILLEGAL HERE IN THE UNITED STATES?

16 A. RIGHT NOW? NO.

17 Q. TELL THE COURT ABOUT THIS APPLICATION AND WHAT
18 AUTHORIZATION THE UNITED STATES GOVERNMENT HAS PROVIDED HIM
19 UNTIL AT LEAST AUGUST OF 2012?

20 A. WHILE HIS APPLICATION FOR RESIDENCY REMAINS PENDING, HE
21 QUALIFIED AND WE APPLIED ON HIS BEHALF FOR WORK AUTHORIZATION.
22 AND HE DOES HAVE AN APPROVED WORK AUTHORIZATION UNTIL AUGUST OF
23 2012.

24 Q. WERE YOU AWARE OF ANY OTHER PRIOR APPLICATIONS THAT
25 MR. SCOTTON MADE TO THE DEPARTMENT OF HOMELAND SECURITY,

1 IMMIGRATION DEPARTMENT HERE IN THE UNITED STATES?

2 A. I WAS TOLD BY MR. SCOTTON THAT YEARS BACK HE WAS SPONSORED
3 BY A COMPANY FOR AN EMPLOYMENT BASED APPLICATION, AND I DON'T
4 KNOW THE STATUS OF THAT APPLICATION.

5 Q. THAT HAD TO DO WITH HIM AS A RACE CAR DRIVER?

6 A. YES.

7 Q. OKAY. YOU ATTENDED THE HEARING WITH HIM BACK IN AUGUST
8 31ST, 2011?

9 A. YES.

10 Q. AND, BY THE WAY, HIS WIFE AILYN, DID HER APPLICATION GET
11 APPROVED?

12 A. YES.

13 Q. AND THEN WHEN YOU WENT BACK AND HAD THE INTERVIEW ON THE
14 31ST OF AUGUST WHAT PROCEDURES DOES INS EMPLOY TO MAKE SURE
15 THERE IS NO SHAM MARRIAGES?

16 A. THEY SEPARATED THEM AND THEY ASKED HIM A SERIES OF
17 QUESTIONS, AND THEN THEY BRING HER BACK IN, THEY ASK HER THE
18 SAME QUESTIONS AND THEY COMPARE THE ANSWERS.

19 Q. OKAY. AND HAVE YOU RECEIVED ANYTHING FROM IMMIGRATION THAT
20 SAYS THAT THEY HAVE DENIED MR. SCOTTON'S APPLICATION BECAUSE
21 HIS MARRIAGE IS A SHAM?

22 A. NO.

23 Q. YOU ARE THE ATTORNEY OF RECORD WITH IMMIGRATION, ARE YOU
24 NOT?

25 A. I AM.

1 MR. FRIEDMAN: ALL RIGHT, JUDGE. I HAVE NOTHING
2 FURTHER.

3 THE COURT: YOU MAY CROSS.

4 CROSS EXAMINATION

5 BY MS. MITRANI:

6 Q. IS IT HAMADE?

7 A. YES.

8 Q. AM I PRONOUNCING IT CORRECTLY?

9 A. YES.

10 Q. YOU SAID THAT MR. SCOTTON AND HIS PURPORTED WIFE CAME TO
11 YOUR OFFICE JUNE 10TH OF 2010?

12 A. JUNE OF 2010.

13 Q. AND WERE THEY MARRIED AT THAT TIME?

14 A. I DON'T BELIEVE SO. I BELIEVE THEY WERE DATING AT THE
15 TIME. I CAN CHECK THE MARRIAGE CERTIFICATE TO CONFIRM THAT.
16 EXCUSE ME.

17 Q. THAT'S ALL RIGHT. YOU DON'T KNOW WHETHER THEY WERE MARRIED
18 JUNE 10TH OF 2010. WOULD IT BE COUPLES WOULD COME TO YOU
19 BEFORE THEIR MARRIAGE TO SEE --

20 A. YES.

21 (BOTH TALKING AT THE SAME TIME)

22 A. YES. IT'S VERY NORMAL FOR COUPLES TO COME IN. IF THEY
23 HAVE ALREADY DECIDED TO GET MARRIED AND THEY WANT TO COME AND
24 CHECK ON THE PROCEDURE AND WHAT TO DO AND ALL OF THAT. THEY
25 WERE ACTUALLY MARRIED, YES --

1 Q. AND THEY HAD BEEN --

2 A. 2010?

3 Q. THEY HAD DATED BEFORE, BEFORE THEIR MARRIAGE?

4 A. YES.

5 Q. OKAY. SO THEY WERE IN A -- WHAT YOU VIEWED IT AS A
6 LEGITIMATE RELATIONSHIP, A LONG-TERM RELATIONSHIP?

7 A. YES.

8 Q. WHERE YOU AWARE THAT JUST A COUPLE OF MONTHS IN APRIL
9 BEFORE THEY CAME TO YOUR OFFICE THAT THE FEDEX HAD SEIZED A
10 PACKAGE THAT CONTAINED A VIDEOTAPE. ON THE PICTURE OF THE
11 VIDEOTAPE WAS OF MR. SCOTTON KISSING AND HOLDING CHAMPAGNE
12 GLASSES WITH A SERLENE DISANTOS?

13 A. NO.

14 MS. M: CAN I APPROACH THE WITNESS, YOUR HONOR?

15 THE COURT: YOU MAY.

16 BY MS. MITRANI:

17 Q. THIS IS A -- CAN YOU HEAR ME, YOUR HONOR?

18 THE COURT: YES.

19 MS. MITRANI: OKAY. SOMETIMES I GET IN TROUBLE IF I
20 DON'T TALK INTO A MICROPHONE --

21 THE COURT: WELL, THE ISSUE IS WHETHER THE RECORDING
22 IS GOING TO BE SUFFICIENT. THAT IS WHY PEOPLE SAY THAT ABOUT
23 MICROPHONES.

24 MS. MITRANI: RIGHT. RIGHT.

25 THE COURT: BUT I CAN HEAR YOU.

1 MS. MITRANI: OKAY. THANK YOU, YOUR HONOR.

2 BY MS. MITRANI:

3 Q. HAVE YOU EVER SEEN THIS VIDEO OF ROGER SCOTTON WITH THIS
4 PERSON WHO HAS BEEN IDENTIFIED AS SERLENE DISANTOS?

5 A. NO.

6 Q. AND YOU DIDN'T KNOW THAT THIS WAS MAILED OUT TO THEIR
7 FRIENDS IN APRIL OF 2010?

8 A. NO.

9 Q. DID YOU KNOW THAT AT THIS VIDEO THIS SERLENE DISANTOS IS
10 HOLDING UP WHAT APPEARS TO BE EITHER A WEDDING OR AN ENGAGEMENT
11 RING?

12 A. NO. I HAVE NEVER SEEN IT.

13 Q. I WOULDN'T THINK YOU WOULD.

14 MS. MITRANI: YOUR HONOR, I WOULD LIKE TO OFFER A
15 FEDEX LABEL WITH A COPY OF THIS VIDEO INTO EVIDENCE.

16 MR. FRIEDMAN: JUDGE, I'M GOING TO OBJECT ON THE BASIS
17 OF AUTHENTICITY. IT IS A BLACK AND WHITE COPY. I DON'T KNOW
18 WHEN THAT PHOTOGRAPH WAS TAKEN. I DON'T KNOW UNDER WHAT
19 CIRCUMSTANCES IT WAS TAKEN. IT MAY HAVE BEEN MAILED ON THE
20 DATE THAT THIS FEDEX INDICATES (INAUDIBLE) AND SUGGEST TO THIS
21 COURT THAT THIS IS SOMEBODY WHO IS HIS WIFE OR HE HAD A
22 GIRLFRIEND (INAUDIBLE)

23 MS. MITRANI: YOUR HONOR, I WOULD JUST PROFFER THAT
24 THEY ARE SAYING -- THEY CAME TO HER IN JUNE OF 2010 SAYING HE
25 HAS BEEN MARRIED TO THIS MOLLINEDO AND HAD BEEN IN A

1 RELATIONSHIP WITH HER PRIOR TO THAT.

2 I CAN PROFFER TO THE COURT THAT THREE MONTHS BEFORE A
3 VIDEO -- SEVERAL VIDEOS -- SEVERAL PACKAGES WERE SEIZED BY
4 FEDEX, AND INSIDE THERE WERE A VIDEO AND INSIDE THE COVER OF
5 THE VIDEO SHOWS MR. SCOTTON KISSING AND HOLDING CHAMPAGNE
6 GLASSES WITH SOMEBODY WHO WAS IDENTIFIED INSIDE THE VIDEO AS
7 NOT AILYN MOLLINEDO AS THE SERLENE DISANTOS.

8 AND TO THE EXTENT THAT MR. -- THE DEFENSE ARE TRYING
9 TO SAY THAT THIS IS A MARRIAGE I JUST WANT TO BRING EVEN MORE
10 EVIDENCE TO THE COURT THAT --

11 THE COURT: ALL RIGHT. I THINK IT IS TOO COLLATERAL
12 AT THIS POINT. I DON'T THINK I NEED THAT IN EVIDENCE. YOU
13 QUESTIONED HER ABOUT IT AND I WILL CONSIDER THAT.

14 MS. MITRANI: OKAY.

15 BY MS. MITRANI:

16 Q. AND I ASSUME, MISS HAMADE, YOU DIDN'T KNOW THAT YOUR CLIENT
17 HAD MET WITH THE FBI THREE DAYS BEFORE THE IMMIGRATION
18 INTERVIEW, CORRECT? YOU WERE UNAWARE OF THAT.

19 A. I WASN'T AWARE OF --

20 Q. AND YOU WEREN'T AWARE THAT DURING THAT INTERVIEW WITH AGENT
21 VANBRUNT YOUR CLIENT, MR. SCOTTON, SAID THAT HE WAS -- THAT
22 CARLA FELINI WAS HIS FIANCEE. YOU WEREN'T AWARE OF THAT.

23 A. NO.

24 Q. IS IT -- IS IT YOUR TESTIMONY THAT -- WELL, STRIKE THAT.

25 CITIZEN AND IMMIGRATION SERVICES HAS DENIED

1 MR. SCOTTON'S APPLICATION FOR CITIZENSHIP BASED ON HIS
2 PURPORTED MARRIAGE TO AILYN MOLLINEDO, CORRECT?

3 A. NO. THEY HAVE NOT DENIED IT YET.

4 Q. OKAY.

5 THE COURT: IS IT CITIZENSHIP OR RESIDENCY? I
6 THOUGHT --

7 THE WITNESS: IT'S A RESIDENCY APPLICATION. IT'S NOT
8 A CITIZENSHIP APPLICATION.

9 BY MS. MITRANI:

10 Q. BUT HE ALSO APPLIED FOR CITIZENSHIP BASED ON HIS MARRIAGE
11 TO HER.

12 A. AND I HAD APPLIED FOR --

13 (BOTH TALKING AT THE SAME TIME)

14 Q. HE HAS APPLIED FOR RESIDENCY IS THE FIRST STEP TOWARD THE
15 ROAD TO CITIZENSHIP, CORRECT?

16 A. CORRECT.

17 Q. ALL RIGHT. AND THIS HEARING TOOK PLACE IN AUGUST, CORRECT?

18 A. THE LAST INTERVIEW? YES.

19 Q. THE LAST INTERVIEW TOOK PLACE IN AUGUST OF 2011.

20 A. CORRECT.

21 Q. AND IT IS MARCH OF 2012.

22 HAVE YOU HAD CONTACT WITH THE HEARING OFFICER, I
23 FORGET HIS NAME --

24 A. EVERY TIME I WENT TO IMMIGRATION FOR OTHER FILES I WOULD
25 CHECK ON THE STATUS OF THIS CASE AND I WAS ALWAYS TOLD THAT THE

1 CASE REMAINS PENDING.

2 Q. SO HE HASN'T TOLD YOU -- A PANAMANIAN INDIVIDUAL, CORRECT,
3 WAS -- HIS NAME ESCAPING ME RIGHT NOW --

4 A. I DON'T SPEAK TO THE OFFICER THAT INTERVIEWS HIM. I SPEAK
5 TO THE INFORMATION OFFICER THAT USUALLY GIVES ME THE
6 INFORMATION ON THE CASE --

7 Q. AND WHEN WAS THE LAST TIME YOU HAD CONTACT WITH HIM?

8 A. I BELIEVE THE END OF 2011.

9 Q. OKAY.

10 MS. MITRANI: NO FURTHER QUESTIONS, YOUR HONOR.

11 THE COURT: ALL RIGHT. SO IF THE PRETRIAL SERVICES
12 REPORT INDICATES THAT THERE IS AN APPLICATION FOR APPEAL
13 PENDING THAT WOULD BE INCORRECT?

14 THE WITNESS: YES. THAT'S INCORRECT.

15 THE COURT: OKAY. THE DEFENDANT'S WIFE YOU SAID HER
16 CITIZENSHIP APPLICATION WAS GRANTED, CORRECT?

17 THE WITNESS: HER RESIDENCY APPLICATION.

18 THE COURT: EXCUSE ME. RESIDENCY. SHE IS A CUBAN
19 NATIONAL, RIGHT?

20 THE WITNESS: YES.

21 THE COURT: AND SHE IS IN A COMPLETELY DIFFERENT
22 POSITION REGARDING U.S. ATTITUDE TOWARD PERMANENT RESIDENCY,
23 CORRECT?

24 THE WITNESS: WELL, THEY BOTH QUALIFY ON THE SAME
25 BASIS UNDER THE CUBAN ADJUSTMENT ACT. BUT HE QUALIFIES BASED

1 ON MARRYING HER BECAUSE HE IS NOT CUBAN.

2 MS. MITRANI: YOUR HONOR, I RESTED BUT COULD I --
3 COULD I SHOW THE WITNESS, AS WELL AS THE COURT, A DOCUMENT THAT
4 WAS JUST HANDED TO ME?

5 THE COURT: SURE.

6 MR. FRIEDMAN: CAN I SEE IT?

7 MS. MITRANI: I'M SORRY.

8 THE COURT: YES. SHOW IT TO HIM FIRST.

9 MS. MITRANI: I APOLOGIZE (INAUDIBLE)

10 THE COURT: SO WHAT YOU'RE SAYING ACTUALLY THEN IS HE
11 IS BASICALLY WOULD BE IN A DIFFERENT POSITION HAD HE MARRIED
12 SOMEONE WHO IS NOT A CUBAN.

13 THE WITNESS: CORRECT.

14 THE COURT: ALL RIGHT.

15 (INAUDIBLE)

16 MS. MITRANI: YOUR HONOR, I COULD PROFFER TO THE
17 COURT -- I HAVE A LETTER, AND I COULD SHOW IT TO THE ATTORNEY.
18 IT IS NOT DATED, IT IS ADDRESSED TO ROGERIO SCOTTON.

19 IT SAYS, DECISION ON APPLICATION FOR STATUS AS
20 PERMANENT RESIDENT. IT IS ORDERED THAT YOUR APPLICATION FOR
21 STATUS AS PERMANENT RESIDENCE THAT BE DENIED FOR THE FOLLOWING
22 REASONS.

23 IT HAS THIS ATTORNEY AS CC'ED, AND INSIDE IN PART TWO
24 IT TALKS ABOUT THE MARRIAGE TO AILYN REYES MOLLINEDO, AND
25 SPECIFICALLY IT SAYS, THE RECORD REFLECTS THAT ON JUNE 15TH,

1 2010, YOU MARRIED AILYN REYES MOLLINEDO, A NATIVE AND CITIZEN
2 OF CUBA, ET CETERA.

3 SO I WOULD LIKE TO SHOW THIS TO THE ATTORNEY AND SEE
4 IF SHE HAS EVER SEEN IT. I WOULD ALSO LIKE TO PROFFER IT TO
5 THE COURT.

6 MR. FRIEDMAN: JUDGE, IT IS UNDATED, IT IS UNSIGNED,
7 AND --

8 THE COURT: WELL, WAIT A MINUTE. IT'S PREMATURE.
9 THERE IS NOTHING TO OBJECT TO IF SHE HASN'T -- SHE MIGHT BE
10 ABLE TO TELL US ABOUT IT. IF SHE CAN, SHE CAN.

11 MR. FRIEDMAN: I JUST DON'T WANT THE COURT TO GIVE
12 THAT ANY WEIGHT BECAUSE IT IS AN UNDATED AND UNSIGNED DOCUMENT.

13 THE COURT: WELL, I AM GOING TO DECIDE WHERE TO GIVE
14 IT WEIGHT BASED ON WHAT YOUR WITNESS IS ABLE TO TELL ME ABOUT
15 IT. SHE MAY NOT -- IF SHE HASN'T SEEN IT THEN THERE IS NOT
16 MUCH I CAN DO WITH IT.

17 GO AHEAD.

18 BY MS. MITRANI:

19 Q. DO YOU REMEMBER RECEIVING A LETTER DENYING HIS APPLICATION
20 FOR CITIZENSHIP?

21 A. NO.

22 Q. YOU HAVE NEVER SEEN THAT. IS THAT YOUR ADDRESS?

23 A. YES.

24 Q. AND DO YOU AGREE WITH ME THAT INSIDE IN PART TWO IT STARTS
25 TALKING ABOUT THE MARRIAGE TO AILYN REYES MOLLINEDO, CORRECT?

1 A. YES.

2 MS. MITRANI: YOUR HONOR --

3 THE COURT: WHO DID -- DARWIN, DID YOU DO THE PRETRIAL
4 SERVICES REPORT?

5 THE PROBATION OFFICER: NO, JUDGE.

6 THE COURT: OKAY.

7 THE PROBATION OFFICER: BUT I CAN (INAUDIBLE)

8 THE COURT: WELL, I'M JUST WONDERING WHO SHE SPOKE TO
9 BECAUSE, YOU KNOW, PRETRIAL TALKED TO SOMEBODY, AND THEY
10 WERE -- OH, NO. ACTUALLY IT WAS AN AUTOMATED CHECK.

11 THE PROBATION OFFICER: YES.

12 THE COURT: AND THAT'S WHAT IT SHOWED.

13 THE PROBATION OFFICER: EXACTLY. IT IS A PRINTOUT.

14 MS. MITRANI: YOUR HONOR, AGAIN I WOULD ADMIT AND TO
15 THE EXTENT THAT COUNSEL IS OBJECTING -- I MEAN, I WOULD STAND
16 ON OUR PROFFER THAT IT WAS DENIED AND HERE IS FURTHER EVIDENCE.

17 NOT ONLY DO YOU HAVE THE AGENT'S TESTIMONY THAT IT WAS
18 DENIED BUT I DO HAVE PHYSICAL EVIDENCE. THIS WAS GOTTEN
19 DIRECTLY FROM IMMIGRATION AND NATURALIZATION SERVICES. IT WAS
20 PART OF THE A FILE, THE ALIEN FILE, THAT WAS GIVEN TO THE AGENT
21 AND I JUST HANDED ME THE LETTER NOW.

22 I WILL PROFFER IT TO THE COURT. AND TO THE EXTENT
23 THIS ISSUE IS BEING CONTESTED THAT NOT THE MERE FACT THAT IT
24 WAS DENIED SEEMS TO BEING CONTESTED I DON'T THINK THAT'S AN
25 ISSUE OF FACT. HIS RESIDENCY WAS DENIED.

1 THEY ARE CONTESTING THAT IT WAS A SHAM MARRIAGE,
2 THAT'S FOR THE COURT TO DECIDE.

3 MR. FRIEDMAN: I AM (INAUDIBLE) CONTESTING THIS IS
4 DENIED. MAYBE THEY PLANNED ON DOING IT, OR THEY PRINTED LETTER
5 IN ADVANCE BEFORE MAKING A DECISION, BUT I DON'T BELIEVE THERE
6 HAS BEEN ANY DECISION MADE BY INS AS TO HIS APPLICATION.

7 THE COURT: ALL RIGHT. BUT I DO -- I WILL CONSIDER
8 THAT PRETRIAL SERVICES DID AN AUTOMATIC -- MADE A RECORDS CHECK
9 AND THIS IS WHAT IT SHOWED. IT DOESN'T MEAN THAT -- I MEAN,
10 WHO KNOWS. IMMIGRATION HAS GOTTEN BETTER WITH THEIR RECORD
11 KEEPING, BUT SHE SAID SHE HASN'T RECEIVED THAT LETTER.

12 MS. MITRANI: OKAY. YOUR HONOR.

13 THE COURT: SO IT APPEARS THAT IF THEY HAVEN'T DENIED
14 IT THEY'RE ABOUT TO AND THEN CAN APPEAL. THIS IS, YOU KNOW,
15 WHERE THEY ARE.

16 MS. MITRANI: YOUR HONOR, I HAVE NO FURTHER QUESTIONS
17 OF THIS WITNESS AND THE GOVERNMENT STANDS ON ITS PROFFER. I
18 GUESS THAT'S WHAT THE COURT NEEDS TO KNOW.

19 MR. FRIEDMAN: JUST A COUPLE OF QUESTIONS.

20 THE COURT: SURE.

21 REDIRECT EXAMINATION

22 BY MR. FRIEDMAN:

23 Q. EVEN IF SOMEBODY IS UNDER INVESTIGATION IN THE UNITED
24 STATES AND MAKES THE APPLICATION THAT YOU PROCESSED FOR
25 MR. SCOTTON, DOES THAT AUTOMATICALLY EXCLUDE THEM FROM BECOMING

1 A RESIDENT?

2 A. NO.

3 Q. SO, THE FACT THAT THIS CASE NOW IS PENDING AND HE HAS BEEN
4 INDICTED, THAT IS NOT AN AUTOMATIC DENIAL?

5 A. NO.

6 THE COURT: ALL RIGHT. I KNOW THAT, COUNSELOR. YOU
7 KNOW, THIS ISN'T THE FIRST TIME THESE ISSUES HAVE COME UP.

8 ALL RIGHT. THANK YOU, MA'AM. YOU MAY STEP DOWN AND
9 YOU MAY BE EXCUSED.

10 THE WITNESS: THANK YOU.

11 THE COURT: ANYTHING FURTHER ON BEHALF OF THE
12 DEFENDANT AT THIS TIME?

13 MR. FRIEDMAN: NO OTHER WITNESSES, JUDGE. I JUST
14 WOULD LIKE THE COURT TO KNOW THAT HIS MOTHER AND HIS STEPFATHER
15 ARE PRESENT IN COURT ON THE OTHER SIDE OF THE COURTROOM. ALSO
16 SOME FRIENDS OF MR. SCOTTON. I COULD HAVE FILLED THIS
17 COURTROOM UP WITH STANDING ROOM ONLY (INAUDIBLE) WITH ALL THE
18 PEOPLE THAT MR. SCOTTON KNOWS AND HAS ASSOCIATED WITH OVER THE
19 YEARS (INAUDIBLE) CHOSE NOT TO DO THAT. BUT I HAVE NO OTHER
20 WITNESSES. I JUST HAVE SOME ARGUMENT --

21 THE COURT: GO AHEAD AND MAKE YOUR PROFFER.

22 MR. FRIEDMAN: JUDGE, I AM NOT GOING TO GET INTO THE
23 WEIGHT OF THE EVIDENCE. ALL I'M GOING TO SAY IS THAT I DON'T
24 THINK THE CASE IS AS STRONG AS WHAT THE GOVERNMENT THINKS IT IS
25 AND I THINK THERE ARE SOME OPEN ENDS THAT STILL NEED TO BE

1 INVESTIGATED WHICH ARE CERTAINLY LARGE OPEN ENDS THAT PERHAPS
2 ARE EXCULPATORY TO MY CLIENT.

3 WITH REGARD TO THE MARRIAGE, JUDGE. THE REASON I
4 BROUGHT THE ATTORNEY IN WAS JUST TO SHOW THE COURT, AND I
5 SHOWED THE COURT THE ALBUM. THIS WASN'T A SHAM MARRIAGE. THIS
6 WAS A RELATIONSHIP THAT HE HAD. HE GOT MARRIED TO THIS WOMAN
7 WHO CAME FROM CUBA. HE HAS A PRESENT PENDING APPLICATION WITH
8 THE INS. HE HAS WORK AUTHORIZATION. HE IS NOT IN THE COUNTRY
9 ILLEGALLY. HE IS KNOWN TO IMMIGRATION CLEARLY.

10 THE COURT: I DON'T THINK THEY ARE CONTENDING HE IS IN
11 THE COUNTRY ILLEGALLY. AND, AS FAR AS I'M CONCERNED JUST TO
12 MAKE YOUR JOB EASIER, I AM NOT GOING TO PASS JUDGMENT ON
13 WHETHER THIS WAS A VALID MARRIAGE OR NOT. I THINK THE ISSUE IS
14 WHETHER IMMIGRATION MIGHT TAKE THAT POSITION IN WHICH CASE THAT
15 DOES HAVE A BEARING ON HIS INCENTIVE TO APPEAR IN COURT.

16 IT IS CERTAINLY BEYOND MY PURVIEW AT THIS POINT TO
17 DECIDE WHETHER THIS WAS A VALID MARRIAGE OR NOT AND I DON'T
18 INTEND TO DO THAT.

19 MR. FRIEDMAN: JUST SO THE COURT KNOWS. MR. SCOTTON
20 HAS BEEN IN THE COUNTRY FOR OVER 20 YEARS. HIS MOTHER, HIS
21 STEPFATHER LIVE HERE. HE HAS A BROTHER THAT LIVES VERY CLOSE
22 BY IN CORAL SPRINGS WITH HIS CHILDREN. MR. SCOTTON IS A RACE
23 CAR DRIVER, JUDGE, AND FOR THE LAST 20 YEARS HERE IN THE UNITED
24 STATES HE HAS LIVED OPENLY IN THE PUBLIC LIGHT AS A
25 PROFESSIONAL RACE CAR DRIVER.

1 HE IS A PUBLIC FIGURE. I WOULD POINT OUT TO THE COURT
2 HE HAS BEEN ON THE NEWS, NEWSPAPERS. HE HAS DONE PUBLIC
3 SERVICE ANNOUNCEMENTS. HE SPONSORED, JUDGE, MANY, MANY CAUSES.
4 HE HAS RAISED MONEY. HE HAS WORKED WITH POLICE AGENCIES
5 THROUGHOUT SOUTH FLORIDA, THE AVENTURA POLICE, THE CORAL
6 SPRINGS POLICE DEPARTMENT, BOCA RATON POLICE.

7 I HAVE PHOTOGRAPHS, IF THE COURT WISHES TO SEE THEM,
8 OF HIM POSING AT EVENTS IN HIS RACE CAR UNIFORM WITH SOMETIMES
9 RACE CAR PRESENT. HE HAS GIVEN SPEECHES AND DISCUSSIONS TO
10 HIGH SCHOOLS THROUGHOUT SOUTH FLORIDA TO GIVE THEM TALKS ON,
11 YOU KNOW, SAFETY AND, YOU KNOW, JUST DOING -- YOU KNOW, MEETING
12 YOUR GOALS AND THIS TYPE OF THING.

13 HE HAS WORKED WITH THE MIAMI CHILDREN'S HOSPITAL, KIDS
14 WITH CANCER, JUDGE. I HAVE PHOTOGRAPHS OF MR. SCOTTON OVER THE
15 LAST 20 YEARS HE HAS BEEN DOING THESE TYPES OF THINGS.

16 HE DONATES MONEY THAT IS RAISED THROUGH EFFORTS THAT
17 HE IS OFTEN CALLED ON BY OTHER COMPANIES TO ATTEND. HE HAS
18 WORKED WITH THE CHILDREN'S HOSPITAL, HE WAS PART OF THE REAL
19 MOTOR SPORTS TEAM. HE IS A MEMBER OF THE LEMANS, WHICH IS A
20 NATIONWIDE RACE. IF THE COURT IS FAMILIAR WITH NASCAR. I
21 DON'T KNOW IF THE COURT IS IF YOU ARE INTERESTED IN RACING AT
22 ALL, JUDGE. BUT HE'S ALSO RACED --

23 THE COURT: EVERYBODY KNOWS WHAT'S NASCAR IS.

24 MR. FRIEDMAN: HE HAS BEEN IN THE MIAMI GRAND PRIX
25 HERE IN SOUTH FLORIDA MANY TIMES. HE HAS RACED ALL ACROSS THE

1 COUNTRY JUDGE. HE RAISED MONEY FOR UNICEF DURING THE TSUNAMI.
2 I MEAN, THE LIST GOES ON AND ON. I DON'T WANT TO BORE THE
3 COURT WITH ALL OF THAT. HE HAS WORKED WITH THE HUMAN SOCIETY.
4 HE HAS DONATED HIS EQUIPMENT. HE HAS LIVED AN OPEN AND PUBLIC
5 LIFE.

6 SO, THE POINT BEING, THIS IS NOT SOMEBODY WHO IS -- HE
7 WOULD LIKE TO MAKE THE UNITED STATES HIS HOME AND HE BELIEVED
8 IT WAS HIS HOME FOR THE LAST 20 YEARS WHERE HE'S LIVED.

9 HE HAS ALL THE INCENTIVE IN THE WORLD TO STAY HERE TO
10 MAINTAIN HIS LIFE HERE. HE HAS A BUSINESS CALLED THE MERRY
11 MAILMAN, WHICH IS IN BOCA RATON WHICH I BELIEVE WAS OPENED
12 SOMETIME IN AUGUST OR SEPTEMBER. THAT IS AN ONGOING BUSINESS.
13 HE HAS SOMEBODY I BELIEVE WORKING THERE. IT IS SORT OF LIKE A
14 PAK MAIL PLACE IS MY UNDERSTANDING.

15 HE HAS DONATED TOYS TO CHILDREN'S HOSPITALS, HE DOES
16 TEST DRIVING FOR DIFFERENT COMPANIES. HE IS ACTUALLY -- I HAVE
17 LETTERS, JUDGE. WHEN HE APPLIED FOR HIS RESIDENCY HE HAS
18 LETTERS FROM THE FLORIDA CRIME PREVENTION ASSOCIATION, WHICH I
19 WILL HAND UP TO THE COURT, ENDORSING HIM BASED ON THEIR
20 ASSOCIATION WITH THIS MAN FOR CITIZENSHIP.

21 I HAVE A LETTER FROM JEFF GORDON. HE IS ONE OF THE
22 MOST FAMOUS RACE CAR DRIVERS I THINK IN THE COUNTRY, MAYBE THE
23 WORLD UP THERE WITH DALE EARNHARDT, JR. A LETTER FROM HIM
24 ENDORSING MR. SCOTTON FOR CITIZENSHIP.

25 MR. SCOTTON HAS BEEN AT BASEBALL GAMES AT THE MARLINS.

1 HE HAS BEEN AT THE HOME OFFICE DEPOT CENTER TO APPEAR AT CAR
2 SHOWS. HE IS NOT A PERSON WHO HAS BEEN LIVING LIKE UNDER A
3 BRIDGE AND TRYING TO HIDE HIS IDENTITY BECAUSE AS THE
4 GOVERNMENT ALLEGES HE IS ILLEGAL HERE. THE GOVERNMENT DID TELL
5 YOU THAT, THEY PROFFERED HE IS ILLEGAL AND CLEARLY HE IS NOT
6 FROM THE TESTIMONY YOU HEARD, JUDGE.

7 HIS MOTHER WHO IS 68 YEARS OLD, JUDGE, SHE IS LEGALLY
8 BLIND, THE WOMAN HERE. SHE IS LEGALLY BLIND SHE GOES TO BASCOM
9 PALMER EYE INSTITUTE ON A MONTHLY BASIS FOR SHOTS. OKAY? HER
10 EYESIGHT IS -- IT IS 20 OVER 200.

11 SHE ALSO SUFFERS, JUDGE, FROM HYPERTENSION.
12 MR. SCOTTON WOULD HELP HER, AND HELPS HIS STEPFATHER TO TAKE
13 CARE OF THIS WOMAN. SHE IS DUE FOR SURGERY IN A FEW MONTHS.
14 SHE HAS A COLOSTOMY BAG THAT SHE IS CARRYING, JUDGE, ON HER
15 SIDE.

16 HIS STEPFATHER, JUDGE, IS A VETERAN OF THE UNITED
17 STATES AIR FORCE. HE WORKS CURRENTLY WITH THE VA HOSPITAL, AND
18 HE -- HE AND HIS WIFE, BOTH OF THEM ARE WILLING TO SIGN ON ANY
19 BOND THAT THE COURT CAN PROVIDE MR. SCOTTON. THEY OWN PROPERTY
20 IN MARGATE, THEY LIVE IN I BELIEVE IT IS A CONDOMINIUM IN OREO
21 GARDENS, AND THEY ARE WILLING TO SIGN ON THE BOND FOR THAT,
22 JUDGE.

23 MR. SCOTTON HAS BEEN IN HIS APARTMENT -- HIS TOWNHOUSE
24 IN BOCA RATON I BELIEVE FOR ALMOST SIX YEARS. HE HAS HAD A
25 STABLE PLACE TO LIVE. HE IS NOT A FLIGHT RISK. HE IS NOT A

1 FLIGHT RISK.

2 I UNDERSTAND THE GOVERNMENT TELLS THE COURT THAT THERE
3 IS AN EXTRADITION POLICY, BUT THEY WON'T EXTRADITE IF
4 MR. SCOTTON GOES BACK THERE. WELL, JUDGE, THERE IS NO REASON
5 TO BELIEVE HE'S GOING TO GO BACK THERE. I DON'T EVEN WANT TO
6 GET INTO THE FACTS AND THE WEIGHT OF THE CASE AGAIN. BUT EVEN
7 IF HE WAS CONVICTED, OR IF HE ENTERED INTO A PLEA, YOU KNOW,
8 THEIR CALCULATIONS, I HAVEN'T EVEN LOOKED AT THE GUIDELINE
9 CALCULATIONS, IS 41 TO 51 MONTHS. I MEAN, IT'S -- THERE IS NOT
10 A MINIMUM MANDATORY ON THIS CASE, YOU KNOW. I DON'T THINK THE
11 LIKELIHOOD OF HIM GOING ANYWHERE IS EVEN SLIGHT IN THIS CASE,
12 JUDGE.

13 I WOULD ASK THE COURT TO CONSIDER A BOND. THIS MAN
14 HAS BEEN HERE ALL HIS LIFE AND YOU CAN GOOGLE HIM, PUT HIS NAME
15 IN THE COMPUTER, AND YOU WILL SEE WHAT HE HAS DONE.

16 I THINK A REASONABLE BOND WITH CONDITIONS OR A
17 COMBINATION, PUT HIM ON HOUSE ARREST, AN ELECTRONIC MONITOR.
18 HE HAS ALREADY SURRENDERED HIS PASSPORT. THE FBI HAS THAT.

19 HE IS WILLING TO ABIDE BY WHATEVER CONDITIONS, JUDGE,
20 THE COURT FEELS ARE APPROPRIATE. IT IS NOT A CRIME OF
21 VIOLENCE, AND I BELIEVE THERE ARE SOME OTHER OPEN ENDS THAT
22 PERHAPS MR. SCOTTON COULD ASSIST THE FBI WITH POTENTIALLY, YOU
23 KNOW.

24 SO I'M ASKING THE COURT TO CONSIDER A REASONABLE BOND
25 IN THIS CASE. I AM NOT SURE, THERE ARE FRIENDS HERE, THERE ARE

1 OTHER PEOPLE. I'M SURE I CAN GET OTHER PEOPLE TO CO-SIGN ON
2 THE BOND. I THINK OTHER PEOPLE HAVE BEEN WILLING TO DO THAT.
3 BUT THERE WOULDN'T PROBABLY BE A PROBLEM WITH THAT. SO BASED
4 ON ALL WHAT YOU HEARD, JUDGE, I WOULD ASK YOU TO SET A
5 REASONABLE BOND IN THIS CASE.

6 THE COURT: OKAY. THANK YOU.

7 MISS MITRANI?

8 MS. MITRANI: YOUR HONOR, YOU KNOW, WE STAND BY OUR
9 PROFFER. THIS INDIVIDUAL DOES NOT HAVE LEGAL STATUS HERE. HIS
10 APPLICATION FOR RESIDENCY --

11 THE COURT: WELL, HE DOES HAVE LEGAL STATUS. I MEAN,
12 ONCE YOU HAVE APPEALED, YOU KNOW, REGARDLESS -- THE FACT THAT
13 THERE MAY OR MAY NOT HAVE BEEN A DENIAL AT THE INITIAL STAGE
14 DOESN'T MEAN HE HAS ILLEGAL STATUS BECAUSE THEY WILL ALLOW HIM
15 TO REMAIN HERE. AS PRETRIAL SAYS, HE HAS A VALID WORK PERMIT.
16 SO HE HAS LEGAL STATUS HERE. WHETHER HE IS GOING TO KEEP THAT
17 IS ANOTHER STORY.

18 MS. MITRANI: I UNDERSTAND. AND OBVIOUSLY IF HE GETS
19 CONVICTED HERE IT IS A DEPORTABLE CRIME.

20 YOUR HONOR, I MADE -- RAISED ISSUE WITH THE MARRIAGE
21 NOT NECESSARILY OBVIOUSLY FOR THE COURT TO DETERMINE WHETHER IT
22 WAS A SHAM OR NOT, BUT JUST TO TAKE THAT INTO CONSIDERATION IN
23 TERMS OF, YOU KNOW, THIS PERSON'S HONESTY AND WHAT HAVE YOU.
24 HE IS CONVICTED FOR A CRIME OF FRAUD.

25 I ALSO RAISE THAT BECAUSE -- I MEAN, IMMIGRATION AND

1 CITIZENSHIP SERVICES IS AWARE OF THIS INVESTIGATION AS WELL. I
2 DON'T KNOW IF WE PROVIDED THEM WITH A COPY OF THE INDICTMENT,
3 BUT THEY WILL BE. AS I INDICATED BEFORE WOULD HE BELIEVE THIS
4 PERSON IS A SERIOUS RISK OF FLIGHT AND WE WOULD REQUEST
5 DETENTION.

6 MR. FRIEDMAN: MAY I SAY ONE LAST THING, JUDGE?

7 THE COURT: SURE.

8 MR. FRIEDMAN: MR. SCOTTON WAS INVOLVED IN A CAR
9 ACCIDENT, NOT A RACE CAR ACCIDENT BUT JUST A REGULAR CAR
10 ACCIDENT WHERE HE CURRENTLY BULGING (INAUDIBLE) AND IS IN
11 TREATMENT (INAUDIBLE) ONGOING BASIS. ALSO, I DO HAVE SOME
12 THINGS I HAVE GATHERED UP (INAUDIBLE) FRIENDS AND FAMILY
13 SENDING WELL WISHES TO HIM AND HIS BRIDE. YOU KNOW, IT IS NOT
14 AN ISSUE (INAUDIBLE)

15 THE COURT: ALL RIGHT. NO, I UNDERSTAND.

16 AS I SAY, I MEAN, THE RELEVANCE IS THAT -- OF THAT IS
17 ONLY THAT THAT IS AN ISSUE BEFORE IMMIGRATION.

18 ALL RIGHT. THIS IS NOT A SIMPLE STRAIGHTFORWARD
19 DETENTION CASE IN THE SENSE THAT THERE IS NO PRESUMPTION
20 INVOLVED HERE. THIS IS NOT A DANGER TO THE COMMUNITY
21 SITUATION, AND IT APPEARS THAT THE DEFENDANT HAS BEEN IN MANY
22 RESPECT A VERY PRODUCTIVE MEMBER OF THE COMMUNITY AND IS AT
23 LEAST ATTEMPTING TO SEEK PERMANENT LEGAL RESIDENCY HERE. AND
24 HE HAS CERTAINLY DONE A LOT OF CHARITABLE WORKS AND DONE OTHER
25 GOOD THINGS.

1 HOWEVER, THE PRIMARY THING THAT THE GOVERNMENT SAID
2 THAT IS ALWAYS GOING TO SWING ME IS IF WE HAVE A SITUATION
3 WHERE A COUNTRY OF ORIGIN WILL NOT EXTRADITE ONE OF THEIR OWN
4 CITIZENS THEN IT IS VERY DIFFICULT FOR ME TO SET ANY KIND OF
5 BOND.

6 EVEN THOUGH THERE HAS BEEN NO INDICATION THAT HE IS
7 LIKELY TO FLEE AND HE DOES HAVE TIES HERE, HE IS LOOKING AT A
8 PRISON SENTENCE. AND MORE IMPORTANTLY IF HE IS CONVICTED OF
9 THESE CHARGES HE IS IN ALL LIKELIHOOD NEVER GOING TO GET
10 PERMANENT RESIDENCY STATUS HERE AND WOULD BE REMOVED FROM THE
11 UNITED STATES.

12 SO UNDER THOSE CIRCUMSTANCES THE BALL GAME CHANGES
13 SUBSTANTIALLY, AND AT LEAST AT THIS STAGE OF THE GAME I AM NOT
14 PREPARED TO RELEASE HIM.

15 HOWEVER, I THINK WE NEED TO CLARIFY WHAT'S GOING ON
16 WITH IMMIGRATION, NUMBER ONE; AND, NUMBER TWO, YOU KNOW, WERE
17 THIS CASE TO DRAG ON INDEFINITELY I WOULD CONSIDER A DIFFERENT
18 RESOLUTION. BUT I'M LOW MAN ON THE TOTEM POLE HERE, AND IF
19 JUDGE WILLIAMS FEELS DIFFERENTLY ABOUT THIS I AM SURE SHE WILL
20 CONSIDER THE PROFFERS MADE. BUT I CAN'T RELEASE SOMEONE THAT
21 BRAZIL IS NOT GOING TO EXTRADITE IS THE BOTTOM LINE.

22 WE HAVE HAD THIS SITUATION WITH ISRAEL. THERE IS AN
23 EXTRADITION TREATY WITH ISRAEL BUT THEY NEVER EXTRADITE THEIR
24 OWN CITIZENS, AND THAT IS WHO IS CALLING THE SHOTS IN THIS
25 MATTER, AND THE OFFICE OF INTERNATIONAL AFFAIRS IS THE ENTITY

1 WITH WHOM THE GOVERNMENT HAS CONFERRED AND THEIR INFORMATION IS
2 INFORMATION THAT I WILL TAKE TO THE BANK WITH ME. THEY KNOW
3 WHAT THEY'RE TALKING ABOUT. SO, THAT'S WHERE WE ARE.

4 SO DETENTION IS ORDERED ON RISK OF FLIGHT AND I DON'T
5 WANT TO HEAR ANY MORE ARGUMENTS.

6 OH, WE HAVE TO DEAL WITH REPORT RE: COUNSEL.

7 MR. FRIEDMAN: MAY I JUST CLARIFY THE RECORD, IS
8 (INAUDIBLE) HAS THE COURT MADE ANY FINDINGS THAT (INAUDIBLE)
9 DID THE COURT MAKE ANY FINDS OF THAT?

10 THE COURT: YEAH. I THOUGHT I JUST DID. THE MAN IS
11 LOOKING AT A JAIL TERM AND A MANDATORY DEPORTATION, AND BRAZIL
12 IS NOT GOING TO EXTRADITE HIM. AND, YES, I BELIEVE THAT THAT
13 IS AN INCENTIVE. YOU WANT IT ANY CLEARER?

14 MR. FRIEDMAN: WITH REGARD TO THE REPORT RE: COUNSEL
15 CAN THE COURT SET THIS FOR ONE WEEK FROM TODAY?

16 THE COURT: SURE. ALL RIGHT. SO WE WILL RESET THIS
17 FOR REPORT RE: COUNSEL -- TODAY IS, WHAT, MARCH 29TH. SO THAT
18 WOULD BE APRIL 5TH AT ELEVEN O'CLOCK AND THAT WILL BE BEFORE
19 ME.

20 MR. FRIEDMAN: THANK YOU.

21 MS. MITRANI: THANK YOU, YOUR HONOR.

22 THE COURT: ALL RIGHT. THE COURT IS IN RECESS.

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C E R T I F I C A T E

UNITED STATES OF AMERICA
SOUTHERN DISTRICT OF FLORIDA

I, CARL SCHANZLEH, OFFICIAL COURT REPORTER OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, DO HEREBY CERTIFY THAT THE FOREGOING 55 PAGES CONSTITUTE A TRUE TRANSCRIPT OF THE PROCEEDINGS HAD BEFORE THE SAID COURT HELD IN THE CITY OF FORT LAUDERDALE, FLORIDA, IN THE MATTER THEREIN STATED.

IN TESTIMONY WHEREOF, I HEREUNTO SET MY HAND ON THIS 9TH DAY OF APRIL 2012.

/S/CARL SCHANZLEH
CARL SCHANZLEH, RPR-CM
OFFICIAL FEDERAL COURT REPORTER
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