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H3G5lobH

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v. 15 CR 0174 (LGS)

FABIO PORFIRIO LOBO,
Defendant.

-----x

New York, N.Y. March 16, 2017 2:00 p.m.

Before:

HON. LORNA G. SCHOFIELD

District Judge

APPEARANCES

PREET BHARARA

United States Attorney for the Southern District of New York EMIL J. BOVE III

Assistant United States Attorney

RETURETA & WASSEM

Attorney for Defendant MANUEL RETURETA

ALSO PRESENT: ELIZABETH CARUSO ANNA MARIA RISO HUMBERTO GARCIA

ISOLINA BERNHARDT Spanish Interpreters

1

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H3G5lobH Rivera - cross

(In open court; case called)

THE DEPUTY CLERK: Counsel, please state your name for the record. Everyone else can be seated.

MR. BOVE: Good afternoon, your Honor, Emil Bove for the government. I have with me Sandalio Gonzalez from the DEA and Daniel Kim, a paralegal from our office.

THE COURT: Good afternoon.

MR. RETURETA: Good afternoon. Manuel Retureta on behalf of Mr. Lobo.

THE COURT: Good afternoon.

We are about ready to start with the cross-examination. You may proceed.

MR. RETURETA: Thank you very much, your Honor. Your Honor, with the Court's indulgence, we are one of the first to test the technology today so if we have a few bumps, please excuse it, but I think we have it smoothed out.

THE COURT: All right. This witness has been sworn.

You understand are you still under oath, sir?

THE WITNESS: Yes, sir.

THE COURT: And your name, sir?

THE WITNESS: Devis Leonel Rivera Maradiaga.

THE COURT: All right.

DEVIS LEONEL RIVERA MARADIAGA, resumed.

CROSS EXAMINATION

BY MR. RETURETA:

2

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H3G5lobH Rivera - cross

Q. Sir, as you know, I represent Mr. Fabio Lobo, correct?

A. Yes.

Q. We were last all together, March 6th, Mr. Bove, the

prosecutor, had concluded his direct examination of you.

Do you recall that?

A. Yes.

Q. Sir, today is March the 16th. Between March the 6th and March the 16th, have you been interviewed by either government agents or government prosecutors?

A. No, sir.

Q. Have you had any opportunity to speak with your attorney -- without telling me anything that was said, but have you had the opportunity to meet with your attorney during that time period?

A. Yes, sir.

Q. Sir, would I like to begin by focusing on the year 2013.

A. Okay.

Q. In 2013 you were still involved in drug trafficking, correct?

A. Yes, sir.

Q. You were killing people to support your drug trafficking, correct?

A. I caused that. I caused the death of some people.

Q. In 2013 -- I am going to show you what has been marked as Defendant's Exhibit no. 2. If you look on your screen, are you familiar with that document that is on your screen?

3

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H3G5lobH Rivera - cross

A. Yes, sir.

Q. Now, when Mr. Bove was asking you a question, this document was shortened and only showed the bottom portion; do you recall

that?

A. Yes, sir.

Q. The portion that I am showing you is the complete document that the United States Department of the Treasury produced as it placed you, your associates, and family members and companies, on what is called the OFAC list, correct?

A. Yes, sir.

MR. RETURETA: Your Honor, for purposes of the exhibit, may we now move in Defendant's Exhibit no. 2?

MR. BOVE: No objection.

THE COURT: It is admitted.

(Defendant's Exhibit 2 received in evidence)

BY MR. RETURETA:

Q. Sir, at the top of this document you see two photographs; one of those photographs is you, correct?

A. Yes, sir.

Q. The other photograph is your brother Javier, correct?

A. Yes, sir.

Q. Underneath your photographs is a box that contains four photographs, and what I am going to do is go through those photos from left to right and ask you who those individuals are.

4

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H3G5lobH Rivera - cross

Starting with the first photograph, a person by the name of Santos Isidro Rivera Cardona; who is that?

A. He's my dad, sir.

Q. Sir, to the right of that photograph is a photograph of a woman by the name of Esperanza Caridad Maradiaga Lopez. Who is that woman?

A. She's my mom, sir.

THE COURT: Counsel, is there any way you could either enlarge the second row or make it clearer? Thank you, that is great.

Q. Sir, to the right of the photo you just identified is another female, photograph of a female by the name of Maira Lizeth Rivera Maradiaga. Who is that?

A. Sir, she is my sister.

Q. And to her right a photograph of a man by the name of Santos Isidro Rivera Maradiaga. Who is that?

A. He is my brother, sir.

Q. Sir, those four individuals that have you just identified, have any of them been charged with criminal conduct in this district along with you?

MR. BOVE: Objection. Foundation.

THE COURT: Well, to the extent that you know.

A. I don't know, sir.

Q. I am going to show you what has been marked as Defendant's Exhibit no. 3. Do you see that on your screen?

5

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H3G5lobH Rivera - cross

A. Yes, sir.

Q. No. 4. Sorry.

Do you read English?

A. No, sir.

Q. Can you read your name on this document?

A. Yes, sir.

Q. Do you recognize this document?

A. No, sir.

MR. RETURETA: Your Honor, I would ask the Court to take judicial notice of what is the superseding indictment that was filed against Mr. Devis Leonel Rivera Maradiaga.

MR. BOVE: I have no objection to that, your Honor, just to note or reiterate that this is an English language document which is why the defendant --

THE COURT: You need to speak into the mic.

MR. BOVE: I want to reiterate the witness does not recognize this as an English language document because it was likely discussed with counsel in a translated version.

THE COURT: Okay. And you want me to take judicial notice for purposes of offering it into evidence?

MR. RETURETA: Into evidence, your Honor.

THE COURT: Okay. It is admitted.

MR. RETURETA: Thank you, your Honor.

(Defendant's Exhibit 4 received in evidence)

BY MR. RETURETA:

6

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H3G5lobH Rivera - cross

Q. Sir, I am going to highlight a portion of this document.

Do you see that?

A. Yes, sir.

Q. That lists your name: Devis Leonel Rivera Maradiaga, correct?

A. Yes.

Q. It does not list any of your other family members, correct?

A. No, sir.

Q. Sir, in 2013, as you have testified, when asked questions by Mr. Bove, you were worried that your organization was in trouble; is that fair to say?

A. Could you repeat your question? I didn't really get what you were saying.

Q. In 2013 you were concerned that your organization was in trouble?

A. 2013? It was after the OFAC thing, the putting us on the OFAC.

Q. Do you recall when the OFAC came out?

A. Yes, sir.

Q. When?

A. 2013.

Q. Do you remember when in 2013?

A. No, sir.

Q. Once the OFAC came out, did you begin to take steps to try and save your organization or save your future?

7

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H3G5lobH Rivera - cross

MR. BOVE: Object to the form, Judge. Form is really an issue because of the translation problem, and so when there are questions like this that are compound, it is compounded by

his native language.

MR. RETURETA: I will reword it, your Honor.

THE COURT: Okay. That's fine.

BY MR. RETURETA:

Q. Once that OFAC came out you knew you had troubles, right?

A. Yes, sir.

Q. And you testified, when asked by Mr. Bove, that you had actually started to record conversations with people around that time because you wanted to make sure that nobody said something different, right?

A. Sir, could you repeat your question?

Q. Do you remember testifying that you had recorded a phone call because you wanted to make sure that the person wouldn't say something different later on?

A. No, sir. I wasn't the kind of person who made phone calls.

Q. So, are you saying today that you did not tape any phone calls?

MR. BOVE: Judge, I object. Mischaracterization of the testimony.

THE COURT: He can answer.

Q. So, you are saying you did not record a phone call during that time period?

8

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H3G5lobH Rivera - cross

A. No, sir.

Q. Once the OFAC --

THE COURT: I'm sorry, it was a double-negative. I

don't know whether the answer is yes or no, so if you can clean that up?

MR. RETURETA: Sure.

Q. Did you record any phone calls during that 2013 time period?

A. No, sir. I did not record any telephone calls.

Q. Sir, once the OFAC came out you began to look for ways to -- well, once the OFAC came out, did you contact the United States government?

A. No, sir.

Q. Did there come a time when you met with agents of the United States law enforcement, the DEA?

A. Yes, sir. That was in 2013, in December.

Q. And when you met with agents of the DEA in December 2013, what did you tell them that you wanted to do?

A. I started giving them recordings, information, sir.

Q. And what do you mean by recordings?

A. Recordings I had made previously with the defendant.

Q. Was that first, that meeting with the DEA, was that the first of many meetings that you had with agents of the DEA and, later, law enforcement?

A. In 2013, sir.

9

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H3G5lobH Rivera - cross

Q. I am going to show you what has been marked Defendant's Exhibit no. 1. Sir, if you would look on the screen; do you see that document, sir?

A. Yes, sir.

Q. Do you recognize that document?

A. No, sir.

Q. I am going to show you -- do you see the bottom of the second page of the document I am showing you?

A. Yes, sir.

Q. Do you see that there are various dates on the left-hand side of that document and then what look to be initials from various people on the right-hand side?

A. Yes, sir. I can see that.

Q. Do you recognize those initials?

A. Yes, sir.

Q. Those are your initials, right?

A. Yes, but I don't remember.

Q. Well, sir, is this the document that was presented to you at the beginning of each meeting that you had so that you could sign off and everyone in the room that was with you could also sign off?

A. I remember they would show me a document but I don't remember -- this one is in English, so.

Q. Well, sir, if I could have you look at the very next page?

Starting at the top of that page, again, do you see your

10

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H3G5lobH Rivera - cross

initials all the way down that right-hand side column?

A. Yes, sir.

Q. I am talking about this right here, correct?

A. Yes, I can see my initials there but there are some I don't recognize.

MR. RETURETA: Your Honor, I would ask that Defendant's Exhibit no. 1 be introduced into evidence.

MR. BOVE: No objection.

THE COURT: It is admitted.

MR. RETURETA: Thank you.

(Defendant's Exhibit 1 received in evidence)

BY MR. RETURETA:

Q. Sir, looking at these documents, it appears that the first meeting that is memorialized on this document took place in March of 2014.

Do you see that?

A. Yes, sir.

Q. And, the last meeting that we see noted looks to be in August of 2015.

Do you see that?

A. Yes.

Q. Now, I am going to ask you about these meetings. At these meetings you were present, obviously, correct?

A. At several meetings I was; yes, sir.

Q. And, at these meetings, did you have your attorney present?

11

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H3G5lobH Rivera - cross

MR. BOVE: Judge, are we talking about just meetings reflected in Defendant's Exhibit 1?

THE COURT: Could clarify the question?

MR. RETURETA: Sure.

BY MR. RETURETA:

Q. Sir, the meetings that I am asking you about refer to the meetings that are listed under these dates.

THE COURT: Now ask the question.

Q. Do you remember if your attorney was present during those meetings?

A. The thing is that there were many -- there were several meetings and the lawyer was present for several meetings.

Q. And the other meetings may not have been noted on this document, as an example the December 2013 meeting with law enforcement, correct?

MR. BOVE: Objection to the other meetings and to the form.

THE COURT: Sustained.

Q. Sir, you testified that you had a meeting in December 2013 with DEA agents, right?

A. I don't understand the question. That I testified in 2013? Where?

MR. BOVE: Judge, I would also like to clarify the record on this. Defendant's Exhibit 1 is an agreement dated December 5, 2013 on --

12

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H3G5lobH Rivera - cross

THE COURT: Can you speak more loudly and into the mic? I don't know if your mic doesn't work.

MR. BOVE: I apologize. Defendant's Exhibit 1

reflects on page 1 a meeting on December 5th of 2013.

THE COURT: In other words, are you saying the document begins on December 5th; is that right?

MR. BOVE: Yes, your Honor, that is reflected in the first paragraph of the exhibit.

THE COURT: Okay. And I wanted to ask a question just to clarify the prior answer.

You were asked whether your lawyer was present for the meetings that are listed on the document. Was your lawyer present at every meeting you had with the government?

THE WITNESS: Yes, your Honor.

THE COURT: Okay. Thank you.

MR. BOVE: Your Honor, and I am sorry --

THE COURT: That's all right.

MR. BOVE: Point of clarification on that.

When we speak about the government as a whole, I think that's a characterization this witness might not fully grasp.

It may help to be more specific about meetings with prosecutors with the government, and there are also meetings and communications with agents when prosecutors with the government weren't present.

THE COURT: Okay.

13

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H3G5lobH Rivera - cross

Do you want to ask those questions?

MR. RETURETA: Certainly, your Honor.

THE COURT: Okay.

BY MR. RETURETA:

Q. Sir, what I am asking is you had many meetings with prosecutors such as Mr. Bove, as well as DEA agents such as Agent Sandalio Gonzalez, right?

A. Yes, sir.

Q. And, do you remember each and every one of those meetings?

A. I don't remember, but there were several.

Q. Do you remember the exact dates of those meetings?

A. No, sir.

Q. But, at that time, starting in December of 2013, you were trying to make a deal with the United States government, correct?

A. Yes, sir.

Q. And as part of that deal it was not only you but it was your brother, Javier, correct?

A. Yes. It was the two of us, sir.

Q. And, beyond the two of you, again referencing Defendant's Exhibit no. 1, beyond the two of you it is also your family that you have identified for us here today, correct?

MR. BOVE: Objection. I think this is another ambiguous question for example, this exhibit reflects sanctions by different part of United States government so the question

14

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H3G5lobH Rivera - cross

as to who, anybody is seen to --

THE COURT: Well, okay. Overruled.

You can answer the question.

THE WITNESS: Sir, when we met with the DEA agents we started giving them information, but at that point we didn't discuss my family.

BY MR. RETURETA:

Q. Was your family involved in drug trafficking with you and your brother at that time?

A. In drug trafficking? No, sir.

Q. Sir, was your family involved in the conspiracy you later pled guilty to of trafficking illegal narcotics with the intent to import into the United States? Yes or no.

A. I don't know, sir.

Q. You eventually came to an agreement with the United States referring to a plea agreement, correct?

A. Yes, sir.

Q. And not only did you come to an agreement but your brother Javier also came to an agreement with the United States, correct?

A. I can speak for myself, sir.

Q. Well, sir, did you not have any consultations, discussions, advice, going back and forth with your brother during this time?

A. Yes, sir; because on some occasions we went to the meetings

15

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H3G5lobH Rivera - cross

together.

Q. And when you say "the meetings," you are describing the meetings that involve U.S. DEA agents and U.S. prosecutors,

correct?

A. Yes, sir.

Q. So, much like that gentleman on the far side of the room is in the same room that I am in right now, your brother could hear everything that you were describing when agents and prosecutors were asking you questions about your illegal activity, correct?

A. We discussed several subjects, sir, about several subjects.

Q. Now, you did not immediately turn yourself in to U.S. authorities, correct?

A. No, sir.

Q. You continued to run your narco-trafficking activities, correct?

MR. BOVE: Objection. Time frame, Judge?

THE COURT: Sustained.

Q. Taking you back to December of 2013 and the months that followed.

THE COURT: Which months? We know at some point he stopped, so.

BY MR. RETURETA:

Q. Taking you to December 2013 and the first half of 2014, you did not turn yourself in to the U.S. authorities, correct?

16

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H3G5lobH Rivera - cross

A. From 2013 to 2014, no; not yet, sir.

Q. In other words, when you would sit down with Agent Gonzalez and conclude your meeting, you and your brother would leave

together, correct?

MR. BOVE: Objection. Time frame.

MR. RETURETA: During that same time fame.

THE COURT: Yes, you can preface it.

BY MR. RETURETA:

Q. During the same time we were discussing, you would go to a meeting with Agent Gonzalez, as an example, and then leave; correct?

A. Not just with the agents, sir. There were several people there.

Q. But my question is, you would be free to leave after that meeting finished?

A. Yes, sir.

Q. And you would go back home to your family?

A. Yes, sir.

Q. And if you were at the meeting together with your brother, you and your brother would travel back home together?

A. On some occasions we traveled together. On other occasions we would go separately.

Q. Did there come a point at any time in that time period that we are discussing that you and your brother talked about what was being asked, what the DEA was interested in?

17

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H3G5lobH Rivera - cross

A. Yes, sir. We discussed several subjects because, by then, my brother and I were already cooperating together.

Q. Did there come a time when you finally reached a plea

agreement with the United States? And, if I could ask you to look at the document that is on the screen?

THE COURT: Is there an identification number?

MR. RETURETA: I'm sorry, your Honor. That's Defendant's Exhibit no. 4 -- 3 -- thank you, Mr. Bove.

THE COURT: 3.

MR. RETURETA: Thank you, your Honor.

BY MR. RETURETA:

Q. Do you recognize that document, sir?

A. No, sir.

Q. Taking you to page 7 of that document; do you see the signatures on that page?

A. Yes, sir.

Q. Do you recognize that signature?

A. Yes.

Q. Who is that?

A. It's mine, sir. It looks like mine, sir.

Q. Do you have a doubt as to whether that is your signature?

A. I mean, it is a document and it's in English. I don't understand it.

Q. Do you see the name that is listed there?

A. Yes, sir.

18

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H3G5lobH Rivera - cross

Q. What is that name?

A. Mine.

Q. Do you see this signature that is below your name on that

document?

A. Yes, sir.

Q. Whose signature is that?

A. I don't know. I wouldn't know.

Q. Do you see the date that is listed here?

A. Yes, sir.

Q. What date is that?

A. It says 4/14/2016.

Q. Do you remember when you pled guilty?

A. In 2016, sir.

MR. RETURETA: Your Honor, I would ask the Court take judicial notice that the plea agreement that was entered into by Mr. Rivera Maradiaga was --

THE COURT: I'm not sure I can take judicial notice of it. If you want to offer it, I will see if there is any objection.

Any objection?

MR. BOVE: No, your Honor.

THE COURT: It is admitted.

(Defendant's Exhibit 3 received in evidence)

BY MR. RETURETA:

Q. Sir, this document is a document between yourself and the

19

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H3G5lobH Rivera - cross

United States government where you plead guilty. It is the rules of your plea.

MR. BOVE: Objection, Judge.

First of all, he testified he doesn't recognize the document. Second, he may have --

THE COURT: I will allow the question.

THE WITNESS: I don't recognize the document because I don't speak English. I don't know what the document says, sir.

BY MR. RETURETA:

Q. I'm going to show you what has been marked Appendix A in that document.

THE COURT: Is this part of Defendant's Exhibit 3?

MR. RETURETA: Yes, your Honor.

THE COURT: Okay.

BY MR. RETURETA:

Q. Do you see that table in front of you?

A. Yes, sir.

Q. Sir, as part of your plea agreement, did you come to an agreement with the United States government as to murders that you committed in your organization?

A. Agreement? What do you mean, sir?

Q. Well, when Mr. Bove was asking you questions you had said that you killed 78 people.

MR. BOVE: Objection. Mischaracterized the testimony.

THE COURT: Sustained.

20

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H3G5lobH Rivera - cross

Q. That you were responsible for the deaths of 78 people.

A. I caused the death of 78 people, together with politicians and drug traffickers.

Q. And, did you produce a document which listed those homicides that you caused?

A. I don't understand that question.

Q. Sir, did you participate in identifying homicides that you caused, in any fashion?

A. Sir, what I did was confess all the crimes that I have committed to the government that I had caused.

Q. And as part of the crime that you caused and confessed to the government there were homicides, correct?

A. Yes, sir.

Q. And this document that is attached to your plea agreement lists 78 individuals that were killed and that you admitted as, in your words causing, correct?

A. Yes, sir.

Q. And looking at the end of this list, what I have highlighted here, homicides no. 75, 76, 77 and 78. Do you see those homicides that you were responsible for causing?

A. Yes, sir.

Q. The very last person that you seem to have accepted responsibility for causing the death of is a person by the name of Sonia Marlen Ramos-Montes.

Do you see that?

21

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H3G5lobH Rivera - cross

A. Yes, sir.

Q. This person was killed in Quebec, Canada, correct?

A. Yes, sir.

Q. Now, are you now familiar with this list that you are looking at?

A. Yes, sir. This is a list of the murders that we caused, that I caused.

Q. Now, did you provide this list to your attorney? Or did you -- I'm sorry. Go ahead.

A. When? When do you mean? I don't understand your question.

Q. Well, when you gave this information, did you give it directly to agents or prosecutors?

A. Sir, I confessed to these crimes when I was talking to the government when we came to that plea agreement.

Q. Looking at the very first page you will see a section there that I have noted. Do you see no. 19 in December of 2009, an individual by the name of Julian Aristedes-Gonzalez?

A. Yes, sir.

Q. And Mr. Bove asked you and you responded that's the drug czar of your country at that time, Honduras, correct?

A. No, sir. What I -- he worked for the police.

Q. What was his duty?

A. He investigated.

Q. What?

A. Drug trafficking, sir.

22

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(212) 805-0300

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H3G5lobH Rivera - cross

Q. And you, in your response to Mr. Bove's questions, indicated that you got together with other drug traffickers and planned his assassination, correct?

A. Yes, sir.

Q. Sir, have you provided the Honduran government with information about these murders that you are now accepting that you caused?

A. No, sir.

Q. No, because your only focus right now is the United States government law enforcement and prosecutors, correct?

A. Those are the crimes I caused, the crimes I told them about, sir.

Q. What did you benefit from that plea agreement?

A. Benefits? Sir, I'm just telling the truth. What the agreement says is that if I testify whenever the government asks me to, I not commit any more crimes, they will write that 5K1 letter, sir.

Q. Sir, have members of your family received the benefit of immigrating to the United States?

A. Sir, I hired a private immigration lawyer so my family could come to this country, to the United States.

Q. And did you work with prosecutors and agents to make sure that that happened?

A. Sir, the work I have done with them has been to give them information, all the information I knew about my work with drug

23

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H3G5lobH Rivera - cross
trafficking and politicians.

Q. And, as you have provided information to them, you have
received a benefit that your family could come to the United

States, correct?

A. They are here, sir.

Q. Were they here before you started cooperating?

A. No, sir.

Q. Sir, when you were listed on the OFAC there were various other individuals from your family that were also listed on the OFAC, correct?

A. My companies, yes.

Q. Well, was Maira Lizeth listed on the OFAC?

A. Yes, sir.

Q. Your sister?

A. Yes, sir.

Q. Santos Isidro was listed on the OFAC?

A. Yes, sir.

Q. Javier Heriberto was listed on OFAC?

A. Yes, sir.

Q. Esperanza Caridad was listed on OFAC?

A. Yes, sir.

Q. So in addition to companies, individuals were listed on OFAC, correct?

A. My family was, yes.

Q. And when you talk about companies, the company was INRIMAR,

24

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H3G5lobH Rivera - cross

I-N-R-I-M-A-R, correct?

A. INRIMAR; yes, sir.

Q. And if I remember your testimony, INRIMAR was the company

that you testified was proposed to you by then Candidate Lobo as a good company to put together?

MR. BOVE: Objection. Mischaracterizes the testimony.

THE COURT: I will allow it, but the witness should correct anything that is inaccurate.

THE WITNESS: Sir, could you please repeat that question?

BY MR. RETURETA:

Q. Let me ask this.

When was INRIMAR produced? When was INRIMAR created?

A. When Pepe Lobo recommended that we set it up, sir.

Q. When was that?

A. In 2009.

Q. When in 2009?

A. I don't remember the exact date.

Q. Was it the beginning of 2009? The end of 2009?

A. It was after Pepe Lobo's recommendation, it was after he became president, sir.

Q. And the suggestion that you're telling us is that you created a company that will be used for laundering money and to help your drug trafficking and the acronym is your family name: Investments Rivera Maradiaga?

25

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H3G5lobH Rivera - cross

MR. BOVE: Objection to form, and on behalf of the interpreters --

THE COURT: Sustained. Sorry. I only heard the

object to the form which I sustained.

BY MR. RETURETA:

Q. So, the company that you created was a company with your name, correct?

A. Yes, sir.

Q. At that time had there been seizures on your family properties or businesses? And I am talking about the 2009 time period.

A. No, sir.

Q. When you began to cooperate with the government, did you disclose to them all of the properties and businesses that you had?

A. Sir, we were focused on people in drug trafficking and politicians.

Q. Did you continue to operate your businesses while you were focused on drug trafficking?

MR. BOVE: Objection. Time frame.

THE COURT: If you could clarify the time frame?

Q. The time that you have told me that you were focused on drug trafficking and politicians, when was that?

A. Sir, that was from 2009 to 2013.

Q. And did your companies continue operation?

26

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H3G5lobH Rivera - cross

MR. BOVE: Objection. Time frame.

THE COURT: Well, I think it is implicit that it is in that time frame.

So, the question is: Did your companies continue operations during that period you referenced between 2009 and 2013?

THE WITNESS: Yes, sir. Our companies continued to be in operation from 2009 to 2013 with the support of President Porfirio Sosa Lobo --

INTERPRETER: Correction: Lobo Sosa.

BY MR. RETURETA:

Q. And, did you have what is referred to in Spanish as a testafero or a straw man or people? Did you have any straw men or people operating those companies during that time period?

MR. BOVE: Objection, your Honor.

THE COURT: I will allow it.

A. Yes, sir.

Q. And did you disclose those testafero -- straw men -- to agents and prosecutors?

A. Sir, we touched upon a number of subjects.

Q. Do you recall whether you told them? Or not.

A. Sir, I don't remember.

Q. Do you recall if you informed Honduran government officials about those companies and those testaferos or straw men?

A. Sir, I don't understand your question.

27

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H3G5lobH Rivera - cross

Q. Did you inform the government of Honduras of those companies and the owners or the straw men in front of those companies?

MR. BOVE: Objection. Time frame, Judge. We have already testified between 2009 and 2013 to the support of the Honduran government.

MR. RETURETA: Well, your Honor, assuming that we don't believe that, my question is simple: Did he inform, as he was cooperating with the United States, did he then also inform the Honduran government?

THE COURT: Anyone in the Honduran government including the president?

MR. RETURETA: Including the president.

THE COURT: Okay.

Do you understand the question now?

THE WITNESS: Yes, sir.

BY MR. RETURETA:

Q. Did you inform anyone in the Honduran government that you had these companies and these straw men or testaferos in front of these companies?

A. The president and his son agreed to support us in anything we did. What I told the president and the defendant, when he offered us the government contracts, was that the companies we were going to set up then we were going to set up because we needed them, my brother and I, to launder money.

28

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H3G5lobH Rivera - cross

Q. Sir, I'm going to give you a name and ask you to identify who that person is, if you know.

Do you know a person by the name of Ninrod Eliel

Sierra Caraballo?

INTERPRETER: Counsel, by the interpreter, what was the first name?

Q. Ninrod. N-I-N-R-O-D.

A. Yes, sir.

Q. Who is that person?

A. A drug trafficker.

Q. Did he work for you?

A. At times.

Q. What would he do?

THE COURT: What would he do?

Q. What did he do.

A. He would receive shipments together with us, drug shipments.

Q. And did he have his own separate operation?

A. Sometimes he did, but sometimes we worked on these drug loads in partnership.

Q. Did he ever act as a testafere or straw man for you, your family, or any of your companies?

A. No, sir.

Q. What companies did you advise or inform government agents that were family-owned companies?

29

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H3G5lobH Rivera - cross

A. INRIMAR and all of the companies that are on the document
you showed me.

Q. Did you talk to them about any other companies that you had

an interest in?

A. Sir, I don't remember.

Q. Were you present at a meeting with your brother when any of these other companies were discussed?

THE COURT: Wait a second -- I'm sorry.

You can translate the question.

MR. BOVE: I object, Judge. He just testified that he doesn't remember.

THE COURT: Sustained.

Q. As part of your agreement with the United States, did you ask for any assistance from the United States regarding these companies?

THE COURT: Let me just clarify.

So, is the question: As part of your agreement with the United States, did you ask for any assistance from the United States regarding companies other than the ones we saw listed on that document? Did you ask for help regarding any other companies?

THE WITNESS: Help from whom?

THE COURT: The U.S. government.

THE WITNESS: No, your Honor. No.

THE COURT: Okay.

30

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H3G5lobH Rivera - cross

BY MR. RETURETA:

Q. Did you ask for any assistance with the companies listed on OFAC, to remove them from OFAC, from the United States?

A. No, sir.

Q. Did you ask the United States government to not seize or hold property, funds of anything that you may have that they could have seized?

MR. BOVE: Object to the form.

THE COURT: I will allow it.

A. No, sir.

Q. Did you come to an agreement with the United States government about paying them money?

THE COURT: Who is them?

MR. RETURETA: United States government.

Q. Did you agree to pay the United States government money?

A. No, sir. I don't understand the question.

Q. I'm not sure how this would translate but do you recall, as part of your plea agreement, a section dealing with forfeiture?

A. I don't remember, sir.

Q. And, do you have any knowledge that you will be paying the government of the United States anything as a result of your drug trafficking?

A. It is whatever the Judge decides, sir.

Q. Have you paid the United States government any amount of money?

31

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H3G5lobH Rivera - cross

A. No, sir.

Q. Have you paid the DEA or the prosecutor's office any money?

A. No, sir.

Q. I don't like the smile.

My question is whether, as part of your agreement, I'm not asking if you have give them money, hand off; I am asking whether you have paid, as a result of your criminal activity, any fines as of today.

A. I haven't paid anything, sir.

Q. Sir, do you expect to pay anything to the United States in money as a result of your plea agreement and your criminal conduct?

A. If that's what the Judge decides, yes, sir. Whatever the Judge decides.

Q. But you don't know right here, right now?

A. Whatever the Judge decides. If that's what the judge decides, if we need to pay a penalty, that's what we will pay because of the drug trafficking proceeds.

Q. And, sir, your best estimate, what are the proceeds that you and your organization received as a result of your narco-trafficking?

A. Several millions of dollars, sir.

Q. Are we talking two? Three? 30? 300?

MR. BOVE: Objection to form.

THE COURT: I will allow it.

32

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H3G5lobH Rivera - cross

A. I don't have an estimate, sir.

Q. Well, sir, when Mr. Bove asked you a question about the amount of cocaine that you were moving at one point in time,

you responded by saying 20,000 tons.

Do you recall that?

MR. BOVE: Objection. Mischaracterizes the testimony.

THE COURT: Overruled.

A. No, sir.

Q. And when you were asked questions about a load of 400 kilos, you described that the value of that load was approximately \$800,000, \$900,000; do you recall that?

A. Yes. The 400 kilos that the defendant helped me to transport, sir.

Q. And what was the value of those 400 kilos?

A. It was 20 percent that the deal gave us.

Q. How much?

A. Approximately between \$800,000 to \$1 million, sir.

Q. So that's 400 kilos, correct?

A. Yes, sir.

Q. Do you have any idea how many kilos you, your brother, your family, your organization moved?

A. Around 20 tons and more, sir.

Q. How much more?

A. I don't have the exact date. I don't remember.

Q. So, the best number that you can give us is 20,000 tons?

33

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H3G5lobH Rivera - cross

MR. BOVE: Objection.

THE COURT: Overruled. 20 tons? Or 20,000 tons?

THE WITNESS: 20 tons.

BY MR. RETURETA:

Q. I'm sorry, 20 tons.

That's the best estimate you can give us as to the amount of cocaine that your organization moved throughout its entire existence?

A. Yes, sir.

Q. Forgive me, but doesn't that sound low?

A. I don't have the exact number. I don't remember.

Q. Let me ask you about the 400 kilos that you described Mr. Lobo participating in. Sir, for those 400 kilos, did Mr. Lobo know who the owner of that cocaine was?

A. Yes, sir.

Q. Who was it?

A. Pama.

Q. Did you inform him of that?

A. He was already aware that we worked with the Colombians, sir.

Q. Did he know the specific owner?

A. No, sir.

Q. Did he know exactly where that -- where those 400 kilos was going to be dropped off?

A. He knew where those kilos were going to arrive, what air

34

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H3G5lobH Rivera - cross

strip they were going to arrive at because I had already told him.

Q. You told him exactly where to go, correct?

A. Repeat the question, please?

Q. You had told him where to go, correct?

A. When I called the defendant, I told him to go so San Pedro and then from there, to Cortés, and that's where we met with the defendant.

Q. And did you inform the defendant the route that that plane took?

A. He knew that those drugs came from Apure, Venezuela, sir.

Q. Sir, did you inform the defendant exactly where the drugs came from?

A. He knew they were coming from Venezuela, sir.

Q. And, did you inform the defendant where those drugs were going to be sold to -- who, sorry -- who those drugs were going to be sold to.

A. No, sir.

Q. And, did you have information as to what was going to happen with those drugs once they were sold to someone?

A. No, sir.

Q. And, did Mr. Lobo provide to you coordinates as to how the plane should navigate, land, take off, any other logistical information about what you were asking him to do?

A. Sir, the person who was giving information, that that plane

35

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(212) 805-0300

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H3G5lobH Rivera - cross

was coming from Apure, Venezuela was myself, sir.

Q. And before you gave him that information, as far as you know he didn't know anything about this, correct?

A. Of course he knew, because when I told him to go to San Pedro Sula, he knew about the logistics to receive that plane that came loaded with drugs, sir.

Q. And I am asking you about before you called him, he did not know anything about this, as far as you know?

A. He knew. He did know that he was going to receive a plane loaded with drugs, sir.

Q. Because you told him, right?

A. Yes, sir; at the meeting that we had had previously.

Q. And, before then he didn't know?

A. Yes, sir, he knew, because he knew he was going to escort a drug shipment.

Q. So, why did you have to call him about it?

A. I called the defendant. I told him to go to San Pedro Sula, and once he was in San Pedro Sula to let me know so that I could go and pick him up. I told him to go to Cortés where I brought the defendant, and during our way to Chachaguala, we started coordinating, receiving the plane. Once the plane was going to land, he wanted to go to the air strip --

Q. And you told him no?

MR. BOVE: Judge, I ask that he be allowed to finish his answer.

36

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H3G5lobH Rivera - cross

THE COURT: Okay, yes. Please, let him finish.

THE WITNESS: I persuaded him not to go to the air strip because it was dangerous for us to be at the air strip

because if the plane that was coming from Venezuela loaded with the drugs was being tailed by military people from Honduras, it was dangerous for me and the defendant to be on the runway. So, he desisted from going to the air strip. That's when we went to the house of Chachaguala to coordinate while we were waiting for the plane to land on the air strip, sir, because he had already placed phone calls of which he had informed me with the commander that was in charge there at Cortés, sir, in the area before the plane was going to land.

Q. Sir, this is what you told Mr. Bove when he asked you that question. Do you recall that?

A. Yes, sir. I told him what had happened with the plane.

Q. And that's what you responded to Mr. Bove when he asked you, right?

A. That's what happened, sir.

Q. When did this happen?

A. That's what happened on that day, the day of the event when we received the plane loaded with drugs, sir.

Q. What was the date?

A. That was in 2012, sir.

Q. Sir, of the 11 months of 2012? When?

A. I don't remember approximately right now, sir.

37

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H3G5lobH Rivera - cross

Q. When you would call Mr. Lobo --

THE COURT: Excuse me, counsel. I am going to interrupt for a second. Do you have any idea about how long

you are going to be?

MR. RETURETA: Your Honor, I am trying to work with the two hours that the Court gave me.

THE COURT: Okay. I wanted to make sure you were mindful of the time.

MR. RETURETA: Definitely.

THE COURT: Okay.

BY MR. RETURETA:

Q. When you called Mr. Lobo was it for Mr. Lobo to provide information regarding a drug trafficking route?

A. Are you referring to the same shipment or when, sir? I don't understand the question.

Q. Let's ask generally. When you called up Mr. Lobo, as you testified that you have when responding to Mr. Bove, did you call him asking for specific drug routes?

A. The defendant's commitment, sir, was to provide security for me and for my brother, sir.

Q. Sir, and your Honor, if I could, before we let the witness move on to longer answers, if I could just interrupt?

Sir, my question was, when you called Mr. Lobo, was the reason you called him because you needed specific drug route information?

38

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H3G5lobH Rivera - cross

A. When I called the defendant, sir, on that occasion of the shipment it was for the security he was going to provide, sir.

Q. So, using that example, that event as an example, the

answer to my question is no, correct? You were not asking him for the nature of the drug route?

MR. BOVE: Judge, I think there is a pending question right there.

THE COURT: Well, I will allow the last question. I assume the other question was withdrawn.

THE WITNESS: No, sir.

BY MR. RETURETA:

Q. And what you were doing was what you have testified is you had done previously which is you wanted Lobo and the people around him; is that fair to say?

THE COURT: I'm sorry. I don't understand the question.

MR. RETURETA: Let me rephrase.

Q. You testified you told us that called Mr. Lobo for security reasons, right?

A. Yes. That was his job.

Q. And when you say the security of loads, you mean you wanted the load to go from point A to point B, correct?

A. I don't understand, sir.

Q. When you used the word "security," is it fair to say that what you mean is that you wanted a load to make its way from

39

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H3G5lobH Rivera - cross

point A to point B?

A. The defendant's job, sir, for the load, was to, from the
runway -- for that shipment from the runway to the Pan-American

highway.

Q. The pista -- the air strip -- being point A and the Pan-American Highway being point B, correct?

A. The defendant was being paid to go from the runway to the Pan-American Highway.

Q. And that was his job?

A. That was the defendant's job, sir.

Q. Sir, you talked to us about money that was given to the president of Honduras when he was the president elect and then the president.

Do you recall that testimony?

A. The testimony I gave you is when he was running for president.

Q. Sir, if I may interrupt, I am just asking if you recall that information. What you testified about.

A. Ask me again, please.

Q. You testified that you had given the president some money, correct?

A. Yes, sir.

Q. And, generally, by giving that money to the president, you had cut a deal with the president, correct?

A. Yes, sir.

40

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H3G5lobH Rivera - cross

Q. And, part of that deal was leave us alone?

A. Part of that deal, sir, well, we brought up the subject of extradition, the subject of security for the Cachiros, the

subject of Oscar Alvarez, and the contracts he was going to give us, to our companies, so we could launder money.

Q. Now, after you walk away from this series of meetings that you have told us about, you expected -- tell me if I am wrong -- you expected to be able to do whatever you wanted, right?

A. Sir, we only had two meetings with the president.

Q. When was the first meeting?

A. Sir, the first one is in 2009.

Q. When in 2009?

A. When he was running for president.

Q. What month?

A. Sir, I don't remember.

Q. Who was there?

A. Juan Gomez, Porfirio Lobo Sosa, and I were at the first meeting.

Q. Where is Juan Gomez today?

A. Juan Gomez was killed, sir.

Q. Sir, were you in any way responsible, in your words, for causing the death of Juan Gomez?

A. No, sir.

Q. Was your brother or any other member of your organization

41

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H3G5lobH Rivera - cross

responsible for the death of Juan Gomez?

A. I don't know, sir.

Q. If anyone in your organization would have been responsible,

would you have known?

MR. BOVE: Objection.

THE COURT: I will allow it.

A. No, sir. I'm in prison. And ever since I signed my agreement with the government, I have to tell the truth, testify whenever they ask me to, and not commit any more crimes.

Q. Sir, once you reached that agreement that you have told us about, were you concerned when Honduras signed various treaties with neighboring countries to fight narco-trafficking?

MR. BOVE: Objection as to which agreement you are talking about.

MR. RETURETA: I can go into specifics.

THE COURT: If you could just be more specific?

BY MR. RETURETA:

Q. Sir, were you aware that in 2011 Honduras signed an agreement with Colombia as part of the South-South Cooperation Pact of Nations fighting narco-trafficking?

A. No, sir.

Q. Were you concerned as a result of that deal that you have told us about that in January through July of 2012, Honduras participated in Operation Hammer or Operación Martillo, an

42

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H3G5lobH Rivera - cross

anti-drug offensive that was run in conjunction with the U.S.
military's southern command?

A. Sir, I was not concerned because president Porfirio Lobo

Sosa had promised us that as long as he was president, none of us would be extradited and no Honduran would leave the country.

Q. Sir, when were you concerned when Honduras, as part of this deal you are talking about, created a Director of National Investigation and Intelligence and formulated the special operations force called Los Tigres to combat narco trafficking?

MR. BOVE: Objection. Relevance.

MR. RETURETA: Goes to the witness' perception of the deal that he alleges took place and the results of that deal.

MR. BOVE: I think he just described that he was not at all concerned based on the agreement.

THE COURT: You can ask the question.

BY MR. RETURETA:

Q. Sir, you can ask answer the question, please?

A. Can you repeat it?

Q. Were you concerned about this deal when you learned that the national investigation and intelligence commission was created and a special operations force called "Los Tigres" -- The Tiger -- was used to fight narco-trafficking in Honduras?

THE COURT: I'm sorry to interrupt you but I'm a little confused.

So, you originally asked him about Honduras signing an

43

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H3G5lobH Rivera - cross

agreement with Colombia in 2011, and he said he was not aware of it. And so, I think in your last question the reference to the deal is a reference to that agreement which he said he

doesn't know anything about. So, do you want to just rephrase it in a way so that you are not capturing that?

MR. RETURETA: Sure. Sure.

BY MR. RETURETA:

Q. Sir, given this deal that you are telling us took place between you and the president, were you concerned when other events happened such as the formulation of government organizations to fight narco-trafficking?

A. Nobody was extradited during President Lobo's administration. My fear at the time, my only fear was about extradition. There were rumors, we heard rumors, but the president had promised my brother and me that there would be no extraditions from Honduras. We were not extradited. I was concerned about extradition.

Q. You were aware that seizures took place during the president's administration, were you not?

A. No, sir, there were nothing that belonged to us was seized. The president came through on his promise that we would not be touched as long as he was president, we weren't extradited. And actually, he set up his son as a middleman who would be able to protect us, help us, the Cachiros, which was my brother and me.

44

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H3G5lobH Rivera - cross

Q. Were you aware that over 100 air strips were destroyed in the year 2012 in Honduras?

A. I didn't know that, and actually the thing with the air

strips, that did happen every once in a while but what I am sure about is while the president was in the office, nothing happened to our organization, we were left alone.

Q. Sir, the policy of extradition began under the presidency of Porfirio Lobo; isn't that right?

A. Yes, but we weren't extradited, sir, while he president, while President Lobo was president.

Q. But he didn't --

MR. BOVE: Objection. He has to be able to finish his answer.

THE COURT: Okay.

So, only one person talk at a time and, also, it is not clear to me, as this goes on and on on this line of questioning, what the relevance is to the reason we are here.

MR. RETURETA: Well, your Honor, the relevance goes to the credibility of the witness and his credibility rested on two points, one, that he had a connection with the presidency; and two, that Mr. Lobo, my client, was a part of that connection. This deal that he is testifying about, I am raising these issues because it is inconsistent with the conduct of the government.

THE COURT: Well, he just keeps saying over and over

45

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H3G5lobH Rivera - cross

nothing happened to us during the president's tenure. I'm convinced that's what he will continue to say as you ask these questions.

MR. RETURETA: Yes.

THE COURT: And in terms of what else was going on, it doesn't really address his credibility or the defendant's involvement.

MR. RETURETA: I understand, your Honor.

THE COURT: Unless I am missing something, so.

MR. RETURETA: Well, strictly, the credibility component, I guess.

THE COURT: Okay.

MR. RETURETA: And I am trying to keep that 4:00 deadline.

THE COURT: Okay. I will not use any more of your time.

MR. RETURETA: Okay.

BY MR. RETURETA:

Q. So, the law amending the Honduran Constitution was passed for extradition during President Lobo's administration, correct?

A. I don't know that, sir.

Q. You know that Carlos Lobo had seizures on his properties, didn't you?

A. Yes, sir.

46

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H3G5lobH Rivera - cross

Q. You know that the other drug trafficking family, the Vayas had seizures and eventually extradition, correct?

MR. BOVE: Objection. Time frame.

THE COURT: You may answer.

THE WITNESS: Could you repeat the question?

Q. You know that another drug trafficking family, the Vayas had seizures on their property and were eventually extradited, correct?

A. Yes, sir.

Q. But, during President Pepe Lobo's administration, no one was extradited but in the administration and the government's prior to President Lobo there was not an amended of the Constitution that would allow for extradition, correct?

A. I don't know that, sir.

Q. Sir, who is Leanna Bueso?

A. Leanna Bueso is Miguel Pastor Rodriguez' secretary and also the defendant's secretary.

Q. Did she ever work for you?

A. On one occasion we met with the defendant when she was with the defendant when the defendant had the government contracts which were repeated.

Q. Does she remain in Honduras today?

A. What do you mean? I don't understand.

Q. As far as you know, is she in Honduras today?

A. I don't know where she is, sir.

47

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H3G5lobH Rivera - cross

Q. Since the moment that you began cooperating with the United States government, meeting with the agents and prosecutors to today, have you used her in any fashion to assist you, your

family, or your organization?

A. No, sir.

Q. Sir, you were asked about a General in Honduras by the name of Pacheco Tinoco; T-I-N-O-C-O.

A. I was asked several questions about drug traffickers, politicians, and police officers.

Q. Sir, in 2014 you were working with the United States government and their agents, correct?

A. Yes, sir.

Q. By that time you had introduced two Mexicans to Mr. Lobo, correct?

A. Yes, sir; two Mexicans that came on behalf of Special Agent Gonzalez.

Q. And everything you were doing at that the point in time was to ensnare Mr. Lobo, correct?

A. No, sir.

Q. You were trying to suggest meetings with officials, right?

A. They met because of a drug load that was coming by sea from Colombia, sir. And the defendant was introducing all the police officers that were working with him including General Pacheco, sir.

Q. Sir, you and Agent Gonzalez conferred and talked about how

48

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H3G5lobH Rivera - cross

to get the Mexican into General Pacheco's office to talk about
this drug load, right?

A. The defendant offered to introduce the Mexican to Pacheco

to provide security for the drug load that was coming from Venezuela. It wasn't to ensnare him, sir, he was a real drug lord.

Q. Sir, did you have a conversation with Agent Gonzalez about setting up a meeting with General Pacheco Tinoco so that Mr. Lobo could come in with the Mexican?

A. Agent Gonzalez was the one who was guiding, he was helping me with this drug load that was coming by sea from Venezuela, sir.

Q. Sir, did you know that an attempted meeting, let's say or that -- well, did you know that a meeting took place in June of 2014?

THE COURT: A meeting of whom?

Q. A meeting between Mr. Lobo, the DEA informant, the Mexican, and General Pacheco.

A. At that meeting the two Mexican were present, the two Mexicans that the defendant was going to introduce to General Pacheco.

Q. And, you know that that meeting was many months in planning, or at least attempting to arrange that meeting, correct?

A. Repeat the question, please?

49

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H3G5lobH Rivera - cross

Q. You had been planning for weeks if not months to try and get that meeting, correct?

A. The idea was for the meeting so that when the Mexican came

the first time the defendant was being introduced -- the defendant was going to introduce the police officers that were going to escort that load, sir.

Q. Sir, I'm asking about General Pacheco Tinoco at that meeting that you and the DEA tried to plan an execute. I'm not asking about the police officers.

A. It was regarding the same load.

MR. BOVE: Judge, I object. There was still some testimony by Mr. Rivera and we are now --

THE COURT: Can you just ask the question?

BY MR. RETURETA:

Q. Sir, you finally were able to get a meeting in June of 2014, right?

A. But with whom?

Q. You were finally able to organize a meeting between General Pacheco, Mr. Lobo, and the DEA informants?

A. It was the defendant who actually carried it out.

Q. And you were part of planning that meeting along with DEA agents, right?

A. It had been in the planning from previously for the load that was going to come, not just for the time of the load.

Q. And the plan was to try and ensnare General Pacheco in this

50

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H3G5lobH Rivera - cross

operation, right?

A. The defendant was the one who introduced General Pacheco,
sir.

Q. Sir, did you want General Pacheco to participate or to not participate in this planning event?

A. The person who wanted it was the son -- was the defendant because it was the defendant who said: In San Pedro Sula in a body shop.

Q. And, as far as you know, was Agent Gonzalez and the DEA supportive of this meeting?

A. They were coordinating the drugs that were coming, sir.

Q. You would not have done anything on your own, correct?

A. Of course, because the defendant was my representative, sir.

Q. And you were operating at the direction of Agent Gonzalez and the DEA, correct?

A. Yes, sir. We were coordinating for the load that was coming.

Q. And as this meeting took place, the Mexican came in and proposed a drug deal to General Pacheco, correct?

MR. BOVE: Objection. Foundation.

THE COURT: I will allow it.

MR. BOVE: Judge, the witness didn't participate in this meeting.

MR. RETURETA: Your Honor, I am just going to use the

51

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H3G5lobH Rivera - cross

transcript that has been admitted into evidence as Government Exhibit no. 6 and ask the witness whether he is aware of the response General Pacheco provided.

MR. BOVE: Objection. Relevance.

THE COURT: I'm sorry. I don't recall what Exhibit 6 is and so I don't -- I can't follow. What is that?

MR. RETURETA: It is the audio that was made at the time of the meeting.

MR. BOVE: The meeting between --

THE COURT: Oh okay.

MR. BOVE: CS2.

THE COURT: You are asking him about -- all right. So the objection is sustained. You can use the exhibit on its own.

MR. RETURETA: May I ask if he has a basis of knowledge?

THE COURT: He was here in -- well, actually, no. He was here when they played it. He is the only witness we have heard but the objection is sustained. You can ask a different question. You can ask him if he was at the meeting. If he was not at the meeting you can ask him if someone reported to him about the meeting.

BY MR. RETURETA:

Q. Sir, you were not at that meeting, right?

A. I was not, sir.

52

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H3G5lobH Rivera - redirect

Q. Did someone report to you about what happened at that meeting?

A. The defendant, sir.

Q. And, did Mr. Lobo tell you that once they got into General Pacheco's office, he threw them out?

A. No, sir. He didn't say that to me.

Q. Did he tell you whether General Pacheco, once presented with the proposal of a drug load, said no?

A. I don't remember, sir.

MR. RETURETA: Your Honor, I have no further questions for this witness.

THE COURT: Thank you.

Any redirect?

MR. BOVE: Briefly, your Honor. 10 minutes max, with the Court's indulgence.

THE COURT: Maybe 8.

MR. BOVE: Thank you.

THE COURT: You may examine.

REDIRECT EXAMINATION

BY MR. BOVE:

Q. Mr. Rivera, you were asked certain questions today about certain members of your family having received a benefit to travel to the United States. Do you recall those questions?

A. Yes, sir.

Q. And I believe you testified that some of your family

53

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H3G5lobH Rivera - redirect

members did in fact come to the United States?

A. Yes, sir.

Q. Did you want some of them to come to the United States?

A. Yes, sir.

Q. Why?

A. For fear. Just like Mr. Juan Gomez had been killed, I was afraid that my family could get killed because of the defendant's father, the police officers with whom we had worked, and other politicians.

Q. And you were also asked some questions today about whether you ever made disclosures to the Honduran government after you started to cooperate about your front companies.

Do you recall those questions?

A. Yes, sir.

Q. Sir, do you know someone named Tony Hernandez?

A. Yes, sir.

Q. Is he related to a political official in Honduras right now?

A. Yes, sir.

Q. Which official?

A. With the brother of current president, of Juan Orlando.

Q. So, Tony Hernandez is the brother of the current president of Honduras?

A. Yes, sir.

MR. RETURETA: Your Honor. I'm going to object as

54

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H3G5lobH Rivera - redirect
outside the scope of cross.

THE COURT: Well, he is tying it to the disclosures, I
hope soon.

MR. BOVE: I am, your Honor.

THE COURT: Okay.

BY MR. BOVE:

Q. During the course of your cooperation with the DEA, did you ever meet with Tony Hernandez to discuss your front companies?

A. Yes, sir.

Q. What were some of the things were discussed at that meeting?

MR. RETURETA: Continuing objection, your Honor.

THE COURT: Overruled.

A. That Tony Hernandez was going to help us pay some money to INRIMAR.

Q. Sir, at the time of this meeting, did the Honduran government owe INRIMAR money pursuant to contracts?

A. Yes, sir.

Q. And what did Tony Hernandez offer to do with respect to those debts that the Honduran government owed to INRIMAR?

A. He was going to get funds from the government in order to pay INRIMAR.

Q. Did he ask for anything in return?

A. Yes, sir.

Q. What?

55

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H3G5lobH Rivera - redirect

A. Bribes.

Q. Did you record that meeting?

A. Yes, sir. I recorded it.

Q. Did you turn it over to the DEA after you recorded it?

A. Yes, sir.

MR. RETURETA: Your Honor, I am going to object to the entire line now because if it is wrapping up, it is wrapping up about an individual that sat down with the brother of a government official and has nothing to do with the line of questioning that I had which was whether or not, as part of his disclosure of properties and companies, as he told the United States government, did he tell the Honduran government about the properties or did he tell the Honduran government about testaferos or straw men. Now we have information coming out which attacks the current president of Honduras, attacks his family. There is no way to come back and rebut that at this point in time and it has nothing to do with my line of questioning.

I ask that that entire line of testimony be stricken as not appropriate for the cross-examination that I conducted.

MR. BOVE: May I be heard, your Honor?

THE COURT: No. It is overruled. It is relevant to disclosure to the Honduran government about front companies. You may proceed.

MR. BOVE: Thank you, your Honor. This is the last

56

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H3G5lobH Rivera - redirect

bit.

BY MR. BOVE:

Q. And you were asked some questions today on

cross-examination about what Mr. Retureta referred to as an agreement between you and Porfirio Lobo Sosa, the defendant's father.

Do you recall those questions?

A. Yes, sir.

Q. And Mr. Retureta asked you today about your first meeting with President Lobo Sosa; do you recall that?

A. Yes, sir.

Q. And I believe you said on cross-examination that there was a second meeting?

A. Yes, sir.

Q. Was the defendant present at your second meeting with President Lobo Sosa?

A. Yes, sir.

Q. And after that meeting, did you consider the defendant to be a part of the agreement that Mr. Retureta referred to during cross-examination?

A. Yes, sir. At that point he was a member of the Cachiros.

Q. Who is he?

A. The defendant, sir.

Q. Why did he say that, following the second meeting, that you considered the defendant to be a member of the Cachiros?

57

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A. Because President Lobo Sosa, the defendant's father, had assigned him as security person for the Cachiros drug trafficking organization that belonged to my brother and me.

Q. Between 2009 and up past the time you cooperated, did the defendant carry out that role?

A. Yes, sir. He did. He carried that out.

MR. BOVE: Nothing further, your Honor.

THE COURT: Okay. Thank you.

So, we need to talk about what next. I would like proposed findings of fact and conclusions of law from the government, and then I would like the defendant to file any specific objections to those either findings of fact or conclusions of Law, and any counter findings of fact and conclusions of law.

So, let me ask the government first when would you be prepared to submit that.

MR. BOVE: Is two weeks reasonable, your Honor?

THE COURT: That's fine.

MR. BOVE: Thank you.

THE COURT: And when would I get the defense submission?

MR. RETURETA: Your Honor, if I could have two weeks also after that government submission?

THE COURT: All right.

So, that puts us out already a month and so we need to

58

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H3G5lobH

set a sentencing date.

What I am thinking about is a May 17th sentencing date
at 4:30, and I would ask for the defense pre-sentencing

submission May 8th.

MR. RETURETA: Your Honor.

THE COURT: If you want to put everything in your original filing, that's fine, and then the government submission on May 10th. And again, you don't have to file something separate if you don't want to, but you may, and if you do, by May 8 and May 10.

Were you about to tell me the 17th is not a good date?

MR. RETURETA: I have a trial scheduled in Washington, D.C. beginning Monday the 15th.

THE COURT: When would you propose?

MR. RETURETA: The week prior, or that trial is scheduled for two weeks; could be the last week of May, first week of June are wide open.

THE COURT: How about May 30?

MR. RETURETA: May 30th, Tuesday? Yes.

THE COURT: Yes. And why don't we stick with the 8th and 10th for the submissions, and I will ask for the presentence report however many days before that -- the presentence report is completed already.

MR. BOVE: I think subject to the modification we discussed at the beginning of the hearing with respect to

59

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H3G5lobH

paragraphs 15 through 18.

THE COURT: All right.

Anything else that we need to discuss?

MR. BOVE: Just so I make sure I have my dates right, Judge.

THE COURT: I will do a written order and if it says anything different from what I just said, follow the written order. Okay?

MR. BOVE: Yes, Judge.

THE COURT: All right.

MR. RETURETA: And, your Honor, if I may?

THE COURT: Yes.

MR. RETURETA: We have been operating under protective orders for Rule 16 disclosures and we have come to an agreement regarding the 500 material. Given the admissions of exhibits here, all exhibits that have been admitted into evidence in this hearing are now subject to public disclosure and we are not bound by those orders, am I correct?

MR. BOVE: I agree with that, Judge.

THE COURT: Okay. That sounds right to me.

MR. BOVE: With respect to the exhibits that were admitted.

THE COURT: Exhibits that were admitted in evidence and published in the courtroom are no longer subject to the protective order.

60

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MR. RETURETA: Thank you, your Honor.

THE COURT: Okay.

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61

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11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
62

INDEX OF EXAMINATION

Examination of: Page

DEVIS LEONEL RIVERA MARADIAGA

Cross By Mr. Retureta 2 Redirect By Mr. Bove 53

DEFENDANT EXHIBITS

Exhibit No. Received

2 4 4 6 1
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