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P R O C E E D I N G S

(Proceedings resume at 9:12 a.m.)

THE COURT: Please be seated.

I have sent out the proposed revised -- or the instructions -- jury instructions as we agreed on last night with the proposed revised 8.147A and B.

Have the parties had a chance to look at those?

MR. RESTAINO: Yes, Your Honor. And from the government's perspective, we're fine with 8.147A and B. We were still having some discussion with the defense over whether specific definitions of CTR, SAR, and KYC were going to be necessary, and some of that depends on the Court's ruling.

THE COURT: It does. And we can take that up in a minute.

MS. WEIDNER: Your Honor, the defense has had an opportunity to review the 8.174A and B. And actually, I think that we are fine with both of these as they are. I don't think that supplemental instruction is necessary regarding the reporting requirement.

THE COURT: All right.

Does the defense know at this point whether or not they're going to put on a case?

MS. WEIDNER: Your Honor, we had an opportunity to discuss that with Mr. Costanzo this morning, and we will not be putting on a case.

1 THE COURT: All right. So you're going to rest. And
2 then there is no right to rebuttal since the defense is
3 resting. So what we're really talking about is settling the
4 final jury instructions and the jury verdict form.

5 I do appreciate the parties briefing the issues I
6 wanted briefed last night. They have clarified some things, I
7 think, for me, but I didn't want to make my determinations
8 without consulting with the parties.

9 My concern, as you know, on the Rule 29 motion is
10 1956(a)(3)(C). I do believe and have reviewed the evidence in
11 my mind, and I believe that I did deny and continue to think
12 it's appropriate to deny the Rule 29 motion as it contains --
13 pertains to 1956(a)(3)(B), but (a)(3)(C) is more problematic
14 for me.

15 Accepting for a moment -- and because I'm not sure
16 we'll have to go further, but maybe we will -- accepting for a
17 moment the prosecution's theory of the case is viable and they
18 have provided some support, at least in theory, from some other
19 cases from other circuits.

20 I really am more concerned about the adequacy of the
21 evidence under the counts to even support the government's
22 case, accepting its theory as liable. And I would like to
23 review those with the government and with the defense.

24 You have conceded on Counts 1 and 5 -- and I'm not
25 really sure that those are the counts you want to concede on,

1 but they may well be and you run your own case. You then
2 provided what you view as the evidence that would support the
3 instruction as to Count 2, Count 3, and Count 4.

4 So let's take up the evidence on Count 2. We have
5 text here from Mr. Costanzo and Undercover Agent Tom when he
6 says -- Undercover Tom says: I haven't moved away from that.
7 I haven't moved away from banking is what he's saying so --
8 what needs to be on my radar screen about --

9 Costanzo says: As far as losing value?

10 Tom says: No.

11 And then Costanzo says: Or --

12 And then Tom says: Either getting stolen or -- and/or
13 being discovered, what -- what we're really -- what I'm doing
14 with it essentially.

15 And then Costanzo says: Well, you know, I mean,
16 dealing with me is one way.

17 And Tom says: Yeah.

18 And Costanzo says: Because I don't say anything to
19 anybody.

20 To be liable under 1956(a)(3)(C), you -- the
21 government has to demonstrate that the defendant was trying to
22 avoid -- and I accept the government's position that it's a
23 transaction, not necessarily the defendant's transaction -- but
24 to be liable, the government must establish that it was the
25 defendant's specific intent to avoid a transaction reporting

1 requirement under state or federal law.

2 Now, you have eliminated state law from your proposed
3 jury instructions. And I suppose the reason for that is we
4 really haven't had any testimony about state law that's
5 applicable in this case. I realize we discussed the New York
6 law briefly, but we can take that up in a minute.

7 I see no evidence under 103F that Mr. Costanzo had any
8 knowledge of any federal transaction reporting requirement.

9 He says: Either it getting stolen or -- and/or being
10 discovered, what -- what we're really -- what I'm doing with
11 it, essentially.

12 That's Tom.

13 Then Costanzo says: Well, you know, I mean, dealing
14 with me is one way.

15 Tom says: Yeah.

16 Costanzo says: Because I don't say anything to
17 anybody.

18 Where is the evidence there that Mr. Costanzo is aware
19 of a federal transaction reporting requirement?

20 MR. RESTAINO: Your Honor, we -- we never thought of
21 this as being so compartmentalized that the knowledge, as well,
22 had to come from that very specific transaction. His knowledge
23 is fairly demonstrated, we would say, from Exhibits 101 and 102
24 where there is very specific detail about bank reporting
25 requirements.

1 THE COURT: All right. You haven't given me anything
2 on Exhibits 101, 102, have you? I don't have --

3 MR. RESTAINO: Well, no, Judge, because I took from
4 our discussion yesterday that you thought that 101 and 102, as
5 to --

6 THE COURT: Well, let me look at them here.

7 MR. RESTAINO: I'm not sure that's going to
8 particularly help Your Honor because we don't have the
9 transcripts in there.

10 THE COURT: Well, remind me what they say or what the
11 testimony was.

12 MR. BINFORD: Your Honor, in clip 101A there was
13 conversation between Sergei, Special Agent Kushner, and the
14 defendant.

15 And Special Agent Kushner says: You go to the bank,
16 you know, if you want to deposit more than, like, ten grand,
17 you know.

18 And the defendant responds: Yeah. Radar goes off.
19 The bells go off. It's like you're breaking into a casino.

20 Special Agent Kushner responds: It's like there's
21 some kind of form they got to fill out.

22 And the defendant says: Right.

23 And then Special Agent Kushner says: Yeah. Yeah.

24 It's all --

25 And then he says: Yes.

1 THE COURT: Okay. That's 101. What does 102 say?
2 Is this the first transaction -- first encounter
3 between Kushner and the defendant?

4 MR. BINFORD: Yes. 101 is all of the recordings from
5 March 20th, 2015.

6 THE COURT: All right. And so 102, what does it say?

7 MR. BINFORD: Your Honor, I think the best we have
8 from that May 20th transaction with specific comments is when
9 the defendant says: I like keeping things super-duper, like,
10 confidential. I don't want to know nothing.

11 THE COURT: Okay. So that doesn't add much, right, in
12 terms of demonstrating he had a knowledge of a reporting
13 requirement under federal law?

14 You would rely more on 101 than 102?

15 MR. BINFORD: Yes, Your Honor.

16 THE COURT: All right. Ms. Weidner?

17 MS. WEIDNER: Your Honor, in looking at the cases the
18 government has cited regarding defendants and, for example,
19 Flores and the structuring of transactions, this was a point
20 that the defense raised in its memorandum.

21 In Flores, in all the cases the government cited, the
22 defendant was transacting with a financial institution by
23 regulation.

24 A bank is a financial institution. A credit union is
25 a financial institution. And something that comes up a lot in

1 the cases, it's with the sale of cars. Something like EZ Pay
2 Auto Sales in one of the cases cited by the government, they
3 are required to file transaction reporting requirements.

4 If you look at the Ninth Circuit case that --

5 THE COURT: Hayes? Are you talking about Hayes?

6 MS. WEIDNER: No -- well, Hayes cites -- I think it's
7 DeLa Espriella in its list of cases. And that was a case in
8 the '80s before the law was amended to make individuals who
9 went to financial institutions and structured transactions
10 liable for their structuring because they were evading a
11 particular financial institution's responsibility to file a
12 report by subterfuge or by omission.

13 And so that extended liability to someone basically
14 trying to pull one over on a financial institution.

15 Here there's no financial institution. Here we just
16 have basically a private sale between a Bitcoin exchanger and
17 an individual. And the extension of the law under -- as to
18 financial reporting requirements to the degree that the
19 government's arguing, basically creates a legal obligation for
20 everyone to transact any financial transaction through a
21 financial institution as defined under the law.

22 And that simply -- there's no authority that has been
23 offered to suggest that that is the case.

24 THE COURT: Well, I do think it would be slightly
25 different, Ms. Weidner.

1 What the government is suggesting is when you have
2 been told that the proceeds are from unlawful activity, you
3 then can't structure your ensuing transactions with the purpose
4 of avoiding a transaction reporting requirement.

5 It seems to me that there's a question of fact for the
6 jury here to decide as to what Mr. Costanzo's intent was. It
7 may or may not have been to avoid a transaction reporting
8 requirement. But at least as to the \$10,000 reporting
9 requirement, doesn't the colloquy in transcript 101 suggest
10 that Mr. Costanzo was aware of the \$10,000 reporting
11 requirement for banks?

12 MS. WEIDNER: Your Honor, I think that the issue there
13 is whether or not those reporting requirements were applicable
14 to Mr. Costanzo.

15 The government, as we stated in our memorandum, cited
16 a series of regulations in our Response to our Motion for the
17 Bill of Particulars. They did not cite the one regulation that
18 would seem to obviously apply in these cases.

19 And it was created, I imagine, for people who conduct
20 a trade or business that does not qualify as a financial
21 institution, but in the course of that business, might receive
22 in excess of \$10,000.

23 That is, in my opinion, a misstep. But it is -- but
24 at this point they are constrained in regards to what they may
25 rely on to show the avoidance prong. And I think that

1 expanding that and expanding their -- their theory, even in
2 this derivative liability way -- which was never suggested
3 prior to -- to yesterday -- is not only unavailable under the
4 law as it would essentially be aiding and abetting. And aiding
5 and abetting is not available under the money laundering
6 statute.

7 THE COURT: I have read -- I've read your memorandum
8 and I am aware of that argument.

9 MS. WEIDNER: And we would assert that allowing this
10 kind of expansion by the government is a constructive amendment
11 or at least a fatal variance.

12 THE COURT: All right. So the government concedes on
13 Count 1, because it's not an amount over \$10,000; correct?

14 MR. RESTAINO: I'm not sure that was the basis for the
15 concession, but I think that that --

16 THE COURT: That is another basis for the concession?

17 MR. RESTAINO: Judge, the -- the Court's ruling from
18 yesterday seemed to be that we had to have discrete proof of
19 that specific intent within each -- within each clip.

20 To the extent that that's true, we don't have it in
21 102. We certainly would argue, though, that what starts in 101
22 can lead as proof in the other clips. For our purposes --

23 THE COURT: I would tend to agree. But the only thing
24 I heard in 101 was an awareness of a \$10,000 requirement.

25 Was there something more?

1 MR. RESTAINO: That's all in that clip. We'll likely
2 have additional predication once we get to the Martin
3 transactions.

4 THE COURT: The what transactions?

5 MR. RESTAINO: The TFO Martin's transactions in 105
6 and 106, which will, I think, set up additional proof of "know
7 your customer" down the road.

8 THE COURT: Well, were those involved with any of the
9 counts?

10 And I'm not sure any of those can apply to any
11 previous counts.

12 MR. RESTAINO: Agreed, Judge. So as to Count 1, yes,
13 we concede that Count 1 we can't reach that. Count 2 we think
14 we can as to the CTR requirement.

15 THE COURT: Why?

16 MR. RESTAINO: Because that's the transaction in which
17 Klepper transacted more than \$10,000.

18 THE COURT: Yes. Yes. Okay. So just because it was
19 13,000. Okay.

20 MR. RESTAINO: That's our argument as to 2.

21 THE COURT: All right. As to 3?

22 MR. RESTAINO: Three, we would argue, flows through,
23 Judge, because it was established in 2. This is part of the
24 same organization.

25 THE COURT: All right. Four?

1 MR. RESTAINO: Four, we need to give you the
2 predicating information from the -- from the transactions. I
3 believe Mr. Binford has that from the September or November
4 transaction.

5 MR. BINFORD: So, Judge, Exhibit 106A, in that
6 conversation, the defendant acknowledges -- he actually
7 describes what a Suspicious Activity Report is to Task Force
8 Officer Martin during that conversation. And that's on
9 November 16th, 2016.

10 So that -- that knowledge or that explanation of the
11 SAR happens before any of those last two transactions that
12 occurred with Task Force Officer Martin before the
13 February 2nd, 2017, transaction and before the April 20th,
14 2017, transaction.

15 In both of the February and the April transactions,
16 Task Force Officer Martin mentions that the money is drug
17 proceeds, that it's cocaine proceeds. And so his knowledge
18 that a Suspicious Activity Report could be filed is applicable
19 to the subsequent meetings.

20 The jury also heard testimony from Special Agent
21 Ellsworth about suspicious activity reporting and currency
22 transaction reporting.

23 THE COURT: Well, what they heard from Agent Ellsworth
24 may have established what he believes the requirements are.

25 It doesn't establish what Mr. Costanzo knew, though,

1 does it?

2 MR. BINFORD: I agree with that.

3 THE COURT: All right. So what we have here is a
4 concession on Count 1 that the jury can only use 8.147A.

5 And then do we -- we have no further concessions by
6 the government?

7 MR. RESTAINO: We do not, Your Honor.

8 THE COURT: Ms. Weidner?

9 MS. WEIDNER: Not beyond our prior argument, Your
10 Honor.

11 THE COURT: All right. So what I would suggest we do
12 with the jury verdict form is you see where you've got in Count
13 1, "The jury may only consider instruction 8.147A"?

14 Are you following me?

15 MS. WEIDNER: What was your question about that one,
16 Your Honor?

17 THE COURT: You submitted a verdict form in which you
18 say in Count 1 -- you have Count 1.

19 In Count 1 the jury may only consider instruction
20 8.147A.

21 Do you see that?

22 MS. WEIDNER: I am not seeing the verdict form, Your
23 Honor.

24 THE COURT: Well, here is the gist of what I want to
25 say. If we don't tell the jury which counts we're talking

1 about, they'll have no way of knowing. So I would say in
2 Count 1 -- and then put in paren -- the \$30,000 transaction on
3 or around May 20, 2015, the jury may only consider instruction
4 8.147A.

5 Any objection to that?

6 MR. RESTAINO: No, Your Honor.

7 MS. WEIDNER: No, Your Honor.

8 THE COURT: Similarly, in Count 2 -- and then I would
9 move up the \$13,000 transaction on or around October 7, 2014,
10 the jury may consider both 8.147A and 8.147B. And then we
11 would go down, similar -- to make similar adjustments to all
12 the verdict forms so the jury knows which factual transaction
13 we're talking about for each count.

14 MR. RESTAINO: That would be fine with us, Your Honor.
15 The question that we would have is whether either the Court or
16 the defense want check boxes as to which of the prongs.

17 THE COURT: Well, it seems to me that we would have
18 check boxes.

19 MR. RESTAINO: As to 2 through 5?

20 THE COURT: Yes. Do you disagree with that,
21 Ms. Weidner?

22 MS. WEIDNER: Your Honor, we would agree to the check
23 boxes for the counts for which both the three -- (a) (3) (B) and
24 (C) option are available.

25 THE COURT: All right.

1 Then let's go to 8.147 -- actually, 8.147B -- and see
2 where we've previously taken the language from "transaction
3 reporting requirement" from what you previously submitted. And
4 we have: A "transaction reporting requirement," means either
5 the currency transaction reporting requirement for currency
6 deposits or withdrawals exceeding \$10,000 into or from a
7 financial institution or the suspicious activity reporting
8 requirements for financial institutions.

9 I don't know that you've established that Mr. Costanzo
10 had any knowledge of the "know your customer" guidelines.

11 MR. RESTAINO: This has been tricky for us, Judge.
12 We've always sort of considered that. It's sort of subsidiary
13 to SAR and it's sort of separate.

14 I don't think we'd have an objection to "know your
15 customer" coming out, but I would anticipate that argument
16 about SAR would inevitably get into "know your customer,"
17 because one needs to know the customer in order to fill out the
18 suspicious report.

19 THE COURT: Well, do you have any evidence that
20 Mr. Costanzo knew about the "know your customer" guidelines?

21 MR. RESTAINO: We'd like to refer to 105, if we can,
22 Your Honor.

23 So 105D, there's a discussion between Costanzo and TFO
24 Martin.

25 This is the defendant saying: It's fun. It's fun,

1 fun, fun, fun, fun.

2 Yeah, says TFO Martin. I downloaded a bunch of
3 them -- being apps -- but I'm looking for something like -- I
4 wanted something I don't have to link a bank account to because
5 I don't want it to be -- right, to the government.

6 That's one from 105, which comes before any of the
7 charged transactions with TFO Martin.

8 The second thing we would refer to on "know your
9 customer" is in the government's filing which specifically
10 discusses -- which specifically discusses the casino
11 transactions and casinos trying to get the identification from
12 someone. And that, more specifically, does get at the
13 identification of a person.

14 THE COURT: Ms. Weidner?

15 MS. WEIDNER: Your Honor, it would be the position of
16 the defense that simply a reluctance to provide one's
17 identification is not an indication of awareness of "know your
18 customer" guidelines. It's -- especially in the evidence --
19 well, the information that has not been disputed by the
20 government, which is that Mr. Costanzo distrusts the
21 government, he has chosen to opt out of transacting with
22 banking institutions and makes no secret of that and that this
23 is -- this is -- this is simply how he operates.

24 I would also note that on several occasions, evidence
25 was elicited and not objected to by the government, that it is

1 not a crime not to engage with the banking system in this
2 country.

3 THE COURT: Okay. I'm going to take out, including
4 the "know your customer" guidelines.

5 You can argue what you want to argue, but in order to
6 have any liability, you're going to have to establish that
7 Mr. Costanzo knew about the guideline in order to avoid it.

8 If you feel like you have evidence that says that he
9 knew about the requirement for identification, then I'll allow
10 you, both sides, to argue the evidence that you've submitted.

11 Do we have any other changes or proposed changes to
12 the jury instructions?

13 MR. RESTAINO: Well, Your Honor, the government
14 actually, last night about seven o'clock, in an email to the
15 defense, abandoned the 5.7 request.

16 That was, I suppose, good that we did it because I
17 think the Court has abandoned it as well.

18 THE COURT: I have abandoned it.

19 MR. RESTAINO: So we have nothing to say on that.

20 THE COURT: Okay.

21 MS. WEIDNER: And, Your Honor, the parties have
22 discussed how to deal with 4.3, which is the "other crimes,
23 wrongs or acts of the defendant."

24 THE COURT: Yes. Uh-huh.

25 MS. WEIDNER: And I think that if we tailored this so

1 that it is -- specifies, essentially, that the other act that
2 we're talking about is stopped dealing with Nolan Sperling,
3 we're agreed on basically the first sentence, which would now
4 be: You have heard evidence that the defendant sold Bitcoin to
5 Nolan Sperling, an individual who has pleaded guilty in an
6 unrelated federal case to importation of narcotics.

7 THE COURT: Slow down, please. One moment.

8 "Sold Bitcoin to Nolan Sperling" --

9 MS. WEIDNER: Comma, an individual who has pleaded
10 guilty.

11 THE COURT: You may think that I am a very fast
12 writer. I'm not that fast.

13 MS. WEIDNER: I'm sorry, Your Honor.

14 THE COURT: -- "an individual who has pleaded
15 guilty" --

16 MS. WEIDNER: -- in an unrelated federal case to
17 importation of narcotics. Period.

18 THE COURT: Okay.

19 MS. WEIDNER: Defendant was not charged for that
20 conduct. Period.

21 THE COURT: Okay.

22 MS. WEIDNER: And then the rest of the -- the rest of
23 the instruction would follow the standard.

24 We have disagreement on what the evidence may be
25 considered for or what is applicable in this case. The

1 government has advised that it seeks to include intent, motive,
2 opportunity, plan, absence of mistake, and knowledge.

3 It is the position of the defense that "intent" is the
4 only relevant of -- of the bracketed selection for that
5 sentence.

6 THE COURT: Okay. Let me tell you what my concern is
7 with the -- with what the parties have agreed to.

8 It seems to me that evidence was also admitted about
9 Mr. Costanzo's potential purpose of -- what is it -- DTM and
10 his potential sale to somebody whose wife apparently was
11 concerned that he was using the money to buy drugs.

12 So I'm not sure that I'm inclined to limit this to the
13 Bitcoin sold to Nolan Sperling. It seems to me like there is
14 some other evidence that was admitted -- and maybe even a few
15 other pieces -- on the predisposition question.

16 So if you want to limit it to Nolan Sperling, I will.
17 However, it seems to me that there are those other acts that
18 may be at issue to which this instruction should equally apply.

19 How does the defense want to proceed on that?

20 MS. WEIDNER: Well, Your Honor, in that case, I think
21 that we can probably go largely, if the government is amenable
22 to this, with the instruction as it is and then the Court can
23 just decide regarding the -- the bracketed items.

24 Currently, it's "intent, motive, opportunity,
25 preparation, plan, knowledge, absence of mistake, and absence

1 of accident."

2 THE COURT: All right.

3 MR. RESTAINO: And for --

4 THE COURT: So what you would propose is: You've
5 heard evidence that the defendant committed other acts not
6 charged here. Defendant was not charged with any conduct
7 related to those acts -- or something like that?

8 MS. WEIDNER: Yes, Your Honor.

9 THE COURT: Any objection to that?

10 MR. RESTAINO: Judge, as long as -- as long as there's
11 a comma at the very end, saying "except as to predisposition,"
12 all of that is fine.

13 We -- the jury needs to be instructed --

14 THE COURT: I'm not following you, Mr. Restaino. I'm
15 sorry. Let's go back and take it one at a time.

16 MR. RESTAINO: Okay.

17 THE COURT: "You have heard evidence that the
18 defendant committed other acts not charged here."

19 Are you okay with that?

20 MR. RESTAINO: Yes, Judge.

21 THE COURT: "The defendant was not charged with
22 conduct related to these other acts."

23 MR. RESTAINO: Fine, Judge.

24 THE COURT: All right. Then what are you telling me?

25 MR. RESTAINO: Well, then I had -- I guess if we're

1 sticking to the orderly way of doing this, with respect to the
2 bracketed information that can be considered for, we defer to
3 the Court.

4 If I were making a hierarchy, "intent and opportunity"
5 are at the top of our list on what we think is most relevant
6 for this to be considered in.

7 THE COURT: All right. So how about: You may
8 consider this evidence only for its bearing, if any, on the
9 question of the defendant's intent, opportunity, predisposition
10 and for no other purpose.

11 MR. RESTAINO: That's fine, depending on how the last
12 sentence reads then.

13 MS. WEIDNER: Your Honor, we would be fine with that.
14 The Court said "intent, opportunity, and predisposition."

15 THE COURT: -- "predisposition and for no other
16 purpose."

17 MS. WEIDNER: Yes.

18 THE COURT: Is that all right?

19 MR. RESTAINO: So there's not going to be a last
20 sentence that says: You may not consider as evidence the guilt
21 of the crime.

22 THE COURT: Uh-huh.

23 MR. RESTAINO: That's fine with us then. Because that
24 makes it clear that we can argue and the jury can consider it
25 for predisposition.

1 THE COURT: Yes. Anything else?

2 MS. WEIDNER: No, Your Honor.

3 THE COURT: All right. Are we ready then to go? Are
4 you ready with your closing arguments?

5 MS. WEIDNER: Pardon me?

6 MR. BINFORD: Yes, Your Honor.

7 THE COURT: Are there other issues or changes to the
8 instructions or the verdict forms?

9 MS. WEIDNER: No, sir.

10 THE COURT: Okay.

11 MR. RESTAINO: Judge, there is one issue on an exhibit
12 that -- whether or not it goes back to the jury. I think we
13 can sort that out down the road at a break. But I know the
14 defense wants to remove 97 and we will not have an objection.

15 THE COURT: All right. We can sort that out.

16 What I would like to do now, if you will allow me, is
17 I'm going to go revise the verdict form and the instructions
18 and give you copies of those.

19 The jury is, of course, cooling their heels and I
20 would like to get them out here. I, of course, don't want to
21 rush that beyond when the parties are prepared and happy -- or
22 if not happy with -- at least have stated their case with
23 respect to the instructions and verdict form.

24 MS. WEIDNER: Yes, Your Honor.

25 Just one quick thing that Mr. Cain brought to my

1 attention.

2 As to instruction 4.10, we talked about this
3 yesterday, but I guess it just didn't make it in. To remove
4 the "and informants" and the references to "informants" at line
5 5 and 6.

6 THE COURT: Yes. Thank you. It looks like we removed
7 it from part but not from the title and not from line 6 or 5.

8 All right. Thank you.

9 MR. BINFORD: Your Honor, while you're doing that, may
10 I move the lecturn over in front of --

11 THE COURT: Oh, yes, you may.

12 MR. BINFORD: Thank you.

13 MR. RESTAINO: Do we have a couple of minutes here,
14 Judge?

15 THE COURT: Yeah. You'll have a couple minutes.

16 MR. RESTAINO: Okay. Thanks.

17 THE COURT: We can't -- unfortunately, we can't do
18 everything that fast. It will be a few minutes. Hopefully,
19 not too many.

20 (Proceedings in recess at 9:46 a.m.)

21 (Jury enters the courtroom at 10:25 a.m.)

22 (Proceedings resume at 10:25 a.m.)

23 THE COURT: Thank you. Please be seated.

24 Hope you had a pleasant evening and we thank you for
25 your patience with us this morning. It took a little longer

1 than we anticipated, but we do anticipate using the rest of
2 your time very efficiently.

3 Ms. Weidner?

4 MS. WEIDNER: Yes, Your Honor.

5 THE COURT: Does the defense --

6 MS. WEIDNER: The defense rests, Your Honor.

7 THE COURT: Thank you.

8 Ladies and gentlemen, we have now come to the end of
9 the evidence in this case. And as I stated to you, I am now
10 going to give you, prior to your deliberations, your final
11 instructions.

12 You will have written copies of these instructions,
13 several written copies, to go back with you to the jury room.
14 But for now, instead of giving you each copy, I'm just going to
15 put the instructions as I read them up on the ELMO so they
16 should be appearing on the screen in front of you.

17 MR. RESTAINO: Your Honor, may we have a quick
18 sidebar?

19 THE COURT: You may.

20 (At sidebar on the record.)

21 MR. BINFORD: We wanted to show -- this is Matt
22 Binford with the U.S. Attorney's Office, Judge.

23 We don't want to show 4.6 to the jury or to read it.

24 THE COURT: Oh, yeah.

25 4.6 needs to be removed.

1 LAW CLERK: Okay.

2 THE COURT: All right. Take it out.

3 LAW CLERK: Okay.

4 THE COURT: And we'll have Armie do a final version,
5 taking it out of the index and taking it out to go back to the
6 jury.

7 MS. WEIDNER: Okay.

8 THE COURT: You know what? I've got -- I've got an
9 old version -- I picked up an old version, so can you get
10 Kathleen to give me hers just temporarily?

11 MR. BINFORD: I have one more issue since your clerk
12 is here.

13 The verdict form under Count 4, it refers to Count 3
14 or under Count 3 refers to Count 4. I just wanted to bring
15 that to your attention now that we're fixing things.

16 It says Count 4 under Count 3.

17 THE COURT: Okay.

18 LAW CLERK: Kathleen doesn't have the verdict form.

19 THE COURT: Okay. So if you make that change as well,
20 I'm going to go ahead and go over it with the jury but do we
21 have an extra version of those jury instructions that I can
22 get?

23 LAW CLERK: Charlotte has one.

24 THE COURT: 4.6. We'll proceed.

25 (End of discussion at sidebar.)

1 THE COURT: So, ladies and gentlemen, the first page
2 that you'll see is just a title page. It says: Final Jury
3 Instructions.

4 And the second page that we'll -- that exists is just
5 the index.

6 What it does is it indicates the title of the
7 instruction and a number off to the left. The number off to
8 the left is just a reference for attorneys for -- it indicates
9 legal sources. You don't need to worry about it, except to the
10 extent that it might help you in finding an instruction if you
11 want to consult it during your deliberations.

12 The first instruction is entitled 3.1.

13 Members of the jury, now that you've heard all the
14 evidence, it is my duty to instruct you on the law that applies
15 to this case. A copy of these instructions will be available
16 in the jury room for you to consult.

17 It is your duty to weigh and evaluate all the evidence
18 received in the case and, in that in process, to decide the
19 facts. It is also your duty to apply the law as I give it to
20 you to the facts as you find them, whether you agree with the
21 law or not. You must decide the case solely on the evidence
22 and the law. Do not allow personal likes or dislikes,
23 sympathy, prejudice, fear, or public opinion to influence you.
24 You should also not be influenced by any person's race, color,
25 religion, national ancestry, or gender, sexual orientation,

1 profession, occupation, celebrity, economic circumstances, or
2 position in life or in the community. You will recall that you
3 took an oath promising to do so at the beginning of the case.

4 You must follow all these instructions and not single
5 out some and ignore others; they are all important. Please do
6 not read into these instructions or into anything I may have
7 said or done any suggestion as to what verdict you should
8 return. That is a matter entirely up to you.

9 The indictment is not evidence. The defendant has
10 pleaded not guilty to the charges. The defendant is presumed
11 to be innocent unless and until the government proves the
12 defendant guilty beyond a reasonable doubt. In addition, the
13 defendant does not have to testify or present any evidence.
14 The defendant does not have to prove innocence; the government
15 has the burden of proving every element of the charges beyond a
16 reasonable doubt.

17 A defendant in a criminal case has a constitutional
18 right not to testify. In arriving at your verdict, the law
19 prohibits you from considering in any manner that the defendant
20 did not testify.

21 Proof beyond a reasonable doubt is proof that leaves
22 you firmly convinced the defendant is guilty. It is not
23 required that the government prove guilt beyond all possible
24 doubt.

25 A reasonable doubt is a doubt based upon reason and

1 common sense and is not based purely on speculation. It may
2 arise from a careful and impartial consideration of all the
3 evidence, or from lack of evidence.

4 If after a careful and impartial consideration of all
5 the evidence, you are not convinced beyond a reasonable doubt
6 that the defendant is guilty, it is your duty to find the
7 defendant not guilty. On the other hand, if after a careful
8 and impartial consideration of all the evidence, you are
9 convinced beyond a reasonable doubt that the defendant is
10 guilty, it is your duty to find the defendant guilty.

11 The evidence you are to consider in deciding what the
12 facts are consists of:

13 One, the sworn testimony of any witness; and,

14 Two, the exhibits received in evidence; and,

15 Three, any facts to which the parties have agreed.

16 In reaching your verdict, you may consider only the
17 testimony and exhibits received in evidence. The following
18 things are not evidence and you may not consider them in
19 deciding what the facts are:

20 Number 1: Questions, statements, objections, and
21 arguments by the lawyers are not evidence. The lawyers are not
22 witnesses. Although you must consider a lawyer's questions to
23 understand the answers of a witness, the lawyer's questions are
24 not evidence. Similarly, what the lawyers have said in their
25 opening statements, will say in their closing arguments and at

1 other times is intended the help you interpret the evidence,
2 but it is not evidence. If the facts as you remember them
3 differ from the way the lawyers state them, your memory of them
4 controls.

5 Any testimony that I have excluded, stricken, or
6 instructed you to disregard is not evidence.

7 Anything you may have seen or heard when the court was
8 not in session is not evidence. You are to decide the case
9 solely on the evidence received at the trial.

10 Evidence may be direct or circumstantial. Direct
11 evidence is direct proof of a fact, such as testimony by a
12 witness about what that witness personally saw or heard or did.
13 Circumstantial evidence is indirect evidence, that is, it is
14 proof of one or more facts from which you can find another
15 fact.

16 You are to consider both direct and circumstantial
17 evidence. Either can be used to prove any fact. The law makes
18 no distinction between the weight to be given to either direct
19 or circumstantial evidence. It is for you to decide how much
20 weight to give to any evidence.

21 In deciding the facts in this case, you may have to
22 decide -- pardon me -- which testimony to believe and which
23 testimony not to believe. You may believe everything a witness
24 says, or part of it, or none of it.

25 In considering the testimony of any witness, you may

1 take into account:

2 One, the opportunity and ability of the witness to see
3 or hear or know the things testified to;

4 Two, the witness's memory;

5 Three, the witness's manner while testifying;

6 Four, the witness's interest in the outcome of the
7 case, if any;

8 Five, the witness's bias or prejudice, if any;

9 Six, whether other evidence contradicted the witness's
10 testimony;

11 Seven, the reasonableness of the witness's testimony
12 in light of all the evidence; and

13 Eight, any other factors that bear on believability.

14 Sometimes a witness may say something that is not
15 consistent with something else he or she said. Sometimes
16 different witnesses will give different versions of what
17 happened. People often forget things or make mistakes in what
18 they remember. Also, two people may see the same event but
19 remember it differently. You may consider these differences,
20 but do not decide that testimony is untrue just because it
21 differs from other testimony.

22 However, if you decide that a witness has deliberately
23 testified untruthfully about something important, you may
24 choose not to believe anything that witness said. On the other
25 hand, if you think the witness testified untruthfully about

1 some things but told the truth about others, you may accept the
2 part you think is true and ignore the rest.

3 The weight of the evidence as to a fact does not
4 necessarily depend on the number of witnesses who testify.
5 What is important is how believable the witnesses were and how
6 much weight you think their testimony deserves.

7 You are here only to determine whether the defendant
8 is guilty or not guilty of the charges in the indictment. The
9 defendant is not on trial for any conduct or offense not
10 charged in the indictment.

11 A separate crime is charged against the defendant in
12 each count. You must decide each count separately. Your
13 verdict on one count should not control your verdict on any
14 other count.

15 You have heard evidence that the defendant committed
16 other acts not charged here. Defendant was not charged with
17 conduct related to these other acts. You may consider this
18 evidence only for its bearing, if any, on the question of the
19 defendant's intent, opportunity, and/or predisposition and for
20 no other purpose.

21 You have heard testimony from an undercover agent or
22 agents who were involved in the government's investigation in
23 this case. Law enforcement officials may engage in stealth and
24 deception, such as the use of undercover agents, in order to
25 investigate criminal activities. Undercover agents may use

1 false names and appearances and assume the roles of members in
2 criminal organizations.

3 You have heard testimony of eyewitness identification.
4 In deciding how much weight to give to this testimony, you may
5 consider the various factors mentioned in these instructions
6 concerning credibility of witnesses.

7 In addition to those factors, in evaluating eyewitness
8 identification testimony, you may also consider:

9 One: The capacity and opportunity of the eyewitness
10 to observe the offender based upon the length of time for
11 observation and the conditions at the time of observation,
12 including lighting and distance;

13 Two, whether the identification was the product of the
14 eyewitness's own recollection or was the result of subsequent
15 influence or suggestiveness;

16 Three, any inconsistent identifications made by the
17 eyewitness;

18 Four, the witness's familiarity with the subject
19 identified;

20 Five, the strength of early and later identifications;

21 Six, lapses of time between the event and the
22 identifications; and

23 Seventh, the totality of circumstances surrounding the
24 eyewitness's identification.

25 You have heard testimony from Agent Ellsworth, who

1 testified to opinions and the reasons for his opinions. This
2 opinion testimony is allowed because of the education or
3 experience of this witness.

4 Such opinion testimony should be judged like any other
5 testimony. You may accept it or reject it, and give it as much
6 weight as you think it deserves, considering the witness's
7 education and experience, the reasons given for the opinion,
8 and all the other evidence in the case.

9 You have heard testimony from Agent Ellsworth, who
10 testified to both facts and opinions and the reasons for his
11 opinions.

12 Fact testimony is based on what the witness saw,
13 heard, or did. Opinion testimony is based on the education or
14 experience of the witness.

15 As to the testimony about facts, it is your job to
16 decide which testimony to believe and which testimony not to
17 believe. You may believe everything a witness says, or part of
18 it, or none of it. Take into account the factors discussed
19 earlier in these instructions that were provided to assist you
20 in weighing the credibility of witnesses.

21 As to the testimony about the witness's opinions, this
22 opinion testimony is allowed because of the education or
23 experience of this witness. Opinion testimony should be judged
24 like any other testimony. You may accept all of it, part of
25 it, or none of it. You should give it as much weight as you

1 think it deserves, considering the witness's education and
2 experiences -- and experience -- sorry -- the reasons given for
3 the opinion, and all the other evidence in the case.

4 Certain charts have been admitted in evidence. Charts
5 are only as good as the underlying supporting material. You
6 should, therefore, give them only such weight as you think the
7 underlying material deserves.

8 The defendant contends that he was entrapped by a
9 government agent. The government has the burden of proving
10 beyond a reasonable doubt that the defendant was not entrapped.
11 The government must prove either:

12 One, the defendant was predisposed to commit the crime
13 before being contacted by government agents, or

14 Two, the defendant was not induced by the government
15 agents to commit the crime.

16 When a person, independent of and before government
17 contact, is predisposed to commit the crime, it is not
18 entrapment if government agents merely provide an opportunity
19 to commit the crime. In determining whether the defendant was
20 predisposed to commit the crime before -- before being
21 approached by government agents, you may consider the
22 following:

23 One, whether the defendant demonstrated reluctance to
24 commit the offense;

25 Two, the defendant's character and reputation;

1 Three, whether government agents initially suggested
2 the criminal activity;

3 Four, whether the defendant engaged in the criminal
4 activity for profit; and

5 Five, the nature of the government's inducement or
6 persuasion.

7 In determining whether the defendant was induced by
8 government agents to commit the offense, you may consider any
9 government conduct creating a substantial risk that an
10 otherwise innocent person would commit an offense, including
11 persuasion, fraudulent representations, threats, coercive
12 tactics, harassment, promises of reward or pleas based on need,
13 sympathy, or friendship.

14 When you begin your deliberations, elect one member of
15 the jury as your foreperson who will preside over the
16 deliberations and speak for you here in court.

17 You will then discuss the case with your fellow jurors
18 to reach agreement if you can do so. Your verdict, whether
19 guilty or not guilty, must be unanimous.

20 Each of you must decide the case for yourself, but you
21 should do so only after you have considered all the evidence,
22 discussed it fully with the other jurors, and listened to the
23 views of your fellow jurors.

24 Do not be afraid to change your opinion if the
25 discussion persuades you that you should. But do not come to a

1 decision simply because other jurors think it is right.

2 It is important that you attempt to reach a unanimous
3 verdict but, of course, only each -- only if each of you can do
4 so after having made your own conscientious decision. Do not
5 change an honest belief about the weight and effect of the
6 evidence simply to reach a verdict.

7 Perform these duties fairly and impartially. Do not
8 allow personal likes or dislikes, sympathy, prejudice, fear, or
9 public opinion to influence you. You should also not be
10 influenced by any person's race, color, religion, national
11 ancestry, or gender, sexual orientation, profession,
12 occupation, celebrity, economic circumstances, or position in
13 life or in the community.

14 It is your duty as jurors to consult with one another
15 and to deliberate with one another with a view towards reaching
16 an agreement if you can do so. During your deliberations, you
17 should not hesitate to reexamine your own views and change your
18 opinion if you become persuaded that it is wrong.

19 Because you must base your verdict only on the
20 evidence received in the case and on these instructions, I
21 remind you that you must not be exposed to any other
22 information about the case or to the issues it involves.

23 Except for discussing the case with your fellow jurors during
24 your deliberations:

25 Do not communicate with anyone in any way and do not

1 let anyone else communicate with you in any way about the
2 merits of the case or anything to do with it. This includes
3 discussing the case in person, in writing, by phone or
4 electronic means, via email, text messaging, or any Internet
5 chat room, blog, website, or other feature. This applies to
6 communicating with your family members, your employer, the
7 media or press, and the people involved in the trial. If you
8 are asked or approached in any way about your jury service or
9 anything about this case, you must respond that you have been
10 ordered not to discuss the matter and to report to contact to
11 the Court.

12 Do not read, watch, or listen to any news or media
13 accounts or commentary about the case or anything to do with
14 it; do not do any research, such as consulting dictionaries,
15 searching the Internet, or using other reference materials; and
16 do not make any investigation or in any other way try to learn
17 about the case on your own.

18 The law requires these restrictions to ensure the
19 parties have a fair trial based on the same evidence that each
20 party has had an opportunity to address. A juror who violates
21 these restrictions jeopardizes the fairness of these
22 proceedings, and a mistrial could result that would require the
23 entire trial process to start over. If any juror is exposed to
24 any outside information, please notify the Court immediately.

25 Some of you have taken notes during the trial.

1 Whether or not you took notes, you should rely on your own
2 memory of what was said. Notes are only to assist your memory.
3 You should not be overly influenced by your notes or those of
4 your fellow jurors.

5 The punishment provided by law for this crime is for
6 the Court to decide. You may not consider punishment in
7 deciding whether the government has proved its case against the
8 defendant beyond a reasonable doubt.

9 A verdict form has been prepared for you.

10 Do you want to put to form up, Carmel?

11 Because you've been asked to decide on several counts,
12 and because the counts involve different instructions, the
13 verdict form is a little more detailed than several forms, so I
14 want to go over it with you. And if any of you have any
15 questions regarding the forms, do not hesitate to now ask those
16 questions where I and the lawyers can consult concerning an
17 appropriate answer.

18 You will see that the jury form has headings that
19 pertain to Counts 1, 2, 3, 4, and 5.

20 Count 1, as you can see by the heading, refers -- and
21 it's repeated several times throughout -- refers to the \$3,000
22 Bitcoin transaction that occurred on or around May 20th, 2015.

23 In considering whether the defendant is guilty or not
24 guilty on Count 1, which is, again, the \$3,000 Bitcoin
25 transaction, the jury may only consider instruction 8.147A.

1 Now, we have not yet read 8.147A. We'll read it in a
2 few minutes. That may be a little confusing to you. Let me
3 explain to you what it means.

4 You should consider all of the jury instructions. But
5 the defendant is charged in each of these counts with violating
6 a statute that you may violate in one of two ways.

7 8.147A advises you as to one of the ways in which the
8 defendant may have or may not have violated the law.

9 Instruction 8.147B, which we will discuss also a
10 little later on, discusses the other way that the defendant can
11 violate the law contained in the statute.

12 Sometimes there may be evidence from which you can
13 conclude the defendant violated either or both of those --
14 those ways you could violate the statute. But as to Count 1,
15 the only way you can consider that the defendant may have
16 violated the statute is contained in jury instruction 8.147A.

17 Is that clear to all of you?

18 Do you all understand that?

19 Any questions about that?

20 All right.

21 Then, if we go down to Count 2, which is the \$13,000
22 Bitcoin transaction on or around October 7, 2015, you'll see
23 that in considering whether the defendant is guilty or not
24 guilty on Count 2, you may consider both instructions 8.147A
25 and/or 8.147B.

1 In other words, you may -- there is evidence from
2 which you may determine that the defendant violated -- may or
3 may not determine that the defendant violated the statute using
4 one or both of those -- of the instructions that I will give
5 you in just a few minutes.

6 Then you will see that if you find the defendant
7 guilty on Count 2, you need to check one or both boxes below
8 the counts to indicate whether or not you found the defendant
9 intended to avoid a transaction reporting requirement or
10 whether he intended to disguise -- conceal or disguise the
11 nature, location, source, ownership, or control of property
12 believed to be the proceeds of specified unlawful activity.

13 You can check one of those boxes. You can check none
14 of those boxes. Or you can check both of those boxes. You are
15 not -- you are only to check any of those boxes if you
16 define -- if you find the defendant guilty of violating Count
17 2.

18 Does everybody understand that?

19 Any confusion? Or can I clarify that for anyone?

20 You will find as we go down then through Counts 3, 4,
21 and 5, that they are all -- they require you to do the same.
22 They allow you to consider both ways that the statute may have
23 been violated and they require you, if you determine that the
24 defendant, in fact, violated the statute, to indicate how the
25 defendant violated the statute in either or both or no ways.

1 Do you understand that?

2 Are there any questions as to the jury verdict form?

3 Are there any concerns by counsel as to how I have
4 instructed the jury concerning the verdict form?

5 MS. WEIDNER: No, Your Honor.

6 MR. BINFORD: No, Your Honor.

7 THE COURT: All right.

8 So a verdict form has been prepared for you. After
9 you have reached unanimous agreement on a verdict, the
10 foreperson should complete the verdict form according to your
11 deliberations, sign and date it, and advise the bailiff that
12 you are ready to return to the courtroom.

13 I am going to add -- and, Counsel, pay attention
14 because this is not in the jury verdict instructions -- that
15 you should consider each count separately. You should consider
16 the guilt or innocence of the defendant with respect to each
17 count separately. So you should have -- you should make a
18 determination as to each count. I think that's probably clear
19 by the form, but I just want to make it clearer.

20 If it becomes necessary during your deliberations to
21 communicate with me, you may send a note through the bailiff,
22 signed by any one or more of you. No member of the jury should
23 ever attempt to communicate with me except by a signed writing,
24 and I will respond to the jury concerning the case only in
25 writing or here in open court. If you send out a question, I

1 will consult with the lawyers before answering it, which may
2 take some time. You may continue your deliberations while
3 waiting for the answer to any question. Remember that you are
4 not to tell anyone, including me, how the jury stands,
5 numerically or otherwise, on any question submitted to you,
6 including the question of the guilt of the defendant, until
7 after you have reached a unanimous verdict or have been
8 discharged.

9 You have heard testimony from Nolan Sperling, a
10 witness who pleaded guilty to a separate crime and who received
11 a cooperation benefit from the government.

12 Mr. Sperling's guilty plea is not evidence against
13 Mr. Costanzo and you may consider it only in determining
14 Mr. Sperling's believability as a witness in this trial.

15 For this reason, in evaluating the testimony of Nolan
16 Sperling, you should consider the extent to which or whether
17 his testimony may have been influenced by the benefit he
18 received or hopes to receive from the government in exchange
19 for testifying against Mr. Costanzo. In addition, you should
20 examine the testimony of Nolan Jack Sperling with greater
21 caution than that of other witnesses.

22 The defendant is charged with conducting a financial
23 transaction involving property represented to be the proceeds
24 of specified unlawful activity in violation of Sections
25 1956(a) (3) (B) and (C) of Title 18 of the United States Code.

1 There are two ways in which the defendant can violate the
2 statute. In order for the defendant to be found guilty of
3 either charge, the government must prove each of the following
4 elements beyond a reasonable doubt.

5 This is 8.147A which involves the concealment of
6 proceeds of specified unlawful activity.

7 First, to be liable under this charge, you must find
8 that, first, the defendant -- well, let me correct that.

9 For you to find the defendant liable for this charge,
10 you must find each of the elements beyond a reasonable doubt.

11 First, that the defendant conducted or attempted to
12 conduct a financial transaction;

13 Second, that the property involved in the transaction
14 was represented by an undercover law enforcement officer to be
15 the proceeds of specified unlawful activity; and

16 Third, the defendant conducted the transaction with
17 the specific intent to conceal or disguise the nature,
18 location, source, ownership, or control of property believed to
19 be the proceeds of specified unlawful activity.

20 A financial transaction is a transaction involving one
21 or more monetary instruments, or the movement of funds by wire
22 or other means, that affects interstate or foreign commerce in
23 any way. The term "funds" includes any currency, money, or
24 other medium of exchange that can be used to pay for goods and
25 services.

1 "Proceeds" means any property derived from or obtained
2 or retained, directly or indirectly, through some form of
3 illegal activity, including the gross receipts of such
4 activity.

5 The term "specified unlawful activity" means the
6 manufacture, importation, receiving, concealment, buying,
7 selling, or otherwise dealing in a controlled substance or
8 listed chemical -- chemical under the Controlled Substances
9 Act. The government need not show that the undercover law
10 enforcement officers explicitly stated that the cash in
11 question was the direct product of unlawful activity.

12 Second, the second way you can violate the statute is
13 the avoidance of federal transaction reporting requirements.

14 You may find the defendant guilty if, in fact, you
15 find that the government has proved each of the following
16 elements beyond a reasonable doubt:

17 First, the defendant conducted or attempted to conduct
18 a financial transaction;

19 Second, the property involved in the transaction was
20 represented by an undercover law enforcement officer to be the
21 proceeds of specified unlawful activity; and

22 Third, the defendant conducted the transaction with
23 the specific intent to avoid a transaction reporting
24 requirement under federal law.

25 A financial transaction is a transaction involving one

1 or more monetary instruments, or the movement of funds by wire
2 or other means, that affects interstate or foreign commerce in
3 any way. The term "funds" includes any currency, money, or
4 other medium of exchange that can be used to pay for goods and
5 services.

6 "Proceeds" means any property derived from or obtained
7 or retained, directly or indirectly -- indirectly, through some
8 form of illegal activity, including the gross receipts of such
9 activity.

10 The term "specified unlawful activity" means the
11 manufacture, importation, receiving, concealment, buying,
12 selling, or otherwise dealing in a controlled substance or
13 listed chemical under the Control Substances Act. The
14 government need not show that the undercover law enforcement
15 officers explicitly stated that the cash in question was the
16 direct product of unlawful activity.

17 A "transaction reporting requirement" means either the
18 currency transaction reporting requirement for currency
19 deposits or withdrawals exceeding \$10,000 into or from a
20 financial institution, or the suspicious activity reporting
21 requirements for financial institutions.

22 Ladies and gentlemen, those are your jury
23 instructions.

24 Does either party have any objections or additions to
25 the instructions as I have given them?

1 MR. BINFORD: No, Your Honor.

2 MS. WEIDNER: No, Your Honor.

3 THE COURT: Okay.

4 You ready to begin your closing argument?

5 MR. BINFORD: Yes, Your Honor.

6 THE COURT: All right.

7 Ladies and gentlemen, I am going to explain to you
8 that the government, as I've explained to you before, bears the
9 burden of proof in this case. It is their responsibility to
10 establish beyond a reasonable doubt that the defendant is
11 guilty of each of the elements of the crimes for which he has
12 been charged.

13 Because the government has that burden, they are
14 allowed to address you first. Then the defendant will address
15 you. And because the government has the burden, they are
16 allowed to address the comments made by the defendant.

17 After you have heard then from the government, the
18 defendant and the government, again on rebuttal, we will
19 designate the three of you who will be alternate jurors and the
20 12 of you will then be excused to begin your deliberations.

21 All right. Mr. Binford.

22 MR. BINFORD: Thank you, Judge.

23 THE COURT: Please.

24 MR. BINFORD: Ladies and gentlemen, you've now heard
25 the evidence. You've heard that on five separate occasions

1 Thomas Costanzo, Morpheus, the defendant, took drug money from
2 undercover agents and he turned that drug money into Bitcoin
3 and he did that in order to help the undercover agents hide
4 that drug money, to conceal that drug money, and to avoid
5 transaction reporting requirements.

6 That's money laundering.

7 You heard that Bitcoin, while completely legal to own
8 or purchase, is hard to trace. You heard that while Bitcoin
9 does have legitimate uses, it has features that make it
10 attractive to money launderers and to drug dealers.

11 The defendant knew that, and that's why he charged
12 ten percent. That's why he charged a fee that was five times
13 higher than what someone would expect to pay with a commercial
14 exchange, a commercial exchange that they could access from the
15 convenience of their home, instead of having to go down to
16 Panda Express or McDonald's or Starbucks and meet with someone
17 with a lot of cash.

18 You've heard that Bitcoin transactions on the
19 Blockchain don't include names. They don't include street
20 addresses, Social Security numbers or birth dates.

21 Those records include limited information such as the
22 amount of Bitcoin exchanged, the date and time of the
23 transaction, and the Bitcoin wallet address, which is that long
24 string of numbers and letters.

25 As the defendant told the undercover agents during his

1 meetings with them, Bitcoin was perfect for what they were
2 doing. It was the perfect way to conceal and disguise their
3 drug proceeds and it was the perfect way to avoid federal
4 transaction reporting requirements.

5 That's why the defendant's on trial. That's money
6 laundering.

7 There are five counts charged in this case. You can
8 see them there on your screen.

9 Count 1 was the May 20th transaction with Sergei where
10 he said that the money was heroin proceeds. That was the
11 \$3,000 transaction.

12 Then there was the deal on October 7th. That was the
13 \$13,000 deal with Sergei's business partner Tom, where Tom said
14 that it was heroin proceeds.

15 On November 21st, 2015, Sergei again met with the
16 defendant. He told him that this was part of his business and
17 he had \$11,700 in drug proceeds that he wanted to exchange for
18 Bitcoin.

19 For Counts 4 and 5, that was once DEA got involved.
20 That's when Jake, Undercover Jake, met with the defendant and
21 told him that he had \$30,000 worth of cocaine proceeds that he
22 wanted to turn into Bitcoin. He told him that he had just sold
23 a key of coke. That was February 2nd.

24 An April 20th, he, again, met with the defendant. He
25 told him he had sold a few more keys and now had \$100,000 worth

1 of Bitcoin that he wanted to buy. He brought \$107,000 in cash
2 to that transaction because he wanted to cover that 7 percent
3 fee that the defendant was charging him, the \$7,000 that he was
4 charging him to exchange that dirty drug money.

5 Each count is based on a different deal, and you're to
6 independently consider each count when you go back.

7 You just heard in your instructions from Judge Snow
8 that in order to find the defendant guilty, you have to find,
9 one, that the defendant conducted a financial transaction; two,
10 that the property involved in that transaction was represented
11 by an undercover law enforcement officer to be the proceeds of
12 specified unlawful activity, which in this case is drug
13 trafficking; and then three -- for Counts 2 through 5, is
14 either the defendant conducted the transaction with the intent
15 to avoid a transaction reporting requirement under federal law
16 or that the defendant conducted the transaction with the intent
17 to conceal or disguise the nature, location, source, ownership,
18 or control of the property that the defendant believed was the
19 proceeds of specified unlawful activity.

20 For Count 1 you're just considering whether he
21 intended to conceal or disguise the nature, location, source,
22 ownership or control of that property that he believed was the
23 proceeds of specified unlawful activity.

24 In a moment I'm going to go into detail about each of
25 these transactions. I'm going to go into detail about the

1 evidence you heard for each of these transactions. But first,
2 I want to talk to you about entrapment.

3 You will have the opportunity to decide whether the
4 defendant was entrapped by the government. But you heard for
5 yourself that the defendant was given numerous opportunities to
6 walk away.

7 Now, ask yourself: Did he ever walk away?

8 No. He was willing to do a \$3,000 transaction when
9 there was drug money involved and he was willing to do a
10 \$107,000 transaction when there was drug money involved.

11 He took drug money from four different individuals
12 over a two-year period. He continued to take drug money and
13 conceal it from early 2015 up until the time of his arrest in
14 April of 2017.

15 During that time he took drug money from Sergei, who
16 you now know as Special Agent Kushner. He took drug money from
17 Tom, who you now know as Special Agent Klepper. He took drug
18 money from Jake, who you now know as Task Force Officer Martin.
19 And he took drug money from Nolan Sperling, the kid -- or the
20 young man who was getting drugs from overseas and importing
21 them here to the United States.

22 Now, there are two ways that the government can show
23 that the defendant was not entrapped. You only have to find
24 one or the other, but there is evidence for you to find both
25 beyond a reasonable doubt.

1 The first is predisposition. That means the defendant
2 had done it before or he was willing to do it before agents
3 ever approached him.

4 Keep in mind that information gained after government
5 conduct can be used to prove predisposition. So let's look at
6 how you know the defendant was predisposed to commit money
7 laundering.

8 You heard he was using Bitcoin to buy drugs. He was
9 asked: Do you still want that DMT?

10 And he said: Let's use Telegraph app for text.

11 When he asked "how much" and the person selling the
12 DMT said "80 per gram," he said: Please be way more discreet.

13 In January of 2015 before agents ever approached him,
14 you heard that when someone told him that their husband was
15 using Bitcoin to buy drugs, he said: That's none of my
16 business.

17 This conversation occurred long before he was ever
18 approached by Sergei.

19 He was selling Bitcoin to Nolan Sperling, who was a
20 drug dealer. Nolan Sperling was not a federal agent. He was a
21 young man who came in here and talked about the charges he
22 faced for selling drugs, for importing drugs. You heard that
23 the defendant was at Panda Express talking about how banks were
24 evil, doing deals with what appeared to be \$10,000 in cash.

25 You heard that he was at McDonald's doing cash deals

1 under the table.

2 (Portion of audio played.)

3 MR. BINFORD: He bragged about previously converting
4 \$20 bills into \$100 bills at the casino.

5 Does that sound like someone who didn't know anything
6 about money laundering?

7 The second way that we can show that the defendant was
8 not entrapped is by showing that there was no inducement. That
9 means the defendant was not forced or pressured into the crime.

10 In your instructions you'll see them talk about
11 threats, coercive tactics, harassment, pleas based on need,
12 sympathy, or friendship. None of that was present here.

13 You heard for yourselves what the defendant told the
14 undercover agents. You heard and saw how he reacted after
15 drugs were introduced into the conversation. He was eager to
16 continue to do more deals.

17 This is what he sent after the May 20th meeting where
18 Sergei mentioned heroin: Thank you for your business. Use
19 Mycelium to connect. Has encrypted chat.

20 Does that seem like someone who didn't want to engage
21 in future transactions? Does that seem like someone who was
22 pressured or forced into engaging in these transactions?

23 Here's the message he sent after the October 7th
24 transaction where Tom mentioned "heroin."

25 Thank you for your business, Tom.

1 Tom says: Thanks.

2 And then he accidentally calls the defendant by his
3 name: Thanks, Tom.

4 And then they get into this whole conversation: Who's
5 Tom? I'm Morpheus. Your name is Tom.

6 Was he forced? He would push back when needed. But
7 did he ever push pack when drugs are were talked about? Did he
8 ever push back when he was asked how he would conceal drug
9 money?

10 After the November 21st, 2015, transaction, he said:
11 Thank you for your business, bro. I have more.

12 He was willing to continue to engage. He was never
13 forced. He was never measured. He wanted to keep doing this
14 business. He wanted to engage in this type of activity. There
15 was no inducement.

16 (Portion of audio played.)

17 MR. BINFORD: So that's at the end of the
18 February 2nd, 2017, transaction once he hears that the money is
19 from cocaine sales.

20 He doesn't say: No. No. No. I don't know if I can
21 do this anymore. I don't want to be involved in this type of
22 activity.

23 He says: Hey. Have you heard of Telegram? Let's use
24 Telegram. Let's make sure our conversations are secure.

25 That's not someone who's induced. That's not someone

1 who's forced to engage in these transactions.

2 He always provided his own transportation. You heard
3 that sometimes he was running to meet people. You heard other
4 times he was using this motorized bike to get around. He took
5 the light rail. He was on buses. He drove his own car. He
6 always provided his own transportation. He was always the one
7 who suggested the use of encrypted apps, whether it was
8 Telegram or Mycelium that he used with Sergei. He always said
9 he could provide larger amounts.

10 Every time he was asked: Can you do that?

11 He said: Yeah. I can do that.

12 He was never threatened. He was never harassed. He
13 was never promised a reward. And he was always eager to engage
14 in more transactions.

15 So what type of person would take drug money and say:
16 Bitcoin is great for what you're doing because tracing it is
17 extremely difficult.

18 Well, the defendant said that.

19 What type of person would say: By using Bitcoin as
20 part of your drug trafficking business model, you can cut your
21 risk in half.

22 The defendant said that.

23 MS. WEIDNER: Misstatement of the evidence.

24 THE COURT: Ladies and gentlemen, as I indicated to
25 you, you'll have to recall what the evidence is.

1 MR. BINFORD: What type of person would say: Oh, it's
2 drug money? Well, I don't want to know it's drug money. But
3 in that case, let's use this encrypted messaging app.

4 The defendant.

5 What type of person would say: Please be way more
6 discreet when talking about the purchase of drugs with Bitcoin.

7 Well, we just saw the exhibit. That was the defendant
8 that said that. He said those things. And because of that,
9 ladies and gentlemen, you can find beyond a reasonable doubt
10 that he was not entrapped. You can find that he was pre-dis --
11 predispose -- pre-disposed -- sorry about that -- to commit
12 money laundering and you can find that he wasn't induced.

13 And given the testimony from Nolan Sperling, you know
14 that the defendant was not induced and would have taken drug
15 money, whether or not federal agents were ever involved in this
16 case.

17 Only a money launderer would accept drug money and
18 turn it into something that's hard to trace, something that's
19 not linked to a name, an address, a Social Security number,
20 something that can be transported across state lines or
21 internationally, on a cell phone or a piece of paper without
22 anyone other than the holder ever knowing.

23 So let's go back to why agents were interested in the
24 defendant. You heard that there are two types of exchanges,
25 commercial exchanges like Coinbase. That's the one that you

1 heard was insured by the FDIC, the one that charges between
2 one-and-a-half to two percent.

3 And then you heard that there are peer-to-peer
4 exchangers like those advertised by the defendant on
5 localbitcoins.com. That's the website that you heard was
6 hosted in a foreign country.

7 You heard that drugs can be bought on the Internet
8 using Bitcoin. You heard that peer-to-peer exchangers like the
9 defendant make that possible. So, yeah, they were interested.

10 What did they see when they reviewed his online
11 profiles? Well, they saw that he advertised up to \$50,000 in
12 cash transactions. He's out there online saying: Yeah, bring
13 me \$50,000 in cash.

14 What else is he saying? I don't need a license. I
15 don't need a bank. I don't need a permit to do it. All I need
16 is a phone.

17 His ad said: I will get you Bitcoins immediately and
18 discreetly. All transactions are done with complete anonymity.
19 He emphasized being discreet. He emphasized being anonymous.

20 Yeah, that's appealing to federal agents. And, he
21 said, he knew enough to be dangerous, whatever that means.

22 (Portion of audio played.)

23 MR. BINFORD: So agents meet with him. This is the
24 first meeting. Sergei sits down with the defendant and he
25 talks about depositing more than \$10,000. And the defendant

1 immediately says: Oh, yeah, the bells go off. That's going to
2 set off some alarms.

3 So he knows about these reporting requirements. This
4 is before drug talk is ever mentioned. This is right off the
5 bat. This is how he leads into his business conversations.

6 (Portion of audio played.)

7 MR. BINFORD: So he talks about concealment of
8 financial transactions. This is right off the bat. This is
9 before anyone has ever said, hey, I'm doing something illegal.
10 I'm a drug trafficker. I'm a heroin drug trafficker.

11 He's talking about concealment of financial
12 transactions. And you'll see on these slides -- you won't get
13 these slides back with you -- these are not evidence. But they
14 refer you to the evidence you can look at while you're
15 deliberating.

16 At the top there it says Exhibit 101B. That's the
17 exhibit number.

18 While you're back there deliberating, you're free to
19 listen or look at any of the evidence that has been admitted in
20 this trial. So, if you see something during this that you want
21 to consider in your deliberations, take note of those exhibit
22 numbers. Go back and listen for yourself to see what you hear
23 on that audio.

24 The defendant talked about his business model. He
25 talked about the websites he uses. We just talked about one of

1 those tools, localbitcoins.com, and this is what the defendant
2 said:

3 (Portion of audio played.)

4 MR. BINFORD: How much money did he make doing what he
5 was doing? Was Agent Ellsworth ever able on find out?

6 (Portion of audio played.)

7 MR. BINFORD: So Sergei says: Hey, I want to wire
8 money and it might attract a little attention.

9 This is before any dirty drug talk. What does the
10 defendant say: Untraceable. Untraceable.

11 He's talking about concealing that fund. He doesn't
12 know it's drug money at that point, but he's talking about
13 concealing funds. He's talking about hiding funds. He's
14 talking about making that money anonymous. Maybe it's so the
15 government cannot track where that drug money is going.

16 You also heard about the defendant's rules. He
17 repeated them several times.

18 (Portion of audio played.)

19 MR. BINFORD: In what job as a financial person or as
20 an exchanger do you have to worry about getting shot unless
21 you're dealing with drug dealers?

22 And what job do you have to worry about talking to
23 policemen and getting shot unless you're dealing with drug
24 dealers on a daily basis, unless you're dealing with shady
25 people?

1 Think about his rules. Why is it that those things
2 were so important to him that he repeated them thought this
3 two-year investigation?

4 (Portion of audio played.)

5 MR. BINFORD: It's a good way to lower your
6 visibility. The defendant tells Sergei that Bitcoin is the way
7 to get the IRS off his back. Because guess what? Because now
8 there's no income.

9 Well, doesn't that seem like he's trying to hide
10 something there?

11 (Portion of audio played.)

12 MR. BINFORD: Tracing Bitcoin is very difficult. You
13 heard it from the defendant. You heard it from the agents.
14 It's very difficult.

15 The defendant knew that and that's why he engaged in
16 these transactions. To help these people that he thought were
17 drug dealers to conceal their drug money, to hide their drug
18 money, and to avoid federal reporting requirements.

19 Keep in mind, this is still that March 20th meeting.
20 This is before drugs are ever mentioned. He's talks about all
21 the benefits of his Bitcoin business.

22 (Portion of audio played.)

23 MR. BINFORD: Again, one of the many, many benefits of
24 using Bitcoin to conceal drug proceeds. Using something that's
25 otherwise legal, something that has good uses, something that's

1 legitimate, as you heard, but instead using it in a criminal
2 way, instead, use can it to hide drug proceeds.

3 (Portion of audio played.)

4 MR. BINFORD: Ask yourself. Who has to worry about
5 getting shot? Who has to worry about talking to policemen if
6 they've got a legitimate business, if they're not engaged in
7 criminal activity, if they're not pre-disposed to engage in
8 money laundering?

9 So that's the first meeting. Those are all from that
10 first meeting. But in the next meeting Sergei drops the drug
11 talk; right?

12 (Portion of audio played.)

13 MR. RESTAINO: Does the defendant walk away at that
14 point? Does he say: Whoa. Whoa. Whoa. Drugs? I'm out of
15 here. I can't do this.

16 He doesn't.

17 (Portion of audio played.)

18 MR. BINFORD: It's not that he doesn't want to do the
19 deal. It's that he doesn't want to know that the money is drug
20 money. He never says: No. No. I don't want to do the deal.

21 He says: I don't want to know what you're doing.

22 (Portion of audio played.)

23 MR. BINFORD: Don't say "heroin" out loud. Why not?

24 He knows what he's going to say. He says: Don't say
25 it out loud.

1 He knows what he's going to say. What difference does
2 it make if he says it out loud? He knew what he was talking
3 about. Why be concerned about what something is being said out
4 loud unless you don't want to get caught.

5 Now, you heard his statements throughout. I heard his
6 statements during this May 20th meeting. He never said: Oh, I
7 can't do that much. I don't want to do that much. I feel like
8 I'm being pressured into this.

9 No. He said:

10 (Portion of audio played.)

11 MR. BINFORD: Does that sound like someone that's
12 being pressured or forced? "I can come up with as much as you
13 want to do."

14 (Portion of audio played.)

15 MR. BINFORD: "I've done over a half a million dollars
16 last year." Does that sound like someone who's being induced?

17 All right. So around this same time that he's taking
18 drug money from Sergei, you heard that the defendant was
19 selling Bitcoin to Nolan Sperling and you heard that Nolan
20 Sperling was using Bitcoin to buy drugs online from overseas.

21 He was buying drugs from Germany and The Netherlands,
22 among other places. You heard that he only used Bitcoin to buy
23 drugs.

24 Now, Nolan started out using Coinbase. But as you
25 heard him say, he got worried. He was worried that his

1 activity might be reported to law enforcement. He was worried
2 because it was a joint bank account with his parents. He
3 didn't want his parents to know what was going on.

4 He was worried because it was linked to his identity.
5 He said something in general about it defeats the purpose of
6 using Bitcoin.

7 So Nolan went to localbitcoins.com, this website
8 that's hosted overseas, and he found the defendant. And he
9 told you that the defendant never asked for his ID or his
10 Social Security number or date of birth. He told you that he
11 met with the defendant every four to six weeks.

12 And every time he gave the defendant somewhere between
13 \$2,000 and \$10,000 in cash. He estimated that he gave the
14 defendant a total of thirty to \$35,000 in cash throughout the
15 course of meeting with him. That seems like a lot of cash for
16 a young man to have meeting with the defendant.

17 You heard that Nolan told the defendant about the
18 seizure and that the defendant did not stop doing business with
19 him at that point.

20 You heard instead, he asked Nolan -- or he asked --
21 the defendant asked Nolan Sperling to get DMT, some drug.

22 You also heard that he told Nolan to use Telegram, an
23 encrypted messaging app. You heard Nolan tell you that the
24 defendant charged him a 10 percent rate on the Bitcoin but it
25 was a small price to pay for what he was getting.

1 The defendant then met with Tom, Special Agent Tom
2 Klepper. And right off the bat, what does he say?

3 (Portion of audio played.)

4 MR. BINFORD: Don't confuse reluctance to hear where
5 the money is from with reluctance to engage in money
6 laundering.

7 Prior to this meeting the defendant knew what Sergei's
8 business was, he knew what it was all about and he knew what he
9 was doing when he was meeting with Sergei's business partner.

10 Tom asked the defendant --

11 Well, he talked to him about keeping things safe.

12 (Portion of audio played.)

13 MR. BINFORD: Bitcoin is a lot safer for drug
14 traffickers; right? You heard Special Agent Ellsworth talk
15 about the benefits of virtual currency and what made Bitcoin
16 attractive to drug traffickers. What made it attractive to
17 money launderers? The anonymity.

18 (Portion of audio played.)

19 MR. BINFORD: The defendant knows that Bitcoin is a
20 problem for the government. He knows that Bitcoin is a problem
21 for law enforcement. But what does he call it? He says:
22 That's beautiful.

23 What person doesn't want to engage in money laundering
24 that's not predisposed to commit money laundering, talks about
25 government not being able to track it, law enforcement not

1 being able to see it and says: That's a beautiful thing.

2 Especially, when they're talking to someone who they
3 think is a heroin drug dealer.

4 (Portion of audio played.)

5 MR. BINFORD: Remember the premium they were paying?
6 Ten percent. That's about five times as much as one of these
7 commercial exchanges that you can access from home; one of
8 these commercial exchanges that's insured by the FDIC and also
9 privately insured.

10 (Portion of audio played.)

11 MR. BINFORD: Ten percent is a significant amount.
12 It's a significant amount to pay.

13 (Portion of audio played.)

14 MR. BINFORD: His business model is perfect for money
15 laundering. No questions asked. Every drug dealer's dream.

16 (Portion of audio played.)

17 MR. BINFORD: Are you firmly convinced that the
18 defendant knew the money he was turning into was drug money?

19 (Portion of audio played.)

20 MR. BINFORD: Who ups it here? Is this someone that's
21 being induced? Is this someone that feels forced? Or does he
22 say: Let's take it to the next level. Let's make it
23 impossible for anyone to know that Tom and Sergei are giving
24 the defendant drug money, that they're moving drug money across
25 to United States.

1 (Portion of audio played.)

2 MR. BINFORD: So that advice was pretty accurate;
3 right? You cut your exposure in half. Think of Nolan
4 Sperling. How did he get caught? Did federal agents ever
5 intercept the money? Did they ever intercept the Bitcoin?

6 No. They intercepted parcels that were coming from
7 overseas.

8 Nolan Sperling used Bitcoin to buy drugs and he cut
9 his exposure in half. The defendant was absolutely right. He
10 knew how to help drug dealers limit their exposure. He
11 intended to do it for Sergei. He intended to do it for Tom.
12 He intended to do it for Jake. And he did it for Nolan
13 Sperling, but it wasn't good enough for Nolan Sperling because
14 he got caught. He got charged with a federal crime for
15 bringing those drugs in. But he was never caught on the money
16 side. It was the product side.

17 So we're now in November of 2015. The defendant's met
18 with Tom. He's met with Sergei. What does he know at this
19 point? He knows that Sergei is a drug trafficker. He knows
20 that he gets heroin here and gets it back to New York. And
21 maybe he ships things in car parts back to Eastern Europe. He
22 knows that Tom is Sergei's business partner.

23 Does he refuse to engage in these transactions? No.
24 He does a deal for \$11,700 and he tells Sergei: Low profile is
25 way, way, way better.

1 (Portion of audio played.)

2 MR. BINFORD: You heard him say -- I know the audio is
3 low in here. You'll have this exhibit. This is Exhibit 104A.
4 If you feel that you need to go back and listen to this, you
5 can go back there. You can review it. You can turn the volume
6 all the way up.

7 But at this point the defendant knows what's going on.
8 He knows what he's doing. And that's why he's telling him:
9 Low profile is way better. I know that, you know what I mean,
10 but I don't want to know.

11 At the end of this transaction, you heard him, he was
12 eager to do more business. Sergei is trying to get out of
13 there, and what does the defendant say? Hey. I can get more.
14 Do you want to do more? Do you want to do more?

15 I mean, he is eager to do this. This is not someone
16 that was induced.

17 (Portion of audio played.)

18 MR. BINFORD: Does he seem reluctant? No. He's not
19 reluctant at all. He's extremely eager to continue to engage
20 in these drug-money-laundering Bitcoin transactions.

21 And even after that he continues to talk about how
22 Bitcoin is hard to track.

23 (Portion of audio played.)

24 MR. BINFORD: And you may recall at this point he's
25 talking about online gaming. He's talking about poker robots,

1 I believe, was the testimony that we heard.

2 But he's talking about how Bitcoin is not traceable.
3 Whether they're using it for a poker robot to make some money
4 online or you're using it to move heroin proceeds across the
5 country or to move cocaine proceeds from Arizona to California,
6 there's no tracking or anything.

7 You heard from Agent Ellsworth: This is one of the
8 things that makes Bitcoin so attractive to drug dealers and
9 money launderers.

10 So no more transactions with Tom or Sergei. They're
11 done. They told him all about their heroin business. They got
12 their Bitcoin. DEA gets involved in this investigation. Task
13 Force Officer Chad Martin takes the lead on the undercover
14 assignment.

15 He becomes Jake, this guy who is trying to get cocaine
16 money converted into Bitcoin so that he can get it back to his
17 guy in California. And Jake meets with the defendant a couple
18 times before he drops, "Hey, this is from cocaine." Right?

19 The first time he meets him, September of 2016, what
20 does the defendant say to him?

21 (Portion of audio played.)

22 MR. BINFORD: He's right. Again, he's right. It's
23 very difficult. It's difficult to track. It's difficult to
24 narrow down.

25 He was being honest with those agents. He was telling

1 them, hey, these are some of the attributes of Bitcoin that
2 might work for your business model.

3 At this point he doesn't know cocaine is the business
4 model, but he knows he wants to move money without it being
5 discovered by the government.

6 And we're not just talking about the United States
7 here, because the defendant says:

8 (Portion of audio played.)

9 MR. BINFORD: Now, he's talking about moving money
10 internationally, outside of the United States, overseas,
11 like -- it sounds like Nolan Sperling was doing, without
12 anybody tracing it, without anybody tracking it. That money
13 could be going anywhere.

14 (Portion of audio played.)

15 MR. BINFORD: What type of business are you engaged in
16 where you constantly have to tell people you don't want to get
17 shot? You don't want to talk to police. Does he say: If
18 you're doing something illegal, I don't want to be involved in
19 it?

20 No.

21 He says: If you're doing anything illegal, I don't
22 want to know about it.

23 (Portion of audio played.)

24 MR. BINFORD: What's the point of the defendant
25 telling Jake this at this point? This is September. This is

1 before Jake ever mentions, hey, I'm moving cocaine, a key of
2 cocaine.

3 He's telling him about some other transaction where
4 somebody told him about shipping stuff in car parts overseas.

5 Well, why would he tell him that? Is the defendant
6 hinting that, you know, if you're doing something illegal, it's
7 okay with it. I'll go through with the transaction, but I
8 don't want to know.

9 What purpose would he have in telling Jake, telling
10 this -- this young man who is talking about moving \$30,000?
11 Why would he say that? Why would he bring that up? Unless
12 that's something that he was hoping to do.

13 (Portion of audio played.)

14 MR. BINFORD: All right. So earlier we heard him
15 talk. He knows what a Cash Transaction Report is, a Currency
16 Transaction Report. He said: Someone goes in with \$10,000.
17 Alarm bells go off.

18 Now, we also know that he knows what a Suspicious
19 Activity Report is. So he's familiar with these federal
20 reporting requirements. The defendant knows all about these
21 federal reporting requirements and he's working with these
22 undercover agents to avoid those requirements.

23 He's taking their drug money so they don't have to go
24 into a traditional financial institution and get reported.
25 Have to provide their ID. Have to provide their name, address,

1 employment information. By dealing with the defendant, they
2 can avoid all of that and that's what makes what the defendant
3 was doing attractive to drug dealers and money launderers.

4 (Portion of audio played.)

5 MR. BINFORD: He doesn't say: I don't want to do
6 business with you.

7 He says: I don't even know what people's real names
8 are. I don't even want to know. I don't want to know their
9 name.

10 Well, what person engaged in legitimate business
11 transactions is going to say something like that? What person
12 that's selling Bitcoin because they're really all about Bitcoin
13 and not about money laundering is going to say that? Is going
14 to say: I don't want to know your name. I don't want to know
15 your address. I don't want to know.

16 Do you ever hear him ask about anybody's family
17 throughout all of these recordings? When you go in there,
18 listen, see. Does he ask about people's family? Is he really
19 trying to get to know these people? Or is he trying to charge
20 ten percent, seven percent, get his cut and have his hands over
21 his ears like he doesn't know what's going on?

22 So you'll recall around this same time in the
23 investigation the defendant is at Panda Express. He's seen
24 handing what looks like \$10,000 -- or taking what looks like
25 \$10,000 in cash from another person.

1 He's seen at McDonald's taking a wad of cash -- again,
2 underneath the table. He's meeting with these people. He's
3 taking large amounts of cash. And so he's not just doing this
4 with Jake. He's not just doing this with Sergei. He's not
5 just doing this with Tom or Nolan Sperling.

6 This is his business model. He goes around telling
7 people: Don't get bit. Don't get shot. Don't talk to police.
8 Give me your cash. I'll charge you ten percent. I won't say
9 anything to anyone.

10 That's what he does all day, every day.

11 But then we get into the February 2nd transaction, and
12 this is Count 4. And when Jake talks about drugs, what does
13 the defendant say?

14 (Portion of audio played.)

15 MR. BINFORD: What's that noise? What's he doing? He
16 doesn't want to know; right? He's trying to sound it out.
17 He's trying to sound out the fact that this is drug proceeds.

18 Why doesn't he want to know? It's not like he
19 stops -- not like he stops the transaction. He doesn't say:
20 Oh, you know, I'm not going to do this.

21 He just says: I don't want to know. I don't want to
22 get in trouble; right? I don't want to get arrested. Not: I
23 don't want to do this deal.

24 I don't want to get arrested.

25 So Jake tells him: Hey, this is from a key of coke,

1 and what does the defendant suggest?

2 (Portion of audio played.)

3 MR. BINFORD: So I think you've heard this before.
4 Once someone drops the drug talk, like, hey, Nolan Sperling or,
5 hey, do you still want that DMT? He says: Oh, let's use
6 Telegram. Let's switch to an encrypted app. I don't want to
7 get arrested. I don't want to get in trouble for the crimes
8 that I'm committing.

9 Now, the audio is quiet. You can go back and listen
10 to it. You can determine for yourself whether it says "one key
11 of coke" there. But there's no doubt -- there should be no
12 doubt after listening to that that that's what you've heard,
13 that's what the evidence shows.

14 Now, we move on to the April 20th meeting. And at
15 that meeting, again, Jake mentions that: Hey, this is drug
16 proceeds. And he makes it abundantly clear.

17 (Portion of audio played.)

18 MR. BINFORD: "I don't need to know."

19 Ask yourself. Are you firmly convinced that the
20 defendant knew he was getting drug money?

21 Remember, to prove these charges, we have to prove
22 each element beyond a reasonable doubt. And to prove it beyond
23 a reasonable doubt means evidence that leaves you firmly
24 convinced.

25 Are you firmly convinced that he engaged in a cash

1 transaction each of these five times?

2 Are you firmly convinced that he knew that the money
3 he was taking was drug proceeds?

4 So after that April 20th incident, he's arrested;
5 right?

6 Agents go and they search the Loma Vista residence.
7 They go out there, and what do they find? They find this
8 whiteboard in the middle of his living room.

9 That stuff must have been pretty important to hang up
10 in the middle of his living room. Things like "encrypted
11 coms." "Avoid banks" and "hand to hand."

12 This is Exhibit 16. You'll have it back there with
13 you. Ask yourself: Why would someone think that these things
14 are so important that they have to be on a whiteboard in the
15 middle of their living room?

16 They find money bands at his house; right? This is
17 someone who's dealing with a lot of cash. He's got \$5,000
18 money bands. \$2,000 money bands. He's got different
19 denominations. This is someone who is taking cash on a daily
20 basis.

21 And we know -- well, I think the evidence shows beyond
22 a reasonable doubt that in five of those transactions, he did
23 it knowing that it was drug proceeds and with the intent to
24 avoid -- with the intent to conceal the nature of those funds;
25 and in four of the counts, to avoid transaction reporting

1 requirements.

2 What else did they find at his house? They find this
3 pamphlet; right? What does it say? No frozen accounts. No
4 bank. No government forms. You can open an account without
5 showing identification.

6 Do you remember Agent Ellsworth's testimony? Do you
7 remember why this type of system was attractive to drug
8 dealers? Anonymity. The same thing the defendant stressed in
9 his online ads, that he stressed in person when he was talking
10 to the undercover agents.

11 So now I want to go through each count and just give
12 you a little clip of audio to show you each element.

13 So this first one is from Count 1. This is May 20th,
14 2015. And this was a \$3,000 financial transaction.

15 How do you know it's a financial transaction?

16 (Portion of audio played.)

17 MR. BINFORD: Normally, he has \$3,000 worth of Bitcoin
18 on him. Right. Are you firmly convinced that this was a
19 \$3,000 financial transaction?

20 Next element, the proceeds of specified unlawful
21 activity.

22 (Portion of audio played.)

23 MR. BINFORD: I know nothing. He says: You know it's
24 drugs; right?

25 He says: I know nothing.

1 That was the responsive answer to his question.

2 (Portion of audio played.)

3 MR. BINFORD: Black tar heroin from Mexico, 27 a key
4 here. More than that back East.

5 Are you firmly convinced that the defendant knew that
6 Sergei was talking about heroin, that he was talking about drug
7 proceeds?

8 So the third element for Count 1 -- and this is the
9 one that's different than the other four: Did the defendant
10 intend to conceal or disguise the nature, location, source,
11 ownership, or control of the property?

12 Well, let's listen to what he had to say.

13 (Portion of audio played.)

14 MR. BINFORD: He doesn't want to know anything.

15 Is that an intent to conceal location, source,
16 ownership, or control of property? Well, who owned the
17 property before giving it to the defendant? Sergei owned that
18 drug money.

19 He said: I don't want to know. He never asked his
20 full legal name, his ID, any of that.

21 (Portion of audio played.)

22 MR. BINFORD: "Don't tell me anything I don't need to
23 know."

24 Ask yourself: Are you firmly convinced that his
25 intent there was to conceal or disguise the nature, location,

1 source, ownership, or control of the property?

2 Based on the evidence, you should be.

3 Now, Count 2 is October 7th, 2015. This is the
4 transaction with Tom. This was a \$13,000 transaction. And how
5 do you know that?

6 (Portion of audio played.)

7 MR. BINFORD: The next element is that it was the
8 proceeds of specified unlawful activity; in this case, heroin,
9 heroin trafficking.

10 (Portion of audio played.)

11 MR. BINFORD: Count 2, the third element of that is an
12 intent to avoid a transaction reporting requirement or intent
13 to conceal or disguise the nature, location, source, ownership,
14 or control of the property.

15 Let's listen to what the defendant said about those
16 things.

17 (Portion of audio played.)

18 MR. BINFORD: It's a lot safer.

19 Well, why is it safer?

20 (Portion of audio played.)

21 MR. BINFORD: Tom wants to conceal the nature of that
22 drug money.

23 And what does the defendant say? That's why you're
24 paying me. What's why you're paying me 10 percent.

25 Count 1, this is the \$11,700 transaction. This is

1 with Sergei. And how do we know that it's a financial
2 transaction?

3 (Portion of audio played.)

4 MR. BINFORD: Talking about money; right? Money is
5 exchanging hands.

6 You have the graphs. They're in evidence.
7 Exhibits 84, 85, 86, 87, and 88 are all exhibits that you can
8 turn to back in the jury room if you want to turn to them and
9 those are the graphs that show these Bitcoin transactions that
10 show the approximate amount of Bitcoin that was exchanged on
11 each of those days.

12 You heard the testimony from Special Agent Ellsworth
13 that the Bitcoin transacted was about the same amount
14 approximated with the fee.

15 Now, this transaction, how do we know that the
16 defendant knew it was the proceeds of specified unlawful
17 activity?

18 (Portion of audio played.)

19 MR. BINFORD: "I don't ever want to hear what you do
20 again." And this is November 21st. So we've had the May 20th
21 meeting at this point. The May 20th meeting he says: I get
22 heroin from Arizona to New York and then on in car parts.

23 October 7th. He meets with Tom, who he thinks is
24 Sergei's business partner.

25 He says: Yeah. It's heroin; right? This is our

1 security. We want you to know it's heroin because we don't
2 want you to walk away; or we want to know you're not walking
3 away right now. You're going to say: Hey, I'm not involved in
4 this illegal activity.

5 This is November 21st. So this after all that, after
6 he's built up all this knowledge of their business plan. He
7 says: I don't ever want to hear what you do again.

8 And that is something you can go back and listen to in
9 the jury room.

10 Now, how do we know that the defendant intended to
11 avoid a transaction reporting requirement and intend to conceal
12 or disguise the nature, location, source, ownership, or control
13 of the property?

14 Well, listen to his own statements.

15 (Portion of audio played.)

16 MR. BINFORD: Low profile is way, way, way better.

17 The defendant understands that this is drug money and
18 that Sergei doesn't want it to get out there.

19 That's why he tells him: Don't say anything to
20 anyone. Low profile is way, way, way, way better.

21 (Portion of audio played.)

22 MR. BINFORD: Again, he's talking about this casino
23 website, but he's talking about Bitcoin. He's talking about
24 how there's no tracking. And at this point it's clear to him
25 what that business model is. Heroin. Heroin drug sales,

1 getting money somewhere else without being seized by the
2 government, without being reported to the government.

3 The next count is Count 4. This is the February 2nd,
4 2017, transaction with Jake. How do we know it's a financial
5 transaction? Well, you heard about the bag. You heard about
6 the bag with \$30,000 in it.

7 You heard that the defendant tried to fit it into his
8 fanny pack and it was just too much cash to fit in there that
9 day with the bag and everything, so Jake told him: Hey, go
10 ahead, take the bag.

11 And then he was seen driving away. He's even showing
12 up at someone else's house with that bag of money, going into
13 the house with that bag of money.

14 How do we know that the defendant knew it was the
15 proceeds of specified unlawful activity? Well, you heard the
16 recording. You heard that Jake, the Task Force Officer Martin
17 said: This is cocaine money.

18 (Portion of audio played.)

19 MR. BINFORD: So for Count 4 you can find that the
20 defendant intended to avoid a transaction reporting requirement
21 and that he intended to conceal or disguise the nature,
22 location, source, ownership, or control of the property.

23 And you know that because of his prior statements.
24 What did he tell Jake on November 16th?

25 (Portion of audio played.)

1 MR. BINFORD: So that's three months before this
2 February 2nd transaction.

3 He's telling Jake: Yeah, I know what a suspicious
4 activity report is. I know what these reports are. But when
5 they go to the defendant, those reports aren't being filed.

6 (Portion of audio played.)

7 MR. BINFORD: Think about it again. What person who
8 is engaged in legitimate business says: I don't want to get
9 shot. I don't want to talk to the police throughout the day.

10 Those are words of a money launderer.

11 (Portion of audio played.)

12 MR. BINFORD: All right. After the drug talk comes
13 up, he says: Use Telegram. This is a way to further protect
14 it.

15 As he mentioned previously in a prior transaction to
16 Tom, he -- he wanted to up it. He wanted to take things to the
17 next level.

18 Count 5. That's the last charged transaction. That's
19 the \$107,000 transaction on April 20th, 2017. That's the
20 transaction where Task Force Officer Martin, who was Jake, as
21 the defendant knew him, showed up and met him at the Starbucks
22 in Tempe.

23 You saw Exhibit 58 and Exhibit 59. You saw the
24 defendant counting the cash. You know that that was a
25 financial transaction because he's counting the cash. He

1 counted to \$107,000. Remember that \$7,000, Jake put a binder
2 clip on it to distinguish it from the \$10,000 bundles, the ten
3 \$10,000 bundles.

4 How do we know that he's talking about cocaine at that
5 meeting?

6 (Portion of audio played.)

7 MR. BINFORD: "I don't need to know." I don't need to
8 know that that's street money. That that's your drug money.

9 (Portion of audio played.)

10 MR. BINFORD: He talks about concealing the location.
11 It's hard to track. That's concealing the location. Bitcoin
12 is great for your drug money because the location can be
13 concealed. It can't be tracked by the government.

14 (Portion of audio played.)

15 MR. BINFORD: So let's talk about the tools of the
16 trade. Everyone in their profession has tools that they use.
17 Whatever your profession, you have tools that are go-to tools
18 in your line of business.

19 Well, let's say that the go-to tools for the
20 defendant, for a money launderer --

21 THE COURT: Mr. Binford, do you have a lot longer?

22 MR. BINFORD: I have less than five minutes, Judge.

23 THE COURT: All right.

24 MR. BINFORD: This first one here: A Trezor, right?
25 You need a secure device to store your Bitcoins if you're a

1 Bitcoin money launderer.

2 You need a fanny pack because you've got to carry tons
3 of cash around; sometimes it's 10,000, sometimes it's 30,000,
4 sometimes it's 107,000. But you've got to have that fanny pack
5 and the accessories.

6 You need some gold and silver coins so you can bash
7 fiat currency. You can talk about how the U.S. dollar is
8 worthless. So you can explain why Bitcoin is better to conceal
9 your drug money.

10 You've got to have those props. Those things are
11 important to someone who's a salesman, someone who is trying to
12 sell drug dealers on converting drug money to Bitcoin and the
13 benefits of it.

14 You need some ads with subtle hints about your
15 business model: I will get you Bitcoin immediately and
16 discreetly. All transactions are done with complete anonymity.

17 Remember? That's the word that Nolan Sperling
18 struggled with on the stand. He said "anonymity." But that
19 was what was important to him and that's why he went to the
20 defendant.

21 This is a guy who says: Bring me \$50,000 cash.

22 So, yeah, online ads is a big part of it.

23 You need a Bitcoin wallet that can send Bitcoin from
24 multiple addresses and that has an encrypted app so you can
25 have illegal conversations.

1 He was providing Bitcoin to Nolan Sperling, a drug
2 dealer.

3 The defendant was not induced. He provided all of his
4 own tools. He was always eager to engage in more transactions.
5 He knew it was drug money. There's no question that he took
6 drug money. You've heard the evidence. You'll go back. You
7 can listen to it again.

8 Those agents are incredibly clear when they say
9 "heroin," when they say "drug money," when they say "a key of
10 coke." He took that drug money and he converted it into
11 Bitcoin with the intent to conceal and disguise the nature of
12 the money, the location of the money, the source of the money.
13 And he also did it in Counts 2 through 5 to avoid federal
14 transaction reporting requirements.

15 The evidence in this case establishes beyond a
16 reasonable doubt that the defendant sitting over there, he's
17 guilty. And that's why we're asking you to hold him
18 accountable for his actions and to find him guilty on all five
19 counts of money laundering.

20 Thank you, Judge.

21 THE COURT: Thank you.

22 Ladies and gentlemen, we're going to take the lunch
23 break now. I'm going to ask you to be back at 1:20, and
24 remember the admonitions.

25 And so we'll see you then. Have a pleasant lunch.

1 COURTROOM DEPUTY: All rise.

2 (Jury leaves the courtroom at 12:05 p.m.)

3 THE COURT: Were there issues, Ms. Weidner, between
4 you and the government with respect to the instructions that we
5 need to give for forfeiture if, in fact, there is a guilty
6 verdict?

7 MS. WEIDNER: No, Your Honor. I went over the
8 instructions that I was provided and I told Mr. Restaino that
9 we were fine with them.

10 I do have a quick issue I want to raise before we
11 break for lunch.

12 THE COURT: All right. Hold that for just a second.

13 Do the parties object if I indicate to the jurors that
14 depending upon their verdict, we may -- before I dismiss them
15 to retire, if I instruct them that depending upon the nature of
16 their verdict, we may have one further inquiry for them?

17 MR. RESTAINO: We don't object, Your Honor.

18 MS. WEIDNER: Neither do we, Your Honor.

19 THE COURT: All right. So, Ms. Weidner, what issue
20 did you need to raise?

21 MS. WEIDNER: Your Honor, I wanted to preserve our
22 right to make a motion for mistrial. There were a number of
23 selections of audio clips that were played, some of them were
24 linked to an actual exhibit and then there were some that
25 weren't. Some, I was able to identify have actually been

1 admitted into evidence; some, it was not clear.

2 THE COURT: If he can demonstrate that they played
3 exhibits that weren't introduced into evidence, I will allow
4 you to preserve your right to move for a mistrial.

5 MS. WEIDNER: Thank you, Your Honor.

6 I would ask to get access to -- to the government's
7 presentation because I just was unable to determine.

8 MR. BINFORD: Yeah, Judge. I'm happy to provide the
9 defense with a copy of the PowerPoint.

10 THE COURT: All right. Please do that over lunch and
11 then we'll see you at 1:20 for the defense's closing argument.

12 MS. WEIDNER: And, Your Honor, today I'm not going to
13 have the opportunity to -- to look at the government's --

14 THE COURT: You have preserved your motion.

15 MS. WEIDNER: Right. Thank you.

16 THE COURT: Uh-huh.

17 (Proceedings in recess at 12:08 p.m.)

18 (Proceedings resume at 1:27 p.m.)

19 THE COURT: Thank you. Please be seated.

20 I just wanted to see the parties briefly because I
21 wasn't sure I understood whether or not there was going to be a
22 second evidentiary hearing at all related to forfeiture, if, in
23 fact, there is a guilty verdict rendered.

24 MR. BINFORD: Your Honor, if we do proceed to that
25 stage, we're prepared to make argument to the jury based on the

1 evidence they've already heard without presenting any
2 additional evidence.

3 THE COURT: All right. And the defense has been
4 apprised of that?

5 MS. WEIDNER: The government did not apprise us of
6 that, Your Honor. But given how the trial will proceed, we
7 assumed that the evidence regarding forfeiture was coming in,
8 especially with Agent Landa at the end yesterday.

9 THE COURT: That's what I had assumed. Does the
10 defense want to present any evidence relating to the forfeiture
11 counts?

12 MS. WEIDNER: No, Your Honor.

13 THE COURT: So are you ready to do your closing? I
14 don't know whether it's Mr. Cain or Ms. Weidner.

15 MS. WEIDNER: Yes, Honor. It's me.

16 THE COURT: All right. Kathleen, can we get the jury?

17 COURTROOM DEPUTY: Yes, Judge.

18 THE COURT: All right. Thank you very much.

19 (Jury enters the courtroom at 1:28 p.m.)

20 THE COURT: Thank you so much. I hope you had a
21 pleasant lunch and you're ready for the afternoon.

22 Please be seated.

23 Ms. Weidner, are you ready for your closing argument?

24 MS. WEIDNER: Yes, Your Honor.

25 THE COURT: Thank you.

1 MS. WEIDNER: Good afternoon.

2 You've heard all the evidence now and you know that
3 this case is not about dirty drug money. Far from it. It's
4 not nearly that interesting. It's about a storyline, a
5 fairytale, a ruse that was manufactured, envisioned, produced,
6 and packaged by agents of our own federal government.

7 Now, most of the federal agents you heard from told
8 you the same thing, that this new technology, Blockchain, and
9 the altcoins that rely on Blockchain technology, like Bitcoin,
10 have made law enforcement's job harder for now.

11 But the tools available to law enforcement will change
12 as the law adapts, as technology marches on. And you know that
13 to date, law enforcement hasn't gotten any favors from Congress
14 in that respect. You heard again and again from federal agents
15 who testified about how, to their knowledge, Congress has yet
16 to act on the issue of the movement of digital value, of
17 Blockchain or Bitcoin.

18 And don't you think that if Congress had thrown them a
19 bone like that, had at least set the ground rules, that law
20 enforcement agents would be among the first to know? That they
21 do everything in their power to utilize that tool in this
22 emerging environment?

23 But the absence of a tool is not a license to target
24 and effectively hunt down a person otherwise involved in legal
25 activity. And that is what this case is about.

1 You know now that when government agents envisioned
2 this case, when they built it from the ground up, they went off
3 a profile, an ad on a website. That website, as you know, is
4 localbitcoins.com, an online platform for peer-to-peer Bitcoin
5 exchanges.

6 You heard testimony from the government's expert,
7 Special Agent Don Ellsworth, that localbitcoins.com is still in
8 operation. It still provides a platform for peer-to-peer
9 exchangers, because peer-to-peer exchanges are not inherently
10 illegal. It's not illegal to buy, sell, own, or invest in
11 Bitcoin. It is perfectly legal to buy or sell Bitcoin on a
12 commercial exchange or in a peer-to-peer exchange.

13 The localbitcoins.com profile for Thomas Costanzo was
14 the profile selected by government agents for this
15 investigation. There was no ongoing investigation that led the
16 government to Mr. Costanzo and his profile. No anonymous tip
17 or information from an informant that pointed agents in his
18 direction.

19 It was a shot in the dark. And with that, the
20 government with its team of highly trained and experienced
21 agents, rolled out an extensive operation that would last
22 nearly two years. This operation involved undercover agents,
23 surveillance teams, federal and state law enforcement.

24 And the target of that operation, Bitcoin enthusiast
25 and peer-to-peer exchanger Thomas Costanzo.

1 And how did the government approach their target? The
2 same way a hunter would. First, identify the target. Second,
3 identify and exploit the target's vulnerabilities. Finally,
4 take down the target, lured into range, and if you're a hunter,
5 kill it. If you're the government, entrap him, lock him up.

6 So after the agents chose Mr. Costanzo as their
7 target, they identified his vulnerabilities, specifically, his
8 distrust of the government and commercial banking, his
9 unbridled enthusiasm for Bitcoin, his commitment to the idea
10 that Bitcoin provides a complete alternative to a system he
11 believes is inherently corrupt and the fact that he was
12 supporting himself through his Bitcoin exchanges. He was
13 self-employed, so to speak.

14 Undercover agents were employed with their sensitive
15 recording equipment to arrange meetings with Mr. Costanzo.
16 Prior to these meetings the agents would set an amount for the
17 exchange. They started small but got increasingly larger.

18 You heard evidence that Mr. Costanzo had never done
19 exchanges that big. He told Sergei, the first undercover
20 agent, that the largest he had ever done was \$25,000. But the
21 government pushed and pushed for larger and larger exchanges.
22 And the last exchange, \$100,000, exceeded the trading limit
23 even posted on Mr. Costanzo's localbitcoins ad, which was just
24 \$50,000.

25 And by that time the government knew that Mr. Costanzo

1 didn't have access to the Bitcoin necessary to complete these
2 big exchanges, that he had to go to his bank, and he learned
3 that his bank is Dr. Peter Steinmetz.

4 Mr. Costanzo couldn't do the deals without him. The
5 surveillance team even followed Mr. Costanzo to Dr. Steinmetz's
6 home after one exchange, a visit where it definitely looked
7 like Mr. Costanzo was dropping off the money for his bank.

8 Detective Martin asked him at the end of that \$30,000
9 exchange: Are you going to see your bank?

10 Mr. Costanzo said: Yes.

11 And that's exactly what he did.

12 The government has argued that Mr. Costanzo was solely
13 a money launderer. They played a statement for you where he
14 claimed to have built a multimillion-dollar business. But the
15 evidence you've seen shows something different. You've seen
16 where he lives. You saw the photo of the exterior of his
17 apartment.

18 When you look at the search photos in evidence, you
19 will see, again, the inside of his apartment. Not a
20 multimillionaire's apartment. You heard about what he drives,
21 the car that broke down in September 2016, when he went to meet
22 UCA Jake on their first meeting, wasn't fixed until February.
23 He was on a bike in between. Not the kind of vehicle you would
24 expect a multimillionaire to have.

25 You heard about where he goes: McDonald's, Starbucks,

1 Jersey Mike's, not the dining establishments of a
2 multimillionaire.

3 Mr. Costanzo was not living the life. The evidence
4 makes that very clear. His claims of success were about as
5 real as the undercover agents' story lines, meaning not at all.

6 The undercover agents in their meetings with
7 Mr. Costanzo, they chose their words very carefully. They knew
8 their objective, their goal, their target. They were working
9 to lay a trap.

10 Mr. Costanzo, on the other hand, it's evident from
11 even the excerpts that you all heard -- and those were not the
12 entire meetings -- that he was talking a mile a minute about
13 Bitcoin, about a bunch of other topics in addition to Bitcoin.
14 He was messing with his phone, setting up other meetings.

15 It's hardly even apparent that he was paying attention
16 in some of these meetings that he had with undercover agents.
17 And this is important, because for each charge, you must
18 consider whether he had an intent to conceal the source of the
19 funds.

20 Another aspect of that is the fact that Bitcoin was
21 involved, which affects the nature of that inquiry. The
22 evidence shows that Mr. Costanzo's intention when he made
23 Bitcoin exchanges was to promote Bitcoin, to expand the
24 audience for Bitcoin, and, of course, to profit from it himself
25 and hopefully become successful someday.

1 The fact that Bitcoin is pseudonymous, which, as you
2 heard, basically means that it's not anonymous, but it is
3 difficult to track. That's just the nature of how it functions
4 for any exchange, for any party involved in the exchange.

5 Recall the words you heard from Special Agent
6 Ellsworth: There are never any names on the Blockchain.
7 That's not being tricky. That's just how it is.

8 So that has nothing to do with anyone's intent. It's
9 just how Blockchain and Bitcoin work. And as you have heard so
10 many times, none of that is illegal.

11 Second, as you consider the question of whether
12 Mr. Costanzo acted with the intent to avoid a federal
13 transaction reporting requirement, you must consider whether
14 the government established that he had sufficient knowledge of
15 applicable regulations to understand when a duty to comply
16 arises.

17 The government didn't get there in its case. Tossing
18 around terms like SAR, that doesn't mean anything. The
19 government is arguing to you that because the undercover agents
20 said they didn't want to deal with banks, that Mr. Costanzo, in
21 that way, intended to avoid a transaction reporting requirement
22 that a bank, in this case, the undercover agent's imaginary
23 bank, that said imaginary bank otherwise would have had a legal
24 obligation to file. And, again, there's no real bank in this
25 case.

1 That is so many layers of fiction that my head spins
2 when I try to think about it.

3 Turning to the testimony of Nolan Sperling. You have
4 to question the government's judgment in presenting you with
5 Mr. Sperling in this case. They want you to convict
6 Mr. Costanzo so badly, they want so badly for you to find that
7 Mr. Costanzo was not entrapped by this plot they manufactured,
8 that they're willing to get a person that they know is an
9 international drug dealer, thirty to forty times over, who
10 imported real illegal drugs from Canada, Germany, and The
11 Netherlands into this country.

12 The government is relying on Mr. Sperling, someone who
13 would be a convicted felon, convicted of international drug
14 trafficking, but for the truly amazing deal he got from the
15 government. And it was a deal of a lifetime.

16 In exchange for his testimony and keeping his nose
17 clean for now, Mr. Nolan gets to withdraw his guilty plea to
18 Importation of Narcotics. He gets to walk away without a
19 federal conviction, without a single day in jail, without the
20 indignity of a public arrest even.

21 That is unheard of preferential treatment for an
22 individual involved in real international drug trafficking.
23 His prosecution was not a shot in the dark, like this case
24 against Mr. Costanzo. It was not manufactured, produced, and
25 packaged by the government.

1 Nolan Sperling's criminal conduct was very real in
2 every way. Real packages that Mr. Sperling had imported from
3 foreign countries came to our country. Real packages that
4 Mr. Sperling imported were seized by agents, not just in the
5 United States, in Chicago and San Francisco, but in Canada.

6 Frankly, Mr. Sperling is exactly the kind of target
7 someone known to be heavily involved in illegal activities,
8 that we expect our government to protect us from, to protect
9 our children from, to protect our society from. Because
10 Mr. Sperling didn't just import drugs, he sold them. And he
11 gets to walk. And that's something to think about.

12 The government marched Mr. Sperling into this trial to
13 try to show a real-world connection to their story, this
14 construction they created to ensnare Mr. Costanzo, to entrap
15 him.

16 And remember that the case of Mr. Sperling is not
17 related to Mr. Costanzo's case, save for the fact that well
18 after the investigation of Mr. Costanzo was underway, it was
19 separately learned that Mr. Sperling had purchased Bitcoin from
20 Mr. Costanzo in 2015.

21 Also, consider what Mr. Sperling said on
22 cross-examination about the information he gave Mr. Costanzo
23 about his business. And if you think about it, very little
24 comes to mind because he kept his mouth shut. That's what real
25 drug dealers do. That's what real drug traffickers do. They

1 keep their mouth shut around people who aren't in the business.

2 You also heard that Mr. Costanzo bought a small amount
3 of a narcotic hallucinogen from Mr. Sperling months into their
4 dealing together. Evidence indicates this happened once, but
5 it does not in any way suggest that Mr. Costanzo knew or could
6 have known about the extent or Mr. Sperling's activities. He
7 was very good, as he put it, at not being dishonest, but being
8 devious. His own parents had no idea what he was up to. So
9 how was Mr. Costanzo, who only met him a handful of times,
10 supposed to figure it out?

11 And after two years of investigation, this
12 coincidental discovery that Mr. Sperling had purchased Bitcoin
13 from Mr. Costanzo, even though Mr. Sperling kept his mouth shut
14 about what the Bitcoin was for -- and let me just emphasize
15 here, on cross -- on cross-examination, Mr. Sperling clarified
16 that he told Mr. Costanzo he had lost the money -- lost some
17 money -- I believe about \$10,000 -- but not about the seizure
18 of a package. He did not sufficiently recall. But that is all
19 the government was able to gather as far as any real-world
20 connection to Mr. Costanzo's Bitcoin activities.

21 So we're left with a situation that was manufactured
22 and packaged and produced by the government against
23 Mr. Costanzo. And you heard the frustration, I think,
24 definitely in the government's closing arguments, I guess,
25 about their lack of tools they have currently to address these

1 issues. But the absence of a tool is not a license to target
2 and effectively hunt down a person otherwise involved in legal
3 activities.

4 This time Mr. Costanzo was the target. Who knows who
5 it's going to be next time?

6 So thank you for your time. Thank you for your
7 consideration. We urge that you find Mr. Costanzo was not
8 guilty of the charges against him, and to the extent that you
9 question that, that he was very clearly entrapped.

10 Thank you.

11 THE COURT: Rebuttal?

12 MR. RESTAINO: Members of the jury, did Morpheus seem
13 reluctant to you to engage in those transactions for money he
14 believed to be dirty money from drug deals?

15 You heard many, many audio clips and you're not going
16 to hear any more out here in the courtroom. You heard the
17 enthusiasm in his voice for Bitcoins, but you also heard that
18 desire in his voice for the profit margin that comes with doing
19 shady transactions, seven to ten percent above that much more
20 reasonable rate at a Coinbase or commercial exchange.

21 You listened to Nolan Sperling -- and we'll talk about
22 him a little later on in more detail. But you listened to what
23 he told you about his dealings with the defendant and you heard
24 about Nolan Sperling's friend Jake from Montana's dealings with
25 the defendant as well.

1 You also read the text exchanges between the defendant
2 and Kuro trying to sell that DMT hallucinogen discreetly and
3 between the defendant and that angry wife whose husband was
4 engaged in drug purchases with Bitcoins.

5 Ladies and gentlemen, who is doing the hunting here?

6 Now, again, you'll hear no more audio clips out in the
7 courtroom. I want to echo Ms. Weidner's thanks and
8 appreciation for your service here today. And in just a few
9 moments you'll be able to listen and review whatever evidence
10 you want as you deliberate. And you'll have the instructions
11 with you, as well, as you deliberate. And in particular,
12 you'll have all of the instructions you want to see.

13 Let me talk about the reasonable doubt instruction
14 which says that a reasonable doubt is a doubt based on reason
15 and common sense and is not based purely on speculation. And
16 so as you consider the evidence, use that common sense and
17 decide and analyze for yourselves.

18 Sure, this is a newer technology, this Bitcoin. It's
19 a newer platform. It's a newer platform that Congress has not
20 addressed. But it's a newer platform that can be used to
21 commit an older, existing crime, money laundering.

22 Now, you know and you've heard the evidence that the
23 law enforcement agents did not induce the defendant to engage
24 in these transactions. And you'll have the instructions in
25 front of you as you deliberate.

1 Was there a substantial risk that an otherwise
2 innocent person would commit the offense? And there are a
3 number of factors for you to consider and weigh. And after
4 considering those factors, you may consider for yourselves and
5 find for yourselves that the evidence establishes he was not,
6 in fact, induced.

7 Let's walk through those.

8 Fraudulent representations is one. Were there
9 fraudulent representations made by the agent? Well, sure, that
10 they were drug dealers, as part of the ruse. You also got
11 another instruction that says that law enforcement agents are
12 permitted to use stealth and deception.

13 But there's a little bit of fraudulent representation
14 there. Sure. Not a whole lot though, and there weren't lies
15 about the number of people that would be coming to the
16 transactions.

17 When agents said they were coming alone, they came
18 alone. When agents said they wanted to do a deal, they showed
19 up usually and did the deal. All of the other factors weigh
20 heavily in favor of a finding that there was no inducement.

21 Was there persuasion? This was a person who was eager
22 to go, revved up from the beginning, chuckling when he heard
23 the references to drugs and wanting to engage in the
24 transactions. There was no persuasion needed for him.

25 Were there threats? Of course not. The agents were

1 engaged in their discussions with him out in the open,
2 typically during the day or late noon. There was no
3 overbearing of his will or coercive tactics.

4 Was there harassment? Not on the part of the agents.
5 If you consider the spam messages that the defendant sent with
6 his text, "Hey, did you listen to my podcast the other day?"
7 maybe you would find that there was harassment there. Again,
8 who is doing the hunting here?

9 Was there promises of a reward? Well, no, just to the
10 contrary. The agents didn't promise the defendant more money
11 and more of a percentage if they could do more deals with him.
12 They nickel-and-dimed him going from ten percent to
13 seven percent on the larger transactions. That's just the
14 opposite of a reward.

15 And finally, there were no pleas here to need or
16 sympathy or friendship. You heard a lot about what the
17 defendant likes to do when he gets out of his apartment that
18 may not be such a great apartment. He takes yoga retreats, for
19 example. The agents never offered to go on a yoga retreat with
20 him or to attend a Rand Paul convention or to go and see the
21 latest Snowden movie. There was no inducement here.

22 Nor was there predisposition. And these are other
23 factors that you'll have in front of you. Was there reluctance
24 on the part of this defendant, Morpheus?

25 To the contrary. He had energy, energy to ride around

1 town in that bicycle and take it on the light rail and go from
2 place to place and engage in transactions, stuffing bills into
3 his fanny pack all the while. He had a shtick and an energy to
4 him in pitching the value of Bitcoin which, sure, can be used
5 legitimately and can be used to clean money that's represented
6 to be dirty money as happened on the five charged transactions.

7 Now, did the agents initially suggest the criminal
8 activity? Yes. That's the one factor there for predisposition
9 that cuts against the government. But take that in context
10 using your reason and common sense with the very first
11 conversation with Agent Kushner where the defendant, on his
12 own, without prodding from Agent Kushner, said that this is
13 good for the untraceability. That starts the conversation and
14 the discussion that leads to drugs. That is evidence as well
15 of pre-disposition.

16 Look towards his character and his reputation. To the
17 agents it was important that he had done 74 confirmed
18 transactions, wanting to get to more transactions. Someone
19 that had been engaged in this activity throughout a course of
20 years.

21 Was it for profit? Yes, a heavy, heavy profit, the
22 difference, again, between one-and-a-half percent at a Coinbase
23 and the up-to-ten percent of the transaction when conducted
24 peer-to-peer with the defendant.

25 Again, who is doing the hunting here?

1 And the nature of the persuasion is the final factor
2 that you can consider. The nature of the persuasion is a
3 business relationship. This is a business opportunity, not
4 false promises of friendship or need or anything else. And you
5 have sufficient evidence to determine, as an element of the
6 crime, beyond a reasonable doubt, that Mr. Costanzo, that
7 Morpheus, was predisposed to commit this crime.

8 Look to the way he used the technology as well. The
9 technology is not illegal, but its use can support a crime.

10 He went to that Telegram app every time a conversation
11 was about to get dirty.

12 Kuro 7 and DMT and quoting the grams: Be more
13 discreet. Go to Telegram.

14 TFO Martin talks about the very first dirty
15 transaction in February of 2017: Let's shift to Telegram.

16 The same with Agent Klepper and a similar discussion
17 with the different mechanism with Agent Kushner.

18 You can also hear contrast, what the bank did. You
19 heard about how the defendant was surveilled to the bank's
20 house and went in with the bag; couldn't see whether he came
21 out with the bag.

22 Now, it would be speculation to think that the entire
23 contents of the bag were left in the bank's house. But the
24 bank was involved in a relationship providing a source of
25 Bitcoin to the defendant. Except, when Agent Kushner talked to

1 the bank in March of 2016, the bank said: I don't do dirty
2 deals. And the bank turned down the money laundering
3 opportunity that Morpheus so very energetically leapt at.

4 You know, there's another contrast here as well. A
5 small point from one of the earlier recordings, 102C. You
6 heard the defendant talking with Agent Kushner about his
7 interactions with a guy that he really liked who was selling
8 deities, the Ganesh statues and the like.

9 He said, you know, I got this guy hooked up with
10 Coinbase so he can get his Bitcoins and he can sell his
11 statues. You never heard the defendant suggest the use of
12 Coinbase to any of the undercover agents and that's an
13 interesting fact.

14 And you've heard all about the various tools that the
15 defendant had at his disposal here with respect to his
16 pre-disposition.

17 You know he's got the phone. Really, you know, he had
18 the Samsung phone and the BlackBerry phone. He's got that
19 knowledge. That's a tool. It's fun, fun, fun, fun, fun, fun.
20 He knows this stuff. On audio 107D, they're doing these
21 complex transactions of Bitcoin into dollars.

22 What does the defendant say?

23 I could do this stuff in my sleep.

24 He's got to hustle. He is running, jogging, in street
25 clothes to get to that first deal with TFO Martin because

1 there's a buck to be made. And then later on, once he realizes
2 that it's drug money, there's some concealment to be had.

3 And finally, who sets the location of these meetings?
4 This is something that the defendant typically did in
5 suggesting where he wanted to be.

6 Doesn't the defendant also have a sophisticated
7 understanding of how a drug trafficking operation might work.
8 In that discussion with Agent Klepper about how the use of
9 Bitcoin cuts half of your exposure. You might have to move the
10 product one way, but there's no more dirty cash coming back
11 around.

12 Now, let's talk a little bit about Nolan Sperling.
13 You heard Ms. Weidner discussing him at some length.

14 And you have an instruction. Follow that instruction.
15 And that instruction says to examine his testimony with greater
16 care.

17 And what that means is you should look to
18 corroboration. How does one corroborate? Well, in this case,
19 you've got a huge and large text string between Nolan Sperling
20 and the defendant. Look at the text chain. This is also a
21 transaction, by the way, in which Sperling is paying that seven
22 to ten percent which he considers to be a sacrifice in order to
23 keep himself off the grid. Not only that, but Sperling turns
24 out to be a supplier of that DMT hallucinogen for the
25 defendant. Again, who is ensnaring whom here?

1 You've also got this bit about him being an
2 international drug dealer which, sure, he is, in that he is a
3 drug dealer and he got product internationally. But you know
4 the scope. You heard the scope on cross-examination during the
5 time he's working, getting Bitcoin from the defendant.

6 Spends about 30- to 35,000 on the drugs. Nets --
7 nets, now, about 30- to 35,000. Because he had the money
8 seized and he has another batch of money that's seized out of
9 the -- out of the parents' home where he's got the product
10 seized on one place and the money seized out of the parents'
11 home.

12 That takes the \$15,000 profit. It's gone. The only
13 person making profit from Nolan Sperling's transactions is
14 that. And you've got the circumstantial evidence to
15 corroborate Nolan Sperling's recollections of what the
16 defendant knew.

17 You've got that large transaction coming in August of
18 2015. They're going to really ramp it up. You've got the
19 Xanax seizures sometime in 2015. And you can decide for
20 yourselves what was and was not said about that. And then
21 you've got that November, 2015, text.

22 Again, it's sort of a spanning text; right.

23 It's: Did you see me on Localbitcoin last night on my
24 podcast?

25 And he says: So your customers will understand.

1 That's circumstantial evidence as to the defendant's
2 intent and knowledge of what transactions were going on with
3 Nolan Sperling. You should consider his testimony with greater
4 care, but you should also look to the corroboration on that.

5 Now, as to the defendant's knowledge with which
6 Ms. Weidner spoke of, you've got the belief that the -- that
7 the funds were drug money. And the audio establishes his
8 belief, at least, that those representations were true.

9 And then you've got the issue of the transaction
10 reporting where he has to know what those transaction reporting
11 requirements are. That is, he has to have the specific intent
12 to evade them. And in order to evade them, one must know what
13 they are.

14 That's a little bit different than the concealment
15 prong of money laundering which simply means he's got to have
16 the intent to conceal, which we'll talk about in a bit.
17 There's no regulations on what it means to conceal.

18 What it means to conceal is up to you and your common
19 sense. But what it means to avoid a transaction reporting
20 requirement is the currency transaction reporting requirement
21 for more than 10,000 and the suspicious activity report that
22 Agent Ellsworth testified to and that you heard the defendant
23 speak about in the audio.

24 And so does he have a specific intent here with
25 respect to avoiding that requirement? Look to his purpose and

1 look to those other transactions to get at his intent. Look to
2 Kuro. Look to the angry wife. Look to Nolan Sperling and his
3 friend Jake from Montana. Look to the manner in which those
4 three undercover transactions took place.

5 And you can and should find that there is avoidance of
6 a transaction reporting requirement, as well as the specific
7 intent to conceal.

8 Indeed, if one listens to the -- if you listen to the
9 audio, you can listen to 101J in which the defendant says:
10 Now, with Bitcoin, there's no income.

11 Bitcoin, therefore, can be used to conceal and this
12 defendant had the specific intent to conceal the money that was
13 handed over by those undercover agents.

14 To conceal what? The source. The location of it.
15 The ownership of the money.

16 This is a defendant, ladies and gentlemen, that is
17 hunting around for that seven to ten percent windfall, for
18 shady transactions, five of which in this case were done by
19 undercover officers offering drug money for the defendant to
20 attempt to conceal and for the defendant to intend to avoid the
21 reporting requirements on the transactions.

22 He engaged in all five of those transactions. And at
23 this time the United States asks that you hold that man,
24 Morpheus, Thomas Costanzo, the defendant in this case, guilty
25 on all five counts in the indictment.

1 Thank you.

2 THE COURT: Ladies and gentlemen, we've appreciated
3 your attention throughout trial.

4 As I indicated at the beginning, both parties are
5 entitled to have their case deliberated on by no more and no
6 less than 12 jurors. We seated 15 of you to be sure that we
7 would have 12 at the end. And so now we must designate three
8 alternates.

9 Let me explain that while the 12 jurors will be
10 released -- the 12 jurors from the admonition -- I'm sorry.

11 The 12 jurors who will deliberate this case will be
12 released from the admonition, at least insofar as they should
13 discuss this case among themselves.

14 The three alternates will not be released from the
15 admonition. We may need you during the course of the
16 deliberations. And so we can't have you discussing this case
17 with yourself or with anyone else. And we will ask you to
18 leave your phone numbers with Kathleen so that if we need to
19 contact you, we can get in touch with you in case we need to
20 have you come in and substitute for an unavailable juror.

21 Is there any question about that by anyone?

22 All right. Obviously, we appreciate very much, those
23 of you, who are going to serve as jurors. But we equally
24 appreciate -- and in some ways appreciate more -- those who
25 will be designated as alternates, because it's difficult to sit

1 throughout trial, hear all the evidence and then not be allowed
2 to sit through deliberations.

3 And so before we designate who you are, whoever you
4 are, I want you to know we thank you. We appreciate your
5 dedication and your service to your country.

6 Because this is a federal court, we designate
7 alternates in only the most sophisticated manner. We have 15
8 numbers on little tiles. We put them in a cup. We shake up
9 the cup and we draw the first three numbers. And those numbers
10 are the ones that are designated as the alternates.

11 Have both parties had a chance to verify that numbers
12 one through 15 are in the cup?

13 If you haven't --

14 MR. RESTAINO: We deferred, Your Honor.

15 THE COURT: I'm sorry. What?

16 MR. RESTAINO: We deferred, Your Honor.

17 THE COURT: Well, you know you don't need to defer.

18 If you want, you can come see that we have numbers one
19 through 15 and not any double numbers or anything else.

20 MR. CAIN: We trust the Court, Your Honor.

21 THE COURT: All right.

22 Sir, you're Juror Number 1.

23 Number 2.

24 Number 3.

25 Ma'am, you're Juror Number 4.

1 Number 5.

2 Number 6.

3 Number 7.

4 Number 8.

5 Juror Number 9.

6 Juror Number 10.

7 Eleven, 12, 13, 14, and 15.

8 Kathleen, will you please draw out three numbers.

9 COURTROOM DEPUTY: Juror Number 10.

10 THE COURT: Juror Number 10.

11 COURTROOM DEPUTY: Juror Number 3.

12 And Juror Number 4.

13 THE COURT: Yes. So that would be, ma'am, you, Juror
14 Number 3, Juror Number 4, Juror Number 10.

15 We would ask you to be sure that Kathleen has your
16 telephone numbers, as I've indicated, to be sure that we can
17 get in touch with you if we need to.

18 Please, also, you're not released from the
19 admonitions. Don't discuss this case with anyone. When the
20 case is over, we will call you, if you wish, to let you know
21 what the verdict is and also to let you know you're released
22 from the admonitions and you can then discuss the case with
23 whomever you wish.

24 If you have items in the jury room, we would ask you
25 when we dismiss the rest of the jurors to begin their

1 deliberations, just to pick up your items and go. And please,
2 do not discuss this case with any of the existing jurors or
3 anyone else.

4 Again, I do wish to reemphasize to each of the three
5 of you how grateful we are for your service.

6 As to the rest of you, I do not dictate how long your
7 deliberations will be. And I need to inform you that depending
8 upon what your verdict is, we may ask you to consider one more
9 question. So you may actually have to do two separate
10 deliberations.

11 And as I said, we do not dictate how long you
12 deliberate for or how you decide the case. But I will say that
13 if you go until five o'clock today and you haven't reached a
14 verdict, I'm going to ask you to go home and come back tomorrow
15 and resume your deliberations. You'll be free to do so. The
16 jury room will be open and everything will be available.

17 When you elect a foreperson and you go on break, just,
18 please call my chambers so that I know that you're on break and
19 I'm aware that you're out and about.

20 And then when you reassemble and begin deliberations,
21 call and let me know that too so I can be sure that the bailiff
22 knows where you're at and what you're doing and can provide you
23 with the appropriate support.

24 You don't need the write out requests for coffee,
25 phone calls, checking on your car, stuff like that that doesn't

1 have anything to do with this case.

2 But if you have any questions during your
3 deliberations which pertain to evidence, the instructions or
4 the verdict, you need to write them down and give them to the
5 bailiff and to continue your deliberations, because while I
6 will give an answer to your question, it may not be an answer
7 you want, number one; and number two, I need to consult with
8 both parties before I answer any of your questions.

9 So you should continue your deliberations. You're not
10 to use the telephone or your telephones or the books in the
11 courtroom for any purpose.

12 I am now going to have the bailiff sworn in and she
13 will escort you to the courtroom and you may begin your
14 deliberations.

15 (Bailiff sworn.)

16 THE COURT: All right. Ladies and gentlemen of the
17 jury, you are now excused.

18 Alternate jurors, again, thank you very much.

19 COURTROOM DEPUTY: All rise.

20 (Jury leaves the courtroom at 2:13 p.m.)

21 THE COURT: All right. I am informed that counsel
22 have reviewed and approved the exhibits to be sent back to the
23 jury; is that correct?

24 MR. RESTAINO: It is correct with one nagging issue,
25 Judge.

1 THE COURT: All right.

2 MR. RESTAINO: Exhibit 97 is one that was shown. It
3 was admitted through -- sorry. It was admitted with Jason
4 Shadle. It was referred to but not actually published.

5 The defense had preserved an objection. We would have
6 no objection to it simply being withdrawn from evidence that
7 goes back to the jury.

8 MS. WEIDNER: You know, Your Honor, having considered
9 that issue some more over the time since it was first raised,
10 we would not object to withdrawing that either. It's -- I
11 think it's just kind of a weird, extraneous, non-informative
12 piece of information.

13 THE COURT: All right. Well, with the stipulation of
14 the parties, then Exhibit 97 is withdrawn with no further
15 corrective action needed to be taken, I take it.

16 MR. RESTAINO: Correct, Your Honor.

17 MS. WEIDNER: Yes, Your Honor.

18 THE COURT: I am also informed that the parties are
19 aware that the Court is providing a laptop, which is otherwise
20 blank, to go into the jury room in case they wish to listen to
21 any of the recordings; is that correct?

22 MR. RESTAINO: Yes, Your Honor.

23 MS. WEIDNER: I have -- I -- this is -- Your Honor, I
24 did not -- I knew that the jury would have the recordings in
25 evidence and the Court, in fact, made statements about that.

1 -- I wasn't aware of the computer and I have -- if --
2 THE COURT: Would you like to check out the computer?
3 You have the right to do so, if you wish.

4 MS. WEIDNER: You know, I think for the purposes of
5 the record, it is a good idea. And if you would just give us a
6 moment with our paralegal who is much more skilled in that than
7 I am?

8 THE COURT: Sure.

9 MS. WEIDNER: Thank you.

10 THE COURT: Then will both parties hold themselves
11 close to the courtroom in case we have any questions or can
12 inform you of a verdict.

13 And does Kathleen have your telephone numbers?

14 MS. WEIDNER: I will get my telephone number to
15 Kathleen, Your Honor.

16 MR. RESTAINO: And we'll make sure of that as well,
17 Judge.

18 THE COURT: All right. Thank you.

19 (Proceedings in recess at 2:16 p.m.)

20 (Proceedings resumed at 3:40 p.m.)

21 THE COURT: Please be seated.

22 You both have read and reviewed the question?

23 MS. WEIDNER: Yes, Your Honor.

24 MR. RESTAINO: Yes, Your Honor.

25 THE COURT: Seems to me the answer is "no."

1 Is there any dispute between the parties?

2 MS. WEIDNER: None from the defense, Your Honor.

3 MR. RESTAINO: I think that likely is the answer here,
4 Judge. I mean, just for the record, you know our position that
5 apart from this trial, money-transmitting businesses and
6 peer-to-peer exchangers must be licensed under 18 U.S.C.
7 1960.

8 But for the purposes of the evidence in the trial and
9 based on the Court's questioning of the parties last night and
10 tonight, that there's no question that we did not present this
11 as him having an obligation to file those.

12 THE COURT: All right. And so do you object if we
13 just answer "no"?

14 MR. RESTAINO: I think that's the smartest thing,
15 easiest way to do it, Judge.

16 MS. WEIDNER: No objection, Your Honor.

17 THE COURT: All right. That's what we'll do.
18 Thank you.

19 (Proceedings in recess at 3:41 p.m.)

20 (Proceedings resume at 3:58 p.m.)

21 THE COURT: Please be seated. All right.

22 I just want to be prepared against any eventuality.
23 And should the jury return a guilty verdict on any one of the
24 counts, I take it from both parties that there is no new
25 evidence that is presumed on the forfeiture verdict.

1 MR. BINFORD: That's correct, Your Honor.

2 THE COURT: Do you want to make argument?

3 MS. WEIDNER: Yes, Your Honor.

4 THE COURT: How long is your argument going to take?

5 MS. WEIDNER: Very brief, Your Honor, for the defense.

6 MR. BINFORD: Much less than five minutes.

7 THE COURT: Okay. So we could ask the jury if they
8 want to proceed to the forfeiture part of the case and just go?

9 MR. BINFORD: I would be prepared to do that, if
10 they -- if they have a guilty verdict.

11 MS. WEIDNER: So will I, Your Honor.

12 THE COURT: All right.

13 Kathleen, will you please get the jury.

14 (Jury enters the courtroom at 4:00 p.m.)

15 THE COURT: Thank you. Please be seated.

16 Can I please have the Foreperson identify himself or
17 herself.

18 Madam Foreperson, has the jury reached a unanimous
19 verdict as to each of the counts contained in the verdict form?

20 JUROR NUMBER 12: Yes.

21 THE COURT: Would you please then give that verdict
22 form to Kathleen.

23 Oh, by the way, have you signed the form?

24 JUROR NUMBER 12: Yes.

25 THE COURT: Thank you.

1 THE COURT: The Clerk will please read the verdict.

2 COURTROOM DEPUTY: We, the Jury, find the defendant,
3 Thomas Mario Costanzo:

4 Count 1 - \$3,000 Bitcoin transaction on or around
5 May 20, 2015, guilty of Money Laundering, as charged in Count 1
6 of the Indictment. \$3,000 on or around May 20, 2015.

7 Count 2 - \$13,000 Bitcoin transaction on or around
8 October 7, 2015, guilty of Money Laundering, as charged in
9 Count 2 of the Indictment. \$13,000 on or around October 7,
10 2015.

11 The second box is checked: The defendant intended to
12 conceal or disguise the nature, location, source, ownership, or
13 control of property believed to be the proceeds of specified
14 unlawful activity.

15 THE COURT: Just to be clear, Kathleen, the first box
16 is not checked?

17 COURTROOM DEPUTY: Correct. The first box is not
18 checked.

19 Count 3 - \$11,700 Bitcoin transaction on or around
20 November 21, 2015, guilty of Money Laundering as charged in
21 Count 3 of the Indictment. \$11,700 on or around November 21st,
22 2015.

23 The first box is unchecked.

24 The second box is checked: The defendant intended to
25 conceal or disguise the nature, location, source, ownership or

1 control of property believed to be the proceeds of specified
2 unlawful activity.

3 Count 4 - \$30,000 Bitcoin transaction on or around
4 February 2, 2017, guilty of Money Laundering as charged in
5 Count 4 of the Indictment. \$30,000 on or around February 2,
6 2017.

7 The first box is unchecked.

8 The second box is checked: The defendant intended to
9 conceal or disguise the nature, location, source, ownership, or
10 control of property believed to be the proceeds of specified
11 unlawful activity.

12 Count 5 - \$107,000 Bitcoin transaction on or around
13 April 20, 2017, guilty of Money Laundering as charged in Count
14 5 of the Indictment. \$107,000 on or around April 20, 2017.

15 The first box is unchecked.

16 The second box is checked: The defendant intended to
17 conceal or disguise the nature, location, source, ownership, or
18 control of property believed to be the proceeds of specified
19 unlawful activity.

20 Signed by the Foreperson this date.

21 Is this your true verdict, so say you one and all?

22 (Jury panel responds in the affirmative.)

23 THE COURT: Would the clerk please poll the jury.

24 COURTROOM DEPUTY: Juror Number 1, is this your true
25 verdict?

1 JUROR NUMBER 1: Yes.

2 COURTROOM DEPUTY: Juror Number 2, is this your true
3 verdict?

4 JUROR NUMBER 2: Yes.

5 THE COURT: Juror Number 5, is this your true verdict?

6 JUROR NUMBER 5: Yes.

7 COURTROOM DEPUTY: Juror Number 6, is this your true
8 verdict?

9 JUROR NUMBER 6: Yes.

10 COURTROOM DEPUTY: Juror Number 7, is this your true
11 verdict?

12 JUROR NUMBER 7: Yes.

13 THE COURT: Juror Number 8, is this your true verdict?

14 JUROR NUMBER 8: Yes.

15 COURTROOM DEPUTY: Juror Number 9, is this your true
16 verdict?

17 JUROR NUMBER 9: Yes. Sorry.

18 COURTROOM DEPUTY: Juror Number 11, is this your true
19 verdict?

20 JUROR NUMBER 11: Yes.

21 COURTROOM DEPUTY: Juror Number 12, is this your true
22 verdict?

23 JUROR NUMBER 12: Yes.

24 COURTROOM DEPUTY: Juror Number 13, is this your true
25 verdict?

1 JUROR NUMBER 13: Yes.

2 COURTROOM DEPUTY: Juror Number 14, is this your true
3 verdict?

4 JUROR NUMBER 14: Yes.

5 COURTROOM DEPUTY: And Juror Number 15, is this your
6 true verdict?

7 JUROR NUMBER 15: Yes.

8 THE COURT: Ladies and gentlemen, we thank you for
9 your services in this case.

10 You may recall that I indicated to you that depending
11 upon your verdict, we might have you make one more important
12 determination. And because your verdict on five of the counts
13 is Guilty, we do need to make you -- we do need to have you
14 make a final determination.

15 And that determination is as to whether or not the
16 particular items seized from the -- or taken from the defendant
17 during the course of this investigation belonged to the
18 Government or can be seized by the Government or remain the
19 property of the defendant.

20 I have a supplemental list of jury instructions which
21 I am now going to read to you as soon as they come in, which
22 should be very shortly. And then I'm going to allow the
23 parties briefly, very briefly, to make argument to you on that
24 point.

25 Both have represented to me that they have fewer than

1 five minutes. But, again, the Government gets the final chance
2 to make the final argument. And then we'll have you retire
3 again to make the determination as to whether or not the
4 defendant has forfeited the property.

5 Are there any questions about that?

6 (Jury panel shakes heads in the negative.)

7 THE COURT: All right. Any questions by the parties?

8 In other words, I am going to give the jury
9 instructions and show the verdict form to the jury before you
10 make your final arguments.

11 Any objections to that?

12 MS. WEIDNER: No, Your Honor.

13 MR. BINFORD: No, Your Honor.

14 THE COURT: All right.

15 So, ladies and gentlemen of the jury, I'm going to
16 show you first -- are we ready?

17 LAW CLERK: Yes.

18 THE COURT: Carmel? Okay.

19 Again, the first sheet is the title page which says
20 Supplemental Jury Instructions Regarding Forfeiture.

21 All right. At this time because there are relatively
22 few jury instructions, I'm not going to give you an index.
23 You'll just have to leaf through, if you want to find
24 something.

25 Instruction number 1: Ladies and Gentlemen of the

1 Jury, in view of your verdict that Defendant Thomas Mario
2 Costanzo is guilty of offenses as charged in Counts 1 through 5
3 of the Indictment, you have one more task to perform before you
4 are discharged. I now must ask you to render special verdicts
5 concerning property the United State Government has alleged is
6 subject to forfeiture to the United States, in connection with
7 the offenses for which the defendant was convicted.

8 As to each item of property for which the Government
9 seeks forfeiture, you must determine whether the Government has
10 established the requisite nexus between the property and the
11 offense or offenses committed by the defendant. In other
12 words, you must find whether that property is connected to the
13 underlying crime in the way the statute provides.

14 The particular properties alleged to be forfeitable to
15 the United States are as follows:

- 16 A. \$627.36 in United States currency;
17 B. Assorted precious metals found in Mr. Costanzo's
18 residence;
19 C. Assorted precious metals, found on Mr. Costanzo's
20 person; and
21 D. 80.94512167 Bitcoins.

22 As explained above, it is the Government's burden to
23 establish to required connection between the property and the
24 offenses committed by the defendant which would make the
25 property subject to forfeiture. You should find that the

1 Government has met its burden if it has established that
2 connection by a "preponderance of the evidence."

3 This is different from the standard that applied to
4 the guilt or innocence of the defendant. At that stage of the
5 case, the Government was required to meet its burden "beyond a
6 reasonable doubt." At this forfeiture stage, however, the
7 Government need only establish -- need only establish its proof
8 by a "preponderance of the evidence."

9 "Preponderance of the evidence" means that the
10 Government has to produce evidence which, considered in light
11 of all of the facts, leads you to believe that what the
12 Government claims is more likely true than not true. To put it
13 differently, if you were to put the Government's evidence and
14 the defendant's evidence on opposite sides of a balance scale,
15 the Government's evidence would have to make the scale tip
16 slightly on its side of the balance. If the Government's
17 evidence fails to do this, then the Government has not met its
18 burden of proof.

19 You may consider any evidence, including testimony,
20 offered by the parties at any time during the guilt phase of
21 the trial and during the forfeiture phase of the trial.

22 But I will tell you, we're not going to have evidence
23 during the forfeiture phase of the trial. We're only going to
24 have argument.

25 You are instructed that your previous determination

1 that the defendant is guilty of the offenses with which he was
2 charged in Counts 1 through 5 is binding on this part of the
3 proceedings, and you must not discuss or determine anew whether
4 he is guilty or not guilty on those charges.

5 You are also instructed that what happens to any
6 property that you find has a connection to those offenses is
7 exclusively a matter for the Court to decide. You should not
8 consider what might happen to the property in making your
9 determination. You should disregard any claims of ownership
10 that other persons may have to the property. The interests
11 that other persons may have in the property will be taken into
12 account by the Court at a later time. Similarly, any claims
13 that the forfeiture of the property would constitute excessive
14 punishment will be taken into account by the Court at a later
15 time. Your only concern is to determine whether the property
16 has the required connection to the defendant's offenses.

17 You are further instructed that, other than the
18 standard of proof, all of the instructions previously given to
19 you concerning your consideration of the evidence, the
20 credibility or believability of the witnesses, your duty to
21 deliberate together and the necessity of a unanimous verdict,
22 will all continue to apply during your deliberations concerning
23 to forfeiture claims.

24 Section 982(a)(1) of Title 18 of the United States
25 Code provides, in part, that whomever is convicted of a money

1 laundering offense shall forfeit to the United States any
2 property, real or personal, involved in such offense, or any
3 property traceable to such property.

4 The Government alleges that certain properties are
5 forfeitable because they are real or personal properties that
6 were involved in the commission of a money laundering offense.

7 These properties are set out in a Special Verdict Form
8 which follows at the end of these instructions. As to each
9 such property, you must determine whether or not the applicable
10 connection exists.

11 Certain properties may be held in the name of a person
12 or entity other than or in addition to that of the defendant.
13 You may have also noted evidence suggesting a person or persons
14 other than the defendant may have or claim an interest in some
15 part of a property sought to be forfeited.

16 I charge you that in reaching your decision as to each
17 item of property you should simply disregard any such title or
18 claim of ownership of such property. Instead, you should focus
19 only on deciding, as I have previously charged, whether the
20 property was connected to an offense or offenses in a way or
21 ways that make it forfeitable.

22 Any interest that another person may have or claim to
23 have in such property will be taken into account later by this
24 Court in a separate proceeding and is not for your
25 consideration as jurors.

1 It is your duty to determine what property, if any, is
2 connected to the defendant's offense, in one or more ways that
3 make the property forfeitable as the result of the defendant's
4 conviction. While deliberating, you may consider any evidence,
5 including testimony, offered by the parties at any time during
6 this trial.

7 Now, I'm going to show you -- or I'm going to have --
8 do you not have -- you need the verdict form.

9 LAW CLERK: Yes.

10 THE COURT: This is the verdict form that we will be
11 giving you.

12 And as you see, it is broken down into the
13 determination whether or not it is trace -- whether or not you
14 can unanimously find by a preponderance of the evidence that
15 this is property that was involved in a money laundering
16 offense.

17 And then you just answer simply "yes" or "no" as to
18 each item of property asserted by the Government which it
19 claims is subject to forfeiture.

20 Are there any questions about the jury verdict form?

21 Everybody understand it?

22 Everybody seems to be saying yes, so no questions?

23 A Special Verdict Form for Forfeiture has been
24 prepared for your use. You may answer by simply putting an "X"
25 or checkmark in the space provided next to the words "Yes" or

1 "No" in the space provided. You will take the Special
2 Forfeiture Verdict Form to the jury room and when you have
3 reached unanimous agreement as to each item of property, you
4 will have your foreperson fill in the form and notify the Court
5 Bailiff. The foreperson must then sign and date the Special
6 Forfeiture Verdict Form.

7 All right. Thank you.

8 Any questions by the jury before we have the final
9 closing arguments?

10 I see no questions.

11 Government?

12 MR. BINFORD: Thank you, Your Honor. May I approach
13 the lecturn?

14 THE COURT: Yes, Mr. Binford.

15 MR. BINFORD: Ladies and gentlemen, thank you for
16 taking the time to be with us for the past few weeks.

17 I know there's been a lot of evidence. We certainly
18 appreciate your service. We appreciate you taking the time to
19 deliberate and seriously consider the charges that were at
20 issue in this case.

21 At this point in the trial you have the opportunity to
22 make a decision regarding forfeiture. There are four items
23 that the United States is seeking to forfeit in this case.

24 The first item is \$627.36 in U.S. currency.

25 The second item is precious metals that were found at

1 Mr. Costanzo's apartment.

2 The third item is precious metals that were found in
3 his fanny pack.

4 And the fourth item is 80.94512167 Bitcoins.

5 The standard that we have to prove to you is
6 preponderance of the evidence.

7 You heard the Judge say that that means it's more
8 likely than not that this was involved in the offense. We have
9 to prove that to you. You also heard that any property, real
10 or personal, involved in these money laundering offenses or any
11 property traceable to those offenses is subject to forfeiture.

12 The first, the \$627.36. All of these items were found
13 on April 20th of 2017. They were all found either on the
14 defendant's person or at his apartment on the day of his
15 arrest. The \$627.36 was the money that you saw during trial.
16 It was the money that was recovered from his fanny pack and
17 from the accessory to the fanny pack that was with him.

18 Exhibit 79, which you still have, are the precious
19 metals from the fanny pack. And when we say "precious metals,"
20 we're talking about those coins. I mentioned them in my
21 closing argument.

22 It was the silver and gold coin. And those were the
23 tools of the trade. Those were tools that he used to show
24 people why virtual currency was good for money laundering. He
25 used those as props when he was selling virtual currency to the

1 undercover agents in this case.

2 Exhibit 80 is the precious metals that were seized
3 from the apartment. Those were also -- we believe that those
4 were also used as props during the course of this
5 investigation. Those were used much like the other coins that
6 the defendant had in his possession at the time of his arrest
7 to talk about fiat currency and to talk about why -- what he
8 was doing -- why Bitcoin was good for these drug dealers.

9 The last item, I think, is the easiest for you to make
10 a decision on. That's the 80.94512167 Bitcoins. Those are the
11 Bitcoins that were involved in the \$107,000 transaction.

12 You heard testimony from Special Agent Ellsworth
13 during trial that there was 80.95 Bitcoin transmitted on the
14 day of that transaction and that the approximate dollar value
15 of that was \$100,000.

16 That is the Bitcoin that was involved in that
17 transaction. It was directly involved in a money laundering
18 transaction that you found the defendant guilty of.

19 And so we would ask you to forfeit all four of those
20 items, because the defendant used them in his money laundering
21 business.

22 THE COURT: Thank you.

23 MR. BINFORD: Thank you.

24 THE COURT: Ms. Weidner?

25 MS. WEIDNER: Thank you.

1 The government overstates the findings on the verdict
2 form that were announced by the Judge. This jury found
3 Mr. Costanzo guilty of five counts of money laundering. But
4 the government did not allege, nor has any determination been
5 made, about all of the other Bitcoin-exchanging activities that
6 the evidence has shown Mr. Costanzo was involve in on almost a
7 daily basis.

8 The seizure of the items in the Forfeiture Form
9 occurred on April 20th of 2017, like government counsel said.
10 That was the date of the last Bitcoin exchange between
11 undercover agents and Mr. Costanzo.

12 Prior to that the last time they had met with him was
13 February 2nd, more than two months before. In the interim,
14 assuming there was no change in Mr. Costanzo's activity as
15 observed by agents when they surveilled him, he was meeting
16 with other people, conducting Bitcoin exchanges that have not
17 been charged, that we have no reason to think were not
18 legitimate.

19 That is the issue with number A, the \$627.36. The
20 fact that he had that in his fanny pack when he was arrested in
21 no way indicates that that money was connected to the
22 convictions that -- well, to his convictions on the money
23 laundering counts in this case.

24 The same goes with the assorted precious metals.
25 Those were items that Mr. Costanzo used in his Bitcoin exchange

1 business, his self-employment. The government, as you'll
2 recall when Special Agent Landa testified, confirmed that they
3 did not know when Mr. Costanzo came into ownership of those
4 precious metals.

5 And I think likewise, the government did not establish
6 in evidence that they had any idea when he came into possession
7 of those \$627.36. What we do know is there was a two-month lag
8 between the last time he saw undercover agents and when he was
9 arrested.

10 What we do know is he clearly, as government counsel
11 argued on their rebuttal, Mr. Costanzo has basically something
12 of a script that he follows when he talks to people about
13 Bitcoin, and part of it involves those coins. And that holds
14 true for any transaction, not just the transactions with the
15 undercover agents, the evidence suggests.

16 The last item is the 80.94512167 Bitcoin and that, the
17 government has met their burden there. Clearly, that was the
18 Bitcoin that was transferred on that last exchange.

19 And given the conviction on Count 5, it is clear that
20 the government has met their burden there. But as to items A,
21 B, and C, we submit to you that they haven't, not even by a
22 preponderance of the evidence.

23 Thank you.

24 THE COURT: Any rebuttal?

25 MR. BINFORD: No, Your Honor.

1 THE COURT: All right.

2 Ladies and gentlemen, I'm going to ask you to retire
3 to make your determination on the forfeiture allegations.

4 Again, if you get to five o'clock and can't reach a
5 determination, just recess and come back tomorrow. Otherwise,
6 we will be waiting for your result.

7 Thank you.

8 (Jury leaves the courtroom at 4:23 p.m.)

9 THE COURT: All right. I'm going to specify what I
10 think we've already agreed to but make it clear on the record.

11 We agreed, for purposes of not confusing the jury
12 about of the counts of the superseding -- First Superseding
13 Intervening Indictment that were dismissed; that we would just
14 refer to the counts as "1 through 5."

15 That doesn't change the fact that the defendant was
16 found guilty on Counts 3 through 7 of the Superseding
17 Indictment.

18 Is there any dispute about that?

19 MS. WEIDNER: No, Your Honor.

20 MR. BINFORD: No, Your Honor, and the dates match up
21 with the corresponding counts in the Superseding Indictment.

22 THE COURT: All right. So I'm just going to make that
23 clear on the record.

24 So that would mean that the defendant was found guilty
25 on Counts 3, 4, 5, 6, and 7 and has been previously -- well, at

1 least -- well, let me be clear.

2 The defendant has been found guilty on Counts 3, 4, 5,
3 6, and 7 as it pertains to the sub "B" charge and not the sub
4 "C" charge.

5 Was found not guilty on the sub "C" charge and found
6 guilty on the sub "B" charge.

7 Is there any dispute as to that?

8 MR. BINFORD: No, Your Honor.

9 MS. WEIDNER: No, Your Honor.

10 THE COURT: All right. Then unless there's something
11 else, we'll wait and see what we have by way of a forfeiture
12 determination.

13 MS. WEIDNER: Yes.

14 (Proceedings in recess at 4:25 p.m.)

15 (Jury enters the courtroom at 4:35 p.m.)

16 (Proceedings resume at 4:35 p.m.)

17 THE COURT: Please be seated.

18 Madam Foreperson, has the jury reached a unanimous
19 verdict as to all of the matters involved in the forfeiture
20 allegations?

21 JUROR NUMBER 12: Yes.

22 THE COURT: Would you please provide the form to
23 Kathleen.

24 You may read the verdict form.

25 COURTROOM DEPUTY: We, the Jury, return the following

1 Special Verdict, as to Defendant Thomas Mario Costanzo
2 regarding the properties described below.

3 We, the Jury, unanimously find by a preponderance of
4 the evidence that this is real -- excuse me -- that this is
5 property, real or personal, that was involved in a money
6 laundering offense, 18 U.S.C., Section 1956 or any property
7 traceable to such property.

8 A. \$627.36 in United States currency.

9 Answer: No.

10 B. Assorted precious metals found in Mr. Costanzo's
11 residence.

12 Answer: No.

13 C. Assorted precious metals found on Mr. Costanzo's
14 person.

15 Answer: No.

16 D. 80.94512167 Bitcoins.

17 Answer: Yes.

18 Signed by the Foreperson this date.

19 THE COURT: Does anybody want the jury polled on this
20 question?

21 MR. BINFORD: No, Your Honor.

22 MS. WEIDNER: No, Your Honor.

23 THE COURT: All right.

24 Ladies and gentlemen, we thank you very much for your
25 services in this case. You are now released from the

1 admonitions. You are free to discuss this case with whoever
2 you wish.

3 The lawyers are instructed not to approach you about
4 the case, so you will not feel bothered, but you may discuss
5 the case with them if you would like.

6 I would like to personally thank you. I have just
7 one-half minute of business -- or one minute of business here,
8 but I always like to meet with those members of the jury who
9 want to remain and meet and answer what questions I can that
10 they ask and give them personal thanks.

11 You should not feel at all obligated to stay. If you
12 want to get home early and try and beat the traffic, go ahead.
13 But otherwise, I'd be glad to meet you and thank you.

14 And if you choose to go ahead, please receive the
15 thanks of the government and this court system and all of the
16 parties here.

17 The jury is now dismissed.

18 (Jury leaves the courtroom at 4:38 p.m.)

19 THE COURT: If you'll give us just a moment, we're
20 trying to find a date for sentencing.

21 COURTROOM DEPUTY: June 11th at 4:00 p.m.

22 THE COURT: June 11th at 4:00 p.m. will be the
23 sentencing date.

24 So the defendant is remanded to the custody of the
25 marshal and it is ordered affirming -- and the sentencing date

1 is set for June 11th at 4:00 p.m.

2 Any further matters to be raised?

3 MR. BINFORD: No, Your Honor.

4 MS. WEIDNER: No, Your Honor.

5 THE COURT: Thank you all.

6 (Proceedings in recess at 4:40 p.m.)

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CERTIFICATE

I, CHARLOTTE A. POWERS, do hereby certify that I am
duly appointed and qualified to act as Official Court Reporter
for the United States District Court for the District of
Arizona.

I FURTHER CERTIFY that the foregoing pages constitute
a full, true, and accurate transcript of all of that portion of
the proceedings contained herein, had in the above-entitled
cause on the date specified therein, and that said transcript
was prepared under my direction and control.

DATED at Phoenix, Arizona, this 16th day of May, 2018.

s/Charlotte A. Powers
Charlotte A. Powers, RMR, FCRR