UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : 14-CR-399(ENV)

-against- : United States Courthouse
: Brooklyn, New York

ABRAXAS J. DISCALA, ALSO KNOWN AS AJ DISCALA, AND KYLEEN CANE, : Thursday, April 5, 2018
: 9:45 a.m.

Defendant.

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TRANSCRIPT OF CRIMINAL CAUSE FOR TRIAL
BEFORE THE HONORABLE ERIC N. VITALIANO
UNITED STATES DISTRICT COURT JUDGE

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Proceedings recorded by mechanical stenography, transcript produced by Computer-Aided Transcription.

(In open court; outside the presence of the jury.)

THE CLERK: The case on the calendar is USA versus Discala and Cane. Case number 14-CR-399. Jury trial.

Will the attorneys please note their appearances beginning with government counsel?

MS. JONES: Shannon Jones, Mark Bini and Patrick Hein for the United States. Also here is paralegal Henry Ishitan and FBI Agent Morris.

THE COURT: Good morning.

MR. ROSS: Good morning, Judge. Charles Ross for Mr. Discala. Along with me is Matthew Shroyer and Scott Schwartz.

MR. BOWMAN: Good morning, Your Honor. Andrew Bowman for Mr. Discala.

MR. CHENG: Good morning, Your Honor. Hauwei Cheng for Mr. Discala.

MR. SJOBLOM: Good morning, Judge. Thomas Sjoblom for Mr. Discala.

MR. RIOPELLE: Good morning, Your Honor. Roland Riopelle and Robert Caliendo for Kyleen Cane. Good morning.

THE COURT: Good morning all.

THE CLERK: Counsel for both sides are present including both defendants.

THE COURT: Okay. Do we have any housekeeping?

MR. RIOPELLE: Yes, Your Honor. Last night, I filed a very brief motion in limine addressed to Government's Exhibit 198-10 and 198-10-TE.

THE COURT: Why don't you come up and we'll talk about it.

MR. RIOPELLE: Okay. These are a wiretap call and a transcript that I believe the government will play the call and use the transcript --

THE COURT: Today?

MR. RIOPELLE: -- this morning with Mr. Bell as a witness and I spoke briefly with Mr. Hein about this last night.

I object to the last five lines of this transcript which seem to me both irrelevant to the issues to be decided in this case and potentially confusing and prejudicial with respect to my client.

The first part of the call, of course, I have no objection to. There is a discussion between Mr. Bell and Mr. Discala in that part of the call about Cubed and cost and money that's being spent and all of that relating to Cubed and the last part of that call, and Mr. Bell remarks before the part I object to, and I quote, "Hopefully we'll get the cash here pretty soon. I need a little bridge cash, that's for sure."

I presume the government is offering that statement and I believe it would be relevant to show Mr. Bell's motive for why he's engaging in the criminal activity he's describing from the witness stand to help pay for whatever his cash problems are.

There then ensues five lines of complaints by Mr. Discala and Mr. Bell about the cost of lawyers. Mr. Bell says: Lawyers are killing me, man. The lawyer reads an e-mail and it cost me 500 bucks.

I only wish I could collect that kind of fee but --

THE COURT: Talk to Ross. It's normal.

MR. RIOPELLE: Right.

MR. ROSS: That's beyond me.

MR. RIOPELLE: Maybe I'm practicing the wrong kind of law. And Mr. Bell repeats that and Mr. Discala, just being social, says in the end, "Yeah, I know it's unbelievable. No, I'm in, I'm in the same boat and it's crazy and uh."

So, this is complaining about the huge cost of lawyers and what scalpers they are. I don't think it's relevant to this trial and because my client is a lawyer.

THE COURT: Yes, I hear you. That's the prejudice part.

Go ahead.

MR. HEIN: Your Honor, the government believes that it is relevant and the prejudices do not outweigh it here. The government anticipates Mr. Bell will testify that his need for this bridge cash is at least in part to pay for these lawyers and that these lawyers exist because of the criminal activity he's gotten in and the lawsuits that have arisen from that and that's criminal activity that he's engaged in with Mr. Discala and that's the result of the lawyers. So, it is directly relevant to this.

I would also note that Mr. Riopelle stated in his motion that this does not relate to his client, Kyleen Cane, as the lawyer at issue. He's free to ask that on cross-examination and get that out if he would like, but I do believe this is directly relevant to what is at issue here.

THE COURT: I think it is relevant, I think it is prejudicial, and the part about the complaints about the lawyers is stricken.

MR. HEIN: Okay, Your Honor.

MR. RIOPELLE: Thank you, Judge.

MR. HEIN: Your Honor, before we get going, it may be a good time to go through the other, I believe it's only four or five other calls that Mr. Ross has objected to.

THE COURT: I think you are absolutely right assuming these are all relating to the excerpts that will be played during Mr. Bell's examination.

MR. HEIN: That's correct, Your Honor.

THE COURT: Now is the time.

MR. ROSS: Judge, I had an objection to the excerpt that is marked as Government Exhibit 198-2-TE. It's a very,

very brief snippet here of a somewhat longer conversation. The call cuts off or the transcript cuts off after a discussion about Cubed stock and there's another discussion that continues about getting an M1 certification. I think that's relevant. I do not think that it should be taken out of the call.

THE COURT: What is an M1 certification?

MR. ROSS: It's a stock certification, Judge, and it's relevant to, to this conversation and it puts it in context.

In addition, there's a cutoff towards the end of the conversation. Mr. Discala talks about how he's being sued and that the people that are suing him are complete criminals and I think this goes directly to Mr. Discala's intent. It shouldn't be taken out of here. So I object to these portions being taken out and I would ask that the Court direct the government to play the entire, the entire tape.

MR. HEIN: Your Honor, the first point from the government's standpoint is that only the government is allowed to put the calls in. Mr. Ross cannot put the calls in, he can't elicit them, he can't cross-examine on them because that would be hearsay.

The government's position is that other parts of the call should only come in if, under Rule 106, the rule of completeness, in fairness, it ought to be considered at the same time. The government's position here is that's not the case.

The first part of the call the government is playing relates only to CRPT, which is Cubed. After Mr. Bell and Mr. Discala say, "Hello," "What's going on buddy," Mr. Discala says, "Not much. Just sitting here. I bid 1,000 here for, like, 5.29, 5.30 on CRPT which is good."

That's where we would cut the call off. That goes directly to the manipulation of Cubed stock that they are involved in. The remainder of the call has nothing to do with his manipulation of Cubed stock. It does deal with M1 certs, it does deal with questions of shares, and as Mr. Ross noted, it deals later, Mr. Discala mentioning they're dealing with complete criminals regarding these shares. These shares have nothing to do with their manipulation of Cubed stock. It's a separate issue. It shouldn't be considered in any way as completing the call and it will not leave a misleading impression on the jury by taking something out of context which is the standard we're looking at here.

MR. ROSS: But, Judge, I think fairness here should, it should allow the admission of the snippets, the parts of the conversation that I discussed with Your Honor.

THE COURT: I don't see that there's adding to context so the objection is overruled. To the extent that Mr. Discala wants to get on the stand and explain that, it's certainly his right to do.

MR. ROSS: Yes, Judge.

Government's Exhibit 198-10-TE. Again, there's 2 minutes and 32 seconds of the call that is excised and then there are additional conversations that follow.

The initial part of the conversation is about Scanbuy and Scanbuy is a company that I do believe the government will refer to. It is being offered, as I understand, as either background or 404(b) material. And I think that this should, this conversation here, it's about Scanbuy, the number of users, that Motorola is in, in the company. So I think that all of this is relevant to the charges that the government has brought.

MR. HEIN: Your Honor, again, the government disagrees. Relevancy here is not the test.

THE COURT: It is not the test, no.

MR. HEIN: One looks at this call. The snippet, the portion that the government seeks to play --

THE COURT: If it wasn't relevant, the other part wouldn't be in here, so the relevance isn't a test. Test is completeness.

MR. HEIN: The only portion the government seeks to play is a short portion relating to Cubed and the manipulation scheme of Cubed. Scanbuy is not a stock that is charged, Mr. Ross is correct that it would come under 404(b) but, again, that's not the test as to relevancy here and the government's position is that if Mr. Discala wants to get his position out there regarding Scanbuy or what he states in his call, then he's free to testify to that.

THE COURT: So the excerpt that the government is referring to here relates to Cubed and not Scanbuy?

MR. HEIN: Exactly, Your Honor.

THE COURT: Do you agree with that?

MR. ROSS: Yes, I do agree with that.

THE COURT: The objection is overruled.

MR. ROSS: Judge, my next objection is to the 198-67-TE, Government Exhibit.

The call, the call excises a conversation about thieves in Soul. Soul is another company that is relevant in this case. While I understand that the standard is not relevance, on the other hand, I believe that this does complete a conversation and I'd ask that this part of the conversation be played.

MR. HEIN: Your Honor, Mr. Ross is referring to a couple of lines at the end of the call that were taken out. It is a completely separate point, a completely separate discussion. It's a comment, it's a discussion regarding Soul which, again, is not a charged stock. It will be discussed as 404(b), but it has nothing to do with the portion of the call the government seeks to play preceding it so in no way does it complete it or add context to it.

The government's position would, again, be here that it should not be played in the call and that Mr. Ross shouldn't be able to play that portion of the call or cross-examine on that portion of the call.

THE COURT: And, again, the portion, you agree, Mr. Ross, is the first part only deals with Cubed?

MR. ROSS: Yes, Your Honor, I do agree.

THE COURT: Then the objection is overruled.

MR. ROSS: I have no objection to Government Exhibit 198-68-T. There are no excerpts in that call and so I have no objection. The same is true of 198-69-T but, again, I do have an objection to 198-70-T.

Again, there's about 40 seconds of that call that's excised. It does have to do with Mr. Discala's personal life. I think it does provide context. I understand that relevance is not the standard, but I think that this part of the call should come in.

MR. HEIN: Your Honor, this part of the call does not in any way provide context to what the government intends to play. It is about Mr. Discala's baby and about celebrating Father's Day. It's a completely personal matter that does not in any way complete or provide context to the portion that the government seeks to play.

THE COURT: And the first part, again, does it relate to Cubed again?

MR. HEIN: The second part relates to Cubed and, in part, relating to Scanbuy, but the part that the government has excised and that Mr. Ross seeks to include is purely personal matters dealing with Father's Day and his baby.

THE COURT: The objection is overruled.

MR. ROSS: Judge, and, finally, we have Government Exhibit 198-73-TE.

Again, the conversation continues and I know Your Honor has ruled about the completeness as it applies to Scanbuy, but I suggest to the Court that, again, this completes the entire conversation and, therefore, that portion of the call should come in.

MR. HEIN: Your Honor, once again, this does not complete the conversation. The conversation the government seeks to play is regarding TSGL Staffing Group which is one of the four stocks charged in the conspiracy counts. It also does mention Cubed and Scanbuy, but the remainder of the call is in no way necessary or to complete or provide context for the first portion of the call. It's an additional three and a half pages of discussion regarding Soul and other financial matters. They do, I will say, mention Cubed and Scanbuy, but it's just not necessary to provide context.

MR. ROSS: Judge, I think it does and, particularly in light of the fact that the first part of the conversation is about Scanbuy, that this call continues with a discussion about Scanbuy. So by it's very nature, it does complete the picture.

THE COURT: Why don't you read to me the two excerpts.

MR. ROSS: The excerpt which starts on 198?

THE COURT: The one that's being proffered by the government and then the part you believe should be included for purposes of completeness.

MR. ROSS: Well, the first part of the call is about TSGL, about bidding.

THE COURT: Why don't you just read it.

MR. ROSS: Okay.

Mr. Discala says: Hey.

Mr. Bell says: What's up, buddy?

Mr. Discala says: Hey, what's going on, buddy? Yeah, I was bidding. The size wanted to come down and get me. That's why.

Mr. Bell says: Oh, on TSGL?

Mr. Discala says: Yes, me and Skippy were bidding five because we want to shake out these fools and, you know, and then, and then I mean the company is doing $2 million, over $2 million a month in revenue.

Mr. Bell then says: I know. I know. Ridiculous.

Mr. Discala says: I mean, it's ridiculous. We were not going to, we are not going to chase idiots that don't, you know, that don't understand. Right?

And Mr. Bell says: I know.

And Mr. Discala says: So let them come to us. There's, you know, ask the best CEO from our old portfolio. We -- the guy is on point and ready to make some accusation. He is really fucking driving business. He's going, he's doing great stuff. I know. I just been so focused on making sure that we had the ability to take care of our old investors with Scanbuy and Cubed, right, and Scanbuy, you know, 'cause that is what we do. Right? And, uh.

So the call cuts off there.

THE COURT: Okay.

MR. ROSS: But it does continue to talk about Scanbuy.

Mr. Bell goes on to say: I just want to make sure everything is cool 'cause I know the company is probably the healthiest out of all of them as far as revenue, so.

Mr. Discala goes on to say: It's beyond. It's the healthiest and beyond. I mean, Scanbuy is obviously a different animal. Like, yeah, so it's a monster, right? Uh. Cubed is a life changer, right? If they're successful in executing, right, it changes the way web is done in search and all that, right. And now with the people that we have from our relationships with Scanbuy, right, we can ensure, right, execution on the Cubed.

I think -- the conversation does go on, but that certainly does provide context and completes the discussion of Scanbuy.

MR. HEIN: Your Honor, the government would be fine with adding that portion to the call and to the transcript and ending where Mr. Ross ended given that it does discuss Cubed and Scanbuy. There are an additional three pages though that the government does not think should be played or needs to be played under Rule 106.

THE COURT: Well, the motion is granted to the extent indicated that that section will be included in the excerpt that will be played.

MR. ROSS: That's fine, Judge. Thank you very much.

MR. HEIN: Thank you, Your Honor.

THE COURT: You're welcome.

Anything else?

MR. HEIN: That should be all.

THE COURT: Any other housekeeping?

MR. ROSS: Judge, there may be a housekeeping issue regarding the admission of business records on certifications and I just wanted to alert the Court. I think Mr. Bini is going to raise that later, but alert the Court.

THE COURT: Any connection with this witness?

MR. BINI: It is not, Your Honor. We can take it up later in the day.

THE COURT: Yes, that's fine.

MR. ROSS: That's fine, Judge.

THE COURT: If we are otherwise ready, we will have Mr. Villanueva fetch his jury.

(Jury enters.)

THE COURT: Be seated, please.

Counsel will stipulate that the jury is present and properly seated?

MS. JONES: Yes, Your Honor.

MR. RIOPELLE: Yes, Judge.

MR. ROSS: Yes, Judge.

THE COURT: Ladies and gentlemen, welcome back. We are ready to continue our second trial day.

I can't recall if we mentioned this to you yesterday but I am going to repeat it anyway because this message may have been communicated to you for planning purposes. We will not be sitting tomorrow. So tomorrow, other than obeying all of the rules about what you do on a recess, you are free to tend to your own business including going to work if that is a part of what your business ordinarily will be. So we will not be sitting tomorrow but we will resume on Monday.

Now, as far as the trial goes, you see Mr. Bell has resumed the stand.

I remind you, Mr. Bell, you are still under oath.

We are still on direct examination by Mr. Hein and we will ask Mr. Hein to continue that examination now.

MR. HEIN: Thank you, Your Honor.

If I can show the witness and the jury an exhibit that has already been admitted into evidence.

(Continued on next page.)

MATTHEW BELL ,
the witness, having been previously duly sworn,
resumed as follows:

DIRECT EXAMINATION (Continued)

BY MR. HEIN:

Q Mr. Bell, we looked at Government Exhibit 178-11 yesterday from Amegy Investments. Do you recall that?
A Yes.
Q I just wanted to clarify, is this document a tax statement?
A Yes.
Q You mentioned yesterday it was an account statement but it's, in fact, a tax statement. Is that accurate?
A Yes.
Q Thank you.
MR. HEIN: If we could turn to the laptop, please.
Q Mr. Bell, looking here at Government Exhibit 132-2, the text message on June 21, 2013, and 5:55 p.m. universal time.
You state to Discala: I just got filled on a market order at 5.23.
Discala responds: Good. Darren says we're okay. Just wait 15 minutes and call me. It's 5.48 now. Bid 5.35.
Mr. Bell, was Discala instructing you to make a bid on Codesmart shares here when he said, "Bid 5.35"?
A Yes.

Q Was AJ Discala a customer of yours?
A No.
Q Why are you taking instructions from him?
A Because we're coordinating our trades to move the stock up.
Q Would you normally take instructions from someone on buying shares who's not a client of yours?
A No.
Q Whose money are you bidding with to buy Codesmart shares?
A Either my customers' accounts or my accountant.
Q So you're not bidding with Discala's money?
A No.
Q Discala mentioned Darren, Darren saying we're okay regarding bidding. Do you know who Darren is referring to?
A Darren would be one of the market makers.
Q And if we scroll down here and we look at June 21, 2013 at 6:01 p.m., Discala writes to you: Bmak is our wall. He's really good. It's me. Then we blast market orders when he tells us.

What did you understand Discala to mean here?
A So, Darren is a market maker and the market makers work for companies and the companies have symbols like BFIN or BMAC. So when you look at level two on a stock, you can see where the shares are being traded and by what market maker is assisting the trade.

In this case, you have AJ who's calling the shots, you have myself that's put in the order and then you have the market maker who's working alongside AJ, and the market maker is giving him information on when we should do our orders because he can see all the order flow coming in.

Q And is that typical, that a market maker would be providing that kind of information?

A No, it's highly regulated.

Q And here, if you look at June 21st, 6:07 p.m., Discala writes: 5.10 by 5.26. I'm on it, bro. There are 100 share orders. I will blast it up when Darren tells me. It's clear.

What's your understanding of what he's saying there?

A He's saying the market is showing $5.10 on bid and 5.26 on ask. He says, I'm on it, which means he's in control of the situation, he's watching it closely. There are 100 share orders which means there's not a lot of volume on each side. There's 100 shares to sell at 5.10. There's 100 shares to buy at 5.26. And he's going to make the stock move up when the market maker says it's the right time.

Q And does Darren work at BMAC?

A He says that he is.

Q Okay. And what's a market maker's role typically supposed to be?

A Kind of a neutral third party that provides proper execution between trades between the buyer and the seller.

Q And what's the role that market maker here is taking on according to Discala?

A Insider informant, assistant to the process. I mean, he shouldn't be doing this.

Q Why?

A It's illegal.

Q Can you explain why?

A Well, for my Series 7 test, I knew what was right and what was wrong. And so, obviously, from the point of view of running an illegal scheme, for us to get someone like a market maker on our side to provide us information on when to do the trades -- obviously anybody can pull up, anybody can pull up and look at how much shares are for sale on the bid and ask, but to actually have the neutral third-party specialist telling you when the right time to do trades would be very advantageous to planning when to put your trades in.

MR. ROSS: Your Honor, I object to Mr. Bell's testimony here on the grounds that it constitutes expert testimony and I ask that it be stricken.

THE COURT: The objection is overruled. It is specialized knowledge that he has and he is speaking with respect to that.

(Continued on next page.)

BY MR. HEIN:

Q You respond on June 21 at 6:07 a.m. to Discala's text: This is going to be a good test of how well the team works. Gotcha.

Discala responds: Exactly.

Then Discala states: But we need to be patient until Darren says okay. BMAC.

What's going on here?

A In the past, AJ has told the brokers when to make the sales and the purchases, but now we've got in a new element; in this case, a market maker, which is something new. It's a new wrinkle. It's an important one because we have better information now.

And he says that we just need to be patient until Darren says it's okay. So, he can see things that we can't see.

Q And then he references "BMAC" again after mentioning Darren; is that right?

A Yes.

Q On June 21 at 7:08 p.m., Discala writes to you: Okay, start nibbling. We got green light, but let's go slow.

You respond: Who's all in?

Then you state: We must coordinate. Can't just -- can't be just you and me.

You write then: Going now.

Discala writes: Agreed.

What's going on here?

A BMAC, or Darren, has given AJ the order. You know, at this point, AJ had told me that this was a game changer for us, getting a market maker in there. And he got the green light to say let's go. Slow. That means don't pile in the shares, just kind of nibble at it, maybe buy a hundred shares here, hundred shares there.

And then I say: We must coordinate. It can't just be you and me.

What I mean is it can't just be AJ telling me to buy, we need the guys from the East Coast to come in and buy also.

Q And why is that?

A Well, at this point now I'm starting to get oversaturated with shares, still dealing with the effects that I've been fired the day earlier, so I won't be able to use the accounts from the firm that I got fired from. I still had accounts at Fidelity that I could trade with, but I had started to get worried because, obviously, the scheme's going to fall apart very quickly if I cannot trade. And I have several conversations with AJ, telling him: You realize, you know, I can't be the only guy with the firepower trading. You need to make sure that you have more brokers assisting.

So I just -- there will be a thing where I keep telling him: It can't just be me. It can't just be you and I.

Q And when Discala wrote, "We got green light but let's go slow," what's your understanding of why he told you to go slow?

A Darren told him it was time to get started trading.

Q On June 25 at 3:04 p.m., you write to Discala: 6.56.

Discala responds: 6.55.

Discala then writes: I'm showing 6.59.

You then respond: The bid is 6.55. I have 2,200, now down to 400.

Discala responds: Call Dan. This is now Dan and Joe's job, where we pass baton. I'll also get on it.

You respond: Okay.

What's going on here?

A Can you scroll up a little?

So, I say 6.56 and then I say 6.55, and then he says I'm showing 6.59. So, I'm telling him that I'm purchasing -- if I don't show volume, it means I'm nibbling at it, just buying a hundred or two hundred shares.

So, I show I purchased some at 6.56, 6.55, and he says I'm showing 6.59. We're just giving each other information about what we're doing.

And then he says -- I say, "The bid is 6.55. I have 2,200, now down to 400." That means I have 2,200 shares to purchase and I'm down to 400 left to go. He tells me, "Call Dan--" that's Dan Walsh -- he says, "This is now Dan and Joe's job."

So, Dan Walsh and Joe Salvani were two brokers hear on the East Coast that were supposed to take over, and he's telling me we need to pass the baton and he'll get on talking to them also.

We were having conversations about the fact that I didn't feel that other players were doing their job at that point and had been breaking the gentlemen's agreement, which leads me the next day to start selling myself.

Q On June 26, 8:02 p.m. you write to Discala and someone you put in your phone as "Dan at Halcyon": We need those red chip investors to get in.

And Discala responds: Oh, we got lots coming in when D drops and ticker changes.

You ask: NASDAQ move?

Discala responds: No. July 14, NASDAQ will take six months. Ticker changes 14th or 15th of July.

You then say: Okay.

Discala says: We're a good team.

What's going on here?

A A "red chip" investor is an investor that likes to -- it could be an investor, it could be a mutual fund owner, that invests in small and microchip stocks. A blue chip investor would be someone that invests in large cap stocks, like the Dow.

So, AJ had told me he was an expert at getting red chip investors involved with his companies, and I was reminding him that we need to get those investors involved. Outside investors. The whole purpose of the news stories was to get that kind of engine going.

He said that there's a lot coming in when the D drops and the ticker changes. What happens is when a stock is changing its name, the exchange puts the letter "D" on the end of the ticker. So FICF became FICFD, which basically was a code to traders saying there's a name change about to take place. So, when you went looking for it the next day, you would see that a name change had taken place.

Then I asked him about a NASDAQ move because I was curious what our plan was to move to the NASDAQ, and he said, "No, July 14," talking about the ticker change. He says, "NASDAQ will take six months and then the ticker change is July 14th or 15th."

Q What's the NASDAQ?

A It's one of the major exchanges.

Q And when you asked "NASDAQ move?" what did you mean?

A To move -- at this time, the stock is trading on the bulletin board stock exchange, which is one of the lower stock exchanges. And moving it to the NASDAQ would make it eligible

for mutual funds to start purchasing it.
Q What is required to move to the NASDAQ?
A A number of things.
Q Anything with respect to the stock price?
A Has to be over -- at the time, it had to be over $5 for a certain period of time, then a certain market cap. So, we weren't there yet.
Q You mentioned earlier, you said the next day you started selling your shares. What were you referring to?
A I started selling my shares on June 26.
Q And are those the shares that we referenced in the Amegy Investments tax document?
A Yes, sir.
Q And what shares of those had you started selling?
A Those were the original 125,000 shares I bought in the shell.
Q Did you sell them in the open market?
A Yes, sir.
Q And why did you start selling them on June 26?
A I had been fired, I had a number of monetary issues going on in my personal life, my business life, and I felt like -- I had told AJ that I was going to start selling mine when it was seven to ten and he said okay. And split adjusted, it was trading around twelve.
Q On June 27 at 7:59 p.m., you wrote to Discala: Where we

at?

Discala responded: 6.83.

You stated: Okay. I bought 3K, got filled at 6.81. How did it end at 6.69?

He responded: I guess we need a down day. Doesn't hurt us too bad.

You then stated: I guess it's all settling. Looks like 6.83. Bit of a battle at the end.

Discala responded: I know. And I bought a shitload, but happy.

What's happening here?

A Can you move it up?

This is near the end of the day. I'm asking him -- I need a status report, what's going on. At this time, I'm still -- he's tried -- told me that we're going to do a handoff to the East Coast guys, and then he responds 6.83.

I said, Okay. I bought 3,000 shares. I got filled at 6.81, though. So, why did it end the day down at 6.69? That wasn't part of the plan.

He says, I guess we need a down day. It doesn't hurt us too bad.

I said, Well, I guess it's all settling. It looks like 6.83.

That means at the end of the day, they match up all the end of the day trades, so that's called "settling." And, so, it settled at 6.83. I told him it was a bit of a battle at the end of the day, and he refers that he's happy with how the day ended.

Q On June 28 at 8:07 p.m., Discala wrote to you: But code closed 6.82. I was pounding LBAS and we got nailed with a ton of shares at close. But ISGI, 85; HRAA, there's a short.

You responded: I got LBAS 14 cents; Code, 6.90.

Discala responds: Painted it down at close.

You respond: CNBC. May be wrong.

You then stated: LBAS more important than eight cents on Code.

Discala responds: Nope. LBAS, 17; Code, 6.82; HRAA, 48; ISGI, 85. Level two.

What was your understanding for why Discala was providing those numbers there in that last text message?

A We're juggling a number of different stocks at this point and he and I are having a little bit of discord. I was focused on LBAS that day. So, we're going back and forth, and at the very end he kind of just gives me a complete status report as in nope. "Nope" means you're wrong. LBAS ended at 17 cents, Code ended at 6.82, HRAA ended at 48 cents, International Safety Group ended at 85 cents. Level 2.

Level 2 is what I've been talking about. It shows the box. It shows everything that's happening, every trade second-by-second. So, he's basically just saying this is

reality, this is the fact.
Q When you said you were juggling several stocks at this point, what do you mean by "juggling"?
A Still trading LBAS, ISGI, HRAA. All these stocks are still on our screen and we're still tracking them, trading them.
Q When you say "trading" them, what do you mean by that?
A Buying and selling stocks in those trading -- doing what we've been doing: Manipulating the stocks. Code, LBAS, ISGI, and HRAA were four of the stocks that we were manipulating.
Q On July 1, 1:38 p.m. you wrote to Discala: Okay, it hit. 6.87, 6.88.
Discala responded: Yup. I've got a wall. It's 6.90 now.
He then stated: 87. A little buy, it's 6.90.
You responded: Done.
What's going on here?
A I have telling him that an order I put in hit at 6.87 and 6.88. If I put a trade in for two hundred shares, maybe a hundred went in at 6.87 and a hundred at 6.88. He says yes, he affirms -- he's watching everything I'm doing.
Yup, and I've got a wall. The "wall" is the bid. That means if anybody starts selling into it, he's got the wall, he's taken up the defense for us, and he tells me it's 6.90 right now. And then he says, 87, a little buy, it's

6.90. He's saying it's trading around 6.87 and if we could get a little purchasing we could hit 6.90 and I say "done." In this situation, whenever I say "done," I've taken the order.

Q On July 2, 2:39 p.m., you wrote to Discala: BTW, today's price reflects a presplit price of 13. Not bad.

What do you mean by that?

A Well, we started trading in -- it's only been about a month and a half, I think. So, because of the split -- if it had never split, then the price would be $13.

Q You're referring to the June 14 split?

A Yeah, exactly.

So, I say that's not bad, and he says, I'm getting in. My computer just went down.

He tells me to stay out. So, he's telling me to stand down from trading for the day. There's a seller and then he's going to tell me when I can come in based on when Darren tells us it's okay. Darren can see sales coming in that we can't see.

Q You testified yesterday that when CodeSmart first started trading on May 13, 2013, it started trading at $3.20; is that right?

A Yes.

Q And you testified that there was a split on June 14 which cut the stock price in half; is that correct?

A Yes.
Q And you're now stating in this text message that on July 2, had there not been a split the price would now be $13; is that right?
MR. ROSS: Objection to leading, your Honor.
THE COURT: Yes, try not to lead. I know you're trying to focus as a preliminary matter, but...
MR. HEIN: Yes, your Honor.
Q So, what has happened to the stock price from May 13 until July 2?
A Based on me saying it's presplit price is 13, we've taken the stock from $3.20 to $13 in a little less than two months.
Q What's the approximate multiple there of increase?
A That would be a quad. Four times.
Q Is that typical in your experience with dealing with microcap stocks?
A No, sir.
Q In what way is it not typical?
A Well, in this case, it was artificially inflated.
Q So, is it typical for a stock in a month and a half to grow over four times?
A It is not typical for my experience.
Q On July 2 at 8:08 p.m., Discala wrote to you: 6.47. Someone's F'ing with us but can't. I'll get him.
You respond: Okay.

Discala writes: Everyone has lock-ups. If they don't abide, they have to buy in.

You respond: Have a good trip.

What's going on here?

A The stock is trading at 6.47. He tells me he thinks that somebody is messing with us but he'll get him. He'll figure out who it is and get him, whatever that means.

Then he reminds me that everybody has lock-ups and if they don't abide they have to buy in.

Q What does what mean?

A In a normal situation, if you have a lock-up and you break your lock-up, the company can sue you and make you repurchase the stock that you sold in the market, which could be very disastrous for you personally.

Q Why is that?

A Maybe you've already spent all the money. But whenever you have to buy on the market, you have no idea what the price could be. There's an unknown risk there.

Q What price, again, did you get your unrestricted CodeSmart shares at in the beginning?

A Two cents, two and a half cents.

Q On July 2 at 10:10 p.m., Discala writes to you: TY, brother. Got a wall built and some buyers for tomorrow and Friday. I think someone's not abiding by the lock-up/leak-out, which will cause a big squeeze next.

What did you understand him to mean there?
A He's telling me that he has built a wall and that he has buyers coming in the next day. The wall would be he's got a big base, so if any seller comes in they won't be able to drive the stock down. Then he says he thinks someone is not abiding by the lock-up/leak-out, which will cause a big squeeze next. Well, once again, if somebody were made to abide by their lock-up/leak-out, which would be more of a legal issue, they would then have to purchase all that stock they sold in the open market. And that order is called a "squeeze," like squeezing a water balloon. You squeeze it hard, water goes straight up.
That's not going to happen in this case, though.
Q Why not?
A These lock-ups were unenforceable.
Q Here on July 5 at 8:55 p.m., Discala writes to you: Happy Fourth, brother. We are replacing Salvani and Dan, as they are full of it.
You write to Discala: Same to you, bro. We are working hard and should be rewarded. Those that don't should not.
And you write: Glad you made that call.
Discala responds: You will shortly see how much I agree with you. Just texted you and Craig, who has been as good as you and I, from Halcyon. We're getting there.

What's going on here?
A He's fired Joe Salvani and Dan Walsh over at Halcyon.
Q Why? Why do you understand --
A Well, he told me that they were not doing -- they weren't doing the orders and they were selling their shares.
Q When you state, "We are working hard and should be rewarded," what do you mean?
A I'm saying that we're following through on the manipulation and we need to -- you know, just kind of pumping ourselves up.
Q When Discala wrote that he, "Just texted you and Craig, who's been as good as you and I, from Halcyon," what is he referring to?
A He's letting me know he's telling Craig Josephberg, who is the other stockbroker involved in the scheme, that Dan and Joe Salvani are out. And he also let me know in the same text that Craig is still onboard.
Q He said "Craig, who's been as good as you and I," what did you take that to mean?
A Following orders.
Q Following orders to buy?
A Yeah. AJ is the quarterback, we're the running back and wide receiver. We're doing the plays on a daily basis that he tells us to do.
Q On July 8 at 1:49 p.m., Discala writes to you: We need

to eat through these F'ers, get everyone right side.

You write: Need more seats filled in the theater. Market orders always help.

Discala writes: I'm on it, bro. Doing it.

What's going on here?

A Things are starting to break down. You'll notice a different kind of theme to our texts. He tells us that we need to get through these guys, get everybody off the right side is -- there's people out there selling that he doesn't have control of.

Q What is the "right side" referring to?

A On the bid and the ask. So, the right side in this situation would be where someone keeps presenting shares for sale.

Q When you say "the bid and the ask," could you just explained right side, left side?

A You have the bid -- looking at a piece of paper, the bid is on the left side, the ask is on the right side.

Q And the "bid" is an offer to buy, and what is the "ask" on the right side?

A Offer to sell.

So, this is --

Q Why --

A When you have a lot of selling pressure, it comes from the right side. If you're looking at the level view, level two, if you have a wave of sellers, they're going to come this way; if you have a wave of buyers, it's going to come this way and it lifts, lifts you up.

It's jargon, but what he's saying here is that we have to eat through the shares they're going to throw at the market. So, if they're going to sell a hundred thousand shares, we've got to buy a hundred thousand shares and then they don't have any more shares to sell.

Q What's your understanding for why he says you need to eat through those asks on the right sites?

A Because if they're going to sell, they're going to sell. There's nothing you can do about it. If we don't control that, it can push the stock down precipitously.

I tell him we need more seats filled in the theater. That's common. You can have the best movie ever; if nobody shows up to watch it, it's not seen. I keep telling him our story is not being seen by the general public and we need to get more market orders in there.

Q On July 8 at 1:53 p.m., you write to Discala: Me too. We needed the masses to start buying. Guys we never heard of.

I agree, buddy. I've got articles going out and buyers coming in Monday with simple changes.

You respond: Good timing. I will be on a week-long cruise and out of touch starting next Monday.

What's going on here?

A I remind him we need the masses to start buying. We need people other than ourselves and the group that's manipulating the stock to come in and start buying the stock because that's positive for the stock. He agrees and he tells me that he has articles that are going to come out. Articles help the general public because the more news stories you have out, the more interest and awareness comes out. So, AJ's specialty through OmniView was creating a buzz.

Q On July 8 at 5:59 p.m., you wrote to Discala: What's the name of your friend who can get me in with the BD? I will need him this month.

Jeff Auerbach Darren Goodrich. I'll send you Darren's cell. He's BMAC. Awesome.

And then Discala sends a phone number to you, 310-266-6629, for Darren Goodrich.

What's going on here?

A I'm still looking for a place to move some of my accounts from when I got fired by WFG. He lays it out right there: His friend Jeff Auerbach and there's Darren Goodrich, the market maker he's got on the team.

Q Where did Darren Goodrich work?

A BMAC.

Those guys are connected and can help me find a place to move my accounts.

Q On July 9 at 1:11 p.m., Discala writes to you: It's going up. Watch open.

You respond: I'll bid 6.7 when I get in.

Discala responds: Keep guys off right side and we rocket to seven.

You respond: Okay, cool.

What's going on here?

A It's that same thing I was talking about the right side. So, he says that he's going to make the stock go up that day, that I should watch what happens at the open. I tell him I'll bid 6.70 when I get in. That means I'll provide support at 6.70. And he says, "Keep guys off the right side and we rocket to seven." So, if I have any ability to stop anybody -- maybe my customers or myself from selling -- he's saying keep the guys off the right side from selling and the stock could go over seven.

Q On July 9 at 1:12 p.m., you say to Discala: I have no sell orders.

Discala responds: I haven't for weeks. Watch this baby. And Thurs is big, big news, rumor has it.

Discala writes: It's bid 6.55 now.

What's happening here?

A He's telling me the -- I tell him that I don't have any sell orders coming through on my side to my customers. He says he hasn't for weeks either and to watch out, on Thursday he has some really big news, rumor has it. But there's kind of a joke.

Q What do you mean it's a joke?

A He's joking because he's in charge of bringing the news out, so it's not a rumor.

Q On July 11 at 12:30 p.m., Discala writes to you: You coming in to Bridge Ventures? Call Darren. It's the shindizzle.

You write back: Of course. What's his number?

Discala writes: Darren Ofsink. 516-695-9215.

Who is Darren Ofsink?

A He was the general counsel for OmniView Capital and CodeSmart and a few other companies.

Q And what was Bridge Ventures when Discala says, "You coming into Bridge Ventures? Call Darren"?

A Bridge Ventures was a private equity fund that AJ was putting together where people could invest large amounts of money, $100,000 or more, and then kind of stand back and then he would have that operating capital to go back and do APOs with companies. So, he's -- and then he asked me if I'm going to be part of it, and I say of course.

MR. HEIN: If I could please show the witness a document.

Q Mr. Bell, I'm showing you what's been marked as Government Exhibit 178-4.

Do you recognize this?

A Yes.
Q What is it?
A It's the Bridge Ventures Investments strap copy. It's called a dec.
Q Is this a fair and accurate copy of Bridge Ventures' dec that you received?
A Yes.
MR. HEIN: Government moves Government Exhibit 178-4 into evidence.
MR. ROSS: No objection, your Honor.
MR. RIOPELLE: No objection, your Honor.
THE COURT: Received without objection.
(Government Exhibit 178-4 so marked.)
MR. HEIN: May I show it to the jury?
THE COURT: You may.
(Exhibit published to the jury.)
Q Does this document here have a date of October 2013?
A Yes.
Q Does it state "confidential draft copy"?
A Yes.
Q So, this states October 2013. We've been discussing texts here in July 2013. Is this a document -- do you recall when you received this document?
A Yes.
Q When?

A Somewhere around October.
Q So, at the time you're texting with Discala now that we're going through, in July, you had not yet received this document?
A No, but I knew about Bridge Ventures.
Q Turning to Page 3 of Government Exhibit 178-4, looking up here at point number one in the overview section, what was Bridge Ventures Investments?
A It was a private -- I don't know if you call it a hedge fund, but it was a fund that invests in companies, small microcap companies, to help them go public. Basically, everything that we were doing wrapped into a fund.
Q Looking at point number three, it says BVI -- Bridge Ventures Investments -- is managed and administered by OmniView Capital LLC. What was OmniView Capital?
A That was AJ's company.
Q Point number five, management of market risks. BVI requires lock-up/leak-out agreements minimum of four months and when shares can be sold no more than 2.5 percent of prior week's volume and 5 percent of prior day's volume.
What's your understanding of point number five?
A It was just one of his marketing points on how he was going to manage the risk of the shares in the fund by having Bridge Ventures itself follow a gentlemen's agreement.

(Continued on next page.)

BY MR. HEIN: (Continuing.)

Q And this presentation deck, as you described it, who was this meant for?

A Well, the management of the -- well, this deck was meant for investors to read and he was stipulating how he planned on managing the fund.

Q And when you say "investors," what are the investors investing in?

A They would invest in the fund and then the fund would go and find companies to do the APOs.

Q What is an APO again?

A Alternative public offering.

Q Looking at page six of Government Exhibit 178-4 it states here, "Investing in strategy" and it states "alternative public offerings," APO and it discuss APOs in the second paragraph. Could you describe again what an APO is?

A An alternate or alternative public offering is a way for a company that's privately held to go public and have their value shares traded on an exchange.

Q What is it an alternative to?

A An initial public offering.

Q And what's an initial public offering?

A An IPO is when a company who's privately held wants to go public and goes through a different format. They don't enter into a reverse merger with a shell. They actually start their own process to become public with the Securities and Exchange Commission.

Q And based on your knowledge and experience why would a company do an APO instead of an initial public offering, otherwise known as an IPO?

A It's generated more towards small and micro-cap companies because it is less expensive.

Q Looking at page ten of Government Exhibit 178-4, would you describe what you see here?

A Yes, that is the APO in a nutshell and this is a picture. When it says "bridge" at the top, that's money that is raised that's given to the company before it ever goes public to fund them, maybe they need to sign new leases or hire new personnel or whatever. They need money. Maybe they need more inventory or whatever it is so you give them bridge money and the private company is the shell. The shell is purchased. I mean it's the private company. I'm sorry.

So can you take the bridge money, hand it to the private company and then you move it into the S-1 or the public vehicle. The public vehicle, also known as a PubCo or a shell. And over on the right side is a PIPE. Once it's public, any money raised for the company is no longer called bridge money. It's called PIPE money. It's still money that the company receives, but it's two different words depending on what time it happens.

Then the arrow goes down and it says, "tradable on the date of transaction or when an S-1 registration statement is effected." So the stock becomes tradable after it goes from the private company to the public vehicle.

Q It says here, "Bridge, 25 percent discounted PIPE." What does that mean?

A People who invest earlier always get a better discount and they get a better deal. So if you put money in on the bridge, you would get a better share of the shares than you would if you invested in the PIPE. You're taking more risk.

Q Is that why they get a better discount?

A Yes, sir.

Q Looking at page 13, as you stated, this is a presentation from October 2013; is that right? So looking at page 13 of this exhibit could you describe what you see here?

A So AJ is showing the three recent transactions that Omniview did, that he did; Codesmart, The Staffing Group and Starstream, kind of putting numbers to his accomplishment.

Q Does this include a bridge and a PIPE?

A The chart does, yeah.

Q Looking at page 15 of this document, who would the management team include, what were their PIPES?

A Abraxas J. Discala who was the chief executive officer and then there's his bio talking about his financial background. Max Khan was president of the company.

Q And also a member of the management team on page 16, what's described here?
A Marc Wexler was a managing director of business development.
Q We're at page 18 of the document. What are the addresses for Bridge Venture Investments?
A 140 Rowayton Avenue, second floor, Rowayton, Connecticut or 900 Third Avenue, 5th Floor, New York, New York.
Q Who is listed on the right of that.
A Abraxas J. Discala.
Q On the second row, who is listed there and what is the address?
A Ofsink LLC, 900 Third Avenue, 5th floor, New York, New York 10022, and that's Darren Ofsink.
Q If we can return to the text messages on the laptop, please. On July 12, at 7:11 p.m. you wrote to Discala "What bid?" Discala responds, "I'm 6.87, 6.86, 6.85, 6.84. Go 6.88 for 500." You write, "Going soon." What's going on here?
A He's just telling me what the plan is for the day. It's more trading.
Q What's your understanding of why Discala said he was at 6.87, 6.86, 6.85, 6.84?
A That's a process called layering the bid.
Q What does that mean?
A You know, it just provides multiple layers to the bid so

if someone was going to look that they wanted to sell, obviously if you had 100 shares for sale at 687 and then nothing, there wasn't a lot of support, but when you layer a bid like you did here, it shows the market that there's a lot of support and that's psychological.
Q And, so, you say it's psychological. What is it in your experience showing the market then?
A Because if there's a bunch of people that are willing to buy shares at a certain price and it's layered and there's a lot of shares willing to be purchased, it tells you that there's a lot of demand for the company.
Q And what does that mean to an investor if they see that?
A Maybe they shouldn't sell.
Q And if they don't sell, what typically happens?
A It doesn't go down.
Q On July 12, at 6:59 p.m. you write, "6.92 fill in." Discala responds, "Just crazy bro. Who the F is selling?" You respond with question marks. You write, "I shot my wod." You respond, "I got billed at 6.94." Discala responds, "I didn't. You did great." You write "Nice close."
What's going on here?
A We closed that day at 6.94 in the midst of a lot of selling so we closed up at a near-high split adjusted near 14. So that's why he said that's a nice close.
Q On July 21 at 11:13 p.m. Discala writes to you, "I got

you way more, bro and we're only doing our stuff together. It was a rough week but NewCo goes out Thursday and I'll also get you the 50K iTEN shares. Up from 35. I'm just thankful we're getting help this week because Dan's do squat." You respond, "Cool. We can talk tomorrow." What did you understand Discala to mean by "but NewCo goes out Thursday"?

A That's the new company we're going to be working on together called The Staffing Group.

Q When you say "working on together" what do you mean?

A Purchasing shares in the APO, having the news releases go out and then coordinating our shares to manipulate the stock price.

Q On July 22nd at 10:35 p.m. you write to Discala, "I got about 250K from NewCo next week." What did you mean?

A I was letting him know how much cash I would have to put in the plan on the Staffing Group.

Q What kind of a company was The Staffing Group again?

A It was a microcap company that provided temporary workers for businesses.

Q On July 23rd at 5:53 p.m. you wrote to Discala, "How is NewCo going" and he responded "Great. Going out Thursday. I have 6M shares pre-trade in my pocket already." He says, "That's 3M each. The rest we get delivered tomorrow." What do you understand Discala to mean here?

A That he has 6 million shares that he purchased in the

shell and we're going to split the 3 million shares each.
Q He says "there's 6 million shares free trade." What does that mean?
A A freely tradable share is a share that is not restricted and we can trade at any time to raise cash.
Q These 6 million free-trading shares, in what company does he have these?
A The Staffing Group.
Q That's the NewCo?
A Yes, sir.
Q On July 23rd at 7:07 p.m. you wrote to Discala, "NewCo have a name and symbol? Clients coming in each day this week." You then state, "Going into a meeting. Watch iTEN. Why can't we close 7?" Discala responds, "Getting symbol now. The Safety Group is NewCo. Avia is symbol." You say "Cool." What is Avia?
A Avia is the short name for the shell, Aviana Group or Aviana Corporation.
Q When Discala wrote "The Safety Group," what did you understand that to mean?
A He meant The Staffing Group. Because I asked him what's the name and the symbol for the NewCo and then he responded.
Q You said, "You asked whether NewCo has a name and symbol, you have clients coming in each day this week." What did you mean by that?

A Well, we had had some issues going on with some of my customers and AJ had offered to sell shares in the NewCo to some of our best customers at 14 cents in what's called a SPA, a stock purchase agreement. So he's got his 3 million shares and I've got my 3 million. He's got 6 million shares that he's going to divide up.

My customers could come in and I could offer them to purchase shares directly from AJ in a private transaction at 14 cents a share, so.

Q In The Staffing Group?

A Yes, sir.

Q On July 25 at 6:36 p.m. you wrote to Discala, "You watching Code? I'm out of office." Discala writes, "Yes. It on at 6.65." And he writes, "Need a couple of bids for help when you get back." You write, "Okay. Bid where?" Discala says, "Bid 6.63. Don't show size."

What you understand him to mean by "don't show size"?

A Don't put a lot of share volume on the bid.

Q And what's your understanding for why he would say that?

A He felt that that was the best play for the day based on whatever knowledge he had.

Q Now, on July 12th if you just look at the text you stated that the price or the text message stated, "The price was at 6.94. You're now bidding at 6.63." What's happening to the

price?
A It's gone down approximately 4 percent.
Q What was your understanding for why?
A Too many sellers, not enough buyers.
Q On July 26th at 4:37 p.m. Discala writes to you, "Dude I need you on both. I got iTEN flat. Let's go go." You respond, "Raising money for Soul and iTEN. On it. Discala says, "TY bro." What is Soul?
A Soul was the symbol for the company called Soul and Vibe which was another company that we manipulated.
Q And when you say you're raising money for Soul and iTEN what did you mean?
A It means I'm selling securities, other securities, bonds or mutual funds or whatever, so that I have more cash to invest in those two.
Q On July 26th at 8:39 p.m. you wrote to Discala, "Not bad, we held up iTEN at the same time. Need to sell Soul into the big short squeeze." Discala writes, "Agreed." And then you write, "Then use all of that money for Avia." Discala writes, "Agreed no paper in way." What's going on there?
A We were having a lot of sales coming in. We were kind of -- it wasn't as easy as it was the prior month. Things are starting to break down. So I said, not bad, we held up Codesmart at the same time as what we were doing with Soul. And I told him that we need to sell Soul in a big short

squeeze. The whole reason that AJ had put us into Soul was there a company that had been overly shorted which means that more shares were shorted than were available to do it and the bottom line is that we felt that the stock was going to go up and we'd be able to sell our shares into it and then we would take any profits we'd make from that and put it into the new company, the The Staffing Group. It was a parlay system.

Q What do you mean by a parlay system?

A So you take the profits from one business and put it into the next one to make it even better.

THE COURT: Mr. Hein, please let me know when you think we have reached a convenient break for the midmorning.

MR. HEIN: We can stop here.

THE COURT: Thank you.

Ladies and gentlemen of the jury, we are going to take our midmorning break. It will give you a chance to relax and refresh as need be. The instructions about recesses continue to apply. Do not discuss the case amongst yourselves or with anyone else you may meet in the back and continue to keep an open mind. We will see you in about ten or fifteen minutes.

(Jury exits.)

THE COURT: Anything before we break?

MR. HEIN: No, Your Honor.

THE COURT: Okay. We will see you in about ten or fifteen.

You may stand down.

(Witness steps down.)

(Recess taken.)

(In open court; jury not present.)

THE COURTROOM CLERK: Court is back in session. Counsel for both sides are present including defendants.

THE COURT: Ready?

MR. HEIN: Yes, Your Honor.

MS. JONES: Yes, Your Honor.

(Jury enters.)

THE COURT: Counsel will stipulate that the jury is present and properly seated.

MS. JONES: Yes, Your Honor.

MR. HEIN: Yes, Your Honor.

THE COURT: Ladies and gentlemen, I hope you had a chance to refresh. We will continue the direct examination of Mr. Bell by Mr. Hein.

MR. HEIN: Thank you, Your Honor.

CONTINUED DIRECT EXAMINATION

BY MR. BELL:

Q Mr. Bell, you testified that you got fired from your broker/dealer at some point in June of 2013; is that right?

A Yes.

Q Prior to getting fired, how many clients did you have

approximately?
A Hundreds.
Q And do you know approximately how much money you had under management, in other words how much money from those clients that you could invest for them?
A Including annuities and all of my investments in my portfolio, maybe 40 or $50 million.
Q And after you were fired from your broker/dealer in June of 2013, did the number of clients and the amount of money you had change?
A Yes.
Q Can you give an approximation of how many new clients and how much money you had under management?
A When I got fired from WFG, I probably lost half and out of that 40 or 50 million I would say 20 million of it were invested in long-term vehicles like annuities and things like that that couldn't be touched that had to be managed and I still had my Fidelity trading that I could do probably through October or so.
Q And so about how much money did you still have to invest after getting fired from the broker/dealer?
A After June 20th through maybe October of 2013, I had 10 or $11 million under management.
Q Looking at Government Exhibit 132-2, a text message on August 4, 2013 at 6:44 p.m., you wrote to Discala, "If/when

Soul rocks this week, we sell some and reinforce iTEN and then load up for Avia. I still need this week to get some of the paperwork in for Avia, but we'll have most of the important ones by Tuesday. Soul is the key." Discala responded, "I agree totally and have heavy troops coming in. I was limited with Rich on Friday for 300K to only 140 and they weren't filling us. Rich is back so we're going to rock this week." What's going on there?

A We're talking mainly what was going on with the company called Soul and Vibe. I tell him that if and when it goes up this week, it rocks because we were waiting for a particular thing to occur, that we should sell some and reinforce Codesmart and keep some money to the side for the scheme of TSGL and then I mentioned I need some more time to get paperwork in for the shares that were going to be sold by Omniview to my customers in TSGL.

Q And when Discala wrote, "I agree totally and have heavy troops coming in" --

A He's talking about the Soul. He agrees and has heavy troops coming in for Soul and he was telling me he had a limit bid in with Rich on Friday for 300,000 at a limit price of 1.40 and he wasn't getting filled. Rich was back and he was going rock -- sorry, Rich was involved in the Soul trade.

Q Do you know Rich's last name?

A I believe it's Auerbach.

Q But you don't know for sure?
A Since -- it could be another Rich, but the only Rich I knew was Rich Auerbach.
Q And what did you understand Discala to mean by heavy troops coming in?
A That he had recruited other people to come in and help with the scheme.
Q On August 5, 2013 at 1:32 p.m. Discala wrote to you, "Lost momentum on iTEN." You responded "Filled at $5."
What was going on here?
A Well, it's August so things are starting to unravel. He says that we lost momentum on iTEN. You know, he had called it a rocket before or I did and the rocket is coming down. The price is at 5 bucks.
Q And where was it on in July?
A It hit a high of 6.94.
Q On August 5th at 2:27 p.m. you wrote to Discala, "Worried about iTEN." He responded, "No, I find out -- I found out who it is working on Pro now. It will have a good close." You wrote, "Okay. I'm tapped out between Soul and iTEN. I've got my own risk managers calling me." What's going on here?
A So obviously there's some trouble going on. I'm worried about iTEN. It has come from 7 to 5. I know that I have lost a lot of my book. I've also invested heavily in Soul. We're currently involved with another scheme and we have Aviana

coming out and I'm kind of trapped in iTEN and I so I tell him I'm worried. He says no. On the whole way down his theme was it's all going to be okay. He says, no, I found out who it was and he's working on it and the stock will have a good close.

And then I tell him I'm tapped out between Soul and iTEN. Tapped out means I don't have any more money to invest in this company and I have risk managers calling me. So at this point WG has fired me, but I still have Fidelity accounts and Fidelity has their own risk managers and they get the same reports so the when the stock goes from 7 to 5 that produces some kind of report. So my compliance officer from Fidelity comes in and sits down and says, you've got too much of LBAS, too much --

MR. ROSS: Objection to what the regulator said, Judge. Hearsay.

THE COURT: What is that conversation? Why is that not hearsay?

MR. ROSS: Judge, it's hearsay because the person speaking to Mr. Bell is not a co-conspirator. So Mr. Bell should not be able to say what an out-of-court --

THE COURT: I was asking Mr. Hein.

MR. ROSS: Sorry.

MR. HEIN: The Government's position is that it's the effect on the listener, the state of mind. So not for its truth.

THE COURT: I'm going to sustain it and ask you to go at it a different way.

MR. HEIN: Okay. Thank you, Your Honor.

THE COURT: To get that point out.

MR. HEIN: Yes.

THE COURT: It is legitimate.

BY MR. HEIN:

Q Mr. Bell, let's move on to -- Mr. Bell, you said you were worried about iTEN. Why were you worried about iTEN?

A He had fired Joe and Dan. We were spread thin between the three or four different stocks that we had been trading. It had gone down from 7 to 5, 30 percent, and I was afraid we were going to get caught in what's called a bear trap.

Q What's a bear trap?

A That's when you have unknown sellers selling into your position and you don't have enough fire power or buyers to stop him and then you have to sell your own shares to raise money.

(Continued on the following page.)

(Continuing.)

BY MR. HEIN:

Q On August 5th, at 5:44 p.m., Discala wrote to you, "Remember we have a ton of stock. I own more today then when we started. We can take care of those who take care of us."

You respond, "Yeah, but that is messy on my compliance side versus it being up."

What's going on here?

A AJ was offering to -- we had been talking about getting shares to our customers at a very low price. Customers are starting to complain so AJ's like, well, then we can always give them more shares by using the stock purchase agreement and that would be -- let's say someone came in and they owned a bunch of shares, we can offer them shares that AJ had, because he had a bunch of stock he said that we would sell to them at 14 cents a share in a private transaction thus bringing their share price down.

I told him it's really messy on my compliance side versus bringing it up. Obviously if the stock goes up, we don't have to do all that, all that transaction.

And any paperwork that was signed in my office had to be looked at by my compliance officer, unless I chose not to show it to him.

Q And what did you understand by Discala meaning "we can take care of those who take care of us?"

A Those people that had invested in ITEN were people that were taking care of us with their money and our scheme and so he wanted to reward them or fix the problem by giving them more shares.

Q And how would that fix the problem?

A Well, if you got a bunch of shares at 14 cents and the stock's trading at five bucks, you just made yourself some quick money.

The same philosophy that we were making the money we could pass on to our customers in a limited fashion.

Q On August 5th at 8:14 p.m., you wrote to Discala, "I got filled at 4.6."

Discala responded, "Brutal. I got ITEN tom. Watch."

What did you understand Discala to mean by "brutal"?

A I got filled at 460. It dropped from 694 to 460 now it's brutal. And then he tells me he's got ITEN tomorrow. He's gonna to make sure it goes up to tomorrow. Just for me to watch.

Q What's your understanding of why the stock price is falling?

A More sellers than buyers. I'm not able -- we lost some other brokers, and it turns out, according to what AJ told me, that the brokers that before were part of our team had turned on us and were now selling.

Q On August 6th, 2013, at 7:03 p.m. Discala wrote to you, "I know, it's like playing a sports. Already know we're gonna win."

He then says, "Shall we throw the wall and hope they hit up."

Then he writes, "I can't wait to rip these guys at close. Let's stand our ground."

What's your understanding of what Discala's saying there?

A He -- oh. It's like playing a sports and already know we're gonna win.

When you purchase a stock at $2 bring and bring it public at 320, you already know the price at that point.

That works early on, but it wasn't working any more.

Q On August 8th at 12:08 p.m. you wrote to Discala, "Not worried. Is it even off the ground. Is anything happening or is AVIA put first. I'm going to support AVIA like I've done for ITEN and Soul."

You wrote, "Payday for us lifts all our boats and make us stronger for the next."

Discala responds, "Me too."

"Yes, all done, final wires this week. We funded three deals already. Cachet, Starstream and AVIA."

What's going on here?

A Anything happening or -- so is anything going on with

ITEN right now or are we focusing now on Aviana. And I let him know I was going to support Aviana. Aviana and TSGL is the same thing.

I'm gonna tell him, I'm part of the scheme like I was in ITEN and Soul.

He states that a payday for us -- I mean I say, "A payday for us lifts all boats and makes us stronger for the next."

So the more money we make, the more we could stay in the game and put into the next deals.

And he says, "Yes, basically." That he's funded three deal already; Cachet, which I was not familiar with; Starstream Entertainment, and Aviana.

Q On August 9th at 1:08 p.m., Discala writes to you, "Bid 425 ITEN. You won't get hit."

And then says, "I'm moving to 430. After I do, you move to 425 nothing crazy."

Then writes, "Go 419, I'm 420. Also just put 25K Soul at market for myself."

What's happening with the price of ITEN?

A Bid high at 694, now it's down to about 420.

Q August 12th, 1:53 p.m., you write to Discala, "Big time holders of code. Got all worried. Telling them to chill."

What did you mean?

A I was just passing on news from the front basically.

Just telling 'em that my holders would be people that own the stock that I purchased for them. They were worried. I told them it would be fine.
Q Why were they worried?
A Because the stock had gone down from 694 to the mid-4s.
Q August 13th at 12 p.m., you wrote to Discala, "We have a few stragglers on AVIA but haven't received any certs on it yet. What price would we get the SPA for ITEN if I needed it."
Discala writes, "14 cents."
What's going on here?
A So at this point a lot of panic has set in. On my customer side I'm getting a lot of phone calls. My compliance officer's living in my office from Fidelity. And I talked to AJ and he says, "We'll get everybody as many shares as they need."
So I start asking him about, "What price could we sell them the shares at through a stock purchase agreement." And he comes up with 14 cents.
And then I tell him I'll let you know. And he reminds me that we're in this together and we're getting help and that hatched a plan to get Ira Shapiro, the CEO of CodeSmart, to hand over 750,000 theirs from the company to divide up and sell to our customers at 14 cents.
Q What is a "SPA"?

A Stock purchase agreement.
Q You mentioned a 750,000 shares from Ira.
Can you explain what you mean by that?
A Well, I had so many customers that we wanted to appease and dollar cost average down. So if they don't start at five bucks and we got it to them at 14 cents, their average cost would be $2.60. So they still be showing owning -- having a profit.
Q What did you mean by the "750,000 shares?"
A So AJ asked me to get a list of all the people that needed shares and how many. And it added up to 750,000 shares.
And so he was going go to, and did, go to CodeSmart, to the CEO, Ira, and ask the company to issue shares. Because companies can produce shares, they're called corporate governance, which they eventually did. And the customers purchased those shares from AJ's company at 14 cents a share. So for around $90,000. And those customers were delivered certificates.
Q And what was the purpose of providing 750,000 shares to the customers at 14 cents?
A They were upset. It was like hush money but it was hush shares, you know, it was -- if I could sit down with the customer and say, look, we'll get you 50,000 shares at 14 cents and you'll be able to sell them at some point, the

stocks trading for whatever, $4, and we'd have this analyst's report saying the stocks going to go to 10, would you be interested in that, would you be fine with that, would you calm down?

Because I had already been fired by WFG. The next firing would be Fidelity and then I wouldn't have a book, I would have zero opportunity.

Q You write on August 13th at 12:06 p.m. to Discala, "Okay, how many shares does someone get and what's the lock up time?"

Discala responds, "LULO. So they're free. I just want you to use these for your big clients so they know we take care of them. ITEN will be a huge success, but if you need some breathing room, I need you to know I got your back."

What's your understanding of -- first of all, what is a LULO?

A A lock-up/leak-out.

Q And what's your understanding of what Discala is writing to you there?

A So I was asking him, okay, these shares that we're going to get for my customers, will they be restricted or unrestricted. And he's telling me they'll be unrestricted because that's best for the situation. But he wants them to sign a lock-up/leak-out. It would be -- and then he mentions so they're free. Which means they're freely tradeable but he wants them to sign up a lock-up/leak-out.

Q What's your understanding for why he wants them to sign a lock-up/leak-out?
A So they won't the shares right away and put additional downward movement on the stock.
Q You respond, "Yes, I have a few clients that are under hard. Got in at 6.7 and own HRAA. I'll out together a list."
Discala responds, "That's why we're partners. We won't let our clients get hurt, it's our job."
What's your understanding of this conversation?
A I'm telling them that some of my customers actually purchased in the 670 range and now they're down 50 percent. And this particular group of customers also owned HRAA, which at this point, I think had gone to zero or was down so far that it was a wash. It was a complete loss.
So these particular customers had every reason to be very upset. He says, hey, that's why we're partners, he's not going to get our clients -- he always acted as if my customer's clients were his clients, it was our money to use.
Q You state here on August 13th at 12:18 p.m., "I have about 20 that have gotten our worst efforts or worst timing. How many shares can I spread."
Discala responds, "What do you need. I own more today then when we started."
You respond, "I'll let you know. Send a list to Marleen. I won't be greedy for them, just need to get them on

board, especially with us moving BD. Need them happy or they won't come with me."

Discala responds, "I totally understand. And all I'm saying is that I'll get you what you need. And as you know with me there's no greed, I just want to win."

What's your understanding of this back and forth?

A I'm telling him that I had in particular 20 customers who just -- just happen to buy at the -- I happened to purchase for them at the wrong time as far as on the top. So that they own three stocks, I got them at the top on each one.

And these particular 20 I really wanted to take care of. And he's letting me know just send a list to Marleen on what you need and I'll take care of them.

Q August 13th at 8:16 p.m. you write, "Yeah, the same compliance that stopped me from buying more is freaking out along with code. We need a full recovery tomorrow or I'm shut down."

Discala writes, "We will have a full recovery. It wasn't short, it was someone getting liquidated. Just found out. I'm on it."

A So the -- I had different compliance officers. This particular compliance officer stopped me from buying more. He just came in and said you can't buy any more of this stock. And I'm telling AJ we need his -- you know, he's the quarterback, we need a rally. We need a Hail Mary or something or I'm out of this. And he promises that we'll have a full recovery.

Q How is -- what was your understanding of how Discala intended to get a full recovery?

A He told me he was gonna to -- he had some trips planned. He was going to be flying to Minnesota and a few other places to recruit more brokers to get involved with the stock.

Q On August 14th at 12:37 p.m. Discala writes to you, "Meeting with my guys now."

And he writes, "I'm doing what I have to to change this."

You respond, "My risk manager woke me up at 6 a.m., told me if this doesn't reverse I am shut down."

Discala responded, "I understand. And I have a lot of us in the same boat doing what I -- same boat, do I'm gonna get it to reverse. I'm using everything I own to change momentum."

What's your understanding of that?

A I remember that very well.

So AJ says he's meeting with these guys -- whoever he's -- I don't know everybody he's working with, but he's meeting with those people to try to help things out. He's doing everything he can to change the situation.

And then I did receive a phone call from a risk manager that woke me up one morning and told me he just said,

when I woke up, he...
Q What did you understand from the risk manager?
A That I was going to get fired again. This time from Fidelity.
Q On August 14th at 9:40 p.m. you write to Discala, "Hey, my biggest client is having a meltdown. Anything I can tell him about CodeSmart. It is really bad for us."
Discala responds, "Tell him he has a one for at 14 cents and the business is doing great."
What's your understanding of that text message?
A I'm letting him know that I had a meeting with my biggest client and the guy had a severe meltdown. And I'm asking him is there anything I can tell him? I mean, anything. He tells him that he can have a SPA for 14 cents.
I basically offer him as many shares as he wants at 14 cents. And by the way, business is doing great, so...
Q What's your understanding for why Discala said the business is doing great?
A I don't know. That's just what he told me to tell him.
Q On August 16th you write to Discala, "To be honest with you, and with everything going on, I never thought I'd see CodeSmart under $4, let alone 250. Wow."
Discala writes, "Me neither. And I'm doing all I can."
And you said, "Wednesday."

A So the stocks dropped to 250.
Q On August 19th Discala writes to you, "We need some nibbles on ITEN here."
You respond, "Gotcha. We will win on this.
Discala says, "Yes, we will."
And then he says, "We have too."
You write "Or we are done. Yup."
What's going on here?
A Future telling. I mean I said we need some nibbles on ITEN here. Or he says "We need nibbles."
"Nibbles" is buy a couple hundred shares here and there, show some volume.
And I tell him that, "Okay, we'll win on it."
And he says, "Yes, we will."
And I tell him we have to or we're done.
So we can't -- I can't participate going forward and help him out with the amount of heat that I'm getting from my compliance. I'm very, very close to getting fired from my Fidelity side, which means I won't be a stockbroker any more.
Q Discala wrote to you that, "We have to." After you wrote, "That we will win on it."
What did you understand him to mean when he said "We have to win"?
A Well, we have to get ITEN up. We have to get one of our deals to work because -- I don't know what he means. I don't

know.
Q On August 20th at 3:35 p.m. you wrote to Discala, "I feel like this last month it has been a team of two."
Discala responds, "Yeah, me, too, but I just need for us to win big on one and regroup for the next three. Already funded deals we have. I'd like a tie on the other."
What's your understanding of Discala's text to you?
A Well, when he and I initially talked, he was talking about how he had a bunch of brokers out there that were going to work alongside us. He had put together this team. He was the QB. And I'm just saying, you know, we're only two of us in this, me and you. And we had gotten rid of everybody else and hadn't recruited anybody else. And he agrees, "Yeah, me, too."
But he just wants to us to win big on one of them and regroup the next three, which was Cachet, Starstream and Aviana. And those were the already funded deals that we had, so...
Q When he wrote to you, "I just need for us to win big on one."
What was your understanding of what meant?
A Well, the way these things work is if you have a big winner on, one you can survive two or three.
Q What does it mean to be a big winner on one?
A Make millions of dollars.

Q How does one do that?
A Timing. Get out at the right time. And, you know, I guess as you're pumping the stock up and then start selling your shares into it, if the marketing side works and the stock takes off on its own, you get out of it in time. Get everybody out of it. And then you just move on to the next one. We got stuck in a trap.
Q On August 20th, at 4:17 p.m. you write to Discala, "1,000 ITEN. Why can't key get it up."
Discala writes, "It won't go up 'til a blast at 3:45, which is coming.
You write "Okay."
What's your understanding of Discala saying, "It won't go up 'til at blast at 3:45, which is coming"?
A He's got -- something's going happen at 3:45, which is at the end of the market day.
Q On August 20th at 6:46 p.m. your write to Discala, "Aviana coming public at 1 dollar or 150, will be life saver."
What did you mean by that?
A I'm telling him that if TSGL, which is Aviana, comes out at a buck to a buck 50, then it'll be a life safer.
Q Why will it be a live safer?
A Well, 3 million shares at 10 cents going up to a buck makes a lot of money.
Q When you say "3 million shares at 10 cents," what do you

mean?
A AJ had offered me 3 million shares at I think around 10 cents. If it comes out at a dollar, I can make a couple million dollars and recover from this. I was about to lose a 16-year career, so...
Q You write on August 20th at 6:51 p.m., "ITEN getting its media blitz, question mark."
Discala responds, "Nineteen interviews, yes. The awareness is going."
What did you understand him to mean then?
A He had been talking about a media blitz to help the stock recover, and that's what he told me he had planned, 19 interviews and an awareness campaign that was going.
Q You respond on August 20th at 7:24 p.m., "Good. AVIA and Starstream going out Thurs and Tuesday clean for us." Excuse me, this is Discala to you. "Good. AVIA and Starstream going Thursday and Tuesday clean for us. I'm doing all I can, bro."
What did you understand him to mean in this text message.
A That Aviana and Starstream had been signed and shares were going to be delivered clean. Freely tradeable. And then he reminded me in all caps that he was doing all he can because we had multiple problems.
Q And when he says "AVIA and Starstream," he said "They will be provided freely tradeable for us"?

A Correct.
Q What does that mean?
A Well, that the shares that were received from the shell account and Aviana and Starstream, they were clean shares, which meant they would be in our names and that they would be freely tradeable. No holdups.
Q On August 21st at 7:12 p.m. Discala wrote to you, "Need help on bid side. ITEN."
And he writes, "Bid 225 for size and I'll take the close."
He then writes, "Need help 'til 3:55."
You write, "Fighting for my life on Soul and ITEN right now with compliance."
He writes, "Okay. Well, you can call Darren. I'm going there right now. Darren Ofsink."
You write, "I have five days. Five dollars on ITEN three on Soul or I'm canned and lose my accounts."
Discala responds, "Good. That's the time I need. On way to airport to the Minn. Can we call you tomorrow with fund that wants to buy ITEN at high nets."
What's going on in that exchange?
A Well, he initially sends me out some orders he wants me to trade, and he needs some help 'til 3:55. That means I need to you take -- to help trade until the end of the market.
And I don't answer him because I'm fighting for my

life. I'm with my compliance. I was in multiple compliance meetings. I had the state of Texas in there.

And he says, "Well, you can call Darren." I don't know why he would want me to call Darren. To get them on the phone, I guess.

And so I was given an ultimatum, you know, by my company, get ITEN over five and get sold over three or they were going to fire me.

Q What did you understand Discala's last text message to you?

A Well, he says, "Hey, that's all the time he needs." You know, so far as his magic wand and have them working.

MR. ROSS: Objection.

Q He says, "On way to airport to the Minn."

What did you understand that to mean?

MR. ROSS: Judge, objection to "magic wand."

THE COURT: Your objection was what?

MR. ROSS: I'm objecting to the characterization. It's not on the texts. And he's talking about -- Mr. Bell's talking about a magic wand and I would ask Your Honor to strike that.

THE COURT: No, I'm not going to strike it.

That's your understanding?

THE WITNESS: Yes, sir.

THE COURT: Overruled.

THE WITNESS: We used words like "rockets" and all that other stuff, so...

Q What did you understand Discala to mean by "On way to airport to Minn"?

A He was going to go to Minnesota to meet with some brokerage firm that -- some brokers at the brokerage firm that would come in and do what I've been doing and what Craig Josephberg and everybody else had been doing.

Q He says, "Can we call you tomorrow with fund that wants to buy ITEN at high nets."

What did you understand that to mean?

A Looking at a possible private transaction where a mutual fund or a larger fund might want to pick up my bigger customers I'm about to lose.

Q Now, what price was CodeSmart trading at this point, August 21st?

A $2.25.

Q On August 22nd, 2013, you write to Discala, "Hey, bro, good morning. Need those short to cover. I can't even nibble. The loses on ITEN and Soul are so big that while they gave me five days. I can't even nibble. I can only sell. Those last 35,000 shares of ITEN I bought yesterday went down. And that was the final straw for them. It's all on you. You got my future, bro."

Discala responds, "I'm here in Minn and I've got us."

You respond, "Okay, trust you to make it happen."

First, when you say, "need those shorts to cover," what is a "short"?

A When somebody shorts a stock, they sell the stock they don't own into the market and they have to buy them back later.

So they think the stocks -- the stocks are gonna go down is what they're betting.

So when a short covers, they have to buy the stock back in the market. And that usually pushes it up.

(Continued on next page.)

BY MR. HEIN:

Q Is shorting a stock legal?

A It is legal.

But people had started to short the stock, which pushed it down. And he said he had figured out who it was and was going to get him to cover.

Then I had a sale go through for 35,000 shares of ITEN. I don't remember how it happened. Customer could have called it in himself. But a sale went through when I was told no more, and that was the last straw for my compliance. They took away my trading ability from Fidelity at that point.

And he says he's in Minnesota, he's got us.

Q What did you understand him to mean by that?

A He's gonna fix it. He needed the five days that I had given him to get the stock back over five bucks.

Q On August 22, at 9:37 p.m. Discala writes to you: Hey, bro. Great day in Minn. I'm beat. Cleared up ITEN. Have AVIA and Starstream going public next week. I got them both and you have shares in both and so do your clients. Need lists ASAP.

You respond: Okay. I will send you the list for Starstream. Any chance on Soul?

He responds: Yes. It flushed today. Meeting all a.m. tomorrow on rebound.

You respond: Okay.

What's going on here?
A AJ was reporting to me that he had a great day in Minnesota, that he's tired, he cleared up ITEN. That means he did whatever he needed to do in Minnesota to fix the ITEN problem.
He says that he has Aviana and Startstream going public next week and that I have shares in both those companies. He wants me to do my client lists. "Client lists" would be anybody that we would be getting shares in Aviana.
Q You write on August 23 at 11:30 a.m.: Hey, bro, I sent Marleen the ITEN list on Monday. Hopefully, she has it and is go working on it. I will use the same list for Starstream. What will the Aviana symbol be? I couldn't find it.
Discala responds: AVIA.
Who is "Marleen"?
A Marleen Goepel is his assistant at OmniView Capital.
Q And the ITEN list you sent her on Monday was what?
A That's the list of customers and the amount of shares that they needed that ended up totaling 750,000 shares.
Q On August 23 at 2 p.m., you write to Discala: Can't talk right now, in a meeting. Call you as soon as I get out.
Discala responds: NP. Got ITEN going a bit. At 2.65 and rips to over 3. It's a start.
What's your understanding of what Discala is saying here?

A He's saying that it's at 2.65 -- at 2.65 it rips over 3. So, he thinks it's going to go between 2.65 and go up to $3 and at least it's a start getting it back up.

Q On August 23 at 4:04 p.m., Discala writes to you: 2.77 right it now.

And he writes: Please help best you can on ITEN. Even bids that won't get hit help.

What's going on here?

A He's informing me that the stock is trading at 2.77 and he's asking for my help. He says even bids that won't hit help, so he's telling me to put in bids just to show support even if the transaction doesn't take place.

But I can't do it at that point.

Q On August 23 at 6:19 p.m., Discala writes to you: It's okay. We'll make that work. I have two for us. But ITEN is on verge of breakout now.

He writes: When you are back, I'm loaded. Need help. I'm ready to fire away.

What's your understanding of what Discala means in those two texts?

A He's telling me that whatever plan he put into place up in Minnesota is on the verge of a breakout. And he says, When you are back, I'm loaded. I need help. I'm ready to fire away.

He's not getting the fact that I don't -- I'm in too

much. I can't help out.
Q What did you understand him to mean by "I'm loaded" and he's "ready to fire away"?
A He's excited, he's got money, he's got people. Whatever it is, he's ready to go back into the fight; round two, round three, whatever round it would be.
Q But what specifically is your understanding of what he's undertaking?
A Trying to manipulate the price of the stock back up over five.
Q On August 23 at 7:12 p.m., you write: Got filled at 2.95.
Discala responds: Keep nibbling, please.
A Yeah, so, I had been given a pass -- a lot of the customers were calling in and they were talking to compliance. Some wanted to buy the stock. So, they had to take orders from customers that wanted to the stock. You can't not take their order.
So, they started allowing what's called "call-ins." They turned my computer off, where I couldn't actually put the order in through the system, but orders could still be called in. So, I would have to literally pick up the phone and call the market maker and put the order in through the system.
Q On August 26 at 2:21 p.m., Discala writes: TY. It all helps. Bid 3.15 for size, if you can, like, 2K.

Is he asking you to bid at $3.15 for CodeSmart?
A Yes, he is.
Q And where was the price of CodeSmart a few days prior to this?
A 2.25.
Q Was it moving up?
A Yes.
Q On August 26 at 3:48 p.m., Discala writes to you: Mine too. That's why I'm busting mine to fix it. Letters at 1 OM, or PM.
He then says: Just bought 1,900.
You write: Letters?
Discala writes: From CEO, on Code.
And you say: Okay.
Discala writes: Trust me, it will help us. There's 10K from freaking CSTI at 3.10, then it goes to 3.20. I've gotta save some post for close with Rich.
What's your understanding of what Discala is writing to you here?
A So, there's a letter from the CEO of CodeSmart going to be issued to the shareholders at 10 a.m. that he knows about, and he says that's going to help with what's going on.
And then he -- CSTI is a market maker. So, he is looking there and sees there's 10,000 for sale at CSTI at $3.10. If we could just get through that somehow, the price

will go to 3.20.

MR. HEIN: If I could show a document to the witness, please.

Q Mr. Bell, I'm showing you what's been marked as Government Exhibit 172-8.

Do you recognize it?

A Yes, sir.

Q What is it?

A It's a letter from the CEO, Ira Shapiro, to shareholders. It was mailed to them and it was issued over the newswires.

Q Did you review this letter on August 26, 2013?

A Yes.

MR. HEIN: Government moves Government Exhibit 172-8 into evidence.

MR. ROSS: Judge, same objection as yesterday.

THE COURT: Same ruling. Received in evidence.

(Government Exhibit 172-8 so marked.)

MR. HEIN: Show it to the jury, please.

(Exhibit published to the jury.)

MR. HEIN: Thank you.

Q Mr. Bell, could you describe what Government Exhibit 172-8 is?

A This is a copy of the letter that Ira Shapiro, the CEO of CodeSmart, sent to everybody who is a registered shareholder, explaining why he thought that the company was going to do

very well. And all of their accomplishments.
Q If you look at the bottom of the first page here, the revenue development section, what does this state?
A As I write this letter to you, some very exciting things are taking place as it is relates to revenue growth. We are now starting to feel the realization by providers that they will have to begin the transition ICD-10 over the next few years and that this must happen now.
According to Forbe's Magazine and Nurse Young, the opportunity is great because only five percent of physicians have started their ICD-10 training. Most hospitals and other healthcare facilities are very behind the curve as well. This is resulting in new contracts from providers for CodeSmart and that means revenue begins to accelerate now.
Q Looking at the top of Page 2 in that same revenue growth section, if you could, just read the first full paragraph.
A If we continue on the track we are on, I believe we will achieve our revenue and profit goals that were previously discussed for 2013 and beyond. We believe we have access to a large market of potential students, which we'll estimate to be over 40 million people looking for careers at any given time.
The challenge now will be for us to properly nurture the distribution relationships we currently have in place and making sure we continue to create a market presence and industry brand leadership as the superior education program in

ICD-10 that we truly are.
Q If you could, just read the remainder.
A The CodeSmart team and I sincerely thank you for all your supports. We're looking forward to a very exciting and successful future together. Ira Shapiro, Chairman and CEO.
Q And when, again, was this letter published and sent?
A Monday, August 26 of 2013.

MR. HEIN: Please return to the laptop with the text messages.

THE WITNESS: Your Honor, can I take a small break?

THE COURT: Mr. Hein, the witness needs a break and we also need the lunch period. So, unless you're about to wrap up something, we'll take the lunch break.

MR. HEIN: I think we can take the lunch break and pick up here after lunch.

THE COURT: That's what we'll do.

Ladies and gentlemen, we are going to take our lunch break. Again, the cafeteria is available. The weather is a little better and it may tempt you to go outside. But wherever you go to enjoy lunch, remember do not discuss this case amongst yourselves or with anyone else, continue to keep an open mind, and do not do any research of any kind, electronic or otherwise, that relates to the case. If there are any media accounts floating around about the case, you are directed to disregard those as well. Again, if you are on social media platforms, you are not to mention, directly or indirectly, anything about the case or the fact that you're a juror or that you're coming to the courthouse.

And you are otherwise to enjoy your lunch. We will ask you to come back to the central jury room at around 2. We'll try to start between 2 and 2:15, as close as we can.

(Jury exits.)

THE COURT: You're free to step down.

Anything before we go?

MR. HEIN: No, your Honor.

THE COURT: Usual rules: If you want to leave it, you may, and William will lock it all up; if you need it, take it with you.

I'll see you between 2 and 2:15.

(A chorus of thank yous.)

(Luncheon recess taken.)

AFTERNOON SESSION

(In open court; jury not present.)

THE COURTROOM DEPUTY: Counsel for both sides are present including defendants.

THE COURT: Ready to go?

MR. HEIN: Yes, Your Honor.

MS. JONES: Yes, Your Honor.

(Jury enters.)

THE COURT: Counsel will stipulate that the jury is present and properly seated.

MS. JONES: Yes, Your Honor.

MR. HEIN: Yes, Your Honor. So stipulated.

THE COURT: Welcome back. I hope you had a chance to have a good lunch. We will resume. Mr. Bell is on the stand under direct examination by Mr. Hein which now continues.

MR. HEIN: Thank you, Your Honor. If we could show Government Exhibit 172-A in evidence to the jury and to the witness, please.

BY MR. BELL:

Q Mr. Bell, before we took a break you had looked at this, a document Government Exhibit 172-8. Can you tell us again what this is?

A This is a letter from Ira Shapiro, the CEO of Codesmart to any registered shareholders discussing his outlook on the

company.
Q You read from that document earlier. What generally was his outlook on the company in this letter?
A Positive.
Q And in particular you had read from the top full paragraph on the second page. Not reading it again, but could you tell us again in what way specifically he was positive of Codesmart?
A He mentioned that there was a possibility of 40 million people working for careers in the healthcare industry that possibly could need training using their software and if they had -- if they were able to sign them up or sign up companies that could train them, they could see some new revenue growth.
Q And then you state here, "If we continue on the track we are on, I believe we will achieve our revenue and profit goals that were previously disclosed for 2013 and beyond."
A Yes.
Q If we could turn to the text messages on the laptop, please. Looking at Government Exhibit 132-2, we had looked earlier on August 26, 2013, the same date, at the letter to the shareholder you were just discussing. You had asked AJ Discala, "Letters?" He responded, "From CEO on Code." And then on August 26th at 4:08 p.m. he had stated to you, "Trust me. He will help us." What did you understand that to mean?
A His belief was that this letter going out from the CEO

bolstered the stock and that would help us recover.
Q And by "recover" what do you mean?
A This stock had, in a short period, gone from a high of 6.94 down to 3.10 and I had told him that I would be completely out of my ability to do any kind of trading if I didn't get over $5; if the stock didn't go over $5, within a matter of time.
Q Why did you understand that this letter would help you?
A Here was a letter from the CEO to shareholders talking about all the positive things that he believed was going on with the company and these type of letters are usually -- I don't know how different people take them, but it can be taken as a positive when the CEO talks about what he thinks the company is going to do.
Q On August 26th at 4:24 p.m. Discala wrote to you, "Now I need a little push to get into the 3.25, 3.30s." He then writes at 5:54 p.m. on August 26th, "Watch for letter then buy buy." You ask, "Letter tomorrow?" He responds, "Now buddy. Any minute." And you respond, "Cool." He responds, "It will be very cool."
What's your understanding of that exchange?
A Can you scroll back up?
Q Yes.
A He was saying to watch for the letter and then as soon as the letter comes out his -- he would like purchases to be made

in the stock. And then I asked him questions about the timing of the letter and he says he knows it's going to come out at any minute and that he says it will be very cool.
Q And the letter he's referring to?
A The CEO letter.
Q And what's your understanding of why it will be very cool?
A Well, the idea is that this news release will come out and it will stop anybody that may want to sell the stock from selling because there's a positive outlook from the CEO, but it's -- it's not like news comes out and then immediately everything is better. I mean, it takes time for people to read the letter, get the letter, find out about the letter, make a decision about things.
Q And what's your understanding when Discala said "Watch for letter then buy buy"?
A So he wanted to coordinate sales purchases in the stock after the letter came out to give the appearance that there was a positive feedback from the letter.
Q On August 26th at 5:03 p.m., he writes, "Is it out in the lobby." You respond, "Yes, not on Apple news but Yahoo." He responds, "Reading now. Please help me build some momentum." Then he writes, "Move bid up and buy some at market." What's your understanding of that exchange?
A He's looking to find out which of the news wires it was

coming through on and it says that he's reading now -- it's out there now and readable. He's asking me to help him build momentum by buying in the open market. He asked me to move the bid up. Move the bid up from 3.10 and then also buy some in the market and I don't respond.

Q On August 26th at 10:30 p.m. Discala writes, "TY bro. We need a big day tomorrow. Working on Soul now. Need help on iTEN." He writes, "Whatever you can on open. I've got lots of help coming today. Then we fix Soul need help this a.m." You respond, "Okay. I'll be in at 9." He responds, "Great we are making huge progress. Zero to heros." What's your understanding of that exchange?

A He's telling me that he expects a big day the next day and he was working on fixing the Soul problem, whatever that means. It can be -- when we say we're working on something, from him it means coordinating trades with some of his new people. He's asking me to help him on iTEN, do whatever I can when the market opens by purchasing. He tells me he's got a lot of help coming in, first on iTEN and then we'll start fixing Soul. This is kind of a list of what he plans on doing and what he needs to do.

I respond that I'll be in at 9 a.m. In the past, I had been pretty straight forward, okay, I'll do this and I'll do that, I'm all in. At this point I'm not responding because I don't have any ability to really help out at this point.

Q Discala writes on August 27th at 1:23 p.m., "3.24 premarket on light volume. Need your help pal. Make calls and I'll make us heroes again." What's your understanding of that text message?
A So, it's the morning -- where I'm at, its 3.24. The stock is trading at $3.24 before the market opens because you can still buy shares before the market opens on light volume. He's asking me for my help again. He's asking me to make calls and if I can help out. According to him we'll be heroes rose again.
Q What did you understand him to mean my zeros to heros?
A Things had gone bad and there was a point when the stock was way up and we had pushed the stock up when everybody was making money and customers were happy. The regulators weren't on our case.
Q What regulators were you concerned about?
A Well, there's a number. One, every broker/dealer has a compliance officer in-house. So literally two offices down from my office was a compliance officer. His whole function was to make sure that everything was running and then above him at the home office there was a whole division and then there was -- you know, there's regulators throughout because it's a regulated market.
Q Any other regulators other than at the broker/dealer?
A Sure. There was state -- definitely there was state and

then federal.
Q And what federal regulators are there?
A You have various ones for the different markets that are watching it, but the main one is the Securities and Exchange Commission.
Q On August 27th at 1:30 p.m. Discala writes you, "Ira buying 25K today and announcing." You write him, "You dealing with Soul? That's the whole reason I'm getting fired. They may pull my FINRA." Discala writes, "They won't. I will after I roll iTEN." What's your understanding of this exchange?
A He's telling me that Ira Shapiro, the CEO of Codesmart, is going to make an announcement that he's buying 25,000 shares personally in the open market. Then I asked him are you dealing with Soul, another one of the stocks we had been manipulating. I told him that's the whole reason I'm getting fired. They may pull my FINRA.
Q What is FINRA?
A It's the self-regulating association that ever stockbroker is a member of. It's the organization that polices itself. So if I have my FINRA pulled, basically I lose my license. They're the ones that can take my Series 7 away.
MR. HEIN: If I can show a document just to the witness, please.

Q I'm showing you Government Exhibit 172-10. Do you recognize this document?
A Yes.
Q What is it?
A This is the public announcement of Ira Shapiro, the CEO of Codesmart, purchasing 25,000 shares of company stock in the public market.
Q What's the date of it.
A Can you make it bigger? I didn't bring my glasses. I'm sorry. August 27, 2013.
Q Did you review this press release on August 27, 2013?
A Sure.
MR. HEIN: The Government moves Government Exhibit 172-10 into evidence.
MR. ROSS: No objection.
THE COURT: Proceed without objection.
(Government Exhibit 172-10 received in evidence.)
MR. HEIN: If we can show it to the jury, please.
BY MR. HEIN:
Q Mr. Bell, you read a text message that Discala had sent to you on August 27th stating that "Ira buying 25K today and announcing." Is that a reference to this?
A Yes.
Q And could you describe what Government Exhibit 172-10 states?

A It states that Ira Shapiro is going to purchase at market at $3.21 per share for a total value of $80,250 for about 25,000 shares of Codesmart.
Q Could you read the second paragraph in this press release, please?
A Sure. "'I continue to believe that Codesmart and our Codesmart University product is a premier ICD-10 education and training modality,' said Mr. Shapiro. 'This stock purchase is symbolic of my confidence in the company and its mission to both prepare coders for the ICD-10 exchange in October 2014 and the creation of many jobs that will result from the need for more coders to meet the increased demand on our healthcare system.'"
MR. HEIN: If we can go back to the text messages please. This is Government Exhibit 132-2. On August 27th at 4:50 p.m. Discala wrote to you, "Buy please, nibble nibble. I'll close it. I bought 35K today and I'll buy more even a bid would help." You respond, "Okay." Discala writes at 4:52 on August 27th, "Please. I need all the help I can get. If I get 3.50 today we can start on Soul in a.m." You write, "Okay." Then Discala writes to you, "Look at new release, buy. It's awesome." You say you can't right now, you're in a meeting. Discala writes at 5:22 p.m. on August 27th, "Okay. Ira just announced 35K in open market. Need your help today bro." What's your understanding of Discala saying "look at

new release, buy. It's awesome"?

A He's asking for my help to participate in purchasing the stock to help move it up. I'm not responding or if I am it's "okay," but he says to look at the new release, buy, it's awesome. He's talking about Ira's announcement. It was texted at 35K but it was well-known he purchased 25,000 in the open market and he asked me again for his help.

Q What was your understanding of Discala saying that the new release was awesome?

A My understanding was that he thought it was great news and should help our cause.

Q What's your cause?

A To get the stock back up.

Q And how did you plan to get the stock back up?

A Well, at this point the plan is for his Minnesota guys to come in and take over because I can't trade anymore.

Q What was your understanding as to how the Minnesota guys would get the stock back up?

A They would coordinate the trades like he coordinated with myself and the guys from Halceon along with these press releases to try to get some red chip investors in.

Q On August 27th at 5:23 p.m. you said to Discala, "Trying, man. My firepower is blasted. Calling it in is laborious, but I'm doing it." And Discala responds, "It's going to come back if we work together. We just need to do what we can."

What do you understand that exchange to mean?
A He's asking me to, you know, continue to participate in the scheme and when I say, "My firepower is blasted, calling it in is laborious." I still have an office and I have customers calling and some of these customers actually read the press release and wanted to buy and if a customer calls a stockbroker and says, I want you to buy this for me, the stockbroker can either hand that off to somebody else -- but you have to take the order.
In this situation, Fidelity was making me write down everything because they were on me and then if the customer called it in himself, then I was supposed to call it in using the telephone, call the market. That's what I was doing and I was saying it was laborious. AJ was trying to cheerlead and kind of encourage me that if I can just come back, but he's not understanding the fact that I don't have access to my accounts anymore.
Q On August 27th at 8:14 p.m. you wrote to Discala, "When Avia coming" and he responded, "Avia is tomorrow." On August 27th at 8:21 p.m. you ask Discala, "Cool. At what price" and Discala writes, "Bid 80 right now spread to 1.30 and take up slowly." You respond, "I can't find the symbol." Discala responds, "Avia." What's going on in this exchange?
A A couple of things. I asked when Aviana was going to come out. Aviana is the shell for TSGL. I asked him about

the split ratio, much like Codesmart and FICF had an 8-to-1 reverse stock split. He's telling me this will be a 6-and-a-half-to-1 because of some fundamental data and then I say "At what price?" I want to know what he's going to bring it out at because he's going to set the opening price. He says, "Bid 0.80 right now and spread to 1.30 and then take it up slowly."

So that's just trader talk to put the bid in at 0.80 widen the spread so it's somewhere between 80 cents and $1.30. That way, if someone comes in, they buy it at $1.30 and he wants to take it up slowly.

Q You mentioned that that's TSGL. What does TSGL stand for?

A The Staffing Group.

Q On August 28, 2013 at 1:30 p.m. you wrote to Discala, "BTW, am I in Starstream?" He responded, "You're my partner. Of course." What is Starstream?

A Starstream is another one of the companies that Omniview and AJ had signed up, Starstream Entertainment.

Q And had you heard about Starstream prior to this?

A Yes.

Q And what had you heard?

A That it was a company that he was going to use the APO process with, get them funding through a bridge and that he was going to be delivering to me some of the sell shares. I didn't have any money to buy them at this point so he was just going to deliver me some shares and I would hold those shares for use.

Q What do you mean by "for use"?

A Well, we ended up transferring some of those shares to some other traders in Arizona that were manipulating the stock.

Q On August 28th at 1:35 p.m. Discala writes, "Need help on iTEN bro. We got them." At 1:38 p.m. on you write, "I'm getting filled at 3.26." You write, "All of my bids got filled in market." Discala writes, "I'm at 3.26 and 3.25 and 3.24 and 3.23." What's going on here?

A Some more trading. Somehow I got access to either call in from the customer or had a little bit of money myself so he's still trying to get the price going. He's got -- "I'm at 3.26 and 3.25 and 3.24 and 3.23.' He's telling me that he's the bid. He's very much active in the trading at this point.

Q And so the price is around 3.26. Where is the price about a week earlier on August --

A Then bottomed out at 2.25 and now it's back up to 3.23.

Q On August 29th at 5:25 p.m. you wrote to Discala, "I can't buy a thing. They froze me. No iTEN, no LBAS, no Soul, no Bulletin Board." Discala says, "Pick up phone. I got rest." You respond, "Have been." Discala responds, "Please help iTEN to 4. I got Soul." What's going on here?

A So at this point I got a call basically just to say you're frozen, so it means I cannot trade those particular stocks even if I call it in. The customer would have to call the compliance department, tell them that he wants to buy it and circumvent me and go through a number of hoops at this point.
Q On August 30th at 2:22 p.m. Discala writes, "TY bro. Soul going to 1.75 today. ITEN 5.50 if you help." You said, "I will." Discala responded, "Please bro. We're partners." Then he stated, "I need you on iTEN ASAP." On August 30th at 2:59 p.m. Discala wrote, "Help iTEN." At 3:28 p.m. on August 30th, he stated "Dude, please help iTEN." On August 30th at 5:29 p.m. he stated, "Dude, I really, really, really need you. Please." What's going on here?
A I got tired of telling him I was froze so -- he didn't seem to understand and he kept texting me with requests for help.
Q What kind of help was he seeking?
A Coordinating trades, buying, selling, putting my bids in, all the stuff that we had been doing for the last couple of months.
Q On August 30th at 6:10 p.m. Discala writes, "Need as much as you can, please." You respond, "4.58 most of it." Discala responds, "Great. Please make calls. I need 5 bucks and we got it." He then states, "Dude, I cannot do this alone.

Please."
A This is a continued narrative of him asking me to help him and I am frozen.
Q On September 3rd at 12:04 p.m. you write to Discala, "Hey, Soul blew up. I sent the list to Marlene. When you said we would get them some iTEN at .14. Need to have her send me the paperwork now -- on that," excuse me. Discala responds, "Buddy, I'm trying. It ain't as easy as you think as well as getting them both back to life closing Avia and Starstream and Bridge and Avatar. We're going as fast as we can but not all in our hands. Need company and legal to do iTEN. My shares only support. Soul is being done." What's going on here?
A So I told him, hey when Soul blew up, I sent the list to Marlene when you said that we would get them some Codesmart at 14 cents. Need to have her send me the paperwork on that.
So this was the list of people that AJ said we can get them shares and I had sent a list to Marleen Goepel. It was a list that had a person's name, the amount of shares that they needed and I told her 750,000 shares and then he said, "Buddy, I'm trying. It ain't as easy as you think as well as getting them both back to life." He's talking about Soul and Codesmart. He says, "I'm closing Aviana," which is TSGL and Starstream and Bridge and Avatar. We're going as fast as we can but it's not all in our hands. We need the company and

legal to do iTEN," which is true.

At this point Ira Shapiro and Darren Ofsink had to work some corporate governance for Codesmart to give us the shares. It required them to do some internal legal work and actually do a filing with the Securities and Exchange Commission to produce those shares. He's telling me his shares went to support. He's saying I personally don't have anymore shares for whatever reason and we're waiting on the company to issue the shares that we would sell to the customers for 14 cents.

Q How ultimately, if at all, did those 750,000 shares reach the goal?

A The customers ended up paying for them 14 cents a share and filling out a SPA, a stock purchase agreement and sent the money to AJ's company. He had another called Fidelis. They made the checks out to AJ's company and then those share certificates were delivered from Island Stock Transfer Company.

(Continued on the following page.)

BY MR. HEIN:

Q And how did the 750,000 shares get to Fidelis?

A So, it took a long way to get there, but in the end the shares were issued by the company and were initially going to be issued to Fidelis, and then Darren Ofsink said for some legal reason don't do that, and they asked me if I had an entity that I could use. Well, I had an LLC corporation that was sitting on the side, so they -- the company issued the shares to my LLC.

Q What was the name of that LLC?

A Sonoma Med Lease.

Q What happened then?

A There was an instantaneous transaction. Basically, they sent it to the company -- they made the certificate out to the company, stock transfer company, who immediately cut that into pieces and sent the shares out to the individuals. The stock was then --

Q How was Sonoma Med Lease involved?

A Just as a passthrough entity.

Q Why was that necessary to happen?

A Even though AJ was getting the money sent to him, he didn't want the shares being delivered from the company to his company.

Q Why was that?

A He wouldn't tell me.

Q What, if anything, did he ask of you?
A If I could find an entity to have the shares pass through.
Q And were you able to find that entity?
A I was.
Q And what was that entity?
A Sonoma Med Lease.
Q What steps, if any, did you have to take with respect to that entity, Sonoma Med Lease?
A The entity was a preexisting LLC registered in the State of Texas, which is allowed to own shares and stuff like that. So, the company issued the certificates made out to Sonoma Med Lease and then that certificate was immediately sent to Island Star Transfer Company, whose job was to split it amongst all of the people on the list and send that to those customers once they paid AJ.
Q September 3, 12:48 p.m., Discala wrote to you -- excuse me, you initially write to Discala at 12:35 p.m. on September 3: When does Starstream come out?

Discala responds: Yes, priority is good. Got in on ITEN and AVIA to 5.50, which is 73 cents.

You respond: .84 split if 6.5. To one.

Discala responds: Okay, I'll do that one. You get on ITEN with me.

What's going on here with respect to AVIA?

A His text is kind of garbled on that, but looking down there he says, Okay, I'll do that one, you get on ITEN with me. He's saying that he'll work on TSGL's trading if I would help out with CodeSmart.

Q On September 3 at 1:21 p.m., you wrote to Discala: I got some for AVIA and ITEN.

Discala responds: Great. AVIA is a steal under 6.50. ITEN, I need bids and a push.

You write: 200 AVIA at market.

Discala writes: Great. Help ITEN. Too, AVIA's a layup.

What is going on with respect to AVIA here?

A I don't have any accounts anymore, but I do have my own personal account at Scottrade. I bought 200 shares at market and he just says that CodeSmart needs bids and a push.

Q Why did you buy 200 shares at market of AVIA?

A I don't remember specifically why I just bought 200 shares at that point. On that particular trade, maybe just to see if it was trading, maybe to help out.

Q On September 3 at 1:35 p.m., Discala writes: Let's go bust through this.

You respond: 200 AVIA at 6.5.

He responds: Nice.

You write: Bidding on AVIA at 6 for a wall.

What's going on there?

A Just some coordinated trading on the Staffing Group.
Q And by "coordinated trading," what do you mean?
A He's asking for help on Aviana. In this case, it seems I bought 200 shares and that I was putting a bid in. I'm doing this through my own personal account.
Q What are you and Discala trying to do with respect to AVIA?
A Looks like we're building a base.
Q What's the intention of building a base?
A To get some volume into the stock, which is -- and then that will be part of the manipulation.
Q On September 6 at 1:10 p.m., Discala writes to you: AVIA is a winner and Starstream a homerun and Avatar. All ours. Help me get there.
You respond: When is Starstream? Am I in on the SPA?
Discala writes: Yes. 4.20 offer on ITEN. Help me.
A He's telling me that the Staffing Group is a winner, Starstream is going to be a homerun. He mentions Avatar, which is one that I was never involved with that he had worked on. He says, "All ours. Help me get there."
When he says "all ours," he's saying, much like when you get shares that are clean, they're fairly tradeable, "all ours" means there's not going to be a lot of people involved except us.

I said, "When is Starstream?" because Aviana is, like, front and center. And, "Am I in on the SPA?" which means am I going to get shares through a stock purchase agreement, and he says yes.
Q On September 6 at 2:04 p.m., Discala writes to you: AVIA is going to go up big on Tuesday. Start spreading it around now.
What's your understanding of that text message?
A He feels that he knows something that's going to make the stock go up on Tuesday and he wants me to start buying it.
Q On September 11 at 8:03 p.m., you write to Discala: My last trade was 3.36 at 3:56:59. If it went down from there, then that sucks.
You then write: 3.15. Lame. Sellers, really? We need Maverick. My little 11,000 shares moved the needle.
Discala responds: I'm on it, I swear. At least we are green.
You respond: Correct. And we got 750K today for you and clients, which should help when it's five --
Excuse me, that's Discala to you stating: Correct. And we got 750K today for you and clients, which should help when it's five.
What's going on in this discussion?
A So, there was a trade at 3.36. I don't know which account I would have done that in. It would have been mine or

a family account.

"If it went down from there, then that sucks," which means it was done at 3:56:59, at the very end of the market. So, I was trying to be last trade.

He says it ended up -- then I said, "3.15. Sellers, really? We need Maverick. My 11,000 shares moved the needle." Maverick was an organization, either a company or a market maker, that was going to help us.

And he says, "I'm on it, I swear," and I said, "At least we're green," meaning ending the day on a positive.

And then the big news is that -- he says: Correct. And we got 750,000 shares for you and your client, which should rip when it's five.

Q What stock are you referring to here?

A CodeSmart.

Q And when Discala wrote, "Correct. And we got 750K today," what is he referring to?

A CodeSmart.

Q What is the 750K?

A Those are 750,000 shares that we had just talked about that Ira Shapiro and Darren Ofsink were going to have the company issue to sell to the existing customers shares at 14 cents. So, he says -- then I say: Yes, that's helpful. Marleen -- which is AJ's assistant -- says she will get the agreement done when you get back. Have her do it sooner so we can get this behind it. 500,000 to Fidelis Holdings -- that would be his company -- and I have SPAs going out. You all keep the cash. 250,000 to me for some major damage control in the neighborhood.

That ended up not happening and all 750 -- initially, 500,000 shares were going to go directly to AJ's, as I mentioned earlier. But in the end, all 750,000 got washed through Sonoma.

MR. HEIN: If I could show the witness a document, please.

Showing the witness what's been marked as Government Exhibit 178-40.

Q Do you recognize Government Exhibit 178-40?

A Yes.

Q What is it?

A This is a SPA, this is a stock purchase agreement, between a customer and AJ's company Fidelis Holdings.

Q Is this a true and accurate copy of this SPA that was in your possession?

A Yes.

MR. HEIN: Government moves Government Exhibit 178-40 into evidence.

MR. ROSS: No objection.

MR. RIOPELLE: No objection, your Honor.

THE COURT: Received in evidence without objection.

(Government Exhibit 178-40 so marked.)

MR. HEIN: Show it to the jury, please.

(Exhibit published to the jury.)

MR. HEIN: Thank you.

Q You mentioned this is a SPA. What is it dated?

A August 15, 2013.

Q And who is this stock purchase agreement between?

A This is between Fidelis Holdings, which is AJ's company, and Jim Reynolds, which was a customer of mine.

Q And what does the agreement state in the first paragraph?

A That Fidelis will sell them 25,000 shares of stock in exchange for $3,500, which puts the stock at 14 cents per share.

Q If you turn to the second page, in the signature block, who signed this document?

A AJ signed it as the seller and Mr. Reynolds signed it as a buyer.

Q So, what was the purpose of this sale at 14 cents a share of 25,000 shares in CodeSmart to your client Mr. Reynolds?

A This was -- there's a number of ways to talk about it. It was more like hush shares. It was to appease the investors who had purchased the stock at a higher price. And the company coordinated with AJ, Darren Ofsink, and myself to provide these low-priced shares to existing customers of the stock.

Q Was the shares sold pursuant to the stock purchase agreement part of the 750,000 shares you were discussing?
A Yes.
Q Were you able ultimately to distribute the 750,000 shares to your customers?
A Yes, sir.
MR. HEIN: If we could turn to the text messages, please.
Q On September 12, 2013 at 5:35 -- 5 p.m., excuse me, Discala writes to you: Can you bid 3.17? I'm 3.18 for 5K.
He then writes: 3.28, 3.30.
You respond: I called in a 500 and a 50.
Discala responds: Nice.
What's going on here?
A He's asking me if I can participate in trading stock that day. He tells me he is the bid at 3.17 and 3.18 for 5,000 shares. Then he says he wants me to come in at 3.28 or 3.30. I told him he I did a call-in of 500 and 50. If I did, it would have been through my Scottrade account, so I didn't need to call it in.
He says it -- I said: I hit at 3.59. I'm shot.
So, I'm done.
Q On September 18, 2013 at 3:09 p.m., you write to Discala: Sitting here with my largest holder of ITEN.
What is ITEN?

A CodeSmart.

Q Discala responds: Tell him he will be very happy shortly. Does he have his SPA? Did you tell him that Salvani and Walsh are selling and we're not paying more than have to?

What did you understand Discala to mean in this text message?

A He's telling me to tell my customer he should just hang on and he'll be very happy when the stock goes back up.

He wants to know if he has his SPA in front of him, that he could actually see that he's betting theirs for 14 cents that are currently trading in the $3 range.

And then he was asking me did I tell him that Salvani and Walsh were selling and we're not going to pay more than we have to? That was in reference to AJ saying: Look, if our past partners have decided to start selling the stock, then just let them sell and get it out of their system.

Q What was your understanding of what Discala meant by he moved -- your client will be very happy shortly?

A That the stock was going to be rallying upwards through coordination and, also, that he'd be buying some shares at pretty low costs.

Q When sitting with your largest client of ITEN, did you tell him that you and Discala were manipulating the share price?

A No.

Q Did you tell any of your clients that you and Discala were manipulating the share price?
A No.
Q On 9/18 at 4:05 p.m., you wrote to Discala: We will need the whole 750 from Ira for clients.
Discala writes: No problem.
Is that the 750,000 shares that you've been discussing with us?
A Yes.
Q On September 27 at 1:10 p.m., you were wrote to Discala: Morning. Is there a reverse split gonna happen on Gelia, and what ratio?
Discala writes: AVIA? Yes, 6.5 to 1.
You write back: No, Gelia. Isn't Gelia the Starstream deal?
Discala writes: Yes. Too funny. Not sure yet. Going to lawyers for close now.
What's happening here?
A Well, I say, "Is there a reverse split gonna happen on Gelia Group, and what ratio? Gelia Group was the shell company AJ was going to use for the Starstream deal. And then he misunderstands me and says AVIA. He's asking -- he means the Staffing Group, 6.5 to 1. I say: No, I'm not talking about that, I want to know about Gelia. Isn't Gelia the Starstream deal? And he says, Yes.

So, there's a lot going on, a lot of shells, a lot of companies. He was even getting mixed up.

Q Op September 30 at 8:01 p.m., you wrote to Discala: Starstream will be tomorrow --

Excuse me. Discala writes to you: Starstream will be tomorrow.

You write to him: Great news.

He responds: Yes, we are on our way.

What did you understand him to mean?

A That Starstream will be either signed or trading the next day. I say, "Great news," and he says, "Yes, we're on our way."

Q What did you understand him to me by, "Yes, we are on our way"?

A Anything positive.

Q And what would be positive?

A That it was trading, that we got some shares, that we signed the deal, that it's been funded.

At this point, all we've had is bad news.

Q On October 4 at 1:32 p.m., you wrote to Discala: Let me know how the Starstream meeting went.

Discala responded: Call Darren. Should have closed Tuesday.

You asked: We have a symbol?

Discala responded: Darren does.

You wrote: GEIA?

He responded: TY, sir.

What's going on here?

A He was having a meeting with Starstream management and I want to know how it went. He tells me to call Darren Ofsink to get any particulars. He must have been busy, so he wants me to talk to Darren Ofsink. I ask him if we have a symbol on it and he says Darren does. Turns out it's -- GEIA was the symbol for the shell company on Gelia Group.

Q On October 8 at 2:21 p.m. you write to Discala: ITEN getting creamed.

What did you mean?

A So, ITEN is going down hard. My accounts have been taken over by other brokers since I've been fired, and I'm getting word that the new brokers are just wholesale selling everything.

Q On October 14 at 3:30 p.m., you write to Discala: Code a go on Wednesday still?

Discala writes: Yes. Building left side wall, as you can see.

He then writes: Today and tomorrow are days to be buying ITEN. Make a couple calls. I've built a great wall.

What's going on there?

A AJ had told me something was going to happen on Wednesday with ITEN, some kind of rally that he had put together. And I say is it still a go and he says yes, he's going to build a left side wall, as I can see. So, that means on level two he's putting some orders in to create a bid wall.

And then today and tomorrow are days to be buying, he says. Make a couple of calls, he's built a great wall.

Q October 14 at 4:57 p.m., Discala writes you: Please e-mail her -- referencing Marleen in the previous text -- I'm slammed getting Starstream and AVIA and ITEN ready to rock.

What's your understanding of what he meant by "ready to rock"?

A He's got some kind of plan, maybe new brokers, new news releases. In his playbook, he's got something that's going to push the stocks up.

Phrases like "ready to rock" and all that were about pushing the stock up.

Q On October 17 at 1:41 p.m., Discala writes to you: Slow and steady. Let's get bids on GEIA, 1.55, 1.60, 1.65.

You respond: Okay.

You then write: Ready to see the magic on ITEN.

Discala writes: Me too, bro. Just watch. It will start later today. Need to keep tight spread.

What's going on with respect to GEIA?

A That's Starstream, and he's asking me to help him get some bids out, $1.55, $1.60, and $1.65, on this new stock that's now trading. This is stock number three. It was ITEN, then Staffing Group, and now Starstream. I say okay, but I want to see if the other things he promised were going to happen are going to happen on ITEN.

Q On October 17 at 11:11 p.m., you write: Got SD people buying Starstream tomorrow.

Discala writes: Nice job.

Who are "SD people"?

A Friends of mine from San Diego.

Q And how had you got them to buy Starstream?

A Just talking to them on the phone and told them about this new company that was coming out.

I didn't have control of their accounts. I didn't know if they bought anything.

Q On October 21 at 1:57 p.m., Discala writes: Great. Focussed on ITEN. Need to crush them today. Program starts tomorrow.

He then writes: AVIA changed to TSGI.

He then writes: Please watch GEIA. TY.

What do you understand Discala to be writing in those three texts?

A He's telling me that he's focused on ITEN. That means that that's his focus for the day.

He wants to crush them today because the program is starting tomorrow. So, the people that he thinks are either shorting the stock or selling, he wants to deal with them.

And then he's got some kind of program that's going to push the stock up the next day.

He mentioned Aviana that has finally changed its symbol to the Staffing Group symbol, which is more in line with the name of the company; TSGL, The Staffing Group.

And then he asked me to please watch Gelia Group, which is Starstream.

Q You mentioned shorting on the stock of ITEN. What does it mean to "short" a stock?

A Shorting the stock is selling stock that you don't own.

Q And in your experience, what typically leads someone to short a stock?

A Because you want it to go down. You think it's going to go down.

Q On October 23 at 7 p.m., Discala writes to you: Need to close ITEN above 3. Please help at close. Please.

You respond: I'll make calls. Got TSGL up.

Discala responds: Me too. Let's close ITEN above three, please.

What's going on here?

A He's hoping, praying, for ITEN to close above three, wants me to help him. I said I'll just make some calls.

But at this point, I'm not even a stockbroker. I'm calling my friends -- I'm not really calling anybody because I've lost my job completely.

Q On October 24 at 1:02 p.m., you write to Discala: Getting my ducks in a row for next week on GEIA. Marc wanted to make a run. I can help but we'll need some others too.

Discala responds: Ask Marleen for latest draft. I'm gonna tweak a bit, but it's close. Already raised 3.5 million, which is 7 million out of 10 million.

What's going on here?

A So, Marc Wexler is more involved with Gelia Group, which is Starstream. He's very involved with Starstream. And I had received shares in that company and put those shares into my personal account. And I was just telling that Marc wants to make a run on it.

This leads to a thing where he had me transfer 75,000 shares to a group of guys in Arizona that were going to manipulate the stock.

And, "Ask Marleen for latest draft. I'm gonna tweak a bit, but it's close. Already raised 3.5 million, which is 7 million out of 10 million." So, AJ's in that bridge and PIPE fundraising mode when he's talking about that.

Q Who is Marc Wexler again?

A Marc Wexler showed up on the Bridge Ventures thing as chief strategist, but I knew him just as a private trader that was involved in ITEN and Starstream.

Q On October 24 at 5:40 p.m., you write to Discala: Do we have a plan for TSGL to get volume?

He responds: Yes, post merger. In a week.
What did you mean for TSGL to get "volume"?
A Well, I can't buy any more shares. And when you buy shares, it creates volume. I just want to know does he have other brokers? Has he hired anybody? Recruited anybody?
Q On October 31, 2013, you wrote to Discala: We are waiting for CodeSmart to approve some of the transfers of the ITEN stock in our biggest problem clients. Marleen knows the situation. Any help you can be with a call would be great. Hard dealing with this ITEN stuff today, but clients don't care.
Discala writes: We are doing right away with Ira.
What's going on there?
A There's a hold-up in getting the shares from the company. They had purchased them, they had written checks, they had signed the SPAs, the SPAs have been countersigned by AJ, but the certs, the certificates, have not shown up yet. I'm asking AJ to push.
Q Are these the certificates for the 750,000 shares to your clients?
A Yes.
Q When Discala says, "We are doing right away with Ira," what did you understand that to mean?
A Darren Ofsink and AJ were the two that dealt with Ira.
Q What was your understanding of what they were doing with

Ira?
A Whatever corporate governance needed to be done to file it so the certificate would be released.
Q Who was "Ira" again?
A Ira Shapiro is the CEO of CodeSmart.
Q On November 5 at 6:33 p.m., you write to Discala: ITEN getting skewered.
Discala writes: It will be fine. It's 2.16. Party starts tomorrow.
You write back: Okay. I believe in it.
Discala writes back: So do I, bro. Put my entire team on the company.
What price is ITEN at this point?
A $2.16.
Q What was your understanding of "party starts tomorrow"?
A He has some plan of purchasing awareness -- I don't know what his plan is, but he's got a plan. And "party starts tomorrow" means he's going to push the stock up tomorrow.
Q On November 11 at 2:43 p.m., Discala writes to you: New symbol SSET. Tell your buddies. Also, website live, starstreamentertainment.com.
What is he referencing there?
A The new symbol is SSET. It was Gelia Group, GEIA. So, we can get rid of that. And now, much like the Staffing Group got in line with TSGI, Starstream Entertainment is now SSET.

Q On November 12 at 11:35 p.m., Discala writes to you: 646-526-7867. Call Ira and scream at him, please.

Who is Ira referenced here?

A Ira Shapiro, the CEO of CodeSmart.

Q You write: I'll call him tomorrow. ITEN was our one winner in all the losers we have had and now it's barely above the PIPE and all climbers are down. Totally a bust. It's creating ten times the work that we needed to do. We are inundated with calls and complaints. ITEN is our fix to ISGI and Soul at HRAA and now it's broken.

What did you mean there?

A I was pretty straightforward. Things have totally gone -- every stock that we worked on, even though they may have had a brief run, have all collapsed. And the one that he said was going to be our biggest and best company to work with is now broken completely.

He says: Matt, Starstream and TSGI are our fixes -- so, now we've got two new fixes for our other fixes -- ITEN is not broken.

And then he kind of chastised me: I didn't cry when we got slammed on LBAS. I worked my ass off, as I'm doing now.

Then he says: ITEN shares have been going out. It's a winner company.

(Continued on next page.)

(Continuing.)

BY MR. HEIN:

Q What did you understand -- or what did you mean when you said, "ITEN is our fix to ISGI and Soul and HRAA"?

A Well we can handle a couple of losers if we had one big winner. I mean, in a portfolio you don't have all winners. But if you have one -- you could have a couple losers, but if you have one big stock or one investment that does really good, then it works out.

In this case, ITEN was supposed to be the one that helped our customers and ourselves at this point.

I said it right there, "The climbers are down. They're all down."

Q And ISGI and Soul and HRAA, what was your involvement with those companies with Discala?

A ISGI was the first company that AJ told me about back in March. Those are all the three stocks that I helped coordinate that AJ was a quarterback on those trades.

Q And by "coordinate," what do you mean?

A Manipulating the stock price.

Q And Discala responds, "Matt, SSET and TSGL are our fixes."

What does he mean by that? What did you understand him to mean by that?

A So now we had two new fixes to fix our other fixes.

Q And what is your understanding of how they would be the fixes?
A Well, that they would go up and anybody that was in those stocks would have a profit.
The problem was is I didn't have any customers any more so I couldn't get them in to Starstream and TSGL. So if anybody was going to get fixed, it was just going to be me.
Q And what was your understanding of how you would get SSET and TSGL up?
A Same plan. Stock would be reverse merger and then coordinate. And then AJ would have brokers coordinate the trades to push the stock price up. And then we would sell our low cost shares at a profit.
Q Discala writes, "I didn't cry when we got slammed on LBAS. I worked my ass off."
What did you understand him to mean by "worked my ass off"?
A So my initial meeting when I first met AJ is he had been hired or almost hired by Location Based Technologies back in March 2013. And he had bought a lot of shares, along with all of us, and let's see. I guess he decided he got slammed on LBAS. He felt he worked really hard to try to push that stock up.
Q What does your understanding mean "by worked really hard to push it up"?

A Got his traders to help buy stock and coordinate attention.

Q On November 13th at 3:40 p.m., you wrote to Discala, "We have lost control of the stock."

And he responds, "No, we haven't."

You then wrote on November 13th at 8:29 p.m., "139. Barf."

What did you mean by that?

A Stock's trades 139, and I'm throwing up.

Q Which stock?

A CodeSmart.

Q On November 15th, 2013 at 2:35 p.m., you wrote to Discala, "Quick question. TSGL at .25. What do I tell investors?"

What did you mean by this?

A Well, he was the investor relations guy for The Staffing Group. He was on the board of directors. So I asked him, The Staffing Group is 25 cents, what do I tell the investors? Because that was one of the fixes that he said was going to fix this.

Q So was TSGL being at 25 cents low?

A Yes, because we had opened at 80 cents. We're down to a dollar thirty. So the fix for a fix is now broken.

Q On November 22nd, at 9:16 p.m., you wrote to Marc Wexler and AJ Discala, "Ouch. SSET down 34 percent."

Discala responds, "It was a seller with 90 seconds left. Will be 175 on open."

What did you mean by "ouch"?

A The stock had gone down 34 percent in a day. That hurts.

MR. HEIN: Your Honor, this would be a natural breaking point.

THE COURT: For the mid-afternoon?

MR. HEIN: Yes.

If it's agreeable with you, I can also go on.

THE COURT: No, we can break.

Ladies and gentlemen, we'll take our mid-afternoon break at this point. The usual rules of recesses apply. Don't discuss the case amongst yourselves or with anyone else.

We will see you in about 15 minutes.

(Jury exits the courtroom.)

THE COURT: Let's take our 15-minute break.

Remember, we're working 'til 5:30 or thereabouts, unless we have a break come before then.

(Whereupon, a recess was taken at 3:27 p.m.)

THE COURTROOM DEPUTY: All rise. Court is now in session. Counsel is present and all parties.

THE COURT: Ready to resume?

MR. HEIN: We are, Your Honor.

(Jury enters the courtroom.)

THE COURT: Be seated, please.

Counsel, stipulate that the jury is present and properly seated.

MS. JONES: Yes, Your Honor.

MR. ROSS: So stipulated, Judge.

THE COURT: Ladies and gentlemen, welcome back. I hope you had enjoyed your break. We are ready to resume.

Again, Mr. Bell remains on the stand. Mr. Hein remains on direct examination. Mr. Hein.

MR. HEIN: Thank you, Your Honor.

BY MR. HEIN:

Q Mr. Bell, looking at Government's Exhibit 133-2.

On January 2nd, 2014, at 1:33p.m., you wrote to Discala, "Any ideas? I got a lady going to sue me over Soul and ITEN. I need 30K somehow."

Discala responds, "Yeah, so need to make some money. All I've been doing is raising monies for SSET. 2.5M TSGL 650K and Crackpot 1M. Need to get these markets going. I'm tapped but feeling good about future."

What did you understand Discala's reference to Crackpot to be?

A That was the newest company that Omniview was going to use an APO to take public.

Q Had you discussed Crackpot with Discala on the phone?

A Yes.

Q What, if anything, had Discala told you about Crackpot?

A Just he had a new one coming. I'm sorry. That he had a new company coming after Starstream and TSGL called Crackpot. That it was involved in a internet space where they had a product, an internet product that would help companies to advertise. And that we'd be able to get in on the APO and wants to start the trading. If I could help him get the stock moving to start trading upwards.
Q Discala writes to you on January 7th, 2014 at 1:40 p.m., "NOBO list shows you still have lots of TSGL of ours. And how many SSET. I'll check. But I'll get you some Crackpot. Let me know think of where to get money."
What did you understand this text message to mean?
A So a NOBO list is a non-objecting beneficial honor list.
So that's the list that shows who controls the stock. Where the stock is. It's almost a person-by-person ownership of the stock.
So he's saying that according to the NOBO list, I still have TSGL shares. Which I did in certificate form. And he wasn't sure how many TSGL I still had. We had a run on the stock where I had to deliver a lot of the stock away. Mail it to other people.
But he says he will get me some Crackpot and let me also think of where to get some money in reference to meaning some cash.
Q What did you understand him to mean by "I will get you

some Crackpot"?
A At that point, that he would get me some of the shell shares.
Q And what was the shell?
A The shell in Crackpot would be a company with the stock symbol NWRS.
Q On January 7th, 2014 at 1:24 p.m., you wrote to Discala, "Get me in on Crackpot."

Discala responds, "I'll have D send you a check and everything this a.m. This is our game changer."

What did you mean by "get me in on Crackpot"?
A So I'm telling him at this point I lost everything but I've been telling him at this point I'm no longer a stockbroker, but I still have my insurance license so I've set up a company.

And I can go out and actually raise money privately now because I don't have my Series 7 any more, or it's not active. And I tell him I want in on Crackpot. That I can help him raise money in the bridge and the pipe and I want to be part of this one.

Because at this point everything's failed and I needed at least one winner. And he tells me he'll have D, and that's his wife Dounya, who was working for him at the time send me at deck and everything that morning. And that, according to him, was the game changer.

Q What do you understand him to mean by "this is our game changer"?
A That -- well, all the other manipulations had failed pretty miserably. And that this one was not going to fail.
Q You responded to him on January 7th at 1:57 p.m., "Okay, load you me and up with FT exclamation marks. We deserve it. I lost my old business over that other crap. Time for the Discala/Bells to win."
What did you mean with that text?
A I was asking him to make sure that he loads us up with freely -- "FT" stands for freely tradeable shares.
I'm looking at -- at this point financially I've lost my business. I've lost pretty soon a house. A bunch of stuff's going on, so... I'm looking for something. Anything.
Q And why free-trading shares?
A Freely tradable shares means that we can sell them in the market and have money immediately.
Q You write at 4:37 p.m. on January 7th, "How many FT shares can you and I get?"
Discala responds, "Depends on what we deliver. This is a market game changer. Can you get any buying in SSET today, even a little."
You said, "I'll see."
What did you understand that exchange to mean?
A So I'm asking him at this point we were having

discussions on the phone also about Crackpot how many freely tradable shares can you and I get. He says it depends on what we deliver.

And at this point the plan was going to be very similar to ITEN's. But in this case I'm going to be part of raising money for the company, Crackpot, by having private investors invest directly with Crackpot through the pipe.

And he says that I will receive freely tradeable shares based on how much he and I deliver, as far as funding the company.

Q On January 7th at 6:40 p.m. you wrote to Discala, "5,000 SSET at .24".

Discala responds, "That was Craig. Call you in five."

You respond, "That was me."

Discala responds, "You are awesome."

How did you understand that exchange?

A I don't remember this particular trade, but 5,000 shares traded at a dollar twenty-four seems to be some miscommunication about whether Craig or myself had put the order in.

Q And who is Craig?

A Craig Josephberg, the other broker. I had an account with him.

Q Where did you have that account?

A At Halcyon.
Q And what was Halcyon?
A A brokerage firm here on the east coast. We had that ECPC account with him.
Q On January 7th at 9:18 p.m. you write to Discala, "How do you and I buy the pub co now? I have sold all the 100K for Cubed already. Is there any more?"
Discala responds, "There's 100K to 150K more I can get. I'd rather have your people."
You respond, "Okay, I will let you know."
What's going on here.
A So my first question, the one that I'll ask him many times is how do you and I buy the pub co now. How about you and I purchase shares in the shell company now. Like can I go out and find it out of insider information and start purchasing it now on my own.
He doesn't answer me. And then I say that -- and he had given me the option of purchase 100 or 2 -- start talking to people about investing in the pipe for Crackpot-Cubed.
And I told him that I sold a hundred thousand dollars of the pipe already. Is there any more I can sell because I had people that were my old clients that were interested in this. Dounya had delivered me the investor deck and I had passed that it out to potential investors.
Q Why did you want to buy in the public shell company now?

A Because he obtained this insider information. If you knew what the company was going to be taken over by this other company, you can buy it cheap.
Q On January 8th, 1:56 p.m., you write to Discala, "Let me go for the 250."
Discala responds, "Go for it. Need sub docs ASAP."
You respond, "Okay."
At 2:26 p.m. you say, "What's with the convertible note stuff.
Discala responds, "It's a bridge. That's what gives the 25 percent discount to the dollar and we open at 2. Who do they make the check out to?"
So starting up here with the "let me go for 250, go for it, need sub docs ASAP," what's going on there?
A There was a certain amount of money that was going to be raised in the bridge and the pipe for Crackpot. And I asked him if based on the amount of interest that was out there in it, if I could go for 250,000. As far as raising that money that would be sent to Crackpot.
And then I said "I need the subscription documents ASAP."
Or he says "Go for it. Need subscription documents ASAP."
That means when you buy something privately, you have to fill out a legal piece of paperwork that says that you

should be buying it and that you meet all the criteria of the purchase shares in a company. You may or may not be a credited investor. And he was telling me that they need to get the subscription documents in with the checks pretty soon.

Q And what were the subscription documents be for?

A It would be like a purchase agreement for a private individual to purchase shares in Crackpot.

Q You say below here on January 8th, 2:48 p.m., "Who do they make the check out to?"

Discala responds, "Crackpot Inc., I think, it's in the docs."

A Yeah, in the past people had been making checks out to him or his entities but in this case it's going to be made out to Crackpot and it's in the documentation.

Q You state here on January 8th, at 2:51, "Do I mail it to Omniview?"

Discala responds, "Yes, and it gets emailed to Kosi at Darren's office. Did you get email this a.m.?"

You say, "No."

What's going on here?

A So at this point Darren Ofsink is going to be the general counsel for this deal again, like the others, and he says I mail it to Omniview and then he gets it emailed it over to Darren Ofsink's assistant, whose name was Kosi. That was the initial plan but that changed.

Q On January 8th at 5:05 p.m. Discala writes, "Help SSET, if you can."

You respond, "On Cubed right now. At lunch with investors."

Discala responds, "Nice. Go. Go."

You asked him, "When is the public offer date, the reverse merger. This month?"

Discala responds, "End of month."

What's going on here?

A He initially wants to see if I can help him trade on SSET, which I can't. But I tell him that I'm meeting with those investors that may or may not purchase the pipe of Crackpot. When he says "That's nice. Go. Go."

And then I asked him the question about the public offering date and the reverse merger date. And he says that's all going to happen at the end of the month.

Q What did you mean by the "reverse merger"?

A Because he was going to use the alternative public offering system that was in his bridge ventures guidelines. There would be a reverse merger into the shell, just like every other company had done. In this case Crackpot would become Cubed, I believe.

Q On January 10th, 2014 at 3:46 p.m., you write, "I have two nice Cubed meetings today. One in 30 minutes."

Discala responds, "Exactly."

You write, "realistically, SSET to three by when, and TSGL?"

Discala responds, "30 days and next week on TSGL."

What was going on here?

A I was letting him know that I was meeting with people to continue the sale of the pipe with new investors.

And then I asked him because at this point I'm not trading SSET or TSGL as part of the manipulating. I'm just a shareholder and I had certificates.

So I asked him realistically as what do you really think is going to happen? SSET -- you know, when will Starstream hit $3, and what's gonna happen to TSGL?

And he tells me Starstream should hit $3 in 30 days. And next week something will happen with TSGL.

Q On January 10th, at 7:25 p.m., Discala writes to you, "Okay, we're way over on Crackpot bridge. And something pipe.

A Pitch, pitch the pipe.

Q Pitch the pipe.

You respond, "I only got at 77,500 in so far. Gotta accept what I have checks for. Thought I had 200 to 250. 100K for sure."

You write, "If pipe is all that's available then, send me pipe papers going forward."

Discala writes, "Doing now. Will accept whatever you need, bro, but this ones hot."

What do you understand going on there?

A So he's telling me that they had -- they were way over on the Crackpot bridge, which meant they were over allocated. If they were going to raise a million dollars in the bridge then they raised a million dollars and add interest and more. So he's telling me not to focus on the bridge, but to start raising money in the pike.

I tell him I only have $77,500 invested from interested parties at that point, and that they should accept what they -- the checks were made out for. I told him I thought I had between 200 and $250,000 I could raise. At least a hundred thousand more for sure.

So we're just going back and forth, you know, should the money go to the bridge, or the pipe, where do you want me to sell this thing, because Crackpot was going to raise money to run the company through two different offerings.

Q What did you understand Discala to mean by, "Doing now. Will accept whatever you need, bro, but this ones hot"?

A He will take whoever money can come in for the company but I better hurry up because this company's going to take off and there's a lot of interest.

Q January 10th at 7:49 p.m., Discala writes to you, "Can you have someone buy a bit of SSET. Ty." And he writes, "If you can."

You write, "5,000 at 1.33."

Discala writes, "Nice. Ty."

You write, "I'm on bid at TSGL for .3."

What's going on here?

A A little bit of trading here. This is, "Can you have someone buy a bit of SSET." He wants someone to start buying in Starstream to get the volume up, if I can.

I don't know if I did this or not because I don't remember having these shares. But I said 5,000 at 133. He said, "Thanks."

And I told him I was on the bid on TSGL for .3.

Q January 10th at 9:45 p.m., you write to Discala, "I will fill the 250 bridge by Tuesday. Working on pipe."

Discala responds, "Cool."

You respond, "Just make sure we get ours. This will be huge."

Discala writes, "I know."

What's happening here?

A Sales interest in Crackpot's going very well. And the amount of allocation that I was going to be provided I'm telling him that I should be able to raise that money by Tuesday.

And when I say, "Just make sure we get ours, this will be huge," I want to make sure that since we're not able to buy in the pub co, I don't know what the pub co is that -- we're not getting the commission for doing these sales at this time, so I want to make sure there's some form of credit for the non-money that we raise for Crackpot.

Q Who are you raising this money from, this 250,000 in the bridge you're referring to?

A Private investors.

Q Clients of yours?

A No, well they're --

Q Are they new clients of yours?

A New clients, yeah.

Q On January 13th, you write to Discala, "Need TSGL and SSET. I'm focusing on bridge Cubed all day. And I'll out a big bid on TSGL at .3 to show support."

Discala writes, "Great. Sounds good."

Discala writes to you, "Bid 32 for size on TS."

You write, "I'm on it. I'm on at .34."

What's going on here?

A I'm telling him that it's still his responsibility to work on The Staffing Group and SSET, because he seems super focused on Crackpot. I'm telling him that I'm focusing on the bridge Cubed all day and that I would -- I would assist by putting out a bid at .3.

(Continued on next page.)

BY MR. HEIN: (Continuing.)

Q On January 17th, 6:15 p.m., you write to Discala, "1.16 Mark's guys need to perform." Discala writes, "No, that's an old quote but I agree got to go see him." You write, "Our crap needs to work. We never get a break." You write, "AJ we didn't catch a break this week and we paid for those breaks. Sucks." Discala writes back, "TS will and SSET will slowly and Cubed slow and steady." What's your understanding of what's going on there?

A So, Marc's guys -- I'm telling them, if Starstream is 1.16 Marc's guy needs to perform. Marc had arranged for me to transfer shares to a group of guys in Arizona, or a guy that would have some traders, in payment for them to -- they're like hired guns to manipulate Starstream and they were supposed to do that. And I'm telling AJ that Marc's guys need to perform because we transferred the shares, $80,000 worth of shares to them and it wasn't happening.

Q What's your understanding of what Discala meant by "TS will and SSET will slowly and Cubed will be slow and steady"?

A He's saying The Staffing Group will work out. SSET will slowly and Cubed will be slow and steady.

Q What did you understand that to mean, slow and steady?

A That was his plan that when they started trading that they wouldn't run it up like iTEN. We were talking that we can't have an iTEN on this Crackpot.

Q And what was your understanding of why it would go slow and steady instead of, like, iTEN running it up?
A I guess lessons learned. He said that this one was going to be the redemption. We had discussions and in this case, you know, it was fund the company, do the reverse merger. There was going to be a wrinkle in how we had the shares. We wouldn't personally get shares in the shell account like we had before because of all the trouble we had with the gentlemen's agreements. He was going to make sure this document, that it was even volume and he wouldn't let the stock get away like it did.
Q On January 20th at 5:40 p.m., "Crackpot going well TSGL tomorrow," and you write to Discala, "Go get them, save the day for us bro." And Discala writes, "All over it partner."
A I'm looking for a status update.
Q You write to Discala on January 22nd, "Hey bro, I know it's early there, but I'm having a meeting with Cubed investors this morning. Anything you could give me to unlearn last night would help mine." Then "huh?" Then you write, "Any news in Cubed? Meeting with investors at lunch." Discala writes, "All day meetings today. It's great." What's going on here?
A I'm asking him, I'm having a meeting with some Cubed investors and I'm asking him if there's anything he can tell me about -- he's been telling me that he's been meeting with

the CEO and the management of the company and he would call me and say, man, there's a lot of great things happening, we're signing up people and they've got these great products so I was looking for something I can talk about at the meeting I had coming up.

Q On January 22nd at 7:53 p.m. you write to Discala, "Wexler wants to make a run on SSET, which is most important?" Discala writes, "Both." Then Discala writes, "SSET" and then you write, "News on TSGL is out. No mention of revenue, just a note about having to raise more money to meet obligations." What's going on here?

A Wexler wanted to make a run on Starstream. So Wexler had kind of taken over the trading on Starstream at this point. He was -- he contacted me and said what can we do to get some more people buying it. I wasn't trading anymore because then I asked AJ, "Which is more important Starstream or TSGL" and he says "both" and he follows it with "Starstream" so the focus I guess would be there. I mentioned that TSGL news did come out, but in this case it's bad news because if you read it, basically it says that they're running out of revenue.

Q On January 22nd at 11:30 p.m. you write to Discala, "Any news on Cubed?" Discala responds, "Best thing I've ever seen, still in meetings." You respond, "Okay. Let's go deep into the shell you and me." Discala writes, "I'm working my ass off. Still need to raise a bit." You respond, "Give me some news to sell it." What's going on here?

A In the past he's always been very generous in letting me know what's going on and in this case he's keeping his cards very close to his chest. I keep asking him about the name of the shell, what's the PubCo, tell me some information and he's not very forthcoming in our conversations and texts. So I said, let's go keep deep into the shell you and me. I'm trying to get him to say yes and here it is and this is what we're going to do, but he just said keep raising money. So he had an alternate plan.

Q January 30th, you write to Discala, "Yup, we got killed today on everything." Discala responds, "I know. Tomorrow I'm blasting SSET." You respond, "Okay. I'll provide support." On January 31st Discala writes, "Nice bro." You respond, "I put in a bid at .70 in SSET 7,000 shares." Discala responds, "We're going to rip it. TY." What's going on here?

A I'm telling him -- do you want me to do everything going up?

Q No, just the last portion.

A "Nice bro." The updated bio panel was just a product that Crackpot was -- something on the internet. He said, "Nice, bro," talking about that product and I tell him I put a bid in at .7 SSET 7,000 shares. He says, "We're going to rip it. Thank you.' I told him I moved my bid up to .85 so --

Q What did you understand him to mean by "we're going to rip it"?
A To rip it is to move the stock upwards very quickly.
Q On February 3rd you wrote to Discala, "BTW sending 45K on Tuesday for Cubed. That can be relied on." Discala responds, "The Cubed is just us, no one else." You respond, "Yup. Wexler should be pissed if those boys rip us off." Discala responds, "Trust me he is and they won't." What's going on here?
A Can you go up a little bit? By the way, I'm sending 45,000 on Tuesday for Cubed, that was just still raising money for Crackpot Cubed. And I said that can be relied on, that the money is going to show up. He tells me that Cubed is just us, no one else. So some more team work talk. And I said yes and then Wexler should be pissed if his boys rip us off. Those are the guys that were paid off to manipulate Starstream and it did not, you know -- it was not a good situation, no --
Q On February 5th at 4:59 you write to Discala, "Cubed, 7,500 Quintero, 12,500 Lundblad, 12,500 Down. Coming by Friday." Discala writes, "Great. Leaving for Vegas in a.m." Discala writes, "The Cubed is way bigger than I thought. It's truly awesome." And he writes "Amazing." What's going on here?
A I'm telling him that I'm sending checks in for the PIPE for $7,500 under the name Quintero, $12,500 under the name of

Lundblad, $12,500 in the name of Down, and that they should arrive by Friday. He letting me know he's going to Vegas for some important meetings and that Cubed is way bigger than he thought and it was truly awesome and amazing.

Q On February 10th at 11:32 p.m. you write to Discala, "Today was the day that I got my ass chewed by friends and family for all of our 2014 picks. Brutal. You and I need Cubed for sure. My best friend's wife Joanna, who you met, is livid at me. That hurts. We got to fix this." Discala responds, "I just landed in New York, pal. I go through the same things except it was a ton of mine so my wife is real happy." What's going on here?

A That was a really bad day. So, people tracked me down and just you harangued me over what happened in 2014 and I let him know that and he told me that he's flying to New York -- that he's going through the same thing is what I read into that.

Q February 11th at 1:36 a.m. you write to Discala, "Yup, we'll get through this. Cubed can fix it all. Me too, found 1 million. How did PubCo go for us?" Discala responds, "Awesome and Cubed is now much bigger. New counsel is amazing. Says we should open no less than 5 bucks."

What did you understand Discala's text to mean?

A He says that Cubed can fix it all or I said that we'll get through this. Cubed can fix it all. That's what I'm

hoping; that I'm down $1 million, which I didn't have the million dollars. At this point I'm down. I'm in the negative on everything. I'm about to sell my house and then I ask him how did PubCo go for us because he had flown to Vegas and there's a lot of things that were going to happen in Vegas.
Q What is PubCo?
A When I asked him how did PubCo go for us it's how many shares in the shell did you get for us.
Q In what company?
A NWRS which would be Crackpot. "How are we going to get compensated for the amount of money that we're raising for Crackpot" is what I'm asking. He says, "It went awesome. Cubed is now much bigger. New counsel is amazing. Says we should open no less than 5 bucks." Then I say "Cool. How did we do on PubCo? Should I do more bridge for Cubed?"
Q Who did you understand the new counsel was?
A Kyleen Cane.
Q Did you discuss this with Discala by phone?
A Yeah.
Q What did he say?
A He said that Darren was out and I should stop trusting Darren.
Q Darren who?
A Darren Ofsink.
Q Who was Darren Ofsink?

A It was his old counsel and the counsel for Codesmart and the other companies that we were involved with. And I kept asking him how we did on PubCo and he said he'd call me -- we would talk that weekend and we did.

So in that conversation he said that the plan had changed. In the past we purchased shares of the shell very cheaply. We did a reverse merger from the shell into the new publicly traded company and then we had cheap shares and then we pushed the price of the stock up.

In this case, we wouldn't be getting shares in the shell because in the past our biggest problem was people who did not adhere in the gentleman's agreement to the lockup/leak out. So in this case we would not able to purchase shares in PubCo. We're in the shell. And one account would be set up that would have those shares in it and he could it the escrow account and that this escrow account would hold cash and the securities. And that after the reverse merger had taken place and the stock starting trading, instead of having a bunch of people like myself and other traders that had the ability to sell shares secretly and mess up the deal, all of the shares would be in one place run by one person.

Q Who is that one person?

A He said Kyleen Cane and he would work with her in conjunction to coordinate any sales because when you buy stock you have to have a seller and then based on the amount of

money that we raised in the Cubed or the bridge, I would be awarded or assigned a certain percentage ownership of the escrow.
Q And how did he say this escrow account would work?
A He just said -- he called it an escrow account. I didn't know it was an escrow account, but that all the shares would be under all one roof so we don't have to have a lockup leak out and we don't have problems associated with people breaking the lockup leak out.
Q And who would control the escrow account?
A He said Kyleen Cane would.
Q What did you understand him to mean when he said that new counsel was amazing, said we should open no less than 5 bucks?
A That he was going to be coordinating with her because she would have the shares, but when he says we should open no less than 5 bucks, they had come up with a price to do the initial or the alternative public offering price of $5. I don't know how they came to that price, but they assigned a price.
Q You respond, "Cool. How did we do on PubCo should I do more bridge for Cubed?" And Discala responds, "Did you call or text Stephen? Now docs on second bridge Wednesday. Yes, but I think you need to call Stephen you'll be pumped." Then writes, "Cap table is being done Wednesday. At least 300 K with a side pocket to take care of investors from past." What did you understand him to mean here in this exchange?

A AJ is finally telling me what I need to know. I keep asking how did we do on PubCo, how are we going to be compensated, how much money did we get, how many shares did we get for raising the money. He says, "At least 300,000 shares with a side pocket to take care of investors from the past." The side pocket is shares set to the side that you can pay off people that were upset. And he asked me if I called or texted Stephen. Stephen White was the CEO of Crackpot and I had his phone number and I had conversations with him about the company and the product, not about trading.

So we were having two conversations at once but what's happening is I'll call Stephen tomorrow, but how did we do on PubCo and he says at least 300, and I said 300,000 each; is AJ getting 300,000 shares and I'm getting 300,000 shares or are we splitting 300 and what price would the second bridge be at. And he writes the second bridge would be at a dollar and he says "yes, each." So we're each getting 300,000 shares. That would be in the escrow account, that whenever it's sold we'll get the money and just get me -- then I tell him, "I'm here for you as I was last year. Just get me the 300,000 PubCo and I'll keep doing what I always have. You know what a team player I have been on every deal. We went down together last year and we'll go up together this year."

So at this point I've been raising money for Crackpot which was part of Crackpot's plan and they knew they

were getting the money and that was all on the up and up.
Q You mentioned this 300,000 shares that you mentioned each of you would get. How did this differ here now, according to Discala, in Cubed than for example with Codesmart with respect to the shares you held?
A In Codesmart he just offered me a million shares and I paid for them with my own. Under this plan, because everybody broke the gentleman's agreement and messed up our plan, one person would control all of those shares and then we wouldn't need to worry about that. It would be coordinated by the escrow owner -- not owner in this case, but administrator, Ms. Cane and then AJ is what he told me and it would stop everything.
And then as we slow and steadily moved the price of Crackpot up because we're buying shares, you have to have a seller for every buyer. The PubCo shares would be the shares we sold generating money which would then be sent to us. That was the explanation I received.
Q On February 11th at 2:02 a.m., "Cool. Get me the docs on the bridge and PubCo as soon as you can and I will get out there some more. When is TSGL getting the filing done?" Discala writes, "It was done. Comes off tomorrow I think 8K Wednesday." What did you mean here in your text?
A They're talking about doing bridge or PIPE and I wanted to get the documents as soon as possible. Now that I finally

received the plan, I'm ready to go forward and I had mentioned when does TSGL get the filing done. TSGL had failed to file some documents with the Government and he said that they filed it.

Q On February 11 at 3:15 p.m. Discala writes do you, "I lost Marleen and left Darren. Gave away all of my SSET and are busting ass so our wives are happy with Cubed and TS gets filed today I don't know what else." You respond, "I understand in the end you and I are partners and everyone else has screwed us. We have to have each other's back and care of Dounya and Jessie." What's going on here?

A Venting. We're just venting. Marleen Goepel, his assistant, has left. He got rid of his long-term friend and counsel, Darren. He doesn't have any Starstream shares. He's working really hard, busting ass is what he says. It just sounds like a lot of frustrated venting.

Q On February 20, 2014 at 2:22 a.m. Discala writes, "If WhatsApp is worth 19 billion, what's Cubed worth? At least six times." You respond, "If you say so. Sounds awesome. Got any docs yet?" What you understand Discala to mean?

A So he was really focused on what other internet companies were worth at that time. And, so, WhatsApp was a company that was valued at that point at 19 billion so he was comparing the two. He was like, hey, if WhatsApp is at 19 billion what would Cubed be worth. He thought six times that and he was really excited about where Cubed was going to go. I said "If you say so." Now that I knew how many shares he was going to get and I was going to get in the escrow I told him that I wanted it written. I wanted documentation to the escrow. I figured out -- well, I figured if you had a legal entity, whether it be a LLC, a limited partnership or whatever it was, then you can write me a letter saying that I was a partner in that, that I had it coming to me. Because I didn't want to raise all of this money for Crackpot and then them just go silent on me.

Q You say, "Get any docs yet?" And you say, "Are we in on the Oscar thing?" Discala responds, "Tomorrow you will get escrow and new deck." What did you understand him to be referring to by "Escrow"? Had you discussed that term before?

A Yes. That was the term he used in regards to this fund that would hold all of the shares. He told me tomorrow you get the escrow and the new deck. The deck is a marketing piece telling you about a company. I can use that with my customers. But whenever I talk about docs or escrow I want something that says you are an owner or a limited partner or something in case I call one day and nobody answers.

Q Did you receive any documents with respect to the escrow?

A I did not.

Q On February 21st at 3:14 p.m. Discala writes, "Let's help SSET and TS." You say, "Okay. I'll buy SSET." Discala writes, "Sweet" and he says, he writes, "Did you get any and you responded "2,094." Discala writes, "Nice. Let's move bids up together, 95, 94." What's going on here?

A AJ is asking for help trading SSET and TS again. The same old story. In this case we coordinated our trades around 93, 94 cents. This is -- at this point I don't have customers. This is my money.

Q On March 6, 2014 you write to Discala, "Cubed got the money." Discala writes, "Sweet. It's the big one, sent to company." And you say "Will do." What did you do there?

A I was raising some money for Cubed and he let me know, "Great, send it to the company." The checks for these investments were made directly to Crackpot instead of to AJ.

Q On March 11, 2014 at 4:57 Discala writes, "Need help on TS. Closing Cubed today." You write, "Okay. Send the docs to my office FedEx" and you provide a San Antonio address and he says, "Okay." What's going on here?

A I'm still looking for those documents, PubCo, escrow. I'm still looking for him to send me documentation for my ownership and the amount for the money that I've raised in this supposed escrow account.

(Continued on the following page.)

(Continuing.)

BY MR. HEIN:

Q On March 14 at 1:15, Discala writes: Enjoy. Paperwork going Monday.

You say: Awesome. FedEx?

Discala writes: Yes. We're all paying same for PubCo. Signing a note. Call, I'll explain this weekend. Any help on TS great.

You say: Okay. Call you Sunday.

What's going on here?

A Well, in this case what I was looking for, actual ownership paperwork in some form of account. I finally did receive paperwork from AJ, but it was in the form of a stock purchase agreement, just like we had been using all along, stating that I had shares in Crackpot.

So, that's where I got it.

Q On March 17, 2014 at 2:59 you write to Discala: Okay. Bridge clients, curious if shares they bought can be DTC or if it is a certificate. I saw the 8-K filings on Cubed. That stock dividend affects the Bridge shares also, I am sure.

Discala writes: Of course. I'll check on DTC.

Where did you see Cubed stuff? Not out yet.

You write: Yahoo, NWRS, second filings, news.

Discala writes: Nice.

You write to Discala: This legal team is on the ball.

Discala writes: Yes, they are. She's best.

Who do you understand Discala referring to?

A Kyleen Cane.

Q What's going on here in your back-and-forth with him?

A Well, there has to be some filings to do the reverse merger. And since I can't get any information out of AJ, I started doing my own investigation. So, I started checking the SEC filings and I found it. And he asked me, Where did you see the Cubed stuff? It's not out yet.

Well, I just investigated and said: It's under the second filings on NWRS.

And, so, I review them because I've been in the business for 16 years and I knew what I was looking at. And I said they actually did this reverse merger properly and I told him that this legal team is on the ball.

Q On March 17 at 7:27 p.m., you wrote to Discala: Can you have Craig call me? I misplaced his e-mail.

And you wrote: I talked to Evan and worked it out. On TSGL. Did you send me the PubCo?

Discala wrote: Kyleen will.

What did you understand to be discussing here, what did you understand this exchange to be?

A When I received the SPA, the stock purchase agreement, showing that I was going to have a certain number of shares, which wasn't 300,000 shares, in Crackpot from AJ, I wasn't happy with that because that was not what I was looking for. So, I was still after him and I said: Did you send me the PubCo? I still want something else, something more official.

So, he tells me Kyleen will.

I don't think the paperwork that he sent me is going to cut it.

Q Did you speak to Kyleen Cane by telephone at any point?

A Yes, I believe I did.

Q Approximately how many times do you recall speaking to Kyleen Cane by telephone?

A One or two.

Q Do you recall what was discussed in your phone conversation?

A I just remember having -- I remember speaking with her. I did a lot of introductory calls with people, new team members. And after reviewing some of this information, it looks like when we had some issues in June with a check that I had a call with her.

Q On March 20 at 3:19 p.m., you wrote to Discala: I tried to buy NWRS for $5. It wouldn't let me.

Discala responds: Next week the Cube.

What did you mean here?

A I was letting him know that I was seeing if the shell was actively tradeable and it wouldn't let me. That meant that there were no shares for sale, that the shares had already been all purchased and were not put out for sale.

Q Why were you trying to buy shares at $5?

A Because they told me it was going to come out at $5. AJ told me they selected that number as the starting sale price.

Q When you say "they," who do you mean?

A The two of them, him and Ms. Cane.

Q On March 24 at 12:16 p.m., you wrote to Discala: Cube day?

And Discala said: Tomorrow or Wednesday.

Then he wrote: I think tomorrow. Raising more PIPE in secondary. Gonna be a great one. Slow and steady.

What did you understand here?

A I asked him, When is it going to start trading, tomorrow or Wednesday? He said, I think tomorrow.

He was raising more money in the PIPE in the secondary. He said the stock is going to be a great one and he reminds me slow and steady; that is, the overall theme of manipulating Crackpot would be slow and steady.

Q And why, again? Why do you say the theme is slow and steady?

A Because what had happened with ITEN, it had gone up too fast, too quick and, therefore, came down the same way, along with people not adhering to the gentlemen's agreement.

Q On March 25, 2014, you wrote to Discala: I see the 8-K had been filed. Very good.

You said: There is a report, 12 pages, online already. Do you have a copy? It is under nwrsd.ob.

Discala writes: Yes, I'm working my butt off every day. Hopefully, PPM done tomorrow, trades today or tomorrow.

MR. HEIN: If I can show a document to the witness, please.

Q I'm showing you what's been marked as Government Exhibit 12. Do you recognize this document?

A Yes.

Q What is it?

A It's a Form 8-K.

Q For what company?

A Cubed.

Q Is this a true and accurate copy of a Form 8-K that you had previously reviewed?

A Yes.

MR. HEIN: Government moves to admit Government Exhibit 12 into evidence.

MR. ROSS: No objection, Judge.

MR. RIOPELLE: No objection, your Honor.

THE COURT: Received in evidence without objection.

(Government Exhibit 12 so marked.)

(Exhibit published to the jury.)

Q Could you describe what we're looking at here, Mr. Bell?

A When a company does anything that according to the law has to be reported publicly, they do it in what's called an 8-K filing. And they put whatever news that affects corporate governance into this type of format, and it's then filed with the Securities and Exchange Commission.

And in this case, that's just the cover page. The second page would tell you what they did. But this is an official filing by the company.

Q I'm looking at the second page of Government Exhibit 12. Can you describe what this is announcing?

A Yeah. Two companies, Crackpot and Cubed, have entered into material definitive agreement where Cubed and Crackpot, they purchased intellectual property, purchased for a certain price. So, this is the start of the merger. The way I read this, they're going to merge the companies but at this time they're also merging the technology.

MR. HEIN: If we could go back to the text messages, please.

Q On March 28 at 3:13 p.m., you wrote to Discala: Meeting with Cubed clients. Any word on public date and bridge certs?

Discala writes: It is public. Trades Monday, Tuesday.

You write at 3:15 p.m.: Okay. Are we go on our PubCo?

Discala writes: Yes. Just sent you PPM. Yes on

PubCo. Docs Monday.

And you write: Good.

What did you understand when Discala wrote to you that Cubed was public?

A Any word on the public date, I meant -- he says: It is public. Trades Monday, Tuesday. That means a merger is taking place and that it should start trading either Monday or Tuesday.

Q And what did you understand him to mean when he said, "Just sent you PPM"?

What is a PPM?

A PPM is a private placement memorandum. When you are raising money either in a bridge or a PIPE, you get a legal document -- could be a couple pages, could be twelve pages long -- that explains what you're purchasing.

So, he's sending me the new sales agreement, basically, for Cubed. And I asked him, "Are we good on our PubCo?" Remember, he said we had 300,000 shares coming to each. He said, "Yes on PubCo. Docs Monday."

I'm still looking for those elusive docs.

MR. HEIN: I'll show a document to the witness, Government Exhibit 178-39.

Q Do you recognize this document?

A Yes.

Q What is it?

A It's an e-mail string.
Q Is this a true and accurate copy of an e-mail that you were copied on?
A Yes.
MR. HEIN: Government moves Government Exhibit 178-39 into evidence.
MR. ROSS: No objection.
MR. RIOPELLE: No objection, your Honor.
THE COURT: Received in evidence without objection.
(Government Exhibit 178-39 so marked.)
(Exhibit published to the jury.)
Q Can you describe what's on this e-mail, Mr. Bell?
A The original message was from Kyleen Cane to AJ Discala and Marc Wexler, and the subject was "Final Version Ready to Go," in regards to the PPM. She said: Have fun. The sub docs at the end.
Subscription documents at the end I assume means they're attached. And AJ forwarded me that PPM. If you look at the top on the attachment, it says "PPM Version 4 Cubed."
So, that would be the paperwork that we provide to investors.
Q Do you no longer have this PPM in your possession?
A No. The customer would keep the PPM and we would send the signature page in with the check.
MR. HEIN: If we could return to the text messages,

please.

Q On March 28, 11:59, you write to Discala: Great job helping us recover. I appreciate it.

Discala wrote: No problem, brother. We're good.

You wrote: Finally looking forward to going to work. Been a while.

Discala writes: Me too, bro. Exciting.

What's going on there?

A I was just congratulating him on getting the whole Crackpot-Cubed thing going, telling him I appreciated it because at this point I feel very comfortable that we've funded Crackpot, they have done the reverse merge, there's really good counsel involved, he's got a good client plan with the escrow account, and it's gone public. So, so far, so good.

Q What's your understanding of what you and Discala and others will do with Cubed?

A Say it right there: Finally looking forward to going to work. Been a while.

He says: Me too, bro. Exciting.

Q What do you mean by "going to work"?

A Our job had been to manipulate stocks for the last year and a half, so we're going to go back to work.

Q And do what?

A Manipulate Crackpot.

MR. HEIN: Your Honor, this might be a good time to break, if you'd like.

THE COURT: You mean for the day?

MR. HEIN: I didn't know how long you wanted to do.

THE COURT: I thought we would go until about 5:30.

MR. HEIN: Then I can continue.

THE COURT: That would be a good idea.

One of the things, ladies and gentlemen of the jury, you may have picked this up already, but we have to refocus when we take a break. So, sometimes we go back to refresh you from things that were last said. So, when we can continue without a break, we don't have to go back and refresh.

Q On April 2 at 5:34 p.m., you wrote to Discala: I got buyers in the market in California for Cubed. Do you know when it is live to buy?

Discala writes: Waiting with bated breath.

You say: Cool. Me too.

Discala: Crazy.

You say: What's the hold up? I put an order in just to see and it rejected it.

Discala writes: DTC.

What's going on here?

A Even though I don't have customers anymore, I'm going to help out as much as I can with my own personal account, my personal money. And we're waiting today's the day or that today is the day the stock is supposed to start trading. It could take an hour, it could take two hours, sometimes a couple of days. You never know. So, what you do is you ping it, you put an order in and see if it rejects or accepts. And that's when I said I put an order in to see and it rejected it and AJ says DTC, which means the money is still moving in or the shares are still moving in.

Remember, if you're going to buy a stock, you have to have a seller. And if there's no shares to be sold, you have to bring them to the market. So that was being done.

Q What does DCT stand for?

A I don't know off the top of my head. It means electronically move the shares. I don't know that acronym.

Q As opposed to what?

A Have it in certificate form.

But the process of DTC means to move the shares from one place to another. So, we can't buy any shares unless there's shares to sell. And we're waiting for the PubCo shares, whoever is controlling them, to move them in so we can have a market.

THE COURT: When you say "certificate," you're referring to a piece of paper?

THE WITNESS: Yes, sir.

Q Is that like a certificate that we saw in 178-2, the 125,000 shares you had in First Independence?

A Yes.
Q On April 11 at 9:14 p.m., you wrote to Discala: FedEx send you money for Cube on Monday made out to OmniView.
He responds: Great.
And you said: I'm excited about Monday. Cube start the trade.
Discala writes: Yes, sir.
MR. HEIN: I'll show a document to the witness, please.
Showing the witness what's been marked as Government Exhibit 178-21.
Q Do you recognize this document?
A Yes.
Q What is it?
A This is an e-mail sent to me from Kyleen Cane and copied to the CEO Stephen White.
Q And this is a true and accurate copy of the e-mail you received?
A Yes, sir.
MR. HEIN: Government moves Government Exhibit 178-21 into evidence.
MR. ROSS: No objection, Judge.
MR. RIOPELLE: No objection, your Honor.
THE COURT: Received without objection.
(Government Exhibit 178-21 so marked.)

MR. HEIN: Publish to the jury.

(Exhibit published to the jury.)

Q So, what is this document, Mr. Bell?

A Ms. Cane had sent me this: As you requested, here are the duly executed countersigned subscription documents for the Crackpot note agreements on your list.

These are receipts for the money that was sent into Crackpot, basically. The signature page is from the last page of the PPM.

Q And was this e-mail sent on April 13?

A 2014, yes, sir.

Q And who did these signature pages in reference to?

A They're duly executed countersigned documents, so, basically, they show that Stephen White and the customer have agreed to a transaction.

Q And who are these customers?

A Private individual investors that have invested in Crackpot.

Q Investors that you brought to Crackpot?

A Yes. I helped raise over $300,000.

Q So, for example, on the first page of the attachment to the e-mail -- you describe what we're looking at here.

A That's mine right there. So, there's -- the subscriber is me, there's my name, address, Social if you want it. And then there's Stephen White's signature on the right agreeing

to accept the check and there's a check for $15,000.
Q For example, the second page of the attachment is another investor in Crackpot?
A Another investor, address, Social, phone number, e-mail, and his check for $25,000 invested in Crackpot.
Q Who was this that invested in Crackpot?
A Private individual investor.
It's just page after page of receipts for all investments made.
Q Finally, just looking at one more example contained in here, who was the investor here?
A This was Dr. Wu, William Wu. There was a text earlier about $45,000 to be invested, and this is it.
Q This is $45,000 that he invested in Crackpot?
A Correct.
Q And are all of the remaining pages in this document in this exhibit just like those pages that we looked at?
A Yes.
Q Subscription agreements for different individuals who you had brought in to invest in Crackpot?
A Correct.
MR. HEIN: If we could please return to the text messages.
Q On April 16, you wrote to Discala: CRPT showed up this morning and NWRSD is gone.

Discala wrote: Yup.

He wrote: Bid CRPT.

And you said: I will.

What is CRPT?

A That's the new stock symbol for the company Crackpot.

Q For Crackpot-Cubed?

A Crackpot-Cubed.

Q And you said, "CRPT showed up this morning and NWRSD is gone."

What is NWRSD?

A The shell is no more and the market now recognizes CRPT as the correct symbol.

And he asked me to bid, but the bids weren't taken. So, still wasn't trading.

Q Discala writes: Cool. Hopefully, today; if not, for sure in a.m. April 16.

And you say: Okay. My bids weren't taken.

And he writes: They probably won't be. This is gonna fly. Bid in a.m.

And you write: Okay.

What's your understanding of what Discala meant by "This is going to fly"?

A The stock is going to go up.

Q And how will it go up? Why will it go up?

A Between myself and other individuals he may have

recruited, we're going to bid it up. Along with news stories and --
Q And what's your understanding of who will be selling in to the coordination?
A The shell service will be the seller, which is, from what I'm told, being run by Ms. Cane.
Q On April 17, you write to Discala: Any idea on Cubed Trading? I'm bidding 5.25.
Discala writes: Not yet.
You say: Today, you think? I got buyers ready and they are asking.
Discala says: I think so.
You say: Cool.
Discala responds: Tell them to bid size.
And you say: Okay.
What did you understand Discala to mean by telling your buyers to "bid size"?
A When you bid size, just put in your orders with a high number of volume. Don't do 100 shares, don't splash it or nibble.
Q Discala says: I see zero size?
He says: Size at 5.05, 5.10.
You write: We put orders in at 5.25. The Cali people waiting for it to trade.
Discala writes: There's only 100 at 5.25.

Hopefully, next hour.

What's going on there?

A So, he's asking to bid size, but he's only seen 100 shares show up on the bid side. So, we're just going back and forth. He wants to see, like, thousand, two thousand, three thousand shares at that 5.05 area, but there's only a hundred shares there.

Q You write on April 17 at 6:05 p.m. to Discala: I had PM'd Craig, put in 1,000 at 5.25.

Discala writes: Okay. Showing 100. Weird.

What was going on there?

A I private messaged Craig Josephberg, who had an account that I had some ownership in, and told him to put an order to by a thousand at 5.25, and AJ says that's weird, it's only showing 100. He can look at level two and see what's going on.

Q Here you write to Discala: ITEN missed their 10-K filing -- 10-Q. Delisted soon.

Discala writes: Ugly. He's brutal.

What is a 10-Q filing?

A A 10-Q filing is very much like the 8-K that we saw earlier, which is an official announcement filed with the United States Government. 10-Q, if you're publicly-traded, you're required to issue a quarterly report for everybody to read. If you don't, you could be delisted if you stopped providing information to the general public. And ITEN had stopped doing that.

Q What's the status of ITEN, CodeSmart?

A At this point, soon to be delisted. Today, out of business.

Q What does it mean to be "delisted"?

A You're no longer trading on the stock market.

Q And why would it no longer be trading the stock market?

A Because they failed to do the proper government reporting, and, so they've given up the right to trade on the public exchange.

(Continued on next page.)

Continuing.)

BY MR. HEIN:

Q On April 21st, Discala writes to you, "Big 505 CRPT today."

And you say, "Okay."

And you say, "I'm out there. Trading yet?"

Discala writes, "Not yet. Waiting."

You write, "I wonder why. Do we have a specialist?"

What's going on there with respect to the trading?

A AJ wants me to bid 505 on CRPT. I say, "Okay." And it's still not trading yet and I'm wondering why, whether or not we are have a specialist.

A specialist would be a market maker, someone like Darren at BMAC.

Q On April 21st at 2:48 p.m. you say, "Just focused on Cubed. Hoping it trades today. Natives are restless."

Discala writes, "Mine, too. Trust me, it will. But it will trade light the first couple of weeks."

You write, "Why won't it get started, do we have a specialist?"

Discala writes, "DTC and DWAC first should be today."

What's happening here?

A Just saying that I'm hoping it trades today. Natives are restless. That means people wanted to trade. Other people that bought shares in the pipe and the bridge also watching the market to see a trade.

And -- but he says, "It will trade light for the first couple of weeks." And I'm curious, "Why won't it get started?" And I ask again, "Do we have a market maker or specialist?"

And he said, "It will be DTC and DWAC at first. What that means is it will either trade electronically by somebody putting shares that they have for sale into the market. And then DWAC, which was a market making company.

So he has one specialist is what he's telling me. And he's, in all caps, so he's telling me it should be today.

Q On April 22nd, 2014 and 4:06 p.m., you write to Discala, "We be trading."

Is that with respect to CRPT?

A Yes.

Q Discala writes, "Buy some, brother, let's go."

You write, "Just did. 525."

Discala writes, "400 shares. Let's make some calls."

You write, "Can you send me Craig's phone number, please."

And he sends you the phone number (917)327-8411. And then he writes, "You making calls. Want to get to the 20K volume."

What's happening here?
A So I was frustrating about 400 shares at five and a quarter in my Scottrade account. Actually I had about 300 shares. I don't know why 400 showed up.
He says, "Let's make some calls. Then I want to get a hold of Craig Josephberg." He gives me the number.
And then he says, "He wants to get to 20,000 volume. That's part of a slow and steady plan."
Q Can you explain that further?
A Well, we were trading 100 to 200,000 shares of ITEN. And so slow and steady I guess is 20,000.
Q And what's your understanding of why Discala wants to trade 20,000 instead of, for example, 100,000 or 200,000?
A I think we let that one get ahead of us.
Q Can I show the witness a document, please.
I show you what's been marked as Government Exhibit 178-35.
Do you recognize this document?
A Yes.
Q What is it?
A It's a statement from my Scottrade account.
Q Is this a true and accurate copy of a statement from your trading account?
A Yes.
MR. HEIN: Government moves Government

Exhibit 178-35 into evidence.

MR. ROSS: No objection.

MR. HEIN: No evidence, Your Honor.

THE COURT: Received without objection.

(Government Exhibit 178-35, was received in evidence.)

(Exhibit published.)

Q Mr. Bell, could you explain what we're looking at here on this exhibit?

A Sure. So you have the date that the purchase was made so you can kind of work from the bottom upwards.

Q You can also mark on the screen with your finger, if you like, where you want to.

A (Witness complying.) Right there, at the bottom.

So remember I had said 400 shares but I really bought 300. So on April 22nd I bought 300 shares at 525.

When I texted him about the 525, here's my actual purchase. I bought 300 shares at 525. Scottrade made seven bucks on the trade and the trade net cost me that much money, 1582.

Later that day I bought 350 shares at 515. And two days later I bought 800 shares at five and a quarter. And then on May 19th I sold them all.

Q And down below here there's some handwritten notes. What do these notes mean? Is this your handwriting?

A That's my handwriting.
Q Do you recall what you wrote these notes?
A At some point I was looking at my text. I do not recall. I don't recall.
Q And what does -- what do these notes mean? What do they signify?
A I was looking at my different texts and then matching them up with what I actually did or didn't do. Those are just notes to myself.
Q What do you mean by that what you did and didn't do?
A Well, if I -- on April 22nd I ended up buying 650 shares in my own account. I bought 350 shares once and 300 shares once on April 22nd.
On April 17th, I didn't buy anything because it wasn't trading. And on May 29th I didn't buy any.
Q If we could return to the text messages, please.
On April 22nd at 6:47 p.m., Discala wrote to you, "okay, buy 2K more and I will, too."
And you write, "From my contacts in Cali. I was on the other line when you called. Call me when you can and I'll spread the word over here."
Discala writes, "And if you will take three more, Weller will, too."
And you say, "I can buy 1,000 more."
What's going on there?

A So AJ's trying to coordinate trading between Marc Wexler and myself. Asking us to buy 2,000 more and he will also. And then he wants me to take 3,000 and he wants Marc Wexler to buy 3,000.

Q On the next day, April 23rd, at 3:09 p.m., Discala writes to you, "Let's spread word on CRPT." He said "Make some calls. Make calls. Bids, please."

What do you understand Discala to be telling you?

A He want us to go ahead and call everybody we can to try to get them to buy CRPT and make some calls. And to put some bids in, so...

Q On April 24th at 4:21 p.m., after those texts we just read, you write to Discala, "What price?"

Discala says, "527."

And you say, "Okay."

What do you understand that to mean?

A So he asked "Bids please." You know, he wants some bids out there. I asked, "What price do you want us to put the bid in?" He say "527."

I say, "Okay."

And then he asks me, "Where are my California guys?" I said I called them last night. These are private investors. So they may be at work. They may be playing golf. They're going to do what they want to.

Q What do you understand what Discala's asking to you do in bidding at 527 when you asked what price?

A Well, we're coordinating trades like we did with the other stocks.

Q What is your goal by coordinating these trades on CRPT?

A On this particular price, I don't know where we want to take the price immediately, but we trying to the push the price up. But also get enough buyers so the shares in the pub co, in the escrow account can be sold.

Q Six days later on April 29th at 2:02 p.m., Discala writes to you, "I'll know more at noon. Can you open Cubed?"

And you say, "Okay, I need to know. Just paid my attorney 6500. I got 3K in my account left. I can bid with that."

And you asked, "Are we live on iTunes? How do we search it?

Discala says, "We are live Thursday. Flying to Vegas to get them organized at four today."

And you say, "Just sent an order through Craig."

Discala says, "Nice. Ty."

What's going on here?

A Well, I let him know that I don't have a book any more. I had raised over $300,000 to get Crackpot funded. I really wasn't the go-to guy as far as pushing the stock up and that he needed to go recruit some more.

Q And when Discala writes, "Flying to Vegas to get them

organized at four today," what's your understanding of that?
Who is he meeting in Vegas.
A In this case I don't know. I can only speculate who he's meeting in Vegas.
MR. RIOPELLE: Objection.
THE COURT: Don't speculate.
THE WITNESS: I have no idea.
THE COURT: He said he could, but he's not going to.
THE WITNESS: I could, but I won't.
MR. RIOPELLE: Thank you.
THE WITNESS: I did have a conversation where I told him --
THE COURT: Wait for a question.
Q On April 4th, you write to Discala, "Okay, paper me up. I have always been loyal and we are in this together."
Discala writes, "Agreed I will."
And you write to Discala, "Let's get that call with Stephen White for sure. Anything going on, let me in it because this Cubed is all our hope."
Discala writes, "That and Scanbuy. I'll send you today. Motorola and Google ventures in 87.5 users. I'm working for us, brother."
What's going on here?
A "Paper me up," I'm looking for those documents still. Still not feeling comfortable. I've raised a lot of money for

the company. I read really can't trade that much. And I'm reminding him of that. And he says, "He will."

And I understand he can't just -- the document that he produced for me I didn't accept. And he's telling me he needs to get something that has to get Ms. Cane involved.

I tell him I want to get on that call with Stephen White for sure. He was going to have a call with Stephen White to get an update on what was happening with the company. So anything going on with Cubed, I want to know what's going on.

And he says, "Yes, he'll do that, as far as that." And Scanbuy, which is a new company that he's -- that's the next company he wants to put through his APO system.

Q On May 5th at 12:29 p.m. you write to Discala, "Thanks, when do you think we will see some cash from Cubed. Another month? What happened with Max? Why is he telling them he raised the money?"

Discala writes, "He's trying to get more shares from company. Saying he raised mine, too. Yes, one month."

What's going on here?

A Two different conversations. One is when do you think we'll get some cash from the escrow account. Which he answers, "Yes, in a month."

Secondly, Max Khan, who used to be part of Bridge Venture and Omniview had supposedly told the company that he had raised all the money, which I found ridiculous, since I had those receipts. And so that turned out to be a radical and went away.

Q Why are you asking about, "When do you think we will see some cash from Cubed?" What do you mean by that?

A Well, the sales should be -- any purchases of Crackpot would have raised money in the escrow account. And I raised that money going back to February, so I'm looking to get paid.

Q And what's your understanding from Discala on how you will be paid?

A So if I had 300,000 shares in that account, it's a percentage of something. So as shares were sold, some of those 300,000 shares that were mine would have been sold also. And prorated, or however they worked it out, I didn't care.

And then either on a monthly, quarterly, annual basis, there should be a payoff, and I looking for that.

Q And who did you understand form Discala would be selling those shares out of the escrow?

A I was told Ms. Cane.

Q And what was your concern about Max? Who is "Max"?

A Max Khan. I just heard from AJ that Max had told somebody -- I mean this all became like high school stuff. Max said he sold our shares. I had the receipts. I knew exactly what money I had raised for Crackpot. I had signature pages. I wasn't worried about it.

MR. HEIN: Your Honor, we wanted to play our first call for the jury. We've already authenticated them. We will move them into evidence and provide as aides to the jury the transcripts. Our paralegal has the binders, if you wouldn't mind us passing it out to the jury now.

THE COURT: You'll be able to get a call in before?

MR. HEIN: I will be able to get a call in.

THE COURT: Then let's start in this case, so we get any idea how it's going to work. I'm sure this is not the last call.

MR. HEIN: That's correct, Your Honor.

THE COURT: Why don't we do that.

MR. HEIN: Thank you.

THE COURT: Ladies and gentlemen, you will be receiving binders with respect to phone calls you'll hear on wires. The binders have transcripts.

The transcripts themselves are not in evidence. That's a transcription of what they believe was said on the actual conversation on the wire.

You will be hearing the actual conversation yourself. And it's what your ears hear that's in evidence, not what's on the binder. The binder's only there to help you. So listen carefully, because it's your ears that control.

MR. HEIN: Your Honor, at this time the government moves into evidence wiretap -- wiretap call session 01949 from May 5th 2014, and only a portion from the beginning of the call until 30 seconds into the call.

THE COURT: It's been authenticated so it is received in evidence.

MR. ROSS: Your Honor, I'm just going to object based on prior motions that we filed.

THE COURT: Yes. Any prior objection is we deem continued.

MR. ROSS: Thank you.

THE COURT: For purposes of the record.

MR. ROSS: Thank you very much.

MR. HEIN: And just to be more specific, it's Government Exhibit 198-2-T-E. It's a transcript. The call itself is 198-2-T-E as well. An excerpt from call of 198-2, and beginning until 30 seconds in.

(Audio recording played.)

Q Mr. Bell, could you describe what we heard on this call?

A That was a phone call where AJ and I spoke briefly, and I asked what was going on and he said that he was bidding a thousand shares on CRPT at 528, 529.

MR. HEIN: Mr. Villanueva, do you mind if we show the call transcript on the monitor as well?

THE COURTROOM DEPUTY: I can't do the both at the same time.

MR. HEIN: Okay, that's fine. Thank you.
Q So what did you understand Discala to mean when he said, "I bid a 1,000 here for like 529, 530 on CRPT, which is good."
A He's telling me that he is coordinating a trade for a thousand shares on Crackpot and at those prices.
Q And why is he telling you that?
A Because --
Q Why do you understand he was telling you that?
A Because he wanted me to know where the stock was. We were coordinating on the trades.
MR. HEIN: If we could go back to the text messages, please.
(Exhibit published.)
THE COURT: Mr. Bell, when you say coordinating your trade, what do you mean by "coordinating the trade"?
THE WITNESS: So we were manipulating the price of the stock by coordinating our trades. Where I would buy or he would buy. Where I would sell or he would sell.
He would tell me by coordinating those trades where he wanted the bids and the asks and at what price. So the coordination was the process of the manipulation.
Q And that call was on May 5th, 2014.
Looking here now at text messages on May 6th, 2014, the next day, you write to Discala, "332,750 on the bridge. That's what was sent in from TX."

And Discala writes, "Ty, sir."

What's -- what are you referring to there?

A Well, because Max Khan had said to somebody that he raised money, we didn't. I was just letting him know that Texas investors had invested $332,750 in financing with Crackpot.

Q And why was it important to you to let Discala know that?

A Because my participation in the escrow account was directly related to how much money I helped raise.

Q And when you say your participation in the escrow account, what do you mean by that?

A My ownership in the escrow account that would pay us.

Q And when did you understand from Discala you would get paid out of the escrow account?

A As money was raised in that account from the sale of the original stock.

Q On May 6th at 4:50 p.m., you said to Discala, "Ready when you are."

Discala wrote, "Will be 30 minutes. Max is a real ass. Says he raised 1.1 million. He raised zero. I got proof."

And you said, "So do I."

What are you guys discussing here?

A I believe, you know, this was in regards to a discussion we were gonna have about Max Khan.

MR. HEIN: Your Honor, we would like to play another call with Max.

THE COURT: I think we're probably squeezing in too much. I think it's probably the place to break, then.

MR. HEIN: That's fine, Your Honor.

THE COURT: Ladies and gentlemen, we're going to take our evening break, and actually for this trial for the week's work break as well.

As you observed, we have a beautiful courthouse with a lot of courtrooms and a lot of lawyers, so you can imagine that this is not the only case that the court has to attend to in any given week. And what we try to do is to put all that other stuff on Friday and free the lawyers up to go to other judges and other parts to continue the process in all of the cases that we handle. So we try to reserve the first four days of the week for trial, and try to reserve that fifth day, Friday, for all of the other business.

That doesn't mean, however, you can always count on not being here on a Friday. It may be that it's a scheduling perspective it's more important to put all that other work aside on that fifth day and work a full five days. But this is not one of those weeks. So this will bring us to the close of your role in this trial this week.

Now, we break for the weekend, it's another kind of recess, but the recess rules continue to apply. Do not discuss the case amongst yourself or with anyone else. Continue to keep an open mind. Should there be any media accounts of this case, you're to totally disregard them. I urge you to disregard any stories in the media, as we now find the media to include Facebook and everything else under the sun. Disregard those as well for fear that you may hear or see something there that confuses you about what your role is here.

To the extent that you are on social media, one of those social media platforms. Again, you're not to make any references whatsoever to the fact that you're a juror, that you come to the courthouse in Brooklyn. Anything about this trial or any of the personalities, the lawyers, the court, the issues, all of that, you're on radio silence.

You're also not to use the weekend period as an opportunity to conduct any research on your own; either electronic or otherwise about anything that touches upon this case; any of the issues, again, the personalities or any of the matters that come before you in this case or in cases like this.

So with all of those admonitions, again, you also go with our great appreciation for your cooperation, your patience and attentiveness, and please note we know you do this at a sacrifice and that sacrifice is deeply appreciated.

So, again, enjoy your weekend recess. We will see you all on Monday. Again, come to the central jury room around 9:45 and we'll try to start as close to 10 as we can.

We, again, appreciate. You have a pleasant evening, and we'll see you next week.

(Jury exits the courtroom.)

THE COURT: Okay, anything that we should attend to before we see you next week?

MS. JONES: Your Honor, we have a couple of things.

May we excuse Mr. Bell?

THE COURT: Yes, Mr. Bell can be excuse.

(Whereupon, the witness was excused.)

(Continued on next page.)

MS. JONES: Your Honor, I just wanted to give a heads-up about who we anticipate our next couple of witnesses, who they will be. It will depend --

THE COURT: Sounds like it's Mr. Bell.

MS. JONES: Yes, we are going to -- the rest of the line-up will depend on how quickly remove on Monday.

Obviously, Mr. Bell will come back for the remainder of direct and cross. Our next witness after Mr. Bell will be Patrick Mokros from Empire Stock Transfer.

Depending on when he finishes -- Agent Luca was expected to be next but he's not available on Monday. So, if we finish early on Monday, we can do additional witnesses. We may have a couple of people from the DTC testify.

And we also anticipate Agent Luca on Tuesday coming in. And then if we have time, we have a couple of people who are short witnesses related to press releases.

THE COURT: Okay. Thanks for the heads-up. I'm sure counsel appreciates it.

Anything else from anybody else?

MR. BINI: Yes, your Honor. This is Mr. Bini.

One quick thing that I wanted to raise that I talked to Chuck Ross about earlier, the Government had noticed under 803-6 and 902-11 a number of exhibits that are bank and trading-related records for which there are business records certification. So, we noted that to defense counsel on

March 27 and provided business records certificates to give them the opportunity to raise any objections to those certificates and the authenticity of those records.

I understand Mr. Riopelle has no objection to those records but that Mr. Ross, while not objecting to the bank records, indicates he has some objection to the trading records.

The exhibits I'm referring to, to list them out actually takes 19 --

THE COURT: As to authenticity or some other?

MR. BINI: I'm not sure. So, I wanted to raise it. In order to expedite the trial, the Government would like to not have to put on any records custodian and thinks there's no basis to do so because we have noticed it properly.

Mr. Ross?

MR. ROSS: Judge, I've reviewed the certificates, the certifications, and I don't have any objection to the certifications themselves. But given our positions on the blue sheets and the trading records, I may have a substantive objection or register an objection to the records themselves.

But I've reviewed the authentication certificates and I don't have an objection to any of those.

THE COURT: To the extent you have any objection, it would be substantive and it wouldn't relate to any custodial witness.

MR. ROSS: Yes, that's correct.

MR. BINI: Thank you, your Honor.

THE COURT: Anything else?

MR. BINI: Not for the Government.

MR. RIOPELLE: Your Honor, in the spirit of cooperation, I wanted the Court to know that Mr. Bini and I are working out that stipulation you suggested about the one certification that we discussed yesterday, I believe.

THE COURT: That's good to hear.

Anything else?

MR. RIOPELLE: I thank you for ending at 5:30.

THE COURT: The 4 train or 5 train will get you there just in time.

MR. RIOPELLE: It will, it will. Thank you, Judge.

THE COURT: Unless you're before me in something else tomorrow, we'll see you Monday, unless Ms. Jones...

MS. JONES: We'll just talk to William about courtroom stuff.

THE COURT: Yes, if you want to leave it, William will move it somewhere where counsel in other cases can't fiddle with it.

MR. BINI: We'll move it, your Honor.

(A chorus of thank yous.)

(Matter adjourned until Monday, April 9, 2018, at 9:45 a.m.)

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